

DIGNITY OF LABOUR AND THE LABOUR OF JUSTICE

(Lecture to the 2020/2021 Legal Year of the Industrial Court on October 6, 2020 by Bishop Matthew Hassan KUKAH, Catholic Diocese of Sokoto)

Your Lordship, the Chief Justice of Nigeria Hon. Justice (Dr) Ibrahim Tanko Muhammad, CFR, my fellow Alumni from the School of Oriental & African Studies, SOAS, represented by Hon. Justice Uwani Musa Abba Aji, JSC, thank you so much for being so gracious in accepting to accommodate my chaotic schedule. The Senate President, Ahmed Lawan represented by the Chairman Senate Committee on FCT, Barr Ifeanyi Chudy Momoh; My Lord, Hon. Justice Monica Monica Dongban-Mensem, President of the Court of Appeal; My Lord, Justice Babatunde Adejumo OFR, immediate past President of this honourable Court, my friend and the Chairman of his occasion; Your Grace Most Rev. Dr Ignatius Kaigama, the Archbishop of Abuja; the Chief Imam of FCT Ustaz Professor Ibrahim Maiqari; the Chief Judge of the Federal High Court, Hon. Justice John T. Tsoho; my dear friend and my brother, Justice Ben Kanyip, PhD, President of the Industrial Court who chose Law instead of the Priesthood; Your Lordships of all jurisdictions, Judges of the Court, the Chief Registrar and all other staff of the Court; I want to thank you so much for the honour that you have done me by this invitation, despite my being an outsider and a spectator. The NLC President, Comrade Ayuba Wabba; the

Director General, Nigerian Consultative Association (NECA); very distinguished and honourable Members of the Legal profession, other distinguished guests, my friends and brothers who represent the working people of our dear country, a belated Happy Independence to you all.

As you know, I have more or less just miraculously managed to be both in Akure and Abuja within a space of four or so hours. I appreciate your patience. First, let me quickly enter a caveat. In keeping with the protocol of your Institution, I will use the pronoun, **he** to represent both men and women in the whole of this text.

You have asked me to speak on the topic — ‘Dignity of Labour & Labour Justice.’ On a philosophical note, I could easily be tempted to stand before you and say, ‘If there is dignity in labour, then the goals of labour justice are attained.’ In which case, there would be no need for an Industrial Court and ipso facto, all of you, Your Lordships should simply neatly fold your wigs and either go home or open new private Law practices.

However, 'Labour Justice' should be seen as a direct result of the absence of 'dignity in labour.' Labour injustice therefore is loss of the dignity from labour

In one of his many jokes about the Judiciary, Justice Oputa of blessed memory, once told me of a man who was trying to find his way to the Old Bailey, the Criminal Court in London. He stopped beside a road cleaner and asked: 'Is this the way to the High Court of Justice?' The cleaner looked at him and said, 'Just keep walking straight. At the end of the road, turn right and the High Court is to your right. I know the building is high and it is a court, but whether they dispense justice there, I cannot say.'

Injustice stalks our land. New courts are springing up by the day, thousands of new lawyers are entering the profession. However, whether they have brought justice closer, is a question no one can easily answer. It is of course impossible to treat the notion of labour justice as if it is a separate form of justice. In the final analysis, the objective is the same, namely, securing fairness for a victim.

My task in this lecture does not include interrogating the capacity or otherwise of the judiciary to deliver on its mandate. We must therefore be tentative in our expectations because it is highly unlikely that a justice system can rise beyond the challenges of its immediate environment.

1: Some Conceptual Clarifications

If one asks what Labour Justice is, it would not be an easy question to answer and almost everyone might have their own definition or understanding of it. However, we live with the realities of the contestation every day. Let me illustrate with a little story. One of the first men from my village to go to Kaduna in search of fortune had an interesting story that became the stuff of folktales in the village. According to the story, he, like other men from the village came to Kaduna at the time the Kaduna bridge was being constructed. He had been told that he could make good money as a labourer on a construction site or as a hired hand on the farm.

