

# The Disputes of Rights Versus Disputes of Interests' Dichotomy in Labour Law: The Case of Nigerian Labour Law\*

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## Abstract

This paper argues that Nigerian Labour Law does not comply with the widely-accepted international practice of permitting industrial action in respect of disputes of interests, while disputes of rights are made subject to arbitration or the industrial court. It is further argued that this situation constitutes a profound limitation on the right to undertake industrial action in Nigeria. The paper concludes that the present situation must be reversed in order to comply with international labour standards and to protect workers' legitimate rights in Nigeria.

## 1. INTRODUCTION

A conventional restriction on the right to strike consists in granting the right only in respect of disputes of interests and not disputes of rights. A dispute of rights involves the interpretation and application of existing legal instruments – such as contractual clauses in collective agreements. On the other hand, a dispute of interests concerns the establishment/creation of a new right. The logic of the distinction is that a dispute of rights can be settled in court without resorting to a strike, whereas a dispute of interests may justify a strike action.<sup>1</sup>

However, in Nigeria, in line with its interventionist policies, the Obasanjo-led regime pushed through legislation that sought to significantly weaken the capacity of labour activists to protest against government's unpopular policies. This move resulted in the enactment of the Trade Union (Amendment) Act 2005 which, together with other existing laws made by former military leaders, placed serious restrictions on the right to strike,<sup>2</sup> thus undermining the workers most potent weapon in industrial relations. Indeed, the pattern of interventionism and labour rights curtailment and repression fits seamlessly into a broader picture of semi-autocratic rule and generally poor human rights performance under the Obasanjo regime which lasted from 1999-2007.<sup>3</sup>

With Nigeria's return to a democratically elected government on 29 May 1999<sup>4</sup> under the leadership of President Olusegun Obasanjo it was hoped that the story of excessive government interventionism and repression in the sphere of labour rights would change. Indeed, much euphoria marked the return to civil rule in Nigeria in May 1999 of a kind that had not been seen since the end of the civil war (1967-1970),<sup>5</sup> as the event signified an opportunity, after over twenty years of repressive military rule and interventionism, for the country to resume its experiment with democracy from where that journey had stopped before soldiers seized power on New Year's Eve 1984.<sup>6</sup> However, that appears not to be the case. In fact, the Obasanjo-led Nigerian government between 1999 and 2007 embarked on a programme of massive interventionism largely repressive of labour rights

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<sup>1</sup> See A.J.M. Jacobs, "The Law of Strikes and Lock-outs", in R. Blanpain and C. Engels (eds.) *Comparative Labour Law and Industrial Relations in Industrialized Economies* (The Hague: Kluwer Law International, 1998), p. 470.

<sup>2</sup> The details of this law shall be demonstrated fully in the body of this thesis.

<sup>3</sup> P.C. Aka, "Nigeria Since May 1999: Understanding the Paradox of Civil Rule and Human Rights Violations Under President Olusegun Obsanjo" (2003) 4 *San Diego International Law Journal*, 209; O.C. Okafor, "The Precarious Place of Labour Rights and Movements in Nigeria's Dual Economic and Political Transition, 1999-2005" (2007) 51 (1) *Journal of African Law*, p. 68; O.C. Okafor, "Assessing Baxi's Thesis on an Emergent Trade-Related Market-Friendly Human Rights Paradigm: Recent Evidence from Nigerian Labour-led Struggles" (2007) 1 *Law, Social Justice and Global Development Journal*, p. 2.

<sup>4</sup> This date marked the inauguration of Nigeria's fourth exercise in democracy. Nigerians celebrate each of their exposures to democracy since independence with the appellation "republic". The Obasanjo regime (1999 to 2007) was the Fourth Republic. The First existed from 1960 to 1966 and the Second from 1979 to 1983. An anticipated Third Republic became still-born when General Ibrahim Babangida (1985-1993) annulled a presidential election that would have ushered in the republic. Each of the previous Republics preceding the Obasanjo regime ended on a military intervention.

