

THE ROLE OF COURTS IN INDUSTRIAL RELATIONS IN PRE-INDEPENDENT NIGERIA AND INDUSTRIAL JURISPRUDENCE

1. ABSTRACT

This paper, seeks to delve into the multifaceted and diverse role of courts in shaping industrial relations in pre-independent Nigeria, as well as its profound implications for the development of industrial jurisprudence. By scrutinizing pivotal legal cases, legislative advancements, and socio-economic dynamics, the study elucidates and gives a vivid a lucid knowledge as to the intricate interplay between the judiciary and labor relations. It explores how courts navigated complex issues, contributing significantly to the evolution of legal frameworks governing employment relationships. It is of very soothing interest to note that this study, does not only illuminates historical contexts but also provides insights into enduring legacies, emphasizing the enduring impact of pre-independence judicial decisions on Nigeria's industrial jurisprudence. As such, as a valuable resource for understanding the intricate connections between legal, historical, and socio-economic factors in shaping industrial relations. Furthermore, this study encompasses key cases, legislative developments, and the broader societal context, shedding light on the judiciary's impact on labor relations in a formative period of Nigeria's history.

2. CONCEPT OF INDUSTRIAL RELATION

Industrial Relation is one of the important problems for the success of a firm. The term industrial relations refer to the whole field of relationship that exists because of necessary collaboration of men and women in the employment process of modern industry.¹ the concept of industrial relations encompasses the legal frameworks and principles that govern the relationship between employers and employees within a workplace or industry. This multifaceted concept involves various laws, regulations, and legal doctrines aimed at establishing fair and harmonious labor practices. Industrial relations or employment relations is the multidisciplinary academic field that studies the employment relationship² Thus regarded as the complex interrelations between employers and employees, labor/trade unions, employer organizations, and the state. Nevertheless, industrial relations has frequently been concerned with employment relationships in the broadest sense, including "non-industrial" employment relationships. This is sometimes seen as paralleling a trend in the separate but related discipline of human resource management.³ Key components of industrial relations, includes but are not limited to the following:

¹ Dr. Sumnam Solanki

² Ackers 2002, https://en.m.wikipedia.org/wiki/Industrial_relations#CITEREFAckers2002

³ Banfield & Kay 2008, [ibid]

2.1 Employment Contracts: The legal foundation of industrial relations often begins with the establishment of employment contracts. These contracts outline the terms and conditions of employment, including wages, working hours, benefits, and other relevant aspects.

2.2 Labor Laws and Regulations: Industrial relations are heavily regulated by labor laws and regulations that address issues such as minimum wage, working hours, health and safety standards, and collective bargaining. These laws are designed to protect the rights of workers and ensure fair treatment.

2.3 Collective Bargaining: The legal concept of collective bargaining allows employees to negotiate with employers as a group through representatives or labor unions. Laws governing collective bargaining provide a framework for negotiations on issues such as wages, working conditions, and dispute resolution.

2.4 Trade Unions: Industrial relations often involve the recognition and regulation of trade unions. Legal provisions govern the formation, activities, and rights of trade unions, as well as the obligations of employers in dealing with these organized groups.

2.5 Dispute Resolution: Legal mechanisms for resolving disputes between employers and employees are a crucial aspect of industrial relations. This includes processes such as mediation, arbitration, and access to labor courts for addressing conflicts and grievances.

2.6 Employment Equality and Anti-Discrimination Laws: Industrial relations encompass laws that prohibit discrimination based on factors such as race, gender, age, or disability. These laws contribute to fostering a fair and inclusive workplace environment.

Hence, a comprehensive and firebrand understanding of the legal concept of industrial relations requires an up close examination of these interconnected elements, providing a framework to promote a balanced and just relationship between employers and employees within the workforce.

