

## THE CONSTITUTIONAL RIGHT TO LIFE AND THE DUTY OF THE STATE TO ENSURE SAFE WORKPLACES IN NIGERIA\*

### Abstract

*The right to life constitutes the foundation of all fundamental rights under Nigerian law. This article interrogates the constitutional right to life under section 33 of the 1999 Constitution from the prism of ensuring safe workplaces as a way of securing life, in addition to the State's duty to provide and enforce safe and healthy working conditions. Using doctrinal and comparative analysis of primary legal materials including the Constitution, legislation, case law, international treaties, and jurisprudence from Europe and African Human Rights Commission, the study demonstrates that international labour standards and the African Charter support a broadened interpretation imposing positive obligations on the State. The findings reveal that Nigeria's occupational safety and health framework falls short of constitutional expectations due to outdated legislation, weak regulatory institutions, under-reporting of incidents, and exclusion of informal sector workers. The article recommends constitutional interpretation recognizing safe work as integral to the right to life, enactment of the proposed Occupational Safety and Health Bill, establishment of a unified regulatory authority, and extension of protections to informal sector workers.*

**Keywords:** Right to Life, Workplace Safety, Constitutional Interpretation, Positive Obligations, Nigeria

### 1. Introduction

In the Nigerian legal jurisprudence and architecture, the right to life, enshrined in section 33 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended),<sup>1</sup> guarantees everyone the right to life and prohibits intentional deprivation of life, except for lawful executions after conviction or use of reasonable force for lawful arrests and preventing escape.<sup>2</sup> While fundamental, this right is not absolute, as it can be deprived in certain circumstances as provided in sections 33(2) and 45(2) of the CFRN 1999 (as amended). Suffice it to say that the right to life has commonly and traditionally been analyzed from a narrow perspective without examining conditions or situations that help to secure or protect it. It is from this perspective that this article seeks to create a link between the right to life and a safe workplace.

Work remains central to human existence. Through work, individuals secure livelihoods, contribute to national development, and affirm personal dignity. Yet work can also expose individuals to significant risks that threaten their health, bodily integrity, and in many cases, their lives. In Nigeria, occupational accidents - including factory explosions, construction collapses, oil industry fires, transport-related fatalities, and chemical exposures - continue to claim numerous lives annually. While official data remain inconsistent, available reports from labour unions, the Nigeria Social Insurance Trust Fund and civil society actors suggest that workplace-related deaths number in the hundreds each year, with thousands more sustaining permanent disabilities.<sup>3</sup>

The International Labour Organisation (ILO) estimates that occupational accidents and work-related diseases claim over 2.78 million lives globally annually, in addition to 374 million non-fatal injuries and illnesses.<sup>4</sup> Nigeria's contribution to these grim statistics is significant, yet the true extent of workplace fatalities remains obscured by chronic under-reporting and the absence of a comprehensive national data framework. These incidents raise a fundamental constitutional question: *What is the scope of the Nigerian State's duty to guarantee life where life is threatened by unsafe workplaces?*

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<sup>1</sup> CRFN, 1999

<sup>2</sup> Ibid Ss. 33(2) and 45(2)

<sup>3</sup> A Asse, I A Olubiye, and I Bamidele, 'A Critical Appraisal of the Legal Framework for the Promotion of Workplace Safety in Nigeria' (2025) 17 *African Journal of Legal Studies* 368.

<sup>4</sup> ILO, *World Statistic: Occupational Safety and Health* (ILO 2020).

