



# Contract of Apprenticeship and Employment Generation in Nigeria

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## Abstract

The paper discusses contract of apprenticeship and employment generation in Nigeria. Two apprenticeship contracts were examined viz; the customary apprenticeship scheme as practiced in the Ibo land and other tribes in Nigeria and the apprenticeship practice under the Nigerian Labour Act, 2014. The Labour Act ensures that apprentices understand the terms of the contract of apprentice, that the apprentice is of the right age and that apprentice are not forced into acceptance of conditions of apprenticeship. The paper also analysed the contract of apprenticeship in South Africa. Properly known as 'Learnership', in South Africa, an apprentice is open to skill or trade as well as academic work; this is a critical departure from the Nigerian Apprenticeship practice and law. In South Africa, the state is a party to apprenticeship contract, and the education and Training Authority (SETA) play major role in the entire apprenticeship scheme. The apprenticeship practice in Nigeria, as captured in S. 50 of the Labour Act is scanty and do not encourage government participation, skills and craftsmanship among youths in Nigeria. Granddaunts in Nigeria apprenticeship scheme are not given official certificate from government or any recognised training institution. The paper recommends the Labour Act of 2004 that captures the apprenticeship contract be amended to ensure apprentices are trained in skills or trade and learning. Furthermore, that apprentices are assisted financially at the end of their apprenticeship, by giving them financial support, company attachment or start up pack. The apprenticeship practice and law in Nigeria is old and outdated, amending the relevant laws will reverse the dwindling entrepreneurship spirit among youths, create employment and generate economic growth in Nigeria.

**Keywords:** Contract, Apprenticeship, Employment, Learnership, Nigeria.

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## INTRODUCTION

A contract of apprenticeship is one where the consideration for the servant's promise to serve his master or employer is the employer's promise to teach the servant a craft or trade irrespective of whether money is paid in addition to the teaching. Like any other contract, the duty of the master (employer) is to teach the craft or trade, while the servant is bound to serve, obey instruction and develop themselves in the job (Okene, 2011).

The apprenticeship practice in Nigeria dates back to centuries, and masters (employers) in different field of endeavours have retained servants who understudy craft or trade for a given period of time. At the expiration of the period of apprenticeship, the servant is 'settled' and engages in the job, and sometimes engages others too. The contract of apprenticeship is therefore designed to create job and entrepreneurship that will enhance personal income, national economic growth and development (Achugo & Chigbo, 2014) noted that the Nigerian economic environment is yearning for entrepreneurs who would through apprenticeship practices exhibit creative and innovative abilities laced with the willingness to create enterprises that the unemployed will be willing to offer their services since the demand for white collar jobs has increased more than the available job opportunities.

Until recently in Nigeria, apprenticeship was meant for persons who had primary or secondary certificates but couldn't proceed on further studies. These are largely infants, who then elect to practice trade, craft, such as welding, painting, vulcanising, tailoring, mechanic, etc to earn a leaving for themselves and their families. In the early days of this practice, contracts of apprenticeship were usually made oral and parties consisted of the servant or apprentice's family and the master.

In the recent past however, the contract of apprenticeship has changed form and become sophisticated; the reasons are far-fetch, today the ratio of youths to the total population in Nigeria has increased, while the numerous higher institutions in Nigeria are turning out thousands of graduates each year with no ready market for employment (Achugo & Chigbo, 2014). There is therefore need for self-employment. The apprenticeship scheme has become a veritable platform for young graduates who could not secure employment as expected after many years of studies in the higher institutions.

The apprenticeship scheme is no longer meant to produce middle level manpower, but high level manpower and the practice now involve engineers, economists, marketers, etc. who now go into apprenticeship to become successful entrepreneurs. The economic realities of Nigeria further make sense of the apprenticeship scheme for all categories of graduates. No doubt, the apprenticeship scheme has become popular among entrepreneurs, in view of its economic benefits in job creation, economic growth and development.

