

# 14 **An Evaluation of the Role of Industrial Relations in Managing Employees Grievances in a Depressed Economy: A Searchlight on the 2021 Industrial Actions in Kaduna State of Nigeria**

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## **Introduction**

Ever since the epoch of industrial revolution, employers and employees have always seen the need to maintain good industrial relations with one another. They have discovered that the best way in which their interests can be maximized is through a cordial industrial relationship with one another. In order to ensure that this happens, the necessity arose for the creation of trade unions that serve as an umbrella whereby the workers can interact and negotiate with their employers on a common front. Apart from the establishment of these trade unions, several countries in the world also go as far as enacting legislations that will provide a legal framework within which industrial relations are conducted and industrial disputes are addressed.

Significantly, many African countries are also following suit by providing labour laws that help to foster good industrial relations. These labour laws have as their main focus the need to foster good industrial relations, establish a basis for collective bargaining, mutual trust and respect for one another. They also take into consideration the need to prevent strike actions and the need to ensure that the objectives of the parties are achieved. With these labour laws in place, some African countries have been able to maintain good industrial relations while many others are still unable to find lasting solutions to unhealthy industrial relations.

Nigeria, a country with about 53.41% of the population categorized as labour force<sup>1</sup> is one of such African countries that has not found a lasting solution to unhealthy industrial relations. This is in spite of the myriad of laws that have been enacted such as the Labour Act, Trade Unions Act and Trade Dispute Act. Industrial relations still go sour on many occasions, collective bargaining fails and every attempt at negotiation becomes a nightmare. These strained industrial relations lead to many problems including strike actions which sometimes go as far as lasting for several months.

It is in view of these issues that this paper will take the reader on an interesting walk into an analysis of industrial relations practices in Nigeria. It will provide a valuable insight into the definitions of key concepts that are involved in industrial relations such as Labour law, trade unions and industrial relations. It will also equip the readers

with the knowledge of the historical evolution of labour law in the world and in Nigeria. The reason for this is to help the readers to understand how industrial relations have evolved from what it was to becoming what it is today.

This research work will also examine the meaning and nature of industrial dispute, its characteristics, its dimensions and the methods within which industrial disputes are solved in Nigeria. It will also address the issue of collective bargaining and strike actions in Nigeria. Furthermore, it will examine the provisions of the law that have been put in place to solve industrial disputes and deadlocks. These methods which are primarily; resolution by conciliation, by arbitration and by the court will all be delved into.

Additionally, this work will also emphasize the need for cordial industrial relations and will make an investigation into the reasons for many failed industrial relations in the country. Moreover, the recent NLC's strike action in Kaduna State will be used as a case study to explain how strike actions can easily be prevented by the Nigerian government and how good industrial relations can be maintained at all times. Importantly, this paper will achieve these objectives by formulating three research questions:

- Why do negotiations and collective bargaining fail in many industrial cases in Nigeria?
- What are the reasons behind the incessant strike actions in Nigeria?
- How can cordial industrial relations be achieved among parties?

### **Definition of Key Concepts**

This part of the work will examine some key concepts that are related to the work such as labour law, industrial relations and trade unions.

#### **Labour Law:**

Labour law has been variously defined by a lot of scholars. Many see it as a framework which sets out the rules regulating the relationship between workers and their employers. This concept is synonymous to employment law since it is the regulatory instrument which controls the relationship between the employer and employees which have been placed under a contract of employment. It allocates duties and rights upon the parties involved to which compliance earns them protection and legitimacy by law.

*Labour law may be defined as the body of laws such as statutes, case laws, international treaty, customs and practice which provides a legal framework within which matters relating to employment of workers is to be conducted. It is the legal basis upon which the majority of people earn their living. (Otto, 40)*

Labour law differs from industrial relations because while labour law is primarily focused on providing a legal framework for the relationship between workers and

their employers, industrial relations is looking at the relationship itself.

