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## A Critical Examination of the Constitutionality of the Immunity of Trade Unions Against Tortious Liability Under the Nigerian Law

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**ABSTRACT:** *It is common place for trade unions to embark on industrial actions, work to rule, picketing and other forms of protests during union agitations, thereby infringing on the rights of members of the public and co-employees which inevitably give rise to perceived tortious acts. The central aim of this research is to examine whether the prevailing legal provisions adequately safeguard trade unions from civil prosecutions and delineate the nature of tortious acts that can lead to liability under the Nigerian Trade Unions Act as well as appraise the constitutionality of any protection thereof. This paper uses the doctrinal legal research methodology to examine existing statutory provisions; research literatures, and case law; to mention just a few to review the divide between the legal regulations governing trade unions in Nigeria which provide immunities for trade union activities and to assess the constitutionality and fairness of the immunities. The findings revealed that the protection granted to trade unions under Sections 24(1) and (2); 43 and 44 (1) & (2) of the Nigerian Trade Unions Act is not absolute as acts conducted outside the contemplation of these sections can result in civil liabilities for trade unionists. The said civil liabilities may take the form of damages awarded to the aggrieved party or an injunction to restrain certain actions. At the end of the work, recommendations were made that the existing legal framework should be expanded to balance the interest of trade unions and third parties in consistent and plausible manners; to incorporate alternative dispute resolution mechanism as a means of balancing any tortious liability that may ensue; among other recommendations.*

**KEYWORDS:** tortious liability, trade unions, immunity, trade disputes.

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### INTRODUCTION

In labour relations, trade unions play essential role in safeguarding the rights and interests of

workers. They act as representatives of both workers and employers to regulate the terms and conditions of employment of their members. Their role in advocating for better working conditions, fair wages, and equitable treatment is tremendous and cannot be over emphasized.

In Nigeria, where there is a large number of industries and diverse workforce, trade union is a powerful and influential means for employees to collectively advocate for their rights. However, this collective strength can sometimes lead to actions that inadvertently result in legal liabilities, making it crucial to understand the scope of the immunity of trade unions in the face of such liabilities.

Statutorily, trade union is defined as "any combination of workers or employers, either temporary or permanent, the purpose of which is to regulate the terms and conditions of employment of workers, whether the combination in question would or would not, apart from this Act, be an unlawful combination by reason of any of its purposes being in restraint of trade, and whether its purposes do or do not include the provision of benefits for its members."<sup>1</sup>

This definition has two critical criteria for determining whether an association qualifies as a trade union: the composition of the combination and its primary purpose. The composition of a trade union is not restricted to workers alone; it encompasses both workers and employers. This dispels the popular but erroneous notion that trade unions are exclusive to workers. However, it is crucial to note that workers and employers cannot unite within a single trade union except with the approval of the Minister of Trade on his being satisfied that it is expedient to register the union either by regrouping existing trade unions, registering a new trade union or otherwise howsoever.<sup>2</sup> A "worker" in this context encompasses not only common-law employees but also self-employed individuals, expanding the definition to include independent contractors.

Beyond the composition of trade unions, another feature lies in their primary purpose, which must be to regulate the terms and conditions of employment for workers. While the Trade Unions Act doesn't explicitly state that the purpose of a trade union should be the "principal" one, related sections of the Trade Unions Act suggest that it is indeed the central objective. The Act grants the Registrar of Trade Unions the authority to cancel a union's registration if its primary purpose shifts away from regulating employment terms and conditions.<sup>3</sup>

Trade unions are allowed to pursue ancillary objectives or purposes in addition to their primary

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<sup>1</sup> Section 1 (1) Trade Union Act Cap T 14 LFN, 2004.

<sup>2</sup> Section 1 (3)(2) *ibid*.

