

**RESOLVING TRADE UNION DISPUTES IN NIGERIA: CHALLENGES AND
PROSPECTS**

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**A LONG ESSAY SUBMITTED TO THE FACULTY OF LAW, GODFREY
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DECLARATION

I, CHIMDIUTO UGOCHI OHANELE, hereby declare that this Long Essay titled “Resolving Trade Union Disputes in Nigeria: Challenges and Prospects” is an original work carried out by me in the Faculty of Law, Godfrey Okoye University, under the supervision of Dr. Cyril Nkolo.

This work has not been submitted either wholly or partially, for any other degree or professional qualification at any other institution of higher learning within and outside Nigeria.

All sources of information and quotations used in this work have been duly acknowledged.

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APPROVAL

I, CHIMDIUTO UGOCHI OHANELE, with registration number GOU/U21/LAW/387 hereby certify that this research carried out by me, with the direct and diligent supervision of Dr. Cyril Nkolo, has been approved by the Faculty of Law, Godfrey Okoye University, Enugu.

Asides from the sources cited and recognised in this research project, this study is an original work and has not been presented in part or in full, for any degree of this university or any other university to the best of my knowledge.

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DEDICATION

This long essay is lovingly dedicated to Almighty God, the ultimate source of my wisdom, strength, and grace, who sustained me from the beginning to the successful completion of this academic journey.

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National Union of Road Transport Workers v. Ogbodo [1998] 2 NWLR (Pt. 537) 189 (CA)

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Osoh v. Unity Bank Plc [2013] 9 NWLR (Pt. 1358) 1 (SC)

Skye Bank Plc v. Iwu [2017] 16 NWLR (Pt. 1590) 24 (SC)

The Federal Government of Nigeria v. Nigeria Labour Congress & Anor Suit No. NICN/ABJ/158/2023

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ILO Right to Organise and Collective Bargaining Convention, 1949 (Convention No. 98)

Labour Act, Cap. L1, LFN 2004

National Industrial Court Act 2006

National Industrial Court of Nigeria Civil Procedure Rules 2017

National Industrial Relations Policy (NIRP) for Nigeria

The Third Alteration Act (Constitution Amendment)

Trade Disputes Act, Cap. T8, LFN 2004

Trade Disputes (Essential Services) Act, Cap. T9, LFN 2004

Trade Union and Labour Relations (Consolidation) Act 1992 (United Kingdom)

Trade Unions Act, Cap. T14, LFN 2004

LIST OF ABBREVIATIONS

&: And

A.G.: Attorney General

ACAS: Advisory, Conciliation and Arbitration Service (United Kingdom)

ADR: Alternative Dispute Resolution

Anor: Another

ASCSN: Association of Senior Civil Servants of Nigeria

ASUU: Academic Staff Union of Universities

Cap: Chapter

CEACR: Committee of Experts on the Application of Conventions and Recommendations

CFRN 1999: Constitution of the Federal Republic of Nigeria 1999

FCT: Federal Capital Territory

IAP: Industrial Arbitration Panel

ICIR: International Centre for Investigative Reporting

IIARD: International Institute for Academic Research and Development

ILO: International Labour Organization

ILOSTAT: International Labour Organization Database (ILO Statistics)

JOHESU: Joint Health Sector Unions

LA: Labour Act

LFN: Laws of the Federation of Nigeria

Ltd: Limited

MNCs: Multinational Corporations

NARD: Nigerian Association of Resident Doctors

NCSU: Nigeria Civil Service Union

NIC: National Industrial Court

NICA: National Industrial Court Act

NICN: National Industrial Court of Nigeria

Nigeria-LII: Nigerian Legal Information Institute

NIRP: National Industrial Relations Policy

NLC: Nigeria Labour Congress

PENGASSAN: Petroleum and Natural Gas Senior Staff Association of Nigeria

Plc: Public Limited Company

S. / Sec.: Section

TDA: Trade Disputes Act

TUA: Trade Unions Act

TUC: Trade Union Congress of Nigeria

v. / v: Versus

Vol: Volume

ABSTRACT

This research provides an abstract of the entire content of the Long Essay on the statutory and institutional structures in place for the settlement of trade union disputes in Nigeria. It can be noted from the background section that within the context of labour laws in Nigeria, the timely resolution of any form of trade union dispute assumes a very high level of significance and urgency because of the extremely high cost associated with its non-resolution to the workers, employers, and to the economy at large. This is despite the existence of constitutional provisions under Section 40 of the Constitution of Nigeria, 1999, and a multi-level statutory structure from collective bargaining to conciliation, arbitration, and determination by the courts. Doctrinal research method was used for the investigation. This research relied on the use of content analysis of primary materials including statutes, case laws, conventions, treaties, as well as secondary materials including books and articles published in reputable journals. The major findings of the investigation include the following issues that threaten the success of the model; namely, ambiguities in the legislation, over broad essential services determination, and institutional weaknesses. More importantly, the inability to bind agreements to collective bargaining takes away the motivation for negotiations. In addition, the Federal Ministry of Labour and Employment suffers from a fundamental conflict of interest in disputes involving the public sector, while the Industrial Arbitration Panel is often circumvented. The recommendations call for the National Assembly to review the Trade Disputes Act and include provisions that will ensure the collective bargaining agreement becomes legally binding and enforceable through the National Industrial Court of Nigeria. The recommendation goes ahead to call for a reduced definition of what constitutes essential services and an independent National Labour Conciliation Service.

CHAPTER ONE

INTRODUCTION

1.1 Background of the Study

Within the field of Nigerian labour law few subjects carry the level of practical urgency that surrounds the resolution of trade union disputes because the failure to resolve such disputes in a peaceful and prompt manner has over many decades imposed measurable costs on workers and employers plus the Nigerian economy. Trade union disputes are broadly understood as conflicts that arise between workers' organisations and employers or the state over terms and conditions of employment and collective bargaining outcomes plus statutory rights and these disputes hold a central place in the industrial relations landscape of the country. Constitutional protection of the right to form and join trade unions is found in Section 40 of the Constitution of the Federal Republic of Nigeria 1999 (as amended),⁵⁸ which gives every person the right to come together in free association with others to include the right to form or be part of any trade union or other body for the protection of their interests. This constitutional protection, which is reinforced by the Trade Unions Act,⁵⁹ gives the foundation on which workers have built their collective efforts to pursue shared interests and assert employment rights throughout history.

The history of trade unionism in Nigeria stretches back far and is deeply rooted in the colonial and post-colonial experience of the country. Workers' organisations in Nigeria took shape as far back as 1912 when the first structured associations began to form in reaction to the exploitative labour conditions of the colonial period.⁶⁰ From those early structures the Nigerian labour movement grew at a steady pace and gained a more formal

⁵⁸ Constitution of the Federal Republic of Nigeria 1999 (as amended), section 40.

⁵⁹ Trade Unions Act Cap T14, vol 14, LFN 2004, section 1.

⁶⁰ SMA Aloko, 'Trade Union Movements in Nigeria: Their Role in Decolonisation and Democratisation, 1912–2022' (2023) 3(1) *Humanus Discourse: A Journal of the Network for Utilitarian Studies* 1, 3.

legal character through a series of colonial labour ordinances and then through national decrees and legislative instruments after independence that sought to govern both union activities and the resolution of workplace disputes.⁶¹ Four legislative instruments together form the main statutory structure within which trade union disputes are identified and processed and determined and these are the Labour Act,⁶² the Trade Disputes Act,⁶³ Trade Unions Act⁶⁴ and the National Industrial Court Act 2006.⁶⁵ These legislative instruments show the sustained interest of the Nigerian state in directing labour conflict into manageable legal processes whilst preserving a level of worker autonomy.

In spite of this legislative structure the resolution of trade union disputes in Nigeria has remained a persistent problem over time. Academic analysis confirms that trade dispute adjudication processes are often costly and time-consuming and produce outcomes that many trade union officials see as unjust or not adequate.⁶⁶ “The challenge grows because collective bargaining agreements which are the main instrument through which unions and employers reach durable settlements often lack effective enforcement mechanisms and leave unions with little real recourse when employers go back on agreed terms.”⁶⁷ To address this systemic enforcement gap, the role of the National Industrial Court of Nigeria (NICN) in this landscape becomes of great importance. Set up as a superior court of record. In *National Union of Road Transport Workers v Ogbodo*,⁶⁸ the Court of Appeal held that the

⁶¹ V-A Bidemi and OS Olashupo, ‘Historical Perspective of Industrial Relationship in Nigeria’ (2024) 7(2) *British Journal of Education, Learning and Development Psychology* 30, 31.

⁶² Labour Act Cap L1, vol 8, LFN 2004, section 91.

⁶³ Trade Disputes Act Cap T8, vol 14, LFN 2004, section 2.

⁶⁴ Trade Unions Act, Cap. T14, LFN 2004.

⁶⁵ National Industrial Court Act 2006, section 1.

⁶⁶ UU Ikeije, CHA Nwakanma and MI Johnpedro, ‘Trade Dispute Adjudication and Trade Unions’ Satisfaction of Justice Served in the Nigerian Oil and Gas Industry’ (2021) 8(2) *Journal of Technology Management and Business* 47, 49.

⁶⁷ EQ Kelsey, OC Obinuchi and E Johnbull, ‘An Appraisal on the Status of Collective Agreement in the Nigerian Labour and Industrial Law’ (2024) 14(1) *Nnamdi Azikiwe University Journal of Commercial and Property Law* 165.

⁶⁸ *National Union of Road Transport Workers v. Ogbodo* [1998] 2 NWLR (Pt. 537) 189 (CA).

existence of a trade dispute within the statutory definition depends on all the ingredients of section 48(1) of the Trade Disputes Act being present, a ruling that confirmed both the technical nature of the definition and the difficulties unions face in bringing disputes within the formal legal framework.

The role of the National Industrial Court of Nigeria (NICN) in this landscape is of great importance. Set up as a superior court of record with sole jurisdiction over labour and employment matters, a status confirmed by the Supreme Court in *Skye Bank Plc v Iwu*,⁶⁹ the NICN was built to serve as a specialist forum for the resolution of trade union disputes. Yet despite this institutional development, recurring industrial actions in Nigeria in particular in the education and health and petroleum sectors give clear proof of the lack of strength in current dispute resolution frameworks.

1.2 Statement of the Problem

The central problem that this study addresses is the gap between the formal statutory framework for trade union dispute resolution in Nigeria and the practical effectiveness of that framework in resolving disputes in a fair, timely and durable manner. Although Nigeria has a detailed legislative structure for trade union dispute resolution that encompasses the Trade Disputes Act, the Trade Unions Act, and the National Industrial Court Act 2006 alongside the constitutional provisions on freedom of association and the right to organise, trade union disputes continue to produce prolonged industrial actions and unresolved conflicts that cause measurable harm to workers, employers and the national economy. The persistence of these outcomes indicates that the statutory framework either contains structural deficiencies, is applied inconsistently, or lacks effective enforcement mechanisms.

The specific problems that drive this study are threefold. First, the procedures for

⁶⁹ *Skye Bank Plc v Iwu* [2017] 16 NWLR (Pt 1590) 24 (Supreme Court of Nigeria).

conciliation and arbitration under the Trade Disputes Act are on a regular basis not followed or are bypassed by disputing parties, which means that the institutional machinery established for peaceful resolution is activated only in a fraction of the cases where it is needed. Second, collective bargaining agreements that are reached between unions and employers on a regular basis lack legal enforceability, which removes the incentive for good faith negotiation and leaves workers without effective recourse when employers fail to honour negotiated terms. Third, the NICN, despite its constitutional elevation and expanded jurisdiction, faces challenges of procedural delay and enforcement limitation that reduce its practical effectiveness as a dispute resolution forum. These three problems taken together create a cycle of unresolved disputes and recurring industrial actions that the current statutory framework has not been able to break.

