

# An Appraisal of the Jurisdiction and Powers of the National Industrial Court of Nigeria

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## Abstract

## Original Research Article

This paper examines the jurisdiction and powers of the National Industrial Court (NIC) of Nigeria, which plays a vital role in resolving labor and employment disputes. It discusses the court's establishment, its authority, and limitations. The research, conducted through qualitative analysis of statutes, case law, and literature, highlights that the NIC has exclusive jurisdiction over labor and employment matters, including issues related to trade unions, collective bargaining, and employee welfare. However, it does not have jurisdiction over certain matters, such as internal trade union disputes or issues involving the Armed Forces.

The study concludes that while the NIC has contributed significantly to resolving labor disputes, there is a need for legislative reforms to expand and clarify its powers. It suggests amending the National Industrial Court Act 2006 and other relevant laws to enhance the court's role in promoting industrial harmony and protecting workers' rights.

**Keywords:** National Industrial Court of Nigeria, jurisdiction, powers, labour law, employment law, industrial relations.

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## INTRODUCTION

The National industrial court of Nigeria is a specialized court established to adjudicate on labour and employment disputes in Nigeria. The court's jurisdiction and powers are crucial to the resolution of industrial disputes and the promotion of industrial harmony in Nigeria. This study aims to appraise the jurisdiction and powers of National Industrial court of Nigeria examine its establishment, powers and procedures, as well as the challenges facing the court. The National Industrial court was established by the National industrial court Act 2006, which conferred on it exclusive jurisdiction over labour and employment disputes in Nigeria (National industrial court Act 2006) the court's jurisdiction includes disputes relating to employment, trade unions, and industrial relation. The National industrial court of Nigeria has the power to grant reliefs, including declarations, injunctions and damages.

This study employs a qualitative research methodology using a combination of primary and secondary data sources, primary data was obtained through interview and the secondary data was obtained from a review of relevant literature, including statutes, case law, and academic writings

The study found that the NICN has exclusive jurisdiction over labour and employment disputes in Nigeria, and has the power to grant a range of reliefs. However, the study also found that the court faces several challenges, including inadequate funding, lack of infrastructure, and delays in the hearing of cases.

The National Industrial Court (NIC) of Nigeria was created by the Trade Disputes Decree No. 7 of 1976, marking a pivotal shift from the non-interventionist, voluntary approach to industrial relations, influenced by British law, to a more interventionist model. Prior to its establishment, industrial disputes in Nigeria were governed by the Trade Disputes (Arbitration and Inquiry) Act of 1941, which allowed the Minister of Labour to intervene in disputes through conciliation and arbitration but lacked the power to compel parties to participate. The 1966 Civil War prompted the Trade Disputes (Emergency Provisions) Act to provide compulsory intervention by the Minister, signaling the government's shift towards more direct involvement in industrial relations.

## Establishment of the National Industrial Court:

The NIC was established by the National Industrial Court Act, which outlines its jurisdiction and



powers. It provides a specialized court to handle trade disputes, interpretation of collective agreements, and related matters. The Trade Disputes Act and the Third Alteration Act further formalized the NIC as a Superior Court of record in the 1999 constitution, solidifying its place in the legal framework.

### Composition of the Court:

The NIC consists of the President of the Court and at least four ordinary members. These members must possess knowledge of employment conditions in Nigeria and, ideally, economics, industry, and trade. The court may be constituted by:

- All five members, or
- The president with two ordinary members.

Additionally, the president has the discretion to involve assessors in certain cases. The decision of the court is based on the majority vote of the sitting members.

The president is appointed by the Nigerian president based on recommendations from the National Judicial Council (NJC) and confirmed by the Senate. Judges of the NIC are similarly appointed by the president on the NJC's recommendation.

The eligibility requirements for appointments to the NIC stress experience in industrial relations and employment law, ensuring that members are well-versed in relevant legal and economic matters.

### Role and Jurisdiction:

The NIC holds original and appellate jurisdiction in civil matters related to labor and employment, as well as some criminal and quasi-criminal matters. The Third Alteration Act provided a clear definition of the court's powers, establishing its exclusive jurisdiction over matters concerning labor, industrial relations, and trade disputes, ensuring that these cases are handled by the NIC rather than the regular courts.

Before the amendment, there was tension between the NIC's jurisdiction and that of the regular courts, as some believed that the jurisdiction of the NIC conflicted with the powers granted to state high courts under the 1999 Constitution. The Third Alteration Act addressed this by clearly recognizing the NIC as a Superior Court of record, ensuring its exclusive jurisdiction in industrial relations matters.

### Appeals and Jurisdictional Clarity:

- Appeals: Appeals from the NIC on issues related to fundamental rights or any matters within its jurisdiction can go to the Court of Appeal. For civil matters, the decision of the Court of Appeal is final.
- The NIC now has exclusive jurisdiction over labor-related disputes, including those involving trade unions, employer associations, and other industrial disputes that previously might have been handled by state courts or the federal high court.

### Impact on Industrial Relations:

The NIC's establishment has been pivotal in creating a specialized forum for resolving labor disputes, making it easier and more efficient for businesses, workers, and unions to address grievances. This setup helps to balance the diverse economic interests in Nigeria's labor relations system, ensuring that labor disputes are resolved efficiently and in a manner that reflects the evolving industrial landscape.

### Alternative Dispute Resolution (ADR):

The NIC Act promotes alternative dispute resolution mechanisms, which are essential for providing quick, affordable, and accessible justice, especially for investors and other stakeholders in Nigeria's economy.

In summary, the National Industrial Court of Nigeria serves as a specialized court that handles a wide range of labor-related disputes, playing a crucial role in the country's legal and industrial framework. The provisions under the Third Alteration Act further strengthen its position as the main body to address industrial disputes, marking a significant development in Nigeria's legal system.