<sup>5</sup> For example, Abdulsalami Abubakar, the general transferring power, compared the return to civil rule to the country's receipt of independence from Britain in 1960, whereas Olusegun Obasanjo, the retired general receiving power, viewed it as "the beginning of a genuine renaissance in Nigeria." See Normitsu Onishi, *Nigeria Military Turns Power to Elected Leader*, *N.Y. Times*, May 30, 1999, at 1, 6.

<sup>6</sup> President Obasanjo intoned in his maiden address that, "Today. We are taking a decisive step in the path of democracy. We will leave no stone unturned to ensure sustenance of democracy, because it is good for us, it is good for Africa, and it is good for the world." *Ibid*, at 1.

and freedoms.<sup>1</sup> Indeed, as Okafor has pointed out, the Obasanjo regime in its quest to repress labour rights “has made use of public appeals, obtained court rulings, and often ordered – or at least largely tolerated – the harassment, assaults, detentions, and killings perpetrated by the Nigerian Police Force on labour activists.”<sup>2</sup> The interventionist approach has not changed in any significant manner under the current civilian administration of President Shehu Musa Yar’Adua who took over the reins of power on 29 May 2007. If anything, the pattern of state interventionism in labour relations seems to have continued.<sup>3</sup>

Thus, contrary to the widely accepted practice of permitting industrial action in respect of disputes of interests (and disputes of rights made subject to arbitration or the industrial court), the Trade Union (Amendment) 2005 limits the right to strike only to disputes of rights.<sup>4</sup> This position, it is submitted, constitutes a profound limitation on the right to strike and this article therefore argues that it must be reversed in order to protect the right to undertake industrial action by Nigerian workers.

## 2. DISPUTES OF RIGHTS VERSUS DISPUTES OF INTERESTS: A CONCEPTUAL FRAMEWORK

A common restriction on the right to strike consists in granting the right only in respect of disputes of interests and not disputes of rights.<sup>5</sup> A dispute of rights involves the existence, validity or interpretation of a collective agreement or its violation. It thus deals with the application and interpretation of existing legal rights. A dispute of interests, on the other hand, relates to the establishment and creation of a new right by reconciling conflicting economic interests.<sup>6</sup> The distinction is also described as “phase one disputes” and “phase two disputes”. Phase one disputes are known as interests disputes and phase two disputes are known as rights disputes.<sup>7</sup> Therefore strikes as a general rule should be accepted as legitimate and lawful in the first phase, but they would not be legitimate in the second phase.<sup>8</sup> On the other hand the court or tribunals power of adjudication would effectively be limited to rights disputes.<sup>9</sup>

A similar distinction is sometimes referred to with different terminology. In Italy, for example, the distinction is made between “economic disputes” and “legal disputes”. As Ricci has noted, the latter are problems of interpretation or of application of rules of law or of collective or individual contract, while the former are those which do not have legal questions as their subject, but demands about new work conditions.<sup>10</sup> In addition, disputes over interests can be referred to as ‘major disputes’, while disputes over rights can be referred to as ‘minor disputes.’<sup>11</sup>

The rationale for the distinction is that a dispute of interests would be settled by collective bargaining, which would involve the right to strike, and would result in an agreement between the parties which would

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<sup>1</sup>P.C. Aka, “Nigeria Since May 1999: Understanding the Paradox of Civil Rule and Human Rights Violations Under President Olusegun Obasanjo” (2003) 4 *San Diego International Law Journal*, p. 209; O.C. Okafor, “Assessing Baxi’s Thesis on an Emergent Trade-Related Market-Friendly Human Rights Paradigm: Recent Evidence from Nigerian Labour-led Struggles” (2007) 1 *Law, Social Justice and Global Development Journal*, p. 2.

<sup>2</sup>O.C. Okafor, “Assessing Baxi’s Thesis on an Emergent Trade-Related Market-Friendly Human Rights Paradigm: Recent Evidence from Nigerian Labour-led Struggles” (2007) 1 *Law, Social Justice and Global Development Journal*, p. 6.