3. CONCEPT OF INDUSTRIAL JURISPRUDENCE

The term Industrial Jurisprudence, also closely referred to as Labor Jurisprudence, refers to a base of literature regarding knowledge of Law with respect to labor and Industry, derived from Labor legislation, constitutional framework, and the judicial lawmaking in the country.⁴ It has now come to the knowledge of the court and legislature that it is of great necessity and importance to move toward the common goal of securing social justice and economic justice for labor and other weaker sections of society. To this end, The Industrial Disputes Act of 1947 is one of the major social legislation that addresses the labor-management disputes in the Industrial Sector and provides the remedies.⁵ According to S. H. Slitcher the propounder of the "Theory of Industrial Jurisprudence", workers individually fail in bargaining with

⁴ <https://www.biyanicolleges.org/industrial-jurisprudence-in-labour-law/amp/>

⁵ Mr Makul Sharma, [ibid]

employers for protecting their interests. In his view, trade unionism served as a means for workers to

protect them in work.⁶ The growth of Industrial Jurisprudence cannot be under emphasized, not because of numerous laws based on it but because of large number of cases appearing before High Courts of different states & Supreme Court. Moreso, it has affected a large section of population directly which consists of Employer, workmen & their families.⁷ who are affected indirectly constitute a still larger bulk of the country's population. This branch of law modified the traditional law relating to master and servant and had cut down the old theory of laissez faire based upon the 'freedom of contract' in the larger interest of the society because that theory was found wanting for the development of harmonious and amicable relations between the employers and employees. Individual contracts have been in many respects substituted by a standard form of statutory contract through legislation and judicial interpretation. The traditional right of an employer to hire and fire his Workmen at his will has been subjected to many restraints. Industrial Tribunals can by their award make a contract which is binding on both the parties' creating new right and imposing new obligations arising out of the award. There is no question of the employer agreeing to the new contract, it is binding even though it is unacceptable to him. The creation of new obligations is not by the parties themselves. Either or both of them may be opposed to it, nevertheless it binds them. Thus, the idea of some authority making a contract for the workmen and employer is a strange and novel idea and is foreign to the basic principle of the law of contract.⁸ For the purpose of clarity, and with the need to understand the ripple effect of Industrial Jurisprudence, it's worthy to note that Industrial jurisprudence refers to the body of legal principles, doctrines, and rules that govern labor and employment relationships within an industrial or organizational context. It encompasses a broad range of legal considerations and is aimed at regulating the rights and obligations of employers, employees, and labor organizations. In Nigeria, the following are various bottom up legislations dealing with issues on Industrial Jurisprudence :

the Constitution of the Federal Republic of Nigeria 1999 (as amended) (the "Constitution");

the Labour Act, Chapter L1, Laws of the Federation of Nigeria 2004 ("Labour Act");

federal laws enacted by the National Assembly (Nigeria's national legislative houses) and the State laws enacted by the House of Assembly (the state legislative authority) of each state that relate to labour and employment, pension and workplace compensation including the following:

1. Employees' Compensation Act 2010.
2. HIV and AIDS (Anti-Discrimination) Act 2014.
3. Immigration Act, 2015.
4. Industrial Training Fund Act, Chapter 19, LFN 2004 (as amended).

⁶ S.H Slitcher on Industrial Jurisprudence

⁷ <https://www.pathlegal.in/Industrial-Jurisprudence-blog-2388130>

5. National Health Insurance Authority Act 2022.
6. National Housing Fund Act, Chapter N45, LFN 2004.
7. Pension Reform Act 2014.
8. Trade Disputes Act, Chapter T8, LFN 2004.
9. Trade Unions Act, Chapter T14, LFN 2004 as amended by the Trade Union (Amendment) Act 2005.
10. National Minimum Wage (Amendment) Act 2019.
11. National Industrial Court Act 2006.
12. Factories Act, Chapter F1, LFN 2004.
13. Finance Act, 2021.
14. Personal Income Tax Act, Chapter P8, LFN 2004 (as amended by the Personal Income Tax (Amendment) Act, 2011).
15. Discrimination against Persons with Disabilities (Prohibition) Act, 2018.
16. Lagos State Special Peoples Law 2011.
17. Nigerian Oil and Gas Industry Content Development Act 2010.
18. Guidelines for the Release of Staff in the Nigerian Oil and Gas Industry 2019 issued further to the provisions of the Petroleum (Drilling and Production) Regulations 1969 (as amended), made pursuant to the Petroleum Act, Cap P10, LFN 2004 (now the Petroleum Industry Act, 2021).
19. Nigeria Data Protection Regulation 2019 issued by the National Information Technology Development Agency.