### **Trade Union**

Trade union has been statutorily defined as any combination of workers or employees and employers whether temporary or permanent, the purpose of which is to regulate terms and conditions of employment of workers whether the combination in question would or would not, apart from the Trade Union Act be unlawful combination by raising any of its opposite being in restraint of the trade and whether its purpose do not include the provisions of benefit from its members.<sup>2</sup>

There are various trade unions in Nigeria. Some of the popular ones are Nigeria Labour Congress (NLC), Academic Staff Union of Universities (ASUU), Nigerian Medical Association (NMA), Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN), National Union of Petroleum and Natural Gas Workers (NUPENG), among others. Nigeria Labour Congress (NLC) appears to be the largest in Nigeria with a great number of about 4 million people.

### **Industrial Relations**

Industry refers to any productive activity in which an individual or a group of individuals are engaged. By Relations, we mean the relationship that exists within the industry between the employer and his worker. It involves everything which affects the employee from the time he joins the organisation until the time he leaves his job. The whole idea of industrial relations emerged as a result of the inability of employers and employees to have a proper dialogue concerning the terms and conditions of services.<sup>3</sup>

*Industrial relations involves actors and institutions such as government and its agencies, trade unions with its workers and employers and its' associations and the relationships between them. Issues like strikes, collective bargaining, joint consultation and how they relate to various government agencies are all within the purview of industrial relations. (Fashoyin, p. 23)*

Industrial relations or employment relations is the multidisciplinary academic field that studies the employment relationship and also examines the complex interrelations between employers and employees, labor/trade unions, employer organizations and the state.<sup>4</sup> The presence of trade unions has led to a tripartite industrial relations between the trade union, the employees and the employer. However, it is important to note that the trade union acts on behalf of the employees in relating with the employers.

### **Objectives of industrial relations**

The primary objective of industrial relations is seen as the one which emphasizes the development of peaceful relations, mutual respect for each other in an industrial organisation. Other objectives are:

- a. To establish industrial peace
- b. To protect the interest of workers and management
- c. To prevent industrial dispute
- d. To establish Industrial Democracy
- e. To minimize Strike, Lock-outs, etc. by providing fair wages and good working conditions.
- f. To protect workers' economic and social interest.

### **Historical Evolution Of Industrial Relations Around The World And In Nigeria.**

Just like every other concept, industrial relations also has an history. Its history is rooted in the industrial revolution which created the modern employment relationship by spawning free labour markets and large-scale industrial organizations with thousands of wage workers.<sup>5</sup> These led to massive economic and social changes and also brought in labour issues such as low wages, long working hours, monotonous and dangerous work, and abusive supervisory practices led to high employee turnover, violent strikes, and social instabilities.<sup>6</sup> Hence, there was the need to establish trade unions to represent the interests of these workers in order to allow for orderliness. By the 1810s, the first labour organizations to bring together workers of divergent occupations were formed. Possibly the first such union was the General Union of Trades, also known as the Philanthropic Society, founded in 1818 in Manchester.<sup>7</sup> At this time, trade unions were illegal because the government saw them as a public threat.

Fortunately, British trade unions were finally legalized in 1872, after a Royal Commission on Trade Unions in 1867 agreed that the establishment of the organizations was to the advantage of employers and employees. From 1872 till date, industrial relations has improved as a result of the coordinated activities of these trade unions.

In Nigeria, much of what is known as the industrial relations of Nigeria derives from our colonial history. It is interesting to note that Nigeria was colonized by Britain which was the first industrialized country, where industrial revolution began in the 1750s with the invention of the steam engine.<sup>8</sup> The first labor union was the civil service union which emerged in 1912. By 1950 the number had grown to 144 with more than 144,000 members and 300,000 in 1963. It affiliated with 5 central labor associations time went on.

From the time of the colonial era in the country, there have been strained industrial relations. For example, the first nationwide strike by the organized workforce in Nigeria was on 21 June 1945 by about 150 000 clerical and non-clerical workers in the Nigerian civil service, demanding better wages in response to the rising cost of living brought about by the Second World War.<sup>9</sup>

After independence, Nigeria was characterized with a number of military governments. These military regimes introduced reforms which affected the Nigerian industrial landscape as they put in place a number of labour laws, decrees and regulations. The military era was therefore characterized by radical changes which amongst other things include grouping and regrouping of labour unions, promulgation of laws, especially those affecting labour, prescriptions and proscriptions of labour unions.<sup>10</sup>

Importantly, the Nigerian Labour Congress was founded in December 1975, as a merger of four different organisations: the Nigeria Trade Union Congress (NTUC), Labour Unity Front (LUF), United Labour Congress (ULC) and Nigeria Workers' Council (NWC).<sup>11</sup> Since this period, the industrial relations in Nigeria have been characterized with a lot of collective bargains, strained industrial relations and industrial disputes.