<sup>3</sup>A.A. Tajudeen and O.K. Kehinde, “Government Public Policies and the Dynamics of Employment Relations in Developing Countries: The Experience of Nigeria (2007) 4(6) *Pakistan Journal of Social Sciences*, p. 761; S. Okodudu and B.K. Girigiri, “The State and Labour Militancy in Nigeria” (1998) 3 *Pan-African Social Science Review*, p. 34; O.N. Ogbu, *Human Rights Law and Practice in Nigeria* (Enugu: CIDJAP Publishers, 1999), p. 361; F. Adewunmi and S. Fajana, *Workers’ Rights and Labour Standards in Nigeria* (Lagos: University of Lagos Press, 2008), p. 21; US Department of State, Country Report on Human Rights Practices: Bureau of Democracy, Human Rights and Labour (Nigeria) <<http://www.state.gov/g/drl/rls/hrrpt/2007/100498.htm>> (5 February 2009).

<sup>4</sup>Section 6(b) Trade Union (Amendment) Act 2005.dj

<sup>5</sup>L. Madhuku, “The Right to Strike in Southern Africa” (1997) 136 (4) *International Labour Review*, p. 521; C. Provis, “Rights Disputes v. Interests Disputes: A Distinction for Australia?” (1993) *Australian Journal of Labour Law*, p. 205.

<sup>6</sup>A.J.M. Jacobs, “The Law of Strikes and Lock-outs”, in R. Blanpain and C. Engels (eds.) *Comparative Labour Law and Industrial Relations in Industrialized Economies* (The Hague: Kluwer Law International, 1998), p. 470.

<sup>7</sup>John Niland, “The Light on the Horizon: Essentials of an Enterprise Focus” in M. Easson and J. Shaw, *Transforming Industrial Relations* (Sydney: Pluto Press, 1990), p. 193.

<sup>8</sup>*Ibid.*

<sup>9</sup>*Ibid.* A similar distinction is sometimes referred to with different terminology. In Italy, for example, the distinction is made between “economic disputes” and “legal disputes”. The latter are problems of interpretation or of application of rules of law or of collective or individual contract, while the former are those which do not have legal questions as their subject, but demands about new work conditions.<sup>9</sup> In addition, disputes over interests can be referred to as ‘major disputes’, while disputes over rights can be referred to as ‘minor disputes.’<sup>9</sup> See R. Ricci, *Manually di Relazioni Sindicali* (Milan: Etas Libri, 1978), p. 160.

<sup>10</sup>R. Ricci, *Manually di Relazioni Sindicali* (Milan: Etas Libri, 1978), p. 160.

<sup>11</sup>See Marley, S. Weiss, “The Right to Strike in Essential Services under United States Labour Law” (2000) <<http://www.bibliojuridica.org/libros/1/43/7.pdf>> (accessed 24 March 2005).

determine some hitherto disputed conditions and terms of employment.<sup>1</sup> That agreement would be legally enforceable and would create rights for the parties. The law would then require that disputes over rights be settled by the court and not through strike action. Thus, whereas disputes of rights can be settled by court action without strike, disputes of interests are not suitable for judicial decision and may therefore justify strike action.<sup>2</sup> The distinction also shows that strike is used to create rights and not necessarily to enforce existing rights, although disputes of rights may also be settled by strikes.<sup>3</sup>

A further justification is the fact that disputes of rights are matters of fact which result from explicit agreement and can therefore be objectively determined by impartial judges, whereas disputes of interests are about values which ought to be left for determination by free markets as they are subjective matters which cannot be determined objectively.<sup>4</sup>

The distinction between “rights” disputes and “interests” disputes is a well known industrial relations practice in other jurisdictions whereby restriction on the right to strike is placed on “rights” disputes rather than “interests” disputes. As Duffy and Mulvey have noted:

“In many countries – including Sweden, Germany and the USA – a distinction is drawn between “rights” disputes and “interests” disputes. Strikes are usually lawful in relation to interests’ disputes but are unlawful in relation to rights disputes. Interest disputes concern a dispute over the fixing of the terms and conditions of employment whereas rights disputes refer to the interpretation or application of the terms of the agreement.”<sup>5</sup>