The constitutionalization of workplace safety is neither radical nor unprecedented. The African Charter on Human and Peoples' Rights, domesticated in Nigeria as Cap A9 LFN 2010, guarantees the right to health, dignity, and safe working conditions. The International Covenant on Economic, Social and Cultural Rights (ICESCR), which Nigeria has ratified, requires States to ensure 'safe and healthy working conditions' as a core labour right. The ILO identifies occupational safety and health as a fundamental principle and right at work. Several jurisdictions - including South Africa, India, Kenya, Colombia, and parts of Europe - have judicially interpreted constitutional rights to life, dignity, and health to impose obligations on governments to protect workers from hazardous employment conditions.<sup>5</sup>

Against this backdrop, Nigeria's OSH regime remains structurally weak. The Factories Act of 1987, Cap F1 LFN 2004, is outdated and limited in coverage; the Labour Act excludes large categories of workers; the Employees' Compensation Act 2010 focuses primarily on post-injury compensation rather than prevention; and coordination among regulators is poor.<sup>6</sup> The Factories Act, which dates back to a 1958 colonial-era law, primarily focuses on traditional industrial settings and fails to address the realities of modern work environments, including construction sites, farms, mines, corporate offices, and the rapidly expanding informal sector.<sup>7</sup>

There are rules and regulations that govern and guide human conduct at workplaces both in the public sector and organized private sector. Some of these rules are aimed at practically securing and guaranteeing human safety including human life beyond the dry letters of the law or the Constitution. To this extent, these rules or regulations at workplaces apply to give life to the constitutional right to life of workers at their workplaces. To this end, the State and its relevant agencies or institutions that are charged with human safety at workplaces have a duty to ensure those rules and regulations are always upheld with a view to protect life beyond just the traditional obligation of refraining from killing people but to encompass sustenance and security of life.

## 2. Definition, Meaning and Nature of Right

In law, a right is a legally recognized and protected entitlement,<sup>8</sup> power, or claim that allows an individual or entity to act in a certain way, demand specific actions from others, or be treated in a particular manner, enforced by the legal system. In essence, a legal right is a justifiable claim that the law supports and protects, ensuring individuals can exercise freedoms or hold entitlements against interference. A right can stem from a statute, constitution, or judicial precedents.<sup>9</sup> For a thing to be regarded as a right, it must be capable of enforcement, that is, it is backed by law or constituted authority or institutions and can be enforced through legal processes.<sup>10</sup>

**Right to Life:** The right to life is a constitutional<sup>11</sup> and institutionally backed right<sup>12</sup> globally, as well as a fundamental and human right.<sup>13</sup> It is innate and inalienable.<sup>14</sup> The right to life is a fundamental right because it is entrenched in and guaranteed by the CFRN, 1999 (as amended) which is the *grundnorm*

<sup>5</sup> F Viljoen, *International Human Rights Law in Africa* (2<sup>nd</sup> edn, Oxford University Press 2012).

<sup>6</sup> Asse, Olubiyi and Bamidele (n4).

<sup>7</sup> A Asse, IA Olubiyi, and I Bamidele, 'The Challenges of Occupational Safety and Health Laws in Promoting Workplace Safety in Nigeria' (2024) 6 *Federal University Oye-Ekiti Law Journal*.

<sup>8</sup> *Afolayan v Ogunride* [1990] 1 NWLR (Pt. 127) 369 @ 391.

<sup>9</sup> See Chapter IV of the CFRN 1999 (as amended) providing for Fundamental Rights (Ss. 33 - 34) and *El-Rufai v Senate of the National Assembly* [2016] 1 NWLR (Pt. 1494) 506.

<sup>10</sup> See The Fundamental Rights (Enforcement Procedure) Rules, 2009.

<sup>11</sup> See s 33 of the CFRN 1999 (as amended).

<sup>12</sup> Institutions like the EU, UN and AU all have their respective Charters that provide for the right to life. For example, see Art 2 UDHR; Art 6 ICCPR; and Art 4 African Charter on Human and Peoples' Rights.

<sup>13</sup> A fundamental right is a right guaranteed in the Constitution. See *Odugu v AGF* [1996] 6 NWLR (Pt. 456) 508 @ 522. See Chapter IV of the CFRN 1999 (as amended). See also *El-Rufai v Senate of the National Assembly* [2016] 1 NWLR (Pt. 1494) 506.

