

## **THE APPLICATION OF INTERNATIONAL TREATIES ON INDUSTRIAL RELATIONS IN NIGERIAN COURTS: MYTHS OR REALITY?**

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DOI: <https://doi.org/10.5281/zenodo.17473004>

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**Abstract:** Nigeria is a signatory to quite some treaties, especially treaties relating to non-judicial relations and disputes. This paper examines the real and practical force of international industrial relations treaties in Nigerian courts and explains the constitutional framework on treaty reception and the new powers of the National Industrial Court of Nigeria after the Third Amendment to the 1999 Constitution. The paper adopted the doctrinal methodology by examining primary sources, such as the constitution, ratified treaties, statutes, and case laws, as well as secondary sources, such as the opinion of scholars on the subject and internet sources. The paper opined that the National Industrial Court has special powers to apply international best practices in labour and international labour standards even when the treaty has not been domesticated. This creates a narrow but real pathway from myth to reality. The result still depends on the type of instrument used. Domesticated instruments, such as the African Charter, have a binding force, whereas undomesticated ILO Conventions operate mainly as persuasive standards. The paper explored other jurisdictions to draw lessons for Nigeria. The paper concludes with recommendations for harmonizing standards and making international labour obligations more effective in Nigeria.

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**Keywords:** International Labour Standards; Industrial Relations Treaties; domestication of treaties, Nigerian Courts.

### **1. Introduction**

Treaties on international industrial relations serve as the backbone of modern labor governance, providing common rules that promote fairness and dignity at work.<sup>1</sup> Among the most influential of these are the Conventions

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and Recommendations of the International Labor Organization (ILO), which establish global standards on matters such as freedom of association, collective bargaining, equal opportunity, child labor, and the abolition of forced labor.<sup>2</sup> Nigeria is a member of the ILO and has ratified several these Conventions.<sup>3</sup> The government often declares its commitment to the values and principles set out in official documents and public statements.<sup>4</sup> However, the situation in the practical field of litigation and judicial enforcement remains far more complex.<sup>5</sup> The application of international industrial relations treaties in Nigerian courts remains uneven and inconsistent.<sup>6</sup>

Lawyers who appear before labor courts frequently refer to international labor standards to strengthen their arguments, especially when domestic legislation is silent or outdated.<sup>7</sup> However, these references do not always succeed in court because their enforceability depends on the Nigerian Constitution and the specific wording of national laws.<sup>8</sup> Therefore, the core question is whether Nigerian courts actually apply international labor instruments as binding law or whether such instruments remain aspirational.<sup>9</sup> This issue lies at the intersection of constitutional law, international law, and employment relations, and it defines the extent to which Nigeria is willing to translate its global commitments into real domestic practice.<sup>10</sup>

Nigerian legal order follows a dualist model, which means that an international treaty does not automatically have force within the country.<sup>11</sup> Section 12 of the 1999 Constitution states that a treaty must be enacted by the National Assembly before it becomes binding as a domestic law.<sup>12</sup> This rule creates a gap between Nigeria's ratification of a treaty at the international level and its enforceability before the Nigerian courts.<sup>13</sup> Unless the treaty domesticated by legislation, it remains a persuasive authority rather than a source of binding rights and duties.<sup>14</sup> Despite this constitutional limitation, there has been significant progress in labor adjudication since the creation of the NICN.<sup>15</sup> The Third Amendment to the Constitution granted this specialized court broad powers to interpret and apply international best practices in labor and international labor standards.<sup>16</sup>

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<sup>1</sup> International Labor Organization, *Rules of the Game: An Introduction to the Standards-Related Work of the ILO*, 3rd ed. (Geneva: ILO, 2019), 3.

<sup>2</sup> ILO, *Conventions and Recommendations Database*, <<https://www.ilo.org/normlex>> Accessed 4 October 2025.

<sup>3</sup> Federal Ministry of Labor and Employment, *Nigeria's Report on the Application of ILO Standards* (Abuja: Government Printer, 2022), 1. 4.2

<sup>4</sup> Presidency of Nigeria, *National Employment Policy* (Abuja: Federal Government of Nigeria, 2017).

<sup>5</sup> O. F. Amujo, "The Domestic Status of International Labor Conventions in Nigeria," *Nigerian Journal of Labor Law and Industrial Relations*, Vol. 6 No. 2 (2021): 45.

<sup>6</sup> E. E. Uvieghara, *Labor Law in Nigeria* (Lagos: Malthouse Press, 2001), 122.

<sup>7</sup> F. Adewumi, *Industrial Relations in Nigeria: Theory and Practice*, 2nd ed. (Ibadan: Ababa Press, 2009), 215.

<sup>8</sup> Constitution of the Federal Republic of Nigeria, 1999, s. 12(1).

<sup>9</sup> *Bach v. Fawehinmi* (2000) 6 NWLR (Pt. 660) 228.

<sup>10</sup> A. Okene, "Judicial Use of International Labor Standards in Nigeria," *International Journal of Comparative Labor Law and Industrial Relations*, Vol. Thirty No. 1, pp. 57-76, 2018. 3 (2014): 307-331.

<sup>11</sup> Uvieghara, *Labor Law in Nigeria*, 125.

<sup>12</sup> CFRN, 1999 (as amended), s. 12.

<sup>13</sup> Adewumi, *Industrial Relations in Nigeria*, 218.

<sup>14</sup> *Bach v. Fawehinmi* (2000) 6 NWLR (Pt. 660) 228.

<sup>15</sup> National Industrial Court of Nigeria, *Annual Report 2022*, 7 (Abuja: NICN Press, 2023), 7.

<sup>16</sup> Third Alteration (CFRN) Act 2010, s. 254C.

This new constitutional mandate allows the NICN to look beyond local statutes and rely on international conventions for guidance when resolving employment disputes.<sup>17</sup> In practice, the court has used ILO Conventions to define fairness in the termination of employment, interpret the right to freedom of association, and assess workplace equality and non-discrimination.<sup>18</sup> It has also drawn inspiration from newer international norms such as the Violence and Harassment Convention (No. 190), which aims to protect workers from psychological and gender-based abuse in the workplace.<sup>19</sup> By invoking these instruments, the court has gradually transformed Nigeria's industrial jurisprudence from a strictly domestic system into one that engages with global labor norms.<sup>20</sup> Therefore, this study explores the extent of the application of international industrial relations treaties in Nigerian courts.<sup>21</sup> This study traces the conceptual background of these treaties, the theoretical foundations of their domestic use, and the judicial attitudes that shape their interpretation.<sup>22</sup> This study also provides a comparative review of how similar issues are treated in the United Kingdom, Canada, and South Africa, and concludes with findings and recommendations for reform.<sup>23</sup>

## 2. Conceptual Clarification

Understanding the concepts that define the application of IRTs within the Nigerian legal system is important for grasping both the constitutional and practical realities of the subject.<sup>24</sup> The interpretation and enforcement of such treaties depend not only on international commitments but also on how Nigerian courts view their authority under domestic law.<sup>25</sup> Four major concepts stand out in this discussion: industrial relations treaties, their application and enforceability, domestication, and international best practices and labor standards.<sup>26</sup>

### 2.1 Industrial relations treaties

Industrial relations treaties refer to formal international agreements adopted by two or more states to promote fairness, equality, and justice in employment and labor relations.<sup>27</sup> They are usually developed and supervised by international organizations, such as the International Labor Organization (ILO) and the United Nations, and sometimes by regional bodies, such as the African Union.<sup>28</sup> The purpose of these treaties is to ensure that workers and employers across countries operate under minimum acceptable standards that protect human dignity and promote economic development.<sup>29</sup>

Since its founding in 1919, the ILO has developed hundreds of conventions and recommendations.<sup>30</sup> These instruments cover areas such as the right to organize and bargain collectively, freedom from forced labor,

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<sup>17</sup> NICN, *Comrade Bello Itodo v. Chevron Nigeria Ltd* (NICN/LA/411/2013, judgment delivered on June 18, 2019).

<sup>18</sup> *NICN v. Chevron Nigeria Ltd* (NICN/LA/411/2013); see also Uvieghara, *Labor Law in Nigeria*, pp. 215.

<sup>19</sup> ILO, *Violence and Harassment Convention, 2019 (No. 190)*, adopted 21 June 2019, entry into force 25 June 2021.

<sup>20</sup> Muro, "The Domestic Status of International Labor Conventions," 49.

<sup>21</sup> *IBID*

<sup>22</sup> Adewumi, *Industrial Relations in Nigeria*, 220.