The government's involvement in labor disputes in Nigeria has been a critical aspect of managing industrial relations, with several efforts aimed at resolving conflicts between labor and employers. Over the years, the industrial system in Nigeria has been marked by frequent strikes, protests, and unrest, making labor disputes a major feature of the Nigerian economy. Here's an overview of the key elements of government involvement in these disputes:

### Historical Context and Government Response:

Since Nigeria's independence in 1960, the country has faced persistent industrial disputes, with strikes, lock-outs, and other forms of industrial action frequently disrupting various sectors, such as education, power, telecommunications, and more. For instance:

- The January 2012 strike against the removal of fuel subsidies by the Nigeria Labour Congress (NLC) and the Trade Union Congress (TUC) demonstrated the challenges faced by the government in managing industrial relations.
- Other notable instances of strikes include those by the Academic Staff Union of Universities (ASUU) over unfulfilled agreements and the Nigeria Police Force strike in February 2002, reflecting dissatisfaction with how industrial disputes were being handled.

Such strikes often involve both private and public sectors and can significantly affect the economy, creating disruptions in vital industries like banking, aviation, and telecommunications.

#### Government Agencies Involved in Industrial Relations:

To address industrial disputes and maintain control over labor relations, the Nigerian government has established

several key agencies:

1. Federal Ministry of Employment, Labour and Productivity – Responsible for overseeing the general welfare of workers and ensuring labor laws are followed.
2. National Labour Advisory Council – Advises the government on labor-related issues.
3. Industrial Arbitration Panel – Provides a platform for the resolution of labor disputes.
4. National Industrial Court – A specialized court that adjudicates labor and employment matters.
5. Boards of Inquiry – Investigate labor-related issues and provide recommendations.

These agencies are designed to help resolve conflicts, enforce laws, and maintain industrial harmony. However, 70% of industrial disputes still result in industrial action, which reflects a gap in the effectiveness of these agencies.

### **Impact of Strikes on the Economy:**

The occurrence of frequent strikes is detrimental to Nigeria's economic, social, and political stability:

- Economic Impact: Strikes disrupt essential sectors, such as oil production, which can affect oil supply and pricing on international markets. This impacts Nigeria's international trade and reputation.
- Social and Political Consequences: Strikes can cause instability, reducing productivity, and damaging the relationship between government, employers, and workers. Political stability may also be threatened due to widespread dissatisfaction with the government's inability to address industrial grievances effectively.

### **Challenges in the Industrial Relations System:**

The persistent industrial actions indicate the need for a more effective approach to labor relations in Nigeria. Key challenges include:

- Failure of Government Agencies: Many industrial disputes remain unresolved, leading to strikes and unrest. This suggests inefficiencies in the agencies tasked with handling disputes.
- Lack of Trust: Workers often feel that their grievances are not being addressed satisfactorily, as seen with the police strike and other protests by unions.
- Ineffective Dispute Resolution: The high rate of industrial action is symptomatic of the failure of mechanisms meant to resolve disputes, signaling a need for better performance from relevant agencies.

### **Recommended Improvements:**

To enhance the industrial relations system and reduce industrial actions, the Nigerian government should:

1. Review the Roles of Agencies: Strengthen the capacity and efficiency of agencies involved in dispute resolution, ensuring that they can quickly and fairly resolve labor issues.
2. Involve Organized Labor: Engage trade unions more directly in the legislative and policy-making processes related to labor and industrial relations.
3. Recruit Qualified Personnel: Ensure that personnel tasked with handling industrial disputes are adequately trained and possess the necessary expertise in industrial relations.

While the Nigerian government has put in place various mechanisms to address industrial disputes, the recurring strikes and unrest indicate that these mechanisms are not always effective. For the system to work efficiently, a more proactive and capable approach is needed, focusing on improving dispute resolution, strengthening relevant institutions, and ensuring the active participation of organized labor in shaping labor-related policies. Effective management of labor relations is crucial for the country's economic stability, growth, and social harmony.

The Trade Disputes Act (TDA) 2004 and the National Industrial Court Act (NIC Act) 2006 lay out detailed mechanisms for resolving trade disputes in Nigeria, aiming to maintain industrial harmony and ensure that labor disputes are handled in a structured and fair manner. Here's an overview of the trade dispute resolution mechanisms under these laws:

### **Trade Disputes Act (TDA) 2004:**

The TDA provides a step-by-step process for resolving trade disputes between employers and employees, or between workers themselves, that are connected to employment terms and conditions. The Act is focused on ensuring that disputes are resolved swiftly and fairly.

#### **1. Mediation and Conciliation (Sections 4 and 6 TDA):**

- When a trade dispute arises, the parties are required to first attempt to settle the matter through any existing dispute resolution mechanisms (if agreed upon).
- If no resolution is achieved, within seven days, the parties must meet under a mutually agreed-upon mediator to attempt an amicable settlement.
- If this attempt fails, the dispute must be reported to the Minister of Employment, Labour and Productivity within three days, stating the issues in disagreement and the steps taken toward resolution.

#### **2. Conciliation by the Minister (Section 7 TDA):**

- If no resolution is reached through mediation, the Minister appoints a conciliator who works to resolve the dispute within seven days.



- If the conciliator is unsuccessful, the dispute is referred to the Industrial Arbitration Panel (IAP) within 14 days for further resolution.

### **3. Industrial Arbitration Panel (IAP) (Sections 13-15 TDA):**

- The IAP can either be a single arbitrator or a tribunal of multiple arbitrators. It is responsible for making a binding award within 21 days (or longer, at the Minister's discretion).
- If a dispute is resolved by IAP, the Minister confirms the award by publishing it in the Federal Gazette.
- If no objection is made within seven days of publication, the award becomes binding.

### **4. Role of the Minister (Centralized Control):**

- The Minister has a profound role in overseeing the dispute resolution process. The Minister's powers extend to appointing conciliators, referring disputes to the IAP, and deciding whether the IAP's award should be reconsidered or confirmed.
- The Minister can refer the dispute to the National Industrial Court (NIC) if either party objects to the IAP award, which then makes a binding decision on the dispute, except in matters of fundamental rights, where the Court of Appeal has jurisdiction.

