



INDUSTRIAL COURT
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PUBLIC LECTURE by
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“The Role of Industrial Courts and International Labour Standards in promoting Good Governance to support Economic and Social Development”

2022/2023 Legal Year of the National
Industrial Court of Nigeria

**THEME: Labour Justice and Socio-
Economic Development**

Thursday 6th October at 10am

COURT 1, NATIONAL INDUSTRIAL COURT OF NIGERIA
HEADQUARTERS, NO 1 HON. JUSTICE BABATUNDE ADEJUMO
STREET, OFF TAFAWA STREET, AREA GARKI ABUJA

Good morning to everyone.

It is indeed an honour to address this august gathering and I am very happy to accept the kind invitation, of the President of the National Industrial Court of Nigeria His Lordship the Honourable Mr. Justice Benedict Bakwaph Kanyip to deliver this public address and to add to the 2022 Legal Year celebrations of the National Industrial Court of Nigeria. I bring greetings from the Judges and Staff of the Industrial Court of the Republic of Trinidad and Tobago.

The Legal Year theme chosen for 2022 “Labour Justice and Socio- Economic Development” is very timely and of profound importance to countries worldwide including Nigeria and Trinidad and Tobago. Today, I will examine *“The role of Industrial Courts and International Labour Standards in promoting good governance to support economic and social development.”*

One may ask what are International Labour Standards, and how do they promote good governance to support economic and social development globally? To understand what International Labour Standards are, one has to first appreciate the work of the International Labour Organisation, commonly called the ILO. The ILO, which is the only tripartite specialist agency of the United Nations, comprises of governments, employers and workers representatives of 187 member states. Unlike the UN, the ILO has been in existence for more than a century, since 1919. The main work of the 187 member states of the ILO, is to set labour standards and promote policies of decent and productive work in conditions of freedom, equity, security and dignity for all men and women around the world.

The ILO promotes these International Labour Standards, which are aimed at ensuring that economic growth and development go hand in hand with the creation of decent work. Indeed, the ILO's unique tripartite structure ensures that the views of the social partners are closely reflected in the Labour Standards and in shaping policies and programmes in the world of work.

International Labour Standards are legal instruments on labour and social policy drawn up by ILO constituents' namely -the governments, employers, and workers representatives- that set out key principles and rights at work. These legal instruments are either Conventions which are legally binding international treaties ratified by member states, or Recommendations which serve as non-binding guidelines.

One may ask why International Labour Standards are important pillars for economic development and poverty reduction, are they not just standards? Part of the answer lies in the fact that the 187 member states, which have ratified the various conventions, have incorporated these conventions into national laws due to their importance for socio-economic development. Therefore, in today's world, international labour standards are an essential component of the international framework for ensuring that the growth of the global economy provides benefits for all.

The ILO has explained that: "International labour standards are first and foremost about the development of people as human beings. In the Declaration of Philadelphia (1944), the international community recognized that "labour is not a commodity". Labour is not an inanimate product, like an apple or a television set that can be negotiated for the highest profit or the lowest price. Work is part of everyone's daily life and is crucial to a person's

dignity, well-being and development as a human being. Economic development should include the creation of jobs and working conditions in which people can work in freedom, safety and dignity. In short, economic development is not undertaken for its own sake, but to improve the lives of human beings. International labour standards are there to ensure that it remains focused on improving the life and dignity of men and women.”

We can all agree that a market, governed by a fair set of rules and a sound legal framework, will tend to be more efficient and brings better benefits to everyone, when compared to one without a proper structure and rules. The labour market is no different. It requires fair labour practices, grounded in International Labour Standards which are applied across the board, through the national legal system to ensure an efficient and stable labour market for workers and employers alike.

International Labour Standards, whether binding as a result of ratification or referenced as guidance, by national authorities, offer important direction with respect to establishing an effectively governed labour market. They are often used as models and tools for governments which, in consultation with employers and workers, are seeking to draft and implement labour law and social policy. International Labour Standards are also used in legal systems and administrations at the national level, thus enabling governments to refer to international consensus on how a particular labour issue can be addressed, since these standards reflect knowledge and experience from all corners of the world.

In his opening remarks at the 110th Session of the International Labour Conference in May this year, the ILO's Director-General Guy Ryder, stated, among other things, that:

“... the rule of law must prevail. just as the flouting of the UN Charter by military aggression is not to be tolerated and must not prevail, so the violation of international Labour Standards must not go unanswered.