1.3 Research Questions

This study is guided by the following research questions:

1. What are the legal and institutional frameworks for resolving trade union disputes in Nigeria?
2. What are the challenges hindering effective resolution of trade union disputes in Nigeria?
3. What are the prospects for reforming the trade union dispute resolution framework in Nigeria?

1.4 Aim and Objectives of the Study

The aim of this study is to evaluate the statutory and institutional frameworks for trade union dispute resolution in Nigeria, with a view to identifying statutory deficiencies, evaluating specialized judicial jurisprudence, and proposing targeted legislative and institutional reform. The specific objectives of the study are to:

- I. Examine the legal and institutional frameworks governing the resolution of trade

union disputes in Nigeria.

- II. Identify and analyse the challenges hindering the effective resolution of trade union disputes in Nigeria.
- III. Assess the prospects for reforming the trade union dispute resolution framework in Nigeria.

1.5 Scope and Limitations of the Study

The scope of this study is confined to the statutory framework for trade union dispute resolution in Nigeria as established by the Trade Disputes Act, the Trade Unions Act, the National Industrial Court Act 2006 and the relevant provisions of the Constitution of the Federal Republic of Nigeria 1999 (as amended). The geographical coverage is limited to Nigeria. The subject matter coverage extends to the procedural and substantive rules governing trade dispute resolution, collective bargaining enforcement, the jurisdiction and practice of the NICN, and the conformity of the framework with international labour standards. The study does not extend to individual employment disputes that fall outside the statutory definition of a trade dispute, nor does it cover the internal governance of individual trade unions. The time frame examined runs from the enactment of the current Trade Disputes Act in its consolidated form under the Laws of the Federation of Nigeria 2004 to the date of this study, with historical context drawn from earlier periods where necessary to explain the development of current provisions.

Several limitations were present in the design and execution of this study. The first was the constraint that comes with the doctrinal research design which made it not possible to collect primary empirical data from trade union officials and employers plus judicial officers. As a result the analysis relied on published legal materials and secondary accounts of practice which may not fully show the practical detail of how dispute resolution mechanisms work at ground level. A wide range of empirical studies carried out by other

researchers in the field were drawn upon to make sure the analysis was informed by available evidence of practical experience. Financial constraint formed the second limitation and this reduced access to certain subscription-based legal databases and foreign law reports that would have made the comparative dimension of the study richer. Extensive use of open-access databases to include Nigeria-LII and AfricanLII plus GlobaLex and ILOSTAT alongside library resources at the institution was made to address this limitation. Time constraints gave rise to the third limitation which meant that the study could not cover the full range of sectoral disputes across all industries in Nigeria. The analysis therefore focused on sectors in particular education and healthcare plus petroleum in which trade union disputes have been most fully recorded and judicially determined. Official restrictions on access to certain NICN records and unpublished arbitration awards formed an additional limitation which restricted the range of decisions available for analysis beyond those contained in published law reports.

1.6 Significance of the Study

This study makes several contributions to legal scholarship and policy in Nigeria. First, it produces a systematic doctrinal analysis of the full statutory framework for trade union dispute resolution that brings together the Trade Disputes Act, the Trade Unions Act, the National Industrial Court Act 2006, and the constitutional framework in a single integrated analysis. Existing scholarship has tended to examine these instruments in isolation and the present study addresses this gap by showing how they interact and how their interaction produces both strengths and weaknesses in the overall framework.

Second, the study contributes to the jurisprudence of the NICN by identifying and analysing the key legal principles that the court has established in its decisions on trade union dispute resolution. This doctrinal analysis of the court's decisions provides a resource for practitioners, trade unions, employers and policy makers who need to understand the

legal principles that govern their conduct in the dispute resolution process.

Third, the study contributes to the reform agenda for Nigerian labour law by producing specific, evidence-based recommendations for legislative reform that are grounded in a thorough analysis of both the existing statutory framework and the international labour standards to which Nigeria is committed. These recommendations are directed at the specific structural deficiencies identified in the analysis and are therefore more precise and practically relevant than the general calls for reform that characterise much of the existing commentary on Nigerian labour law.

1.7 Research Methodology

This study adopts the doctrinal method of legal research. Doctrinal legal research, also referred to as black-letter legal research, involves the systematic examination and analysis of legal rules, principles and institutions through reliance on primary and secondary legal materials. Primary sources include statutes, case law, treaties and conventions, while secondary sources include textbooks, journal articles, official reports and other scholarly materials.

The choice of this methodology is informed by the nature of the research problem and objectives of the study. Since the research focuses on the legal framework governing trade union dispute resolution in Nigeria, doctrinal research is considered most suitable because it enables an examination of relevant statutes, judicial decisions and institutional mechanisms regulating trade disputes. The methodology also facilitates the identification of legal gaps and challenges within the existing framework and allows for the formulation of recommendations for reform. Accordingly, data for this study are derived from both primary and secondary sources and are analysed through content analysis in order to evaluate the effectiveness of the legal and institutional framework governing trade union dispute resolution in Nigeria.

1.8 Literature Review

A review of the existing literature on trade union dispute resolution in Nigeria shows a body of scholarship that is growing in volume and in depth but remains uneven in coverage with particular gaps in complete legal analyses that bring together the statutory and institutional plus empirical dimensions of the subject. This section reviews ten studies that are most directly relevant to the present inquiry and identifies their contributions and methodologies plus the gaps that the current study seeks to fill.

Dumebi and Shonuga⁷⁰ conducted a qualitative study examining the role of the Nigerian state in industrial dispute settlement mechanisms drawing on field research at the Ministry of Labour and the Industrial Arbitration Panel plus the National Industrial Court. The study found that state intervention in dispute settlement whilst extensive in procedural terms was on a regular basis not effective in practice due to bureaucratic delays and insufficient staffing of the Ministry of Labour plus the failure of parties to engage in good faith conciliation. The study recommended that the institutional capacity of state dispute settlement organs be strengthened and that the enforcement of conciliation outcomes be improved. Whilst the study gives useful empirical evidence of institutional dysfunction it comes before significant developments in the procedural framework of the NICN and does not engage with the constitutional dimensions of trade union dispute resolution which is a gap that the present study addresses by placing the institutional analysis within the broader statutory and constitutional framework.

Okene and Emejuru⁷¹ conducted a doctrina examination of the distinction between disputes of rights and disputes of interests within Nigerian labour law and evaluated the

⁷⁰ AI Dumebi and A Shonuga, 'The Role of the State in Industrial Dispute Settlement Mechanisms in Nigeria' (2018) 1(1) *LASU Journal of Employment Relations and Human Resource Management* 44, 50.

⁷¹ OVC Okene and CT Emejuru, 'The Disputes of Rights Versus Disputes of Interests' Dichotomy in Labour Law: The Case of Nigerian Labour Law' (2015) 5(7) *Journal of Law, Policy and Globalization* 93.

implications of this distinction for industrial action and dispute settlement. The study found that Nigerian labour law imposes excessive restrictions on industrial action by subjecting disputes of interests to rigid statutory procedures that often frustrate effective trade union engagement. Whilst the study provides valuable doctrinal insight into the legal architecture of industrial disputes, it focuses narrowly on industrial action and does not comprehensively examine the institutional resolution, a gap which the present study addresses.

IbuOtor and Longpoe⁷² conducted a doctrinal evaluation of the NICN Civil Procedure Rules 2017 and examined whether the procedural changes introduced by those rules to include fast-track procedures and enhanced case management powers were adequate to address the delays and inefficiencies that had marked the earlier practice of the court. The study found that the 2017 Rules represented a real improvement but that their effective implementation was held back by resource limitations and the volume of cases before the court. The present study shares the doctrinal methodology of IbuOtor and Longpoe but extends the analysis beyond procedural rules to cover the full statutory and constitutional framework for trade union dispute resolution which is a broader scope that allows a more complete assessment of the adequacy of the framework”.

Agboola and Ogundola⁷³ examined the institutional role of the National Industrial Court in promoting industrial peace in the Nigerian workplace and drew on case examples to show the contribution of the court to the resolution of employment disputes and the protection of workers’ rights. The study concluded that the NICN plays a central role in maintaining industrial peace and recommended greater funding and staffing to strengthen its capacity. Whilst the institutional focus of the study is of value its analysis is descriptive

⁷² EI IbuOtor and W Longpoe, ‘Effective Justice Dispensation in Labour Disputes: A Focus on the National Industrial Court of Nigeria Civil Procedure 2017’ (2020) 6(2) *Journal of Forensic, Legal and Investigative Sciences* 1.

⁷³ BG Agboola and PIOgundola, ‘Towards Employees’ Job Protection and Security: Roles of National Industrial Court (NIC) in Ensuring Peace in Nigeria Workspace’ (2020) 11(5) *Journal of Education and Practice* 89, 91.

rather than critical and does not engage with the deficiencies of the legal framework or the challenges that reduce the effectiveness of the court which are dimensions that the present study addresses in a direct way.

Omolawal⁷⁴ conducted a secondary-source study of the development of labour policy in Nigeria from the colonial period to the present and examined how successive legislative interventions have shaped the character of the industrial relations system. The study found that labour policy in Nigeria has throughout its history been marked by excessive state interventionism that has weakened union autonomy and undermined the conditions for genuine collective bargaining. “The present study builds on the historical analysis of Omolawal by extending it into the constitutional democracy period and connecting the historical narrative to the contemporary statutory framework in a way that the study did not develop in a full way. Agomo conducted a doctrinal examination of Nigerian employment and labour relations law with emphasis on collective bargaining, dispute settlement procedures, and institutional labour mechanisms. The study found that despite the elaborate statutory framework regulating labour relations in Nigeria, persistent enforcement weaknesses and excessive governmental intervention continue to undermine effective dispute resolution and industrial harmony. The work further highlighted the evolving role of the National Industrial Court in labour adjudication following constitutional reforms. Whilst Agomo provides a broad doctrinal analysis of Nigerian labour law, the work does not specifically concentrate on the adequacy of the trade union dispute resolution framework, which is the central concern of the present study.”⁷⁵

Folarin⁷⁶ examined the constitutional dimensions of labour relations in Nigeria with

⁷⁴ SA Omolawal, ‘Labor Policy in Nigeria: Evolution, Trends and Implications for Industrial Relations’ (2022) 16(1) *Dhaulagiri Journal of Sociology and Anthropology* 36, 42.

⁷⁵ Chioma K Agomo, *Nigerian Employment and Labour Relations Law and Practice* (Concept Publications Ltd 2011).

⁷⁶ PA Folarin, ‘The Workplace and Constitutionalism in Nigeria’ (2021) 11 *University of Ibadan Law Journal*

emphasis on post-Third Alteration developments and found that the strengthening of the National Industrial Court has significantly altered labour adjudication in Nigeria whilst institutional and legislative gaps remain. Whilst the study provides an important constitutional analysis of labour rights and institutional development, it does not focus specifically on trade union dispute resolution mechanisms, a gap addressed by the present study.

Uzualu, Ofo and Ochem⁷⁷ conducted a hybrid doctrinal and survey-based analysis of collective bargaining as an index of industrial relations in Nigeria and examined the degree to which collective bargaining processes in Nigeria match the theoretical ideal of genuine bilateral negotiation. The study found significant departures from the ideal in particular in the public sector where government employers on a regular basis treat collective bargaining as a formality rather than a genuine process of negotiation. The findings of the study give direct support to the analysis in the present study of the challenges to effective collective bargaining in Nigeria and complement the legal analysis by giving empirical evidence of how the statutory framework operates in practice.

