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Trade Unionism in Nigeria's Electricity Sector: Workers' Rights in Post-Privatization Distribution Companies

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Uchechi Bolarinwa

Faculty of Law, Lead City University, Ibadan, Nigeria

Correspondence: Uchechi Bolarinwa, unwakaudu@gmail.com

Abstract

This article examines the institutional, legal and regulatory environment for trade unionism and workers' rights in Nigeria's electricity distribution sub-sector following the privatization of the Power Holding Company of Nigeria (PHCN) in 2013. Applying the pluralist theory of industrial relations and a doctrinal methodology, the article analyses constitutional guarantees, domestic labour statutes, sector-specific legislation – principally the Electric Power Sector Reform Act 2005 (EPSRA) and the Electricity Act 2023 – and Nigeria's obligations under International Labour Organization (ILO) Conventions Nos 87 and 98. It argues that Nigeria possesses a formally comprehensive architecture for protecting trade union rights, yet a persistent gap separates this formal entitlement from its practical enjoyment within the privatized Electricity Distribution Companies (DisCos). The unbundling of the sector has fragmented collective bargaining, entrenched casualization and third-party contracting, and left check-off remittance and the ten percent equity promised to disengaged PHCN staff largely unresolved. The classification of electricity as an essential service, applied uniformly rather than being confined to safety-critical functions, restricts industrial action well beyond the standard recommended by the ILO. While the National Industrial Court of Nigeria (NICN) has developed a progressive jurisprudence of unfair labour practice and collective agreement enforceability, the Supreme Court's decision in BPE v Dangote Cement Plc has reopened doubt that legislative reform, not judicial creativity alone, must resolve. The article recommends amendment of the Trade Unions Act and the Electricity Act 2023 to enable sectoral bargaining, a narrower essential-service classification, and clearer rules on the enforceability of collective agreements.

Keywords: Privatization, Trade Union Rights, Electricity Distribution Companies (DisCos), Collective Bargaining, Nigeria Labour Congress (NLC), National Industrial Court of Nigeria

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1. INTRODUCTION

Freedom of association and the corresponding right to collective bargaining are foundational to labour relations in democratic societies. In Nigeria, these guarantees are rooted in the Constitution of the Federal Republic of Nigeria 1999 (as amended), in domestic labour statutes, and in international labour conventions to which Nigeria is a party. Section 40 of the Constitution guarantees the right to assemble freely and to associate with other persons, including the right to form or belong to a trade union[1]. The Trade Unions Act, the Labour Act and the Trade Disputes Act give statutory flesh to this constitutional guarantee, while Nigeria's ratification of ILO Convention No 87 on Freedom of Association and Protection of the Right to Organize, and ILO Convention No 98 on the Right to Organize and Collective Bargaining, binds the Nigerian state to respect, protect and facilitate these rights in both public and privatized workplaces[2].

For decades, Nigeria's electricity sector was organized as a unionized public monopoly, first under the National Electric Power Authority (NEPA) and later under the Power Holding Company of Nigeria (PHCN)[3]. The Electric Power Sector Reform Act 2005 (EPSRA) unbundled NEPA/PHCN into eighteen successor companies – six generation companies (GenCos), eleven distribution companies (DisCos) and the Transmission Company of Nigeria (TCN) – and provided the legal framework for their eventual sale to private investors, completed in November 2013[4]. The shift from a unionized, civil-service-style public utility to privately owned, profit-driven distribution companies has posed, and continues to pose, significant difficulties for the continuity, extent and enforceability of trade union rights. Casualization, outsourcing of core functions, withholding of check-off dues, derecognition of branch unions and resistance to collective bargaining have become recurring features of post-privatization industrial relations in the DisCos[5].

Despite generous constitutional and statutory protections, Nigeria's electricity distribution companies (EDCs) continue to present substantial obstacles to the effective exercise of workers' rights. The privatization process did not adequately address what would happen to existing collective bargaining agreements (CBAs), union recognition agreements and check-off arrangements negotiated under PHCN once ownership and operational control passed to private investors. Although section 24 of the Trade Unions Act[6] obliges employers to deduct and remit union dues on receipt of a worker's written authorization, a number of DisCos have at various times since 2013 been found to withhold or delay remittance to the National Union of Electricity Employees (NUEE) and the Senior Staff Association of Electricity and Allied Companies (SSAEAC), reducing the financial resources available to unions to service their members. Outsourcing and third-party labour contracting have also placed a large proportion of DisCo employees – particularly meter readers, revenue-collection agents and technical field workers – outside the scope of union membership and collective bargaining coverage altogether, raising doubts about the consistency of this practice with the Labour Act, the Trade Unions Act and the constitutional guarantee of freedom of association.

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[1]Constitution of the Federal Republic of Nigeria 1999 (as amended), s 40; Femi Amao, 'Freedom of Association in Nigeria: A Cacophony of Contestations' (2024) 12(1-2) European Journal of Comparative Law and Governance 304.

[2]Gogo George Otuturu, 'Freedom of Association and the Right to Organize Trade Union Activities in Nigeria: An International Perspective' (2024) 15(79) Beijing Law Review; Ajayi OI, 'Legal Framework for Industrial Disputes and Collective Bargaining in Public Universities in Nigeria' (PhD thesis, University of Ibadan 2023).

[3]Arinze Okoye, 'Review of the Nigerian Power Sector' (2014) SSRN Electronic Journal <https://ssrn.com/abstract=4922023> accessed 22 June 2026.

[4]Olukayode Olalekan Aguda, 'Constitutional and Institutional Governance of Electricity Sector in Nigeria' (2023) 14(4) Journal of Energy Research and Reviews 32.

[5]Oluyemi Theophilu Adeosun and Waliu Mulero Adegbite, 'Evaluating Employee Engagement Drivers in Nigeria's Downstream Electricity Sub-Sector' (2023) 12(7) International Journal of Research in Business and Social Science 168.

[6]Trade Unions Act, Cap T14, Laws of the Federation of Nigeria 2004, s 24.