### **Industrial Disputes**

This segment of the work will discuss the meaning of Industrial disputes, the characteristics of an industrial dispute, the nature and the dimensions of Industrial disputes in Nigeria.

#### **Meaning and nature of Industrial Disputes**

Section 47 (1) Trade Disputes Act 2004 defines industrial dispute as “any dispute between employer and workers or between workers and workers which is connected with the employment or non-employment or the form of employment and physical condition of work of any person”. Accordingly, whenever a difference exists between the parties, that is, employers and workers or workers and workers, in regard to “the employment or non-employment, or the terms of employment and physical conditions of work or any person”, then a trade dispute exists. Therefore, a purely inter or intra-union disagreement which is unrelated to the employment or non-employment and physical conditions of any person is outside the ambit of trade disputes.

Thus, for a dispute to qualify as trade dispute, the predominant purpose of the dispute must be to promote trade union interest and this remains a question of fact in every case resting the burden of proof on the party alleging the existence of a trade dispute.

#### **Characteristics of an industrial dispute**

According to Bankole,<sup>12</sup> for a dispute to qualify as an industrial dispute, it must possess the following characteristics:

- i. Legitimate: their actions must be legitimate.
- ii. In furtherance of the lawful interest of the workers.
- iii. The dispute must be a present one, not a contemplated or anticipated dispute.

### **Dimensions of Industrial Disputes in Nigeria**

Basically, industrial disputes in Nigeria can be viewed from two dimensions which are individual industrial disputes and collective industrial disputes.

- i. Individual Industrial Disputes:** this emanates from what individual workers consider denial or a breach of his or her rights such as denial of promotions or confirmation of appointment.
- ii. Collective Industrial Dispute:** this involves denial of rights that is perceived to affect a group of workers in an organization. It is often an issue with workers collectively in an organization be it a union or not, such issues are centered on wages and salaries, pension, working conditions or allowances.

### **Methods of resolving industrial disputes**

When an industrial dispute arises, workers and the employees (mostly represented by the trade union) endeavor to solve the impasse. Fundamentally in Nigeria, there are two popular ways of resolving industrial disputes and they are:

**Collective Bargaining:** in industrial relations, collective bargaining refers to the method adopted for resolution of industrial problems between the representative of employer and the freely designated representatives of the employees acting collectively with a minimum of government dictation.<sup>13</sup> Section 91 of the Labour Act<sup>14</sup> defines collective bargaining as the process of arriving or attempting to arrive at a collective agreement. It is a process in which employers and the employees (mostly through the trade union) attempt to reach an amicable settlement to the industrial dispute.

### **Strike actions**

When collective bargaining fails, the next step is mostly strike actions. Strike is an important right of workers and it is recognized by the law. In the case of *Tram Shipping Corporation V. Greenwich Marine Incorporation*, Lord Denning stated that a strike is “a concerted stoppage of work by men, done with a view to improving their wages or conditions of employment, or giving vent to a grievance or making a protest about something or sympathizing with other workmen in such endeavour. It is distinct from stoppage brought by an external event such as a bomb scare or by apprehension of danger”.<sup>15</sup> According to Hornby,<sup>16</sup> strike is a period of time when an organized group of employees of a company stops working because of a disagreement over pay or conditions. The word “strike” is very wide and it has been said to include other acts like picketing which is a form of protest in which people congregate outside their place of work in order to complain about an issue.