Obi and Agha (2012) concluded that apprenticeship practices create new businesses, and new businesses in turn create new jobs, intensifying competition, and increase productivity through technological change which contributes to poverty reduction and boost the national economy and development.

Unfortunately, dishonesty most times on the part of the master or the servant has denied the good intention of the apprenticeship scheme/contracts. Today, cases of non-settlement of servants abound while servants abandon workshop, and sometimes with master's properties, creating obstacle to future apprentice to upgrade and be useful to themselves. A lot of factors have been identified as challenging to the apprentice contract including the legal framework that guides apprenticeship in Nigeria.

This study is divided into 6 sections. Section 2 defines terms related to apprenticeship in Nigeria, while section 3 examines customary apprenticeship in Nigeria. Section 4 discusses

the apprenticeship laws in Nigeria and South Africa, while section 5 discusses challenges for apprenticeship and proposal for reform in the sector.

## **Definition of Concepts**

### ***Apprenticeship***

Apprenticeship is a method of training youths and the middle aged to learn a trade or craft for their future wellbeing and livelihood. Apprentice is bound by legal agreement to work for another for a specific amount of money for instruction in a trade, art or business. The apprenticeship practice is in three categories viz; the traditional model, the informal model and the modern apprenticeship model.

The traditional model involve the transfer of family skill to next generation of members, while the informal model though traditional in some respects, have non-family member engaged in the apprenticeship scheme. The modern apprenticeship scheme involve training of participants in vocational skills, well-structured programme of learning, such period of training, wage payment, working/training hours and combination of vocational training with educational programmes.

In Nigeria, the practice of apprenticeship is popular among the Nupes, Ibos, Fulanis and other tribes that have specialised skills that they pass on from generation to generation. Trade in apprenticeship category in Nigeria includes; blacksmith, welding, trading, block moulding, motor mechanics and repair, barbing, electronics repair, etc. Apprenticeship in these areas of endeavour has helped youths acquire skills and become self-employed and self-reliant.

### ***Contract***

A contract is an agreement made between two or more persons which the law will enforce (Abiola, 2005). In other words, contract is a set of promises between two or more persons, which the law will enforce. Enforceability implies that if a party fails to honour or discharge his promise, the other party may take action to enforce it in a court of law (Sagay, 1985).

In apprenticeship therefore, a person whether adult male or woman bids himself to learn for a definite time, from a master who covenants to teach the trade, or art or craft to the apprentice. The duty of the employer to teach forms the essence of apprenticeship. Apprentice could be persons of full age, though in practice, they are generally infants.

### ***Employment Generation***

Employment generation is the ability of the economic system to give job to persons who are willing and capable of working in particular sectors of the economy. An economy that generates more employment reduces the level of unemployment. Several factors generate employment, key among them are, technology, resource availability, infrastructure and manpower development, of which apprenticeship is a component. Apprenticeship contributions are evidenced towards economic growth, employment creation, poverty reduction and development of industrial base (Obi & Agha, 2016).

For an economy to experience real economic progress, it has to aggressively pursue apprenticeship schemes that will make the youths' not just entrepreneurs but employers of labour in the society.

## Customary Apprenticeship in Nigeria

Apprenticeship as a form of labour existed in various traditional forms in Nigeria before the advent of colonialism. Indeed, various customary rules governing the establishment of the contract of apprenticeship are still in existence in Nigeria. Under the Igbo apprenticeship practice, the parent or guardian chooses a profession for his child or ward and take the child to a known master of that profession or trade for training. There is an oral tutelage agreement entered into in which the conditions and items will be spelt out. The agreement comes in two ways; one, the intending apprentice lives with the master for the number of years agreed upon. At the end of the agreed period, the master settles him and enables him to establish his own trade. This is called '*Igba odibo*' (Okene, 2012). The family of the apprentice does not pay the master any premium for the training. The period of '*Igba odibo*' lasts between 3-7 years. At the end of this period the trainee is allowed to establish his workshop and thus effectively employed.

