

An Appraisal of The Jurisdiction of The National Industrial Court under The 1999 Constitution (Third Alteration) Amendment Act, 2010

¹DANUNG, M. Y., ²GILBERT, J. J.

Abstract

This paper examines the jurisdiction of the National Industrial Court of Nigeria under the 1999 Constitution (Third Alteration) Amendment Act, 2010. This paper, in particular, considered the history of the National Industrial Court of Nigeria and also critically examined the jurisdiction of the Court as provided in Section 7 of the National Industrial Court Act. The authors observed, amongst others, that the aforesaid section seems to have conferred both original and appellate jurisdiction on the Court. Thus, appeals against its decisions are limited to,

and must be based on grounds of fundamental rights. The authors view is that it is a negation of the doctrine of hierarchy of courts in Nigeria to confer on the court such powers. Therefore, they recommended, amongst others, that the substance of the court's decisions be made appealable and appeals emanating there from should either go to a special court to be established and known as National Industrial Court of Appeal or, in the alternative, to the Court of Appeal and from there, to the Supreme Court.

Introduction

The Industrial Revolution brought to the fore the rights of a certain class of a population known as the 'work force'. With it came the need for organizations or trade unions to help advance the interest of this group. Therefore, with the formation of these organizations or trade unions into what is to be known as the "Labour Unions" came the realization of their inherent powers to, *inter alia*, demand for better terms or conditions of service. Skilled workers were hard to replace, and these were the first groups to successfully advance their needs through this kind of bargaining. Prominent among the methods employed by these unions was strike or industrial action, in which the unions would withdraw all its labour, thereby causing a cessation of production. As a push back on their part, the state enacted certain legislations forbidding workers to form any kinds of trade union. This led to a halt in the economic growth of the state,

making evident the need to resolve such labour related dispute expeditiously. It therefore, became incumbent on government to create specialized courts to handle such matters as a way of swiftly dispensing with them and providing the technical depth required by the abstruse and arcane nature of labour-related matters.

In Nigeria, the excessive burden placed on the superior courts of law and the reliance on the arcane and strict legal procedures by these courts leading to technical justice have resulted in the slow process of dispensing justice, with its concomitant effect on the work force, contributing to the stifling of the economic life of Nigerians.

As in other jurisdictions, the need to accelerate the process of attaining justice is therefore, the rationale behind the establishment of specialized courts for the resolution of disputes in delicate areas, where the access to justice ought not to be caught up in the bottlenecks of technicalities. Amongst the various crucial areas where the need for prompt dispensation of justice arises, is in the puissant field of industrial labour relations, where a dispute can have a resonating effect on the whole economy and degenerate into other micro paroxysms of conflict. Therefore, while conflict is inevitable in labour relations, what is important is how it is managed. This idea led to the birth of the

¹Trust White House, 34 West of Mines, Jos, Plateau State.

²Trust White House, 34, West of Mines, Jos, Plateau State.

Corresponding Author

DANUNG, M. Y.

E-mail: danungmark@yahoo.com

National Industrial Court of the Nigeria (NICN) as a specialized court for the handling of labour disputes with a unique procedure of ensuring that such disputes are expeditiously dealt with and the interests of workers are safeguarded within the workplace.

History of The National Industrial Court of Nigeria (NICN)

The history of the National Industrial Court can be traced as far back as 1976. For the first twenty five years, the National Industrial Court (NIC) remained practically moribund, with the court sitting only in Lagos State for those years. It was largely unknown and its decisions and pronouncements were hardly respected. This was largely due to the legal and constitutional bottlenecks that hampered its effective performance and rendering it still born.