In the jurisdictions where the distinction is accepted, industrial action involving the interpretation, administration and violation of collective agreements is unlawful, as procedures for the settlement of disputes are provided by legislation.<sup>6</sup> However, in other jurisdictions the distinction between disputes of rights and disputes of interests seems irrelevant.<sup>7</sup> In the UK, for example, this distinction appears irrelevant since collective agreements are generally unenforceable.<sup>8</sup>

<sup>1</sup>C. Provis, “Rights Disputes v. Interests Disputes: A Distinction for Australia? (1993) *Australian Journal of Labour Law*, p. 205; L. Madhuku, “The Right to Strike in Southern Africa” (1997) 136 (4) *International Labour Review*, p. 523; R. Birk, “The Law of Strikes and Lock-outs”, in R. Blanpain and C. Engels (eds.), *Comparative Labour Law and Industrial Relations in Industrialized Economies* (The Hague: Kluwer Law International, 1990), p. 281; K.W. Wedderburn, “Conflicts of ‘Rights’ and ‘Conflicts of ‘Interests’ in Labour Disputes” in B. Aaron (ed.), *Dispute Settlement Procedures in Five Western Countries* (Los Angeles: Institute of Industrial Relations, University of California, 1969), p. 65; J.W. Shaw and M.J. Walton, “Professor Niland and the Interest/Rights Dichotomy in Labour Law” (1990) *Australian Bar Review*, p. 117. J. B. Rose, “Rights Disputes Procedures in Canada and New Zealand” (1990) 15 *New Zealand Journal of Industrial Relations*, pp.145, 146 and 152.

<sup>2</sup>*Ibid.*

<sup>3</sup>R. Birk, “The Law of Strikes and Lock-outs”, in R. Blanpain and C. Engels (eds.) *Comparative Labour Law and Industrial Relations in Industrialized Economies* (The Hague: Kluwer Law International, 1990), p. 281.

<sup>4</sup>C. Provis, “Rights Disputes v. Interests Disputes: A Distinction for Australia? (1993) *Australian Journal of Labour Law*, p. 227.

<sup>5</sup>N. F. Duffy and C. Mulvey, *The Sources of Union Power*, Policy Paper No 11, Australian Institute for Public Policy, (Australia: Perth, 1987), p. 52; J.B. Rose, “Rights Disputes Procedures in Canada and New Zealand” (1990) 15 *New Zealand Journal of Industrial Relations*, p.145; A. Adlercreutz, “Sweden”, in R. Blanpain (ed.) *International Encyclopaedia for Labour Law and Industrial Relations* (Deventer: Kluwer Law and Taxation Publishers, 1990), p. 200; M. Weiss, “Federal Republic of Germany”, in R. Blanpain (ed.) *International Encyclopaedia for Labour Law and Industrial Relations* (Deventer: Kluwer Law and Taxation Publishers, 1990), p. 125; A. I. Goldman, *Labour Law and Industrial Relations in the United States of America*, 2<sup>nd</sup> edition (Deventer: Kluwer Law and Taxation Publishers, 1984), p. 263; B. Aaron, “Settlement of Disputes over Rights” in R. Blanpain (ed.), *Comparative Labour Law and Industrial Relations in Industrialised Market Economies* (Deventer: Kluwer Law and Taxation Publishers, 1990), p. 252. In the jurisdictions where the distinction is accepted, industrial action involving the interpretation, administration and violation of collective agreements is unlawful, as procedures for the settlement of disputes are provided by legislation. See A.J.M. Jacobs, “The Law of Strikes and Lock-outs”, in R. Blanpain and C. Engels (eds.), *Comparative Labour Law and Industrial Relations in Industrialized Economies* (The Hague: Kluwer Law International, 1998), p. 471. However, in other jurisdictions the distinction between disputes of rights and disputes of interests seems irrelevant. In the UK, for example, this distinction appears irrelevant since collective agreements are generally unenforceable. See B. Hepple and S. Fredman, *Labour Law and Industrial Relations in Great Britain* (Deventer: Kluwer Law and Taxation Publishers, 1992), p. 253. Collective agreements may, however, be enforceable under certain conditions. See section 178 and Schedule 3, paragraph 5 of Trade Unions and Labour Relations (Consolidation) Act 1992.