Very early the morning after his arrival, he headed out in search of work. He had been told that each worker got paid at 6pm every day. As he walked on in search of work, he came right to the bridge and found a lot of activity going on. He saw many labourers very busy with work. Sensing his fortune, and speaking to no one, he simply pulled off his shirt and began carrying bags of

cement as he saw others doing. While others carried a single bag each, he carried two at a time. Everyone admired his hard work and because of his size, he elicited fear. His colleagues assumed he was a new employee.

At 6pm, he noticed that a long queue had formed. When he asked, he was told that everyone was lining up to collect his pay for the day. He joined with enthusiasm. When it was his turn, he was asked his name, but unfortunately, his name was not on the register because he had not registered. In ignorance, he had simply gone to work without knowing that he had to be formally employed! He laboured with dignity, but did he get labour justice?

This story tangentially raises other issues such as, who is the owner of work and who decides how it is rewarded? What is the relationship between the labourer, his sweat, in terms of cost and benefits to the user or beneficiary of his labour and to he himself? In a less codified form, what we call work has always been part and parcel of livelihood from the beginning of time. Thus, searching for food, finding shelter, even protecting himself from external aggression, securing his family, all constituted some form of work. The critical question to ask is, when and how did work become to measure work or turn it into a commodity of exchange? Who placed value and defined work? Was it assessed by negotiation or arbitrarily? Who had the right of

assessment? In other words, how did labour become a transaction between apparently unequal partners?

Over time, the idea of work has undergone several reinterpretations and its meaning has continued to shift and change. Perhaps, it is also true to argue that the overarching influence of work transcends all sciences and disciplines. If we want to examine what constitutes work and how it came to be valued over time, our answers will depend on which field of science we are looking at and through which lenses. We would get a slightly different or modified perspective or interpretation perhaps, depending on cultural history.

So, we can, for example study work as Sociology, Politics, Economics, Theology or Law. If we look at work from the point of view of Sociology, our focus would be on the attitude of society to the involvement of different societal strata, such as children, women, youth and men in work and the different roles assigned. This would help us appreciate the status and contribution of each member of the society. How, for example, has the proceeds of work helped in defining roles and influence in society? By and large, work will serve as a vehicle for status affirmation.

If we see work as Politics, our focus here would be closely related to the Sociological viewpoint. Here, politicians are likely to seek to see work/employment as an obligation that the state owes its citizens. Work could also become a vehicle for political mediation in the loop of power. In this sense, work, its allocation and value become a subject of manipulation for political ends. In Economics, work is likely to be seen as a propeller to prosperity depending on the economic models. Work is valued to the extent that it enables individuals meet our financial needs. It is as Economics, that work assumes its transactional dimension; namely, I exchange my labour for a personal or external value that is subject to negotiation.

As Theology, work can be seen in two ways. First, from creation, work is presented both as punishment but also as a reward but also a responsibility; a sort of a joint venture enterprise between God and His creature, man. First, as we see in the Bible, God calls man as a co-creator and entrusts creation to him to tend and to care for. He says: 'Let us make man in the image and likeness of ourselves...have dominion over the fish of the sea, over every creeping thing' (Gen. 1:26). God also offers man the earth as both a habitat and also a means of earning a living. In this sense, work therefore is both a blessing because it is God's gift and a means of self-improvement and also a responsibility, an obligation whose fulfilment honours God. After creating

man and woman, God orders them: 'Be fruitful and increase in number and fill the earth and subdue it, rule over the fish and the sea and the birds of the sky, over every living creature,' (Gen. 1: 29-30). After the fall, the story changes and finding food becomes really hard work seen literally as punishment: 'With sweat on your brow you will eat the bread until you return to clay' (Gen. 2: 19).

As Ethics or Law, our inspiration would be based on the source or authority of society's ethics and law. In other words, work and its worth or reward, would have validation from the perspective of both the law maker and the source of our ethics. This means for example that what may be seen as right or wrong would be based on the mind of the source of law and ethics. This holds for the kind of laws or constitutions that operate in the society in question.