<sup>3</sup> Section 1 (7)(d) *ibid*.

mission of regulating employment conditions. However, these secondary purposes must remain subservient to the main goal of collective bargaining and the protection of workers' interests. Any shift away from this central purpose could jeopardize a union's status as a recognized trade union. In the pursuit of its lofty objectives; it is not uncommon for trade unions' activities to lead to trade disputes. Trade disputes is often associated with strikes and picketing and all these actions carry the implications of emergence of tortious liabilities against a third party. The Trade Union Act protects the trade union against tortious act either directly or vicariously. The trade union is protected against all torts including breach of contract, negligence, assault and defamation; to mention just a few; where such are done by a trade union in contemplation or furtherance of a trade dispute.

This paper examines the jurisprudential basis of the immunity granted the trade unions; the constitutionality or otherwise of such immunity and the available gaps. This immunity is granted to empower trade unions to act in the collective interest of their members without the threat of legal repercussions. It is justified in the idea that members of trade unions often find themselves in a position of limited bargaining power. Therefore, they may need to combine forces to exert influence to advocate for their rights.

The article is divided into eight parts. While section one is the introductory part, section two is the conceptual framework. Section three analyses industrial conflict and the law. Trade unions, their immunities and liabilities featured under section four. Section five discusses the constitutionality or otherwise of section 23 of the Trade Union Act. While section six makes recommendations by advocating the need for reforms, the paper concludes in section seven.

## **Conceptual Framework**

### **i. Trade Unions**

Under the Nigerian law, a trade union is defined as an organization of workers formed to promote and protect their economic, social and political interests. Since trade union activities involve unionism, they exercise their collective bargaining power, picketing or industrial actions to achieve their objectives. The Unions Act 2004 and the Labour Act 2004 govern trade unions in Nigeria.

**ii. Trade Disputes:** are work related or non-work-related disagreements between employers and employees or amongst employees. The disagreement can also be connected with terms of employment or physical condition of work of the individual affected. Trade disputes can be between two or more unions or within a union.

**iii Tortious Liability:** A tort is a civil wrong. Tortious liability develops from the breach of a duty fixed primarily by law. Its objectives is to protect interests, compensate victims or to generally punish wrongful conduct.

**iv. Immunity:** Immunity refers to the exemption of an individual or entity from legal liability. The purpose of the conferment of immunity is to ensure that individuals, groups or entities who enjoy such privilege are free to perform their duties or advance their interests without fear of intimidation, harassment or legal suits. Immunity is generally restricted but never absolute.

## INDUSTRIAL CONFLICT AND THE LAW

Trade unions are allowed to pursue ancillary objectives or purposes in addition to their primary mission of regulating employment conditions. However, these secondary purposes must remain subservient to the main goal of collective bargaining and the protection of workers' interests. Any shift away from this central purpose could jeopardize a union's status as a recognized trade union, as demonstrated in the case of **Re The Union of Ifelodun Timber Dealers and Allied Workers**, where Lestang C.J. held:

*"...there is nothing in the present case to show that the Association has any rules as yet its objects are, however, set out in its constitution and it is necessary to examine these objects as a whole in order to decide whether it is a trade union or not."*

After examining the objects he concluded:

*"I can see nothing in these objects which, to use the words of the definition, regulates the relation between workmen and masters or between workmen and workmen or between masters and masters. It seems to me that the main purpose of the association in so far as they may be extracted from the published objects are the protection and expansion of the timber trade and the welfare of all persons, whether they be workmen or employers engaged in that trade. The association does not, therefore, come within the definition of trade union."<sup>4</sup>*

*Furthermore any association which is a trade union must not perform any act in furtherance of the purposes for which it has been formed, except any steps, including the collection of dues or subscriptions, which may be necessary for getting it registered, unless it has been registered with the Registrar of Trade Unions. Where this provision is contravened the union itself, every official of the union and any member who took any active part in the performance of the contravening act shall be guilty of an offence against the Trade Unions Act.<sup>5</sup>*

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<sup>4</sup> [1964] 2 All NLR 63

<sup>5</sup> Section 2(1) Trade Unions Act, 2004

In Nigeria, trade unions are required to register with the Registrar of Trade Unions before they can legally perform any act in furtherance of their purposes. Registration involves submitting an application in the prescribed form, signed by a specified number of members, accompanied by the union's rules and other necessary information.

