

THE ROLE OF NATIONAL INDUSTRIAL COURT IN DISPUTES

“THE ROLE OF NATIONAL INDUSTRIAL COURT IN DISPUTES RESOLUTION IN NIGERIA”

BEING LECTURE
DELIVERED AT UNIVERSITY OF ABUJA

ORGANISED BY:
LAW STUDENTS ASSOCIATION OF NIGERIA (UNIVERSITY OF ABUJA CHAPTER)

ON 15TH – 18TH SEPTEMBER, 2008

BY

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INTRODUCTION

In presenting a paper of this nature in an academic environment full of erudite and articulate professors of law, sound and astute lecturers, legal juganuts versatile minds, able students and eminent audience, one should not be unmindful of the pedigree of the audience one is coming to address.

Though I am the President of the National Industrial Court, that notwithstanding whatever views and opinions expressed in this paper are wholly mine. They do not represent the decisions rulings, thinking or judgment of the court. In consequence, I am absolutely responsible as an individual for all the comments contained in this paper and I adopt as mine.

When I received the invitation to present this paper, initially I felt uncomfortable. Understandable potable because of the heavy workload, I have on me and secondly I do not know what quantifies me to be invited a paper presenter in an occasion like this. On a second thought, I considered myself that I have no choice than to whole heartedly accept the offer. The reason for my second thought could not be far fetched. The topic of today’s paper is “The Role – National Industrial Court in Dispute Resolution in Nigeria”.

Many people in Nigeria including some of our friends at the bar do not know or understand what NIC means or stands for. Some have not taken the pains of searching for the Act establishing the court talkless of sighting the Rules of Court. The few that have heard about the court are having the view that the court is still operating under the Trade Disputes Act as amended and the Rules of Court made under.

This is a unique opportunity for us all to rub minds and be better informed about what NIC stands for, what it does and how it does. It is my hope that within the next few minutes this may be accomplished, for us to be able to follow the trend of events at the NIC, it becomes necessary to go a little bit into the historical background of the NIC under the Trade Disputes Act of 1972 as amended. This will give us the privilege of understanding the journey the court has gone through before attaining its present height.

TRADE DISPUTES RESOLUTION MECHANISM UNDER THE TDA

Part 1 of the TDA which is headed a “procedure for settling Trade Disputes” was originally meant to regulate trade disputes simpliciter. It consists of sections 1 – 18. Trade Dispute is defined in the Act as “any dispute between employees and workers or workers and workers which is connected with the employment or non – employment or the terms of employment and physical conditions or work of any person”

The position of the NIC has always been that the processes enumerated under Sections 1 – 18 of TDA must be followed religiously before the jurisdiction of the Court can be activated. That is why in certain cases the National Industrial Court declined to hear intra – inter-union disputes as a Court of first instance and has been insisting that the processes enumerated under Part 1 of the TDA be followed. It is however, pending issues whether under NIC inter and intra – union disputes need

to go through the processes of Part 1 of the TDA before the NIC can hear them.

Under Section 3 of the TDA if there is an agreed means for settlement of the disputes apart from the Act, the parties to the dispute shall first attempt to settle it by that means. If that attempt fails, the parties shall within seven days of the date on which the dispute arises or is first apprehended meet under a mediator, mutually agreed upon between the parties, with a view to an amicable settlement of the dispute. If the dispute is not settled within 14 days of the date on which a mediator is appointed, the dispute shall be reported to the Minister in writing. The Minister here is the Hon. Minister of Employment labour & Productivity.

The Minister has the powers under Section 6 to ensure that the processes enumerated under Section 3 and 4 of the TDA have been complied with. If the dispute remains unsettled within the period stipulated by the Minister, he will appoint a conciliator for the purpose of effecting a settlement of the dispute. If a settlement of the dispute is reached within 7 days of his appointment the conciliator shall report the fact to the minister and forward to him a memorandum of the terms of the settlement. If a settlement of the dispute is not reached within 7 days of his appointment, the matter is then referred by the Minister to the Industrial Arbitration Panel for settlement within 14 days of receipt of the conciliator's report.