4. DELINEATION OF PRE - INDEPENDENT NIGERIA

The delineation of pre independent nigeria, refers to the period before Nigeria gained independence from British colonial rule on October 1, 1960. This historical phase is characterized by significant political, social, and economic developments, as well as the impact of colonial governance on the diverse regions that constitute present-day Nigeria. Nigeria as a political entity was the creation of the British colonialist in 1914. Although many scholars have argued that the process for integration was already in motion, it was to the British that credit for the amalgamation is owed. The individual independent nations that made up Nigeria had been in contact with each other in one form of relationship or the other whether political, military, social or economic. However, they considered themselves as strangers or foreigners to each other owing to their divergence in culture, language and beliefs and related with each other as such. The economic activities of many Nigerians were divided into four branches: agriculture, transportation, trade, and manufactures. Agriculture constituted the mainstay of most of the people in pre-colonial times and trade was only a subsidiary. However, trade was to become more prominent in the later history of these

people because of the importance that was attached

to it and the role it came to play in the sociopolitical development of the various nations and empires. Most of African prehistory was not documented and this has continued to create serious contentions when it comes to constructing events that occurred within that period. Other sources such as oral tradition, archaeology, art history, linguistics, anthropological and ethnographical studies have been employed in a bid to achieve a recovery of the African past within this period. For the purpose of better elucidation, the delineation of pre-independent Nigeria could be seen as follows:

4.1 Colonial Legacy: The delineation begins with the impact of British colonial rule, which commenced in the late 19th century. The British implemented a system of indirect rule, influencing traditional governance structures and fostering regional disparities.

4.2 Ethnic and Cultural Diversity: Nigeria's pre-independent era is characterized by its rich diversity, with numerous ethnic groups, languages, and cultural practices. The delineation recognizes the complexity of managing a multi-ethnic nation with distinct historical backgrounds.

4.3 Administrative Structure: Nigeria was divided into three major regions—the Northern, Western, and Eastern regions—each with its own regional government. The delineation examines the administrative framework and its implications for regional autonomy.

4.4 Political Struggles and Nationalism: The pre-independence period witnessed the rise of political movements and leaders advocating for self-governance. Figures such as Nnamdi Azikiwe, Obafemi Awolowo, and Ahmadu Bello played pivotal roles in the political landscape, reflecting the emergence of nationalism.

4.5 Constitutional Evolution: The delineation involves an analysis of the constitutional changes leading to independence. The Richards Constitution (1946), Macpherson Constitution (1951), and Lyttleton Constitution (1954) were critical in defining political representation and structures.

4.6 Economic Developments: Pre-independent Nigeria experienced economic changes, including the growth of agriculture as a primary economic activity. The delineation explores the agrarian economy, the role of cash crops, and the emergence of an urban middle class.

4.7 Educational Advances: Efforts to expand education were notable during this period. Missionary schools and later government initiatives contributed to educational development, impacting the social fabric and fostering a nascent intellectual class.

4.8 Infrastructure and Urbanization: The delineation includes an examination of early infrastructure projects and urbanization trends. The development of transportation, communication, and urban centers laid the groundwork for a changing socio-economic landscape.

4.9 Social and Cultural Transformations: The period leading to independence saw social and cultural shifts, with emerging urban centers influencing lifestyles. Cultural expressions, art, and literature played a role in shaping the identity of pre-independent Nigeria.