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This article critically examines the adequacy of the existing legal framework in protecting the trade union rights of workers in the post-privatization electricity distribution sub-sector, identifies the specific legal and institutional gaps that have permitted the erosion of these rights since 2013, and evaluates the effectiveness of the interventions of the Nigeria Labour Congress (NLC) and NUEE in addressing these challenges. It draws on doctrinal analysis of primary legal sources – the Constitution, the Trade Unions Act, the Labour Act, the Trade Disputes Act, the EPSRA 2005, the Electricity Act 2023 and relevant ILO Conventions – together with the jurisprudence of the National Industrial Court of Nigeria (NICN), the Court of Appeal and the Supreme Court, and a comparative discussion of relevant experience in the United Kingdom and South Africa. The article proceeds as follows. Section 2 sets out the pluralist theoretical framework. Section 3 analyses the domestic legal architecture governing trade union rights in the electricity sector. Section 4 examines the legal and institutional transformation wrought by the EPSRA 2005 and the Electricity Act 2023. Section 5 assesses the role of the NLC and NUEE in the post-privatization period. Section 6 reviews the jurisprudence of the NICN and other courts, together with comparative lessons from the United Kingdom and South Africa. Section 7 discusses the findings, and Section 8 concludes with recommendations for legal and institutional reform.

1.1 Literature and the Gap this Article Addresses

Existing scholarship on Nigeria's electricity privatization falls into two largely separate streams. The first is economic and policy-oriented, and gives only incidental attention to labour and trade union questions. Joshi found empirically that privatization improves efficiency and productivity in both competitive and monopoly sectors, though monopolies benefit less than competitive industries[7], while Chen and others, studying China's state-owned enterprise reforms, found private firms roughly 53% more productive than their state-owned counterparts on average, though the benefits took years to materialize fully[8]. Radić and others, however, caution that such outcomes are 'very much dependent on what was privatized, how it was privatized, and the regulatory regime'[9], a conditionality borne out, as section 4 below shows, by the mixed empirical record of Nigeria's own Discos.

The second stream is the general Nigerian labour and trade union literature, which gives correspondingly incidental attention to the special institutional characteristics of a privatized electricity industry. The labour-focused literature that does engage with privatization suggests a more general paradox: unions face genuine threats to their traditional modes of organizing, alongside opportunities for organizational renewal. Cai and others attribute union opposition to privatization to budget-constraint effects, in which aggregate social welfare before privatization exceeds that available afterward[10], while Coderre-LaPalme, comparing six healthcare privatizations in England and France, found that union identity and framing, not merely national context, shape how unions respond[11]. Closer to home, Fourchard's study of the National Union of Road Transport Workers found that Nigerian unions can adapt to neoliberal norms after liberalization in ways that entrench managerial power at workers' expense[12]. Few, if any, of these sources undertake a doctrinal analysis of the EPSRA 2005, the Trade Unions Act and the growing body of NICN case law bearing specifically on the Discos and GenCos. It is this gap – the doctrinal intersection of privatization law and collective labour law in a single, sector-specific study – that the present article addresses.

[7]D V Joshi, 'Privatization and its Determinants: A Significant Study of Developing Countries' (2021) 27(3) Journal of Contemporary Issues in Business and Government 1040.
[8]Y Chen, M Igami, M Sawada and M Xiao, 'Privatization and Productivity in China' (2021) 52(4) The RAND Journal of Economics 884.
[9]Mislav Radić, Davide Ravasi and Kamal Munir, 'Privatization: Implications of a Shift from State to Private Ownership' (2021) 47(6) Journal of Management 1596.
[10]M Cai, Y Lu and C C Hsu, 'Unionization Structures, Budget Constraint and Privatization' (2020) 11(4) Modern Economy 994.
[11]Genevieve Coderre-LaPalme, 'Old Habits Die Hard? The Role of Trade Union Identity and Framing Processes in Shaping Strategy' (2025) 39(2) Work, Employment and Society 380.
[12]Laurent Fourchard, 'Expanding Profit and Power: The National Union of Road Transport Workers in Nigeria' (2023) 44(1) Canadian Journal of Development Studies 97.

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This article is confined to the rights of trade unions as they relate to workers in Nigeria's eleven electricity distribution companies, with reference, where necessary, to the generation and transmission segments of the Nigerian Electricity Supply Industry (NESI). It spans the period beginning with the EPSRA 2005 through to the present, with particular focus on developments since the November 2013 privatization handover. Illustrative examples are drawn, where relevant, from the experience of specific Discos, including the Ibadan, Abuja and Eko Electricity Distribution Companies. The article's contribution is threefold: it brings a doctrinal legal lens to a subject that has mostly been examined either from an economic-policy perspective or from a general Nigerian labour law perspective without sector-specific engagement; it offers practical guidance to policymakers, including the Nigerian Electricity Regulatory Commission, the Federal Ministry of Labour and Employment and the Bureau of Public Enterprises, on reconciling private-sector efficiency with the protection of workers' fundamental rights; and it situates the Nigerian experience within a wider comparative literature on privatized utilities, offering NUEE, SSAEAC and the NLC a legally informed basis for their ongoing engagement with the Discos.

2. THEORETICAL FRAMEWORK: PLURALISM IN A PRIVATIZED UTILITY

Scholarly analysis of workers' rights in privatized utilities has drawn on several competing theoretical traditions. Unitarist theory treats the enterprise as a single team with a shared agenda, in which trade unions and industrial action are viewed as symptomatic of a breakdown in communication rather than as a legitimate expression of structurally divergent interests[13]. Marxist labour process theory, drawing on Braverman, instead reads casualization and de-unionization as the logical consequence of the transfer of labour power from public-service to profit-driven production[14]. A human rights-based approach treats freedom of association and collective bargaining as fundamental rights binding on the Nigerian state irrespective of the ownership structure of the employer, drawing on ILO Conventions Nos 87 and 98 and the International Covenant on Economic, Social and Cultural Rights. A regulatory-theory lens, associated with Ogus's account of independent economic regulation as an alternative to state ownership[15], usefully explains why industrial-relations grievances have remained largely outside the regulatory bargain administered by the Nigerian Electricity Regulatory Commission (NERC), whose statutory objects are predominantly technical and tariff-related rather than concerned with labour standards.