Another way of becoming an apprentice under the Igbo scheme of customary apprenticeship is through '*imu oru aka*'. Here the apprentice is given to a master craftsman to be under his tutelage. The family of the apprentice pays a certain sum of money to the master in what could be probably called a tuition fee. The payment is usually accompanied with some drinks meant for the entertainment of witnesses who are usually tradesmen within the environment in which the trade or craft is to be learnt. The fee is usually a lump sum of money paid before the training is commenced. The apprentice in this case does not live with the master within the period of the training. The master only blesses the apprentice at the end of the successful completion of the training. The master may employ the apprentice if the family is not able to establish him immediately.

The time frame for '*imu oru aka*' is usually 2-5 years. It varies however from contract to contract. Obi and Agha (2016) noted that in some apprenticeship contract, the period may last from 5 to 10 years, and the age of apprentice between 8 to 12 years. In some cases, the authors noted, the apprenticeship contract is supervised by both the master and the apprentice's family, and that probation period applies in some cases.

The major challenge of the Igbo apprenticeship scheme in its early practice is the absence of classroom work and reading. Consequently, certificates are not issued for successful completion of the training. Both sides in the apprenticeship contract celebrate at the end of the tutelage agreement.

The Igbo customary apprenticeship is practiced majorly in towns such as Aba, Onitsha and Nnewi in the South-East part of Nigeria. Particularly in the trading sector, a young person is attached to a businessman (an owner of a shop) to serve for a number of years. At the end of the period, he is 'settled' by the master either through the provision of resources to find shop or the payment of a lump sum to enable the apprentice start his own choice of trade.

The customary apprenticeship is however fraught with problems leading to abuse and shirking of duties by masters and this demonstrates lack of adequate legal protection for young apprentice. This becomes the basis for the legal framework that will adequately protect the master and the apprentice in their contract.

## Apprenticeship Contract Under Labour Law in Nigeria

The law of contract of apprenticeship in Nigeria is regulated by the Labour Act 2004. S. 50 (1) of the Labour Act requires that every contract of apprenticeship must be in writing and attested to by an authorised Labour Officer before it can be valid in law. The requirement of a written contract of apprenticeship undoubtedly excludes customary rules and practices. To be

valid, the contract of apprenticeship must be attested and made with the approval of an authorised officer who must satisfy himself of the following conditions:

First, that the consent of the apprentice has not been obtained by fraud, coercion or under influence or as a result of misrepresentation or mistake.

Second, that the apprentice has been medically examined and certified by a qualified medical practitioner to be physically and mentally fit to be employed and trained in the employment specified in the contract.

Thirdly, that the parties to the contract have fully understood the terms of the contract before signing it or otherwise indicating consent.

Furthermore, that the provision has been made in the contract as to the manner in which any remuneration in cash or otherwise due to the apprentice shall be determined and as to the scale of increase in remuneration during the course of apprenticeship.

Finally, the provision made in the contract for adequate shelter and provision of basic amenities for the apprentice, as well as ensuring that the contract is in accordance with any regulations made by the minister in-charge of labour.

Under the Nigerian Labour Law, there are two categories of apprentices; first, is the children apprentice between the ages of 12-16 years. This category of children can only be apprenticed to a master by their parents, or in the case of an orphan, by his guardian. The law officer shall appoint a fit and proper person to act on his behalf as guardian. The second category of apprentices comprise of young persons of sixteen years and above. The category of apprentices may lawfully apprentice themselves out to a master.

From the provisions of the Labour Act, the minimum age at which a person can enter into apprenticeship is 12 years. This requirement allows for the child to obtain some basic formal education like primary school before entering into a apprenticeship to acquire vocational skills.

The Labour Act also sets a limit at the maximum length of apprenticeship which is put at five years, without any possibility for a renewal or an extension. At the end of the five years, the contract of apprenticeship automatically lapses irrespective of whether or not the apprentice has finished learning the art or trade. Where a dispute arises between the parties, a magistrate court or district court is vested with the jurisdiction to hear and determine any question arising out of the apprenticeship.