The National Industrial Court of Nigeria, as we know it today, emerged out of a checkered history with many tortuous paths in its journey to resolve industrial related disputes. Historically, the National Industrial Court of Nigeria (NICN) was established in 1976 pursuant to the Trade Dispute Decree No. 7 of 1976. However, in order to adequately capture the legal historical journey of the National Industrial Court, the historical antecedent of the court would be viewed from the three hallmark periods of the National Industrial Court namely: the Pre-1976 period; the 1976 period and the Post 1976 period.

i. Pre-1976 Period

Before the promulgation of the Trade Dispute Decree No. 7 of 1976, industrial related laws and practice were modeled on the non-interventionist and Voluntary model of the British system. This system gave birth to the statutory mechanism for the settlement of trade disputes founded on the Trade Disputes (Arbitration and Enquiry) Act.

ii. Non-Interventionist and Voluntary Model

The Non-interventionist and Voluntary model based on the Trade Disputes (Arbitration and Enquiry) Act was a system of dispute resolution that gave power to the Minister of Labour to intervene by way of conciliation, formal inquiry and arbitration where negotiation had

broken down. This system was at the discretion of the parties to determine whether or not they would surrender to the jurisdiction of the minister. Therefore, the minister could not compel parties to accept his intervention, hence the term 'voluntary model'. What the Minister could do was to only appoint a conciliator upon the application of parties and could only set up an Arbitral Tribunal by the consent of both parties. Under this system, there was no permanent institution created to handle and settle labour disputes. An *ad hoc* body had to be set up for a particular dispute and once it delivered its decision it became *functus officio*.

iii. Compulsory Intervention Model

The declaration of hostilities between Nigeria and Biafra in 1968 marked a turning point in the Nigerian approach to the settlement of trade disputes. It became expedient during the state of emergency that followed, to make transitional provisions for the settlement of trade disputes arising within the period. In furtherance to resolving these trade disputes, the Trade Disputes (Emergency Provision) Act No. 21 of 1968 was enacted and it suspended the Trade Dispute (Arbitration and Inquiry) Act.

Under this model, the Minister was given the power of compulsory intervention in trade disputes while still retaining the additional powers of conciliation, formal inquiry and arbitration. Thus, the requirement of consent of the parties before the Minister could act was suspended. The 1968 Act also stipulated the time frame within which the Minister was to act, starting from the time that the employees became aware of the existence of a dispute to the time the minister was notified.

The interventionist model had a significant impact on the structure of the National Industrial Court of Nigeria (NICN) that was later established in 1976, such that the court was largely subjected to the discretion of the minister.

iv. 1976 Period

Historically, the National Industrial Court was established pursuant to the Trade Dispute

Decree No. 7 of 1976. Upon the coming into force of the Constitution of the Federal Republic of Nigeria in 1979, the Trade Disputes Decree of 1979, being an existing law under Section 274 of the 1979 Constitution was deemed an Act of the National Assembly and thus metamorphosed into the Trade Disputes Act. However, the 1979 Constitution did not recognize the National Industrial Court as a court as it was omitted from the list of courts established for the Federation and States.

Pursuant therefore, to the Trade Disputes Act of 1976, membership of the court comprised of the President of the court and four other members. Also worthy of note, is that the National Industrial Court did not have any exclusive jurisdiction by the provisions of Section 21 of the Trade Disputes Act of 1976; the jurisdiction of the court was circumscribed to matters of trade disputes or interpretation of awards under the act. This position was crystalized by the Court of Appeal in *Kalango v. Dokubo*, when it declared that the jurisdiction of the National Industrial Court could only be invoked in matters meeting the strict definition of "trade disputes" as defined by the Trade Disputes Act. This position was further stamped by the Supreme Court in *Oloruntoba v. Dopamu*.