This article adopts pluralist theory of industrial relations, associated with the British tradition of Kahn-Freund and Flanders[16] and applied to the Nigerian context by Fajana[17], as its organizing framework, for three reasons. First, it most closely reflects the empirical reality of the post-privatization electricity sector, in which the divergent interests of private Disco shareholders and management, individual workers, and the collective institutions (NLC and NUEE) that represent them co-exist within a shared regulatory space, a configuration that the unitarist assumption of a single shared enterprise interest cannot sustain in the face of recurring strike notices and threatened industrial action. Second, pluralist theory privileges institutional and legal solutions – collective bargaining, recognition, and independent dispute resolution – that map directly onto a doctrinal legal analysis of the kind undertaken in this article, in a way that the Marxist structural critique, however powerful, does not as readily permit. Third, pluralism is consistent with, and indeed underlies, the institutional structure that Nigerian law itself has created for trade disputes: the recognition of unions under the Trade Unions Act, the machinery of collective bargaining and conciliation under the Trade Disputes Act, and the adjudicative jurisdiction conferred on the NICN by

[13]A O Alubo, 'History of Trade Unionism and Legal Framework of Industrial Relations in Nigeria' (2026) 5 PLASU Journal of Law.
[14]Bob Carter and Joseph Choonara, 'The Continuing Value of Harry Braverman's Labor and Monopoly Capital' (2022) 43(1) Historical Studies in Industrial Relations 171.
[15]Anthony Ogus, Regulation: Legal Form and Economic Theory (Hart Publishing 1994).
[16]Otto Kahn-Freund, Labour and the Law (3rd edn, Stevens & Sons 1983).
[17]Sola Fajana, Industrial Relations (Labofin & Company 1995).

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section 254C of the Constitution, all of which presuppose organized labour as a legitimate and permanent counterparty to management rather than an irritant to be regulated out of existence.

Read through this lens, the persistence of unresolved disputes over unionization, check-off remittance and outstanding entitlements in the post-privatization Discos is evidence of a pluralist system under strain: the formal legal architecture for reconciling capital and labour interests exists on paper, but is not always permitted to function as intended in practice. The analysis that follows asks, in doctrinal terms, precisely where the weaknesses in this architecture lie, and whether the jurisprudence of the NICN has been able to compensate for them.

3. THE DOMESTIC LEGAL FRAMEWORK FOR TRADE UNION RIGHTS IN THE ELECTRICITY SECTOR

3.1 Constitutional Foundation

The protection of trade union rights in Nigeria rests on the constitutional guarantees of democracy, social justice and freedom of association in the 1999 Constitution. Section 40 confers the right to assemble and associate, including the right to form or belong to a trade union, without unjustified interference by employers or public authorities[18]. Although generally non-justiciable, section 17(3) of the Constitution – part of the Fundamental Objectives and Directive Principles of State Policy – has increasingly been treated by the NICN as an interpretive guide requiring the State to secure 'appropriate work' opportunities and protection from exploitation[19]. This constitutional guarantee is not absolute: section 45 permits derogation on grounds including public safety and health, a limitation of particular significance for the essential-service classification of electricity discussed in section 3.3 below.

3.2 The Trade Unions Act

The Trade Unions Act (TUA) gives statutory effect to the constitutional guarantee of freedom of association, providing for the registration, recognition and regulation of trade unions[20]. Tracing its origins to the Trade Union Ordinance of 1938 and substantially recast by the Trade Unions Act 1973, the statute was drafted around a public-sector, single-employer model of industrial relations. Section 1 defines a trade union as a combination of workers or employers organized primarily to regulate the terms and conditions of employment, giving registered unions legal personality to own property, contract and sue. Section 2 renders unregistered unions illegal, vesting the Registrar of Trade Unions with discretion to determine whether existing unions already adequately represent a given category of workers – a discretion criticized as a potential constraint on the constitutional right to form unions. Section 25 compels employer recognition of registered unions for collective bargaining, a provision of particular significance to NUEE, which represents junior and intermediate electricity workers across the value chain. Section 17 mandates the automatic deduction of check-off dues from members' wages, underpinning the financial independence unions require to fund legal representation, collective bargaining and member welfare services.

The rights conferred on individual union members under the Act are equally significant: members are entitled to participate in union administration, to vote in union elections, to pay dues, to be represented in collective bargaining, to have union funds protected, and to participate in lawful industrial action. Section 9 of the Labour Act complements these entitlements by protecting employees against dismissal on account of their, or their family's, union affiliation, and Nigerian courts have treated dismissals motivated solely by lawful trade union activity as inherently unfair and in violation of both statutory and constitutional rights.

[18]Mpfariseni Budeli, 'Understanding the Right to Freedom of Association at the Workplace: Components and Scope' (2010) 31(1) Obiter 16.
[19]A Adegbite and O Oyedokun, 'Realizing Section 17(3) Labour Ideals of the 1999 Constitution: A Study of Achievements in Nigeria's Labor Sector Within the Constraints of Section 6(6)(c) of the 1999 Constitution' (2024).
[20]Trade Unions Act, Cap T14, Laws of the Federation of Nigeria 2004.

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These protections have taken on heightened importance in the electricity sector precisely because of the growth of contract labour, outsourcing and, on occasion, anti-union discrimination since 2013; NUEE's own research indicates that even where the formal legal protection for collective bargaining remains intact, job security and contract staffing continue to present practical difficulties for members.

The structural weakness of the TUA, as applied to the post-privatization electricity sector, lies precisely in its public-sector, single-employer design. Recognition and negotiation that were centralized under PHCN are now conducted separately across eleven Discos, six GenCos and the TCN, producing inconsistent terms of employment and diluting the bargaining and strike leverage that a single, sector-wide employer relationship once conferred. A strike confined to a single Disco no longer carries the systemic leverage that a PHCN-wide dispute once did. Outsourcing and third-party labour contracting compound this weakness by placing a growing share of the workforce – particularly meter readers and technical field staff – outside the categories of worker envisaged by the Act's collective bargaining machinery altogether. Further, the TUA vests government agencies with regulatory powers over matters that ILO Convention No 87 would treat as internal union business, and check-off remittance, although mandatory, has in practice been irregularly honoured by a number of Discos since 2013, weakening the financial independence the provision was designed to secure.