In Nigeria, the Trade Dispute Act provides for three types of strike:

- Go-Slow:- This is a type of strike which workers observe by not entirely stopping work altogether but by deliberately working at a lesser speed than is usual.<sup>17</sup>
- Work-in : This type of strike occurs when workers lay down their tools and remain at their work place. They may decide to interfere with their employers business by seizing control of either a whole or a part of the premises in order to put pressure on the employer to concede to their demands.<sup>18</sup>
- Work Stoppage: This is the center of this work. It involves workers or employees sitting at home or not coming to work.

In the case of *Union Bank of Nigeria Ltd. V. Edet*,<sup>19</sup> the court held that whenever an employer breaches a term of an agreement, resort could only be had to negotiation between the parties and ultimately to a strike action when the need arises.

Section 40 of the Nigerian Constitution provides that citizens have the right to association and to belong to a trade union or any other association for the protection of their interests. The African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act also makes provisions for the individual's right to free association. Specifically, Article 10 (1) of the charter provides that every individual shall have the right to free association provided that he abides by the law. Likewise, Article 8 (1) (d) of the International Covenant on Economic, Social and Cultural Rights provides that states parties to the Covenant undertake to ensure the recognition of the right of trade union to embark on strike.

Similarly, Article 20 of the Universal Declaration of Human Rights 1948 also recognizes the freedom of association of workers. The statutes uphold the tenet that workers should be free to join any trade union and embark on strike actions.

Though section 18 of the Trade Dispute Act<sup>20</sup> appears to limit the rights of workers to go on strike because it provides that an employer shall not declare or take part in a lock out and a worker shall not take part in a strike in connection with any trade dispute unless the specified procedures have been followed, it is important to note that this section has been severely criticized by a lot of writers in Nigeria<sup>21</sup> as being against section 40 of the Nigerian Constitution and thus it is regarded a unconstitutional.

Basically, the right to take industrial action is seen as only a weapon of last resort which is to be employed when all other means of achieving an agreement or resolving disputes have failed.<sup>22</sup> Nevertheless, strikes have become the order of the day in Nigeria. Within the past years, we have had several strike actions in the

country and many other threats to strike. Most of these strikes have been linked to the employers being the government (including federal, state, and local units) which is the largest employer of labour outside the agricultural sector.<sup>23</sup> This shows that there is a problem that needs to be fixed in Nigeria. Various unions embark on strikes in order to protect the interests of their members. Nigerian Labour Congress (NLC), Academic Staff Union of Universities (ASUU), Academic Staff Union of Polytechnics (ASUP), Non Academic Staff Union (NASU), Nigeria Union of Petroleum and Natural Gas Workers (NUPENG), National Association of Resident Doctors (NARD), Judiciary Staff Union of Nigeria (JUSUN), Parliamentary Staff Association of Nigeria (PASAN), and a couple of others go on strike when the need arises.

According to statistics, Nigerian lecturers have gone on strike for about 15 times since 1999. The entire period they embarked on such strike spanned about 50 months.<sup>24</sup> The period between 1974 to 1975 saw a total number of three hundred and fifty four (354) strikes.<sup>25</sup> In the health sector, a research carried out revealed that in the 442 months that was studied, there have been cumulatively 58.5 months of strikes.<sup>26</sup>

In March 2020, the Academic Staff Union of Universities (ASUU) began a strike action which lasted for about nine months basically because of the failure to reach an agreement with the Federal government on the issue of the Integrated Payroll and Personnel information system (IPPIS).

Despite these 9 months of strikes, there were some fresh threats by the union to go on another strike in March 2021 on the basis that the Federal Government was breaching the “no victimization clause.” ASUU claimed that the Federal Government was victimizing its members by refusing to pay their salaries running between two to 10 months despite suspending the strike.

Additionally, the Academic Staff Union of Polytechnics (ASUP) has also been on strike now for the past two months because of the non-payment of salaries, the non-implementation of the ASUP/FG agreement of 2010 and the failure of the government to honour some of its other agreements.

On another note, members of the Judiciary Staff Union of Nigeria (JUSUN) have been on strike since April 6, and have shut down all courts across the country in agitation for the financial autonomy of the judiciary, especially at the state level.

Similarly, the members of the Parliamentary Staff Association of Nigeria (PASAN) are also on strike in some states over the absence of state Houses of Assembly their financial independence.