There are multiple reasons why the work of the Committee on the Application of Standards at this Conference matters enormously. It goes to the essence of the historic normative role of the ILO. It is where the rules we have set for over a century, and our idea of how work should be organized take concrete shape. It is the place where all Member States, big or small, powerful or less so, rich or less affluent are held to the standards that you – the governments, employers and workers of the world - have decided should apply to us all.”

International Labour Standards have sometimes been perceived as costly and therefore a hindrance to economic development. However, a growing body of research has indicated that compliance with International Labour Standards, is often accompanied by improvements in productivity and economic performance. I invite you to briefly consider the following examples of International Labour Standards:

Minimum wage and worktime standards and respect for equality can translate into greater satisfaction, improved performance of workers and reduced staff turnover.

Investment in vocational training can result in a better trained workforce and higher employment levels.

Safety standards can reduce costly accidents and expenditure on health care and the loss of working and production time.

Employment protection can encourage workers to take risks and to innovate.

Social protection such as unemployment schemes, and active labour market policies can facilitate labour market flexibility.

Freedom of association and collective bargaining can lead to better labour-management consultation and cooperation, thereby improving working conditions, reducing costly labour conflict and enhancing social stability.

Furthermore, International Labour Standards call for the creation of institutions and mechanisms that can enforce labour rights. In combination with a set of defined rights and rules, functioning legal institutions, such as the Industrial Courts of Nigeria and Trinidad and Tobago, can help to formalise the economy and create a climate of trust and order which is essential for economic growth and development.

The beneficial effects of adopting labour standards are often not unnoticed by foreign investors. Recent studies have shown that in their criteria for choosing countries in which to invest, foreign investors rank workforce quality and political and social stability above low labour costs. At the same time, there is little evidence that countries which do not respect Labour Standards are more competitive in the global economy.

At a basic level, economic development should include the creation of jobs and working conditions in which people can work in conditions of freedom, safety and dignity. We should always remind ourselves that economic development is not undertaken for its own sake, but to improve the lives of human beings. Therefore, the International Labour Standards are there to ensure that member states such as Nigeria and Trinidad and Tobago remain focused on improving the lives and dignity of men and women.

The Committee of Experts

Within the ILO, there is a supervisory system which monitors the application of these International Labour Standards. One of the key components of this supervisory system is the Committee of Experts on the Application of Conventions and Recommendations, of which I am a member. The Committee of Experts is an independent body responsible for analysing how International Labour Standards are applied in law, and in practice, in the 187 member states, while cognizant of different national realities and legal systems. The Committee of Experts was set up in 1926 and is currently composed of 20 legal experts from different geographical regions representing different legal systems and cultures. This diverse background remains a key feature of the Committee of Experts with eminent jurists from six continents.

The comments of the ILO's Committee of Experts, are very useful guides to governments for the implementation of International Labour Standards which in turn serves as a pathway of decent work and an important means of sustainable development.

Since its existence 96 years ago, the ILO's Committee of Experts have had persons from Nigeria including a former Chair of the Committee Sir Adetokubo Ademola. Sir Ademola served as Chairman of the Committee of Experts from 1976 to 1986. Prior to his appointment to the Committee, Sir Adetokubo Ademola was the Chief Justice of the Supreme Court of Nigeria from 1958-1972.

With your indulgence, I wish to digress here briefly, to take a quick glance of the global economy and that of Nigeria as well as their impacts on the Nigerian labour market.

Recent economic reports published by the leading multilateral institutions – the IMF and the World Bank – indicate that all is not well with the global economy. Although there appeared to be incipient signs of a global recovery in 2022, as the pace of vaccination to fight the COVID-19 Pandemic increased worldwide, the global economy continues to be hit by an ongoing wave of negative political and economic shocks. Besides struggling to overcome the social and economic ravages wrought by the COVID-19 Pandemic, countries are also grappling with the effects of ongoing supply and demand imbalances, negative spill overs from the ongoing Ukraine-Russian conflict and rising inflationary pressures due to escalating food and energy prices. On top of these, food insecurity and climate change loom large, and continue to limit prospects for sustained economic and social development, especially in developing countries.

Figures published in the most recent edition of the IMF's World Economic Outlook (WEO, July 2022) point to a slowdown in the pace of global growth to 3.2 percent in 2022 from 6.1 percent in 2021, with growth in sub-Saharan

Africa expected to trend downwards to 3.8 percent from 4.6 percent a year earlier. Not unexpectedly, given the weaker global outlook, the International Labour Organisation (ILO) is projecting further deterioration in the world labour market with an expected increase in the global unemployment rate to around 5.7 percent in 2022. This corresponds to 207 million unemployed persons, 21 million more than in 2021. Total hours worked in 2022 is expected to remain nearly 2 per cent below its pre-pandemic level, corresponding to a deficit of 52 million full-time equivalent jobs.