<sup>23</sup> Comparative analysis in Okene, "Judicial Use of International Labor Standards," 327.

<sup>24</sup> Adewumi, F. (2009). *Industrial Relations in Nigeria: Theory and Practice*, 2nd ed. (Ibadan: Ababa Press, 2009), 10.

<sup>25</sup> A. Sanni, "The Status of International Treaties in Nigerian Law," *Journal of Public Law and Policy*, Vol. 8, No. 2, pp. 57-76. 1 (2020): 33.

<sup>26</sup> E. E. Uvieghara, *Labor Law in Nigeria*. Lagos: Malthouse Press, 2001), 4.

<sup>27</sup> International Labor Organization, *ILO Constitution and Declarations* (Geneva: ILO, 2019), 11.

<sup>28</sup> African Union, *African Charter on Human and Peoples' Rights*, adopted 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5.

<sup>29</sup> ILO, *Rules of the Game*, 3rd ed. (Geneva: ILO, 2019), 5.

<sup>30</sup> ILO, *Conventions and Recommendations Database*, <<https://www.ilo.org/normlex>> accessed October 2025. <https://www.ilo.org/normlex>

elimination of child labor, equality of opportunity and safe working conditions.<sup>31</sup> When a country ratifies an ILO Convention, it is obliged to implement its provisions through domestic measures, including legislation, policy, and judicial practice.<sup>32</sup> In Nigeria, the most relevant industrial relations treaties include ILO Conventions 87 and 98 on freedom of association and collective bargaining, Conventions 100 and 111 on equal remuneration and discrimination, Conventions 29 and 105 on forced labor, and Conventions 138 and 182 on child labor.<sup>33</sup> The African Charter on Human and Peoples' Rights also plays an important role because it incorporates many social and labor rights that directly apply to workers.<sup>34</sup> Although these treaties establish international standards, their domestic impact depends on each country's internal legal order.<sup>35</sup> Some states adopt a monist system in which treaties automatically become part of national law once ratified, while others, such as Nigeria, follow a dualist system that requires legislative approval before the treaty can take effect within the country.<sup>36</sup>

## 2.2 Application and enforceability

Application and enforceability describe the different ways in which a treaty can influence domestic law and judicial reasoning.<sup>37</sup> Application refers to the use of a treaty either directly as a source of law or indirectly as a persuasive authority to guide interpretation.<sup>38</sup> A treaty may be applied to fill a gap in domestic legislation, clarify an ambiguous provision, or support a principle of fairness in labor disputes.<sup>39</sup> Even when treaties are not formally enforceable, courts can still use them as interpretive tools or indicators of international best practice.<sup>40</sup>

Enforceability, on the other hand, means that the court treats the treaty as binding law capable of creating rights and obligations without further legislative action.<sup>41</sup> This occurs when a treaty has been domesticated or when a constitutional provision explicitly allows its direct operation.<sup>42</sup> Enforceability provides legal certainty because it allows parties to rely on the treaty in court as if it were part of national law.<sup>43</sup> However, in the absence of domestication, Nigerian courts generally regard international treaties as persuasive rather than binding.<sup>44</sup> This distinction between application and enforceability is central to understanding how judges decide whether to rely on international labor standards in resolving disputes.<sup>45</sup>

## 2.3 Domestication

Domestication refers to the legal process through which an international treaty becomes part of Nigerian law.<sup>46</sup> Section 12 of the 1999 Constitution provides that no treaty between the Federation and any other country shall

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<sup>31</sup> Ibid.

<sup>32</sup> Federal Ministry of Labor and Employment, *Nigeria's Report on the Application of ILO Standards* (Abuja: Government Printer, 2022), 6. p. 6

<sup>33</sup> ILO. 2025. "List of Nigeria's Ratified Conventions." *NORMLEX Database*, accessed October 2025.

<sup>34</sup> African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap A9 LFN 2004.

<sup>35</sup> Uvieghara, *Labor Law in Nigeria* (18).

<sup>36</sup> CFRN, 1999 (as amended), s. 12.

<sup>37</sup> Anni, "Status of International Treaties," 37.

<sup>38</sup> Adewumi, "*Industrial Relations in Nigeria*," 14

<sup>39</sup> A. Okene, "Judicial Use of International Labor Standards in Nigeria," *Int'l J. Comp. Lab. & Ind. Rel.* 30, no. 3 (2014): 313.

<sup>40</sup> Ibid.

<sup>41</sup> Uvieghara, *Labor Law in Nigeria*, 19.

<sup>42</sup> CFRN, 1999 (as amended), s. 12(1).

<sup>43</sup> *Bach v. Fawehinmi* (2000) 6 NWLR (Pt. 660) 228.

<sup>44</sup> Ibid.

<sup>45</sup> Skene, J. J., "Judicial Use of International Labor Standards," 319.

<sup>46</sup> Uvieghara, *Labor Law in Nigeria*, 21.

have the force of law unless it has been enacted by the National Assembly.<sup>47</sup> This means that ratification by the executive arm alone is insufficient.<sup>48</sup> The treaty must be transformed into an Act of Parliament before it can create enforceable rights within Nigeria.<sup>49</sup> The process reflects Nigeria’s dualist legal philosophy, which separates the international and domestic legal systems.<sup>50</sup>

Through domestication, an international obligation becomes a Nigerian statute that can then be applied and enforced by local courts.<sup>51</sup> The African Charter on Human and Peoples’ Rights (Ratification and Enforcement) Act, which domesticated the Charter, is a good example.<sup>52</sup> The Charter has the same authority as any other law enacted by the National Assembly, and courts regularly rely on it in labor and human rights cases.<sup>53</sup> Without domestication, other international labor instruments such as ILO Conventions remain persuasive only and can be used by courts merely as guides to interpretation or moral standards rather than as binding sources of law.<sup>54</sup>

#### 2.4 International Best Practices and Labor Standards

The concept of international best practices and labor standards represents an innovative feature of Nigerian industrial jurisprudence.<sup>55</sup> Following the Third Amendment to the Constitution, Section 254C established the NICN and granted it special powers to apply international best practices in labor and international labor standards.<sup>56</sup> This constitutional provision recognizes that the regulation of labor relations cannot remain confined to domestic statutes alone but must reflect global principles that ensure fairness and justice at work.<sup>57</sup>

The NICN acts as a bridge between domestic and international law through this power.<sup>58</sup> Local statutes can be interpreted in line with global labor norms and ILO Conventions and Recommendations can be used as authoritative guides.<sup>59</sup> In doing so, the court not only promotes consistency with international obligations but also strengthens Nigeria’s workers’ protection.<sup>60</sup> It ensures that decisions reflect fairness, equity, and humanity, which are the underlying values of international labor law.<sup>61</sup> The court also encourages employers and trade unions to align their policies with modern standards and create workplace environments that respect human dignity by invoking international best practices.<sup>62</sup>

The conceptual framework of this study rests on four interrelated ideas: (1) industrial relations treaties establish international obligations; (2) application and enforceability determine how courts use those obligations; (3) domestication transforms treaties into binding Nigerian law; and (4) international best practices under Section

<sup>47</sup> CFRN, 1999 (as amended), s. 12(1).

<sup>48</sup> Adewumi, *Industrial Relations in Nigeria*, 22.

<sup>49</sup> *Ibid.*

<sup>50</sup> Anni, “Status of International Treaties,” vol. 39.

<sup>51</sup> *Bach v. Fawehinmi* (2000) 6 NWLR (Pt. 660) 228.

<sup>52</sup> African Charter on Human and Peoples’ Rights (Ratification and Enforcement) Act, Cap A9 LFN 2004.

<sup>53</sup> *Chief Gani Fawehinmi v General Sani Abacha* (2000) 6 NWLR (Pt. 660) 228 (SC).

<sup>54</sup> Uvieghara, *Labor Law in Nigeria*, 27.

<sup>55</sup> Adewumi, “*Industrial Relations in Nigeria*,” 30.

<sup>56</sup> Constitution (Third Amendment) Act 2010, s. 254C.

<sup>57</sup> Skene, J. J., “Judicial Use of International Labor Standards,” 326.

<sup>58</sup> National Industrial Court of Nigeria, *Annual Report 2022* (Abuja: NICN, 2023), 8.

<sup>59</sup> *Ibid.*

<sup>60</sup> NICN, *Comrade Bello Itodo v. Chevron Nigeria Ltd* (NICN/LA/411/2013).

<sup>61</sup> ILO, 1998. *ILO Declaration on Fundamental Principles and Rights at Work* (Geneva: ILO, 1998).