<sup>6</sup>See A.J.M. Jacobs, “The Law of Strikes and Lock-outs”, in R. Blanpain and C. Engels (eds.) *Comparative Labour Law and Industrial Relations in Industrialized Economies* (The Hague: Kluwer Law International, 1998), p. 471.

<sup>7</sup>*Ibid.*

<sup>8</sup>See B. Hepple and S. Fredman, *Labour Law and Industrial Relations in Great Britain* (Deventer: Kluwer Law and Taxation Publishers, 1992), p. 253. Collective agreements may however be enforceable under certain conditions. See Section 178 and Schedule 3, paragraph 5 of Trade Unions and Labour Relations (Consolidation) Act 1992.

Opponents of the distinction, however, argue that it is not appropriate to make such a distinction on the basis of the content of a documented formal agreement, as in the case of rights disputes.<sup>1</sup> The opponents contend that some industrial disputes are so protracted and difficult just because they are about rights and not about interests.<sup>2</sup> In addition, the opponents argue that, even in countries which have adopted the distinction, rights at work arise not only from explicit agreement but also from custom and practice.<sup>3</sup>

Conversely, proponents of the distinction contend that the distinction is important because “the problem is that rights procedures are often used where they are not necessary.”<sup>4</sup> The proponents, however, admit that a distinction between the two concepts can be delicate. Ury, Brett and Goldberg note, for example, that:

“In some disputes, the interests are so opposed that agreement is not possible. Focusing on interests cannot resolve a dispute between a right-to-life group and an abortion clinic over whether the clinic will continue to exist. Resolution will likely be possible only through a rights contest, such as a trial, or a power contest, such as a demonstration or legislative battle.”<sup>5</sup>

Notwithstanding the contending perspectives, it is submitted that the right to strike is more appropriate in respect of disputes of interests in order to reconcile conflicting economic interests between labour and management concerning the terms and conditions of work. As already discussed, disputes of rights can easily be settled by arbitration or the industrial courts since the issues in dispute are already well known and documented.

### 3. DISPUTES OF RIGHTS VERSUS DISPUTES OF INTERESTS IN NIGERIAN LABOUR LAW

As noted above, a conventional restriction on the right to strike consists in granting the right only in respect of disputes of interests and not disputes of rights.<sup>6</sup> A dispute of rights involves the interpretation and application of existing legal instruments, such as contractual clauses in collective agreements, while a dispute of interests concerns the establishment/creation of a new right. The logic of the distinction is that a dispute of rights can be settled in court without resorting to a strike, whereas a dispute of interests may justify a strike action.<sup>7</sup>

Nigerian law maintains a distinction between the two types of disputes and prohibits the right to strike over disputes of interests. Section 6(b) of the Trade Union (Amendment) Act 2005 limits strikes to “disputes of rights,” which is interpreted to mean a labour dispute arising from the negotiation, application, interpretation or implementation of a contract of employment or collective agreement. Also included are matters relating to terms and conditions of employment as well as disputes arising from breach of contract by an employee, trade union or employer.<sup>8</sup>

The Trade Union (Amendment) 2005 Act has in effect imposed a substantial limitation on the scope of the subject matter or issues over which trade unions can undertake industrial action. However, it is disputes of rights that are usually made subject to arbitration since the rights are already defined in a collective agreement. Disputes of interests are commonly reserved for strike action for the establishment and creation of a new right by reconciling conflicting economic interests.<sup>9</sup>