Subsequently, the Trade Dispute Act, 1976 was amended and became the Trade Dispute (Amendment) Act, 1976. As a product of an interventionist mechanism in industrial and trade disputes, the National Industrial Court was structured in a dispute regimented regime under the firm control of the Minister of Labour. Thus, the National Industrial Court at inception was dogged with a lot of problems mainly traceable to the enabling Act, and these problems impacted negatively on the ability of the court to effectively function.

v. Post 1976 Period

In correcting the shortcomings of the enabling Act, the National Industrial Court Act 2006 (NICA) came into force on the 14th June, 2006. The Act launched the court as a Superior Court of Record. One key innovation of the National Industrial Court Act, 2006 was the removal of

the National Industrial Court from the Trade Disputes Act and the creation of a separate enabling law. A direct offshoot from this is that the appointment of the President and other judges of the court were normalized and made in line with the appointment of other superior court justices. The long line of cases that fettered the power of the National Industrial Court of Nigeria became bad laws by virtue of Section 53 and 54(4) of the National Industrial Court Act, 2006.

vi. The New Era

A new era for the National Industrial Court began on the 4th March, 2011, when the President of the Federal Republic of Nigeria assented to the Constitution of the Federal Republic of Nigeria (Third Alteration) Act, 2010, thus amending the 1999 Constitution to include the National Industrial Court in the relevant sections. The coming into force of this constitutional amendment provided a panacea for the impediments that had be deviled the NICN for over three decades.

Section 254 C(1) of the Constitution of the Federal Republic of Nigeria (1999) as amended, vests on the National Industrial Court an all-encompassing jurisdiction to cover all aspects of labour, industrial and employment disputes, including child labour, human trafficking, free Trade Zones and national minimum wage for the federation or any part thereof.

Jurisdiction of The National Industrial Court

Jurisdiction is the bedrock of every judicial proceeding; it is that which bestows authority on the courts to adjudicate over parties before it. According to the *Black's Law Dictionary*, jurisdiction is defined as "government general power to exercise authority over all persons and things within its territory." However, within the context of judicial proceedings, jurisdiction has been defined to mean "a court's power to decide a case or issue a decree". It therefore means that before a court of law entertains any matter brought before it for adjudication, it must ensure that it possesses the jurisdiction to sit over the matter, failing which the proceedings, no matter how well conducted,

amounts to annulity.

Procedurally, jurisdiction of a court does not exist in a vacuum; it is the product of the constitution or other specific statutes. As has been exposited earlier, the jurisdiction of the NICN has been a product of several enactments. However, with the enactment of the National Industrial Court Act, 2006, and the subsequent amendment of the Constitution of, the National Industrial Court has exclusive jurisdiction to adjudicate over civil causes and matters relating to labour, industrial trade union and industrial relations, including child labour, human trafficking, etc. These provisions, in the most inordinate and over-bloated manner, were reinforced and strengthened by Section 254C(1) of the Constitution (Third Alteration) Amendment Act, 2010.

It should be noted that the provisions of Section 254C (1) of the Constitution (Third Alteration) Amendment Act, 2010 are that the present jurisdiction of the National Industrial Court of Nigeria are exclusive to it and cannot be shared with any other court. It should be noted that the provisions of Section 254 C (1) of the Constitution (Third Alteration) Amendment Act, 2010 is an improvement on the jurisdiction of the National Industrial Court as contained in Section 7 of the National Industrial Court Act, 2006. Hence, focus is placed on Section 254 C (1) of the Constitution (Third Alteration) Amendment Act, 2010, being the *Grundnorm*. For purposes of emphasis, Section 254 C (1) of the Constitution (Third Alteration) Act, 2010, which conferred jurisdiction on NICN provides as follow:

Notwithstanding the provisions of Sections 251, 257, 272 and anything contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the National industrial Court (shall have and exercise jurisdiction to the exclusion of any other court) in civil causes and matters -

(a) Relating to or connected with any labour, employment, trade unions industrial relations and matters arising from workplace, the conditions of service, including health, safety, welfare of labour, employee, worker and matter incidental

thereto or connected therewith;