Furthermore, in April 2021, National Association of Resident Doctors (NARD) began an indefinite strike due to the poor working conditions and the lack of insurance coverage of their members which lasted for about 10 days.

The Nigerian Labour Congress recently embarked on a warning strike over the mass dismissal of workers in the state without following the due process of the law. This is the case study that this paper seeks to examine with a view to analyse the impact of industrial relations on employers and workers in order to come up with solutions to these problems.

### **A Case study of the recent Nigerian Labour Congress' strike in Kaduna State**

The NLC's president, Ayuba Wabba in a letter<sup>27</sup> to Governor El-Rufai on Friday April 9, asked him to reverse the mass sack of workers, describing it as an arbitrary and cruel decision. Wabba referred to the act as a serious violation of the provisions of the civil service rules. He condemned the act of the governor especially amidst the great difficulties and hardship occasioned by the COVID-19 pandemic.

The government did not follow the due process of law as provided in Section 20 of the Labour Act in Nigeria before dismissing the workers. The Act provides that in the event of redundancy-

- (a) the employer shall inform the trade union or workers' representative concerned of the reasons for and the extent of the anticipated redundancy;
- (b) the principle of "last in, first out" shall be adopted in the discharge of the particular category of workers affected, subject to all factors of relative merit, including skill, ability and reliability; and
- (c) the employer shall use his best endeavours to negotiate redundancy payments to discharged workers who are not protected by regulations made under subsection (2) of the section.

As a result of this, on the 16th of May 2021, the NLC; Kaduna State Council began a five days warning strike action because the Kaduna State Government did not follow due process of the law in the disengagement of the workers from the Local Government Service, State Universal Basic Education Board (SUBEB) and Primary Health Care Agency which led to loss of jobs of about 4,000 workers in the state.

The NLC's strike led to the halt of many events in the state, affected the conditions of living of the residents and also disrupted many economic activities in the state. It lasted for about three days before an agreement was finally brokered between the parties through the intervention of the federal government.

The agreement among other things stated that:

- Kaduna government will follow due process and the "principle of redundancy," as provided for in Section 20 of the Labour Act in its Public

Service Revitalization and Renewal Programme by the State Executive Council in 2016.

- The parties agreed that the Nigeria Labour Congress (NLC) will no longer continue with its industrial action and no worker shall be victimized by the Kaduna state government on account of his or her participation in the strike action.
- The Kaduna State Government will no longer sack the university teachers and nurses who joined the strike.

A 10-member bi-partite committee comprising six representatives of the Kaduna State Government, three officials of the NLC, and one of the federal labour ministry was also set up to ensure that the agreement is implemented.

### **Procedures for Industrial Dispute Resolution**

When deadlocks arise, collective bargaining fails and strike actions become inevitable, there is a need for a call to order. The law has recognized that it is possible for such situations to occur, hence it has made provisions for the resolution of trade disputes. Basically, there are four ways of resolving trade disputes under the Trade Dispute Act. Each of these procedures will be discussed one after the other. They are:

- Resolution by a conciliator
- Resolution by arbitration, and
- Resolution by court.

### **Resolution by a Conciliator**

The minister may exercise his discretion to appoint a conciliator under two circumstances. The first is where he, without allowing the parties to settle the disputes themselves, appoints a conciliator to inquire into the matter. While the second, is where the parties could not resolve the dispute themselves or through their mutual mediator, then the appointment of a conciliator may become necessary.

The conciliator must be a fit person whose duty is to effect a settlement of the dispute between the parties.<sup>28</sup> Where the request to conciliate has been accepted by the other party the dispute is then referred to a conciliation body consisting of one or three conciliators to be appointed.

Section 41(1) of the Act<sup>29</sup> provides the conciliation body shall acquaint itself with details of the case and procure such other information, as it may be required for the purpose of settling the dispute. After the conciliation body had examined the case and heard the parties, it shall submit its terms of settlement to the parties. If the parties agree to the terms of settlements, the conciliation body shall draw up and sign a record of the settlement.<sup>30</sup> The conciliator shall thereafter forward to the minister the terms of settlement signed by the representatives of the parties and decision reached

shall be binding as from the date which the memorandum is signed. However, if conciliation fails, the industrial dispute is referred by the Minister to arbitration.