An Arbitration Panel is obliged to make its award within 21 days of its Constitution or such longer period as the Minister may in any particular case allow. On receipt of a copy of the award, the Minister shall cause it to be given to the parties or their representatives. The award is then published in the manner deemed fit by the Minister. If there are no objections the award is then confirmed. If notice of objection is given to the Minister, the dispute is then referred to the NIC. The provision of law has been altered by section 7(5) of NICA, 2006. Under this section the parties has the right to apply directly to the Court.

One may therefore ask, are there no conflict between this provision of the law? The answer is that section 53 of NICA provides that other provisions of the Trade Disputes Act shall be construed with such modifications as may be necessary to bring it into conformity with the provisions of the Act.

The Minister has the power to constitute a board of inquiry under Section 32 and 33 of the TDA. This is another mechanism for the resolution of trade dispute. Under Section 32(1), of the TDA, the board is statutorily expected to only inquire into the causes and circumstances of the trade dispute in question and report to the Minister. But the role of the Minister in the ultimate resolution of dispute under the above provisions of the TDA is very significant and weighty.

For there to be industrial harmony, the labour/trade disputes resolution mechanism put in place by law must be applied in a manner that will guarantee their certainty, reliability, dependability and consistency. The Court should as well endeavour to deliver justice in consonance with these attributes. The process of TDA is to ensure that attempt is made to settle the dispute through the process of mediation, conciliation and Tribunal before the matter are referred to National Industrial Court as Appellate Court.

A brief History of the National Industrial Court (NIC)

It is necessary to give a brief history of the National Industrial Court, established by the Trade Disputes Decree No.7 of 1976, which later became the Trade Disputes Act (TDA) Cap T8 Laws of the Federation of Nigeria, 2004. Section 20 of the said Act provides that:

There shall be a National Industrial Court for Nigeria (in this part of this Act referred to as "the Court") which shall have such jurisdiction and powers as are conferred on it by this or any other Act with respect to the settlement of trade disputes, the interpretation of collective agreements and matters connected therewith.

Under the Act, the membership of the Court comprised the President of the Court and four other members (in the Act referred to as "ordinary members") all of whom shall be persons of good standing, to the knowledge of the Minister of Labour, well acquainted with employment conditions in Nigeria, and at least one of whom shall, to his satisfaction, have a competent knowledge of economics, industry and trade.

Prior to the establishment of the Act in 1976, in particular, prior to 1968, industrial relations law and practice was modeled on the non-interventionist and voluntary model of the British approach. The statutory machinery for the settlement of trade disputes was found in the Trade Disputes (Arbitration and Inquiry) Act. That Act, which was first enacted in 1941, gave power to the Minister of Labour to intervene by means of conciliation, formal inquiry and arbitration where negotiation had broken down. It had two notable feature which, in fact, might be regarded as drawbacks. First, it lied in the absolute discretion of the parties to decide whether or not they would avail themselves of the machinery provided.

The Minister could not compel them to accept his intervention. Thus, he could only appoint a conciliator upon the application of one of the parties. While he needed the consent of both parties to set up an arbitration tribunal.

Secondly, there were no permanent institutions laid down before which the disputing parties could go for the settlement of

their labour disputes.

Instead, an ad hoc body, an arbitration panel had to be set up for a particular dispute and once it gave its decisions it became *functus officio*.

The year 1968 witnessed the beginning of the Civil War in Nigeria. It was therefore expedient during the state of emergency to make transitional provisions for the settlement of trade disputes arising within the period. So, the Trade Disputes (Emergency Provisions) Act No.21 of 1968 was enacted. It suspended the Trade Disputes (Arbitration and Inquiry) Act and gave to the Minister of Labour compulsory power of intervention in trade disputes while retaining the usual methods of conciliation, formal inquiry and arbitration. The requirement for consent of the parties before the Minister could act was abrogated so that he could resort to these methods without the consent of the parties to the disputes. The 1968 Act created a time table from the time that employers and workers became aware that a dispute existed to the time that a dispute was notified to the Minister and, within the discretionary powers conferred on him by the Act, to decide on what sort of action to take.