5. INDUSTRIAL JURISPRUDENCE IN PRE INDEPENDENCE NIGERIA

The development of Industrial jurisprudence in pre independent Nigeria was influenced by British laws and Legal System⁹ By 1862, Lagos was made a colony by the British government, and English laws were introduced, which were to be administered by established courts. This marked the beginning of the colonial legal system in Nigeria, which was a hybrid of customary, Islamic, and common law.¹⁰ The British colonial administration established courts to administer these laws, including the Supreme Court, which was established in Lagos in 1863. The emergence of labor unions and industrial conflicts marked a significant turning point in the development of industrial jurisprudence in pre-independent Nigeria. The Nigerian Labor Movement, which emerged in the early 20th century, played a critical role in advocating for workers' rights and welfare.¹¹

To this end, The Trade Union Ordinance of 1938 provided a legal framework for the establishment and registration of trade unions in Nigeria. However, the military regime era and civilian government era that followed were characterized by the abuse of workers' rights and crude treatment of trade unions¹² Despite this, the law recognized the right of Nigerian workers to proceed on industrial strike action. The emergence of labor unions and industrial conflicts paved the way for the development of industrial jurisprudence in Nigeria, which continues to evolve and shape the country's labor laws and regulations.¹³

6. CONCLUSION AND RECOMMENDATION

The role of courts in pre-independent Nigeria played a crucial part in shaping the landscape of industrial relations. During this period, as the nation moved towards independence, courts were instrumental in interpreting and applying laws that governed the relationships between employers and employees. Key features of this role included the adjudication of disputes, the interpretation of labor laws, and the establishment of legal precedents that influenced the evolving industrial jurisprudence.

⁹ History of the Nigerian Legal System. (n.d.) Retrieved December 14, 2023, from www.learnnigerianlaw.com/learn/legal-system/history

¹⁰ Islamic Law and Legal Hybridity in Nigeria. (n.d.) Retrieved December 14, 2023, from www.jstor.org/stable/24735218

¹¹ Curbing State Interference in Workers' Freedom of (n.d.) Retrieved December 14, 2023, from www.icnl.org

¹² (PDF) Industrial Relations Practice in Nigeria: Issues and (n.d.) Retrieved December 14, 2023, from www.researchgate.net

¹³ The Jurisprudential Position of Strike in Nigeria. (n.d.) Retrieved December 14, 2023, from caritasuniversityjournals.org

In pre-independent Nigeria, courts served as essential forums for resolving conflicts arising from labor disputes, contractual disagreements, and issues related to employment conditions. The decisions rendered by the courts had a lasting impact on the development of legal frameworks and practices that shaped industrial relations in the post-colonial era. Therefore, it is my humble recommendations that the following be put in place

Legal Codification and Clarification: Given the historical significance of court decisions in shaping industrial relations, there is a recommendation for continued efforts to codify and clarify labor laws. This would provide a more structured legal framework for industrial relations, offering clear guidance to both employers and employees.

Capacity Building: Enhancing the capacity of the judicial system, including specialized training for judges and legal professionals in matters related to industrial relations, is crucial. This ensures that the judiciary remains well-equipped to handle the complexities of evolving workplace dynamics.

Alternative Dispute Resolution (ADR): Encouraging the use of alternative dispute resolution mechanisms, such as mediation and arbitration, can expedite the resolution of labor disputes. This approach may relieve the burden on the courts and foster a more collaborative approach to conflict resolution.

Access to Justice: Ensuring that all stakeholders, particularly workers and smaller enterprises, have effective access to the judicial system is essential. This involves addressing barriers to legal recourse, promoting awareness of rights, and potentially establishing specialized labor courts.

Adaptation to Changing Labor Dynamics: As the nature of work evolves, there is a need for the legal system to adapt to changing labor dynamics. This includes addressing issues related to informal labor, gig economy workers, and emerging forms of employment.

Collaboration with Stakeholders: Courts should collaborate with other stakeholders, including government bodies, employers, and labor unions, to develop a holistic and responsive approach to industrial relations. This collaborative effort can contribute to the creation of effective and equitable legal frameworks.

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