<sup>62</sup> Muro, A., “The Domestic Status of International Labor Conventions in Nigeria,” *J. Labor L. & Ind. Rel.* Vol. 6 No. 2 (2021): 51.

254C provide a special window through which the NICN integrates global standards into domestic adjudication.<sup>63</sup> Together, these concepts define the boundary between international commitment and domestic reality in the enforcement of labor rights in Nigeria.<sup>64</sup>

### 3. Theoretical Framework

#### 3.1 Dualism in the Nigerian Constitutional Law

Nigeria operates a dualist system of international law.<sup>65</sup> In a dualist state, international obligations bind the country externally but do not automatically have effect within its domestic legal order until they are expressly transformed into national law.<sup>66</sup> This doctrine, rooted in the English common law tradition inherited during colonial rule, ensures that no treaty can create rights or duties enforceable by individuals within Nigeria unless the National Assembly has enacted legislation giving it domestic force.<sup>67</sup>

Section 12 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) codifies this dualist position by stating that “no treaty between the Federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly.”<sup>68</sup> The Supreme Court in *Abacha v. Fawehinmi*<sup>69</sup> reaffirmed this rule, distinguishing between treaties binding internationally and those enforceable within Nigeria.<sup>70</sup> The rationale for this approach is based on the principle of sovereignty. While the executive may negotiate and ratify treaties, only the legislature can convert such instruments into domestic law.<sup>71</sup> Consequently, although persuasive, unincorporated treaties cannot override national statutes or be invoked directly in Nigerian courts.<sup>72</sup>

This constitutional dualism has often been criticized for limiting the immediate domestic impact of progressive international instruments, particularly those on labor and human rights.<sup>73</sup> Nevertheless, it ensures democratic control over treaty implementation and preserves national institutions’ supremacy in determining domestic legal obligations.<sup>74</sup>

#### 3.2 The National Industrial Court as a bridge

The NICN occupies a unique position as a constitutional bridge between international and domestic labor law.<sup>75</sup> In 2010, the Third Amendment to the Constitution in 2010 expanded the jurisdiction of the NICN to include matters relating to labor, employment, industrial relations, and international best practices.<sup>76</sup> Section 254C(1)(f)–

<sup>63</sup> Uvieghara, *Labor Law in Nigeria*, 31.

<sup>64</sup> Adewumi, *Industrial Relations in Nigeria*, 32.

<sup>65</sup> A. Sanni, “The Status of International Treaties in Nigerian Law,” *Journal of Public Law and Policy*, Vol. 8 No. 1 (2020): 35.

<sup>66</sup> E. E. Uvieghara, *Labor Law in Nigeria* (Lagos: Malthouse Press, 2001), 15.

<sup>67</sup> Obilade, A. O. (1979). *The Nigerian legal system* (Ibadan: Spectrum Books, 1979), 84.

<sup>68</sup> CFRN, 1999 (as amended), s. 12(1).

<sup>69</sup> (2000) 6 NWLR (Pt. 660) 228 (Supreme Court).

<sup>70</sup> *Bach v. Fawehinmi* (2000) 6 NWLR (Pt. 660) 228.

<sup>71</sup> Femi Adewumi, *Industrial Relations in Nigeria: Theory and Practice*, 2nd ed. (Ibadan: Ababa Press, 2009), 23.

<sup>72</sup> *Attorney-General of the Federation v. Attorney-General of Abia State* (2002) 6 NWLR (Pt. 764) 542.

<sup>73</sup> A. Okene, “Judicial Use of International Labor Standards in Nigeria,” *International Journal of Comparative Labor Law and Industrial Relations*, Vol. Thirty No. 1, pp. 57-76, 2018. 3 (2014): 322.

<sup>74</sup> Uvieghara, *Labor Law in Nigeria*, 16.

<sup>75</sup> National Industrial Court of Nigeria, *Annual Report 2022*, 7 (Abuja: NICN Press, 2023), 7.

<sup>76</sup> Constitution (Third Amendment) Act 2010, s. 254C.

(h) empowers the court to apply international conventions, treaties, and protocols on labor, employment, and industrial relations, even when the National Assembly has not domesticated such instruments.<sup>77</sup>

This constitutional innovation created a practical exception to the strict dualist rule, allowing the NICN to interpret and strengthen domestic employment law by drawing from international labor standards, including relevant ILO Conventions and other international instruments.<sup>78</sup> Through this mandate, the NICN performs a bridging function by harmonizing Nigeria's local labor jurisprudence with global norms and advancing workers' rights in line with international standards.<sup>79</sup>

For instance, when adjudicating disputes, the court frequently cites the ILO Declaration on Fundamental Principles and Rights at Work (1998) and other conventions on freedom of association, collective bargaining, and non-discrimination.<sup>80</sup> This approach enhances the legitimacy of its decisions and promotes coherence between Nigeria's legal obligations abroad and its domestic labor practices.<sup>81</sup>

### 3.3 Domestic Modes of Use

Nigerian courts have developed practical modes through which international treaties and standards influence domestic jurisprudence even within a dualist system.<sup>82</sup> These include:

1. **Direct Application after Domestication:** When the National Assembly enacts an international treaty into law, it becomes part of the domestic legal order and can be applied directly by the courts.<sup>83</sup> The most prominent example is the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, which confers enforceable rights and has been successfully invoked in numerous cases.<sup>84</sup>
2. **Interpretive Use:** When local statutes or constitutional provisions are ambiguous, courts often rely on international instruments to aid interpretation.<sup>85</sup> This interpretive approach enables judges to adopt constructions that are consistent with Nigeria's international commitments and human rights obligations.<sup>86</sup>
3. **Persuasive Reference to International Best Practices:** Even where a treaty has not been domesticated, it may still serve as a persuasive source to guide judicial reasoning, particularly in the field of labor and employment law.<sup>87</sup> The NICN and other superior courts have repeatedly invoked ILO conventions and UN instruments to fill normative gaps and promote fair labor standards.<sup>88</sup>
4. **Reference in Remedies and Judicial Discretion:** Courts also employ international principles to determine appropriate remedies, ensuring that awards reflect fairness, proportionality, and compliance with

<sup>77</sup> Ibid.

<sup>78</sup> Skene, J. J., "Judicial Use of International Labor Standards," 325.

<sup>79</sup> National Industrial Court of Nigeria, *Annual Report 2022*, 8.

<sup>80</sup> International Labor Organization, 1998. *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up* (Geneva: ILO, 1998).

<sup>81</sup> Muro, A., "The Domestic Status of International Labor Conventions in Nigeria," *Nigerian Journal of Labor Law and Industrial Relations*, Vol. 6 No. 2 (2021): 49.

<sup>82</sup> Uvieghara, *Labor Law in Nigeria*, 20.

<sup>83</sup> African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap A9 LFN 2004.

<sup>84</sup> *Bach v. Fawehinmi* (2000) 6 NWLR (Pt. 660) 228.

<sup>85</sup> *Aeroflot v. UBA* (1986) 3 NWLR (Pt. 27) 188.

<sup>86</sup> *General Sani Abacha v. Chief Gani Fawehinmi* (2000) 6 NWLR (Pt. 660) 228.

<sup>87</sup> Skene, "Judicial Use of International Labor Standards," 328.

<sup>88</sup> NICN, *Comrade Bello Itodo v. Chevron Nigeria Ltd* (NICN/LA/411/2013).

international labor norms.<sup>89</sup> This practice aligns Nigeria's labor remedies with global standards on decent work, equality and justice.<sup>90</sup>

#### 4. Overview of International Industrial Relations Treaties in Nigeria

##### 4.1 ILO Core Conventions

Nigeria is a member of the International Labor Organization (ILO) and has ratified all eight fundamental or core conventions of the ILO, which represent the bedrock of international labor standards.<sup>91</sup> These conventions are central to the global pursuit of decent work, equality, and social justice.<sup>92</sup>

The Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) are pivotal in protecting workers' and employers' rights to form and join organizations of their choice.<sup>93</sup> They also guarantee the right to collective bargaining without interference or discrimination.<sup>94</sup> These two conventions laid the foundation for trade unionism in Nigeria, reinforcing the constitutional and statutory guarantees under the Trade Unions Act and the Labor Act.<sup>95</sup>

The Forced Labor Convention, 1930 (No. 29) and the Abolition of Forced Labor Convention, 1957 (No. 105) jointly prohibit all forms of forced or compulsory labor, including servitude, debt bondage and coercive practices that undermine human dignity.<sup>96</sup> These instruments are relevant in Nigeria, where human trafficking, child labor, and exploitative employment still occur, particularly in the informal sector.<sup>97</sup> Their principles have influenced Nigerian laws such as the Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015, and provisions in the Labor Act that prohibit workers' coercion.<sup>98</sup>

The Equal Remuneration Convention, 1951 (No. 100) and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) address issues of equality and fairness at work.<sup>99</sup> They promote the principle of equal pay for work of equal value and prohibit discrimination based on race, color, sex, religion, political opinion, national extraction or social origin.<sup>100</sup> In Nigeria, these conventions informed the constitutional provisions on equality in section 42 of the 1999 Constitution and guided judicial decisions that challenged workplace discrimination.<sup>101</sup> They also underpin the National Gender Policy and the National Human Rights Commission's policies in addressing workplace inequality.<sup>102</sup>

The Minimum Age Convention, 1973 (No. 138) and the Worst Forms of Child Labor Convention, 1999 (No. 182) provide a global framework for the elimination of child labor.<sup>103</sup> They establish minimum age requirements for

<sup>89</sup> ILO, *Rules of the Game: An Introduction to the Standards-Related Work of the ILO*, 3rd ed. (Geneva: ILO, 2019), 12.