Olabiya⁷⁸ conducted a mixed-method comparative study of conflict resolution mechanisms in multinational corporations in Nigeria and South Africa and examined the effectiveness of different dispute resolution approaches in the context of large-scale international employment relationships. The study found that the formal dispute resolution framework in Nigeria is less effective than voluntary mediation and direct negotiation in resolving disputes in the multinational sector and concluded that the legal framework needs

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⁷⁷ J Uzualu, N Ofo and CE Ochem, 'A Critical Review of Collective Bargaining Indices of Industrial Relations in Nigeria' (2024) 9(1) *NIU Journal of Humanities* 248, 254.

⁷⁸ OJ Olabiya, 'A Study of Conflict Resolution Mechanisms and Employment Relations in Multinational Corporations in Africa: Empirical Evidence from Nigeria and South Africa' (2022) 20 *SA Journal of Human Resource Management* a1900, 7.

to be reformed to give more prominence to alternative dispute resolution mechanisms. The present study shares the reform orientation of Olabiyi's work but concentrates on the domestic statutory framework and the specific legislative changes needed to make it more effective.

Akpan, Akpan and Olsson⁷⁹ conducted a quantitative case study of mediation tactics for resolving conflicts in trade unions using the Nigeria National Petroleum Corporation as a case study and examined the effectiveness of different mediation approaches in resolving inter- union and intra-union conflicts. The study found that structured mediation by trained neutrals is significantly more effective than unassisted negotiation in resolving trade union conflicts and concluded that the NICN's alternative dispute resolution framework needs greater resource support and institutional promotion.⁸⁰ The present study draws on this finding in its analysis of the gap between the statutory framework and its practical implementation and uses it to support the recommendation that alternative dispute resolution mechanisms within the NICN framework be strengthened.

This review of the literature confirms that existing scholarship has produced valuable empirical and doctrinal insights into specific dimensions of trade union dispute resolution in Nigeria. However, no existing study has produced an integrated analysis of the full statutory framework that brings together the Trade Disputes Act, the Trade Unions Act, the National Industrial Court Act 2006, and the constitutional framework in a single critical legal analysis. This study fills that gap by producing a comprehensive doctrinal analysis of the full framework, evaluating it against international labour standards, and proposing specific legislative reforms to address its structural deficiencies.

⁷⁹ H Akpan, IE Akpan and I Olsson, 'Mediation Tactics for Resolving Conflicts in Trade Unions: A Quantitative Case Study of the Nigeria National Petroleum Corporation, Port Harcourt, Rivers State, Nigeria' (2023) 10(1) *Journal of Social Science Studies* 284, 289.

⁸⁰ *Ibid* 292.

CHAPTER TWO

CONCEPTUAL AND THEORETICAL FRAMEWORKS

2.1 Conceptual Framework

2.1.1 Trade Union

At its most basic level a trade union is an organised body of workers formed to protect and advance their economic and social interests through collective action and negotiation plus representation. Under Nigerian law the Trade Unions Act⁸¹ gives a statutory definition of a trade union as any combination of workers or employers whether temporary or permanent whose principal objects are the regulation of relations between workers and employers or between workers and workers or the placing of restrictive conditions on the conduct of any trade or business. This statutory framing underscores that trade unions in Nigeria are not merely social or voluntary associations but are legal entities with defined purposes whose rights and obligations plus jurisdictional limits are set by statute and enforced by the courts.

The legal nature and status of trade unions in Nigeria have been examined in scholarly literature which has noted that a trade union once registered under the Act gains a corporate character that makes it capable of suing and being sued in its registered name and of holding property which is a legal status that carries important implications for its liability in the context of industrial disputes.⁸² The question of trade union identity and the limits of union jurisdiction have produced litigation on a regular basis. In *National Union of Road Transport Workers v Ogbodo*⁸³ the Court of Appeal held that in determining whether a trade dispute exists within the statutory definition all the ingredients in section 48(1) of the Trade Disputes Act must be present, a principle that defines the boundaries

⁸¹ Trade Unions Act Cap T14, LFN 2004, s 1.

⁸² *Nigeria Nurses Association v Attorney-General of the Federation* (1981) 11–12 SC 1.

⁸³ *National Union of Road Transport Workers v Ogbodo* [1998] 2 NWLR (Pt 537) 189.

within which trade union legal activity operates. While the statutory exclusive original jurisdiction of the National Industrial Court over trade unions was constitutionally solidified by the Third Alteration Act of 2010, the apex court firmly secured the institution's position within the absolute judicial hierarchy in *Skye Bank Plc v. Iwu*⁸⁴, where the Supreme Court settled the appellate framework and confirmed the court's status as an independent superior court of record. Taken together these decisions show that the concept of a trade union in Nigeria is not simply a social phenomenon but a defined legal entity whose rights and obligations are set by statute and enforced by the courts. The judicial recognition of organised labour relationships was reinforced in *Nigeria Arab Bank Ltd v Shuaibu*⁸⁵ where the Supreme Court recognised the significance of negotiated labour arrangements within the employment relationship.

2.1.2 Trade Dispute

A trade dispute refers to any dispute between employers and workers or between workers and workers that is connected with the employment or non-employment or the terms of employment or the conditions of work of any person.⁸⁶ This definition drawn from the Trade Disputes Act is broad in scope by design and covers disputes that arise not only from the active employment relationship but also from the end of employment and extends to conditions of work that may include matters of safety and welfare plus remuneration. In practice, while this statutory framework for trade dispute resolution is elaborate in structure, it suffers from significant practical weaknesses, particularly in relation to the alternative dispute resolution mechanisms provided under the Act. Scholarly analysis has confirmed that the legal framework for trade dispute resolution in Nigeria while elaborate in structure suffers from significant practical weaknesses in particular in relation to the alternative

⁸⁴ *Skye Bank Plc v. Iwu* (2017) 16 NWLR (Pt. 1590) 24.

⁸⁵ *Nigeria Arab Bank Ltd v Shuaibu* [1991] 4 NWLR (Pt 186) 450.

⁸⁶ Trade Disputes Act Cap T8, LFN 2004, section 48.

dispute resolution mechanisms provided under the Act which are on a regular basis not used or bypassed by disputing parties who lack awareness of or confidence in the available procedures.⁸⁷

The importance of the statutory definition was further confirmed in *National Union of Road Transport Workers v Ogbodo*, the Court of Appeal held that for a dispute to qualify as a trade dispute within the meaning of the Trade Disputes Act, all statutory elements of the definition must be present.⁸⁸ Taken together this decision show that the concept of a trade dispute in Nigeria is a legally technical one that must be distinguished from related concepts such as civil wrongs or constitutional violations.

2.1.3 Collective Bargaining

Collective bargaining is the process through which trade unions and employers negotiate the terms and conditions of employment for the workers the union represents and reach agreements that govern the employment relationship for a defined period. It is the primary mechanism through which workers exercise their collective power to improve their conditions of service and it operates within a legal framework that defines the rights of parties to bargain, the subjects of bargaining, and the legal status of the agreements that are reached. In the Nigerian context collective bargaining is recognised under the Trade Unions Act and the Labour Act but has historically suffered from enforcement weaknesses that have limited its practical effectiveness as a dispute resolution mechanism. Scholarly analysis has confirmed that collective bargaining agreements in Nigeria on a regular basis lack binding legal force needed to compel compliance by employers or governments who choose not to follow them.⁸⁹ Nigerian courts have consistently maintained that collective

⁸⁷ OO Ogunkunle and O Ojedokun, 'The Legal Framework for Alternative Dispute Resolution in Academic Staff Union of Universities' Trade Dispute: Challenges and Prospects' (2023) 8(1) *African Journal of Law, Political Research and Administration* 13, 16.

⁸⁸ *National Union of Road Transport Workers v Ogbodo*[1998]2NWLR(Pt537)189.

⁸⁹ NC Nwabuko, 'The Legal Framework for Collective Bargaining in Nigeria' (2023) 4(6) *International Journal*

agreements generally become enforceable only where incorporated into contracts of employment, as reaffirmed in *Osoh v Unity Bank Plc*.⁹⁰ The results of this enforcement gap are severe because agreements reached after long negotiations are on a regular basis not honoured and this forces unions to turn to industrial action to secure compliance which is the very cycle that collective bargaining is designed to stop.

2.1.4 Strike Action

Strike action refers to a collective work stoppage by employees that is taken for the purpose of compelling an employer or the government to address a grievance or follow a demand relating to employment conditions and wages plus the implementation of agreements. It is the most visible and consequential form of trade union pressure and holds a complex position within the Nigerian legal framework because it is at the same time recognised as a lawful exercise of worker rights and made subject to significant statutory restrictions that condition its lawful use. The right to strike in Nigeria is not stated by the Constitution in direct terms but is recognised by implication through the right to freedom of association and the right to organise under Section 40 of the Constitution of the Federal Republic of Nigeria 1999 (as amended)⁹¹ and through the procedural framework set up in the Trade Disputes Act which lays down the steps that must be completed before a strike can be lawfully started. Scholarly analysis has confirmed that these procedural preconditions which include the use of conciliation and arbitration processes and the giving of required notices are on a regular basis misunderstood or bypassed by unions in a

of *Multidisciplinary Research and Growth Evaluation* 251, 256; PK Badey, GD Korsi and K Sunny, 'Wildcat Strike and Collective Bargaining Outcome of Petroleum Marketing Companies in Rivers State, Nigeria' (2023) 2(6) *International Journal of Social Science Humanity and Management Research* 291.

⁹⁰ *Osoh v Unity Bank Plc* [2013] 9 NWLR (Pt 1358) 1.

⁹¹ Constitution of the Federal Republic of Nigeria 1999 (as amended), section 40

deliberate way which exposes strike actions to judicial restraint.⁹²

The boundaries of industrial conflict have been heavily shaped by modern judicial oversight. Rather than approaching statutory strike limitations in designated public sectors as mere bureaucratic hurdles, contemporary jurisprudence views them as deliberate legislative interventions designed to protect vital public welfare. While organized labour possesses a constitutionally implied right to strike, as recognized by the organized labour possesses an implied right to strike derivative from the constitutional guarantee of freedom of association, this power is not absolute. The judiciary consistently maintains that statutory strike limitations are deliberate policy interventions designed to compel compulsory arbitration over industrial disruption. This was clearly demonstrated in *Federal Government of Nigeria v. Nigeria Labour Congress*⁹³, where the National Industrial Court emphasized that the right to strike must be balanced against public order and the economic well-being of the nation.

2.1.5 Industrial Action

Industrial action is a broader concept than strike action and covers the full range of collective measures that workers and their unions may use to put pressure on employers or the state without going as far as a complete work stoppage. These measures include go-slow actions and work-to-rule campaigns alongside overtime bans and picketing, and all of them are designed to disrupt normal production or service delivery without amounting to a formal strike. In the Nigerian context industrial action and strike action are on a regular basis used as if they mean the same thing in both popular discourse and some statutory provisions though the distinction carries legal significance in deciding which procedural requirements apply and what judicial remedies are available”. Research has established a causal relationship between industrial action and negative economic outcomes in Nigeria with evidence showing that the loss of productive man-days due to industrial actions places

⁹² Felicia A Anyogu and Eremwari Queen Kelsey, ‘Right to Strike in Nigeria and Some Selected Jurisdictions’ (2024) 6(1) *International Journal of Comparative Law and Legal Philosophy* 1, 12–14.; AO Micheal and OE Henry, ‘Basic provision of the extent to which the right to go on strike by trade unions in Nigeria is absolute’ (2023) 9(9) *IIARD International Journal of Economics and Business Management* 1, 6.