### **5. Board of Inquiry:**

The Board of Inquiry is a less frequently used mechanism, where the Minister appoints a board to inquire into the causes of the dispute and report back. However, the report's purpose and next steps are unclear, leading to limited practical impact.

### **National Industrial Court Act (NIC Act) 2006:**

The NIC Act grants more direct powers to the National Industrial Court to handle disputes, especially regarding the interpretation and enforcement of IAP awards and labor laws.

#### **1. Jurisdiction of the National Industrial Court (NIC):**

- The NIC has the jurisdiction to hear appeals from the IAP, including cases where the IAP award has been disputed.
- The NIC also has powers of judicial review over arbitral awards, and parties to a dispute can appeal against the IAP award if they feel the decision was unjust or inappropriate.

#### **2. Judicial Review of IAP Awards:**

- Under Section 7(5) of the NIC Act, parties to an arbitral award are entitled to obtain a copy of the arbitral proceedings and the award to pursue appeals.
- This provision gives litigants the right to

challenge the arbitral decision in the NIC, thereby enhancing transparency and accountability in the dispute resolution process.

### **3. Binding Nature of Awards:**

- Once the NIC confirms an IAP award, it becomes legally binding, and parties must comply.
- In situations of strike or lock-out, where an award is not adhered to, criminal sanctions may apply to enforce compliance.

### **4. Minister's Role in Referral to NIC:**

- The Minister's central role in initiating referrals to the NIC is crucial. The Minister is the one who refers disputes or objections to the NIC, thus making the Court's jurisdiction somewhat dependent on ministerial action.

### **5. Interpretation of Awards:**

- The NIC also has the power to interpret the terms of an IAP or NIC award, particularly when there is ambiguity regarding the meaning of the settlement.

#### **Key Issues and Challenges in the System:**

While the mechanisms in place under the TDA and NIC Act aim to resolve disputes efficiently, some challenges exist:

- Ministerial Discretion: The process is highly dependent on the Minister's discretion, leading to concerns about accountability and potential delays in the resolution of disputes.
- Objections and Delays: If the IAP award is contested by a party, the Minister's referral to the NIC might take time, and the uncertainty can prolong the dispute.
- Limited Use of the Board of Inquiry: The Board of Inquiry is not often utilized, possibly due to its lack of clear follow-up actions after reporting its findings.

### **Conclusion:**

The TDA and NIC Act provide a comprehensive legal framework for the resolution of trade disputes in Nigeria. However, while the mechanisms aim for fair and timely dispute resolution, the heavy reliance on ministerial discretion and the complexities of dispute referrals to the NIC create challenges that may delay the process. To improve the system, it is crucial to ensure more consistency, transparency, and efficiency, particularly in how ministerial powers are exercised and how disputes are managed at all stages of the resolution process.

## **JURISDICTION AND POWERS OF THE NATIONAL INDUSTRIAL COURT OF NIGERIA**

The jurisdiction and powers of the National Industrial Court of Nigeria (NIC) are primarily governed by the National Industrial Court Act, 2006. Here's a



breakdown of the key aspects:

## **1. Jurisdiction under the National Industrial Court Act**

Jurisdiction refers to the scope or authority granted to the court to hear and decide a case. The NIC's jurisdiction is provided under Section 7 of the National Industrial Court Act, 2006.

### **a. Exclusive Jurisdiction (Section 7(1)):**

The NIC has exclusive jurisdiction over:

- Labour disputes, including trade unions and industrial relations.
- Environment and working conditions, health, safety, and welfare of workers.
- Matters relating to strikes, lockouts, and industrial actions.
- The interpretation of:
  - Collective agreements.
  - Arbitral awards.
- Terms of settlements in labour or organizational disputes.
- Trade union constitutions.
- Awards or judgments of the NIC.

### **b. Additional Jurisdiction (Section 7(2)):**

The National Assembly can grant additional jurisdiction to the NIC on matters supplementary or related to the areas listed in subsection (1).

### **c. Conciliation and Arbitration (Section 7(3)):**

Before a matter is heard by the NIC, it may go through conciliation or arbitration, as prescribed by the National Assembly. However, once the process is completed, an appeal may lie to the NIC from the decision of an arbitral tribunal, as provided by Section 7(4).

### **d. Interpretation Jurisdiction:**

The NIC has jurisdiction over interpreting collective agreements and arbitral awards. This is considered part of the original jurisdiction of the court. For a party to request an interpretation of a collective agreement, they must prove a sufficient connection to the agreement (e.g., membership of the relevant trade union).

### **e. International Best Practices (Section 7(6)):**

The NIC is required to consider international best practices in labour and industrial relations when making decisions. This includes adherence to international standards, such as those of the International Labour Organization (ILO).

## **2. Powers of the National Industrial Court**

The NIC is vested with several powers to enforce its rulings and ensure justice is served in matters under its jurisdiction:

### **a. Power to Grant Orders:**

The court can issue a variety of orders in cases before it, including:

- Injunctions to prevent or compel actions.
- Orders of mandamus (requiring a public body to perform a duty).
- Orders of prohibition (preventing certain actions or proceedings).
- Orders of certiorari (removing proceedings to the NIC).
- Injunctions in lieu of quo warrantor (challenging the right to hold a position).

### **b. Power to Make Other Orders (Section 19):**

In addition to the aforementioned powers, the NIC can make other orders, including:

- The appointment of a public trustee to manage the affairs of a trade union or employer's organization.
- Awarding compensation or damages.
- Ordering compliance with any relevant Act of the National Assembly.

### **c. Enforcement of Judgments:**

The NIC has the power to enforce its judgments and can commit for contempt any person or organization that violates its orders.

### **d. Transfer of Cases:**

The NIC has the authority to transfer cases between different panels of judges or even to other courts (such as the Federal High Court or High Court of a State).