The question we have to ask is, when did work become a commodity? When did society make the transition from work being assigned by God to work being assigned by the state and man? The answer might lie with a proper understanding and study of the history and evolution of society in general, from the beginning of time when man moved from being hunter gatherer, to settling down with his family and founding a community, till date. So much

has changed, but clearly, as society has evolved, so has the boundaries of the dignity of labour, constantly shifted.

The corrosive effect of human tyranny has been the preoccupation of writers over time. The holy books are full of injunctions about justice, especially in relation to the human person because of the special place he occupies in the plans of God. Creation and land in particular are part of the gifts for human survival and fulfilment. In His time, Jesus took up this in His teachings in scripture with so many stories. The story of the owner of the vineyard and his workers, the man who sowed good seeds but whose enemy came and planted bad seeds.

God tells Abraham of the land he is going to inherit, a land that is full of milk and honey (Ex. 3:8). Although the human person will derive his survival on the land, this land deserves honour and it shall be given some rest after seven years and there shall be no sowing (Lev. 25: 4). When Jezebel takes Naboth's land and hands it to her husband, Ahab the King, it is considered the highest form of crime and God threatens that dogs shall lick his blood in punishment (1 Kg. 21: 1ff).

The Catholic Church continued with this teaching through time. The writings of Victor Hugo (*Les Misérables*), Charles Dickens (*A Tale of Two Cities*), Shakespeare (*The Merchant of Venice*) and many others of this time, depict the consequences of the greed of capitalism and how it hardened the hearts of greedy men who profited from human suffering. Perhaps for us in Africa, local, Arab and European forms of slavery and apartheid stand out as the worst forms of human brutalization. Each of these themes is the subject of tones of already published works.

Work in Nigeria can more or less be divided into various shades and grades. However, for the purpose of our discussion, both government and the private sector will be the areas of our main concern. In our private work, be it farm or office, we put in all our energy because the results, the outcomes are within our control. So, we expect no pay from any external source. For example, the benefits of the proceeds of a good harvest will guarantee food for the family food and feeding can be taken as the payment and reward to the farmer.

On the other hand, work, that is employment by an external agency, a government or a bank, factory etc, introduces new dimensions to the notion of work and of profit for both parties. Changes in the notion of work, its

commoditisation came with the Industrial Revolution and the development and growth of capitalism. The growth and development of capitalism came with severe challenges for our common humanity. The profit motif came with consequences because profit was the be all and end all of human endeavor. As the system opened up its greedy fangs, it tended, like a combined harvester to eat up everything that stood in its path in pursuit of profit. Human dignity, family life, individual and community dignity, private property rights, all became subordinated to profit.

Resistance to capitalism was inspired by various responses to the amount of human suffering that it brought about. Capitalism revolves around the belief that the individual has a right to private property which can be achieved by hard work. It believes that relationships, transactions are aimed at ensuring the benefits of the parties. But principally, self-interest, personal profit are the driving principles. Labour can be purchased for the profit of the business.

Private participation in key areas of the economy such as railways, road construction, banking, industrialization and other pursuits should be encouraged to ensure the maximisation of profit by the individual and his business. The key pillars of capitalism are: limited state involvement, free markets, private property, self-interest, etc. Capitalism thrives on hard work

and believes that under the trickle-down theory, the poor will gradually benefit from the profits of capitalism. Profit maximisation is its own justification, and motive and mode are not of consequence.

Communism responded to the excesses of capitalism in the sense that it believed that capitalism, by subordinating the rights and dignity of the individual to profit, undermined the dignity of both labour and the human person. The state, Communism argues, should be the primary driver of development and it should own the means of production and the producer. In which case, communists merely sought to transfer primacy of ownership and control of production from the individual to the state. Abolition of private property, state dominance, centralised power, equality for all, were the main goals of Communism. Redistribution would replace accumulation as a way of building the new paradise, hence, Communism beckoned on all the workers of the world, to unite because they had nothing to lose but their chains. Or so they thought.

The Catholic Church decided to weigh into the debate drawing from scriptures and experience of its mission in the world. Appreciating the state of fallen man and his tendency to return to the old Adam of sin and greed, the Catholic Church argued that neither of the two systems could answer and

guarantee the answers to the ultimate questions of justice and human dignity as far as human dignity and labour justice were concerned. Both systems had their flaws because they subordinated the individual's rights. The individual had only to choose between two evils.