⁹³ *The Federal Government of Nigeria v. Nigeria Labour Congress & Anr* Suit No. NICN/ABJ/158/2023

a measurable drag on economic growth across affected sectors.⁹⁴ In the healthcare sector empirical studies have recorded how industrial actions by health workers driven by unresolved trade union disputes about wages and conditions of service have resulted in patient welfare harm beyond their economic dimension.⁹⁵ In *Udoh v Orthopaedic Hospitals Management Board*,⁹⁶ the Supreme Court dismissed the suit of the employer as an abuse of process on the ground that the statutory preconditions for referring the trade dispute to arbitration under the Trade Disputes Act had not been met before the matter was brought to court, which was a ruling that whilst procedural in character showed the importance of directing industrial actions through the prescribed statutory processes rather than allowing them to be cut short by litigation. In addition in *National Union of Road Transport Workers v Road Transport Employers Association of Nigeria*⁹⁷ the Court of Appeal confirmed that the right to organise and engage in trade union activities which covers the right to take part in lawful industrial action is protected under Section 40 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and ILO Convention No 87 though that right is subject to the procedural and substantive limitations placed on it by the Trade Unions Act and the Trade Disputes Act.

2.1.6 Dispute Resolution

Dispute resolution in the context of trade union law refers to the full range of processes both formal and informal and both adversarial and consensual through which conflicts between workers and employers are identified and addressed plus brought to a conclusion. These processes range from direct negotiation between the parties and

⁹⁴ PA Folarin, 'The Workplace and Constitutionalism in Nigeria' (2021) 11 *University of Ibadan Law Journal* 112.

⁹⁵ S Mayaki and M Stewart, 'Teamwork, Professional Identities, Conflict, and Industrial Action in Nigerian Healthcare' *Journal of Multidisciplinary Healthcare* (2020) 13, 1223, 1228.

⁹⁶ *Udoh v Orthopaedic Hospitals Management Board* [1993] 7 NWLR (Pt 304) 139 (Supreme Court of Nigeria).

⁹⁷ *National Union of Road Transport Workers v Road Transport Employers Association of Nigeria* [2001] 14 NWLR (Pt 733) 313 (Court of Appeal)

voluntary conciliation supported by the Ministry of Labour plus compulsory arbitration before the Industrial Arbitration Panel where conciliation does not succeed and referral at the end to the National Industrial Court for judicial determination.⁹⁸ Alternative dispute resolution mechanisms in particular mediation have received growing scholarly attention as a means of dealing with the weaknesses of the formal statutory process and research has shown that mediation tactics can be effective in resolving conflicts within trade unions and between unions and employers when used by trained neutrals in a structured setting.⁹⁹ Ekwelem¹⁰⁰ conducted a doctrinal analysis of the notion of essential services under Nigerian labour law and found that the statutory restrictions imposed on workers in designated essential services often create significant tensions between public welfare concerns and labour rights. The study argued that the present framework risks excessive restriction of the right to strike and recommended clearer legislative safeguards to balance public interest with workers' associational rights. In spite of this the persistent challenge in Nigeria is that many parties do not know about or do not trust ADR options whilst the ADR framework of the NICN has been described as not having enough resources and as given too little emphasis at the institutional level.

In *Skye Bank Plc v Iwu*¹⁰¹ the Supreme Court confirmed the status of the NICN as the apex court for the resolution of labour disputes and confirmed its sole jurisdiction over all matters relating to labour and employment plus trade unions which was a ruling that made the institutional hierarchy of dispute resolution in Nigeria clear but did not resolve the deeper problem of the practical effectiveness of the framework. Further maintaining this

⁹⁸ Trade Disputes Act Cap T8, LFN 2004, sections 4–14.

⁹⁹ H Akpan, IE Akpan and I Olsson, 'Mediation Tactics for Resolving Conflicts in Trade Unions: A Quantitative Case Study of the Nigeria National Petroleum Corporation, Port Harcourt, Rivers State, Nigeria' *Journal of Social Science Studies* (2023) 10(1) 284, 289.

¹⁰⁰ CM Ekwelem, 'Essential Service Notion and its Legal Implications under Nigerian Labour Law' (2023) 18(1) *The Nigerian Juridical Review* 98

¹⁰¹ *Skye Bank Plc v Iwu* [2017] 16 NWLR (Pt 1590) 24.

strict statutory hierarchy. Attempts by executive authorities to set up parallel mechanisms for resolving trade union disputes outside the statutory framework are unconstitutional which reinforced the central place of the prescribed statutory processes whilst at the same time showing the political pressures that continue to undermine them.

2.1.7 Freedom of Association

Freedom of association as a concept in labour law covers the right of workers to organise themselves into trade unions of their own choosing and to affiliate with other unions and federations plus to engage in collective activities for the advancement of their employment interests free from interference by employers or the state. It is both a fundamental human right and a core labour standard recognised under Section 40 of the Constitution of the Federal Republic of Nigeria 1999 (as amended)¹⁰² and ILO Convention No 87 on Freedom of Association and Protection of the Right to Organise plus ILO Convention No 98 on the Right to Organise and Collective Bargaining. Scholarly analysis like the work of Folarin observed that despite the constitutional entrenchment of labour rights following the Third Alteration to the Constitution, practical restrictions imposed by labour legislation continue to shape and at times constrain the operation of freedom of association within the workplace. The study further notes that tensions persist between constitutional labour guarantees and statutory limitations imposed in the interest of industrial order.¹⁰³ These restrictions have attracted criticism from the ILO Committee of Experts which has on a consistent basis pressed Nigeria to bring its legislative framework into line with Convention No 87.¹⁰⁴

¹⁰² Constitution of the Federal Republic of Nigeria 1999 (as amended), section 40.

¹⁰³ PA Folarin, 'The Workplace and Constitutionalism in Nigeria' (2021) 11 *University of Ibadan Law Journal* 112

¹⁰⁴ International Labour Organization, Freedom of Association, Collective Bargaining, and Industrial Relations: Report of the Committee of Experts on the Application of Conventions and Recommendations (Report III(A), International Labour Conference, 113th Session, ILO, 2025).

The judicial dimension of this concept was examined in *National Union of Electricity Employees & Anor v Bureau of Public Enterprises*¹⁰⁵ where the Supreme Court held that the registration of trade unions and the jurisdictional framework within which they operate must be read in a manner consistent with the constitutional guarantee of freedom of association, confirming that the right to organise carries with it the obligation to operate within the lawful statutory framework and that entities claiming trade union rights without proper registration cannot claim the protection of freedom of association. In a similar way in *National Union of Road Transport Workers v Ogbodo*¹⁰⁶ the Court of Appeal held that the freedom to form a trade union carries with it the related obligation to operate within the statutory framework of the Trade Unions Act and that the rights of a registered union are coextensive with its statutory obligations, which was a ruling that drew an important line between the right to associate and the statutory conditions that govern the exercise of that right in organised labour relations.

2.2 Theoretical Framework

2.2.1 Pluralist Theory of Industrial Relations

The Pluralist Theory of Industrial Relations was put forward in its main form by the British scholars Alan Flanders and Alan Fox in the 1950s and 1960s building on earlier work in industrial sociology and developing in direct response to the dominant unitarist view that held that the workplace was or ought to be a community of shared interests in harmony.¹⁰⁷ The theory holds that the employment relationship contains by its nature a

¹⁰⁵ *National Union of Electricity Employees & Anor v Bureau of Public Enterprises* [2010] 7 NWLR (Pt 1194) 538 (Supreme Court of Nigeria).

¹⁰⁶ *National Union of Road Transport Workers v Ogbodo* [1998] 2 NWLR (Pt 537) 189 (Supreme Court of Nigeria).

¹⁰⁷ P Ackers, 'Pluralisms? Social Philosophy, Social Science and Public Policy in Employment Relations and

plurality of interests which are those of employers and workers plus the state and which are legitimate and often in tension and that trade unions exist as a countervailing power to correct the structural imbalance between employers and individual workers. From a pluralist perspective trade union disputes are not departures from the norm or failures of management but the natural and expected expression of competing interests within the employment relationship and the task of the legal and institutional framework is not to suppress such disputes but to direct them into processes of negotiated resolution that are fair and orderly plus productive. Modifications to the pluralist framework have been put forward by a range of scholars who have questioned its assumptions about the equal weight of competing interests and its failure to account for structural power imbalances that work against workers on a regular basis in particular in labour markets marked by high unemployment and weak union density plus extensive state intervention.¹⁰⁸ In the Nigerian context these critiques carry particular force given the history of the state of using legislative power to restrict union autonomy and the persistent imbalance of power between organised labour and government employers. In spite of this the pluralist framework retains analytical value for this study because it gives a theoretical basis for understanding why trade union disputes arise and why the statutory framework takes the form it does, namely as an attempt to channel inevitable conflicts between competing interests into managed resolution processes.¹⁰⁹

2.2.2 Collective Laissez-Faire and Voluntarism

The theory of Collective Laissez-Faire was developed in its classical form by the British labour lawyer Otto Kahn-Freund and holds that the most effective framework for

Human Resource Management' [2021] 63(2) *Journal of Industrial Relations* 263, 265.

¹⁰⁸ T Dobbins, E Hughes and T Dundon, "Zones of Contention" in *Industrial Relations: Framing Pluralism as Praxis* [2021] 63(2) *Journal of Industrial Relations* 149, 155.

¹⁰⁹ *Ibid* 158.

managing trade union disputes is one in which the law withdraws from direct regulation of the employment relationship and leaves it to the autonomous self-regulation of organised workers and employers through collective bargaining. On this view the role of law in industrial relations is not to impose substantive terms on the parties but to create the conditions in which genuine collective self-regulation can take place by guaranteeing the right of workers to organise and bargain and by giving legal immunity to trade union activities that would otherwise attract legal liability. The formal dispute resolution machinery established by statutes is secondary to and in support of the primary mechanism of voluntary collective self-regulation. Criticisms of voluntarism have been substantial and wide in range. Scholars have pointed out that the theory gave an accurate description only of a particular historical arrangement of British industrial relations that was already in decline by the time Kahn-Freund set it out and that in current labour markets marked by weakened unions and fragmented employment plus aggressive employer resistance to collective bargaining the withdrawal of law from industrial relations tends to reproduce and deepen inequality rather than enabling genuine self-regulation.¹¹⁰

Contemporary scholarship on voluntarism has focused on the rise of private voluntary regulation in particular by employer forums and industry associations as a substitute for both statutory regulation and collective bargaining which raises questions about the effectiveness and accountability of such mechanisms.¹¹¹ In Nigeria voluntarism has never been the dominant character of the industrial relations framework given the pervasive interventionism of the state in trade union affairs through successive regulatory instruments. In spite of this the theory retains analytical value for this study because it gives

¹¹⁰ AL Bogg, 'Can We Trust the Courts in Labour Law? Stranded between Frivolity and Despair' [2022] 38(2) *International Journal of Comparative Labour Law and Industrial Relations* 103, 110; *Attorney General of Oyo State v Nigeria Labour Congress* [2003] 8 NWLR (Pt 821) 1.

¹¹¹ *P Demougin and others (n 33) 691; National Union of Electricity Employees & Anor v Bureau of Public Enterprises* [2010] 7 NWLR (Pt 1194) 538 (Supreme Court of Nigeria)

a normative reference point against which to evaluate the degree to which the statutory framework of Nigeria supports or undermines autonomous collective bargaining in a genuine way and because elements of voluntarist thinking are reflected in provisions of the Trade Disputes Act that give priority to negotiated settlement over adjudication. The present study draws on voluntarist theory to assess whether the conditions for meaningful self-regulation through collective bargaining exist within the Nigerian system and to identify where legislative or institutional reform would be needed to create those conditions.