## **3. Original and Appellate Jurisdiction**

### **The NIC has both original and appellate jurisdiction:**

- Original Jurisdiction: The NIC can hear cases directly, such as those concerning the interpretation of collective agreements or industrial disputes.
- Appellate Jurisdiction: In certain cases, the NIC hears appeals from decisions of arbitral tribunals, such as those established under the Trade Disputes Act.

The court also has the power to review and interpret awards and decisions from bodies like the Industrial Arbitration Panel (IAP).

The National Industrial Court of Nigeria plays a critical

role in resolving disputes related to industrial relations, labour laws, and trade unions. Its jurisdiction and powers ensure the effective enforcement of rights in the workplace, promoting fairness and adherence to both local and international labour standards.

### **Under the Third Alteration Act, 2010**

The passage you provided highlights significant developments in the evolution of the National Industrial Court of Nigeria (NIC), specifically the Third Alteration Act of 2010, which granted the NIC constitutional recognition and enhanced its jurisdiction. Here's a breakdown of the key points:

#### **1. Constitutional Recognition (Third Alteration Act of 2010):**

- On March 4, 2011, the President of Nigeria assented to the Third Alteration Act of the Constitution, which amended the 1999 Constitution to formally include the National Industrial Court of Nigeria (NIC) within key sections of the Constitution.
- The amendments included sections such as 6, 84(4), 240, 243, 287(3), 289, 292, 294(4), 316, and 318, among others, integrating the NIC into the broader judicial system.
- New sections 254A – 254F were also added, providing the NIC with explicit constitutional authority and elevating its status to be on par with the High Courts of Nigeria in terms of jurisdiction, powers, and privileges.

#### **2. Jurisdiction of the National Industrial Court (Section 254C of the Third Alteration Act):**

Section 254C outlines the NIC's exclusive jurisdiction over civil causes and matters related to labour, employment, industrial relations, and other connected areas, including but not limited to:

##### **(a) Labour and Employment Matters:**

The NIC has exclusive jurisdiction over cases relating to labour, employment, trade unions, and industrial relations.

This includes matters arising from workplace conditions, employee welfare, health, and safety, and any related issues.

##### **(b) Relevant Labour Laws:**

The NIC has jurisdiction over matters related to laws such as the Factories Act, Trade Disputes Act, Trade Unions Act, Workmen's Compensation Act, and similar enactments or future replacements of these laws.

##### **(c) Industrial Actions:**

The NIC can issue orders restraining any person or body from participating in actions such as strikes, lockouts, or any industrial actions, including activities in contemplation or in furtherance of these actions.

##### **(d) Constitutional Employment Rights:**

17. The NIC handles disputes related to the interpretation and application of Chapter IV of the Constitution, which deals with fundamental human rights as they relate to employment, labour, and trade unionism.

##### **(e) National Minimum Wage:**

The NIC has jurisdiction over matters arising from the national minimum wage, including disputes concerning its application, implementation, and connected issues.

##### **(f) Unfair Labour Practices:**

The NIC is tasked with handling cases involving unfair labour practices and ensuring the adherence to international best practices in labour, employment, and industrial relations.

##### **(g) Workplace Discrimination:**

The NIC has jurisdiction over disputes related to discrimination or sexual harassment in the workplace.

##### **(h) International Labour Standards:**

The court handles matters relating to the application or interpretation of international labour standards, ensuring that Nigeria complies with global labour practices.

##### **(i) Child Labour and Human Trafficking:**

The NIC is empowered to address issues related to child labour, child abuse, human trafficking, and other related matters.

##### **(j) Disputes Over Collective Agreements and Awards:**

The NIC has jurisdiction over disputes concerning collective agreements, awards or orders made by arbitral tribunals, as well as disputes arising from trade union or employment disputes.

##### **(k) Employee Entitlements:**

The NIC handles disputes concerning the payment or non-payment of salaries, wages, pensions, gratuities, allowances, and other employee entitlements for workers, public office holders, and civil servants.

##### **(l) Appeals and Administrative Matters:**

The NIC also handles appeals related to decisions of the Registrar of Trade Unions, as well as matters arising from administrative bodies or commissions concerning employment, labour, and trade union matters.

##### **(m) Registration of Collective Agreements:**

The NIC has jurisdiction over matters related to the registration of collective agreements, ensuring compliance with relevant labour and employment laws.

### **3. Conclusion:**

The Third Alteration Act of 2010 greatly

expanded the jurisdiction of the NIC, granting it exclusive authority over various labour-related disputes. This constitutional recognition has further formalized the NIC's role in regulating and adjudicating matters concerning industrial relations, employee welfare, and the rights of workers in Nigeria. This framework provides the court with comprehensive jurisdiction over employment-related matters, enabling it to address a broad spectrum of legal issues tied to the workforce and labour relations in the country.

The additional provisions you provided outline key expansions to the jurisdiction and powers of the National Industrial Court of Nigeria (NIC), further enhancing its role and authority over various matters relating to labour, employment, and industrial relations. Below is a summary and analysis of the new provisions and their implications:

### 1. Jurisdiction over International Conventions, Treaties, and Protocols:

- Section 38 expands the NIC's jurisdiction to include matters related to international conventions, treaties, or protocols that Nigeria has ratified, provided they pertain to labour, employment, workplace conditions, and industrial relations.
- This aligns the NIC's mandate with international labour standards, ensuring that Nigeria's obligations under international agreements are upheld in domestic labour law matters.

### 2. Establishment of Alternative Dispute Resolution (ADR):

- Section 39 allows the NIC to establish an ADR centre within its premises to facilitate the resolution of disputes under its jurisdiction. This reflects a growing trend towards alternative dispute resolution in judicial systems to expedite cases and reduce backlog.
- The NIC retains appellate and supervisory jurisdiction over any arbitral tribunal, commission, or administrative body, ensuring its decisions remain subject to judicial oversight, further emphasizing the NIC's comprehensive authority.