### **Resolution by Arbitration**

Ordinarily, arbitration is the use of an arbitrator to settle a dispute. An arbitrator is an independent person or body officially appointed to settle dispute that is to say that arbitration is different from going to court and asking the court to enforce a legal claim against someone or against some company, or against the state itself. Halsbury's Laws of England defines arbitration as the reference of a dispute or differences of a dispute between not less than two parties for determination, after hearing both sides in a judicial manner, by a person or persons other than a court of competent jurisdiction.<sup>31</sup>

From the foregoing, it is evident that arbitration must involve a reference of a dispute or difference. There must be two or more parties to the dispute, and the hearing must be in a judicial manner, by a competent person other than the court. It should however be noted that arbitration is different from mediation, negotiation and conciliation which are forms of alternative dispute resolution (ADR). The Minister may refer the trade dispute to the Industrial Arbitration Panel when a mediator appointed by the parties under Section 3(2) of the Act could not resolve the matter<sup>32</sup> or may refer such matter to an arbitration tribunal when he becomes aware of a pending dispute between the parties.<sup>33</sup>

### **Industrial Arbitration Panel (IAP)**

Industrial arbitration panel is a statutory arbitration that arises out of a statute which provides that disputes of a particular class are to be settled by arbitration. Section 4 (2)(a) of the Act<sup>34</sup> empowers the Minister to refer the dispute to the Industrial Arbitration Panel (IAP). Note that the Minister wields enormous powers under the law as he could, by virtue of Section 32 of the Act<sup>35</sup> also appoint a board of inquiry when a trade dispute exists or is appointed to investigate the causes and circumstances and make a report thereon. The Minister also exercises enormous powers as to his options upon receipt of an objection from any party to the trade dispute. Under the law, he could forward such objection to the NIC or he could decide to redirect the award back to the IAP for reconsideration as in section 11(2)(d)<sup>36</sup> This statutory arbitration will be under such heads as hearing, award and enforcement in a matter.

### **Hearing:**

Hearing here entails listening to the parties in a trade dispute. This dispute as earlier stated should be between employers and employees including their respective trade union, individually or collectively. The dispute should be connected with employment or non-employment of any person and terms of employment and physical conditions of work of any person Again, the dispute should be connected

with the conclusion or variation of a collective agreement and indeed any alleged dispute.<sup>37</sup> Hearing in labour dispute begins at Industrial Arbitration Panel (IAP).. The composition of the Panel for the purpose of adjudication consists of the chairman, vice-chairman and not less than ten other members, all appointed by the Minister,<sup>38</sup> albeit two members appointed, are each nominated by the parties representing their individual interest.

The IAP now constitutes as Arbitration Tribunal<sup>39</sup> either of a Sole Arbitrator<sup>36</sup> or Single Arbitrator,<sup>40</sup> which will arbitrate between the parties. Either of the Arbitration Tribunal is selected by the chairman from among members of the IAP. Constitution on Arbitration Tribunal of either a Sole or Single Arbitrator depends on the nature of dispute and at the discretion of the chairman While a Sole Arbitrator consists of a one-person, a Single Arbitrator is assisted by assessors to constitute the Arbitration Tribunal.<sup>41</sup> On the issue of hearing, there are usually no technicalities as one would find in a formal Court, for the purpose of dealing with any trade dispute, the Arbitration tribunal may:

- require any person to furnish any such matter relating to the dispute referred to it as it requires,
- require anybody to attend before it and give evidence, on oath, or affirmation, or otherwise.
- compel the production before it of books, papers etc for the purpose of enabling them to be examined or referred to,
- proceed in the absence of a party who has been duly summoned, or served with a notice to appear
- admit or exclude the public, or the press, from any of its sittings.
- Generally give all such direction and do all such things as are necessary or expedient for dealing speedily and justly with the matter referred.