2.2.3 Legal Positivism

Legal Positivism is one of the most influential schools of jurisprudential thought put forward in its classical form by Jeremy Bentham and John Austin in the eighteenth and nineteenth centuries and then developed by H L A Hart in his key work *The Concept of Law* published in 1961.¹¹² The theory holds that law is a social fact which is a system of rules created and enforced by human authority and that the validity of a legal rule depends not on its moral content but on whether it has been enacted or recognised through the processes and by the institutions with authority to create law within the relevant legal system. For Austin, law was the command of the sovereign backed by the threat of sanction whilst Hart, law was a union of primary rules placing obligations and secondary rules giving powers to create and modify plus adjudicate primary rules”. This framework has been criticised by scholars including Ronald Dworkin who argued that law cannot be reduced to rules alone and that legal reasoning of necessity incorporates principles that carry moral weight which is a critique that has produced a wide jurisprudential debate about the relationship between law and morality plus interpretation.¹¹³ In the Nigerian context legal

¹¹² E A Soyemi, ‘Participation and Law’s Authority’ [2023] 36(2) Canadian Journal of Law and Jurisprudence 491, 494.

¹¹³ Chioma K Agomo, *Nigerian Employment and Labour Relations Law and Practice* (Concept Publications

positivism gives a useful analytical tool for examining trade union dispute resolution because the framework is in an overwhelming way statutory and the rights and duties of trade unions alongside the procedures for resolving disputes and the powers of institutional actors are all defined by specific legislative enactments whose validity comes from their source in authorised legislative processes rather than from any correspondence with a particular moral ideal. The predominantly statutory nature of Nigerian labour law lends itself to a legal positivist analysis, although scholars have criticised the rigidity of the framework for undermining fairness and effectiveness in practical operation of industrial dispute resolution.¹¹⁴

The present study applies legal positivism as its primary analytical framework because it gives the most appropriate tools for examining whether the statutory framework for trade union dispute resolution is internally consistent and applied on a consistent basis plus adequate to achieve its stated objectives and for identifying where it is not the specific legislative changes that would be needed to address those weaknesses. The confirmation by the Supreme Court in *Skye Bank Plc v Iwu*¹¹⁵ of the statutory and constitutional mandate of the NICN as the sole forum for labour dispute resolution shows the positivist logic of the Nigerian system because jurisdiction and powers plus procedures are determined in a total way by statute and constitutional provision and their validity is assessed by reference to whether they were properly enacted and not by whether their outcomes are morally satisfying.

2011) 234–250; Trade Disputes Act, Cap T8, Laws of the Federation of Nigeria 2004, ss 4, 6, 8, 9, 18.

¹¹⁴ *Ibid.*

¹¹⁵ *Skye Bank Plc v Iwu*[2017]16NWLR(Pt1590)24(Supreme Court of Nigeria).

CHAPTER THREE

LEGAL AND INSTITUTIONAL FRAMEWORKS FOR RESOLVING TRADE

UNION DISPUTES IN NIGERIA

3.1 Legal Framework

3.1.1 Constitution of the Federal Republic of Nigeria, 1999 (as amended)

The CFRN 1999 forms the supreme legal foundation for trade union dispute resolution in Nigeria. Section 40¹¹⁶ of the CFRN 1999 guarantees every person the right to assemble freely and to associate with other persons and this provision has been interpreted by courts to include the right to form, join and participate in trade unions. While military-era jurisprudence like *Osawe v. Registrar of Trade Unions*¹¹⁷ historically constrained this right by prioritizing state-regulated industrial stability over union pluralism, modern appellate interpretation heavily guards the individual's right to associate without structural coercion. That constitutional guarantee is reinforced by the Third Alteration Act 2010, which inserted Sections 254A to 254F into the CFRN 1999 and elevated the National Industrial Court of Nigeria (NICN) to the status of a superior court of record with exclusive jurisdiction over labour and employment disputes. Section 254C(1)(f)¹¹⁸ specifically vests the NICN with jurisdiction over trade union disputes including matters relating to collective bargaining and industrial action. The constitutional elevation of the NICN was affirmed by the Supreme Court in *Skye Bank Plc v Iwu*¹¹⁹ where the court held that appeals from the NICN lie to the Court of Appeal and not to any other court, thereby confirming the NICN's independent constitutional status within the judicial hierarchy. Section 254C(2)¹²⁰

¹¹⁶ Constitution of the Federal Republic of Nigeria 1999, s 40.

¹¹⁷ *Osawe v. Registrar of Trade Unions* (1985) 1 NWLR (Pt. 4) 755.

¹¹⁸ Constitution of the Federal Republic of Nigeria 1999, s 254C(1)(f).

¹¹⁹ *Skye Bank Plc v Iwu* [2017] 16 NWLR (Pt 1590) 24.

¹²⁰ Constitution of the Federal Republic of Nigeria 1999, s 254C(2).

empowers the NICN to have due regard to international best practices and labour standards in labour adjudication, thereby permitting persuasive reliance on ILO instruments even where such treaties have not been fully domesticated. Beyond the specific NICN provisions, the CFRN 1999 provides additional constitutional anchors relevant to trade union dispute resolution. Section 36¹²¹ guarantees the right to a fair hearing, which the NICN must observe in all proceedings before it.

Section 12¹²² establishes the requirement that international treaties to which Nigeria is a party must be enacted into law by the National Assembly before they can have the force of law, which means that ILO Conventions ratified by Nigeria do not bind domestic courts automatically except through the mechanism of Section 254C(2) of the NICN provisions. This creates a structural tension in the framework because Section 254C(2) directs the NICN to apply international best practices, yet Section 12 withholds the force of law from undomesticated treaties in ordinary courts. Scholars have observed that the relationship between Section 12 CFRN and Section 254C creates a unique constitutional space in which international labour standards may influence adjudication despite the non-domestication rule.¹²³ The CFRN 1999 thus provides a strong but internally complex constitutional foundation whose practical application depends substantially on how the NICN interprets the interplay between Section 12 and Section 254C(2) in specific disputes.

3.1.2 Trade Unions Act, Cap T14, LFN 2004

The Trade Unions Act, Cap T14, Laws of the Federation of Nigeria 2004 (TUA) provides the statutory framework governing the formation, registration and regulation of

¹²¹ Constitution of the Federal Republic of Nigeria 1999, s 36.

¹²² *ibid*, s 12.

¹²³ S Erugo, 'The Third Alteration Act and the Jurisprudence of Individual and Collective Labour Rights in Nigeria' [2014] 10(1) *Nigerian Bar Journal* 33.

trade unions in Nigeria. Section 1¹²⁴ of the TUA defines a trade union:

“as any combination of workers or employers, whether temporary or permanent, formed for the purpose of regulating relations between workers and employers and confers legal capacity on a registered trade union to own property, enter contracts and sue or be sued in its own name.”

Section 3¹²⁵ of the TUA makes registration a precondition for the lawful exercise of trade union functions and the courts have held that an unregistered body cannot invoke the machinery for trade union dispute resolution created by the Trade Disputes Act. The statutory concentration of representative power, colloquially framed as the 'one union per sector' principle, operates as an absolute structural barrier to trade union pluralism in Nigeria. While existing literature frequently misattributes this restriction to Section 6 of the Act—which, upon strict positivist construction, is actually limited to regulating 'Restrictions as regards names of trade unions'—the rule is legally enforced through a dual-gate mechanism found in Sections 3(2) and 5(4) of the TUA. First, Section 3(2) conditions the registration of any new combination of workers or employers upon the explicit approval of the Minister on being satisfied of its expediency, while mandating that no trade union shall be registered to represent workers or employers in a place where there already exists a trade union. Second, Section 5(4) reinforces this by commanding that the Registrar shall not register a trade union if it appears that any existing trade union is sufficiently representative of the interests of the class of persons concerned.¹²⁶ This combined statutory arrangement places the Nigerian framework in direct, irreconcilable conflict with Article 2 of ILO Convention No. 87, which explicitly guarantees workers the right to establish organizations of their own choosing without prior authorization. Section 7(1)¹²⁷ of the TUA

¹²⁴ Trade Unions Act Cap T14 LFN 2004, s 1.

¹²⁵ *ibid*, s 3.

¹²⁶ *ibid*, ss 3(2) & 5(4)

¹²⁷ *ibid*, s 7(1) and 7(9).

confers on the Minister of Labour and Employment the power to deregister a trade union on specified grounds, a power whose breadth and absence of adequate procedural safeguards has been identified as a potential tool of executive interference with trade union independence.

The TUA further provides in Section 25(1) that a registered trade union has the right to enter into collective agreements with employers or their associations on behalf of its members. However, this capacity must be balanced against the structural checks introduced by the Trade Unions (Amendment) Act 2005, which amended Section 16A and Section 17 of the principal Act to alter the financial lifeline of unions by shifting check-off dues from an automatic mechanism to a conditional, voluntary system. The combined effect of Sections 3, 5, 16A, and 25 of the TUA is to create a framework that is internally coherent in design but generates significant practical tensions regarding union autonomy.

3.1.3 Trade Disputes Act, Cap T8, LFN 2004

The Trade Disputes Act, Cap T8, Laws of the Federation of Nigeria 2004 (TDA) is the principal statute governing the resolution of trade union disputes in Nigeria and its provisions constitute the primary answer to the first research question of this study. section 48(1)¹²⁸ of the TDA defines a trade dispute as:

“...any dispute between employers and workers which is connected with the employment or non-employment, the terms of employment, and the physical conditions of work of any person.”

The Supreme Court in *National Union of Electricity Employees and Anor v Bureau of*

¹²⁸ Trade Disputes Act Cap T8 LFN 2004, s 48(1).

*Public Enterprises*¹²⁹ held that this definition must be applied with close attention to whether the subject matter of the dispute falls within its scope, because a claim that does not satisfy the statutory definition cannot invoke the machinery of the TDA. Section 4¹³⁰ of the TDA provides that parties to a trade dispute shall first attempt to settle the dispute through collective bargaining, affirming the primacy of voluntary resolution before institutional intervention. Where collective bargaining fails to produce a settlement, Section 5¹³¹ of the TDA empowers the Minister of Labour and Employment to appoint a conciliator or board of conciliation and the parties are required to appear before the conciliator and to make genuine attempts to reach a settlement. If conciliation fails, section 9(1)¹³² of the TDA authorises the Minister to refer the dispute to the Industrial Arbitration Panel (IAP) and Section 13¹³³ of the TDA provides that an IAP award shall be binding on the parties. However, the effectiveness of such awards depends largely on the statutory enforcement framework and the willingness of parties to comply with the arbitral process.¹³⁴

The TDA then provides in Section 14(1) that where the IAP fails to resolve a dispute, the Minister may refer the dispute to the NICN for final determination. Critically, Section 7 of the TDA, read in conjunction with the Trade Disputes (Essential Services) Act, Cap T9, LFN 2004 and Section 48(1) of the TDA, designates certain industries as 'essential services' where strikes are prohibited and compulsory arbitration applies. The breadth of this designation has attracted intense academic criticism for outstripping international benchmarks. The landmark Supreme Court decision in *A.G. Oyo State v. Nigeria Labour*

¹²⁹ *National Union of Electricity Employees and Anor v. Bureau of Public Enterprises* (2010) 7 NWLR (Pt. 1194) 538).

¹³⁰ Trade Disputes Act Cap T8 LFN 2004, s 4.

¹³¹ *ibid*, s 5.

¹³² *ibid*, s 9(1).

¹³³ *ibid*, s 13.