On 18th May, 1891, the Holy Father, Pope Pius XII issued an Encyclical titled: 'Rerum Novarum,' (Of New Things). It was a most devastating attack on both systems. In it, the Holy Father stated: 'It is no easy matter to define the relative rights and mutual duties of the rich and of the poor, of capital and of labor. And the danger lies in this, that crafty agitators are intent on making use of these differences of opinion to pervert men's judgments and to stir up the people to revolt... it has come to pass that working men have been surrendered, isolated and helpless, to the hardheartedness of employers and the greed of unchecked competition. The mischief has been increased by rapacious usury, which, although more than once condemned by the Church, is nevertheless, under a different guise, but with injustice, still practiced by covetous and grasping men. To this must be added that the hiring of labor and the conduct of trade are concentrated in the hands of comparatively few; so that a small number of very rich men have been able to lay upon the teeming masses of the laboring poor, a yoke little better than that of slavery itself.'

Successive popes have remained steadfast in their attacks on both systems focusing on human dignity. In 1963, Pope John XXIII published, 'Pacem In Terris,' (Peace on Earth). This Encyclical, written at the turn of the twentieth century as independence, became the theme song of former colonial nations. The Pope focused on the themes of justice and equitable distribution of the resources of the earth as a condition for peace and justice. Then as now, Pope John Paul's 'Laborem Exercens' (Through Work, 1981), extolled the dignity of labour as service to God. In 2005, Pope Benedict published his first Encyclical 'Deus Caritas Est' (God is Love) in which, amidst the gathering storms of the economic crises, he warned about the need for a more God fearing motive for economic activities.

In 2013, Pope Francis' first Encyclicals, 'Evangelii Gaudium.' (The Joy of the Gospel, 2013) urged Christians to become cheerful bearers of the good news of our salvation. In 2015, he followed up with 'Laudato Si,' (Praise be to You, 2015), drawing special attention on the consequences of the destruction of the environment. As can be seen, on the issues of equity, justice, fairness and human dignity, I can speak for the Catholic Church and say that it has always offered the world the right moral compass.

Thus, quite unknown to labour political leaders and perhaps most people today, the Catholic Church, far more than any other organisation in the world has offered the moral compass for guiding and showing the balance between the dignity of labour and the moral foundation inherent in the pursuit of labour justice. This is why, everywhere in the world, the hall marks of the Catholic Church have been the provision of education and health, the principal pillars on which human civilisation, dignity and the pursuit of happiness hangs.

2: Dignity of Labour in Nigeria: Changing Roles, Identity and Nomenclature

A nation's growth and development are tied to the quality of manpower that it has as its workforce. No matter the amount of resources that a nation is endowed with, without the requisite work force, possessing the right patriotic, altruistic and ethical instincts, that country will remain in poverty with its people living in perpetual indignity, stagnation and destitution. A country where its workforce lacks the discipline, has almost no hope for the right use of its resources for the common good. Citizens of such countries will remain orphans in paradise. That Nigeria is the poverty capital of the world today, is not an accident. It is a testament of the consequences of a

country which has not balanced its accounts between dignity of labour and labour justice.

The question before us is, where did we begin to go wrong? There can be no labour dignity without human dignity. When a country with so much resources cannot feed its people, educate its children, end infant and maternal mortality, its future is on auction. Public service and the dignity of labour all began to go with the wind after the military stepped in. This was with their culture of coups, accidental leadership, command structure, policy somersault, disruption of order, succession culture, abandonment of experience and the culture of wanting everything done with immediate effect, robbed the bureaucracy of its honour and the dignity required to achieve both the dignity of labour and labour justice.