Summarily, the hearing is subject to the rules of natural justice. This means that the Arbitration Tribunal must act fairly, in good faith and without bias, and must afford each party the opportunity to adequately state his case.<sup>42</sup>

The absence of fair hearing may vitiate the proceedings of an Arbitration Tribunal. But an irregularity in constituting an Arbitration Tribunal will not be a valid ground for questioning its act, proceeding or determination of the matter.<sup>43</sup> But that does not prevent the aggrieved party from appealing to the Minister. This necessarily happens after the tribunal has published the award before it becomes gazetteer.

### **Award**

The decision or judgment of the tribunal is called an award- The award must be in writing and must address the issues referred to the tribunal. The IAP is expected to consider and make its award on a matter before it within 21 days or such longer

period as the Minister may allow in a particular case.<sup>44</sup>The award of a single arbitrator assisted by assessors is made by the arbitrator only. If the Arbitration Panel is made up of two or more arbitrators, the award is made by the majority in the event of a disagreement.<sup>45</sup>The IAP is expected to send its decision to the Minister and shall not communicate the award to the parties.<sup>46</sup> The TDA enables the Minister to examine the award and, if he finds it desirable to do so, refer the decision back to the tribunal for reconsideration.<sup>47</sup>

The danger here is that if the Minister enjoys the sole right of determining whether an award is wrongly or rightly made ingredients such as bias or favoritism will definitely be displayed. When the Minister finally receives the award from the tribunal, he shall forthwith publish and give the parties or their representatives a notice setting out the award.<sup>48</sup> The notice shall specify the time, not more than seven days from its publication, to enable any aggrieved party to give notice of objection to the award to the Minister.<sup>49</sup>If the notice of objection to the award is not made within the prescribed time, the Minister will then publish it in the Federal Gazettee , this legally confirms the award.

### **Enforcement**

The enforcement of the award made by the IAP against the party in breach is very weak. This is because unlike the formal Court that has an organized and practical method of enforcing any judgment of the court, that is not the same with the award made by an IAP. This observation is made in the face of the fact that failure to comply with the terms of an IAP award do not usually result in criminal liabilities against the party in breach.

Another disadvantage of the situation is that sometimes the party who has had an award made in his favour is at the whims and caprices of the losing party. As a matter of fact, we see this exemplified in this country in cases where the Federal government and the trade Unions are at logger heads over certain issues More often than not, the awards are usually made against the Federal government and the trade unions in whose favour the award is made have no means of enforcing it. It degenerates to the unions getting frustrated as they are subjected to a long period of waiting hoping that the Federal government will abide by the terms of the award.

### **Resolution by the Court**

The Trade Dispute Act does not specifically provide that an aggrieved party can appeal against an award either as made by the Tribunal or as considered by the Minister. What the law provides is that an aggrieved party who has objection can do so after the Minister has published a notice of the award, and within seven days of its publication.

However, the Minister can exercise his discretionary power and refer a disputed award to the National industrial Court (NIC). For this to be done, the aggrieved party must have given his notice of objection within the seven-day stipulated time and in the manner specified in the publication.<sup>50</sup> The Minister becomes *functus officio* immediately the NIC is seized of the dispute. Once such disputes get to the NIC, it ceases to be arbitration. It becomes a judicial hearing.

In order to raise the status of the Court and to expand its jurisdiction to meet emerging challenges in industrial relations, the National Assembly in the exercise of its statutory duties enacted new National Industrial Court Act (NICA) on 14th June 2006 which was assented to by the then Nigerian President, Chief Olusegun Obasanjo. The Act therefore, takes its root from the powers derived by the legislators who made it from the constitution. It was intended to be the “ultimate” and “final” court for the settlement of trade dispute in Nigeria.

The court is the final arbiter of matters within its exclusive jurisdiction, but this is subject to the constitution of the Federal Republic of Nigeria 1999 as amended. However, appeal shall lie as of right of the court of Appeal only on question of fundamental right as contained in chapter IV of the constitution.<sup>51</sup> In other words, once a party, apparently, alleges a breach of his fundamental right in the hearing of his matter, then that is the ground of appeal against the decision of the court.