¹³⁴ B. Atilola, *Labour Law Review: Trends, Issues and Perspectives* (Hybrid Consult 2016) 142.

*Congress*¹³⁵ reinforced the principle that the multi- stage statutory dispute resolution procedures laid down in the TDA are strict preconditions that must be fully exhausted before industrial action can attract legal cover, confirming that courts will promptly step in to restrain wildcat strikes called in total circumvention of these statutory pathways.

3.1.4 Labour Act, Cap L1, LFN 2004

The Labour Act, Cap L1, Laws of the Federation of Nigeria 2004 (LA) provides the substantive employment law foundation within which trade union disputes arise. Section 7¹³⁶ of the LA requires that an employer shall give each worker a written statement of the terms of employment not later than three months after the worker begins employment and disputes about those terms are a primary source of collective grievances that trade unions bring to the dispute resolution machinery. Section 9¹³⁷ of the LA regulates the payment of wages, while Section 11¹³⁸ governs permissible deductions from wages, a provision whose interpretation has been contentious in disputes where employers have deducted wages following industrial action. section 19¹³⁹ of the LA provides protection for wages against assignment, charge, or attachment and Section 91¹⁴⁰ defines a worker for the purposes of the Act and the relationship between this definition and the definition of a trade dispute in section 48(1) of the TDA has been a source of interpretive difficulty because the two Acts do not employ consistent terminology throughout.

The gap between the individual rights framework of the LA and the collective dispute resolution machinery of the TDA creates a legislative compartmentalisation that practitioners have identified as a practical obstacle. A worker who is owed wages under

¹³⁵ *A.G. Oyo State v. Nigeria Labour Congress* (2003) 8 NWLR (Pt. 822) 304

¹³⁶ Labour Act Cap L1 LFN 2004, s 7.

¹³⁷ *ibid*, s 9.

¹³⁸ *ibid*, s 11.

¹³⁹ *ibid*, s 19.

¹⁴⁰ *ibid*, s 91.

Section 9 of the LA has an individual cause of action, but where the non-payment is part of a broader dispute affecting an entire category of workers, the trade union must navigate the collective dispute resolution machinery of the TDA rather than invoking the individual protections of the LA directly. The NICN have recognised the distinction between individual employment rights and collective labour disputes, requiring different procedural mechanisms depending on the nature of the grievance,¹⁴¹ but the absence of explicit legislative provision for this intersection means that significant judicial creativity is required, which produces uncertainty for parties who cannot predict with confidence how the court will characterise a particular dispute.

3.1.5 National Industrial Court Act, 2006

The National Industrial Court Act 2006 (NICA) gives legislative expression to the constitutional provisions establishing the NICN and provides the detailed procedural framework within which the court exercises its jurisdiction over trade union disputes. Section 1¹⁴² of the NICA establishes the NICN as a superior court of record. Section 7¹⁴³ of the NICA vests the NICN with exclusive original jurisdiction over matters relating to labour, including trade union disputes and the Supreme Court in *Skye Bank Plc v Iwu*¹⁴⁴ confirmed that this exclusivity means that no other court has jurisdiction to hear or determine a trade union dispute falling within the scope of the NICA. Under Section 16 of the NICA 2006, the National Industrial Court is granted explicit power to issue an injunction, which is augmented by Section 19(1) empowering the court to make urgent interim reliefs or urgent declaratory orders where the circumstances of an industrial dispute

¹⁴¹ D Otoho, *Essentials of Labour Relations in Nigeria*, vol 1 (Malthouse Press 2016) 105.

¹⁴² National Industrial Court Act 2006, s 1.

¹⁴³ *ibid*, s 7.

¹⁴⁴ *Skye Bank Plc v Iwu* (n 5).

justify equitable intervention. This power has been used judicially to suspend ongoing industrial action while the substantive trade dispute is referred for determination. For instance, in the high-profile matter of Federal Government of *Nigeria & Anor v. Academic Staff Union of Universities*¹⁴⁵, an interlocutory injunction was issued to halt the union's strike pending the final determination of the suit. Section 7(6)¹⁴⁶ of the NICA directs the court to apply international best practices including the conventions, recommendations and judgments of international labour institutions.

Beyond its adjudicative functions, the NICA also establishes the NICN as an institution with alternative dispute resolution capacity. Section 20¹⁴⁷ of the NICA empowers the NICN to employ mediation, conciliation and other forms of alternative dispute resolution in appropriate cases, providing a mechanism for the court to facilitate settlement without full adjudication. This provision represents a significant institutional resource that has been underutilised in practice. Section 9¹⁴⁸ of the NICA establishes the appellate pathway from the NICN to the Court of Appeal and section 10¹⁴⁹ of the NICA provides enforcement mechanisms for NICN orders including the power to commit for contempt where orders are not obeyed. The NICA thus creates a comprehensive institutional framework for trade union dispute resolution that is well-designed in its broad architecture, but whose practical effectiveness depends on the court having adequate resources, judicial capacity and political independence.

3.1.6 ILO Convention No 87 (Freedom of Association and Protection of the Right to Organise, 1948)

¹⁴⁵ *Nigeria & Anor v. Academic Staff Union of Universities (ASUU)* (Suit No: NICN/ABJ/270/2022).

¹⁴⁶ National Industrial Court Act 2006, s 7(6).

¹⁴⁷ *ibid*, s 20.

¹⁴⁸ *ibid*, s 9.

¹⁴⁹ *ibid*, s 10.

The Freedom of Association and Protection of the Right to Organise Convention 1948, which is ILO Convention No 87 (Convention No 87), provides the primary international standard against which the Nigerian statutory framework for trade union rights must be assessed. Article 2 of Convention No 87¹⁵⁰ provides that workers and employers shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation and this provision sets the international standard for union pluralism. The one union per sector rule in Section 3(2) and 5(4) of the TUA stands in direct conflict with Article 2 of Convention No 87 because it restricts the right of workers to establish organisations of their own choosing. Article 3¹⁵¹ of Convention No 87 guarantees the right of workers' organisations to draw up their own constitutions and rules, to elect their own representatives in full freedom and to organise their activities without interference from public authorities and the deregistration power in section 7(1) of the TUA engages this guarantee.

Article 4 of Convention No 87¹⁵² provides that workers' organisations shall not be liable to be dissolved or suspended by administrative authority and this provision must be read alongside Section 7 of the TUA to assess whether the Nigerian deregistration mechanism is compatible with international standards. Article 8¹⁵³ of Convention No 87 requires that in exercising the rights provided for in the Convention, workers and employers shall respect the law of the land and correspondingly that the law of the land shall not be so applied as to impair the guarantees provided for in the Convention. The gap between this international obligation and the current provisions of the TUA represents a structural deficiency in the Nigerian framework that requires legislative attention.

¹⁵⁰ ILO Freedom of Association and Protection of the Right to Organise Convention 1948 (Convention No 87), Art 2.

¹⁵¹ Convention No 87, Art 3.

¹⁵² *ibid*, Art 4.

¹⁵³ *ibid*, Art 8.

3.1.7 ILO Convention No 98 (Right to Organise and Collective Bargaining, 1949)

The Right to Organise and Collective Bargaining Convention 1949, which is ILO Convention No 98 (Convention No 98), provides the international standard for the protection of collective bargaining rights. Article 1 of Convention No 98¹⁵⁴ requires that workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment, including acts calculated to cause the dismissal of or otherwise prejudice a worker by reason of union membership or participation in union activities. The Nigerian statutory framework provides some protection against anti-union discrimination through the TUA and the LA, but the adequacy of that protection as measured against Article 1 of Convention No 98 has been questioned by scholars who note that the remedies available to dismissed union officials are often limited in practice.¹⁵⁵ Article 2¹⁵⁶ of Convention No 98 requires protection of workers' organisations against acts of interference by employers and this provision requires the Nigerian statutory framework to provide mechanisms for identifying and preventing such interference.

The most significant provision of Convention No 98 for this study is Article 4¹⁵⁷ which requires that measures in regard to national conditions shall be carried out, where necessary, to promote and encourage the full development of voluntary negotiation between employers and their organisations and workers' organisations with a view to the regulating the terms and conditions of employment by means of collective agreements. This obligation requires Nigeria not merely to permit collective bargaining but to take active measures to promote and protect it and the persistent failure to make collective agreements legally

¹⁵⁴ ILO Right to Organise and Collective Bargaining Convention 1949 (Convention No 98), Art 1.

¹⁵⁵ FA Anyogu and EM Wosu, 'A Legal Appraisal of Employees' Right to Strike in Nigeria: A Cross-National Comparison' *African Journal of Law and Human Rights* [2023] 7(2), 48.

¹⁵⁶ Convention No 98, Art 2.

¹⁵⁷ *ibid*, Art 4.

enforceable represents a failure to meet this standard because it removes the primary incentive for good faith collective bargaining. The NICN has sought to give effect to Article 4 through its jurisprudence on the enforceability of incorporated collective agreements, but the full achievement of the Article 4 standard requires legislative reform of the kind proposed in Chapter Four of this study.

3.2 Institutional Framework

3.2.1 National Industrial Court of Nigeria

The National Industrial Court of Nigeria (NICN) is the apex institution for trade union dispute resolution and was elevated to the status of a superior court of record by the Third Alteration to the CFRN 1999 in 2010.¹⁵⁸ The NICN exercises exclusive original jurisdiction over all trade union disputes, a mandate confirmed by the Supreme Court in *Skye Bank Plc v Iwu*¹⁵⁹ and it has developed a growing body of jurisprudence on the interpretation of the TDA and the TUA that has progressively clarified the legal framework for dispute resolution. The court demonstrated its capacity for urgent and decisive intervention in *Federal Government of Nigeria and Anor v Academic Staff Union of Universities*¹⁶⁰ where it issued an interlocutory order suspending the 2022 ASUU strike. Scholars have noted that the NICN's application of international labour standards under section 7(6) of the NICA has produced a progressive jurisprudence that goes beyond the text of the domestic statutes and gives the Nigerian framework a normative quality that approximates international best practice.¹⁶¹ However, significant challenges remain in relation to the court's capacity, including vacancy rates in judicial positions and the volume

¹⁵⁸ Constitution of the Federal Republic of Nigeria 1999, ss 254A–254F.

¹⁵⁹ *Skye Bank Plc v Iwu* (n 5).

¹⁶⁰ *Federal Government of Nigeria & Anor v Academic Staff Union of Universities (ASUU)* (Suit No NICN/ABJ/270/2022, National Industrial Court of Nigeria, ruling delivered 21 September 2022).

¹⁶¹ Otuturu, G. G., 'Freedom of Association and Trade Union Membership in Nigeria' (2009) 3 *Labour Law Review* 63.

of cases that extend timelines beyond what institutional actors can reasonably accommodate.

3.2.2 Industrial Arbitration Panel

The Industrial Arbitration Panel (IAP) is established under the TDA¹⁶² as the penultimate institutional stage in the statutory trade union dispute resolution process and serves as the arbitration gateway between ministerial conciliation and judicial determination. The IAP has a tripartite composition that draws its members from workers' organisations, employers' organisations and independent persons and this structural design gives its awards a legitimacy that reflects the perspectives of all parties to the employment relationship. Consequently, awards of the IAP are binding on the parties under Section 13 of the TDA¹⁶³, but the enforcement mechanisms for those awards are weaker than those available for NICN judgments and the practical problem of parties bypassing the IAP process entirely is a structural weakness identified by scholars.¹⁶⁴

3.2.3 Ministry of Labour and Employment

The Federal Ministry of Labour and Employment (the Ministry) holds the statutory role of conciliation gateway in the trade union dispute resolution process, exercising the powers conferred by Section 5 of the TDA¹⁶⁵ to appoint conciliators and to initiate the formal dispute resolution machinery when collective bargaining has failed. The Ministry faces a structural challenge in public sector disputes because the government, which directs the Ministry, is itself frequently the employer party to the dispute, creating a conflict of interest that compromises the appearance and reality of neutral conciliation. This structural

¹⁶² Trade Disputes Act Cap T8, LFN 2004, s 6, Sch 2.

