

AN APPRAISAL ON THE LEGAL FRAMEWORK AND RECOGNITION OF TRADE UNION IN NIGERIA

By

Wodi, Chiyemenum Okechuku*

Abstract

This paper examines an appraisal on the legal framework and recognition of Trade Union in Nigeria. Trade Union can function and be recognized by the enabling law and statutes. The legislature has provided various standards and laws for the process of registration, recognition and regulation of the conduct of activities of Trade Union in Nigeria. Trade Union rights as provided by the statutes are shaped by the interpretation of various court rulings. For a Trade Union to be recognized, it has to pass through the process of registration and for an employer to recognize same as a Trade Union. This paper further seeks to examine the Trade Union Act, Trade Disputes Act, Trade Union International Affiliation Act, and Procedure for the Registration and recognition of Trade Unions in Nigeria. The writer also recommends the review of statutes to meet International Standards.

Introduction

Trade Unions like other statutory organizations are subject to legal control and regulation. Its operation is regulated by Nigerian statutes. The legislature has made laws governing the conduct of affairs of trade unions in Nigeria. Any action by trade unions outside the legally permissible units is always declared ultra-vires by Nigerian Courts. The purpose of Trade Union is to obtain the greatest working condition for its members who are workers as well as to increase worker productivity. Workers form union to pursue the welfare and desirable working conditions of workers in the same skilled occupation who act together to secure all members favourable wages and other working conditions. The right to form and join Trade Union as guaranteed by the 1999 Constitution of the Federal Republic of Nigeria (as amended) is a gate way pass for persons or group of people to form and join Trade Union. The existence and actions of Trade Unions are within the legal provision and structure as provided by laws and statutes.

*LLB, BL, LLM; Lecturer, Faculty of Law, Department of Business Law, Rivers State University, Port Harcourt, Nigeria. GSM: +234 8037487367; Email: chiyemenum.wodi1@ust.edu.ng.

Freedom of Association is one of the key human rights recognized under National and International law. Formation of Trade Unions is an effective means to exercise the freedom of association for the protection of workers. The provision of laws and Statutes for the structure of Trade Union in Nigeria does not meet international standards, though it operates as a gateway for Trade Unions in Nigeria.

Constitution of the Federal Republic of Nigeria 1999 (as amended)

Since the attainment of independence in 1960, the constitution has always guaranteed freedom of association. The Nigerian constitution aptly provided 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.¹ There is no doubt that this provision is a guarantee of a fundamental right to form or belong to a trade union of one's choice. Therefore any person who alleges that his right to form, join or belong to a trade union of his choice has been infringed may apply to the court for a redress.²

The provisions guaranteeing freedom of assembly and association is a summation of two international labour organization conventions namely convention 87 of 1948 and convention 98 of 1949 which Nigeria ratified within two weeks of independence.³ The combined effects of these two conventions ratified by Nigeria is that it provides for a range of rights necessary for growth and development of industrial relations by trade unions. These includes the right to form an organization voluntarily without prior authorization, right to draw up their rules and elect their representatives, organize their activities and public authorities must refrain from any interference which would restrict their rights, trade unions must not be made liable to be dissolved or suspended by administrative authority and their organizations must have the right to establish and join federations, confederations and to affiliate with international organizations of employees and employers.⁴

¹ Constitution of the Federal Republic of Nigeria 1999 (as Amended), s. 40.

² *Ibid*, s. 46.

³ O Akanle, Development in Commercial Business and Trade Laws in Aguda, *The Challenges of the Nigerian Nation* (Heinemann Nigeria Limited Ibadan 1985) 156; O V C Okene, 'Curbing State Interference in Worker Freedom of Association in Nigeria [2006] 8[4] *The International Journal of Not – for-Profit Law*, 522-580.

⁴ *Ibid*.

However, the fundamental right to form trade unions is not an absolute one. The constitution provides for derogation on grounds of public safety, public order, public morality or health in the interest of defence or for the purpose of protecting the rights and freedom of other persons.⁵ The derogation thus permitted is by law and such law must meet the criterion stipulated, that is being reasonably justifiable in a democratic society for any one of the grounds stipulated above.