- (b) Relating to, connected with or arising from Factories Act, Trade Disputes Act, Trade Unions Act, Workmen's Compensations Act or any other Act or law relating to labour, employment, industrial relations, workplace or other enactment replacing the Acts or Laws;
- (c) Relating to or connected with the grant of any order restraining person or body from taking part in any strike, lockout or any industrial action, or any conduct in contemplation or in furtherance of a strike lock-out or any industrial action and matter connected therewith or related thereto;
- (d) Relating to or connected with any dispute over the interpretation and application of the provisions of Chapter IV of this Constitution as it relates to any employment, labour, industrial relations, trade unionism, employers association or any other matter which the court has jurisdiction to hear and determine;
- (e) Relating to or connected with any dispute arising from national minimum wage for the Federation or any part thereof and matters connected therewith or arising there from;
- (f) Relating to or connected with unfair labour practice or international best practices in labour, employment and industrial relation matters;
- (g) Relating to or connected with any dispute arising from discrimination or sexual harassment at the workplace;
- (h) Relating to, connected with or pertaining to the application or interpretation of international labour standards;
- (i) Connected with or related to child labour, child abuse, human trafficking or any matter connected therewith or related

thereto;

(j) Relating to the determination of any question as to the interpretation and application of

i. Collective agreement;

ii. award or order made by an arbitral tribunal in respect of a trade dispute or a trade union dispute;

iii. award or judgment of the court;

iv. terms of settlement of any trade dispute;

v. trade union dispute or employment dispute as may be recorded in a memorandum of settlement;

vi. trade union constitution, the constitution of an association of employers or any association relating to employment, labour, industrial relations or workplace

vii. dispute relating to or connected with any personal matter arising from any free trade zone in the Federation or any part thereof;

(k) relating to or connected with trade disputes arising from payment or non payment of salaries, wages, pensions, gratuities, allowances, benefits and any other entitlement of any employee, worker, political or public office holder, judicial officer or any civil or public servant in any part of the Federation and matters incidental thereto;

l) relating to

i. Appeals from the decisions of the Registrar of Trade Union, or matters relating thereto or connected therewith;

ii. Appeals from the decisions or recommenda-

tions of any administrative body or commission of enquiry, arising from or connected with employment labour, trade unions or industrial relations; and

iii. Such other jurisdiction, civil or criminal and whether to the exclusion of any other court or not, as may be conferred upon it by an Act of the National Assembly; (m) relating or connected with the registration of collective agreements.

By the above provision of the Constitution and the National Industrial Court Act, the National Industrial Court is conferred with both original and appellate jurisdiction as far as labour and industrial disputes and other ancillary matters related thereto are concerned.

However, as has been pointed out by authors and legal scholars alike, the National Assembly made a mistake by lumping together the civil and criminal jurisdiction of the National Industrial Court without any clear demarcation. While the opening paragraph to Section 254C (1) gives the impression that the National Industrial Court has only civil jurisdiction in matters listed there under particularly paragraphs (a), (b), (c), (d), (e), (f), (h), (j), (k), (l) and (m) to the exclusion of any other court, paragraphs (g) and (i) of the same section would seem to also vest criminal jurisdiction on the National Industrial Court.

The Need to Review Section 7 of The National Industrial Court Act

Having critically examined the establishment, history and jurisdiction of the National Industrial Court of Nigeria, it is apposite to critique the jurisdiction of the court, as it is the opinion of the authors that the same is riddled with a fuselage of inconsistencies.

First, it need not be said that a party can only appeal as of right against the decision of the court only on matters that appertain to fundamental rights. The proviso to the section dealing with appeals from the decision of the National Industrial Court of Nigeria to the Court of Appeal provides that an appeal shall lie, with leave, from the decision of the National Industrial Court of Nigeria to the

Court of Appeal where an Act or a Law prescribes so. There is, however, no Law or Act that has given such a prescription. Therefore, it is very obvious that other than on grounds of fundamental rights, a judgment of the National Industrial Court of Nigeria cannot be appealed against.