Recent news headlines also suggest that, in the absence of countervailing policy measures, the world economy could yet be tottering on the brink of another global recession. If this materializes, several developing countries, including Nigeria, with labour-intensive export bases are likely to be significantly impacted.

With that brief overview of the global economic and labour market context, I would now like to shift attention to Nigeria, where I believe your interest lies. Although Nigeria's economy is expected to grow by between 3.2 percent – 3.4 percent in 2022, labour market conditions are likely to remain subdued given the slow pace of global economic recovery. The latest available labour market figures for Nigeria point to an unemployment rate of 27.0 percent in the second quarter of 2020, with the youth unemployment rate of 41.0 percent.

Sustaining the economic and social recovery of Nigeria in the face of the heightened global economic and political headwinds would require, along with other growth-inducing measures, a concerted effort to develop the potential of the country's energetic, youthful and entrepreneurial labour

force. If pursued assiduously, this has the potential to generate innovative and home-grown solutions that can support an inclusive, sustained and resilient recovery and, in so doing, contribute ultimately to the attainment of the Sustainable Development Goals (SDGs).

Sustainable development must however, be founded on pillars of “Good Governance” and the rule of law , in which civil society- the State, business institutions, the community, and citizen associations – have a genuine stake in the formulation and implementation of decisions. Implementation must therefore be directed at producing the results that meet the society’s needs while simultaneously making the best use of available resources. Success, at the end of the day, will ultimately depend on how this cohesive partnership not only embeds consensus, accountability and transparency but also adheres to the rule of law.

Industrial Courts and Good Governance

Let us now turn to the role that industrial courts need to play in promoting good governance. Good governance has been described as the process of measuring how public institutions conduct public affairs, manage public resources and guarantee the realisation of human rights, in a manner which is essentially free of abuse and corruption and with due regard for the rule of law.

The United Nations deems good governance to have eight major characteristics-: it is participatory, consensus oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive, and follows the rule of law.

Industrial Courts play a very vital role in ensuring access to justice, upholding the rule of law and also contribute to equity in industrial relations.

Access to Labour Justice and Industrial Courts

I believe we can agree that access to justice is critical for the adherence to the rule of law. Indeed, access to justice is central to making human rights, including labour rights, a reality for all workers and individuals. Through an effective justice system, access to justice provides protection to vulnerable populations from exploitation, plays an important role in ensuring that there is stability, resolves disputes and fosters participation in just societies.

Access to justice is also a key component of good governance and sustainable development. Today, as we think about the role of the Industrial Courts and social and economic development, I invite you to consider Goal 16 of the United Nations Sustainable Development Goals (SDGs) which is to *“Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels”*. The SDG target 16.3 focuses on the promotion of the rule of law at the national and international level and on ensuring equal access to justice for all.

As stated by the ILO “As the number of individual disputes arising from day-to-day workers’ grievances or complaints continues to grow in many parts of the world, labour courts are an important part of dispute prevention and resolution systems and play a critical role in ensuring access to justice and contributing to equity in industrial relations. Access to labour justice cannot be understood only as the formal access to labour courts and right to have a

claim examined by an impartial judge, but also as access to a fair procedural regulation, which enables real conditions of equality before the Judiciary.”

Recent studies have also shown that Industrial Courts have a major role to play in the good functioning of the labour market.

For example, an empirical analysis in France examined the impact of a reform that reduced the number of labour courts. The study found that in cities where access to labour courts was lower (greater distance to the closest associated court), there was a lower growth rate for job creation, and firm creation.¹

Access to labour justice can also impact the composition of the labour market – contributing to fairer outcomes.

For example, an analysis of labour court delays in Italy examined the duration of labour procedures. The study found that certain categories of workers (women, young and low-skilled workers) are the most affected by labour court delays which hinder how quickly they could access occupational opportunities and increase their rate of inactivity, thus reducing their possibilities of obtaining permanent employment and triggering a shift from short- to long-term unemployment.²

Labour courts like the National Industrial Court of Nigeria and the Industrial Court of Trinidad and Tobago, are superior courts of record and play a critical role in ensuring access to justice and contributing to equity in industrial relations.