<sup>14</sup> This means that it is a right every human being or individual is born with and it is not a right that is conferred by law.

of the society.<sup>15</sup> The right to life can be said to be the most fundamental of all rights because without it, all other rights are not enforceable and unattainable. This right is recognized globally in various treaties, charters, constitutions and conventions. The Universal Declaration of Human Rights (UDHR), 1948 provides that ‘everyone has the right to life, liberty and security of person’.<sup>16</sup> The African Charter on Human and Peoples’ Rights (Ratification and Enforcement) Act, 2004<sup>17</sup> provides that ‘... every human being shall be entitled to respect for his life... and no one may be arbitrarily deprived of this life...’ The International Covenant on Civil and Political Rights (ICCPR) adopted by the General Assembly of the UN in 1966 provides for right to life thus: ‘every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life’.<sup>18</sup> The European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950 provides that ‘everyone’s right to life shall be protected by law...’<sup>19</sup> The American Convention on Human Rights, 1969, provides that ‘every person has the right to have his right respected... No one shall be arbitrarily deprived of his life’.<sup>20</sup> On the domestic front, section 33 of the CFRN, 1999 (as amended) provides that every person has a right to life and no one shall be deprived of his life except in the execution of a sentence of court.<sup>21</sup>

The consequence of an intentional or even unintentional deprivation of life flowing from an unlawful conduct could either be murder or manslaughter.<sup>22</sup> Obviously, the right to life as enshrined in the CFRN, 1999 (as amended), is for human beings and for the protection and preservation of human life subject to certain exceptions.<sup>23</sup>

**What is and when does life begin?:** Life, in a true sense of the word, begins when chemical matter gives rise, in a specific way, to an autonomous, self-regulating, and self-reproducing system. Life is connected with a living being. The law grapples with a particular definition on when life starts. Is it at conception or being ‘born alive’ or having a heartbeat as a foetus? Whatever definition is chosen is often influenced by moral, scientific, cultural and religious views rather than by any specific factor. In other words, in law, ‘when life begins’ isn’t a single, universally agreed-upon moment, but rather a concept defined differently across jurisdictions and legal contexts.

Science tags the beginning of life as often coinciding with key developmental stages like fertilization (conception),<sup>24</sup> implantation,<sup>25</sup> brain activity,<sup>26</sup> viability,<sup>27</sup> or at birth of the foetus.<sup>28</sup> Scientifically or medically, it is considered that life begins at fertilization or conception.<sup>29</sup> The right to life is as

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<sup>15</sup> *Fort Royal Homes Ltd v EFCC & Anor* [2017] LPELR-42807 CA.

<sup>16</sup> Art 3 UDHR, 1948.

<sup>17</sup> Art 4 ACHPR (R & A) CAP A9, LFN, 2004.

<sup>18</sup> Art 6 ICCPR, 1966.

<sup>19</sup> Art 2 ECPHRFF, 1950.

<sup>20</sup> Art 4 American Convention on Human Rights, 1969.

<sup>21</sup> S M Oyegehe, *Human Rights and Enforcement Clinic* (Princeton and Associate Publishing Company Ltd 2023) 58 - 59; and s 33 CFRN 1999 (as amended).

<sup>22</sup> *Olabode v State* [2007] All FWLR (Pt. 389) 1301 at 1326; Ss. 316 and 317 of the Criminal Code and Ss. 220 - 221 of the Penal Code.

<sup>23</sup> Ss. 33(2) and 45 CFRN 1999 (as amended) contain permissible derogations on the right to life; *Kalu v The State* [1998] 13 NWLR (Pt. 583) 531.

<sup>24</sup> The coming together of an egg and a viable sperm cell to form a zygote or a unique genetic individual with its own DNA.

<sup>25</sup> When the embryo attaches to the uterine wall, marking a significant developmental step, though still debated as a legal start.

<sup>26</sup> The emergence of organized brain activity, sometimes linked to consciousness or sensory perception, is another biological point considered.

<sup>27</sup> The point where a foetus might survive outside the womb, with or without medical help, historically a factor in abortion law.

<sup>28</sup> In many legal systems (like the UK and Nigeria), a foetus gains full legal personhood and distinct rights only after being born alive. See Section 307 of the Criminal Code Act.