The National Industrial Court in the case of *Nigeria Civil Service Union v. Association of Senior Civil Servants of Nigeria*,⁶ held that the “right to freedom of association guaranteed under the constitution are qualified and not absolute rights, thus, the right to associate with other persons to form a trade union must be within the limits by the Trade Union Act”.

Apart from the Nigerian Constitution, other legislations such as the Labour Act which regulates protection of wages, contracts of employment terms and conditions of employment of the Nigerian worker, restate the right of a worker to associate or take part in trade unionism. The Labour Act⁷ provides that “no contract of employment shall make it a condition of employment that a worker shall not join trade union or shall relinquish membership of a trade union or otherwise be dismissed on grounds of activities associated with trade unionism”.⁸

Nigeria has signed and ratified other international treaties such as the African Charter on Human and Peoples Rights and has been incorporated into the bulk of our laws by virtue of the African Charter on Human and People’s Rights.⁹ The Charter guarantees to an individual the right to free association¹⁰ and to assemble freely with others subject only to necessary restriction provided for by law.¹¹

⁵ Constitution of the Federal Republic of Nigeria, 1999 (as amended) S. 46; O V C Okene, ‘Derogations and Restrictions on the Right to Strike under International Law: The case of Nigeria’ [2009] 13 [4] *International Journal of Human Rights*, 552-580.

⁶ [2004] NWLR (Pt 3) 429.

⁷ Labour Act, Cap LI Laws of the Federation of Nigeria 2004.

⁸ *Ibid.*, s. 9 (6).

⁹ African Charter on Human and Peoples Rights (Ratification and Enforcement) Act Vol, 1 Cap 19 LFN 2004.

¹⁰ ACHPR, art. 10.

¹¹ *Ibid.*, art. 11; Abdulmutalib Umar, ‘An Appraisal of the role of Trade Unionism under Nigerian Law: A case Study of the Nigeria Labour Congress. A Thesis Submitted to the Post Graduate Studies Ahmadu Bello University Zaria, 2015.

Trade Unions Act

This is the law specifically enacted to regulate the conduct and operations of trade unions in Nigeria. The Trade Unions Act is presently encapsulated in volume 15 Laws of the Federation of Nigeria 2004.¹² The law sets down the procedure for registration by trade unions and its benefits thereof, union rules, names trade unions are prohibited from using, dissolution of trade unions, membership, recognition, merger of labour unions, creation of association of labour unions, accounts and returns and immunities to civil or criminal liabilities.

The Act is the ground norm guiding the *modus operandi*, of trade unions in Nigeria. As a general rule, every Nigerian between the ages of sixteen and twenty one and over is eligible to become a member of a trade union. Every worker who applies for admission into the appropriate union cannot be denied membership. Section 12(2) of the Trade Union Act¹³ criminalizes any attempt by anyone to prevent any worker from joining a trade union through which only his interest can be fully realized. However, the Act, itself places some restrictions on membership of trade unions.

Section 11(2) of the Trade Union Act¹⁴ provides that “it shall not be lawful for persons in the police, prison and armed forces as well as those in the customers’ preventive services to unite, gather together or to be members of any trade union”. So also are employees in the Nigerian security printing and mining company, staff of the central bank and those in any labour services authorized to bear arms. In addition the Trade Union Act confers to the Minister of Labour the power to specify other establishments whose staff may not belong to trade unions.

In addition the President is given the power to proscribe a trade union if he is satisfied that such a trade union which is occupied with the provision of essential services to the public engages in acts calculated to disrupt the economy or smooth running of any essential services.¹⁵ The Trade Union Act has been subjected to amendment in 2005 and certain

¹² Cap T14 LFN 2004; O V C Okene, ‘Labour Law in Nigeria: The Law of Work (Claxton and Derrick Limited 2012); O V C Okene, ‘Liability for Exercising the Right to Strike in Nigeria: Some Reflections [2010] 1 [1] *Journal of Public and International Law*, 182-214.

¹³ *Ibid.*

¹⁴ Cap T14 LFN 2004.

¹⁵ Trade Disputes (Essential Services) Act Cap T9 Laws of Federation of Nigeria 2004, s. 1(1).

consequential amendments have tended to undermine the effectiveness of trade unions. It sorts of restricting the workers right to resort to strike as an industrial action and means of achieving its aims and objectives.