3.3 The Trade Disputes Act and the Essential-Service Classification

The Trade Disputes Act (TDA) supplies the statutory machinery for resolving trade disputes before lawful industrial action may be taken. Section 48 defines a trade dispute broadly to include disputes over recruitment, dismissal, redundancy, collective bargaining, union recognition and working conditions[21], a definition wide enough to capture the restructuring-related, outsourcing-related and casualization-related disputes that have characterized the post-privatization Discos. The Act prescribes a sequential procedure – internal negotiation, conciliation under the Minister of Labour, arbitration by the Industrial Arbitration Panel (IAP), and, ultimately, adjudication by the NICN[22] – designed to encourage negotiated settlement before strikes or lockouts occur. In practice, this sequence has been criticized as slow, capable of taking upwards of ninety days to reach the NICN[23], and as vesting excessive discretion in the Minister of Labour and Productivity, who may himself have an interest in disputes involving government-linked entities[24].

The classification of electricity as an essential service is the most consequential constraint the TDA places on industrial action in the sector. Electricity underpins water treatment, hospital life-support systems, telecommunications, financial-sector operations and airport navigational systems, and a prolonged strike carries consequences reaching well beyond the immediate parties[25]. Yet the ILO applies a narrower test, treating a service as essential only where its interruption would endanger life, personal safety or public health, and has cautioned against definitions broad enough to render an entire sector essential on the strength of its general economic importance[26]. Nigerian law applies the essential-service restriction uniformly to the entire electricity workforce, rather than confining it, as the ILO's test would require, to operational and safety-critical staff whose absence would genuinely endanger life or public safety. This blanket application restricts the right to strike of administrative, commercial and back-office

[21]Trade Disputes Act, Cap T8, Laws of the Federation of Nigeria (LFN) 2004, s 48.
[22]Trade Disputes Act 2004, ss 4, 8, 9, 13, 17, 33; O G Wosu, 'The Procedures for Settlement of Trade Disputes in Nigeria' (2022) 6(2) African Journal of Law and Human Rights 45, 46-51.
[23]O G Wosu (n above) 51, discussing the delay inherent in the Trade Disputes Act 2004 procedure.
[24]H O Okpara, 'The Use of Alternative Disputes Resolution (ADR) Mechanisms in Resolving Labour Disputes in Nigeria' (2022) 10(1) International Journal of Innovative Legal & Political Studies 85, 86-87.
[25]H N Wali, T Dutta, M Umar and U Fuad, 'A Critical Review of Nigeria's Energy Sector: Sources, Policies and Electricity Market' (2026) 14(1) Cogent Economics & Finance 2639684.
[26]T Knäbe and C R Carrión-Crespo, The Scope of Essential Services: Laws, Regulations and Practices (ILO Working Paper No 63, International Labour Organization 2019).

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electricity-sector staff well beyond what international labour standards would sanction, and has not been revisited notwithstanding the sector's transformation from a public monopoly into multiple private, profit-oriented employers.

3.4 The National Industrial Court and the Third Alteration Act 2010

The National Industrial Court was originally created under the Trade Disputes Act 1976 as a largely arbitral body dependent on ministerial referral, a design criticized for its lack of constitutional footing and for exposing its decisions to appeal to the ordinary High Courts, generating jurisdictional conflict and delay[27]. The Constitution of the Federal Republic of Nigeria (Third Alteration) Act 2010 transformed this position, inserting sections 254A to 254F into the Constitution, recognizing the NICN as a superior court of record, and conferring on it exclusive jurisdiction over labour, employment, industrial relations and trade union matters[28]. This constitutional reform resolved the jurisdictional uncertainty created by the Supreme Court's earlier decision in *National Union of Electricity Employees v Bureau of Public Enterprises*[29], a case directly concerned with the electricity sector's post-privatization industrial relations. Sections 254C(1)(f) and (h) further empower the NICN to apply ratified ILO Conventions and international best practice directly, whether or not domesticated by the National Assembly[30], a mandate the Court has used to develop a broader conception of unfair labour practice and to insist on good-faith collective bargaining consistent with ILO Convention No 98.

3.5 Strike Action, Lockouts, and Compatibility with International Labour Standards

Strike action is not itself enshrined as a constitutional right in Nigeria; it is lawful only where a genuine trade dispute exists, internal dispute resolution has been exhausted, statutory notice has been given, and the matter in dispute is an employment matter rather than a political one. Failure to meet these conditions renders a strike unlawful and exposes participating workers to disciplinary consequences, provided such discipline itself conforms to constitutionally guaranteed rights and principles of natural justice. The Trade Disputes Act imposes parallel obligations on employers through the regulation of lockouts, seeking to prevent employers from using economic leverage to frustrate collective bargaining while discouraging premature recourse to industrial action by either side.

Nigeria's ratification of ILO Conventions Nos 87 and 98 raises a further compatibility question. Neither Convention expressly guarantees a right to strike, but the ILO's supervisory bodies have long read freedom of association as encompassing a qualified right to strike, subject to restrictions that are proportionate, directed at a legitimate objective, and the least restrictive means available of protecting the public interest[31]. Measured against this standard, the Trade Disputes Act's multi-stage procedure – and, in particular, its blanket essential-service classification of electricity – has been criticized as oriented toward industrial control rather than genuine collective bargaining, with its heavy reliance on compulsory arbitration curtailing legitimate industrial action to a degree that international labour standards would not sanction[32].