Upon registration, the Registrar issues a certificate of registration, which serves as conclusive evidence that the trade union complies with the legal requirements for registration. However, the law prohibits the registration of a trade union under a name identical to an existing trade union or one that closely resembles an existing trade union's name, likely to deceive the public. Trade union freedom has, at least, two sides. First, it involves absence of compulsion. There is no statutory provision which compels anyone to join or be a member of a trade union. There is, however, recognition at common law, of the right of unions to establish and maintain a closed shop. As Sargent J. said in **Reynolds v Shipping Federation Ltd**, "for many years past no one has questioned the right of a trade union to insist, if they are strong enough to do so under penalty of a strike that an employer or a group of employers shall employ none but members of the trade union."<sup>6</sup>

The law has provided that no combination of employees employers must be registered as a trade union save with the approval of the Minister of Labour and Productivity on his being satisfied that it is expedient to register the union either by regrouping existing trade unions, registering a new trade union or otherwise howsoever; but no trade union must be registered to represent employees or employers in a place where there already exists a union. In **Osawe v Registrar of Trade Unions**<sup>7</sup> this provision was challenged on the ground that it infringed section 37 of the Constitution." The High Court held that it was, indeed, an infringement. But both the Court of Appeal and the Supreme Court held otherwise on the ground that the power conferred was necessary to maintain public order." In the Supreme Court Aniagolu JSC said

*"The proliferation of trade union clearly lends itself to chaos in labour circles-s fact which has the tendency of de-stabilising society by its tendency to strikes and work-stoppages called by all sorts of disparate and unviable trade unions. It is, therefore, in the interest of public order that systematic, cohesive and responsible trade unions be established for the good of society."*

The Supreme Court also held that where the Registrar is satisfied that a registered trade union will adequately cater for the interest of applicants who desire to register a new trade union the Registrar need not proceed with the application for registration. In the words of Kazeem JSC,

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<sup>6</sup> [1924] I Ch. 28 Ibid, 39-40.

<sup>7</sup> [1985] 1 NWLR (pt.4) 755.

*"this new provision makes it mandatory for the Registrar of Trade Unions, on receiving an application to register any trade union, to ensure that there is no other registered trade union in existence which caters for the same interest as the one-applying for registration, If there is, it becomes incumbent in my view, for the Registrar, as the custodian of such information to decline to proceed to put into effect the machinery for the registration of the new trade union as set out under section 5(2) of the Trade Unions Act."*

Central to the discussion of trade unions in Nigeria is the constitutional guarantee of freedom of association. The Nigerian Constitution provides that:

*"Every person shall be entitled to assemble freely and associate with other persons, and in particular, he may form or belong to any political party, trade union, or any other association for the protection of his interests."<sup>8</sup>*

This fundamental right to form or join a trade union is explicitly protected by the Nigerian Constitution, and also provides that any person who alleges an infringement of this right may seek redress in a High Court within the state where the violation has occurred or is threatened<sup>9</sup>.

The Labour Act further strengthens these constitutional protections by protecting members of trade unions. The Labor Act explicitly prohibits contracts of employment that make it a condition for workers to join or relinquish membership in a trade union.<sup>10</sup> Additionally, it safeguards workers from dismissal or prejudice based on their trade union membership or activities, both within and outside working hours.<sup>11</sup> While the freedom of association is constitutionally guaranteed, it is important to recognize that there are statutory provisions that derogate from the broad scope of freedom of association. The Trade Unions Act, outlines specific categories of establishments where employees are prohibited from combining, organizing, or being members of trade unions for employment-related purposes. These include military and law enforcement agencies, financial institutions like the Central Bank of Nigeria, and specific government establishments.<sup>12</sup>

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<sup>8</sup> S.40 1999 Constitution

<sup>9</sup> S.46, *Ibid*

<sup>10</sup> Section 9(6) Labour Act

<sup>11</sup> *Ibid*

<sup>12</sup> Section 11 Trade Unions Act

## **TRADE UNIONS AND THE LAW OF TORTS**

The law of Torts is often referred to as the law of duties, it is based on the fundamental concept that individuals possess certain interests that others have an obligation or duty to respect. When these duties are violated, resulting in harm or damage, it constitutes a tort, and tort law defines these interests, duties, and the remedies available when these duties are not met. In the context of trade unions and their involvement in various civil actions, questions arise regarding their liability under tort law. This paper examines the relationship between trade unions and the law of torts, specifically focusing on the immunity of trade unions against tortious liability under Nigerian law.