<sup>90</sup> NICN, *2022 Annual Report*, 10.

<sup>91</sup> International Labor Organization, *Conventions and Recommendations Database*, accessed October 2025, <<https://www.ilo.org/normlex>>> accessed October 2025.

<sup>92</sup> ILO, *Rules of the Game: An Introduction to the Standards-Related Work of the ILO*, 3rd ed. (Geneva: ILO, 2019), 3.

<sup>93</sup> ILO, *1948. Freedom of Association and Protection of the Right to Organize Convention (No. 87)*, 1948.

<sup>94</sup> ILO, *Right to Organize and Collective Bargaining Convention (No. 98)*, 1949.

<sup>95</sup> *Trade Unions Act*, Cap T14, Laws of the Federation of Nigeria 2004; *Labor Act*, Cap L1, Law of the Federation of Nigeria 2004.

<sup>96</sup> ILO, *Forced Labor Convention (No. 29)*, 1930; *Abolition of Forced Labor Convention (No. 105)*, 1957.

<sup>97</sup> National Agency for the Prohibition of Trafficking in Persons (NAPTIP), *Annual Report 2022* (Abuja: NAPTIP, 2023), 9.

<sup>98</sup> *Trafficking in Persons (Prohibition) Enforcement and Administration Act*, 2015; *Labor Act*, Cap L1, LFN 2004, s. 73.

<sup>99</sup> ILO, *1951. Equal Remuneration Convention (No. 100)*, 1951.

<sup>100</sup> ILO, *1958. Discrimination (Employment and Occupation) Convention (No. 111)*, 1958.

<sup>101</sup> CFRN, 1999 (as amended), s. 42.

<sup>102</sup> Federal Ministry of Women Affairs, *National Gender Policy* (Abuja: FMWA, 2021), 7.

<sup>103</sup> ILO, *1973. Minimum Age Convention (No. 138)*, 1973.

employment and prohibit the use of children in hazardous or exploitative conditions.<sup>104</sup> Nigeria has incorporated these principles in the Child’s Rights Act, 2003 and related state laws.<sup>105</sup> Collectively, the eight core conventions form the moral and legal compass for the protection of workers’ rights and the promotion of decent employment conditions in Nigeria.<sup>106</sup>

#### 4.2 Other influential ILO instruments

Beyond the core conventions, other ILO instruments that deal with specific aspects of employment relations influence Nigeria.<sup>107</sup> The 1982 Termination of Employment Convention, 1982 (No. 158) defines fair and just procedures for dismissal, requiring valid reasons related to the enterprise’s capacity, conduct, or operational requirements.<sup>108</sup> Although not domesticated, this convention has shaped the reasoning of the National Industrial Court in wrongful and unfair dismissal cases, encouraging employers to follow due process before termination.<sup>109</sup> The Occupational Safety and Health Convention, 1981 (No. 155) and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) established standards for the creation of safe and healthy workplaces.<sup>110</sup> These instruments influence Nigeria’s Factories Act and the Employees’ Compensation Act, 2010, which promote preventive measures and compensation for WRIs.<sup>111</sup>

The Violence and Harassment Convention, 2019 (No. 190) is a recent instrument that protects workers from physical, psychological, and sexual harassment at work.<sup>112</sup> Its principles complement Nigeria’s 2015 Violence against Persons (Prohibition) Act, 2015, and have begun to influence court decisions and workplace policies that address gender-based violence and harassment.<sup>113</sup>

Similarly, the Collective Bargaining Convention, 1981 (No. 154) and the Labor Administration Convention, 1978 (No. 150) reinforce the importance of social dialogue, consultation, and effective labor administration systems.<sup>114</sup> They support the establishment of tripartite mechanisms such as the National Labor Advisory Council, which advises on labor policy and fosters cooperation between the government, employers and workers.<sup>115</sup> These instruments are frequently cited by the National Industrial Court as guiding principles in interpreting domestic labor relations law and promoting fairness and equity at work even when not domesticated.<sup>116</sup>

#### 4.3 The African Charter of Human and Peoples’ Rights

The African Charter on Human and Peoples’ Rights occupies a special place in Nigeria’s human rights and labor law framework because it is one of the few domesticated international instruments.<sup>117</sup> The African Charter (Ratification and Enforcement) Act, Cap A9, Laws of the Federation of Nigeria 2004, transforms the Charter into

<sup>104</sup> ILO, 1999. *Worst Forms of Child Labor Convention (No. 182)*, 1999.

<sup>105</sup> *Child’s Rights Act*, Cap C50, LFN, 2003.

<sup>106</sup> F. Adewumi, *Industrial Relations in Nigeria: Theory and Practice*, 2nd ed. (Ababa Press, 2009) 205.

<sup>107</sup> ILO, 1982. *Termination of Employment Convention (No. 158)*, 1982.

<sup>108</sup> *Ibid.*

<sup>109</sup> *Comrade Bello Itodo v Chevron Nigeria Ltd* (NICN/LA/411/2013, judgment of June 18, 2019).

<sup>110</sup> ILO, *Occupational Safety and Health Convention (No. 155)*, 1981; *Promotional Framework for Occupational Safety and Health Convention (No. 187)*, 2006.

<sup>111</sup> *Factories Act*, Cap F1, LFN 2004; *Employees’ Compensation Act*, 2010.

<sup>112</sup> ILO, *Violence and Harassment Convention (No. 190)*, 2019.

<sup>113</sup> *Violence Against Persons (Prohibition) Act*, 2015, s. 1.

<sup>114</sup> ILO, *Collective Bargaining Convention (No. 154)*, 1981; *Labor Administration Convention (No. 150)*, 1978.

<sup>115</sup> Federal Ministry of Labor and Employment, *National Labor Advisory Council Report 2022* (Abuja: FML&E, 2023), p. 3.

<sup>116</sup> National Industrial Court of Nigeria, *Annual Report 2022*, 11.

<sup>117</sup> *The African Charter on Human and Peoples’ Rights* (adopted in 1981, entered into force in 1986).

binding Nigerian law.<sup>118</sup> As such, its provisions have the same force as that of national legislation and are directly enforceable in Nigerian courts.<sup>119</sup>

The Charter recognizes the right to equality, freedom of association, dignity and just working conditions, which are essential elements of industrial relations.<sup>120</sup> Nigerian courts, particularly the National Industrial Court and the Court of Appeal, have invoked its provisions to strengthen claims related to labor rights, labor union freedom and the protection of workers' dignity.<sup>121</sup> Because the Charter is domesticated, it bridges the gap between international norms and domestic enforcement, giving statutory authority to fundamental rights in the world of work.<sup>122</sup>

These international instruments collectively form the backbone of Nigeria's engagement with GLS.<sup>123</sup> Through direct domestication or persuasive influence, they continue to shape judicial reasoning, legislative reforms, and workplace practices, gradually aligning Nigerian industrial relations with international best standards.<sup>124</sup>

## 5. Judicial Attitude toward the Application of International Industrial Relations Treaties

### 5.1 Supreme Court and the Court of Appeal

Nigeria's higher courts' judicial attitude toward the application of international industrial relations treaties has evolved historically through the constitutional principle of dualism.<sup>125</sup> Both the Supreme Court and the Court of Appeal have consistently interpreted section 12 of the 1999 Constitution (as amended) to mean that no treaty in Nigeria can have the force of law unless it has been enacted by the National Assembly.<sup>126</sup>

This position was firmly articulated in *Abacha v. Fawehinmi*<sup>127</sup>, where the Supreme Court held that international agreements, although binding on Nigeria internationally, have no direct domestic effect unless they are transformed into national legislation.<sup>128</sup> However, the courts have not adopted a rigid stance.<sup>129</sup> In several cases, the Supreme Court and the Court of Appeal have shown a willingness to rely on unincorporated treaties as interpretive aids when interpreting domestic statutes or constitutional provisions.<sup>130</sup>

Treaties are treated as persuasive sources that help clarify ambiguities, reinforce constitutional principles, and promote justice in line with international obligations.<sup>131</sup> This interpretive use reflects a gradual openness to global labor and human rights standards, even within the constitutional dualism framework.<sup>132</sup>

<sup>118</sup> *African Charter (Ratification and Enforcement) Act*, Cap A9, LFN, 2004.