### 3. Enforcement of Arbitral Awards and Administrative Decisions:

- Section 40 grants the NIC jurisdiction to enforce arbitral awards, decisions, or rulings made by any arbitral tribunal, administrative body, or board of inquiry relating to matters within the NIC's jurisdiction. This strengthens the enforcement mechanisms of the court in the labour and employment sectors.

### 4. Jurisdiction in Criminal Matters:

- Section 41 extends the NIC's jurisdiction to criminal causes and matters that arise from any matter the court has jurisdiction to entertain. This inclusion gives the NIC more comprehensive authority, particularly in cases where criminal elements intersect with employment or industrial

relations issues (e.g., cases involving employee welfare, fraud, or labour exploitation).

### 5. Appeals from the NIC:

- Section 42 specifies that appeals from the NIC's decisions can go to the Court of Appeal. This is not unlimited:
- Appeals on fundamental rights or criminal causes are as of right.
- Other appeals require leave from the Court of Appeal, a restriction that ensures that only legally meritorious cases are heard at the appellate level. This is a marked departure from the previous system where NIC decisions were final.

### 6. Powers of the NIC:

- Section 245D grants the NIC the same powers as a High Court when exercising its jurisdiction. This is significant because it grants the NIC the authority to issue orders, conduct hearings, and perform functions equivalent to those of any superior court of record.
- Section 245D(2) allows the National Assembly to confer additional powers upon the NIC, giving it flexibility to expand its capabilities as needed for effective functioning.

### 7. Constitution and Composition of the NIC:

- Section 254E provides guidelines on the constitution of the NIC. It may sit with a single judge or a panel of up to three judges, as directed by the President of the NIC.
- The section also permits the use of assessors who are highly qualified professionals in specific fields, ensuring that complex matters (e.g., health and safety, compensation) are adjudicated with expert knowledge.

### 8. Appeals from the NIC to the Court of Appeal:

- Section 243 alters the appeal process, stating that appeals shall lie as of right only in matters related to fundamental rights or criminal jurisdiction.
- In all other cases, the National Assembly must make a law providing for an appeal, and the Court of Appeal must grant leave for the appeal to proceed.

### 9. Implications for the NIC's Jurisdiction:

- The NIC's jurisdiction has been significantly expanded to encompass:
- Criminal matters related to employment and industrial relations.
- International labour conventions and treaties.
- The enforcement of arbitral awards and decisions.
- A broader range of issues, including discrimination, sexual harassment, and unfair

labour practices.

- The NIC is now empowered to apply international conventions and treaties without needing domestic legislation to ratify them, overcoming the previous need for domestication of international treaties under Section 12 of the Constitution.

## 10. Conclusion and Practical Effects:

- The current jurisdiction of the NIC is now wider and more inclusive, extending to criminal cases, international conventions, and a more flexible structure for hearing disputes (including the use of assessors and ADR).
- The concept of unfair labour practices is now formally recognized, and master-servant issues are clearly within the NIC's jurisdiction, challenging the previous understanding that these were outside its scope.
- The appeal process has been modified to provide a limited right of appeal while ensuring that the NIC's decisions remain largely final, especially on labour-related issues.

These amendments reflect a progressive shift towards strengthening the NIC's role in Nigeria's judicial system, making it a central forum for resolving labour, employment, and industrial relations disputes, while also providing mechanisms for faster and more efficient resolution of such disputes.

The Status of Part Heard Causes and Matters pending in the High Court's after the passage of the Third Alteration Act, 2010The post-2011 changes to the National Industrial Court of Nigeria (NICN) and the broader landscape of labor and employment law in the country represent significant shifts in the jurisdiction and powers of the court. These developments were triggered by the Third Alteration Act of the Nigerian Constitution, which has implications for jurisdiction over labor, employment, and industrial relations matters.

## Key Developments Post-2011:

### 1. Divestment of Jurisdiction from High Courts:

- Prior to the 2011 constitutional amendments, both the High Courts and the NICN had overlapping jurisdiction in employment, labor, and industrial relations matters, which sometimes led to "forum shopping." The High Courts could entertain these cases depending on the specific details of the cause of action, the parties involved, and the relief sought.
- The Third Alteration Act, which came into effect on 4th March 2011, conferred exclusive jurisdiction on the NICN to hear and determine matters related to labor, employment, and industrial relations, effectively divesting High Courts of jurisdiction over such matters.

### 2. Challenges of the Jurisdictional Shift:

- A significant challenge emerged after the passage of the Third Alteration Act, as legal practitioners began filing preliminary objections in the State and Federal High Courts, claiming that these courts had been divested of jurisdiction over pending matters related to labor and employment disputes.
- The question arose as to whether cases that were part-heard before the 4th March 2011 could continue in the High Courts, or whether the jurisdictional shift meant these cases should now be transferred to the NICN.

### 3. The Retrospective Effect of the Law:

- The Supreme Court in cases such as *Shell Petroleum Development Co. v. Isaiah and O.H.M.B. v. Garba* addressed the issue of whether a right existing at the time of the enactment of a new law transferring jurisdiction from one court to another would automatically be lost.
- The principle established was that, generally, laws that affect jurisdiction do not apply retrospectively unless explicitly stated. This meant that cases that were already in progress at the time the jurisdictional shift took place could continue in the court where they were originally filed, provided they were part-heard or at an advanced stage of trial before the change in law.

### 4. Specific Cases and Precedents:

- In *Adah v. NYSC* (1994) and *Osakwe v. F.C.E Asaba* (2010), the Supreme Court elaborated that the applicable law to determine jurisdiction depends on the law in force at the time the action was filed and the trial conducted.
- The Court clarified that the substantive law governing the cause of action may be different from the law determining jurisdiction. The law in force at the time of trial is what determines the court that has jurisdiction.
- In the case of *Obiweubi v. C.B.N.*, the Court reinforced the principle that while the law governing the cause of action remains the same, the jurisdiction of the court is determined by the law in force at the time of trial, which may not necessarily be the same as when the cause of action arose.

