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FUNDAMENTAL ASSESSMENT OF THE SCOPE OF TRADE UNIONS' RIGHT TO STRIKE IN NIGERIA

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Abstract: The right to strike is an integral part of the right of workers to associate with other persons to form or join trade unions for the advancement or protection of their interests. This paper examines the basic provision of the extent to which the right to go on strike by trade unions in Nigeria is absolute under various enactments. The paper further examines and reviews the right to strike in some selected jurisdictions. The relevant constitutional provisions entrenching the fundamental right of freedom of association as well as the provisions of other national and international legal instruments which guarantee the right to strike were discussed in full detail. Furthermore, this paper examines the rationale for the ban on strikes in essential services. It also examines the conditions which workers who are not engaged in the provision of essential services must fulfill before they can embark on lawful strikes. These conditions are examined in the light of international labour standards. The paper contained different types of strikes, the steps trade unions follow before going on strike, the right to strike by the trade union, and different schools of thought as regard to trade unions in Nigeria going on strike.

Keywords: Strike, Trade Union in Nigeria, International labour organization, right to strike in Nigeria, and Nigeria Trade Disputes Act.

INTRODUCTION

The fact that the right to strike is not specifically stated in ILO Conventions and Recommendations may come as a surprise. Although it has been discussed several times during the International Labour Conference's preparatory work on documents dealing with related issues, for a variety of reasons, no international standards (Conventions or Recommendations) directly governing the right to strike have ever resulted from these discussions. The ILO should not be seen as disregarding the right to strike or failing to provide a safe environment in which it may be exercised because there are no express criteria in place.

Section 40 of the Federal Republic of Nigeria 1999 Constitution enshrines the freedom of every person to associate with others, particularly to create or join a trade union of his choice for the defense of his interests. This freedom includes the right to strike. Every citizen has the freedom to provide or withdraw his services by giving notice to his employer in line with the terms of his employment, which is a part of this freedom. If this right is

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denied, it will amount to compelled labor, which, barring extenuating circumstances, is against section 34 of the Constitution.

In ancient Egypt, during the reign of Pharaoh Ramses III, the Artisans of the Royal Necropolis at Deir el-Medina launched the first documented strike or workers' uprising on November 14, 1152 BC (Romer, 1984). Their primary demands were for more pay and better working conditions. The strike had such a significant impact that the authorities had never before seen or heard of such a rebellion. In the end, the government had to concede to some of the workers' requests, particularly an increase in pay (Abuza, 2016). In the past, when workers had to deal with difficult working conditions and exploitation by their employers during the industrial revolution in Britain in the eighteenth and nineteenth centuries, respectively, trade unions and industrial action started to emerge in the workplace. Workers started banding together and mobilizing their resources to act as a cohesive group to better their working conditions and terms of employment. The creation of small-scale unions by workers and any use of coordinated action to enhance their working conditions was opposed by the employers. They considered them destructive to industrial peace and progress, making this a dangerous tendency that could not be allowed to continue (Chianu, 2004).

The first strike in Nigeria took place on June 21, 1945, following repeated requests to the government for salary increases to keep pace with the sharply rising expense of living. The Nigerian Civil Service's 150,000 (one hundred and fifty thousand) clerical and non-clerical employees joined forces to stage a general strike that affected all government departments (Padmore, 1945). Since that time, Nigeria has experienced an unrelenting rise in the number of strikes. When negotiations or collective bargaining between employees and employers break down or come to a standstill, labor unions typically go on strike.

LITERATURE REVIEW

TRADE UNION IN NIGERIA

What is Trade Union? A trade union, also called a labour union is an organization formed by workers in various industries and occupations to protect and promote their common interests, rights, and welfare in the workplace. The military rule in Nigeria marked the peak of the country's trade union movement. Despite the fact that trade union activity peaked under the military regimes of General Gowon (1967–1979), General Muritala/Obasanjo (1984–1986), and General Babangida (1986–1993), it was General Abacha's rule (1993–1998) that saw trade unions actively participate in the fight for both an increase in members' living standards and the restoration of democratic rule. For instance, in 1992, there was a great deal of unrest in the nation as a result of the harassment, repression, and hunger of the populace (Akinyaju, 2007). In general, wages were low. However, as the NLC leadership was a collaborator with the military junta, they were unable to organize any resistance against the military regime. In order to advance the development of its members working conditions and promote member unity of purpose, the Academic Staff Union of Nigerian Universities (ASUU) set out in 1992.