<sup>119</sup> *Bach v. Fawehinmi* (2000) 6 NWLR (Pt. 660) 228.

<sup>120</sup> African Charter, Arts, 10–15.

<sup>121</sup> *Koch v. Civil Service Commission of Edo State* (2016) 65 NLLR (Pt. 231) 498 (NICN).

<sup>122</sup> *Ibid.*

<sup>123</sup> Okene, A., & Okene, M. (2001). "Judicial Use of International Labor Standards in Nigeria." *Int'l J. Comp. Lab. & Ind. Rel.* 30, no. 3 (2014): 331.

<sup>124</sup> Muro, A., "The Domestic Status of International Labor Conventions in Nigeria," *J. Labor L. & Ind. Rel.* Vol. 6 No. 2 (2021): 52.

<sup>125</sup> A. Sanni, "The Status of International Treaties in Nigerian Law," *Journal of Public Law and Policy*, Vol. 8 No. 1 (2020): 41.

<sup>126</sup> CFRN, 1999 (as amended), s. 12(1).

<sup>127</sup> *Supra*

<sup>128</sup> *Bach v. Fawehinmi* (2000) 6 NWLR (Pt. 660) 228.

<sup>129</sup> E. E. Uvieghara, *Labor Law in Nigeria* (Malthouse Press 2001), 29.

<sup>130</sup> *Bach v. Fawehinmi* (2000) 6 NWLR (Pt. 660) 228.

<sup>131</sup> *A.G. Ondo State v. A.G. Federation* (2002) 9 NWLR (Pt. 772) 222.

<sup>132</sup> A. Okene, "Judicial Use of International Labor Standards in Nigeria," *Int'l J. Comp. Lab. & Ind. Rel.* 30, no. 3 (2014): 322.

## 5.2 The National Industrial Court after the Third Amendment

The NICN has introduced a more liberal and pragmatic approach to the application of international industrial relations treaties.<sup>133</sup> The Third Alteration Act, 2010, which amended the Constitution, conferred exclusive jurisdiction on the NICN in all matters relating to labor, employment, industrial relations, and international best practices.<sup>134</sup> Section 254C (1) (f), (g), and (h) empowers the court to apply international conventions, treaties, and protocols relating to labor and employment, even when the National Assembly has not domesticated such instruments.<sup>135</sup>

This constitutional empowerment marks a significant departure from the restrictive positions of the Supreme Court and the Court of Appeal.<sup>136</sup> Through this mandate, the NICN has become a bridge between domestic labor law and international labor standards.<sup>137</sup> It has frequently invoked ILO Conventions and other international instruments to interpret ambiguous statutory provisions, define fair procedures in termination cases, and promote equality and dignity at work.<sup>138</sup>

For example, in *Comrade Bello Itodo v. Chevron Nigeria Limited*<sup>139</sup>, the NICN relied on the ILO Termination of Employment Convention, 1982 (No. 158) to emphasize the need for valid reasons and due process before an employee can be dismissed.<sup>140</sup> Similarly, the court uses the Freedom of Association Convention (No. 87) and the Right to Organize and Collective Bargaining Convention (No. 98) to reinforce workers' union formation and collective bargaining without employer interference.<sup>141</sup> This judicial posture has transformed Nigeria's industrial adjudication landscape by expanding the scope of rights and remedies available to workers and aligning domestic labor jurisprudence with global norms.<sup>142</sup>

## 5.3 The African Charter as Direct Law

The African Charter on Human and Peoples' Rights, domesticated through the African Charter (Ratification and Enforcement) Act, Cap A9, LFN 2004, holds a distinct position in Nigerian jurisprudence.<sup>143</sup> Because it has been transformed into domestic law, Nigerian courts can directly apply its provisions.<sup>144</sup> The Charter has become an important legal tool for promoting and protecting labor rights, particularly in cases involving equality, dignity and freedom of association.<sup>145</sup>

The courts have relied on the Charter to uphold workers' rights to fair treatment, to associate freely, and to enjoy just and favorable conditions of work.<sup>146</sup> Its enforceable nature has made it a cornerstone for rights-based arguments in employment disputes, complementing both the Constitution and international labor standards.<sup>147</sup>

<sup>133</sup> National Industrial Court of Nigeria, *Annual Report 2022* (NICN Press, 2023), 10.

<sup>134</sup> Constitution (Third Amendment) Act 2010, s. 254C.

<sup>135</sup> *Ibid.*

<sup>136</sup> Uvieghara, *Labor Law in Nigeria*, 30.

<sup>137</sup> F. Adewumi, *Industrial Relations in Nigeria: Theory and Practice*, 2nd ed. (Ababa Press, 2009) 240.

<sup>138</sup> National Industrial Court of Nigeria, *Annual Report 2022*, p. 12.

<sup>139</sup> (NICN/LA/411/2013)

<sup>140</sup> *Comrade Bello Itodo v Chevron Nigeria Ltd* (NICN/LA/411/2013).

<sup>141</sup> ILO, 1948; *Freedom of Association Convention (No. 87)*, 1948; *Collective Bargaining Convention (No. 98)*, 1949.

<sup>142</sup> Skene, J. J., "Judicial Use of International Labor Standards," 329.

<sup>143</sup> *African Charter (Ratification and Enforcement) Act*, Cap A9, LFN, 2004.

<sup>144</sup> *Bach v. Fawehinmi* (2000) 6 NWLR (Pt. 660) 228.

<sup>145</sup> African Charter on Human and Peoples' Rights, Arts, 10–15.

<sup>146</sup> *Koch v. Civil Service Commission of Edo State* (2016) 65 NLLR (Pt. 231) 498 (NICN).

<sup>147</sup> *Ibid.*

#### 5.4 Limits and Practical Issues

Despite these progressive developments, practical and legal limits remain to the domestic use of international industrial relations treaties.<sup>148</sup> International instruments, whether ratified or not, cannot override national legislation unless they are incorporated into domestic law.<sup>149</sup> Therefore, lawyers and litigants must establish a clear link between a treaty's provisions and each case's facts.<sup>150</sup>

Courts are cautious not to substitute international principles for local statutory provisions in cases of direct conflict.<sup>151</sup> Moreover, the effectiveness of remedies guided by international norms depends on each dispute's context.<sup>152</sup> For instance, while a court may rely on an ILO Convention to interpret fairness in termination, it must still apply domestic procedural rules in awarding remedies such as reinstatement, compensation, or damages.<sup>153</sup> Thus, the dualist nature of Nigeria's legal system continues to impose boundaries on the full internalization of international labor norms.<sup>154</sup>

#### 5.5 Frequent Application Areas

The NICN has developed a body of case law demonstrating the frequent use of specific international labor instruments.<sup>155</sup> In unfair termination and dismissal cases, the court often invokes Convention No. 158 to assess whether an employer's decision was based on a valid reason and followed fair procedure.<sup>156</sup> In labor union recognition and collective bargaining disputes, the court regularly cites Conventions Nos. 87 and 98 to clarify employers' obligations and unions' rights to organize and negotiate.<sup>157</sup>

Conventions Nos. 100 and 111 are often applied alongside section 42 of the Constitution and the African Charter to promote equality and protect workers from unfair treatment in discrimination and equal remuneration claims.<sup>158</sup> Conventions Nos. 155 and 187 guide judicial reasoning on the duty of employers to provide a safe and healthy working environment for occupational health and safety matters.<sup>159</sup> More recently, Convention No. 190 on Violence and Harassment has begun to serve as a foundation for preventing workplace abuse and protecting employees from gender-based violence.<sup>160</sup>

Nigerian courts, especially the NICN, have moved toward a more dynamic and rights-based interpretation of labor law by integrating international standards into domestic adjudication.<sup>161</sup> Although constitutional dualism

<sup>148</sup> Adewumi, *Industrial Relations in Nigeria*, 243.