<sup>29</sup> The coming together of an egg and a viable sperm cell to form a zygote or a unique genetic individual with its own DNA.

applicable to a living being or person even though an action on right to life can be instituted on behalf of a deceased person by his dependents.<sup>30</sup>

Under the Criminal Code, a child becomes a person capable of being killed when it has completely proceeded in a living state from the body of its mother whether it has breathed or not and whether it has an independent circulation or not.<sup>31</sup> This is distinct from the moral, religious and cultural perspectives, which have or shares a common denominator in the sense that they consider life to begin at conception. This is so because it is considered morally, religiously and culturally wrong to commit abortion or terminate a pregnancy.<sup>32</sup>

**A Legal and Political Maelstrom:** The U.S. Supreme Court issued its opinion in *Dobbs v Jackson Women's Health Organization*,<sup>33</sup> eliminating a long-standing federal right to abortion, and state legislators are eagerly bounding into that void, looking to codify into law assorted definitions of life that carry profound repercussions for abortion rights, birth control, and assisted reproduction, as well as civil and criminal law. The Court upheld the State of Mississippi's 15-week abortion ban and declared that the authority to regulate abortion is returned to the people and their elected representatives.

Unlike the debate over death, which delved into exquisite medical and scientific detail, the legislative determination to establish when life's building blocks reach a threshold that warrants government protection as human life, has been guided by mainstream religious schools of thought which affirm that life begins at conception and that the State bears a sacred duty to protect the unborn as bearers of God's image. The position and approach in the USA contrasts with the position in Nigeria where a foetus isn't a separate legal person until birth.<sup>34</sup> The import of the Nigerian position is that a foetus in a womb is not a separate legal entity from its mother to be regarded as having life different from its mother. This would imply that the Nigerian State is only responsible for protecting life when it becomes physically distinct from its mother.

**Duty of the State and Courts in Protection of Right to Life:** The State through its regulatory agencies or institutions has a duty to protect and secure life.<sup>35</sup> The right to life is not only as regards unlawful killing or deprivation of life. Beyond merely not killing, the State has a duty to protect life by ensuring and promoting conditions for sustenance and preservation of life at workplaces. It is the statutory obligation of the State to put in place or motion modalities for safe workplaces.

### 3. Safe and Healthy Work as an Element of Human Dignity

Section 34 of the 1999 Constitution (as amended) guarantees the right to dignity of the human person. The concept of human dignity in constitutional law encompasses the idea that every person possesses inherent worth that the State must respect and protect. In the employment context, dignity requires that workers be treated as ends in themselves, not merely as instruments of production. Unsafe working conditions that expose workers to foreseeable risks of death, injury, or disease constitute a failure to respect the dignity of workers as human beings.<sup>36</sup> The African Charter on Human and Peoples' Rights, which forms part of Nigerian law by virtue of its domestication,<sup>37</sup> explicitly links working conditions with dignity. Article 5 guarantees respect for the dignity of the human person and prohibits degrading treatment. Article 15 provides that 'every individual shall have the right to work under equitable and satisfactory conditions.' Read together, these provisions establish that satisfactory working conditions

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<sup>30</sup> *Omonyahuy v IGP* [2015] LPELR-25581.

<sup>31</sup> S 307 Criminal Code.

<sup>32</sup> Pro-lifers advocate against abortion which is considered as a wrongful termination of life.

<sup>33</sup> 597 US 215 (2022); [Docket Number-19-1392] decided on 24 June 2022; the 6-3 ruling overturned *Roe v Wade* 410 US 113 (1973) holding that the US Constitution does not confer a right to abortion.

<sup>34</sup> *Omonyahuy & Ors v IGP & Ors* (n31).

<sup>35</sup> For instance, institutions such as the Nigerian Police Force and Nigerian Civil Defence Forces are charged with the protection of civilian life and property.

<sup>36</sup> A Emiola, *Nigerian Labour Law* (4<sup>th</sup> edn, Emiola Publishers 2012).

<sup>37</sup> African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap A9 LFN 2004.