It is pertinent at this juncture to make some observations on the National Industrial Court under the TDA as amended by the Trade Disputes (Amendment) Act 1992 (Decree No.47 of 1992).

First of all, as a product of an interventionist policy in both the economic and labour spheres, the NIC was generally structured in a regimented and compartmentalized labour disputes resolution regime with circumscribed ministerial discretion. For instance, only in a few cases could the jurisdiction of the NIC be activated by the disputants themselves without recourse to the Minister of Labour. In the majority of cases, the jurisdiction of the NIC was activated only upon a referral from the Minister of Labour. Indeed, in the words of Rule 13 of the National Industrial Court Rules, cap T8 Laws of the Federation of Nigeria, 2004, a trade dispute “shall be commenced by reference from the Minister”.

THE PRESENT DAY NATIONAL INDUSTRIAL COURT AND ITS PLACE UNDER THE NATIONAL INDUSTRIAL COURT ACT, 2006 (REFERRED TO AS NICA 2006)

The circle of Trade Disputes resolution mechanism in Nigeria will be an in-complete metamorphosis without going through the role of the National Industrial Court. It is therefore, timely and apt at this juncture to briefly state the history of the new National Industrial Court.

Perhaps, it may be necessary to make it clear that while dealing with the historical background of the court, we should examine the journey of the Court before its present status.

On my assumption of office and resumption of duties as the President of National Industrial Court in May, 2003. The Court organized a 3 day Stakeholders Conference on the way forward for the Court. The theme of the Conference was “NIGERIAN INDUSTRIAL DISPUTES RESOLUTION SYSTEM: CHALLENGES AND PROSPECTS FOR THE NATIONAL INDUSTRIAL COURT”.

At the Conference, which was chaired by Hon. Justice M.L. Uwais, GCON former Chief Justice of Nigeria between 5th – 7th of November 2003, 13 (thirteen) papers were presented by eminent Nigerians Legal luminaries and expert in the field of Industrial relations and labour law.

The outcome of the Conference led to the passage of the National Industrial Court Bill by the National Assembly in June, 2006 which was subsequently assented to by Mr. President on the same day.

At this juncture, it is necessary to highlight the features of the NICA, 2006

Establishment of the Court:

Section 1(1) of the Act provides and 1 quotes:

“There is established a court to be known as the National Industrial Court (in this Act referred to as “the Court”).

Status of the Court

Section 1(3)(a)

“The Court shall be a superior court of record”.

Appointment of the President and Judges of the Court.

Section 2(1)

“The President of the Court shall be appointed by the President, on the recommendation of the National Judicial Council, subject to confirmation by the Senate”

Section 2(2)

“The appointment of a person to the office of a Judge of the Court shall be made by the President on the recommendation of the National Judicial Council”

Saving Provisions

Section 2(7)

“Notwithstanding the provisions of subsections (1), (2), (3) and (4) of this section, any person holding the office of the President or ordinary member of the Court immediately before the commencement of this Act shall be deemed to have been appointed under this Act”.

Tenure of office of the President and Judges of the Court

Section 3

“The provisions in the Constitution of the Federal Republic of Nigeria 1999 relating to the tenure, removal, gratuity and pension of any person holding or appointed to act in the office of the Chief Judge or Judge of the Federal High Court, shall respectively apply to any person holding or appointed to act in the office of the President of the Court or as a Judge of the Court.

Precedence

Section 4(2)

“The President of the Court shall rank equal with the Chief Judge of the Federal High Court or the Chief Judge of the High Court of the Federal Capital Territory Abuja, in precedence and the Judges of the Court shall, in like manner, rank with the Judges of the Federal Capital Territory, Abuja”.

Salaries and Emoluments of the President and the Judges of the Court.

Section 5(1)(a)

“There shall be paid to the President of the Court, such salaries, emoluments and allowances as are payable to the Chief Judge of the Federal High Court or of the High Court of the Federal Capital Territory, Abuja” and

Section 5(1)(b)

“a Judge of the Court, such salaries, emoluments and allowances are payable to a Judge of the Federal High Court of the High Court of the Federal Capital Territory, Abuja”.