Gradually, when civil servants saw the huge amounts of money being stolen by all military and civilian government officers, they simply made some human calculations and decided they had to get a piece of the action. It was no use holding the dangerous horns of a cow when others came from nowhere to go away with the milk! Enter the culture of, 'Making Ends Meet.' In response, civil servants and public officers began to set up shell companies, became contractors of their ministries and departments. It was

not long ago that the stench filled the air but, very little has been done to turn things around. Using different nomenclatures, civil and public servants upended their personal economic pursuits and government work became secondary. *Private Practice* became an elastic expression that covered a multitude of sins against the employer. The spirit of *Self Help* was captured in the expression: '*Bloom where you are planted,*' '*you climb the Iroko tree only once,*' etc. All in all, every opportunity is exploited by men and women at the top with the lower cadre doing the best they can depending on the nature of the loot accessible to them. This is with the philosophy that, '*It is Our turn to Eat.*' The loss of moral authority means that we are on a free fall. Over the years, 'working in/for government' has ceased to attract the best among the youths. The important qualification is not what you studied, the quality of your certificate, but the uncle or big man behind you. Recruitment to public service is so skewed that in the end, workers have only secondary allegiance to their country since they were recruited by their 'favourite son' and the only qualification they had was that their father had the connection based on religion, region, social class or profession.

Retirees from public service with the government, including security services and so on, are replaced by their own children, as a reward. Years and years of maladministration and the outright resort to indiscipline at the

top makes dignity of labour and labour justice a nightmare. So, whatever we are experiencing in the civil or public service today, is based on the fact that even the most devout of public servants have had to come to terms with the fact that the system has no moral template. Often, it is those with high moral standards, men and women who have no wish for compromise that the system tends to reject. They inhabit the same environment with their dirty cousins who have fouled the system.

An important question to ask is, how and why did work deteriorate in Nigeria to this level that we see today? Irrespective of where one works, the culture is the same. The loss of a sense of the dignity of labour has thrown us into a snake pit of corruption. Civil servants and millions of them are breaking their backs with trying to do the right thing and are not getting the respect that they deserve. Respectable platforms for service such as the medical profession, teachers, even the faith communities, have not escaped these webs of corruption. Let me list a few of the characteristics of the Nigerian work place today:

- Low morale and motivation
- Limited opportunities for mentoring
- Poor quality and hostile work environment

- Bitterness, resentment, ethnic and religious bigotry
- A lack of clear regime of incentives
- Absenteeism and the ghost workers syndrome
- Culture of nepotism, godfatherism
- Poor maintenance culture of public utilities
- Lack of proper work ethics and culture
- Lack of commitment and patriotism
- Political Interference
- Cheating by age

The notion of work has continued to change and is increasingly becoming a challenge for the future of society as we know it. These changes, especially in the area of 'automation,' have done incredible things to change the way the world sees work and how the labourer now sees his labour. Central to it all, remains the lack of an equitable distribution of benefits derived from labour.

I once saw a cartoon and it was a big, fat and rich man, sitting and surveying his wealth with a big cigar in his mouth. The caption read: 'Fruit of years of hard work.' Below the big man, a poor man asked, 'whose hard work?' This

is important because when workers see that there are no visible changes in their lives, despite the huge profits that the owners of the companies are posting, restlessness sets in.

Workers then see injustice and renew their struggle for greater labour justice. Resolving this problem is fundamental to the meaning of dignity of labour and labour justice. This frustration is often captured in the expression, 'monkey de work, baboon de chop.' The idea of job satisfaction is not only about wages, it is also about such intangible things like respect, satisfaction, dignity and honour, a feeling of shared values with the organisation. No organisation can succeed where some people feel belittled.

There is a famous story about a General who, at a time when wars were fought on horsebacks in open fields, suffered defeat because of something as insignificant as a nail. The General, leading his cavalry into an important war on a mountainous area, suffered a setback. His horse suddenly collapsed. Looking closely, he discovered that the nail in his horse's boot had fallen off. The horse could no longer move well and in pain because the hoof was broken causing her collapse. He could no longer lead his army, hence the saying, '*because of a nail the general lost the war!*'

In life, we all focus on how well-dressed our beloved and respected public officers are, from presidents, ministers, governors, senators to judges and bishops. We often get carried away by the splendor of their appearances, but no one ever pays attention to the dry cleaner or the steward who ironed the clothes.