The military administration was compelled to enter negotiations with the union as a result of the strike's overwhelming success in terms of member involvement.

Another example of labor unrest during the military administration is the campaign for the revalidation of the presidential election that was invalidated on June 12, 1993. The National Union of Petroleum and Gas Workers Association of Nigeria (NUPENG) and the Petroleum and Gas Workers Association of Nigeria (PENGASSAN),

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two oil industry labor unions, led the campaign. Despite a high number of members participating in full during the strike, the strike's attempts to de-annul the election were unsuccessful.

Additionally, Trade Unions in Nigeria played the role of educating the public and their members about the oppressive policies of the government, such as the increase in the price of gasoline. Experience in the past has demonstrated that trade unions have played a vital role in organizing their members and the broader public on the need to reject such moves on each occasion that the government has desired to effect change in fuel prices. Another example was the strike that the five universities in the South-East's academic and non-academic staff unions (ASSUU/NASU) started to protest in regards to the non-implementation of what appears to be a tripartite agreement between the ASUU, the federal government, and the 36 states of the federation, they went on an indefinite strike. The strike, which started on July 22nd, 2010, continued for months.

A Synopsis of Nigerian Strike Actions

Strikes are events that have happened a lot in Nigeria throughout the years and have a rich history that is entrenched in the distant past, specifically the colonial era. There have been a number of significant strikes in the past, it is crucial to understand that they are not a recent issue in Nigeria. The main goal of a strike is to make a statement once all other channels for redress have been exhausted. It is typically regarded as the last resort for employees to obtain the things they seek from their employers (The Black Republic, 2016).

Nigeria has been witnessing strikes since the 20th century, according to Adavbiele (2015), who also noted that Ananaba (1969) reported significant strikes that happened throughout the colonial era. Among these are the following strikes: The Aba women's riot of 1929; the railway workers' strike of 1938; the strike of the Nigerian union of railway men in 1941; the general strike of 1945; the strike of the coal miners in Enugu in 1949; the strike of the mercantile workers in 1950; and the strike of the airline workers' union in 1959. Before Nigeria gained its independence in 1960, all of these strikes took place, and since then, the frequency of strikes, particularly in the public sector, has taken on a worrisome dimension.

From those stated above, two significant strike actions stand out because they significantly accelerated the end of British colonialism in Nigeria. In 1945, there was the first nationwide strike (The Black Republic, 2016). In June 1945, a labor dispute between railroad workers and other civil service unions began. Later, private sector workers made the decision to back their public-sector counterparts. It was the country of Nigeria's first general strike, involving up to 200,000 workers and 17 labor groups. It caused the economy to completely shut down and lasted 45 days. The most serious blow against colonialism in the nation—rather than the politicians—came from this strike (The Black Republic, 2016; Nwanze, 2018).

Even after Nigeria gained independence from colonial authority, strike activities remained common in the public sector. The situation has been the same across the board in various economic areas. Doctors, nurses, and other healthcare professionals have recently participated in numerous strikes in Nigeria, and it appears that these strikes are now viewed and accepted as usual (Oleribe, Ezieme, Oladipo, Kinola, Udofia, and Taylor-Robinson, 2016). The National Union of Petroleum and Natural Gas Workers (NUPENG) and the Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN) both frequently go on strike to demand better conditions for their members, who work for the government and other employers of labor in the oil and gas sector. Strikes are common tactic used by the Parliamentary Staff Association of Nigeria (PASAN) and the Judicial Staff Union of Nigeria (JUSUN) to protect the interests of their members.

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The meaning of Strike

Comte, (1997) opined that workers organization (trade union) and industrial conflict are related, Union members are more likely to strike than organized workers. Strikes are becoming more widely accepted in the country's educational sector, and this phenomenon has caught the attention of well-meaning Nigerians and stakeholders. There are various ways to define the word "strike." Hornby (2001) defined a strike as a period of time during which an organized group of employees of a corporation stop working due to a dispute over compensation or other terms.

There doesn't seem to be a precise definition for the word "strike." There is no universal definition of the term "strike," according to a review of the definitions in dictionaries and pertinent statutes in Nigeria and other countries like the United Kingdom (Britain), South Africa, Ghana, and judicial authorities. The definition of "strike" according to the Black's Law Dictionary is "an organized cessation or slowdown of work by employees to compel the employer to meet the employee's demands" (Garner, 2014).