<sup>149</sup> CFRN, 1999 (as amended), s. 12(1).

<sup>150</sup> Obilade, A. O. (1979). *The Nigerian legal system* (Ibadan: Spectrum Books, 1979), 92.

<sup>151</sup> *Attorney-General of the Federation v. Attorney-General of Abia State* (2002) 6 NWLR (Pt. 764) 542.

<sup>152</sup> National Industrial Court of Nigeria, *Annual Report 2022*, 15.

<sup>153</sup> *Comrade Bello Itodo v Chevron Nigeria Ltd* (NICN/LA/411/2013).

<sup>154</sup> Uvieghara, *Labor Law in Nigeria*, 33.

<sup>155</sup> NICN, *Annual Report, 2022*, 17.

<sup>156</sup> *Bello Itodo v. Chevron Nigeria Ltd* (NICN/LA/411/2013).

<sup>157</sup> *NUPENG v. Mobil Producing Nigeria Unlimited* (NICN/LA/22/2010).

<sup>158</sup> ILO, 1958, *Discrimination (Employment and Occupation) Convention (No. 111)*, 1958; *Equal Remuneration Convention (No. 100)*, 1951.

<sup>159</sup> ILO, *Occupational Safety and Health Convention (No. 155)*, 1981; *Promotional Framework for Occupational Safety and Health Convention (No. 187)*, 2006.

<sup>160</sup> ILO, *Violence and Harassment Convention (No. 190)*, 2019.

<sup>161</sup> Skene, J. J., "Judicial Use of International Labor Standards," 332.

remains intact, the judicial trend reflects an evolving synergy between Nigeria’s internal legal order and IRI norms.<sup>162</sup>

## 6. Comparative Perspectives

### 6.1 United Kingdom

Like Nigeria, the United Kingdom operates a dualist system of international law.<sup>163</sup> Under this approach, international treaties and conventions do not have a direct effect within the domestic legal system unless they are expressly incorporated through legislation enacted by Parliament.<sup>164</sup> This principle ensures that international obligations are not self-executing and that domestic implementation remains subject to democratic control.<sup>165</sup> This reflects the constitutional doctrine of parliamentary sovereignty, which is central to the British legal system.<sup>166</sup>

Although the courts of the United Kingdom cannot directly enforce unincorporated treaties, they frequently employ international labor standards as interpretive aids when resolving ambiguities or filling gaps in domestic statutes.<sup>167</sup> Courts sometimes refer to ILO Conventions and decisions of international supervisory bodies to guide their understanding of labor rights and employer obligations, especially in areas concerning labor union freedoms and equality.<sup>168</sup>

A major turning point in the United Kingdom’s relationship with international human rights law came with the enactment of the Human Rights Act 1998, which incorporated the European Convention on Human Rights (ECHR) into domestic law.<sup>169</sup> This development allows individuals to directly invoke ECHR rights before the UK courts.<sup>170</sup> Although the ECHR is not an ILO instrument, its provisions, particularly Article 11, which guarantees the right to freedom of association, have been applied by courts to reinforce employment rights, including union membership and collective bargaining.<sup>171</sup>

While ILO Conventions and Recommendations remain persuasive rather than binding, the United Kingdom maintains an active dialogue with international labor law through its participation in ILO supervisory mechanisms and periodic reporting obligations.<sup>172</sup> Therefore, the British model illustrates a balanced form of dualism that combines parliamentary control with respect for international standards, ensuring that international labor norms inform but do not dictate domestic policy.<sup>173</sup>

### 6.2 Canada

Canada presents a more flexible model that combines dualism with a strong presumption in favor of harmony between domestic and international law.<sup>174</sup> Although international treaties still require legislation to become

<sup>162</sup> Muro, A., “The Domestic Status of International Labor Conventions in Nigeria,” *J. Labor L. & Ind. Rel.* Vol. 6 No. 2 (2021): 52.

<sup>163</sup> Shaw, M. N. (2021). *International Law*, 9th ed. (Cambridge: Cambridge University Press, 2021), 132.

<sup>164</sup> *R v. Secretary of State for the Home Department, ex parte Brind* [1991] 1 AC 696 (HL).

<sup>165</sup> A. V. Dicey, *Introduction to the Study of the Law of the Constitution*, 10th ed. (London: Macmillan, 1959), 38.

<sup>166</sup> Bogdanor, V. (2009). *The New British Constitution* (Oxford: Hart Publishing, 2009), 56.

<sup>167</sup> P. Davies and M. Freedland, *Labor Law: Text and Materials*, 3rd ed. (Oxford: OUP, 2007), 27.

<sup>168</sup> ILO, (2015). *Committee on Freedom of Association—Case Studies on the UK* (Geneva: ILO, 2015).

<sup>169</sup> *The Human Rights Act 1998* (UK), s. 1.

<sup>170</sup> *Ibid.*

<sup>171</sup> *Wilson and Palmer v. United Kingdom* (2002) 35 EHRR 20.

<sup>172</sup> ILO, *Report of the Committee of Experts on the Application of Conventions and Recommendations: United Kingdom* (Geneva: ILO, 2021).

<sup>173</sup> B. Hepple, “Labor Laws and Globalization: Hypocrisy and Reality,” *Ind. L.J.* 37, no. 3 (2008): 271.

<sup>174</sup> P. Trudeau, E. (1968). *Federalism and the French Canadians* (Toronto: Macmillan, 93).

enforceable, Canadian courts often interpret domestic statutes in a way that aligns with the country's international obligations.<sup>175</sup> The Supreme Court of Canada has repeatedly affirmed that Canadian law should conform to Canada's international commitments, especially those related to human rights and labor standards.<sup>176</sup>

This interpretive presumption has enabled Canadian courts to give international labor instruments a significant role in shaping constitutional and statutory jurisprudence.<sup>177</sup> In interpreting the Canadian Charter of Rights and Freedoms, the courts have relied on ILO Conventions and United Nations treaties to strengthen protections for freedom of association, collective bargaining, and the right to strike.<sup>178</sup>

In landmark cases such as *Health Services and Support, Facilities Subsector Bargaining Association v. In British Columbia*<sup>179</sup> and *Saskatchewan Federation of Labor v. Saskatchewan*<sup>180</sup>, the Supreme Court recognized collective bargaining and the right to strike as constitutionally protected, drawing inspiration from international labor standards.<sup>181</sup> Although Canada's federal and provincial jurisdictions share responsibility for labor regulation, both levels of government show a consistent willingness to engage with ILO norms as persuasive authority.<sup>182</sup>

The Canadian experience demonstrates that courts can advance international labor standards by integrating them into the interpretation of constitutional rights and domestic labor laws even within a dualist framework.<sup>183</sup> Thus, Canada represents an evolved form of judicial engagement in which international norms reinforce domestic commitments to fairness, equity, and social dialogue.<sup>184</sup>

### 6.3 South Africa

South Africa stands out as an example of constitutional openness to international law.<sup>185</sup> The 1996 Constitution of the Republic of South Africa, 1996 expressly directs courts to consider international law when interpreting the Bill of Rights and other Constitutional provisions.<sup>186</sup> This directive has made international and comparative law an integral part of South African legal reasoning, particularly in labor and human rights matters.<sup>187</sup>

The Labor Relations Act 1995 and other employment statutes already incorporate many ILO standards, including those on freedom of association, collective bargaining, and non-discrimination.<sup>188</sup> The Labor Court, Labor Appeal Court, and the Constitutional Court frequently invoke ILO Conventions and recommendations as both persuasive sources and operational norms to give effect to constitutional guarantees.<sup>189</sup>

<sup>175</sup> R. Sullivan, *Statutory Interpretation*, 3rd ed. (Toronto: Irwin Law, 2016), 147.

<sup>176</sup> *Baker v. Canada (Minister of Citizenship and Immigration)* [1999] 2 SCR 817.

<sup>177</sup> Langille, B., "Canadian Labor Law and International Labor Standards," *Can. Lab. & Emp. L.J.* 13, no. 1 (2008): 56.

<sup>178</sup> *Health Services and Support—Facilities Subsector Bargaining Association v. British Columbia* [2007] 2 SCR 391.

<sup>179</sup> (2007 SCC 27)

<sup>180</sup> (2015 SCC 4)

<sup>181</sup> *Saskatchewan Federation of Labor v. Saskatchewan* [2015] 1 SCR 245.

<sup>182</sup> Langille, J., "Canadian Labor Law and International Labor Standards," 59.

<sup>183</sup> *Fraser v. Ontario (Attorney General)* [2011] 2 SCR 3.