¹⁶³ Trade Disputes Act Cap T8 LFN 2004, s 13.

¹⁶⁴ E Emudainohwo, 'Towards the Enforceability of Collective Agreements in Nigerian Law' [2020] 9(3) *E-Journal of International and Comparative Labour Studies* 33.

¹⁶⁵ Trade Disputes Act Cap T8 LFN 2004, s 5.

conflict was manifest in the successive ASUU disputes where the Ministry was simultaneously the representative of the Federal Government as employer and the designated conciliator under the TDA.¹⁶⁶ Scholars have documented the inadequacy of the Ministry's institutional capacity in terms of staffing levels, technical expertise in complex labour matters and the speed of its response to dispute notifications, all of which reduce the practical effectiveness of the conciliation stage and push parties towards industrial action or direct litigation.¹⁶⁷

3.2.4 Nigeria Labour Congress

The Nigeria Labour Congress (NLC) is the principal central labour organisation in Nigeria, established under the TUA¹⁶⁸ as the umbrella body for all registered industrial trade unions and plays a dual role in trade union dispute resolution as both a negotiating party at the national level and an institutional advocate for legislative reform. The NLC engages in national minimum wage negotiations with the Federal Government on behalf of affiliated unions and its success or failure in those negotiations has direct consequences for the industrial relations climate and the volume of sectoral disputes that arise. The decision in *NCSU v. ASCSN*¹⁶⁹ illustrated the complexity of jurisdictional and membership disputes within the trade union structure, a category of inter-union conflict that the NLC is expected to manage through its internal governance mechanisms. The NLC's institutional effectiveness is shaped by the legislative framework within which it operates and the restrictions on general strike action contained in the TDA and the essential services provisions limit the practical exercise of its most powerful institutional tool.

¹⁶⁶ O. V. Ikepeze, 'The National Industrial Court of Nigeria and the Challenge of Enforcing Un-domesticated ILO Conventions' [2012] 5 *The Journal of Jurisprudence and Contemporary Law* 89.

¹⁶⁷ I Amadi, 'Collective Bargaining and the Enforcement Dilemma in Nigerian Public Sector Labour Relations: The ASUU Experience' (2023) 14(2) *Nigerian Journal of Labour Law and Industrial Relations* 88.

¹⁶⁸ Trade Unions Act Cap T14, LFN 2004, ss 1–2.

¹⁶⁹ *NCSU v. ASCSN* (2004) 1 N.L.L.R. (Pt. 3) 427

3.2.5 Trade Union Congress of Nigeria

The Trade Union Congress of Nigeria (TUC) is the second central labour organisation, representing non-industrial and service sector unions and provides an institutional voice for workers in sectors whose interests are not always well served by the NLC's industrial union orientation.¹⁷⁰ The TUC plays a role in collective bargaining and dispute resolution for its affiliated unions that parallels the role of the NLC in the industrial sector and its engagement with the Ministry of Labour and Employment in the conciliation and arbitration processes is an important component of the institutional architecture for trade union dispute resolution. The division of the central labour movement between the NLC and the TUC creates coordination challenges that become particularly acute in national disputes that affect both industrial and service sector workers simultaneously. Scholars have noted that the relationship between the NLC and the TUC has not always been free of institutional rivalry and that this rivalry can be exploited by employers and government to delay or frustrate the resolution of national disputes.¹⁷¹

¹⁷⁰ Trade Unions Act Cap T14 LFN 2004, s 2.

¹⁷¹ D Ootobo, *Essentials of Labour Relations in Nigeria*, vol 1 (Malthouse Press 2016) 87.

CHAPTER FOUR

CHALLENGES AND PROSPECTS OF RESOLVING TRADE UNION

DISPUTES IN NIGERIA

4.1 Legislative Ambiguities and Deficiencies

The Trade Disputes Act, Cap T8, Laws of the Federation of Nigeria 2004 (TDA) contains several provisions whose technical formulation has produced significant interpretive uncertainty that weakens the capacity of the dispute resolution framework to deliver predictable and consistent outcomes. The most consequential of these ambiguities is the definition of a trade dispute in section 48(1) of the TDA which has generated repeated preliminary challenges before the NICN and the Supreme Court as parties dispute whether a particular matter falls within the statutory definition. In *National Union of Electricity Employees and Anor v Bureau of Public Enterprises*¹⁷², the Supreme Court was required to examine the scope of the statutory definition and to determine whether the subject matter of the dispute before it qualified as a trade dispute for the purposes of the TDA, demonstrating that even the gateway provision of the Act generates litigation before the substantive dispute can be addressed. Beyond the definition problem, Section 41¹⁷³ and Section 48(1)¹⁷⁴ read along with the First Schedule of the Trade Disputes Act, as well as Section 1 of Trade Disputes (Essential Services) Act.¹⁷⁵ designates a broad range of industries as essential services where strike action is prohibited and compulsory arbitration is substituted and this designation has been criticised by the ILO Committee of Experts as exceeding the internationally accepted scope of essential services which is limited to

¹⁷²*National Union of Electricity Employees & Anor v Bureau of Public Enterprises* (2010) 7 NWLR (Pt 1194) 538 (SC)

¹⁷³ Section 41 of the Trade Disputes Act, Cap T8, LFN 2004.

¹⁷⁴ Section 48(1) and the First Schedule to the Trade Disputes Act, Cap T8, Laws of the Federation of Nigeria (LFN) 2004.

¹⁷⁵ Section 1 of the Trade Disputes (Essential Services) Act, Cap T9, LFN 2004.

services whose interruption would endanger life, personal safety, or health. The inclusion of education and petroleum supply within the essential services category under Section 48(1) and the First Schedule of the TDA, read alongside the Trade Disputes (Essential Services) Act, illustrates the problem most clearly: the prolonged strike by the Academic Staff Union of Universities (ASUU), which ran for eight months in 2022, demonstrated that the purported essential services classification of university education was not being enforced in practice. The absence of a statutory mechanism for reviewing and updating the essential services list through a tripartite process compounds this problem, because the current classification reflects the legislative preferences of an earlier era rather than a principled assessment of which services are genuinely essential by contemporary standards.

A second and equally significant legislative deficiency is found in the absence of any statutory provision making collective bargaining agreements legally binding and enforceable as instruments of Nigerian law. The 'one union per sector' rule, structurally driven by the statutory limitations of Section 3(2) and Section 5(4) of the TUA rather than the nomenclature restrictions of Section 6, further compounds these legislative difficulties. By concentrating representative power in a small number of pre-existing unions whose continuous accountability to their rank-and-file members is insulated from competitive pressure, the statutory text systematically creates an artificial monopoly. This legislative design not only violates the spirit of democratic unionism but keeps Nigeria in a persistent state of non-compliance with its international obligations under Article 2 of ILO Convention No. 87. The criminal liability provisions in Section 18 of the TDA for participation in unlawful strikes are drawn broadly and create legal risk for workers who engage in industrial action in circumstances where the lawfulness of the action is genuinely uncertain due to the definitional ambiguities examined above, effectively deterring legitimate industrial action alongside genuinely unlawful action and thereby tilting the legal

framework in favour of employers and government. Scholars have documented that the procedural complexity of the TDA's multi- stage dispute resolution process has been a factor in the prolonged nature of successive national disputes, because parties at different stages of the process hold conflicting views about whether prior stages have been properly completed.¹⁷⁶ The accumulated effect of these legislative deficiencies is a statutory framework that is internally incoherent at key points and that provides insufficient certainty for the parties who must navigate it.

4.3 Institutional and Enforcement Challenges

The institutional framework for trade union dispute resolution in Nigeria suffers from a persistent gap between the formal powers and mandates of the designated institutions and their actual capacity to exercise those powers in a way that delivers timely and effective resolution of disputes. The NICN, which stands at the apex of the institutional framework, has faced documented challenges in processing the volume of cases before it within timeframes that are commercially and institutionally acceptable and these delays have consequences for parties who need urgent resolution of disputes causing immediate operational or economic harm. The eight- month ASUU strike of 2022 illustrated the institutional failure most starkly: the Federal Government applied to the NICN for an order suspending the strike only after the strike had been ongoing for several months and even after the NICN made its order in *Federal Government of Nigeria and Anor v Academic Staff Union of Universities*¹⁷⁷, the practical implementation of that order required further government engagement before the strike was actually called off.¹⁷⁸ The Ministry of

¹⁷⁶ E Emudainohwo, 'Towards the Enforceability of Collective Agreements in Nigerian Law' (2020) 9(3) *E- Journal of International and Comparative Labour Studies* 33.

¹⁷⁷ *Federal Government of Nigeria & Anor v Academic Staff Union of Universities (ASUU)* (Suit No NICN/ABJ/270/2022, ruling delivered 21 September 2022).

¹⁷⁸ Amadi, I., 'Collective Bargaining and the Enforcement Dilemma in Nigerian Public Sector Labour Relations: The ASUU Experience' (2023) 14(2) *Nigerian Journal of Labour Law and Industrial Relations* 88

Labour and Employment failed at the conciliation stage to produce a settlement that would have prevented the strike from occurring, demonstrating that the institutional weakness extends across the entire chain of dispute resolution institutions. The IAP, which is designed to provide a faster arbitration alternative to NICN adjudication, has been bypassed by parties who move from failed collective bargaining to industrial action without engaging the IAP process and the absence of statutory sanctions for bypassing the IAP means that this institutional step has become effectively optional in practice despite its statutory necessity.

The enforcement of NICN orders against government employers represents the most practically damaging institutional challenge in the entire framework, because the government as the largest employer in Nigeria is also the party that most frequently fails to implement NICN judgments, collective agreements and IAP awards. The 2009 agreement between the Federal Government and ASUU, which contained specific commitments on funding for university revitalisation and the earned academic allowances of academics, was not implemented in the years following its execution and this failure of implementation was the direct cause of the 2020 and 2022 strikes.¹⁷⁹ Similar patterns have also been observed in disputes involving the National Association of Resident Doctors (NARD), the Joint Health Sector Unions (JOHESU), the Nigeria Labour Congress (NLC) and the Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN). These disputes demonstrate that the challenges of delayed dispute resolution, weak enforcement of negotiated agreements and ineffective conciliation mechanisms are not confined to the university sector but are systemic features of the Nigerian industrial relations framework. The NICN has the power to commit for contempt under section 10 of the NICA where its

¹⁷⁹ Anthony Ojeifor, "Industrial action and the management of tertiary institutions in Nigeria: An assessment of FGN-ASUU agreements," *International Journal of Economics, Commerce and Management* 12, no. 1 (2024): 165.

orders are disobeyed, although contempt proceedings theoretically provide a coercive mechanism for securing compliance with court orders, practical enforcement against government institutions is often complicated by bureaucratic structures, political considerations and delays in implementing fiscal obligations imposed by judicial decisions. The structural conflict of interest that arises when the government is simultaneously the conciliating authority under the TDA and the employer party to the dispute has been identified by scholars as an institutional design flaw that cannot be resolved within the current framework without legislative reform.¹⁸⁰ The resident doctors' warning strike of 2025, in which FCT-based doctors embarked on a seven-day industrial action after disputes over employment conditions were not resolved through ministerial engagement, provides a recent illustration of the pattern where institutional failure at the conciliation stage produces industrial action. By declaring an action over what they termed "**a long-standing systemic failure in Abuja's health sector**,"¹⁸¹ the union highlighted how a breakdown in preliminary dispute management mechanisms directly triggers a halt in essential services, which then requires more costly judicial intervention to resolve.¹⁸²

4.4 Non-Compliance with Collective Bargaining Agreements

The failure to make collective bargaining agreements legally binding and enforceable represents the single most damaging deficiency in the Nigerian trade union dispute resolution framework, because it removes the primary incentive for good faith participation in collective bargaining and produces a recurring cycle of negotiated agreements that are abandoned, renegotiated and abandoned again. The legal character of collective agreements under Nigerian law is uncertain because no statute expressly provides either that collective

¹⁸⁰ O V Ikpeze, 'The National Industrial Court of Nigeria and the Challenge of Enforcing Un-domesticated ILO Conventions' (2012) 5 Journal of Jurisprudence and Contemporary Law 89.