¹ Access to Justice: A Literature Review on Labour Courts in Europe and Latin America p 45

² Access to Justice: A Literature Review on Labour Courts in Europe and Latin America p. 45

I have examined the legal and institutional structure of National Industrial Court of Nigeria to understand the jurisdiction of the Court. The Court's official website states that:

“The court has exclusive jurisdiction in civil causes and matters relating to or connected with any labour, employment, trade unions, industrial relations and matters arising from workplace, the conditions of service, including health, safety, welfare of labour, employee, worker and matter incidental thereto or connected therewith.

Relating to, connected with or arising from Factories Act, Trade Disputes Act, Trade Unions Act, Labour Act, Employees' Compensation Act or any other Act or Law relating to labour, employment, Industrial relations, workplace or any other enactment replacing the Acts or Laws”³. International Labour Standards which are linchpins of good governance and good industrial relations have been incorporated in these pieces of labour legislation of Nigeria.

In Nigeria, the National Industrial Court has presence in each of the 36 states which allows for access to justice for all citizens.

In Trinidad and Tobago, the Industrial Court, which came into existence in 1965, is a specialised Court that has very similar jurisdiction to the National Industrial Court of Nigeria. The Industrial Court of Trinidad and Tobago has jurisdiction to hear and determine employment related cases such as Occupational Safety and Health, Maternity Benefits and Protection, Retrenchment and Severance, Minimum Wage, Trade Disputes, disputes

³ <https://www.nicnadr.gov.ng/>

related to the Essential Services, Breakdown in Negotiations between Employers and Trade Unions and other disputes in the workplace. Additionally, unlike the High Court of Trinidad and Tobago, the Industrial Court has powers to order the reinstatement of workers. The Industrial Courts of both countries determine disputes which directly impact industrial relations, the labour market and the economy and, in so doing, play a key role in good governance.

Collaboration in the Respective Country Nigeria and Trinidad and Tobago

The time is right, and I say so respectfully, for ongoing collaboration among the National Industrial Court of Nigeria, the Industrial Court of Trinidad and Tobago and the Labour Courts and Tribunals of the Caribbean. To this end, I had a conversation with the head of the Labour Tribunal of the Bahamas on a possible collaboration. His Lordship Honourable Justice Kanyip, President of the Nigerian Industrial Court and I have begun preliminary discussions.

Currently, there is a lot of international buzz and thought about south-south co-operations. I believe south-south co-operation can be very useful and important as we exchange ideas on the labour market, the rule of law and strengthen the jurisprudence in the Caribbean and in Nigeria.

It is the intention of His Lordship Honourable Justice Kanyip and I to engage in deeper discussions over the next few days, on the possibility of ongoing cooperation and collaboration between the National Industrial Court of Nigeria, the Industrial Court of Trinidad and Tobago and the Labour Courts of the Caribbean.

As the world continues to experience interlocking crises such as health, economic, energy and financial and as we recover from the COVID-19 pandemic, the role of Industrial Courts assumes even greater importance. Indeed, the importance of achieving social justice is ever more pressing, than before, especially given the rise in inequality and exclusion globally which is threatening social cohesion, economic growth and human progress. Also with climate change, demographic changes, technological development and, changes to the modality of work which have been accelerated by a global pandemic, we are witnessing a world of work that is changing at an unprecedented pace and scale. Strengthening the legal basis for labour market and industrial relations activity is therefore a “sine qua non” for good governance and for sustainable development.

I endorse the ILO’s statement that “*The aspiration for social justice, through which every working man and woman can claim freely and on the basis of equality of opportunity their fair share of the wealth that they have helped to generate, is as great today as it was when the ILO was created in 1919.*”

These goals and ideals of inclusive sustainable development and decent work can only be achieved through good governance, the promotion of good industrial relations, and the adherence to international labour standards, anchored by the rule of law and administered by National Industrial Courts globally.

On behalf of the Vice President, Chairman of Essential Services Division, Judges and the Staff of the Industrial Court of Trinidad and Tobago, I wish to extend best wishes to Your Lordships the President and Judges of the

National Industrial Court of Nigeria, for a successful Legal Year as you continue to administer justice and to promote and protect the rule of law in Nigeria. I end with the timeless quote of the American Civil Rights leader Dr. Martin Luther King, which is "The moral arc of the universe bends at the elbow of justice."

Many thanks to the President His Lordship Honourable Justice Benedict Kanyip, for extending this kind invitation to me to participate in this public lecture for the Legal Year celebrations of 2022. I am truly honoured.

I humbly thank each and every one of you for the courtesy of your kind attention.

Thank you.