[27]O D Amucheazi and P U Abba, The National Industrial Court of Nigeria: Law, Practice and Procedure (2nd edn, Kraft Books 2019) 23.
[28]Constitution of the Federal Republic of Nigeria (Third Alteration) Act 2010; Constitution of the Federal Republic of Nigeria 1999 (as amended), s 254C.
[29]National Union of Electricity Employees and 1 Or v Bureau of Public Enterprises (2010) 7 NWLR (Pt 1194) 538.
[30]Constitution of the Federal Republic of Nigeria 1999 (as amended), s 254C(2); Oyo State Government v Alhaji Bashir Apapa & Ors (2008) 11 NLLR (Pt 29) 228.
[31]Y Simutina and M Shumylo, 'International and European Protection of the Right to Strike and Its Impact on the National Law: The Case of Ukraine' (2025) 41(3-4) International Journal of Comparative Labour Law and Industrial Relations.
[32]B P Giame, U V Awhefeada and O K Edu, 'An Overview of the Right to Strike in Nigeria and Some Selected Jurisdictions' (2020) 11 Beijing Law Review 464.

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4. PRIVATIZATION, THE EPSRA 2005 AND THE ELECTRICITY ACT 2023: INSTITUTIONAL TRANSFORMATION AND ITS IMPACT ON WORKERS' RIGHTS

The EPSRA 2005 unbundled NEPA into PHCN and, subsequently, into eighteen successor companies, making specific provision under sections 1 and 8 to 22 for the transfer of assets, liabilities and staff between NEPA, PHCN and the successor entities[33]. This transfer regime preserved the continuity of individual employment and accrued benefits for existing staff, and institutions such as the Nigeria Electricity Liability Management Company (NELMCO) and the National Power Training Institute of Nigeria (NAPTIN) were created to manage residual liabilities and workforce training respectively. The EPSRA did not, however, guarantee job security, severance or pension entitlements for workers displaced by the restructuring; the reform functioned, in part, as an implicit vehicle for rationalizing what was regarded as an overstaffed PHCN workforce.

Following the completion of privatization in November 2013, the shift from a single public-sector employer to multiple private employers exposed structural deficiencies in workforce oversight, including unclear monitoring standards, pension negotiations disputed at approximately ₦88 billion, and allegations of corruption within agencies connected to the sector[34]. The Electricity Act 2023, which repealed the EPSRA, has further decentralized regulation by enabling state-level electricity markets and reallocating technical functions to bodies such as the Nigerian Electricity Management Services Agency (NEMSA) and NAPTIN's successor institutions[35], but it likewise stops short of addressing collective bargaining rights, union recognition across newly created state successor companies, or the essential-service classification inherited from the EPSRA era. Both statutes have thus prioritized continuity of electricity supply, asset transfer and technical regulation over the collective dimension of workers' rights, leaving trade union recognition, bargaining structure and strike regulation to be addressed, if at all, through the general labour law framework examined in section 3 above.

The empirical literature on the performance of the privatized Discos reinforces the sense of an incomplete reform. Studies of the Ibadan and Ikeja Discos found no significant improvement in billing, metering or supply reliability following privatization[36], while a review spanning 2015 to 2024 across all eleven Discos concluded that privatization had failed to achieve the intended objectives of robust electrification and improved customer access[37]. Evidence on workforce outcomes is similarly unsettled: some studies report improvements in resource management and equipment renewal alongside persistent voltage-stability and staffing problems[38], underscoring the conclusion of the broader comparative literature that outcomes depend heavily on the design of the regulatory framework accompanying privatization, and not on ownership transfer alone[39].

It bears emphasis that the economic case for privatization and the collective labour rights case examined in this article are not, in principle, opposed. A unitarist reading of these reforms would treat trade union organization and industrial action as an obstacle to the efficiency gains privatization was meant to unlock,

[33]Electric Power Sector Reform Act 2005, ss 1, 8-22.
[34]PwC, The Electricity Act 2023: Powering Nigeria—PwC's Annual Power & Utilities Roundtable (14th Edition), Report on Proceedings and Outcomes (PricewaterhouseCoopers Nigeria 2024).
[35]Advocaat Law Practice, Shifts in the Nigerian Power Sector under the New Electricity Act 2023 (2023); AELEX, Legal and Commercial Implications of the Electricity Act 2023 (AELEX Legal Practitioners & Arbitrators 2023).
[36]S S Idowu, J Ibietan and A Olukotun, 'Political Considerations and Performance of Ibadan and Ikeja Electricity Distribution Companies in Nigeria's Power Sector Reforms: An Empirical Interrogation' in Proceedings of the 6th International Conference on Education and Social Sciences (INTCESS 2019) (Dubai, UAE, 2019) 381.
[37]G C Offorson and E P Agbo, 'Examining Energy Supply/Access Performance: An Electricity Supply and Customer Growth Analysis of Nigerian Discos (2015-2024)' (2026) 36 Engineering Headway 23.
[38]O Esan, N I Nwulu, L O David and O Adepoju, 'An Evaluation of 2013 Privatization on Benin Electricity Distribution Technical and Workforce Performance' (2025) 19(1) International Journal of Energy Sector Management 38.
[39]Mislav Radić, Davide Ravasi and Kamal Munir, 'Privatization: Implications of a Shift from State to Private Ownership' (2021) 47(6) Journal of Management 1596.

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and some Disco managements have indeed argued along these lines in resisting union recognition and check-off remittance. The pluralist framework adopted in section 2, however, does not require choosing between commercial efficiency and collective rights: it treats union recognition, sectoral bargaining and independent adjudication as the institutional mechanisms through which the two are reconciled, rather than as obstacles that commercial efficiency must overcome. The comparative literature on the economics of privatization, discussed at the start of section 1.1 above, itself supports this reading, since outcomes are found to depend less on the fact of private ownership than on the surrounding regulatory design – precisely the point at which Nigeria's EPSRA 2005 and Electricity Act 2023 have been silent on the collective dimension of workers' rights.

5. THE ROLE OF THE NIGERIA LABOUR CONGRESS AND THE NATIONAL UNION OF ELECTRICITY EMPLOYEES

To the tens of thousands of workers who had been employed by PHCN and its predecessor NEPA, privatization represented an existential threat to job security and to the bargaining power organized labour had accumulated over decades of public-sector unionism. Some fifty to sixty percent of the PHCN workforce – over 47,000 workers – were not absorbed into the successor companies[40]. The NLC and NUEE became the central actors negotiating the terms of this transition, and the study finds that both bodies were central to negotiations that secured a severance and terminal benefits package valued at approximately ₦409.9 billion for the disengaged workers, together with an agreed ten percent equity stake in the privatized GenCos and Discos.