The Labour Law (2004) confers on the Labour Minister the right to provide for other matters concerning apprenticeship by way of subsidiary legislation, and these includes; the form of contracts of apprenticeship, the terms and conditions upon which such contracts may be lawfully entered into, and the duties and obligations of apprentices and their masters. The minister may determine the number of apprentices who may be apprenticed during a specified trade or employment, as well as state the technical and other qualifications of employers entitling them to train apprentices.

The labour minister can also legislate on how examinations of apprentices are to be held at the end of the apprenticeship and determine the certificate to be awarded based on the results. It is an offence under the Nigerian Labour Act for a person to remove or attempt to remove an apprentice above the age of twelve years from Nigeria without the authorisation of the Minister in writing. Such offender shall on conviction be liable to a fine not exceeding N500 or imprisonment for period not exceeding one year, or both.

It is also an offence if a person has employed an apprentice for more than six months on a contract which has not been attested or attempts to induce any apprentice to quite the service of his employer. Such offender shall be guilty of an offence and on conviction shall be liable to a fine not exceeding N200 or to imprisonment for a period not exceeding six months, or both.

## **Contract of Apprenticeship in South Africa**

South Africa has gone beyond Nigeria in its quest for an efficient work force. The first thing to note about South African law in this regard is that apprenticeship agreements are referred to as ‘Learnerships’. Thus, the term ‘Learnership’ is used to replace the more traditional ‘apprenticeship’ for which it has come to be known over the centuries. Learnership contracts are regulated by the Labour Relations Act 1995 of South Africa (Labour Relations Act No. 66 of 1995). Quite unlike Nigeria where apprenticeships are entered into on individual basis between a master and an apprentice, learnerships are established by a body set up by the Labour Relations Act for purposes of the tactical training of workers. This body known as Sector Education and Training Authority (SETA) was established by Section 9 of the Act to oversee vocational training of workers. SETA is composed of representatives of organised labour, organised employers including small businesses, relevant government departments and other persons appointed by the Minister of Labour (Labour Relations Act No. 66 of 1995).

From its composition, there is no doubt that SETA represents the interests of all relevant parties in labour relations. Its functions include: Registration of learnership agreements, assisting in the conclusion of learnership agreements, improving the facilities of learning, and identifying workplaces for practical work experience.

In Section 17, a learnership agreement means an agreement entered into for a specified period between a learner, an employer or group of employers, and a training provider accredited by a body accredited by the South African Qualifications Authority. There are therefore three parties to a learnership agreement under South African law unlike what obtains in Nigeria. The inclusion of a training provider distinct from the employer is an indigenous innovation which improves the quality of training a learner acquires in the course of his learnership. This is because the training provider is a body that specialises in training young workers in conjunction with their employers.

Significantly there is no specific age limit for entering into a learnership agreement. But a combined reading of Sections 18 and 58 of the Labour Relations Act reveal that the minimum age for entering into a learnership agreement is 15 years. This is because by virtue of Section 18, it is mandatory for an employer to enter into a contract of employment with the learner i.e. every learner must be issued employment letter by the employer and by Section 58, the minimum age for entering into a contract of employment is 15 years. Thus, it can safely be concluded that 15 years is the minimum age for entering into a learnership agreement.

Another innovation under the learnership agreements in South Africa is that it is mandatory for the employer and learner to enter into a contract of employment which is to run concurrently with the learnership agreement. This novel situation protects a learner as he becomes automatically entitled to all protections available to employees under the various labour laws including the minimum wage provisions.

## **Challenges of Apprenticeship in Nigeria**

Nigerian apprenticeship system is a far cry from what is obtainable in other jurisdictions in terms of mode of operation, regulation, structure and implementation. The Nigerian Labour Act, 2004, that incorporates the rules of the apprenticeship scheme is quite inadequate and will not encourage skills and craftsmanship among the youths in the society.