<sup>184</sup> B. Etherington, "The Role of International Labor Standards in Canadian jurisprudence," *International Journal of Construction Law, L. & Ind. Rel.* 33, no. 2 (2017): 141.

<sup>185</sup> Dugard, J. (2018). *International Law: A South African Perspective*, 5th ed. (Cape Town: Juta, 2018), 45.

<sup>186</sup> *Constitution of the Republic of South Africa* 1996, s. 39(1)(b).

<sup>187</sup> *Ibid.*

<sup>188</sup> *Labor Relations Act* 66 of 1995 (South Africa), Preamble.

<sup>189</sup> P. Benjamin, "Labor Law and the Courts: South Africa's Expanding Protection of Workers' Rights," *ILJ* 27, no. 1 (2006): 23.

In *NUMSA v. Bader Bop (Pty) Ltd*,<sup>190</sup> the Constitutional Court drew directly on ILO standards to protect minority unions and expand the scope of collective bargaining rights.<sup>191</sup> Therefore, South Africa’s approach reflects a model of constitutional incorporation, where international labor law is not merely persuasive but actively shapes the interpretation and enforcement of domestic rights.<sup>192</sup> The result is a labor law system that mirrors global standards while remaining sensitive to local realities.<sup>193</sup>

#### 6.4 Lessons for Nigeria

A comparative analysis of these three jurisdictions reveals distinct approaches to the relationship between international and domestic labor law.<sup>194</sup> The United Kingdom represents strict dualism, where treaties are only effective after legislative incorporation, and international labor standards primarily serve as interpretive guides.<sup>195</sup> Canada illustrates an interpretive alignment model in which courts integrate international standards into constitutional and statutory interpretations even without formal incorporation.<sup>196</sup> South Africa exemplifies constitutional incorporation, in which the Constitution itself mandates consideration of international law and where labor statutes reflect global norms by design.<sup>197</sup>

Nigeria lies between these models.<sup>198</sup> It retains the dualist rule under section 12 of the 1999 Constitution but demonstrates a degree of constitutional openness similar to South Africa’s through the National Industrial Court’s jurisdiction under section 254C.<sup>199</sup> The Nigerian approach is evolving toward a hybrid model that respects parliamentary sovereignty while empowering courts to apply international labor standards and best practices to promote justice.<sup>200</sup> This comparative insight highlights Nigeria’s potential to deepen its judicial engagement with international law while maintaining the democratic safeguards of its dualist framework.<sup>201</sup>

### 7. Summary of the Findings

The analysis above demonstrates that while constitutional constraints still exist, the growing reliance on international labor standards by the National Industrial Court marks an important step toward aligning Nigerian practice with international expectations.<sup>202</sup> This study further reveals the complex yet evolving relationship between Nigeria’s constitutional framework and the application of IRTs.<sup>203</sup> Other key findings emerge from the analysis of statutory provisions, judicial trends, and comparative experiences.<sup>204</sup>

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<sup>190</sup> (2003 (3) SA 513 (CC))

<sup>191</sup> *NUMSA v. Bader Bop (Pty) Ltd* (2003 (3) SA 513 (CC)).

<sup>192</sup> Fugard, *International Law: A South African Perspective*, 47.

<sup>193</sup> Benjamin, “Labor Law and the Courts,” 27.

<sup>194</sup> Adewumi, A. (2009). *Industrial Relations in Nigeria: Theory and Practice*, 2nd ed. (Ibadan: Ababa Press, 2009), 255.

<sup>195</sup> Shaw, *International Law*, 137.

<sup>196</sup> Sullivan, *Statutory Interpretation*, 151.

<sup>197</sup> Fugard, *International Law: A South African Perspective*, 50.

<sup>198</sup> Okene, A., & Okene, M. (2001). “Judicial Use of International Labor Standards in Nigeria.” *Int’l J. Comp. Lab. & Ind. Rel.* 30, no. 3 (2014): 330.

<sup>199</sup> Constitution (Third Amendment) Act 2010, s. 254C.

<sup>200</sup> National Industrial Court of Nigeria, *Annual Report 2022* (Abuja: NICN Press, 2023), 18.

<sup>201</sup> Muro, A., “The Domestic Status of International Labor Conventions in Nigeria,” *J. Labor L. & Ind. Rel.* Vol. 6 No. 2 (2021): 54.

<sup>202</sup> National Industrial Court of Nigeria, *Annual Report 2022*, 9.

<sup>203</sup> Biola Sanni, “The Status of International Treaties in Nigerian Law,” *Journal of Public Law and Policy* Vol. 8 No. 1 (2020): 42.

<sup>204</sup> A. Okene, “Judicial Use of International Labor Standards in Nigeria,” *Int’l J. Comp. Lab. & Ind. Rel.* 30, no. 3 (2014): 330.

1. **Nigeria constitutionally remains a dualist state:**<sup>205</sup> The Nigerian legal system continues to uphold the dualist principle, which is entrenched in section 12 of the 1999 Constitution (as amended).<sup>206</sup> This provision requires that all international treaties, including labor and employment-related conventions, must be enacted into law by the National Assembly before they can have a domestic effect that is binding.<sup>207</sup> This means that although Nigeria may be bound at the international level by its ratification of ILO Conventions, such instruments do not automatically create enforceable rights and obligations within the country until they are domesticated.<sup>208</sup>

2. **The National Industrial Court serves as a partial bridge between international and domestic law:**<sup>209</sup> With the Third Alteration to the Constitution, the National Industrial Court of Nigeria (NICN) was granted constitutional authority under section 254C to apply international best practices and labor standards, even where treaties have not been domesticated.<sup>210</sup> This has created a unique window for the partial application of international law in the adjudication of domestic labor.<sup>211</sup> Through this provision, the NICN has emerged as a reform-oriented institution capable of harmonizing Nigerian labor law with global standards, thereby narrowing the traditional gap created by dualism.<sup>212</sup>

3. **Domesticated treaties possess binding force, while undomesticated instruments remain persuasive:**<sup>213</sup> Among international treaties relevant to labor and employment, only the African Charter on Human and Peoples' Rights has been domesticated through national legislation.<sup>214</sup> Consequently, it enjoys direct enforceability in Nigerian courts and serves as a statutory basis for protecting rights such as equality, dignity, and freedom of association.<sup>215</sup> Although ratified, other conventions, such as ILO Conventions 87, 98, 100, 111, 155, 158, 187, and 190, remain undomesticated.<sup>216</sup> Nevertheless, courts, especially the NICN, frequently rely on them as persuasive authorities and interpretive tools for resolving disputes.<sup>217</sup>

4. **International norms strongly influence key areas of labor dispute resolution:**<sup>218</sup> The NICN has progressively incorporated international labor principles in cases concerning wrongful or unfair dismissal, collective bargaining, trade union recognition, workplace discrimination, occupational safety and gender-based harassment.<sup>219</sup> For example, Convention No. 158 guides the court in determining fairness in termination cases, while Conventions Nos. 87 and 98 strengthen workers' rights to organize and bargain collectively.<sup>220</sup> Similarly, Conventions Nos. 100 and 111 have been applied to promote equal pay and non-discrimination, and Conventions

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<sup>205</sup> E. E. Uvieghara, *Labor Law in Nigeria* (Lagos: Malthouse Press, 2001), 33.

<sup>206</sup> CFRN, 1999 (as amended), s. 12.

<sup>207</sup> F. Adewumi, *Industrial Relations in Nigeria: Theory and Practice*, 2nd ed. (Ibadan: Ababa Press, 2009), 243.

<sup>208</sup> *Bach v. Fawehinmi* (2000) 6 NWLR (Pt. 660) 228.

<sup>209</sup> National Industrial Court of Nigeria, *Annual Report 2022* (Abuja: NICN Press, 2023), 12.

<sup>210</sup> Constitution (Third Amendment) Act 2010, s. 254C.

<sup>211</sup> Uvieghara, *Labor Law in Nigeria*, 34.

<sup>212</sup> Skene, "Judicial Use of International Labor Standards," 333.

<sup>213</sup> *African Charter (Ratification and Enforcement) Act*, Cap A9 LFN, 2004.

<sup>214</sup> African Charter on Human and Peoples' Rights, Arts, 10–15.

<sup>215</sup> *Bach v. Fawehinmi* (2000) 6 NWLR (Pt. 660) 228.

<sup>216</sup> International Labor Organization, *List of Ratified Conventions – Nigeria*, accessed October 2025, <<https://www.ilo.org/normlex>> accessed October 2025.