- including safety and health protections - are integral to human dignity.<sup>38</sup> As the South African Constitutional Court observed in *S v Makwanyane*,<sup>39</sup> dignity is the foundation of all human rights, and the right to life is its most fundamental expression.

Recognizing safe and healthy work as an element of dignity carries significant implications for minimum employment standards. First, it suggests that certain working conditions are so hazardous that they fall below the threshold of humane treatment, regardless of consent. Second, it implies that the State's duty extends beyond merely enacting safety legislation to ensuring that working conditions in practice meet basic standards of humanity. Third, it provides a constitutional basis for extending protections to workers excluded from statutory schemes, including informal sector workers.<sup>40</sup>

#### 4. Overview of Nigeria's OSH Legislative Landscape

##### Factories Act and Its Limitations

The Factories Act (Cap F1 LFN 2004) remains Nigeria's primary OSH legislation, despite widespread recognition of its obsolescence. Enacted in 1958 and last substantively revised in 1987, the Act reflects the industrial context of mid-twentieth century Britain rather than contemporary Nigerian workplace realities.<sup>41</sup> The Act's most significant limitation is its narrow scope of application. Section 83 defines a 'factory' restrictively, covering premises where articles are manufactured, altered, repaired, cleaned, or processed for trade or profit. This definition excludes construction sites, mines, farms, oil and gas installations, hospitals, schools, hotels, and the vast majority of commercial premises where Nigerians work.<sup>42</sup> Consequently, an estimated 90% of Nigerian workers fall outside the Act's protective ambit. The Act's enforcement mechanisms are equally deficient. The Factory Inspectorate Division of the Federal Ministry of Labour and Employment is chronically understaffed and under-resourced. With fewer than 100 inspectors for the entire country, effective coverage of even registered factories is impossible.<sup>43</sup> The penalties prescribed for offences are manifestly inadequate, with maximum fines of N2000 (approximately \$2.50) for most contraventions. This has no deterrent effect in Nigeria.<sup>44</sup>

##### Fragmented Sector-Based Regulations

Beyond the Factories Act, Nigeria's OSH framework comprises numerous sector-specific instruments administered by multiple agencies, leading to inconsistent coverage, coordination failures, and enforcement gaps.<sup>45</sup> In response to longstanding advocacy, the Occupational Health and Safety Bill 2025 has advanced to second reading in the House of Representatives, seeking to repeal the Factories Act and establish a comprehensive modern OSH framework with expanded coverage, strengthened enforcement mechanisms, and provisions for worker participation.<sup>46</sup>

#### 5. Positive and Negative Obligations under the Right to Life

The negative obligation under section 33 - requiring the State to refrain from arbitrarily depriving individuals of life - is well-established in Nigerian jurisprudence. However, the negative obligation alone is insufficient to address workplace risks. Most workplace fatalities result not from direct state

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<sup>38</sup> OC Okafor, 'The African Charter on Human and Peoples' Rights and the Transformation of Nigerian Constitutional Law' (2016) 16 *African Human Rights Law Journal* 268.

<sup>39</sup> 1995 (3) SA 391 (CC).

<sup>40</sup> NA Umoru, 'Occupational Safety and Health in Nigeria's Informal Economy: Challenges and Prospects' (2020) 1 *African Journal of Occupational Health and Safety* 34.

<sup>41</sup> P O Odemwingie, 'Occupational Safety and Health in Nigeria: A Critique of the Factories Act' (2016) 4 *Journal of Law and Judicial System* 112.

<sup>42</sup> JO Akintola and AO Folami, 'The Legal Framework for Occupational Safety and Health in Nigeria: Challenges and Prospects' (2020) 8 *Journal of Law, Policy and Globalisation* 77.

<sup>43</sup> Federal Ministry of Labour and Employment, *National Policy on Occupational Safety and Health* (FMLE 2020).

<sup>44</sup> Asse, Olubiyi and Bamidele (n8).