The provisions already provided in the Labour Act to regulate apprenticeship is at best mere paper work. There are no programmes put in place for the awareness of these rules by the populace, masters and apprentices. These laid down rules are almost never adhered to

or implemented. Nigeria still operates an unorganised and unregulated apprenticeship system with defined vocational profile and framework.

In the other jurisdictions under reference, the apprenticeship system is regulated and their governments help to provide the platform that brings the apprentice and the organisation together through policies, structures and other necessary incentives. This is not obtainable in Nigeria. In Nigeria, there is no externally driven structure of motivations that encourage participants to be so engaged, despite the fact that most apprentices are people from poor backgrounds.

Apprenticeship in Nigeria is often misconstrued as a programme for youths with academic failure who can only grasp practical skills and not theory. Apprenticeship grandaunts in Nigeria are not issued with a certificate of graduation recognized by other training institutions in the country as provided in the Labour Act. The implication is that a graduate apprentice cannot pursue further studies or programmes based on the certificate already acquired.

It is also instructive to note that apprentices in Nigeria are still left to illiterates. The qualifications and capacities of the masters are not tested and ascertained by any regulatory bodies. An apprentice has no access to formal education. While the question of regulation of contractual obligation by the master in particular, still constitutes a gorge in the wheel of apprenticeship programmes in Nigeria. Section 49(1) requires that apprenticeship should conform with the conditions of ordinary business contracts, that is, that apprenticeship contracts be in a written form. This aspect of the law is not adhered to and there are seldom drawn our apprenticeship contracts in Nigeria.

The Nigerian Labour Law is scanty on apprenticeship, especially regarding offences, offenders and consequential penalties. The fines stipulated by the Act for offenders are laughable and are not punitive by any measures. The rights of the apprentice are not protected under the Act as adequate penalties for the violation of these rights are not provided for.

There are no established regulatory bodies regulating apprenticeship in Nigeria, and the Labour officer is in most cases, unheard of, unknown, unseen and totally absent in the scheme of things as far as apprenticeships go. The impact of the chamber of commerce and industry and the government has not felt at all the scheme of apprenticeship in Nigeria, as apprenticeship has been relegated to the private sector.

Despite the enactment of the Labour Act, the provisions for apprenticeship in some of its sections, Nigeria still majorly practices the customary form of apprenticeship. The Ministry of Labour and Productivity and the Minister is uninterested in apprenticeship in Nigeria.

### **Proposal for Reform of the Apprenticeship Scheme in Nigeria**

The under listed are proposal for reform of the apprenticeship scheme in Nigeria:

- A labour law like ours that is scanty on apprenticeship scheme will not help employment generation in the country. Aspects of the labour law that borders on apprenticeship should be espoused, particularly the areas that the Minister of Labour can administratively legislate. This tiny but important aspect of the apprenticeship law will change the customary practice of apprenticeship in Nigeria. For instance, there is need for a defaulting master or servant in the contract of apprenticeship to be lawfully prosecuted by the ministry of labour as most times the servants do not have what it takes to seek redress in court.
- The dual system of education practiced in Germany and South Africa, etc. should be emulated. It is necessary to expose our apprentices to formal education in addition to

skills. Some apprentices are intelligent but cannot proceed on further studies, because of financial constraints. They only resort to apprenticeship as an alternative. If the dual apprenticeship system practiced in other jurisdictions is adopted in Nigeria, it will avert a looming danger in the South-East of Nigeria. In the South-East, a lot of young entrepreneurs from the apprenticeship schemes are illiterate in the formal sense; and its becoming a disturbing trend. Apprenticeship should be done side by side with formal education.