Payment to be made from Consolidated Revenue Fund

Section 5(2)

“Any amount payable under this section shall be charged and paid out of the Consolidated Revenue Fund of the Federation in accordance with section 81(3) of the Constitution of the Federal Republic of Nigeria 1999”.

Power of Transfer of Cases

For purpose of clarity section 24(2) of NICA provides:

“No cause or matter shall be struck out by the Court merely on the ground that such cause or matter was taken in the Court instead of the Federal High Court or the High Court of a state or of the Federal Capital Territory, Abuja in which it ought to have been brought and the Court before whom such cause or matter is brought may cause such cause or matter to be transferred to the appropriate Federal High Court or the High Court of a State or of the Federal Capital Territory, Abuja in accordance with Rules of Court to be made under Section 36 of this Act.”

See also section 24(3) of NICA:

“Notwithstanding anything to the contrary in any enactment or law, no cause or matter shall be struck out by the Federal High Court or the High Court of a State or of the Federal Capital Territory, Abuja on the ground that such cause or matter was not brought in the appropriate Court in which it ought to have been brought and the Court before whom such cause or matter is brought may cause such cause or matter to be transferred to the appropriate Judicial Division of the Court in accordance with such rules of court as may be force in that High Court or made under any enactment or law empowering the making of rules of court generally which enactment or law shall be virtue of this subsection be deemed also to include the power to make rules of court for the purposes of this subsection”.

It is our view that this power is complimentary rather than rivalry. For instance, recently the Federal High Court transferred Suit No. FHC/L/CS/467/3/2006 not Suit No. NIC/3/2007, Lt. Co. Sabitu Mumuni and 26 Others v. Federal Ministry of Works and two others to National Industrial Court because it realized that it lacked the jurisdiction to entertain the matter being a matter related to labour.

The intendment of the law makers was to establish a Court of co-ordinate status with the High Courts but not of coordinate jurisdiction. The National Industrial Court is vested with exclusive jurisdiction to handle matters under section 7 of NICA which will be referred to hereinafter.

THE ROLE OF THE NATIONAL INDUSTRIAL COURT

The National Industrial Court has both original and appellate jurisdiction in civil matters but it has no criminal jurisdiction except on matter of contempt of its orders. See section 10 of the Act.

The jurisdiction of the NIC is governed by Section 7 of NICA. The section provides that –

- (1) The court shall have and exercise exclusive jurisdiction in civil causes and matters-
 - (a) relating to –
 - (i) labour, including trade unions and industrial relations; and
 - (ii) environment and conditions of work, health, safety and welfare of labour and matters incidental thereto; and
 - (b) relating to the grant of any order to restrain any person or body from taking part in any strike, lock-out or any industrial action, or any conduct in contemplation or in furtherance of a strike, lock-out or any industrial action;
 - (c) relating to the determination of any question as to the interpretation of –
 - (i) any collective agreement,
 - (ii) any award made by an arbitral in respect of a labour dispute or an organizational dispute.
 - (iii) the terms of settlement of any labour dispute, organizational dispute as may be recorded in any memorandum of settlement.
 - (iv) any trade union constitution, and
 - (v) any award or judgment of the Court.
- (2) The National Assembly may by an Act confer such additional jurisdiction on the Court in respect of such other causes or matters incidental, supplementary or related to those set out in subsection (1) of this section.
- (3) Notwithstanding anything to the contrary in this Act or any other enactment or law, the National Assembly may by an Act prescribe that any matter under subsection (1) (a) of this section may go through the process of conciliation or arbitration before such matter is heard by the Court.
- (4) An appeal shall lie from the decisions of an arbitral tribunal to the Court as of right in matters of disputes specified in subsection (1) (a) of this section.
- (5) For the purposes of subsection (4) of this section, a party to an arbitral award shall be entitled to obtain a copy of the records of the arbitral proceedings and the award from the arbitral tribunal.
- (6) The Court shall, in exercising its jurisdiction or any of the powers conferred upon it by this Act or any other enactment or law, have due regard to good or international best practice in labour or industrial relations and what amounts to good or international best practice in labour or industrial relations shall be a question of fact. See Section 7(6) of NICA, 2006. The intendment of the law makers to confer exclusive jurisdiction on NIC is to have a specialized Court that will handle matters under item 34 of the Exclusive Legislative List of the Constitution which the National Assembly has power to legislate upon.