Trade unions play a pivotal role in safeguarding the rights and interests of workers in Nigeria. In agitating for their rights and benefits, they enjoy substantial immunity from tortious actions. However, it's essential to note that this general immunity primarily applies to the union as a group and does not extend to individual members who may commit tortious acts.

The Trade Unions Act<sup>13</sup> outlines specific acts that are not actionable in tort if carried out in contemplation or furtherance of a trade dispute. These acts include inducement or threats to breach a contract or interference with the trade, business, or employment of others. However, this immunity is not absolute, as the section also provides that acts done in contemplation or furtherance of a trade dispute may still be actionable in tort under certain grounds not mentioned in the subsection. Therefore, there are exceptions to the immunity clause, and trade unions can be held liable under specific circumstances.

In this examination of trade unions and their liability under the law of torts in Nigeria, we will explore the exceptions to the immunity. Specifically, we will discuss the actions that trade unions can take, which may expose them to tortious liability. These exceptions largely revolve around conspiracy, inducement to break a contract of employment, the tort of intimidation, and picketing.

## **IMMUNITY AND LIABILITY OF TRADE UNIONS IN TORTS ACTIONS**

While the Trade Unions Act confers immunity and protection on trade union activities, it is not a total shield against all tortious liability. Several exceptions to the immunity clause exist, allowing individuals or entities to bring legal action against trade unions in specific circumstances. To examine the exceptions to trade union immunity, we must scrutinize specific actions taken by trade unions that can potentially lead to tortious liability. These exceptions include:

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<sup>13</sup> S.44(2) *ibid.*

### **a. Conspiracy:**

Section 518A of the Criminal Code provides:

*The provisions of sections 516 to 518 shall not apply to an agreement or combination of two or more persons to do or procure to be done any act in contemplation or furtherance of a trade dispute if such act committed by one person would not be punishable as an offence: Provided that nothing in this section shall exempt from punishment any persons guilty of a conspiracy for which a punishment is provided by any other enactment: And provided further that nothing in this section shall affect the law relating to riot, unlawful assembly, breach of the peace, or sedition, or any offence against the State.*

This provision provides immunity in respect of criminal conspiracy to trade unions. However, a trade union may be liable for civil conspiracy. However, if the union's primary objective is to promote legitimate trade union interests and not unlawful actions, it may not be actionable as conspiracy. Civil conspiracy differs from criminal conspiracy in that it necessitates the demonstration of actual harm or loss. Mere agreement alone is insufficient to establish liability in civil conspiracy.<sup>14</sup> It consists of two forms: general and narrow conspiracy. General conspiracy occurs when two or more individuals intentionally collaborate to harm another without lawful justification.<sup>15</sup> On the other hand, narrow conspiracy involves combining unlawfully to achieve an objective.<sup>16</sup> An action on conspiracy to injure would be maintained where there is evidence that a union's objective was to cause injury to the plaintiff and not to advance the union's interest.<sup>17</sup> If trade unions engage in actions that align with their legitimate interests and do not involve unlawful means, they are generally protected from conspiracy-related tort liability. However, if the primary purpose of their actions is to injure others and economic loss results, the tort of civil conspiracy may apply<sup>18</sup>.

### **b. Inducement to breach a Contract of Employment**

the violation of economic interest without justification is a tortious breach.<sup>19</sup> Trade unionists may be held liable if they act recklessly or knowingly in inducing a breach of a contract of

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<sup>14</sup> Oladosu Ogunniyi Nigerian Labour and Employment Law in Perspective (2<sup>nd</sup> ed. Folio Publishers Limited, Ikeja .2004) 374.