- A legislative action that will review the current Labour Act, with a view to significantly enhancing, regulating and controlling the current regime of apprenticeship practice in Nigeria should be put in place. The current practice of young persons embarking upon apprenticeship training without a ruled and effective contract of apprenticeship stipulated and obtained by the parties to the contract under the supervision of the labour officer and unions and the ministry of labour should be legally abolished.
- In Italy, for instance, apprentices are given monthly pay and allowance and also a start up loan of about 30,000 (6 million naira) Euros by the government. They are also given a tax free period of about five years which is the economic expectant period for a new successful business to grow. This is a wholesome example that can be emulated in Nigeria. These methods should be employed in Nigeria to empower, regulate and train its youths so as to be self-employed and self-reliant, and in the long run grow to employ others. This initiative will drastically reduce unemployment in Nigeria and ultimately, crime will reduce.
- Nigeria already possess some industrial skill centres which can be effectively annexed and utilised effectively for apprenticeship programmes. Such centres, like the computer village in Lagos, the Nnewi skilled workers (the Taiwan of Nigeria) and the Ariara International Shoe Manufacturing Centre at Aba, could be used as apex skill development centres for Nigerians and even Africans. An example is the power line shoe manufacturing association of Nigeria in Ariara International Market in Aba, Abia State. It is an unstructured Nigerian shoe factory, grown out of apprenticeship. In the past, it has grown and produced in the 1970s and 80s apprentices and has exported its finished products of bags, shoes, belts and wallets to neighbouring countries. Currently, this sector trains apprentices and employs more than 50,000 youths. It has been a grooming ground for skilled training in the shoe making and other allied products manufacturing. The apprentices and their masters greatly contribute to the states and federal government revenues. Likewise is that of Nnewi, and Lagos computer village respectively.
- The Ministry of Labour and Productivity, in conjunction with the government should create appropriate bodies to set up and regulate proper and standardized apprenticeship programmes. The longevity and consistency in standards should be ensured.
- There is need to tackle the problem of lack of stability in the entire system of apprenticeship. What has become the Nigerian factor in this regard and other sectors of economy is inconsistency in running its programmes. The blatant truth is that some of the apprenticeship programmes are not more functional and some are at the verge of winding up. Most times, the change in government brings about all these because the programme can either be dropped or neglected or given less priority. For instance, National Directorate of Employment (NDE) established under the administration of President Ibrahim Babangida following the short-comings from Structural Adjustment Programme (SAP) has been paid little attention despite being in existence.

- National Directorate of Employment (NDE) constituted as far back as 26<sup>th</sup> arch, 1986 in one of its four programmes runs National Open Apprenticeship Scheme (NOAS) which attach apprentices to companies, ministries, parastatals, organised private sector (OPS) and professional craftsmen and women. It has now become a thing of the past.
- In many organisations, management is usually interested in the cost benefit analysis of training to justify the budget. So the issue of what benefit is derived from training remains a pertinent question for top management in many big as well as medium organisations in Nigeria.
- The problem of communication skills needed by the instructors of trainers is a vital issue. For example, Industrial Training Fund (ITF), which is the icon of manpower training and development, in spite of establishing instructor training centre in Kano has failed to meet up with human resource development in the area of apprenticeship.

## CONCLUSION

This paper examined apprenticeship as an element of skills learning and training that should be legally regulated, enforced and controlled for its effectiveness. It was discovered that apprenticeship has been existing for a long time as a means of learning skills for future self-reliance, employment and entrepreneurship, mostly for the informal sector. Today both the formal and informal sector are in need of employment, as unemployment crisis beholds the youths from these sectors. The research also concludes that government has not really been realistic in the regulation, enforcement and control of the apprenticeship training scheme, and has only been able to give advices without adequate financial support as is seen with the Ariara International Shoe Manufacturers in Aba. An appreciable amount of money should be given to masters and apprentices to support their trainings, and after successful completion of the scheme, a reasonable take off grant of about 1 million to 5 million naira should be given to the apprentices, with a tax exemption grant of about five years as is done in Italy. Adequate regulatory and control mechanisms if put in place will ensure that qualitative graduates of apprenticeship are produced to be self-reliant, self-employed, building entrepreneurs and employers of labour. Unemployment will drastically reduce, growth and development will be accelerated and ultimately, crime will reduce.

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