There are two schools of thought on whether NIC should have exclusive jurisdiction as conferred in Section 7 of NICA, 2006. One of the school of thought argued that for the Court to have exclusive jurisdiction is good enough, while other believed that it is unconstitutional because it runs foul of section 272 of 1999 Constitution which vested the State High Court with powers to handle all civil causes and matters.

The second school of thought may be considering the powers of the High Court under 1979 Constitution which gave the High Court unlimited jurisdiction. While the first school of thought argued that under section 272 of 1999 Constitution, the powers of the State High Court are general but limited. This latter school of thought relied on the case of the Registered Trustees of Conference of Secondary School Tutors v. Commissioner of Education Kogi State and Others (2006). ALL FWLR part 299 p. 1549 at 1562 where Omage JCA held as follows:

“The specific answer therefore as to whether the Trade Disputes Act, Cap. 432 Laws of the Federation 1990 is in conflict with the 1999 Constitution. I answer in the negative to say it is not. The National Industrial Court created by the law contained in the Trade Disputes Act, 1990 takes it root from the powers derived by the legislators who made the law from the Constitution. Each court deals with its different sphere of disputes”.

In *Ekong v. Oside* (2004) ALL FWLR 562 the Court of Appeal held that the power of the High Court of the Federal Capital Territory, Abuja is like that of a State High Court, that it has no unlimited jurisdiction in civil causes and matters,

rather it has general but limited powers under section 272 of 1999 Constitution.

The court went further to say that the powers of the High Court is limited to the provisions of the Constitution i.e. sections 315 and 316. That under section 315 of 1999 Constitution, the TDA Cap. 423 of LFN 1990 was protected, while the court itself was protected under section 316.

It was all these that the National Assembly took into consideration at the Public Hearing before exercising its powers under section 4(2) of the 1999 Constitution to enact NICA, 2006.

In view of the decision in *Ekong v. Oside* (Supra) it therefore, becomes imperative for the National Assembly to create a court and vest it with exclusive jurisdiction to deal with matters under item 34 which the National Assembly has Constitutional exclusive legislative powers to legislate upon.

Section 7(1) spells out the original jurisdiction of the NIC. In addition to this, the Act as we have noted above in Section 7(2) of NICA, 2006 provides that the National Assembly may by an Act confer such additional jurisdiction on the court in respect of such other causes or matters incidental, supplementary or related to those set out in

Subsection (1) of Section 7(1)

Section 21 of NICA states that the Court shall have and exercise jurisdiction throughout the federation, for that purpose the whole area of the federation shall be divided into such Judicial Divisions as the President of the Court shall deem fit to make.

At the moment the court contemplates eight judicial divisions which would be:

Lagos

Ibadan,

Abuja

Kano

Enugu

Jos

Calabar

Maiduguri

For now, the court has its presence in Lagos, Abuja, Enugu and Kano.

By virtue of the provisions of Section 7(3) alternative dispute resolution mechanisms can be activated and applied in the determination of labour disputes in Nigeria. This is primarily to avoid delays that may be occasioned by resort to strenuous and unending litigations. In the case of *Amadi v. NNPC* (2000) 5 WRN 47 a worker challenged his suspension and a subsequent dismissal from work and it took 13 years to resolve the question of jurisdiction with an order by the Supreme Court that the case be remitted to the High Court and be tried all over by another judge. This should not be allowed because, labour matters being economic matters may spell doom for the Industrial harmony required at the work place. The intendment of the legislature in enacting Section 7(3) was to encourage quasi judicial settlement of labour disputes by bodies mentioned in Part 1 of the TDA (Supra) before approaching the court in its appellate jurisdiction. It is in furtherance of Section 20 of NICA, 2006 that in exercising its jurisdiction over any proceedings, the court may promote reconciliation among the parties thereto and encourage and facilitate the amicable settlement thereof.