Trade Dispute Act

The Trade Disputes Act now embodied in laws of the Federation of Nigeria 2004¹⁶ gives the parties the freedom to negotiate on their own or under a mediator, failure of which the minister of labour is empowered to intervene in an industrial dispute with the object of promoting settlement by reconciliation. The inability to force any of the parties to come to terms with their opponents or compel obedience to the adjudication of a peace matter had created a lacuna in the process of industrial relations. Therefore, legislation had to be explored as a means of bringing about a change of attitude to industrial negotiation.

To achieve its main objective, a trade union need not to be unduly bellicose: it would augur well for better industrial harmony if its missions and objectives could be fulfilled without conflict. A trade union should therefore strive as much as possible to make use of available negotiating machinery for achieving maximum benefits for all its members with the minimum of friction. Unfortunately, this has not always been the case.

All workers are similar as they all yearn for acknowledgment, fulfilment, reasonable earnings and remuneration, job security, redress of wrongs and better working conditions.¹⁷ The processes that have been used to allow workers to attain these goals and aspirations are collective bargaining. Though frequently, the employer and the unions finds each other in jagged discrepancy not only on these issues but also as to the interpretation of the collective agreement and its application, such frictions give rise to trade disputes, settlement evolved in industrial relations. The underlying principle here is usually based on voluntarism on the part of the parties.¹⁸

¹⁶ Trade Disputes Act Cap T8 LFN 2004.

¹⁷ A Umar, 'An Appraisal of the role of Trade Unionism under Nigeria Law: A case Study of the Nigeria Labour Congress. A Thesis Submitted to the Post Graduate Studies Ahmadu Bello University Zaria, 2015; E A Oji and O D Amucheazi, *Employment and Labour Law in Nigeria* (Mbeyi and Associates (Nig) Limited 2015); A Emiola, *Nigerian Labour Law* (Emiola Publishers Limited 2008).

¹⁸ A C Francis, E Tunde and M AGbahumo-Sherrif, 'Collective Bargaining Dynamics in the Nigeria, Public and Private Sectors' [2011] 1[5] *Australian Journal of Business and Management Research*, 63-70.

The first of such legislations which made the most far reaching incursions into the voluntary nature of Nigeria's industrial practices was the Trade Disputes (Emergency Provision) Decree 1968.¹⁹ That decree has now been repealed by the Trade Disputes Act 1976 which also re-enacted all the essential and major provisions of the 1969 Decree. The Trade Dispute Act of 1968²⁰ introduced compulsion in the settlement of labour disputes in Nigeria.

Trade Union International Affiliation Act

This is another important legal framework for trade unions in Nigeria. This legislation²¹ gives trade unions in Nigeria the legal right to seek affiliation with any international labour organization or trade secretariat. The writer submits that the Act is very important because it exposes Nigerian trade unions to other international labour organization where ideas and ideologies are exchanged for mutual benefits. Therefore, through such interactions Nigeria's trade union are abreast with labour issues and policies in line with global practice in the industry.

Registration of Trade Unions

The requirement for registration imposed on trade union is a mandatory provision under Nigerian Labour Law. The Supreme Court held in the case of *Alhaji Balarabe Musa vs. Independent National Electoral Commission*²² that registration facilitates the exercise of regulatory and monitoring powers and the recording and certification of the fact of existence. The law states that labour unions must not carry out any action in continuance of its purpose unless it has been registered.²³ An unregistered trade union is prohibited from performing its functions. However, an unregistered trade union may take any step that might be essential for the idea of registering the union.²⁴

¹⁹ Trade Dispute (Emergency Provisions) Decree 1968, No. 21.

²⁰ Trade Dispute Act of 1968.

²¹ Trade Unions (International Affiliation) Act 1991, No. 32

²² (2003) 3 NWLR (pt 806) 72; O V C Okene, *Labour Law in Nigeria: The Law of Work* (Claxton and Derrick Limited 2012) 295; O Oguniyi, *Nigeria Labour Law Employment Law in Perspective* (Folio Publishers Limited Lagos 1991); E A Oji and O A Amucheazi, *Employment and Labour Law in Nigeria* (Mbeyi and Associates (Nig) Ltd, 2015) 239.