<sup>15</sup> Quinn v. Leathem (1901) A. C. 495

<sup>16</sup> Rookes v. Barnard (1962)2 A11 E.R 579

<sup>17</sup> Ambastal Kunal, 'Immunity of Trade Unions for Inducing Breach of Contract: A Study of the Evolution of English Law and its application in India' (2013) (3) (2) *Labour and Employment Law Forum*, 334.

<sup>18</sup> Mejekodunmi v. R. (1952), 14 WACA, 64.

<sup>19</sup> Sam Erugo, Introduction to Nigerian Labour Law 2<sup>nd</sup> ed.(Princeton and Associates, Ikeja. 2019).



employment. However, if their actions are lawful and within their rights, they cannot be held liable for causing a breach of contract.<sup>20</sup> Case law has established that, officers of trade unions must not deliberately seek to procure a breach of a contract, especially when they have knowledge of the contract's terms. In the case of **Emerald Construction Ltd v. Lowthian**<sup>21</sup> Lord Denning held:

*If the officer of the trade union knowing of the contract deliberately sought to procure a breach of it, they would do wrong. Even if they did not know of the actual terms of the contract, but had the means of knowing which they deliberately disregarded, that would be enough. Like the man who turns a blind eye. So here, if the officers deliberately sought to get this contract terminated, heedless of the terms, regardless whether it was terminated by breach or not, they would do wrong. For, it is unlawful for a third person to procure a breach of contract knowingly, or recklessly, in different whether it is a breach or not.*

On the other hand, where the inducement of the breach of the contract was not reckless nor deliberate but justifiable, a tortious liability has not been committed.<sup>22</sup>

### c. Tort of Intimidation

Section 44 of the Trade Unions Act provides legal protection to trade unionists who threaten to breach employment contracts in contemplation or furtherance of a trade dispute. Such threats may still amount to the tort of intimidation if unlawful means are employed. Intimidation, in any form is considered objectionable, and the law does not ignore it, even when subtle means are used. The defendants in **Rookes v. Barnard**<sup>23</sup> had informed their employer that unless a non-union employee was dismissed, industrial action would be taken. The House of Lords held them liable for intimidation.

### d. Picketing

Section 43 of the Trade Unions Act provides rules regarding picketing, allowing for peaceful persuasion, obtaining or communicating information, and persuading individuals to work or abstain from work. However, picketing is subject to the ordinary laws governing obstruction, assault, public or private nuisance, trespass, unlawful assembly trespass, and other offenses. Pickets must act within the boundaries of peaceful persuasion and not employ violence or

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<sup>20</sup> British and French Bnk v. Owodunni Trading Co (1956) 1 F.S.C 1.

<sup>21</sup> (1966) 1 All E.R. 1013 at 1017

<sup>22</sup> Brimelow v. Casson (1924) 1 Ch. 302

<sup>23</sup> (1964) 1 All ER, 367

threats. Thus, in the case of **Hubbord v. Pitt**,<sup>19</sup> Lord Denning held:

*Picketing is lawful as it is done merely to obtain or communicate information, or peacefully to persuade; and is not such as to submit any other person to any kind of restraint or restriction of his personal freedom*

The immunity provided by Section 43 is limited to peaceful persuasion.<sup>24</sup> Pickets who adopt violent demonstrations may be liable for unlawful demonstration, public nuisance and disturbance of public peace. If the purpose changes, the union will lose the protection provided. In the case of **Larkin v. Belfast Harbour Commission**,<sup>25</sup> O'Brain, C.J. said:

*The sections are not intended to enlarge the fields of operations the physical area of the operations of representatives of trade unions or of others ... it was never intended to authorize, as a matter of right, an invasion into a man's house, or entry against the will of the owner into a place of business.*

The protection granted to trade unions under Sections 24(1) and (2); 43 and 44 (1) & (2) of the Trade Unions Act is not absolute. Acts conducted outside the contemplation of these sections can result in civil liability for trade unionists. Civil liability may take the form of damages awarded to the aggrieved party or an injunction to restrain certain actions.