### 5. Impact of the Third Alteration Act (2011):

- The Supreme Court made it clear that the Third Alteration Act, which vested exclusive jurisdiction for labor and employment-related matters in the NICN, has no retrospective effect. Cases that were pending before 4th March 2011 should be completed in the court in which they



were filed, as long as evidence had already been led.

- However, if the proceedings were at a pre-trial stage (i.e., before evidence was presented), such cases would need to be transferred to the NICN because the High Courts would no longer have jurisdiction to hear labor or employment disputes after the commencement of the Third Alteration Act.

## 6. No Abatement Clause:

- The Third Alteration Act did not contain an abatement provision, nor did it provide for the retrospective effect of the law. As such, the jurisdictional shift applies prospectively, and only matters filed after 4th March 2011 are exclusively under the jurisdiction of the NICN.
- Any matters that were part-heard or had reached an advanced stage before the amendment could continue in the High Courts, while new matters filed after the amendment would fall under the jurisdiction of the NICN.

## Conclusion:

The post-2011 shift in jurisdiction has resolved the issue of overlapping jurisdiction between the High Courts and the NICN. However, it has created practical challenges, particularly with regard to the handling of part-heard cases. The current stance is that the jurisdiction of the court is determined by the law in force at the time the proceedings are heard, not when the cause of action arose. As a result, cases filed and heard before the effective date of the Third Alteration Act can continue in the High Courts, while new cases must be filed in the NICN. This clarity is critical in ensuring that the legal landscape for labor and employment disputes is more streamlined, reducing the confusion that previously allowed for “forum shopping” by litigants.

As for the rules and procedures of the NICN, the court follows procedures tailored to labor and employment matters, ensuring that the processes reflect the unique nature of these disputes. These rules are designed to facilitate quick, effective, and specialized handling of labor disputes and are aligned with the overarching goals of the Third Alteration Act.

The passage you provided outlines important aspects of the administration of justice within the National Industrial Court of Nigeria (NIC). Here’s a detailed breakdown:

## 1. Objective of the Administration of Justice:

- The primary objective of the administration of justice is to ensure that justice is rendered according to the law. This involves interpreting and applying the law fairly and impartially to all parties involved in legal proceedings.

## 2. Section 13 of the National Industrial Court Act:

- Under Section 13 of the National Industrial Court Act, the NIC is mandated to ensure both the

observance of the law and the principles of equity in every civil cause or matter brought before it.

- Equity refers to the court’s ability to provide relief when strict adherence to legal rules would result in injustice, ensuring fairness in the application of the law.

## 3. Exercise of Jurisdiction:

- The jurisdiction of the NIC is to be exercised according to the practice and procedure established by the National Industrial Court Act or any other relevant enactment.
- In cases where no specific provisions exist, the court may adopt procedures in substantial conformity with established court practices.

## 4. Regulation of Court Procedures:

- The NIC has the discretion to regulate its own procedures and proceedings as it sees fit, subject to the boundaries set by law.
- The Evidence Act governs the rules of evidence in the NIC, but the court has the flexibility to depart from it if doing so serves the interest of justice.

## 5. Rules and Procedure:

- In compliance with the above provisions, the NIC enacted its rules and procedure for conducting its proceedings, which were formally established on August 4, 2007.
- These rules guide the court in ensuring consistency, transparency, and fairness in handling cases brought before it.

## 6. Conclusion:

- The NIC operates with a flexible procedural framework that ensures it can adapt to the specific needs of each case while maintaining consistency with broader legal principles. The balance between legal correctness and equitable fairness is fundamental to its function as a specialized court handling labor and employment matters in Nigeria.

This approach helps the NIC fulfill its critical role in addressing labor disputes and employment-related issues within the country, ensuring both the letter of the law and the spirit of fairness guide its decisions.

The document outlines the procedures for commencing an action in court. Here’s a summary:

## 1. Commencement of Action:

- Actions must begin with a complaint filed and sealed, specifying the reliefs sought.
- The complaint must include a statement of facts, supporting documents, and a list of witnesses.
- If challenging an arbitral decision, additional documents (such as the Record of Appeal) must be included.



- The complaint cannot be altered without application to the court.

## 2. Filing and Service of Documents:

- The originating process must be printed on quality A4 paper and contain specific information like the claim, reliefs, and the claimant's details.
- It must also indicate if the claim is for debt, with an option for the defendant to settle before proceedings continue.
- Multiple copies of the originating process must be filed for service on defendants, and the court will arrange for this service.

## 3. Transferred Cases:

- If a case is transferred to the court, the case file is accepted, and the registrar issues hearing notices.

## 4. Entry of Appearance and Defence:

- A minimum of three clear days' notice is required for motions to be heard.
- The court may adjourn a hearing or strike out a motion if proper notice wasn't given.
- An application for adjournment can only be made twice.

## 5. Non-Compliance with Rules:

- Failure to comply with court rules may result in irregularities, but the court may allow corrections if a reasonable time has passed and no further action has been taken. The court can also direct deviations from the rules if necessary for justice.

This summary captures the key procedures for filing actions, serving documents, and handling non-compliance in court.

- Operations of the National Industrial Court and its impact on the National Economy

The National Industrial Court (NIC) of Nigeria plays a crucial role in labor and industrial relations, balancing legal norms with flexibility to resolve disputes efficiently. Here's a summary of its operations and impact on the national economy:

### Court Operations and Jurisdiction:

- The NIC is governed by a combination of national laws, including the National Industrial Court Act (2006) and the Trade Disputes Act (TDA). It handles civil and criminal matters related to industrial relations, applying the Evidence Act and, for criminal cases, the Criminal Code.
- The Practice Direction (2012) introduced front-loading, streamlining the adjudication process for industrial disputes, emphasizing expediency and reducing delays.
- The court is required to consider international best practices in labor relations, including International

Labour Organization (ILO) conventions, but only if they have been domesticated by Nigerian law.