It is important to state that this provision has caused untold hardship on parties who, dissatisfied with the decision of the National Industrial Court, intend to challenge the same on appeal. The parties are, in a nutshell, limited, in the formulation of their grounds of appeal, to only fundamental rights and, particularly, fair hearing provisions contained therein.

Second, Section 7 of the Act gives the Court the jurisdiction to sit over and interpret its own judgment. This means that the National Industrial Court of Nigeria can, in a case heard by it and in respect of which it had delivered judgment, sit over and interpret the judgment as though it is an appellate court. It is worthy to note that no court can sit on appeal over its own judgment. A court of law that hears a case as a court of first instance and delivers judgment in respect thereof becomes *functus officio* thereafter. The only option available to a party who is dissatisfied is to file an appeal against the judgment. The Supreme Court in *Citec Int'l Estates Ltd. v Francis* held that "It is settled law that once a court of law delivers its judgment or makes an order in respect of a matter before it, it becomes *functus officio* and is precluded from hearing or taking further steps in the matter..

The above decisions are as clear as crystal with regard to this settled position of the law. Similarly, instances abound where a ruling or judgment given by a court of law can be set aside by the same court. The court enumerated such instances in the case of *Elias & Anor v. Eco Bank (Nig.) Plc.* when it held:

...the law also says that courts of record have the inherent jurisdiction to set aside their decisions in appropriate cases when:

- a. The judgment is obtained by fraud or deceit;
- b. The judgment is a nullity;
- c. It is obvious that the court was misled into giving judgment under a mistaken belief that the parties consented to it;
- d. The judgment was given in the absence of

jurisdiction;

- e. The proceedings adopted was such as to deprive the decision or judgment of the character of a legitimate adjudication; or
- f. Where there is fundamental irregularity.

The circumstances outlined above are the only instances where a court of law can set aside its own ruling or judgment.

The National Industrial Court is given power, under the Third Alteration Act, to interpret its own decisions as though it is sitting on appeal over the same. This is not only bizarre but also totally unknown to our legal jurisprudence. Even the Supreme Court becomes *functus officio* once it delivers a judgment in a matter. The Supreme Court, being the apex court in Nigeria, can only deviate from its earlier decision in a subsequent case with similar facts and circumstances. It is the authors' view that by giving the National Industrial Court of Nigeria powers to sit over its judgment and interpret or review the same, the Court's power is not only akin to that of the apex court, the Supreme Court, but also beyond it.

Third, by limiting appeals to fundamental rights, it means clearly that one cannot appeal even with regard to issues of jurisdiction. However, it is not supposed to be so. The issue of jurisdiction is key to every court that is why it can be raised at any time before any court, even for the first time before the Supreme Court. The Supreme Court in *Daggash v Bulama* held:

To be borne in mind, is that issue or question of *locus standi*, relates to or deals with jurisdiction and competence of the court entertain and determine the action or petition. So, issue of jurisdiction can be raised at any stage of the proceedings and whenever raised, it is to be decided when the point or issue is raised

The above was equally what the court held in *Alao v Osinowo*. It is most preposterous that a party cannot appeal against the decision of the National Industrial Court on grounds of jurisdiction. This clearly means that even if the Court assumes jurisdiction over a land matter hears the case and delivers judgment, a party who is dissatisfied

cannot appeal against the decision on the grounds that the court lacks jurisdiction to entertain the matter.

The fundamentality of the issue of jurisdiction has been stated in a long line of judicial authorities. No matter how well conducted the proceedings of a court of law are, they remain a nullity, if it is discovered on appeal that the court has no power *ab initio* to hear and entertain the matter. The Supreme Court in *A. G., Kwara State v Adeyemo* held:

Jurisdiction is the authority given to the Court by the constitution or the legislature to decide matters that come before it. Jurisdiction is a threshold issue. Issue of jurisdiction once raised, must be resolved quickly. It is so fundamental that if a court hears a case which has no jurisdiction to hear, no matter how the case was conducted and decided, the proceeding and its judgment would be declared a nullity.