Survey evidence gathered from 200 NUEE members drawn from the Eko and Ikeja Discos in Lagos offers a mixed picture of union performance in the post-privatization period[41]. On awareness-raising, members expressed strong confidence in NUEE's role, with 43.5% strongly agreeing and a further 34.5% agreeing that the union had been effective in communicating workers' rights (mean 1.81, SD 0.835). Satisfaction with the outcomes of wage and welfare negotiations was markedly lower, with only 44.0% of respondents perceiving progress and 24.0% expressing dissatisfaction (mean 2.36, SD 1.107) – the least favourably rated dimension surveyed. Regression analysis found a statistically significant association between job and contract security and improved outcomes for workers' rights ($\beta = 0.392$, $p < 0.001$, explaining 63.6% of the variance in the outcome measure), and a smaller but significant association between improved working conditions and rights outcomes ($\beta = 0.220$, $p = 0.034$). Only 46.5% of respondents considered that NUEE's interventions had effectively addressed the regularization of outsourced and contract workers, pointing to the limits of union leverage over precisely the category of worker most exposed by the privatization-era shift toward casualization.

Structurally, the study finds that privatization has weakened NUEE's traditional bargaining leverage: the union must now negotiate with commercially oriented private managers across eleven separate Discos rather than with a single public-sector employer ultimately answerable to government. Internal capacity constraints, leadership accountability concerns and external political pressure continue to limit the effectiveness of both unions, and delays in the payment of the promised ten percent equity and other entitlements to disengaged PHCN staff have provoked continuing protests more than a decade after privatization[42]. The unresolved tension between the NICN's expanded jurisdiction over collective

[40]National Union of Electricity Employees, 'About NUEE' (2018) <http://nuee.org.ng/about-nuee/> accessed 4 August 2026.
[41]T A Egunjobi, 'Labour Unions and Workers' Rights: A Case Study of the National Union of Electricity Employees (Lagos Chapter)' (2024) 59(2) Romanian Journal of Economics 224.
[42]Sahara Reporters, 'NLC, Electricity Workers' Union Fire Back at Ex-PHCN Manager over Claims Ajaero Betrayed 47,000 Workers' (17 July 2026) <https://saharareporters.com/2026/07/17/nlc-electricity-workers-union-fire-back-ex-phcn-manager-over-claims-ajaero-betrayed> accessed 4 August 2026.

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agreements and the Supreme Court's decision in *BPE v Dangote Cement Plc* has compounded this uncertainty, creating a legal ambiguity that employers in the sector have periodically exploited.

5.1 The NLC's Political and Advocacy Role

The NLC's engagement with the electricity sector operates at two distinct levels: political and policy advocacy on behalf of organized labour generally, and direct intervention in sector-specific disputes through its affiliate, NUEE. Historically, the NLC has combined lobbying, public campaigning, negotiation and strike action to influence government policy on matters ranging from energy pricing to the merits of privatization itself. On occasion, the NLC has called for the reassessment or reversal of electricity privatization altogether, citing the absence of stable and affordable supply more than a decade after the 2013 handover, a position echoed by NUEE leadership pointing to the persistence of supply instability notwithstanding private ownership[43]. At the same time, NLC leadership has played a direct and pragmatic role in negotiating the severance and equity compensation examined in section 5 above, reflecting an ambiguous but coherent institutional posture: opposition to the policy merits and methods of privatization, combined with active participation in securing the best available outcome for workers once the reform became a fait accompli.

The NLC's wage advocacy also affects electricity workers indirectly through its role in national minimum wage negotiations. The Minimum Wage (Amendment) Act 2024, which raised the national minimum wage from ₦30,000 to ₦70,000, was the outcome of sustained advocacy by the NLC and the Trade Union Congress (TUC), informed by cost-of-living data and resulting in wage adjustments across public-sector grades[44]. Although not targeted specifically at the electricity sector, this reform establishes a wage floor and a precedent for further adjustment that will inform NUEE's future negotiations with the privatized Discos and GenCos, illustrating how apex-federation advocacy and sector-specific bargaining interact even where the two are not formally coordinated.

6. JUDICIAL INTERPRETATION AND COMPARATIVE LESSONS

6.1 The NICN's Progressive Jurisprudence

Exercising its constitutional mandate under section 254C(1)(f) and (h), the NICN has developed a jurisprudence markedly more protective of workers than the ordinary common law of contract. In *Dr Awkadigwe Fredrick Ikenna v Dr Olusegun Olaopa*[45], the Court held that it has a sacred duty to prevent unfair labour practices, treating dismissals motivated by anti-union animus as unlawful even where they are dressed in the language of ordinary contractual termination. The Court has moved decisively away from the older common law position under which collective agreements were binding only in honour, towards recognizing their enforceability once their terms are clear, definite and properly signed, as illustrated by *Association of Senior Staff of Banks, Insurance and Financial Institutions v Nigerian Employers Association of Banks, Insurance and Allied Institutions*[46] and *Lasisi Gbadegesin v WEMA Bank Plc*[47]. Of particular significance for former PHCN staff absorbed into the Discos, the NICN has further held that the transfer of a public enterprise to private ownership does not, without more, extinguish workers' accrued constitutional and statutory rights.

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[43]allAfrica, 'Nigeria: NLC Demands Reversal of Privatisation of Electricity Sector, Rejects Water Bill' (21 December 2022) <https://allafrica.com/stories/202212210266.html> accessed 4 August 2026.

[44]O I Ajayi, Legal Framework for Industrial Disputes and Collective Bargaining in Public Universities in Nigeria (doctoral dissertation, University of Ibadan 2023).

[45]Dr Awkadigwe Fredrick Ikenna v Dr Olusegun Olaopa & 2 Ors, unreported, Suit No NICN/EN/26/2019 (judgment delivered 27 February 2020).

[46]Association of Senior Staff of Banks, Insurance and Financial Institutions v Nigerian Employers Association of Banks, Insurance and Allied Institutions, unreported, Suit No NIC/15/1989/1990.