<sup>45</sup> OA Orifowomo, 'A Critical Appraisal of the Legal Framework

<sup>46</sup> Voice of Nigeria, 'Reps Advance Occupational Health, Safety Bill to Second Reading' (27 October 2025) <<https://von.gov.ng/reps-advance-occupational-health-safety-bill-to-second-reading/>> accessed 12 March 2026.

action but from employer conduct in contexts where the State has failed to establish adequate preventive frameworks. Contemporary human rights law recognizes that the right to life imposes positive obligations on States to take appropriate measures to safeguard life within their jurisdiction.<sup>47</sup> The United Nations Human Rights Committee, in its General Comment No 36 on the right to life, expressly states that the right to life includes duties to protect life from ‘reasonably foreseeable threats,’ including those arising from ‘dangerous industrial operations’ and by ‘ensuring safe working conditions.’<sup>48</sup>

The European Court of Human Rights has developed an extensive jurisprudence on positive obligations under Article 2 of the European Convention. In *Öneryıldız v Turkey*,<sup>49</sup> the Court held that Turkey violated the right to life by failing to take adequate measures to prevent a methane explosion that killed nine people. The Court emphasized that Article 2 imposes a duty on States to establish ‘a legislative and administrative framework designed to provide effective deterrence against threats to the right to life.’<sup>50</sup> This principle applies with equal force to workplace risks, as recognised in *Cevrioğlu v Turkey*,<sup>51</sup> where the Court held that Turkey violated Article 2 by failing to ensure effective safety inspections at a construction site where a worker was killed. The African Commission on Human and Peoples' Rights has similarly recognized positive obligations under the African Charter. In *SERAC v Nigeria*,<sup>52</sup> the Commission held that Nigeria violated Articles 4 (right to life), 16 (right to health), and 24 (right to a satisfactory environment) by failing to regulate oil operations in Ogoniland, emphasizing that States must take ‘reasonable measures’ to prevent violations by private actors.<sup>53</sup>

## 6. Interpreting Section 33 in the Light of International Standards

**African Charter on Human and Peoples' Rights:** The African Charter occupies a unique position in Nigerian law, having been specifically domesticated. The Supreme Court has held that the Charter is part of Nigerian law and that its provisions must be given full effect.<sup>54</sup> Several Charter provisions are directly relevant to workplace safety: Article 4 guarantees respect for life, Article 5 guarantees dignity, Article 15 guarantees the right to work under ‘equitable and satisfactory conditions,’ and Article 16 guarantees the right to health. The Commission's jurisprudence in *Purohit v The Gambia*<sup>55</sup> makes clear that these provisions impose positive obligations requiring States to take ‘concrete and targeted steps’ to realize these rights.

**ILO Conventions 155 and 187 on State Obligations for OSH Systems:** Nigeria has ratified both ILO Convention No 155 concerning Occupational Safety and Health (1981) and ILO Convention No 187 concerning the Promotional Framework for Occupational Safety and Health (2006).<sup>56</sup> Convention No 155 requires States to formulate, implement, and periodically review a coherent national policy on occupational safety and health, with enforcement secured by an adequate system of inspection. Convention No 187 requires ratifying States to promote continuous improvement of national OSH systems through a national policy, national system, and national programme.

**Section 254C of the Constitution and NICN's Mandate to Apply International Labour Standards:** Section 254C(1)(h) of the Constitution empowers the NICN to exercise jurisdiction in matters ‘relating to, connected with or pertaining to the application or interpretation of international labour standards.’ This represents a significant departure from Nigeria's general dualist approach to treaties, empowering

<sup>47</sup> UN Human Rights Committee, *General Comment No 36 on the Right to Life* (2019) para 18.

<sup>48</sup> *ibid* paras 26, 62.

<sup>49</sup> App No 48939/99 (ECtHR, 30 November 2004).

<sup>50</sup> *ibid* para 89.

<sup>51</sup> App No 69546/12 (ECtHR, 4 October 2016).

<sup>52</sup> (2001) AHRLR 60 (ACHPR 2001).

<sup>53</sup> *ibid* para 57.

<sup>54</sup> *Fawehinmi v Abacha* (2000) 6 NWLR (Pt 660) 228.