### International Best Practices and Legal Debate:

- The NIC is encouraged to align with international standards, but challenges arise when Nigeria hasn't ratified certain ILO conventions. Legal experts debate whether these international norms can be applied directly by the court.
- Section 7(6) of the NIC Act mandates the court to consider international best practices, but there is debate over its compatibility with the Nigerian Constitution (Section 12), which requires international conventions to be ratified by the National Assembly before they become law.

### Impact on Employment Law:

- The NIC addresses evolving issues in employment law, including the controversial unfair termination doctrine. While common law allows employers to terminate employment without cause, international labor principles advocate for more equitable treatment, promoting productivity and fairness.
- The National Industrial Court Act allows the NIC to apply equity alongside law, ensuring fairness even when legal rules may be rigid.

### Collective Agreements:

- Historically, collective agreements were considered binding only in honor. However, the NIC Act grants the court the power to interpret and enforce these agreements, raising questions about their legal enforceability.
- Sections 7(1)(c)(i) and 54(1) of the National Industrial Court Act empower the NIC to resolve disputes related to collective agreements, challenging the traditional view that they hold no legal force. This shift aims to enhance industrial peace and reduce disputes at the workplace by making these agreements enforceable.

### Impact on the National Economy:

- By ensuring fair labor practices and resolving disputes efficiently, the NIC contributes to economic stability. It encourages industrial harmony by enforcing agreements and promoting the application of international best practices, which can lead to improved productivity and investor confidence.
- The NIC's role in collective bargaining and labor relations fosters a more predictable and stable business environment, reducing the likelihood of strikes or industrial actions that could disrupt the economy.

In conclusion, the National Industrial Court plays a pivotal role in ensuring fair labor practices, promoting economic

stability, and modernizing Nigeria's industrial relations system. Through its evolving jurisprudence, it impacts the economy by fostering a more equitable and efficient labor market.

## Enforcement of the Decisions of the National Industrial Court

The National Industrial Court of Nigeria (NICN) issues written decisions, including judgments, rulings, and orders. If judges disagree, the majority opinion prevails. The court has inherent powers to enforce its judgments, including holding individuals or organizations in contempt for non-compliance. The NICN is empowered to grant remedies to resolve disputes and avoid multiple legal proceedings. A recent case highlighted the NICN's authority to enforce its judgment, reinstating an employee who had been wrongfully suspended. Failure to comply with the court's decision led to the enforcement of its judgment.

The NICN's decisions are binding, and the court can take actions to preserve its authority, including penalizing those who disregard its rulings. Notable cases demonstrate the court's broad jurisdiction over labor-related disputes, such as pension schemes and union jurisdiction. The NICN emphasizes the importance of negotiations in resolving labor conflicts, and only when a dispute has crystallized into a right can the court intervene. Additionally, the court's rulings show a focus on ensuring fairness and upholding workers' rights through proper legal processes and agreements.

This passage discusses several landmark decisions made by the National Industrial Court (NIC) of Nigeria, addressing various labor and industrial relations issues. Here's a summary of the key points from each case:

1. **Senior Staff Association of Nigerian Universities v Federal Government of Nigeria:** This case dealt with the interpretation of the August 2001 Agreement between the federal government and university staff unions. The NIC affirmed that the appellant (Senior Staff Association of Nigerian Universities, SSA) could not base its case on the rights of another union (ASUU). It also held that the court cannot enforce parity as an entitlement and that the "no work, no pay" principle applied during strikes, aligning with ILO jurisprudence.
2. **Termination of Employment Based on Pregnancy:** In this case, a Nigerian woman's employment was terminated due to pregnancy. The NIC ruled that this violated her constitutional right to freedom from discrimination. The court ordered compensation based on the applicant's gross pay, reflecting its commitment to enforcing gender equality and international human rights standards.
3. **Senior Staff Association of Universities v Academic Staff Union of Research Institutions & Ors:** This case questioned the legality of registering the Academic Staff Union of Research Institutions as a separate union. The court upheld the decision, emphasizing that the existing

framework for registering unions allowed for such distinctions.

4. **National Minimum Wage Case (Attorney General, Osun State v Nigeria Labour Congress):** The NIC determined that the National Minimum Wage Act set a benchmark for salaries but did not preclude higher wages for workers. It also ruled that the defendants did not meet the necessary legal requirements to strike, rendering the strike action illegal.
5. **Surveyor (Dr.) J.G. Adesina & Ors v The Governing Council of Rufus Giwa Polytechnic:** In this case, claimants sought to challenge their forced retirement based on age before reaching the statutory retirement age of 65. The court ruled that retirement age for academic staff is determined by law, not circulars, and that the claimants' retirement, before the enactment of the Harmonization Act, was lawful.

These cases demonstrate the NIC's expanded role in resolving a broad range of labor-related issues and enforcing constitutional and legal protections in Nigeria's labor relations framework.

## LIMITATIONS AND CHALLENGES OF THE NATIONAL INDUSTRIAL COURT OF NIGERIA

The passage you provided outlines the expanded jurisdiction and powers of the National Industrial Court of Nigeria (NIC) following the Third Alteration of the 1999 Constitution. It highlights the positive changes and challenges associated with the current legal framework governing labor and employment disputes in Nigeria. Here's a breakdown of the main points:

### Positive Developments:

1. **Wider Jurisdiction:** The NIC's jurisdiction has expanded significantly, now covering civil, criminal, and alternative dispute resolution (ADR) matters. This expansion ensures more comprehensive coverage of labor-related issues.
2. **Recognition of Unfair Labor Practices:** The Constitution now explicitly addresses unfair labor practices and disputes arising from the National Minimum Wage, enhancing the court's role in labor law matters.
3. **Appeals Process:** The right to appeal from the NIC's decisions is more restricted. Appeals can only be made as of right in cases involving fundamental rights or criminal matters. In other cases, appeals require the leave of the Court of Appeal.
4. **Broader Jurisdiction over Employment Matters:** The NIC now has jurisdiction over various employment issues, including occupational health and safety, employees' compensation, and matters related to labor laws like the Factories Act, Trade Disputes Act, and Trade Unions Act.