The Trade Union (Amendment) Act 2005 was enacted as a response to the workforce’s opposition to President Obasanjo’s economic reform programme which was introduced in line with the neo-liberal market-oriented reforms endorsed by both the World Bank (WB) and the International Monetary Fund (IMF).<sup>10</sup> Between 1999 and 2005, the Obasanjo administration vigorously pursued these economic measures which resulted in an incessant removal of subsidies on petroleum products and the retrenchment of a sizeable number of workers in the public service.<sup>11</sup> Between 2000 and 2004, for example, the government increased the price of fuel by 184 per cent.<sup>12</sup> Subsequent increases between late 2000 and 2005 raised the margin of the total increases to 250 per cent by August 2005.<sup>13</sup> In reaction to the increases of fuel prices, workers have at several times instituted strike action

<sup>1</sup> C. Provis, “Rights Disputes v. Interests Disputes: A Distinction for Australia? (1993) *Australian Journal of Labour Law*, p. 227.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

<sup>4</sup> W.L. Ury, J.M. Brett and S.B. Goldberg, *Getting Disputes Resolved* (San Francisco: Jossey-Bass, 1988), p. 18.

<sup>5</sup> *Ibid.*, pp. 16-17.

<sup>6</sup> A.J.M. Jacobs, “The Law of Strikes and Lock-outs”, in R. Blanpain and C. Engels (eds.), *Comparative Labour Law and Industrial Relations in Industrialized Economies* (The Hague: Kluwer Law International, 1998), p. 470.

<sup>7</sup> *Ibid.*

<sup>8</sup> Section 6(b) Trade Union (Amendment) Act 2005.

<sup>9</sup> See A.J.M. Jacobs, “The Law of Strikes and Lock-outs”, in R. Blanpain and C. Engels (eds.), *Comparative Labour Law and Industrial Relations in Industrialized Economies* (The Hague: Kluwer Law International, 1998), p. 470.

<sup>10</sup> O.C. Okafor, “The Precarious Place of Labour Rights and Movements in Nigeria’s Dual Economic and Political Transition, 1999-2005” (2007) 51 *Journal of African Law*, p. 68.

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*, p. 80.

<sup>13</sup> *Ibid.*

to challenge government action due to the economic hardship occasioned by the high cost of fuel. In 2004, for example, the Nigerian Labour Congress (NLC) declared a strike action against the increases in the cost of fuel prices and the imposition of fuel tax.<sup>1</sup> The government subsequently obtained a ruling from the Federal High Court which held that the NLC could not exercise the right to strike over fuel price increases as this was not, in the view of the court, a matter within the scope of collective bargaining for workers' conditions of service.<sup>2</sup> As Aturu has rightly observed, the Act is ostensibly aimed at preventing workers from exercising the right to strike against government social and economic policies as they have successfully done in the past.<sup>3</sup>

It is submitted that the Trade Union (Amendment) Act 2005 is clearly at variance with conventional practice in other jurisdictions whereby restriction on the right to strike is placed on disputes of rights rather than disputes of interests.<sup>4</sup> It is also not in conformity with ILO standards that demand that the right to strike should not be limited to such strikes whose aim is the conclusion of collective agreements:

“The right to strike should not be limited solely to industrial disputes that are likely to be resolved through the signing of a collective agreement; workers and their organizations should be able to express in a broader context, if necessary, their dissatisfaction as regards economic and social matters affecting their interests.”<sup>5</sup>

Indeed, the International Labour Organisation (ILO) Committee on Freedom of Association (CFA) has criticized the Nigerian practice of outlawing strikes in respect of disputes of interests and has urged that the Act be amended in order to ensure that workers may have recourse without sanctions to protest strikes aimed at criticizing the government's economic and social policies that have a direct impact on workers as regards employment, social protection and standards of living, as well as in disputes of interest.<sup>6</sup> This view is restated by the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) which has also requested the amendment of the Act so as to ensure that workers enjoy the full right to strike.<sup>7</sup>

#### 4. CONCLUDING REMARKS

This article has demonstrated that Nigerian Labour Law is lagging behind internationally accepted labour standards as it fails to adhere to the well-known practice whereby a distinction is made between disputes of rights and disputes of interest, such that industrial action is permitted in respect of disputes of interests, and disputes of rights subjected to arbitration or the industrial court.