A strike is defined as follows in Section 48 (1) of the Trade Disputes Act 2004 (TDA):

Strike is defined as the cessation of work by a group of employees acting jointly or a concerted refusal on the part of any number of employees to continue working for an employer as a result of a dispute, carried out in an effort to force their employer or any other person or group of employees, or to assist other employees in forcing their employer or any other person or group of employees, to accept or not to accept terms of employment and pay.

Therefore, a strike is the collective suspension of work by a group of workers in any business, or a concerted refusal, or a collective refusal by a group of workers who are or were employed in that industry to accept employment (Anugwom, 2007; Archie, 2019).

In the above definition, there are two definitional elements that need clarity for the sake of understanding:

1. **Cessation of work:** this simply means working at a speed less than usual or with less than usual efficiency.
2. **Refusal to continue to work:** this refers to the refusal of an employee to work at the usual speed or with the usual efficiency

As earlier mentioned, the word **STRIKE** is defined in South Africa as the obstruction (concerted) of work by individuals who are or have been employed by the same employer, by another employer, or by both, for the purpose of resolving a grievance or a disagreement regarding any matter of mutual interest between the employer and employees (LRA, 2002)

Labour Act of Ghana, (2003) defined a strike as any coordinated action by two or more employees with the goal of limiting in any way the service they typically provide to their employer or reducing the output of that service in order to exert coercive pressure on the employer; this includes sympathy strikes and actions that are frequently referred to as work-to-rule, go slow, or sit-down strikes.

The **Employment Rights Act of Britain (ERAB)**, on the other hand, describes a strike as:

- a. As a collective action taken by a group of employees to refuse to work for a particular employer as a result of a disagreement, done to force the employer to accept or reject terms and conditions relating to or affecting employment (ERA, 1996).
- b. The cessation of work by a body of employed persons acting in combination.

Going by all the above definitions of a strike, it can now be said that a strike is seen as an official and unofficial reduction, stoppage, refusal, and slowdown of work by a group of coordinated employees as a way of forcing

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their employer(s) to grant them their request in respect to the matter of mutual interest between the employees and the employer.

TYPES OF STRIKES

The strike types listed below are only a handful; other combinations of strikes may be used depending on the situation and the desired results. Before planning or engaging in a strike, actors (employees/employers) should check local labor laws because strike actions may be governed by legislation in some countries. According to (Legal Vidhiya, published by Admin on April 27, 2023), here are some of the various types of strike:

1. **General Strike:** A general strike involves workers from various industries or sectors across an entire region or country. It aims to paralyze the economy and put pressure on the government or employers to meet specific demands. E.g the Nigeria labour Congress (NLC). It might also be an extension of the strike to reflect broader employee disapproval or protest (Archie, 2019).
2. **Partial Strike:** According to Anugwom, (2007) a partial strike, also known as a work slowdown or a work-to-rule, involves workers reducing their productivity or selectively performing only certain tasks. It is a form of protest that seeks to disrupt operations without a complete work stoppage. E.g If the rule says work closes by 3: 30 P.M, all employees are expected to close at that stipulated time frame.
3. **Sympathy Strike:** When employees in one business go on strike in support of employees in another, it is referred to as a sympathy strike or a solidarity strike. By expanding the strike's impact, it is a display of unity and seeks to put more pressure on employers or the government. Strikes in this situation just serve as a kind of moral and brotherly solidarity to put pressure on the employer participating in the trade dispute (Anikeze and Ayogu, 2008).
4. **Unfair Labor Practice Strike:** A protest by an employee over unjust working conditions and employer mistreatment or violations of labor regulations in the form of response to events like illegal firings, discriminatory tactics, or dishonest bargaining.
5. **Sit-Down Strike:** In a sit-down strike, workers occupy their workplace but do not perform their duties. They refuse to leave the premises until their demands are met. Sit-down strikes are typically used to prevent replacement workers from taking over and to maintain control of the workplace. However, like sit – ins, this form of strike involves workers being present at work but literally not working (Anikeze and Ayogu, 2008).
6. **Wildcat Strike or Unofficial Strike:** A wildcat strike is an unauthorized strike that occurs without the approval or involvement of the official union leadership. It is often organized spontaneously by a group of workers to address immediate grievances. Wildcat strike activities are frequently planned by a section of workers who are dissatisfied with the system, (Adavbiele, 2018).
7. **Jurisdictional Strike:** This kind of strike happens when two unions disagree over which one is in charge of a certain sort of work and try to persuade the employer to assign it to either one or the other. This type of strike is usually regarded as being illegal since the employer is caught in the middle of a two warring Unions (Clark, 2012; Adavbiele, 2015; Uzoh, Anekwe and Anigbogu, 2018).