The high and mighty in society enjoy the very delicious meals, but we take their delicacy for granted. No one ever remembers those in the kitchen, often scalded, but who endure the smoke in their eyes to offer the best dishes. In soccer, we focus on the man who scored the goal, but pay little attention to the man who first kicked the ball in the right direction. We all enjoy our cars but never pay attention to the people whose attentiveness on the production line, ensured that everything fitted properly. We look at the wonderful edifices that adorn the skylines, but no one ever remembers the carpenter, cement mixer, mason or the painter whose dedication to the details made the edifice what it is.

My grandmother told me a little story about a king who was marching on his parade surrounded by a teeming population of subjects. He turned out in his beautiful regalia of expensive clothing, Suddenly, as the procession moved on heading for the village square, a button on his royal attire came off. There

was no way the king could return home to get his button fixed and without fixing it, his majestic appearance would turn into ridicule. Then one of the subjects sighted an old woman who was knitting by the road side. He rushed to her, borrowed her needle and thread and managed to fix the button quickly. He entered the court in regal majesty, but imagine what would have happened without the poor old woman.

The dignity of labour does not lie in the type of work we do, but in everyone understanding that we are all in a production chain. Our challenge and dignity lie in all of us holding our part of the value chain. We are now in the age of artificial intelligence (AI) and algorithms. This is the new face of work and the human person's role in production is gradually vanishing. There is fear of the dictatorship of the algorithm. What is more, with computers outcompeting humans, the challenge is enormous.

In 1997, when Deep Blue, the computer, beat Gary Kasparov in a chess competition, there was marvel and shock everywhere. Alfa Zero competed against Stockfish 8, won 28 games and tied 72, losing none. Yet, Alfa Zero had taken it only four hours to learn to play chess.

The challenge now, is, how can you unionise, engage in collective bargaining against AI and algorithms? As we praise AI, we must address the larger issues of their role in our societies, our senses of community and so on. Algorithms may be great in quantum calculations; they can never replace the human person. They can tell if we love Vanilla ice cream, but they have no taste buds. It is therefore important for the world to contemplate how we can deal with the moral implications of AI especially in relation to the consequences of jobs and the possible extinction.

In conclusion, as we have noted in the course of this lecture, dignity of labour is incomplete without labour justice. However, like beauty, what constitutes labour justice, may in the end be in the eye of the beholder. Labour justice should not be narrowed down to mere legal tussles between employer and labour. To some extent, it is about a level of judicial decisions in the cases that come to court, cases whose far reaching decision should point society in the direction of the common good of all. Judicial activism requires that the Judge sees what is not seen, interpret the secret mind of the eternal law maker, the creator of heaven and earth, from whose throne real justice comes.

Labour justice is a commodity that should and must be available to everyone on earth. The woman who cries at child birth sees the cries of her baby as justice for her labour. The new baby who cries is entitled to the justice of his labour of crying and the mother metes out that justice by breast feeding the baby. The beggar on the side of the street is entitled to respect and justice for his labour of coming to his duty post to beg. Every road user owes him justice for his labour by ensuring he does not come to harm. Labour justice for the teacher demands not only that he is paid for his services, but that he gets the respect of his pupils. His pupils in turn are entitled to the justice of their labour of coming to paying their school fees and seeking to be educated.

So, all in all, labour justice should not be seen as something that Trade Unionists secure for their fellow workers as members of a special club.

Labour Justice is something that is available to all of us because we are all created in the image and likeness of God. Labour justice is the respect, dignity that comes with our being human. Labour justice is what makes us one another's keeper. When I smile at you, when I greet you, when I show you respect, labour justice demands that you reciprocate and compensate my labour by returning my smile, respect and greetings. You may recall in those years in the 70s, an American radio hostess who always ended her morning programme by saying, *Today, if you see someone without a smile, please give him one of yours.*

Let me end by in the words of the great Justice Oputa who said that in all societies, the measure of real justice is when it meets a three dimensional threshold; 'Justice for the perpetrator, justice for the victim and justice for the larger society.' As a priest, I will add that, true justice is only complete when it is justice in the eyes of God.