5. International Best Practices: The NIC is now better positioned to apply international conventions and standards, including those related to discrimination, sexual harassment, child labor, and human trafficking. This provides a more global approach to resolving labor disputes.
6. Labor Law Innovations: The NIC can now address modern labor issues more effectively, especially those related to gender equality, discrimination, and the protection of vulnerable workers, in line with international labor practices.

## Challenges:

1. Legal Transplant Risk: There is a challenge in adopting foreign legal frameworks that may not align perfectly with Nigeria's social, economic, or political realities. Legal transplant must be contextualized to ensure it works effectively within Nigeria's unique setting.
2. Access to Justice: Many Nigerians are not accustomed to using litigation to resolve disputes, and the cost of litigation could be prohibitive for ordinary workers. Additionally, there may be fear of retaliation from employers if workers challenge them. This may discourage workers from bringing legitimate complaints to court. Alternative Dispute Resolution (ADR) mechanisms, if properly implemented by the NIC, could help mitigate this.
3. Resource Limitations: The NIC, being a relatively new and specialized court, faces challenges related to manpower, infrastructure, and funding. To address its expanding role, the court needs more judges and experienced staff, as well as enhanced infrastructure to cope with the increased workload.
4. Court Practice Directions: The President of the NIC has issued new Practice Directions to streamline the court's processes, ensuring that written statements are filed along with complaints and that timely submissions are made. These changes aim to reduce delays and improve the efficiency of the court.

## CONCLUSION:

The Third Alteration of the 1999 Constitution has significantly enhanced the NIC's role in resolving labor disputes and enforcing labor rights in Nigeria. While these changes bring about positive developments in the labor law landscape, challenges such as legal adaptation, accessibility to justice, and resource limitations still need to be addressed to ensure the effective functioning of the court. The adoption of ADR mechanisms and continued investment in infrastructure and judicial capacity will be key to overcoming these challenges and achieving the desired goals.

## FINDINGS

The passage you've provided outlines a comprehensive review of the National Industrial Court of

Nigeria (NIC), its evolution, current powers, challenges, and recommendations for improvement. Here's a structured breakdown:

## 1. Expansion of NIC's Powers:

- Third Alteration Act 2010: This act elevated the NIC to the status of a superior court of record, thereby granting it exclusive jurisdiction over labor and employment matters in Nigeria.
- Jurisdictional Issues: While the NIC now holds exclusive jurisdiction over such matters, ongoing cases in state and federal high courts were not automatically transferred to the NIC after the passage of the Third Alteration Act. A clear abatement provision or retrospective application was not included in the legislation.

## 2. Challenges Facing the NIC:

- Inadequate Resources: Despite the expanded jurisdiction, the NIC faces significant resource constraints, including inadequate funding, insufficient infrastructure, and manpower challenges.
- Centralized Case Assignment: All case assignments at the NIC are now centralized under the discretion of the President of the Court, which can cause delays in justice delivery.
- Limited Powers: While the NIC has exclusive jurisdiction over labor matters, it lacks jurisdiction over certain disputes, such as those concerning internal trade union conflicts or the Armed Forces.
- Delay in Adjudication: The court struggles with delays in resolving disputes, which can cause industrial unrest and undermine its credibility.
- Lack of Public Awareness: Many workers, employers, and the general public are unaware of the NIC's jurisdiction, powers, and procedures, further complicating its ability to resolve disputes effectively.

## 3. Recommendations for Improvement:

- Establishment of NIC Branches: To increase accessibility and improve efficiency, the NIC should establish regional branches across Nigeria, bringing its services closer to the people.
- Technology Integration: The NIC should adopt electronic filing systems, virtual courtrooms, and online dispute resolution platforms to streamline operations and enhance efficiency.
- Collaboration with Stakeholders: Collaboration with trade unions, employer associations, and civil society organizations would help improve industrial harmony and ensure better protection of workers' rights.
- Research and Development: A research unit should be set up to study labor law trends, improve current





practices, and guide policy development.

- International Cooperation: The NIC should partner with international organizations, such as the International Labour Organization (ILO), to learn from best practices globally.

#### 4. Specific Legislative and Operational Recommendations:

- Transfer of Pending Cases: All labor-related cases filed after March 4, 2011, should be transferred to the NIC, as the high courts no longer have jurisdiction over such matters.
- Amendments to the National Industrial Court Act: Section 11(1) and (2) of the National Industrial Court Act, 2006 should be amended to align with constitutional provisions and expand the NIC's jurisdiction.
- Increased Funding: There is a need for adequate funding to support the NIC's expanded role and ensure effective dispute resolution.
- Decentralization of Case Assignment: The authority to assign cases should be given to the presiding judge of each judicial division rather than leaving it at the President's discretion. This would help streamline case handling and reduce delays.
- Public Awareness and Sensitization: Periodic awareness campaigns, including workshops and seminars, should be organized to educate the public about the NIC's powers and jurisdiction. This is especially important to address issues like child labor, gender discrimination, and other global labor concerns.
- Alternative Dispute Resolution (ADR): The NIC should strengthen its ADR mechanisms to help resolve disputes faster and more effectively, reducing the burden on the court system.

#### 5. Conclusion:

The study has appraised the jurisdiction and powers of the National Industrial court of Nigeria examining its establishment, powers and procedures, as well as the challenges facing the court. It was also found that the NICN has exclusive jurisdiction over labour and employment disputes in the country and has the power to grant a range of reliefs. However it has found that the court faces some challenges, including inadequate funding, lack of infrastructure and delays in the hearing of cases.

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