THE EXTENT TO WHICH THE RIGHT TO GO ON STRIKE BY TRADE UNIONS IN NIGERIA IS ABSOLUTE

Strikes were illegal in many nations around the world until the middle of the 20th century. They were widely regarded as illegal behavior until the late nineteenth century. It is significant to highlight that strikes in Nigeria

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continue to have a criminal undertone when the established procedure is not followed. The right to strike has now become a fundamental right recognized by a large majority of countries around the world as embodied in the United Nations International Covenant on Economic, Social and Cultural Rights 1966 and has been protected by the

International Labour Organization (ILO) supervisory bodies (principally the Committee on Freedom of Association since 1952 and the Committee of Experts on the Application of Conventions and Recommendations since 1959. In Khan-Freund and Hepple, (1972), the decisions of these supervisory bodies have given rise to a body of principles on the right to strike broadly shared by the international community and based on general principles of freedom of association embodied in the ILO constitution and in the core Convention on this subject

Nigerian trade unions are permitted to strike, but only under specified conditions and in accordance with the law. International labor norms safeguard collective bargaining and freedom of association, both of which include protections for the right to strike. The Trade Disputes Act of 2004 largely regulates the ability to strike in Nigeria. The Act mandates that trade unions follow certain steps before going on strike. These techniques frequently consist of:

I. **Notice of Intention to Strike:** In general, trade unions must notify the National Industrial Court, the Ministry of Labor and Employment, and the employer in advance of any planned strikes. Depending on the dispute's specifics and the relevant industry, the notice period could change.

II. **Exhaustion of Conciliation and Mediation Processes:** Before going on strike, trade unions may occasionally be asked to take part in conciliation or mediation proceedings. Through the involvement of a third party who will act impartially, these procedures seek to facilitate dialogue and dispute settlement.

III. **Essential Services and Public Interest Considerations:** In order to maintain critical services, several groups of workers, including those in the armed forces, public utilities, healthcare, and transportation, may have their right to strike restricted. Certain important services are described in the Act, which also offers guidelines for strikes in certain industries. section 4 (e) of the Nigeria Export Processing Zones Act 1992 published as Federal Republic of Nigeria Official Gazette No. 67 Vol. 79, 21st December 1992, Morris, 1983 and 1986)

Right to Strike in Nigeria by Trade Union

After the introduction of the statutory provisions of Section 17 (1) of the Trade Disputes Act of 1976 (now Section 18 (1) and (2)) of the Trade Disputes Act, there is a contentious debate in Nigeria between two schools of thought on the subject of the right of the Nigerian worker to strike. One school of thought contends that the addition of Section 17 (1) and later amendment of the section have completely eliminated the ability of a Nigerian worker to go on a legal strike while the second school of thought disagrees utterly with these submissions. They firmly believe that the right of Nigerian workers to strike has not been removed despite the establishment and revision of Section 17 of the Trade Disputes Act, now Section 18 (1).

The first school of thought

Uvieghara (2001) argues that the Trade Disputes Act, 2004, as amended, which replaced Section 17 (1) with Section 18 (1), forbids Nigerian workers from engaging in a legal strike. His statement that "the purpose of setting out Section 17 (1) now Section 18 (1) in full is to show that it does not leave any room for a lawful strike".

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According to Emiola (2008), nothing in Section 17 (1), now Section 18 (1), subsection 1 suggests that a strike is permitted while any of the six processes are ongoing, and Section 14 (2), now Section 13 (2), can only imply that no strike is permitted as well as after the award under subsection 1 (f) of that section. Therefore, the true interpretation of the new provisions is that neither party to an industrial dispute may engage in any form of industrial action while negotiations and other actions listed under Section 18 (1) of the current Act are ongoing. Doing so will be against the law. In line with Uvieghara and Emiola, Erugo (2019), recently opined that the procedure required by Section 18 (1), which refers to Sections 4, 6, 8, 9, 13 (3), and 14 (1), indicates that the contesting parties no longer have the flexibility or right to negotiate. Negotiating back and forth in an attempt to meet the prerequisites for going on strike under the current law would be a fruitless endeavor. In reality, the parts seem to have buried any acknowledgment of the right to strike because they are a statutory prohibition. In addition, subsection (2) of the Act clearly suppresses the right to strike by making it a crime to violate subsection (1). Also, Okene (2007), clearly stated that by virtue of the above-mentioned sections, employees are prohibited from going on strike unless they follow the dispute resolution processes. However, if at the conclusion of the procedure, the workers are unhappy with the National Industrial Court's judgment, whose decision is final, then pursuant to Section 18 (3) they must go through the entire dispute resolution process once more. Thus, it appears that the legislation has established a cycle of forced arbitration from which the workers are unable to escape. Implying that the legislature appears to have cleverly worked around the right to strike