Section 7(4) provides that an appeal shall lie from the decisions of an arbitral tribunal to the Court as of right in matters of disputes specified in subsection (1) (a) of Section 7. Such matters as affected by this provision must have passed through the necessary preliminary stages at the arbitral tribunal before being eligible for consideration by the NIC. The Court may order a rehearing and determination of the matter on such terms as the court may think just; or order judgment to be entered for any party; or make a final or other order on such terms as the court may think fit to ensure the determination on the merits of the matter in dispute between the parties. By the wide and exclusive jurisdiction conferred on the NIC, the problems created by the decisions of the Court of Appeal in *Kalango v. Dokunbo* (2003) 15 NWLR 32 and *Attorney-General of Oyo State v. NLC* (2003) 8 NWLR 1 among others appear to have been removed.

The Act further provides that the court shall, in exercising its jurisdiction or any of the powers conferred upon it have due regard to good or international best practice in labour or industrial relations; and what amounts to good or international best practice in labour or industrial relations shall be a question of fact. A similar provision can be found in the Industrial Relations Law of Trinidad and Tobago. The main advantage of Section 7(6) is that it permits the NIC to be part of the global world of industrial relations law and practice where the experience of other jurisdiction can be brought to bear in the determination of labour disputes.

APPEAL

One of the polemic section of NICA, 2006 which has become debatable and controversial among eminent legal luminaries is section 9 of NICA, 2006.

Some legal luminaries are of the view that section 9 (1) is unconstitutional because it precluded appeal from NIC to Court of Appeal.

To drive home this point it is necessary to reproduce section 240 of the 1999 Constitution thus:

Section 240 provides:-

Subject to the provisions of this Constitution, the Court of Appeal shall have jurisdiction to the exclusion of any other court of law in Nigeria, to hear and determine appeals from the Federal High Court, the High Court of the Federal Capital Territory, Abuja, High Court of a State, Sharia Court of Appeal of a State, Customary Court of Appeal of a State and from decisions of a court martial or other tribunals as may be prescribed by an Act of the National Assembly.

From the above, it is clear that NIC was not listed as one of the Courts from which appeal will lie to the Court of Appeal. This could not be an oversight on the part of the National Assembly, rather it is a deliberate effort to correct the ugly situation in Amadi's case (Supra) among others.

It therefore, becomes necessary to examine the provisions of section 246(2) which provides that "the National Assembly may confer additional jurisdiction upon the Court of Appeal to hear and determine appeals from any decision of any other court of law or tribunal established by the National Assembly".

In enacting the provisions of section 9(2) of NICA the National Assembly invokes its powers under section 4(2) of the 1999 Constitution i.e. power to make law for good governance of the Federation and Section 246(2) of 1999 Constitution to confer additional jurisdiction on the Court of Appeal.

However, in doing this the National Assembly conferred the Court of Appeal with limited jurisdiction to hear appeal from NIC as clearly stated in section 9(2) of NICA, 2006.

It is our view that the intendment of the legislators is to make the decision of the NIC final. See section 19 of the TDA. (now repealed).

The Constitution itself protected the provisions of the TDA. See sections 315 and 316 of the 1999 Constitution. The totality of these two sections is to explicitly secure the finality of NIC in matters of which jurisdiction has been conferred upon it. If the framers of the Constitution wanted it otherwise, they would have so legislated in their wisdom.

It is therefore, my view that the intendment of the framers of 1999 Constitution is to have NIC as a final court to speedily and expeditiously deal with labour matters which are economic matters.

Another polemic section of the NICA, 2006 is the word "exclusive jurisdiction" as contained in section 7 of NICA, 2006 which precludes other Courts from hearing labour/industrial relations matters. As lofty as this argument is, a careful examination of section 272 of 1999 Constitution will reveal otherwise.