It is clear that the Obasanjo-led government interventionist policy indicated a systematic approach that was largely repressive of labour rights, and in particular pointed to the state's high-handedness as far as the right to take industrial action is concerned.<sup>8</sup> This article contends that the interventionist policy is indeed more pronounced in relation to the right to strike, and it argues for reform measures to be adopted in order to protect the legitimate aspirations of Nigerian workers.

It is submitted that the right to strike is more appropriate in respect of disputes of interests in order to reconcile conflicting economic interests between labour and management concerning the terms and conditions of work. Disputes of rights can easily be settled by arbitration or the industrial courts since the issues in dispute are already well known and documented. It is submitted that, Nigerian law must therefore be reformed to conform to this conventional practice. Indeed, as noted above, the ILO has voiced outrage at the way and manner Nigerian Labour Law restricts the right to take industrial action in respect of disputes of interests. This raises significant

<sup>1</sup>*Ibid.*

<sup>2</sup>*Federal Government of Nigeria and Another v. Adams Oshiomhole and Another* (2004) 3 NWLR 305.

<sup>3</sup>B. Aturu, “Understanding the Trade Unions (Amendment) Act, 2005,” *Independent Monitor* 8 May 2005.

<sup>4</sup>C. Provis, “Rights Disputes v. Interests Disputes: A Distinction for Australia?” (1993) *Australian Journal of Labour Law*, p. 205. See also: L. Madhuku, “The Right to Strike in Southern Africa” (1997) 136 (4) *International Labour Review*, p. 523; R. Birk, “The Law of Strikes and Lock-outs”, in R. Blanpain and C. Engels (eds.), *Comparative Labour Law and Industrial Relations in Industrialized Economies* (The Hague: Kluwer Law International, 1990), p. 281; K.W. Wedderburn, “Conflicts of ‘Rights’ and ‘Conflicts of ‘Interests’ in Labour Disputes” in B. Aaron (ed.), *Dispute Settlement Procedures in Five Western Countries* (Los Angeles: Institute of Industrial Relations, University of California, 1969), p. 65; J.W. Shaw and M.J. Walton, “Professor Niland and the Interest/Rights Dichotomy in Labour Law” (1990) *Australian Bar Review*, p. 117. J. B. Rose, “Rights Disputes Procedures in Canada and New Zealand” (1990) 15 *New Zealand Journal of Industrial Relations*, pp. 145, 146 and 152.

<sup>5</sup>*ILO: Digest of Decisions and Principles of the Freedom of Association Committee of the Governing Body*, Fifth edition (Geneva: International Labour Office, 2006), para. 537.

<sup>6</sup>*ILO: Committee on Freedom of Association*, 343rd Report, Case No. 2432 (2006) (Nigeria), para. 1029.

<sup>7</sup>ILO: CEACR, 2007, 96<sup>th</sup> Session: Individual Observation concerning Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) Nigeria.

<sup>8</sup>O.C. Okafor, “The Precarious Place of Labour Rights and Movements in Nigeria's Dual Economic and Political Transition, 1999-2005” (2007) 51 (1) *Journal of African Law*, p. 68; S. Okodudu and B.K. Girigiri, “The State and Labour Militancy in Nigeria” (1998) 3 *Pan-African Social Science Review*, p. 34. O.C. Okafor, “The Precarious Place of Labour Rights and Movements in Nigeria's Dual Economic and Political Transition, 1999-2005” (2007) 51 (1) *Journal of African Law*, p. 68.

concerns, and undoubtedly strengthens the case for changing Nigerian Labour Law. One must therefore hope that the Nigerian Legislature will quickly address this issue by a further amendment to the Trade Union (Amendment) Act 2005 in order to reverse the present situation and bring Nigerian Labour Law into conformity with the internationally accepted practice as far as the dichotomy between disputes of interests and disputes of rights is concerned.

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