The second school of thought

Khan-Freund and Hepple (1972), argued that the idea that the only way a trade union's strength can compete with the employer's absolute authority to fire and discipline workers is if it has the ability to go on a legal strike. He continued by saying that "the equilibrium argument is the most important in the context of the use of the strike as a sanction in industrial relations... the concentrated capital can only be matched by the concentrated power of the workers acting in solidarity."

Bellace has also argued that unions lack bargaining leverage if they lack the right to strike and the ability to threaten financial harm to the company. Workers basically lose the ability to bargain if they are unable to make demands and back them up with the threat of employing economic weapons (Bellace, 2016).

According to Orifowomo (2004), there is a weakness in the dispute resolution process that might be used by employees to go on a legal strike. He claims that the problem is that although public policy prohibits strikes once a dispute has been reported and is undergoing dispute resolution procedures, strikes are nonetheless permissible legally and logically prior to the reporting of a dispute and the start of the dispute settlement process.

THE POSITION OF THE RIGHT TO GO ON STRIKE BY TRADE UNIONS IN NIGERIA AS IT IS NOW

It's an interesting debate as to whether an employee(s) in Nigeria can legally strike under Section 18 (1) of the Trade Disputes Act 2004. On the surface of the literary sense of the statutes, the claim made by those supporters of strike prohibition appears to be accurate. The prerequisite before a strike could be authorized in Nigeria was spelled out in subsection (1) of the section. Subsection (2), which makes it illegal for anybody to violate the Act's subsection, further supports their claim. Emiola and Uvieghara freely accept that a party may lawfully go on strike after satisfying one of the requirements listed in the subsection. They cited the ruling in *Eche v. State Education*

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Commission (1993), in which the court determined that strike action is only considered legal when one of the requirements listed in the subsection has been met.

The right to strike is covered by a number of laws and conventions in Nigeria, some of which are prescriptive and others which are permissive. As a result of the variety of legislation, Nigeria's legal system regarding the right to strike is now quite fluid and unreliable. When one closely examines the Nigerian Constitution, laws, and international conventions that Nigeria has ratified, this condition of confusion becomes extremely clear. These statutes, whether read collectively or individually, demonstrate that there is no unambiguous position about Nigeria's ability to hold a legal strike. The right to strike is often supported by several statutes, but there are also requirements that must be met before the right can be used.

The conditions which workers must fulfill before embarking on a lawful strike in Nigeria are contained in section 31(6) of the Trade Unions Act of 2004 as amended by the Trade Unions (Amendment) Act of 2005 and sections 4, 18 and 42 of the Trade Disputes Act 2004 as amended.

The trade union amendment Act of 2005 provides the following conditions below to be fulfilled by the parties involved before they can embark on strike;

1. Before they can embark on strike, the dispute involve must be a trade dispute. Three (3) statutes in Nigeria have giving meaning to what a trade dispute is: (a) The trade dispute Act (b) The trade Union's amendment Act 2005, and (c) the national industrial court.

The review of these provisions of those three (3) Acts above as it relates to the meaning of trade disputes indicates the following:

I. The dispute must be a dispute of rights i.e it must be connected to employment or non-employment, terms and conditions of employment

II. The dispute must be between employer and employees (Union) or employees and employees (union and union). That is to say, there must be at least employees at one side of the dispute. Any dispute between an employer and employer is not a statutory dispute.

2. Before a strike can be embark on in Nigeria, the steps provided for the settlement of trade dispute in the Act must be exhausted and the steps include:

I. Using of internal machinery process

II. Using of mediation process

III. Using conciliation process

IV. Using arbitration process

V. Using the national industrial court process (NIC)

3. There must be a ballot to be conducted by the union and a simple majority vote for the strike to commence.

Above are the conditions and steps to be fulfill in the trade union amendment Act before a strike can be embark on because the law says, if these conditions are fulfilled, then trade unions or employees can go on strike. On the other hand, when the matter is settled and an award has been given by the judge of national industrial court, then no party is authorize to go on strike again meaning there is no absolute right to go on strike in Nigeria since an award has been given by the judge

HOW THE RIGHT TO GO ON STRIKE BY TRADE UNIONS IN NIGERIA OUGHT TO BE

Like in any democratic society, the right of trade unions to strike in Nigeria should ideally be safeguarded and respected as a crucial aspect of workers' rights and freedom of association. The following are some essential components of how trade unions' power to strike should be: **Legal Recognition and Protection:** Labor laws and

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regulations should formally recognize and safeguard the right to strike. As long as they adhere to all applicable legal requirements and procedures, trade unions should be able to strike without being subject to unreasonable limitations.