With due respect and utmost sense of responsibility the power conferred on the High Court under section 272 is general but limited. General to the sense that it has power to hear all civil causes and matters and limited by virtue of sections 251, 315 and 316 which I have examined earlier in this paper. The powers of the High Court are also general but limited by virtue of the fact that each High Court has a limited jurisdiction. In labour matter which is a general matter, High Court decisions in a State can only be registered in another jurisdiction before it will be binding and enforceable under the Sheriff and Civil process Act Vol. 14 Cap S6 Laws of Federation of Nigeria 2004.

Another reason for NIC exclusive jurisdiction is that Industrial matters or trade disputes should not be allowed to be left for forum shopping.

Recently, when there was strike over increase in the prices of petroleum product, various actions were filed in different State High Courts, with conflicting decisions. This made the issue to be more polemic.

For instance in the case of FGN v. Oshioh mole (2004) Supra the High Court of the Federal Capital Territory, Abuja held in the matter that Nigeria Labour Congress has the powers to call workers out on strike. The Court of Appeal in its judgment, ruled that the High Court of the Federal Capital Territory, Abuja lacked jurisdiction to entertain the matter being matters under item 34 of the Exclusive List of the Constitution i.e. labour/trade disputes. The Court of Appeal referred the matter to the Federal High Court for determination. The Federal High Court relying on Section 251 of 1999 Constitution ruled that though, its jurisdiction excluded trade dispute/labour matters. However, the Court heard the matter based on other grounds.

With these conflicting decisions, it became clear that there is a lacuna in the law as to which Court will have jurisdiction over trade disputes under item 34 of the Exclusive Legislative List. Going by the decision of the Court of Appeal that the High Court has no jurisdiction, it therefore, became imperative for the National Assembly to find solution to this problem in consonance with the provisions of section 4(2) of the 1999 Constitution i.e. powers to make laws for peace, order and good governance of the federation or any part thereof.

The above informed the National Assembly to vest on the NIC with exclusive and National jurisdiction to hear and determine labour/industrial relations matters.

It may be asked. What are these powers, we are talking about?. In answering this question, we may refer to section 1(3)(b) which provides that the Court shall have all the powers of a High Court.

What are the powers of the High Court? See sections 17-19 of NICA, 2006.

Section 10 - power to enforce its judgment.

Section 16 - power to grant injunctions.

Section 17 - power to make order of mandamus, prohibition and certiorari

Section 18 - power to grant injunction in lieu of quo warranto;

Section 19 - power to grant

- (a). urgent interim relief,
- (b). a declaratory order,
- (c). appointment of public trustee,
- (d). to award compensation or damages e.t.c

See also the Federal High Court Act Cap. F12, Vol. 6 LFN 2004. Sections 13, 14, 15 & 16.

The NIC is now a specialized Court with powers to:

- (a). determine matters not vested in the High Court;
- (b). to solve the problems of labour,
- (c). to look into matters from the IAP as an appellate Court.
- (d). it now provides confidence in the foreign investors to invest in our economy since there are now aware that the law of industrial relations in Nigeria are now certain, definite, ascertainable and reliable.
- (e). with this the clamour for the obedience of rule of law will be prominent.

PROSPECTS OF INDUSTRIAL RELATIONS IN NIGERIA

In my view, the prospects of industrial relations are very prominent in Nigeria. However, there are challenges ahead for the NIC to impact more in the administration of justice. For NIC to do this, the following must be carefully and more seriously attended to:

- (a). The Constitution of the Federal Republic of Nigeria 1999 must be amended to expressly include the NIC under Section 6(5) of 1999 Constitution as a Court of Superior Court, thereby for closing the avenue for argument as to whether the Court is a Superior Court of Record.
- (b). There is the need to have updated works on labour/employment/industrial relations law and practice. Now that the National Industrial Court Act 2006 is on ground, it is left to the academicians to rise up to the occasion by writing books that will be explicit on the various laws relating to, employment and industrial relations and by examining various pronouncements on same with a view to making their intellectual input.
- (c). Our colleagues the law lecturers will do the profession a great deal of good if Law students could be encouraged the more to appreciate the importance of Labour/employment/industrial relations law in the development and growth of any nation like ours.
- (d). Members of the Bar that is the legal practitioners who have decided to practice labour/employment/industrial relations law should always endeavour to contribute more to the system as ministers in the temple of justice. This could be done through their well researched and erudite presentation of their cases and qualitative submissions made before the court.
- (e). There are faculties of law in our universities that actually teach labour/employment/industrial relations law. The Senate of our Universities in Nigeria should ensure the inclusion of these subjects into the curricula and taught at 300 level. Students should be encouraged to offer these subjects as core courses rather than as mere elective courses.
- (f). Trade Unionist should show more interest in educating their members about all most recent laws that are relevant to industrial relations, labour and conditions of work generally.

Employers of labour should be interested in the development and growth of labour/employment/industrial relations law and procedure in Nigeria.

(h). All role players in industrial relations should be involved in serious research into the best way in resolving trade disputes without necessarily going through the rigour of litigation

(i). The Council of Legal Education is called upon to include practice and procedures in the National Industrial Court in their syllabus. The Council should ensure that the course is taught in all their campuses and questions set for students to answer as it is the case in all other subjects.

(j). Members of the public should be properly sensitized and educated on the need to have cordial and conducive atmosphere for industrial relations to exist so that at the end of the day we will have economic prosperity.

I am optimistic that if the above can be looked into, there will be a promising future for the law and practice of industrial relations in the country and this will place the court in a better footing to impact more positively in the trade disputes resolution mechanism in Nigeria.

CONCLUSION

In a recap, the presenter of this paper would like to remind the audience that this paper has attempted to State the mechanism for settling trade disputes in Nigeria through:

1. Mediation;
2. Conciliation;
3. Industrial Arbitration Panel; and
4. National Industrial Court.

I sincerely thank the Vice Chancellor, the Dean of Law of the Adekunle Ajasin University for inviting me to deliver this lecture. The Dean and Members of the Academic Staff of the Faculty are also appreciated for endorsing the choice of the topic. May I also thank members of the non-academic staff, the entire University Community and the University for approving that the lecture should hold.

Legal luminaries, jurists, human resource experts, trade unions, academicians, are encouraged to write books that will aid the understanding of labour/Industrial Relations and proffer solution to labour and Industrial relations.

Realizing the environment where this paper is being presented, the essence is to provoke reactions from Legal Luminaries, Scholars, Academicians, Labour Law Experts, Trade Unionist, Employers of Labour, Human Resource Personnel, and Students Executive at the Faculty level and in the University as a whole towards the improvement of our trade dispute relations in Nigeria.

It is my hope that this paper will open a new chapter in our labour/industrial relations.

I thank you for your kind attention.

Section 37(1)(b)

See cases of senior Staff Association of Statutory Corporation and Government Owned Companies, Nigerian Ports Authority Branch and others v. Senior Staff Association of Statutory Corporations of Government Owned Companies, unreported suit No. NIC/8A. 2001 decided on July 3, 2001: Marine Workers Union of Nigeria and Ors v. NLC and as (2005) 4 NLLR (Pt. 10) 270

Section 3 (2) TDA

Section 5 (1), (2) TDA

Section 8 (1) TDA

Section 4 (1), (2) TDA

Section 13 (1) TDA

See Chioma Kanu Agomo – “Nigeria”, in Labour Law and Industrial Relations in the International Encyclopedia of

See Section 3, Cap 201, Laws of the Federation of Nigeria and Lagos, 1958.

Section 4(2), Trade Disputes (Arbitration and Enquiry Act) 1958.

See Sections 2- 7

(2006) ALL FWLR part 229, p.1549 at 1562

(2004) ALL FWLR 562

Section 7(2) NICA, 2006

(2000) 5 WRN 47

Section 8, of NICA 2006

(2003) 15 NWLR 32

(2003) 8 NWLR 1

Section 7 (6) NICA 2006

See Section 10 of the Industrial Relations Act Chapter 88:01 Laws of Trinidad and Tobago

Supra