Going by the position of the National Industrial Court Act, a person cannot appeal the decision of the court on grounds of jurisdiction. What this simply means is that an appeal cannot lie against the decision of the National Industrial Court of Nigeria to the Court of Appeal respecting jurisdiction of the National Industrial Court to hear and entertain a matter. For instance, the National Industrial Court may decide to entertain a divorce case or an election petition, if it does so, whatever it decides becomes final. The authors' opinion is that Section 7 makes the National Industrial Court a Supreme Court in itself in some way. That is why the practice in the National Industrial Court is that hardly can a preliminary objection succeed in the court, as they already know that when it is dismissed, a party cannot appeal against it.

Fourth, it is clear that the right of appeal from the decision of the National Industrial Court on labour matters has been taken away completely. Aperua-Yusuf, Momodu and Ishola, quoting Marshal stated "the removal of the right to appeal from the decision of the NIC on labour matters substantially takes Nigeria back to the legal systems of continental Europe where defendants were not provided with an effective means of challenging their conviction." An appeal can only lie against its

decision on grounds of fair hearing. Although the intendment of the legislature in making the decision of the NICN not appealable is to forestall unnecessary elongation of employment and labour matters, this intendment should not be to the detriment of the known and long-settled principle of hierarchy of courts in Nigeria. Appeal against the decision of a court is principally aimed at correcting errors and providing justice. However, a decision of a court of first instance such as the National Industrial Court cannot be appealed against, it simply means that the Court is a Supreme Court. This is totally unacceptable and not tenable!

Decision of the Supreme Court

While this work was being concluded, the Supreme Court of Nigeria delivered a landmark ruling on a case of *Skye Bank plc v Victor AnaememIwu*. The decision of the Supreme Court opened the gates for appeals from the decisions of the National Industrial Court of Nigeria to the Court of Appeal and that the latter has the jurisdiction to hear and determine all civil appeals arising from the former, either as of right, or with leave. Finally that this jurisdiction is not limited only to fundamental rights matters. The facts of the case are briefly stated hereunder. The respondent instituted an action against the now defunct Afribank Nigeria Plc, at the National Industrial Court of Nigeria (NICN). He claimed that his employment had been wrongfully terminated by the appellant and, thus, sought unpaid accrued salaries and other benefits, allegedly due to him in the course of his employment. Main Street Bank Ltd, the successor-in-title of Afribank, filed a Notice of Preliminary Objection, challenging the jurisdiction of the Court to entertain the suit. After hearing arguments on the said Preliminary Objection, the trial court dismissed it, and ruled that it had the jurisdiction to hear and determine the matter.

Aggrieved by the ruling, the Appellant appealed to the Court of Appeal. Thereafter, it filed an application to the Court of Appeal seeking to amend its Notice of Appeal. However, the Respondent raised an objection to the Applicant's application to amend the Notice of Appeal, challenging the jurisdiction of the Court of Appeal to entertain the appeal. While ruling on the said application that was pending at the Court of

Appeal, the Appellant filed an application praying the Appellate Court to State a Case before the Supreme Court for its opinion on the constitutional issue as regards the scope of the jurisdiction of the Court of Appeal in appeals emanating from the National Industrial Court. This is to guide the Court of Appeal in determining the appeal before it.

Question Stated for Determination

The application was granted and the three questions were stated for consideration by the Supreme Court. The Supreme Court however adopted the question below:

Whether the Court of Appeal as an Appellate court created by the Constitution of the Federal Republic of Nigeria 1999 (as amended) has the jurisdiction to the exclusion of any other court of law in Nigeria to hear and determine all appeals arising from the decisions of the National Industrial Court?