Generally, an applicant who approaches the court to protect his commercial interest that is threatened by strike does not need to make out a prima facie case before seeking for injunction. He only needs to show there is a triable case.<sup>26</sup> The granting of an injunction is at the discretion of the court and will not be granted if other remedies, particularly damages, are deemed adequate. The court will consider the potential impact of the threatened action on the nation, fundamental rights, public safety, or health when deciding whether to grant an injunction. In the case of **Express Newspapers Ltd v. Mcshane**,<sup>27</sup> Lord Scarman said:

*In a case where action alleged to be in contemplation or furtherance of a trade dispute endangers the nation or puts at risk such fundamental rights as the right of the public to be informed and the freedom of the press, it could well be a proper exercise of the court's discretion to restrain the industrial action pending trial of the action.*

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<sup>24</sup> R v. Michael Imodu & ors. (1961) 1A11NLR 13 S.C.

<sup>25</sup> (1908) <https://i.e.vlex.com/vid/larkin-v-belfast-harbours-839148385>

<sup>26</sup> See *Obeya v. AG Federation* (1987) 1 nwlr( 60) 325, *Akeem-Habeeb v. Akapo* (1992) 6 NWLR (247) 266.

<sup>27</sup> (1980)1 C.R. 42

## **CONSTITUTIONALITY OR OTHERWISE OF SECTION 23 OF THE TRADE UNION ACT**

Trade unions play an essential role in safeguarding the rights and interests of workers in Nigeria. However, the activities of trade unions can sometimes lead to conflicts with other parties, including employers and businesses. To strike a balance between protecting workers' rights and ensuring the smooth functioning of the economy, Nigerian law provides trade unions with certain immunities, one of which is outlined in Section 23 of the Trade Union Act. This paper critically examines the constitutionality of Section 23 and its implications for the immunity of trade unions against tortious liability under Nigerian law.

Section 23 of the Trade Union Act addresses the legality of trade unions and the agreements made by their members. The constitutionality of Section 23 of the Trade Union Act revolves around its compatibility with the Nigerian Constitution. One of the primary considerations in assessing the constitutionality of Section 23 is its consistency with the provisions of the Nigerian Constitution. The Constitution, as the supreme law of the land, sets the primary legal framework within which all other laws, including the Trade Union Act, must operate within.

Section 23, by explicitly stating that the purposes of a trade union shall not be unlawful solely because they restrain trade, appears to be in harmony with the Nigerian Constitution's provisions on the right to freedom of association. Freedom of association is a fundamental human right guaranteed by the Nigerian Constitution<sup>28</sup>. This freedom includes the right to form or belong to trade unions. Section 23, by protecting trade unions from being deemed unlawful solely due to restraints of trade, appears to align with this constitutional provision as it safeguards the existence and functioning of trade unions.

The constitutionality of Section 23 is evident on the grounds that it upholds the right to freedom of association by allowing trade unions to pursue their legitimate objectives, even if these objectives involve some level of restraint on trade. This aligns with the fundamental principles of freedom of association enshrined in the Constitution. The Nigerian Constitution recognizes the economic rights and interests of individuals.<sup>29</sup> Trade unions are instrumental in protecting and advancing these rights. Section 23, by shielding trade unions from being declared unlawful based solely on the restraint of trade, can be seen as a means to protect the economic interests of workers, which aligns with the constitution.

Section 23(1) of the Trade Unions Act however limits the ability of courts to entertain legal proceedings directly enforcing certain agreements or seeking damages for their breach. This

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<sup>28</sup> Section 40 CFRN, 1999 (as amended).

<sup>29</sup> Section 17(3) *ibid*.

limitation raises concerns about the right to fair hearing as provided for in the Nigerian constitution<sup>30</sup> as it hinders access to justice for other parties seeking to enforce their rights. The constitutionality of this limitation depends on whether it strikes a balance between the protection of trade union activities and the right of other persons to seek legal redress.