Procedural safeguards: When a strike is called, trade unions should follow established, transparent procedures. Employers, pertinent government agencies, and other stakeholders may receive advance notice as part of these procedures. It is important to include enough time for processes like mediation, conciliation, or negotiation before a strike can take place.

Compliance with international labor standards: International Labor Organization (ILO) guidelines should be followed by Nigeria's labour laws and practices. This is known as "compliance with international labor standards." This entails upholding the notions of freedom of association and collective bargaining as well as acknowledging and defending the right to strike as a crucial component of workers' rights.

Respect for Essential Services: While trade unions are allowed to strike, there may be some critical services or industries where restrictions or limitations might be put on the right to strike. To protect the general welfare and safety of society, it is crucial to find a balance between the right to organize and the need to sustain essential services like healthcare, transportation, and public safety.

THE IMPLICATIONS OF THE RIGHT TO GO ON STRIKE BY TRADE UNIONS IN NIGERIA

It is significant to remember that the implications of the right to strike can change depending on the particular situation, applicable labor regulations, and the type of disputes involved. Strikes' consequences should be evaluated while taking into account the unique circumstances in which they occur. The ability of Trade Unions in Nigeria to strike has a number of effects on both the unions and society at large. Below are some of the key implications of the right to go on strike by trade unions in Nigeria:

I. **Collective Bargaining Power:** By giving trade unions a strong instrument for collective bargaining, the right to strike gives them more clout. Trade unions can use their ability to strike and interfere with corporate operations to their advantage in negotiating better pay, benefits, and other employment-related terms on behalf of their members.

II. **The implication of socioeconomic on the development of Nigeria:** Whatever the justifications for strikes, it is clear that there are associated socio-economic problems. To a sociologist, a strike disrupts the sociological significance of employment as well as the socialization process, whereas to an economist, a strike generates economic fracturing, which has major negative economic effects (Wokoma, 2011). Therefore the right to go on strike by trade unions in Nigeria if granted absolutely will result in national economy breakdown.

III. **Strikes serve as a constraint towards the social development of Nigeria:** Men on strike become estranged from one another in the industrial society. This causes the socializing function that labor serves to fail. Strikes, particularly those that are extended and frequent, cause society to have a poor opinion of the parties engaged (Wokoma, 2011). For instance, ASUU's regular and frequently lengthy strikes have led to several judgments that they are a group of greedy, egoistic people only interested in their own self-interest. Strikes impede Nigeria's social progress, according to Wokoma (2011)

IV. **Strikes reflect the unhealthy nature and structure of our industrial society:** strike scared away foreign investors and are not encouraged to invest in an environment of unstable industrial peace and harmony, where their return on investment will be distorted because of strikes and work stoppages (Wokoma. 2011).

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CONCLUSION

In contrast to the French, South African, Italian, and other national constitutions where this right to strike is expressly and openly stated in the Constitution or in a labor code, Nigeria has no guaranteed positive constitutional or statutory right to strike.

Similar to the UK, Nigeria also grants workers and trade unions immunity from civil and criminal penalties for participating in industrial action. This immunity gives rise to the right to strike in both countries. Prior to 1968, the British-influenced combination of common law and legislation that shields trade unions and workers from criminal and civil penalties associated with strike actions had already formed a part of the Nigerian legal system. In any democratic country, the freedom to strike is a crucial tool in the arsenal of organized labour. A right to strike serves to uphold fairness in the workplace and society and to safeguard the employees' legal rights and interests.

The ILO has shown its concern for all workers by stating that the right to strike must always be protected and can only be denied in very exceptional circumstances in the interest of the community as a whole. The ILO places great importance on the need to secure and protect the right to strike throughout the world.

However, there is now no legal right to strike in Nigeria without meeting certain conditions which made it very unfortunate as it is now. In this regard, Nigeria trails considerably behind the rest of the world. Nigeria's failure to provide a bottleneck free right to strike clearly violates its commitments under international law.

Therefore, the basic provision of the extent to which the right to go on strike by Trade Unions in Nigeria seems not to be absolute according to the law.

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