<sup>55</sup> (2003) AHRLR 96 (ACHPR 2003).

<sup>56</sup> ILO, ‘Ratifications for Nigeria’ <[https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200-COUNTRY\\_ID:103259](https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200-COUNTRY_ID:103259)> accessed 12 March 2026.

the NICN to directly apply ILO conventions in adjudicating labour matters.<sup>57</sup> In *Ejjeke Maduka v Microsoft Nigeria*,<sup>58</sup> the NICN relied on CEDAW General Recommendation 19 and ILO Convention No. 111 to interpret the constitutional prohibition against discrimination in the context of sexual harassment. More significantly, in *Aloysius v Diamond Bank Plc*,<sup>59</sup> the NICN held that an employer cannot terminate an employee's contract save for good and justifiable reasons, drawing on ILO conventions and international best practices.<sup>60</sup>

## 7. The State's Duty of Protection: Content and Scope

**Legislative Obligations:** The State's primary obligation under the right to life is to establish a legislative framework that effectively protects workers from occupational risks. Procedurally, the legislative process must be inclusive, transparent, and informed by expert knowledge and tripartite consultation.<sup>61</sup> Substantively, the legislative framework must meet certain minimum standards: comprehensive coverage of all workers regardless of sector or employment status; a preventive orientation prioritizing prevention over compensation; worker participation rights; effective enforcement mechanisms with adequate penalties; systematic data collection; and a framework promoting continuous improvement.<sup>62</sup>

A particularly significant gap in Nigeria's OSH framework is the exclusion of informal sector workers, who constitute an estimated 80% of the workforce. This exclusion raises serious constitutional concerns under sections 17(3)(a) and 42 of the Constitution.<sup>63</sup> The ILO's Transition from the Informal to the Formal Economy Recommendation, 2015 (No 204), calls on States to extend occupational safety and health protection to workers in the informal economy.<sup>64</sup> Constitutionally, the State cannot justify excluding informal workers from OSH protections on grounds of administrative convenience or historical practice.

**Institutional Obligations:** Legislative frameworks alone are insufficient; the State must also establish institutions capable of giving effect to legal protections. Nigeria's current institutional framework falls far short of this standard.<sup>65</sup> The Lagos State Safety Commission represents a promising institutional innovation, demonstrating what can be achieved with adequate political will and resources.<sup>66</sup> The proposed OSH Bill 2025 would establish a National Occupational Safety and Health Council to coordinate policy, set standards, and oversee implementation.

**Enforcement Obligations:** The State's duty to protect life includes an obligation to ensure that legal protections are effectively enforced. This requires adequate inspection capacity,<sup>67</sup> effective penalties that deter non-compliance,<sup>68</sup> transparent reporting systems,<sup>69</sup> accessible remedies for workers, and anti-corruption safeguards.<sup>70</sup> As the European Court recognised in *Cevrioğlu*, a regulatory framework that exists only on paper, without effective implementation, does not satisfy the State's duty.

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<sup>57</sup> A O Enabulele, 'The National Industrial Court and the Application of International Labour Standards in Nigeria' (2018) 24 *Journal of Private and Property Law* 45.

<sup>58</sup> NICN/LA/492/2012, 19 December 2013.

<sup>59</sup> NICN/LA/546/2013, 29 April 2015.

<sup>60</sup> D T A Eyongndi and A Imosemi, 'Aloysius v Diamond Bank Plc: Opening a New Vista on Security of Employment in Nigeria through the Application of International Labour Organisation Conventions' (2023) 31 *African Journal of International and Comparative Law* 356.

<sup>61</sup> ILO Convention No 187, Art 3(1).

<sup>62</sup> ILO Convention No 155, Art 19; ILO Convention No 187; Art 2(1).

<sup>63</sup> National Bureau of Statistics, *Labour Force Statistics: Informal Sector Report 2022* (NBS 2023); Umoru (n41).

<sup>64</sup> ILO Recommendation No 204, para 17(f).

<sup>65</sup> Odemwingie (n42).