The constitutionality of Section 23 should also be considered in light of the principles of equality and non-discrimination.<sup>31</sup> It is vital to ensure that trade unions are not given preferential treatment that might lead to discrimination against other parties, such as employers or corporations. Section 23 must maintain a fair balance between the rights of workers and the rights of other parties.

Section 23 of the Trade Union Act, which protects trade unions from being deemed unlawful due to restraints of trade, is constitutionally significant as it also guarantees the fundamental rights and freedoms guaranteed under the Nigerian Constitution. While it seeks to safeguard the existence and functioning of trade unions and protect the economic interests of workers, its limitations on legal proceedings and access to justice warrant careful consideration.

It is essential to ensure that the immunity granted to trade unions under Section 23 aligns with the fundamental principles of the Nigerian Constitution while maintaining the necessary checks and balances to protect the rights and interests of all parties involved. While trade unions have a legitimate role in advocating for workers' rights, they must also operate within the bounds of the law. The Trade Union Act must recognize the importance of both trade unions and other stakeholders in the Nigerian economy. It must ensure that while trade unions can pursue their objectives, they do not engage in activities that would be detrimental to the overall economic landscape in Nigeria.

## RECOMMENDATIONS

The examination of trade unions' immunity against tortious liability under Nigerian law has shed light on the complexities surrounding this legal framework. The complex situation of balancing the fundamental rights of workers vis-à-vis their rights to peaceful assembly and freedom of association as well as the rights of innocent third parties who may be a victim of tortious actions of trade unions calls for close judicial and statutory scrutiny. The following recommendations are hereby presented for refining the existing legal frameworks:

- a. To enhance the effectiveness and clarity of the legal framework governing trade union immunity, it is recommended that lawmakers consider revisiting and revising relevant

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<sup>30</sup> Section 36 *ibid.*

<sup>31</sup> Section 42 *ibid.*

sections of the Trade Unions Act, particularly Sections 43 and 44. The aim should be to provide clearer definitions and distinctions between lawful and unlawful activities carried out by trade unions in the course of trade disputes. This clarity will help both trade unions and the judiciary in applying the law consistently.

- b. Trade unions should be encouraged to exercise their rights and powers responsibly. Encouraging responsible conduct includes promoting transparency in their actions and adherence to ethical standards. This can be achieved through education and training programs for union leaders and members, emphasizing the importance of respecting the rights of others while pursuing their objectives. The existing statutory frontier can be creatively expanded by making acts that are not lofty and transparent criminal both under the Trade Union Act and Labour Act.
- c. Encouraging the use of alternative dispute resolution (ADR) mechanisms, such as mediation and arbitration, can be an effective way to resolve trade disputes without resorting to legal actions. These mechanisms can provide a more collaborative and less adversarial approach to conflict resolution, reducing the need for tortious liability claims. Again, specific statutory provisions can be made; to make it mandatory for ADR to be absolved before initiating proceedings against trade unions for tortious actions.
- d. Enhancing public awareness and understanding of the role and rights of trade unions can contribute to more informed judgments in legal cases involving trade unions. Educational campaigns and outreach programs can help bridge the knowledge gap and promote a balanced perspective on trade union activities.
- e. The legal framework governing trade unions should be subject to periodic review to ensure its relevance and effectiveness in contemporary society. As societal norms and economic conditions evolve, the law should adapt accordingly to maintain a fair balance between labor rights and other societal interests.

## CONCLUSION

In conclusion, the examination of trade union immunity against tortious liability under Nigerian law reveals a complex legal landscape that seeks to strike a balance between protecting the rights of workers and maintaining the rule of law. The recommendations put forth aim to refine the legal framework and promote responsible conduct. In the ever-evolving landscape of labor relations, it is crucial to strike a balance between the rights of trade unions and the broader interests of society. By implementing these recommendations, Nigeria can continue to foster a fair and equitable labor environment while upholding the rule of law.