<sup>217</sup> NICN, *Comrade Bello Itodo v. Chevron Nigeria Ltd* (NICN/LA/411/2013).

<sup>218</sup> Obilade, A. O. (1979). *The Nigerian legal system* (Ibadan: Spectrum Books, 1979), 97.

<sup>219</sup> NICN, *Annual Report 2022*, 18.

<sup>220</sup> ILO, 1948. *Freedom of Association Convention (No. 87)*, 1948; *Right to Organize and Collective Bargaining Convention (No. 98)*, 1949.

Nos. 155, 187, and 190 have been applied to guide employer obligations relating to workplace safety and the prevention of harassment.<sup>221</sup>

5. **International standards influence judicial remedies and compliance measures:**<sup>222</sup> The National Industrial Court often draws upon international labor norms when crafting remedies that go beyond traditional damages.<sup>223</sup> These include reinstatement, structured compliance orders, or directives to revise workplace policies.<sup>224</sup> Such orders reflect the court's effort to ensure that its judgments align with global standards of fairness, proportionality, and decent work, thereby strengthening the legitimacy and social impact of its decisions.<sup>225</sup>

6. **Nigeria's approach occupies a middle ground in a comparative context:**<sup>226</sup> When compared with other common law jurisdictions, Nigeria's model of engagement with international labor law lies between strict dualism and constitutional incorporation.<sup>227</sup> Similar to the United Kingdom, it requires legislative domestication before treaties can be enforced.<sup>228</sup> However, Nigeria also exhibits interpretive openness similar to Canada and South Africa through the NICN's expanded jurisdiction.<sup>229</sup> This hybrid position allows gradual internalization of international labor standards within the Nigerian legal system while maintaining respect for parliamentary sovereignty.<sup>230</sup>

The findings indicate that while Nigeria's constitutional framework still adheres to dualism, judicial innovation—especially by the NICN—has created a functional pathway for the integration of international labor norms.<sup>231</sup> The progressive use of these norms in adjudication signals an ongoing evolution toward a more rights-based and internationally compliant labor system.<sup>232</sup>

## 8. Recommendations

A set of coordinated reforms is proposed across institutional, judicial, professional, and academic levels to strengthen the domestic application of IRTs in Nigeria.

### 8.1 For the National Assembly and Executive

#### 1. Domesticate the key ILO Conventions.

The National Assembly should prioritize the domestication of major ILO instruments that define the core of modern labor relations, including Conventions 87 and 98 on freedom of association and collective bargaining, Conventions 155 and 187 on occupational safety and health, Convention 158 on termination of employment, and Convention 190 on violence and harassment. Domestication would give these instruments direct legal force and ensure uniform enforcement across federal and state jurisdictions.

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<sup>221</sup> ILO, *Violence and Harassment Convention (No. 190)*, 2019; *Occupational Safety and Health Convention (No. 155)*, 1981.

<sup>222</sup> Skene, "Judicial Use of International Labor Standards," 334.

<sup>223</sup> NICN, *2022 Annual Report*, 19.

<sup>224</sup> *Comrade Bello Itodo v Chevron Nigeria Ltd* (NICN/LA/411/2013).

<sup>225</sup> *Ibid.*

<sup>226</sup> Adewumi, *Industrial Relations in Nigeria*, 245.

<sup>227</sup> Shaw, M. N. (2021). *International Law*, 9th ed. (Cambridge: Cambridge University Press, 2021), 132.

<sup>228</sup> *R v. Secretary of State for the Home Department, ex parte Brind* [1991] 1 AC 696 (HL).

<sup>229</sup> *Saskatchewan Federation of Labor v. Saskatchewan* [2015] 1 SCR 245.

<sup>230</sup> Fugard (2018). *International Law: A South African Perspective*, 5th ed. (Cape Town: Juta, 2018), 47.

<sup>231</sup> Muro, A., "The Domestic Status of International Labor Conventions in Nigeria," *J. Labor L. & Ind. Rel.* Vol. 6 No. 2 (2021): 55.

<sup>232</sup> Skene, J. (2013). "Judicial Use of International Labor Standards," 336.

## 2. **Review and Harmonize Labor-related Statutes**

Nigeria's labor laws are dispersed across several enactments, some of which are outdated. The Labor Act, Trade Unions Act, Factories Act, and Employees' Compensation Act should be reviewed and harmonized to reflect current international standards and promote policy implementation coherence.

### 3. **Empower the Ministry of Labor to issue codes of practice.**

The Federal Ministry of Labor and Employment should be authorized to issue sectoral codes of practice and administrative guidelines based on ILO Conventions and recommendations. Such instruments can serve as flexible mechanisms for promoting compliance without requiring constant legislative amendment.

### 4. **Strengthening labor inspection and mediation mechanisms.**

Labor inspectorates should be equipped with modern training and resources to monitor compliance with both domestic and international standards. The Ministry should also strengthen its mediation and conciliation frameworks in line with ILO recommendations, ensuring that industrial disputes are resolved promptly and fairly.

## 8.2 **For the Judiciary**

### 1. **Promote an interpretive presumption of conformity with international law.**

The Supreme Court and the Court of Appeal should adopt a judicial presumption that domestic laws are intended to conform to Nigeria's international obligations unless expressly stated otherwise. This approach, which is already used in Canada and other jurisdictions, would enable courts to align domestic decisions with international labor norms.

### 2. **Develop judicial practice directions based on international standards.**

The president of the National Industrial Court should issue a formal practice direction clarifying how and when international conventions and ILO standards may be cited and applied. This would ensure consistency, predictability, and transparency in the use of international law in DA.

### 3. **Enhance continuous judicial education.**

The National Judicial Institute should incorporate specialized modules on international labor law, ILO conventions and comparative jurisprudence in its training programs for judges. Such training would deepen the judicial understanding of global best practices and encourage a more principled application of international norms.

## 8.3 **Legal Practitioners and Labor Professionals**

### 1. **Integrating international standards into legal arguments**

Practitioners should always link international conventions to domestic legal bases, such as constitutional provisions, the African Charter Act, or relevant labor statutes. This method strengthens the persuasiveness and legality of their arguments in court.

### 2. **Translate international standards into workplace governance.**

Employers, human resource managers, and trade unions should incorporate International Labor Organization (ILO) principles into company policies, disciplinary codes, employment contracts, and collective agreements. Embedding international norms in everyday workplace practices will help reduce disputes and foster decent work environments.

### 3. **Promote the use of proportional and restorative remedies.**

Lawyers and labor officers should invoke international standards to support remedies that balance employer and employee interests. Remedies such as reinstatement, compensation, and institutional reforms should reflect the international labor law's proportionality principle.

#### **8.4 Academia and Policy Institutions**

##### **1. Develop a judicial database on ILO-based decisions.**

Universities, research institutes, and the National Industrial Court should collaborate to establish an accessible database of Nigerian cases where ILO conventions or international standards influenced judicial reasoning. This will promote research, transparency, and policy development.

##### **2. Encourage empirical and comparative research.**

Empirical studies on how international law influences workplace outcomes, employee rights, and industrial harmony in Nigeria should be conducted. Comparative analyses with countries such as South Africa and Canada can offer valuable insights for reform.

##### **3. Integrating international labor law into academic curricula**

Faculties of Law and Industrial Relations should expand their curricula to include modules on international labor law and the ILO's jurisprudence. This will prepare future practitioners and policymakers to engage more effectively with GLG.

#### **9. Conclusion**

International industrial relations treaties play an increasingly significant role in Nigerian courts, particularly in the National Industrial Court's decisions. Although Nigeria's dualist constitutional framework limits the automatic enforceability of treaties, international labor standards continue to shape judicial reasoning and influence the evolution of labor jurisprudence. The long-held assumption that international instruments have little or no place in domestic adjudication is gradually becoming a more practical and qualified reality. Through the constitutional powers conferred by section 254C, the National Industrial Court has demonstrated that international labor law can serve as a legitimate and persuasive source for achieving fairness, equity, and justice in employment relations.

Nigeria's labor justice system now stands between domestic dualism and global labor constitutionalism. The National Industrial Court functions as an experimental platform for integrating international labor norms into local legal reasoning. The Court's willingness to apply the ILO Conventions, declarations, and best practices has deepened the relevance of international standards and strengthened the protection of workers' rights.

Looking ahead, the effective domestication of more ILO Conventions, the enactment of modern labor laws, and sustained judicial advocacy will ensure that Nigerian courts can effectively implement international labor law. Nigeria will move closer to achieving a truly balanced, fair, and globally aligned system of industrial justice as these developments take root.