Opinion of the Court on the Case Stated:

The Supreme Court held:

That it is clear that the NICN is of co-ordinate jurisdiction with the High Court of a State or High Court of the FCT and by the alteration made by the Third Alteration Act, the appellate jurisdiction of the Court of Appeal had been expanded subject to the provisions of the Constitution, to include appeals emanating from the NIC.

The Supreme Court further held:

A purposive interpretation which is consistent with the long title is that Sections 243 (2) and (3) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) Third Alteration Act, cannot by any stretch of interpretative logic supplant Sections 240 and 243 (4) of the Constitution of the Federal Republic of Nigeria (1999) as amended. The purpose of enacting the Third Alteration Act was to elevate the NIC to the status of a Superior Court, ranking in judicial hierarchy with the High Courts and the draftsman did not therefore, intend that the NICN upon its elevation, would at the same time navigate out of the circumambient appellate constitutional jurisdiction of the Court of Appeal. The legislature could not have intended that section 243 (2) (3) could

validly curtail or circumscribe the right of appeal in respect of decisions of the NICN, expressly consecrated by Section 240 and 243(4), because to do so would mean that its intendment was to render the latter provisions redundant and ineffectual.

On the whole, the Supreme Court, by its majority decision, held that the Court of Appeal has the jurisdiction to hear and determine all civil appeals arising from the decision of the National Industrial Court, either as of right, or with leave, and this jurisdiction is not limited, only to fundamental rights matters. The Supreme Court therefore, ordered that its opinion on the case stated before it, should be transmitted to the Court of Appeal for its guidance in determining the appeal before it.

Conclusion

This work has, no doubt, addressed a number of issues concerning the National Industrial Court of Nigeria. In particular, it has discussed the establishment, history and development of the National Industrial Court of Nigeria and the jurisdiction of the court. It has also undertaken a critique of the court's jurisdiction and suggested ways through which some of the 'wide and unnecessary' powers of the court can be watered down. Of all the recommendations raised below, the most important in the humblest view of the authors is the amendment of Section 7 of the Third Alteration Act, which is part and parcel of the Constitution itself.

Recommendations

Having in mind the decision of the Supreme Court in the case of *Skye Bank plc v. Victor AnaememIwu* and having critically examined the relevant provisions of the Constitution (Third Alteration Act), 2010, it is important to recommend ways through which the National Industrial Court of Nigeria can be better improved for the purpose of justice delivery.

First, it is recommended that the National Assembly should revisit the Constitution (Third Alteration) Act, 2010, particularly, Section 243 (3). This section clearly makes decisions from the National Industrial Court in civil matters final. The section, we opine, should be expunged from the Constitution, as the same has made nonsense of the doctrine of hierarchy of courts, which is well

cherished in our legal jurisprudence.

Second, we recommend in the alternative that the National Assembly can enact a law to create the National Industrial Court of Appeal (NICA), which will be saddled with the responsibility of entertaining appeals emanating from the National Industrial Court. This recommendation is likened to the recommendation made by one of the authors herein earlier where he recommended that an international court be established in order to try international terrorism. In the alternative, the substance of the decision of the National Industrial Court of Nigeria should be made appealable and appeals emanating there from should go not just to the Court of Appeal but the Supreme Court.

Third, the authors recommend that the decision of the National Industrial Court should be appealed against to the Court of Appeal and even to the Supreme Court. The law is settled that the right of appeal is a constitutional right that inures to a litigant. It is also settled that no court in Nigeria is a Court of final instance, except the Supreme Court in its special original jurisdiction in disputes involving Federal v State or State v State or National Assembly v State House of Assembly, etc.

Finally, Section 7 of the Act establishing the National Industrial Court needs to be reviewed. In particular, subsection 1(C) that states the power to interpret its own judgment. This provision is most bizarre to well-established principles of fair hearing embedded in our constitution and trite principle established by our courts that once a court of law has delivered judgment in respect of a case, the court becomes *functus officio*. The only option available to an aggrieved party is to appeal against the judgment.

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