[47]Lasisi Gbadegesin v WEMA Bank Plc (2012) 28 NLLR (Pt 80) 274.

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This progressive trend has, however, been unsettled by the Supreme Court's decision in *BPE v Dangote Cement Plc* (2020), which reintroduced doubt as to the enforceability of collective agreements and created tension with the NICN's own jurisprudence – a tension the National Assembly has yet to resolve legislatively. Separately, the restricted right of appeal to the Supreme Court under section 243(4) of the Constitution[48] limits the correction of error in labour adjudication and leaves few electricity-sector-specific appellate authorities directly on point, in contrast to the specialized appellate structures available in comparable jurisdictions.

6.2 Landmark Decisions Shaping Electricity-Sector Industrial Relations

Beyond the specific cases already noted, a broader line of NICN authority has shaped the interpretive terrain on which electricity-sector disputes are decided. In *Mix & Bake Flour Mill Industries Ltd v National Union of Food, Beverage and Tobacco Employees*, the Court emphasized the centrality of collective bargaining and accorded trade unions a due and continuing role within industrial relations rather than treating union involvement as exceptional. In *Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN) v Schlumberger Anadrill Nigeria Ltd*, the Court firmly reinforced the protection of collective agreements against unilateral employer variation and underscored the need to guard against unfair labour practices in sectors, like electricity, characterized by technically skilled and safety-sensitive workforces. In *Aero Contractors Co of Nigeria Ltd v National Association of Aircraft Pilots and Engineers*, the Court held that employers may not simply set aside agreed employment commitments on the strength of organizational restructuring – a principle of direct relevance to the Discos' recurring recourse to restructuring as a justification for altering the terms on which absorbed PHCN staff are employed. Taken together, these decisions demonstrate a judicial willingness to interpret labour law purposively rather than narrowly contractually, even though few appellate decisions to date engage the electricity sector's post-privatization disputes directly.

This jurisprudential progress notwithstanding, the NICN continues to face structural constraints on its effectiveness: a rising caseload has produced significant delay in the resolution of disputes that are, in principle, meant to be resolved expeditiously; monetary judgments against financially distressed private employers can be difficult for workers to enforce in practice; and the growth of outsourcing, platform-style labour contracting and fixed-term arrangements presents categories of employment relationship the existing statutory framework was not designed to capture. The Electricity Act 2023's creation of a more decentralized regulatory landscape, including state-level electricity regulators, adds a further layer of jurisdictional complexity where labour disputes intersect with electricity-specific regulatory decision-making. The constitutional empowerment of the NICN represents a genuine advance on the pre-2010 position and compares favourably with specialized labour tribunals in other African jurisdictions, but the electricity sector's experience since 2013 demonstrates that judicial interpretation, however purposive, cannot on its own resolve disputes that are, at root, products of a legislative and institutional design gap rather than judicial uncertainty.

6.3 Comparative Lessons: The United Kingdom

Comparative industrial relations scholarship offers a useful, if incomplete, benchmark. Arrowsmith's study of post-privatization industrial relations in the UK rail and electricity industries found that, contrary to predictions of union decline, well-organized unions retained considerable capacity to disrupt privatized utilities, and cautioned against any general 'theory of privatization' predicting a uniform path of union weakening[49]. Hall's comparative study of the UK and Hungary, by contrast, documents a more consistent

[48]Constitution of the Federal Republic of Nigeria 1999 (as amended), s 243(4).
[49]James Arrowsmith, 'Post-Privatisation Industrial Relations in the UK Rail and Electricity Industries' (2003) 34(5) Industrial Relations Journal 393.

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pattern of job losses, casualization and eroded collective bargaining coverage following privatization, particularly where core investors treated job cuts as the principal route to efficiency gains[50]. This article treats Hall's account of rights erosion as the more instructive parallel for Nigeria's experience. The Nigerian Discos cannot, however, be equated with the UK electricity industry in every respect: the UK's largely voluntarist industrial relations system permits lawful strike action without a direct equivalent to Nigeria's statutory classification of electricity as an essential service, a distinctive constraint the comparative liberal-market-economy literature does not fully account for.

6.3 Arbitration, Conciliation and Alternative Dispute Resolution

Nigerian courts have long defined arbitration as the reference of a dispute for determination, after judicially hearing both sides, by a person other than a court of competent jurisdiction, resulting in an award final and binding on the parties[51]. The Industrial Arbitration Panel, established under section 9 of the Trade Disputes Act, applies the law in a quasi-judicial but Minister-supervised manner: its awards acquire the force of law only upon the Minister of Labour and Productivity's approval, a feature that has consistently drawn academic criticism as compromising the Panel's independence as an arbitral body. Separately, section 254(3) of the Constitution, inserted by the Third Alteration Act 2010, authorizes the NICN to establish an Alternative Dispute Resolution Centre within its own premises, and the National Industrial Court of Nigeria (ADR Centre) Rules 2015 confine that Centre's processes to mediation and conciliation, excluding arbitration; access is controlled, with matters referable to the Centre only by the parties themselves or by the presiding judge after formal proceedings have commenced, rather than through walk-in applications. For electricity-sector disputes, in which parties often have an ongoing commercial and employment relationship they wish to preserve, this ADR pathway offers a potentially faster and less adversarial route than the sequential negotiation-conciliation-arbitration-adjudication procedure prescribed by the Trade Disputes Act, though its use to date in Disco-related disputes remains comparatively limited.

6.4 Comparative Lessons: South Africa

The South African Labour Court, created under the Labour Relations Act 66 of 1995, offers a structural model of comparison frequently invoked by Nigerian courts and scholars. Its jurisdiction is confined to matters assigned to it exclusively by the Labour Relations Act – collective bargaining, strikes, lockouts and unfair dismissal – while the High Courts retain concurrent jurisdiction over ancillary matters such as breach of contract[52]. In *CUSA v Tao Ying Metal Industries and Others*[53], the Constitutional Court affirmed the jurisdiction of the Commission for Conciliation, Mediation and Arbitration to determine the validity of exemptions from a bargaining council wage agreement, illustrating a structural parallel of specialized first-instance adjudication paired with a distinct appellate jurisdiction – the Labour Appeal Court. This structural feature is precisely what Nigeria's section 243(4) constraint on Supreme Court appeals lacks, and this article's recommendation for a dedicated Labour Appeal Court, or an expansion of appealable NICN decisions, draws directly on this comparative model.