<sup>66</sup> Lagos State Safety Commission Law 2009; Lagos State Safety Commission, *Annual Report 2023* (LSSC 2024).

<sup>67</sup> ILO Convention No 81.

<sup>68</sup> Asse, Olubiyi and Bamidele (n8).

<sup>69</sup> Nigeria Social Insurance Trust Fund, *Annual Report on Employees' Compensation 2023* (NSITF 2024).

<sup>70</sup> D Olowu, 'The Right to Health in Nigeria: A Review of the Legal Framework and Jurisprudence' (2017) 17 *African Human Rights Law Journal* 156.

## 8. Recommendations

**Legal and Judicial Reforms:** Constitutional amendment to explicitly include safe working conditions for the right to life would provide a good foundation for OSH rights. Nigerian courts should adopt an expansive interpretation of section 33 recognizing positive obligations regarding workplace safety.<sup>71</sup> The OSH Bill 2025 should be fast-tracked for enactment without delay.<sup>72</sup> Nigeria should ratify additional ILO instruments, including the Protocol of 2002 to the Occupational Safety and Health Convention, Safety and Health in Construction Convention (No. 167), and Safety and Health in Mines Convention (No. 176).

**Institutional Reforms:** The fragmentation of OSH governance should be addressed through the creation of a unified National OSH Authority, as contemplated by the OSH Bill 2025, with consolidated functions, jurisdiction over all workplaces and workers, adequate funding, independence from political control, tripartite governance structures, and powers to conduct inspections, impose administrative penalties, and prosecute offences.<sup>73</sup> The Authority should develop risk-based inspection planning, unannounced inspections, comprehensive data collection with public reporting, compliance assistance for small and informal enterprises, and effective sanctions including administrative penalties.

**Policy and Governance Reforms:** There should be mechanisms developed for inter-agency coordination. Anti-corruption safeguards should include transparency in inspection activities, rotation of inspectors, whistleblower protection, severe penalties for corruption, and civil society oversight.<sup>74</sup> The State should invest in nationwide awareness and training programmes integrating OSH into school curricula, public information campaigns, training for workers and employers in informal settings, engagement with trade unions and employer organizations, and support for OSH professionals.

## 9. Conclusion

This article has argued that the constitutional right to life under section 33 of the 1999 Constitution, properly interpreted, imposes positive obligations on the Nigerian State to protect workers from foreseeable life-threatening risks in their workplaces. This interpretation is supported by purposive constitutionalism, the NICN's mandate to apply international labour standards, Nigeria's ratification of ILO Conventions 155 and 187 and the African Charter, and comparative jurisprudence from Europe. Nigeria's current OSH framework falls short of these constitutional expectations. The Factories Act is outdated and narrow in scope, excluding the majority of workers from its protections. Enforcement institutions are under-resourced and ineffective. Data on workplace fatalities and injuries is inadequate. Informal sector workers, who constitute most of the workforce, are entirely excluded from protective frameworks. These deficiencies are not merely policy failures but constitutional violations of the State's duty to protect life. The proposed OSH Bill 2025 offers an opportunity to address many of these deficiencies, but its effectiveness will depend on implementation. Embedding the right to life into the operational logic of OSH governance - through constitutional interpretation, judicial enforcement, and legislative recognition - can strengthen state accountability and provide a rights-based foundation for ongoing reform. Recognizing safe and healthy working conditions as an essential component of the right to life presents a constitutional pathway for transforming workplace safety in Nigeria, affirming that workers are not merely factors of production but human beings whose lives and dignity the Constitution protects.

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<sup>71</sup> E S Nwauche, 'The Right to Life and the Enforcement of Socio-Economic Rights in Nigeria' (2008) 2 *Journal of African Law* 52.

<sup>72</sup> Voice of Nigeria, 'Reps Pass Occupational Health and Safety Bill for Second Reading' (24 October 2025) <<https://von.gov.ng/reps-pass-occupational-health-and-safety-bill-for-second-reading/>> accessed 12 March 2026.

<sup>73</sup> Orifowomo (n 45).

<sup>74</sup> Olowu (n 71).