### **Findings**

A critical look will reveal that the basic reason behind these frequent strikes and the failure of collective bargaining is the fact that the Nigerian government has constantly failed to honour previous agreements it has made with these unions and associations. This can be seen in many ASUU's strikes, where the government fails to honour the previous agreements reached and the Union will have to go on strikes to ensure that the agreements are implemented.

Researches have also revealed that poor wages, bad conditions of service and other related issues are other reasons for various strike actions in the country. For example the strike by the National Association of Resident Doctors (NARD) began due to the poor working conditions and the lack of insurance coverage of their members.

The flagrant disrespect of the law by the employer is another major reason for strike actions on Nigeria as evident in the recent Kaduna state case where the government refused to follow the provision of section <sup>20</sup> of the Labour Act on the principle of redundancy. It is true that one of the rights of an employer is the retrenchment of workers. But in doing so, due process of the law must be followed strictly.

## **Conclusion**

This paper has explored the industrial relation practices between employers and employees who are represented by trade unions. It has examined the meaning of some basic concepts useful to the topic. It has also delved into the causes of poor industrial relations which has continued to plague the Nigerian society. In order to solve this problem, some recommendations need to be followed. Firstly, conducive working environment, adequate wages and good conditions of service must be provided for employees at all times and their rights must be protected. Secondly, employers and employees must act in good faith whenever they enter into an agreement. Both parties should deal with each other with sincerity and not make promises that can not be kept.

Similarly, the parties should both respect the agreements entered into between them and ensure that all obligations are fulfilled. Furthermore, the government and other employers of labour should have adequate knowledge of the law and also follow the law. The recent strike action could have been prevented if the government had followed section 20(1) (a)-(c) of the Labour Act cap L1 LFN 2004. It is also important for the parties to explore other alternatives to strike. Collective bargaining and negotiations in settling industrial disputes must always be sought first and strike should only be resorted to as the last option.

Finally, it is highly recommended that the government should constantly work towards maintaining a good industrial relationship with workers. The employers should not wait for issues to deteriorate to strike actions before listening to the demands of workers. It is imperative for every stakeholder to put these recommendations into use. They must all play their roles by ensuring that they abide to agreements and follow the due process of the law.

**Appendix 1:** NLC's national strikes since 1981-2018

<b>Year</b>	<b>Purpose</b>	<b>Number of days</b>
May 1981-Shehu Shagari Administration	Poor Management of the Economy by the Federal Government and Minimum Wage Issues	2 days
May 1988-Ibrahim Babangida Regime	Opposition to Structural Adjustment Programme of the Administration Structures	Structures dissolved by Military Government
July 1994-Sani Abacha Regime	Agitation for the restoration of Democracy	Structures dissolved by Military Government
January 2004-Olusegun Obasanjo Administration	The Reintroduction of fuel tax	5 days
June 2007 –Late Umaru Yaradua Administration	Increase in the pump price of fuel from N65 to N75	4 days
January 2012-Goodluck Jonathan Administration	Removal of Fuel Subsidy and Increase in Pump Price from N65 to N138	5 days
May 2016- Muhammadu Buhari Administration	Increase in the pump price of fuel from N86.50 to N145	4 days
September 2018- Muhammadu Buhari Administration	Minimum Wage Demands	2 days

**Source:** <https://www.proshareng.com/news/NIGERIA%20ECONOMY/History-of-NLC-Strikes-in-Nigeria/42582>

**Appendix 2:** Number of ASUU strike since democracy was restored in Nigeria in 1999

- 1999 – 150 days
- 2001 – 90 days
- 2002 – 14 days.
- 2003 – 180 days (ended in 2004)
- 2005 -3 days
- 2006- 7 days
- 2007 – 90 days
- 2008 -7 days
- 2009- 120 days
- 2010- 157 days
- 2011—90 days, started in December and ended in 2012
- 2013- 150 days and seventeen days
- 2014- None
- 2015-None
- 2016- 7 days
- 2017- 35 days
- 2018- 3 months, started in 2018 and ended in 2019
- 2020- 9 months

Source: <https://lifestyle.thecable.ng/all-the-times-asuu-strike-since-1999/>

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