7. DISCUSSION

Read together, these findings support four propositions. First, the constitutional and statutory architecture protecting trade union rights is, on its face, comprehensive and applies to electricity sector workers without sector-specific exclusion: nothing in Nigerian law formally prevents workers in the Discos from organizing, bargaining collectively, or seeking redress for unfair labour practices. Second, this formal

[50]David Hall, 'Impact of Electricity Privatization on Industrial Relations: Lessons from the UK (and Hungary)' (Public Services International Research Unit, University of Greenwich, 2000).
[51]MISR Nigeria Ltd v Oyedele (1966) NCLR 191, 194, adopting Halsbury's Laws of England on the definition of arbitration.
[52]Labour Relations Act 66 of 1995 (South Africa), s 157.
[53]CUSA v Tao Ying Metal Industries and Others, CCT 40/07 [2008] ZACC 15, paras 7-27 (Constitutional Court of South Africa).

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entitlement has not translated into effective protection, because the Trade Unions Act's public-sector, single-employer design has not been adapted to a fragmented sector characterized by eleven Discos, six GenCos and extensive third-party contracting, and because the essential-service classification of electricity is applied indiscriminately rather than being confined to safety-critical functions as ILO standards require.

Third, the sector-specific legislation that restructured the industry – the EPSRA 2005 and its successor, the Electricity Act 2023 – was designed principally to secure continuity of supply, asset transfer and technical regulation, and neither statute meaningfully addressed the collective dimension of workers' rights. This has left trade union recognition, sector-wide bargaining coordination and strike regulation to be governed, imperfectly, by a general labour law framework not designed with a fragmented, privatized utility in mind. Fourth, the resulting vacuum has been filled only partially by the advocacy of the NLC and NUEE – whose negotiated severance and equity packages represent genuine, if incompletely realized, achievements – and by the progressive jurisprudence of the NICN, which has extended the concept of unfair labour practice and affirmed the enforceability of properly concluded collective agreements, subject to the uncertainty reintroduced by *BPE v Dangote Cement Plc*. Consistent with the pluralist framework adopted in section 2, the institutional structures for reconciling capital and labour interests exist on paper but are not always permitted to function as intended in the privatized electricity sector; judicial creativity, while valuable, cannot substitute for the legislative reform needed to reconcile the commercial logic of privatization with the protection of workers' trade union rights.

A methodological caveat is warranted. The doctrinal analysis in sections 3, 4 and 6 draws on primary legal materials – the Constitution, statutes and reported and unreported NICN, Court of Appeal and Supreme Court decisions – supplemented by secondary academic and policy literature. The empirical survey evidence discussed in section 5, drawn from a single study of 200 NUEE members in two Lagos-based Discos, is illustrative of member perception rather than representative of the eleven-Disco sector as a whole, and should be read as corroborating, rather than independently establishing, the doctrinal findings on bargaining fragmentation and casualization. Future empirical work extending such surveys across all eleven Discos, and across both unions represented in the sector, would strengthen the evidentiary basis for the reforms recommended below.

8. CONCLUSION AND RECOMMENDATIONS

This article set out to examine critically the adequacy of the legal framework protecting the trade union rights of workers in Nigeria's post-privatization electricity distribution sub-sector. It finds that Nigeria possesses a formally comprehensive legal architecture – constitutional guarantees, the Trade Unions Act, the Labour Act, the Trade Disputes Act, and a specialized National Industrial Court empowered to apply international labour standards directly – but that a persistent and, in places, widening gap separates this formal entitlement from its practical enjoyment. Casualization and outsourcing continue to erode union density and bargaining coverage; check-off dues remain irregularly remitted; entitlements owed to disengaged PHCN staff remain outstanding more than a decade after privatization; and the Supreme Court's decision in *BPE v Dangote Cement Plc* has reopened doubt over the enforceability of collective agreements that the Third Alteration Act 2010 was thought to have settled.

Arising from these findings, the article makes the following recommendations. First, the Trade Unions Act should be amended, or sector-specific provisions inserted into the Electricity Act, to enable collective bargaining across multiple successor employers, including a mechanism for sectoral or industry-wide bargaining among Discos, GenCos and their recognized unions. Second, the essential-service classification of electricity should be reviewed and narrowed in line with ILO standards, confining restrictions on strike action to operational and safety-critical staff. Third, the National Assembly should legislate to resolve the

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conflict between the NICN's jurisdiction over collective agreements under the Third Alteration Act 2010 and the Supreme Court's position in *BPE v Dangote Cement Plc*, placing the enforceability of properly concluded collective agreements beyond doubt. Fourth, the Federal Ministry of Labour and Employment should strengthen enforcement of the statutory obligation to deduct and remit check-off dues, including specific penalties for Discos found in default. Fifth, NERC's enabling legislation should be amended to include an industrial-relations monitoring function, bringing labour standards within the sector's regulatory bargain rather than leaving them entirely to general labour law. Sixth, the Bureau of Public Enterprises and the relevant Discos should establish a clear timeline and dedicated mechanism for settling the outstanding ten percent equity allocation and other entitlements still owed to disengaged PHCN staff. Seventh, a statutory limit should be placed on the time allowed for internal negotiation, conciliation and referral to the Industrial Arbitration Panel, curtailing the discretionary referral power of the Minister of Labour and Productivity. Finally, drawing on the South African model of specialized labour appellate jurisdiction, consideration should be given to establishing a dedicated Labour Appeal Court, or to expanding the categories of NICN decisions appealable to the Supreme Court under section 243(4) of the Constitution.

None of these reforms requires abandoning the commercial logic of privatization. They require only that the collective dimension of workers' rights – recognition, bargaining and the right to withdraw labour within a properly calibrated essential-service standard – be brought as deliberately within the sector's regulatory design as its technical and commercial dimensions already are.

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