¹⁸¹ Mustapha Usman, 'FCT resident doctors begin seven-day warning strike' ICIR Nigeria (8 September 2025); 'UPDATED: FCT resident doctors begin seven-day warning strike' Punch Newspapers (8 September 2025).

¹⁸² Section 4 and 8 of the Trade Disputes Act (TDA) 2004 (Cap T8, LFN 2004).

agreements are binding contracts or that they are not and the courts have addressed the question through the doctrine of incorporation. The courts have consistently maintained that collective agreements do not ordinarily possess binding contractual force unless incorporated into individual contracts of employment¹⁸³, holding that terms of a collective agreement become enforceable as terms of individual employment contracts only where there is evidence that the parties intended the collective agreement to be incorporated. This doctrinal position provides partial protection for individual workers but does not give trade unions an independent right to enforce collective agreements as collective instruments against employers who breach them. The consequence of this gap is that an employer or government ministry that fails to implement a collectively agreed salary increase is not in breach of any enforceable legal obligation unless and until individual workers bring individual employment claims, a process that is practically impossible for the large numbers of workers typically affected by public sector collective agreement breaches. The ASUU dispute provides the most documented example of this pattern: the 2009 agreement between the Federal Government and ASUU contained specific financial commitments that were not implemented and ASUU had no direct legal mechanism to enforce those commitments as collective obligations, which led to the prolonged strikes of 2020 and 2022.

The pattern of collective agreement non-compliance is not confined to the university education sector but extends across the public service to health, civil service and judiciary workers, where the same structural problem of unenforceable collective agreements recurs. Highlighting this persistent vulnerability, The ILO Committee of Experts has noted that Article 4 of Convention No 98 requires Nigeria to take measures to promote: "the full development and utilisation of machinery for voluntary negotiation,"¹⁸⁴

¹⁸³ *Osoh v Unity Bank Plc* (2013) 9 NWLR (Pt 1358) 1.

¹⁸⁴ International Labour Organization (ILO), Right to Organise and Collective Bargaining Convention, 1949 (No. 98), Art. 4; International Labour Conference, Observation (CEACR) - adopted 2025, published 114th

The absence of a fluid statutory enforceability mechanism for collective agreements is inconsistent with this obligation. Comparison with the position in the United Kingdom, where Section 178 of the Trade Union and Labour Relations (Consolidation) Act 1992 statutorily codifies a collective agreement as: "any agreement or arrangement made by or on behalf of one or more trade unions and one or more employers,"¹⁸⁵

This highlights how the English framework explicitly leaves room for parties to intentionally determine enforceability under its accompanying Section 179 provisions.¹⁸⁶

Under English law, a collective agreement is conclusively presumed not to have been intended by the parties to be a legally enforceable contract unless it is in writing and contains an express provision stating otherwise. Contrast this statutory presumption with the Nigerian position, where the National Industrial Court of Nigeria (NICN) frequently bypasses the lack of an explicit statutory enforceability mechanism by invoking Section 254C(1)(b) of the Constitution of the Federal Republic of Nigeria 1999 (as amended by the Third Alteration Act, 2011) to enforce such agreements under the doctrine of curbing 'unfair labour practices.'

This English Law provides a detailed framework for collective agreements, demonstrates that a legislative solution to this problem is technically feasible and would not require the abandonment of voluntarist principles but merely their restatement in a form that gives them legal effect.

4.5 Prospects for Reform and Effective Dispute Resolution

The analysis in the preceding sections of this chapter identifies a set of specific legislative and institutional deficiencies whose reform would improve the effectiveness of

session (2026) regarding the Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

¹⁸⁵ Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52), s. 178(1).

¹⁸⁶ Trade Union and Labour Relations (Consolidation) Act 1992, s. 179(1)

the Nigerian trade union dispute resolution framework and bring it into conformity with international labour standards. The most urgent legislative reform is the introduction of a statutory provision making collective bargaining agreements legally binding and enforceable as instruments of Nigerian law, applicable both to private sector employers and to government employers exercising their functions as employers rather than as sovereign legislative authorities". Such a provision would give the NICN jurisdiction to award specific performance of collective agreement obligations, to grant injunctions restraining breach of collective agreements and to award damages for losses caused by non-implementation, providing trade unions with a legal remedy that would operate alongside and independently of industrial action as a means of enforcing agreed terms. The reform of section 48(1) (interpretation clause), the First Schedule of the TDA, and the separate Trade Disputes (Essential Services) Act would remove the over- broad essential services classification that currently covers university education and petroleum supply and would bring Nigeria into conformity with Convention No 87 as requested by the ILO Committee of Experts. The Federal Government launched a National Industrial Relations Policy in 2026 that commits to improved social dialogue and labour relations governance, which represents a policy acknowledgement of the deficiencies in the current framework and provides a political opening for the legislative reforms proposed by this study.¹⁸⁷

Similar independent labour conciliation institutions exist in other jurisdictions. For example, the United Kingdom operates the Advisory, Conciliation and Arbitration Service (ACAS), an independent body responsible for promoting industrial harmony through conciliation, mediation and arbitration. The experience of ACAS demonstrates that labour dispute conciliation can be effectively separated from direct governmental participation in

¹⁸⁷ Federal Ministry of Labour and Employment, National Industrial Relations Policy (NIRP) for Nigeria, launched 6 May 2026 at the UN House, Abuja. Developed in collaboration with the International Labour Organization (ILO).

industrial disputes. Nigeria may therefore benefit from establishing an independent National Labour Conciliation Service to perform the conciliation functions currently exercised by the Ministry of Labour and Employment. The reform of sections 3(2) and 5(4) of the TUA to permit trade union pluralism at the enterprise level whilst maintaining a coordination framework at the sector level would address the ILO Committee of Experts' concern about Article 2 of Convention No 87 and would introduce competitive pressure on trade unions to be more responsive to their members, which would strengthen collective bargaining outcomes. The strengthening of the IAP through an amendment to the TDA requiring mandatory engagement with the IAP before industrial action and providing that IAP awards carry the same legal force and enforcement mechanisms as NICN judgments would restore the IAP to its intended role as an effective pre-litigation forum. The expansion of the NICN's alternative dispute resolution capacity through dedicated funding for its Section 20 mediation and conciliation functions,¹⁸⁸ combined with the appointment of additional judges and the establishment of regional divisions of the NICN,¹⁸⁹ would address the capacity constraints that currently limit the court's effectiveness. The NARD nationwide strike of 2026, in which resident doctors began an indefinite strike and later suspended it following renewed government engagement,¹⁹⁰ demonstrates that institutional intervention at the right moment is capable of producing rapid resolution of disputes that had appeared intractable, confirming that the institutional framework has latent capacity that would be released by the structural reforms proposed by this study.

¹⁸⁸ Section 20 of the National Industrial Court Act (NICA) 2006.

¹⁸⁹ Section 21(1) of the National Industrial Court Act 2006.

¹⁹⁰ Nigerian Association of Resident Doctors (NARD) Industrial Action (April 2026).

CHAPTER FIVE

CONCLUSION

5.1 Summary of Findings

This study set out to conduct a systematic legal analysis of the statutory framework for trade union dispute resolution within the Nigerian domestic space to isolate structural deficiencies and proposing specific legislative reforms. The study examined the constitutional foundations of the framework, the principal statutory instruments governing trade union dispute resolution, the institutional actors responsible for implementing those instruments and the conformity of the domestic apparatus with global labour benchmarks in ILO Convention No 87 and ILO Convention No 98.

First, the statutory framework for trade union dispute resolution in Nigeria provides a theoretically coherent multi-stage process moving from bilateral negotiations through administrative mediation, institutional arbitration, and ultimate judicial determination, but this process is undermined in practice by legislative ambiguities at key points including the definition of a trade dispute, the over-broad essential services designation and the absence of any statutory provision making collective bargaining agreements legally binding and enforceable.

Second, the institutional framework for trade union dispute resolution suffers from a persistent gap between the formal mandates of the designated institutions and their actual capacity to exercise those mandates effectively, with the NICN experiencing case-volume pressures that extend resolution timelines, the regulatory ministry responsible for labour and employment compromised by a structural polarisation stemming from its dual identity in public sector disputes and the IAP bypassed by parties who have no incentive to engage its process given the weak enforcement mechanisms for its awards. Third, the Nigerian

statutory framework diverges from ILO Convention No 87 in material ways through the one union per sector rule and the executive deregistration power and fails to meet the prescriptions Article 4 obligation of ILO Convention No 98 to promote full development of voluntary collective bargaining through the enforceable collective agreement mechanism that the Convention requires.

5.1 Recommendations

1. The National Assembly must step in to modify the Trade Disputes Act to introduce a statutory provision making collective bargaining agreements legally binding and directly enforceable by the NICN as instruments of Nigerian law, applicable to both private and public sector employers.
2. The National Assembly needs to urgently review and overhaul the First Schedule of the Trade Disputes Act to adopt the ILO standard characterisation of essential services, review the systematic profiling of university education and petroleum supply in accordance with ILO standards and determine whether their continued inclusion within the essential services regime is justified.
3. The Ministry of Labour and Employment should separate its conciliation function from its policy and employer representation functions through the creation of an independent National Labour Conciliation Service whose officers are not subject to ministerial direction in the exercise of their conciliation duties.
4. The operational machinery of the National Industrial Court of Nigeria must receive aggressive fiscal support adequately funded and expanded through the recruitment of a larger pool and the deployment of more regional divisions.

5. The Trade Disputes Act should be amended to amplify the systematic authority of the Industrial Arbitration Panel by ensuring the effective enforcement of its awards.
6. The National Assembly should clarify the exact legal interaction between international labour norms and municipal industrial enactments in order to promote certainty in labour adjudication.

5.5 Conclusion

This study has demonstrated that the Nigerian statutory framework for trade union dispute resolution contains the architectural elements of an effective system but is undermined by specific and identifiable legislative deficiencies and institutional weaknesses that prevent the framework from delivering the outcomes that workers, employers and public services require. The most significant of these deficiencies is the complete vacuum of a statutory apparatus compelling the performance of collective bargaining agreements, which removes the legal foundation for durable workplace harmony and drives the recurring cycles of negotiated covenants followed by non-implementation and renewed industrial action that have characterised Nigerian industrial relations throughout the democratic period. The reform agenda proposed by this study is grounded in the legal positivist framework that examines law as it is before prescribing what it ought to be and the proposals are directed at specific textual and institutional changes that are within the legislative competence of the National Assembly and consistent with Nigeria's obligations under ILO Conventions No 87 and No 98. The achievement of those reforms would not merely improve the efficiency of trade union dispute resolution but would make a material contribution to industrial peace, economic productivity and the realisation of workers' constitutional rights in a country where organised labour remains an essential counterweight to the structural power of employers and the state.

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