²³ Trade Unions Act Cap T14 2004; O A Jacob, 'The Legal Status of Trade Union in Nigeria' *Emerging Labour Law Review*, 15 – 31.

²⁴ Trade Union Act Cap T14 2004, proviso to s. 2(1).

Procedure for Registration

Generally, where a trade union already exists in representing workers or employers, no trade union shall be registered subsequently in that respect. The rationale for this restriction is to prevent confusion that will arise as a result of proliferation of trade unions in places where unions already exist and carry out similar functions. This restriction will prevent duplicity of functions on the part of trade unions and unify the labour movement. An application for registration of a trade union must be made to the registrar in the presented form and signed in the case of a trade union of employment by at least two members of the union.²⁵ Every application must be attached with two copies of the regulations of the association and by a record displaying the names, address, and occupation of everyone that signed the application and the official title, name, address, age and occupation of each officials of the union.²⁶

Where the Registrar received an application for the registration of a trade union, he must cause a notice of the application to be published in the Gazette, stating that objections to the registration of the trade union may be submitted to him in writing within three months of the publication of the notice.²⁷ If however, the application appears to him to be defective in any respect he must notify the applicant accordingly and must take no further action in relation to the application until it has been amended to his satisfaction or a new application is submitted or non defective application is made.²⁸ The Registrar must within three months after and end of the period for objections, approve any objection submitted to him during the period. If he is satisfied:

1. That no proper objection has been raised
2. That none of the purpose of the trade union is unlawful and

²⁵ Trade Unions Act Cap T14 LFN 2004, s. 3 (1); O V C Okene, *Labour Law in Nigeria: The Law of work* (Claxton and Derrick Limited 2012) 169-176; E E. Uvieghara; 'Labour Law in Nigeria (Malthouse Press Limited 2001) 325- 387; E A Oji and O A Amucheazi, *Employment and Labour Law in Nigeria* (Mbeyi and Associate (Nig) Ltd (2015) 198-205; Baker and McKenzie, 'The Global Employer: Focus on Trade Unions and Works Council (2012); Cornell University ILR School Digital Commons @ ILR <http://digital.Commons.ILR.Cornell.edu/law_firms> accessed 23/02/2022.

²⁶ Trade Unions Act Cap T14 LFN 2004, s. 3 (6);

²⁷ *Ibid.*, s. 5 (1) and (2).

²⁸ Trade Unions Act CAP T14 LFN, s. 5 (1).

3. That the requirements of the Act²⁹ and regulations³⁰ with respect to the registration of trade union have been complied with, must subject to an acceptable name, register the union and its rules³¹

On registering a union, the registrar must give a registration certificate which except he cancels the union's registration, is conclusive evidence save in any proceedings, for the annulment of the union's registration on the basis that the union fraudulently acquired its registration or as in error that:

1. The requirement of the act and the regulations with respect to registration has been complied with.
2. The trade union is authorized to be registered and
3. The trade union is a trade union for the purpose of the Act.³²

If the registrar refuses to register the union he must send to the applicant a notice in the prescribed form to that effect and stating the grounds of the refusal and specifying the date from which the time for appealing against the refusal is to run and he must publish a notice to the like effect in the Gazette.³³ Any of the union's officer or member can appeal to the proper court within a time of thirty days commencing from the precise date provided against such rejection.³⁴ On an appeal the court can give such order as it deems appropriate and without unfairness to the generality of this power, in any procedures on such appeal, the court may make such order as it thinks proper and without prejudice to the generality of this power, in any proceedings on such appeal, the Act vested on the Court with all the powers as the Registrar can make any order which may or should have been made by the Registrar and the cost of, and incidental to the appeal as well as the cost of an occurrence to any proceedings before the Registrar are in the discretion of the court.³⁵

²⁹ *Ibid.*, ss. 4 and 6.

³⁰ *Ibid.*

³¹ *Ibid.*; E A Oji and O A Amucheazi, *Employment and Labour Law in Nigeria* (Mbeyi and Associates (Nig) Ltd (2015) 198-205.

³² Trade Union Act, Cap T14 LFN 2004, s. 5 (6).

³³ *Ibid.*, s. 5 (5) (e).

³⁴ *Ibid.*, s. 5 (5).

³⁵ Trade Union Act, Cap T14 LFN 2004, s. 8 (8) (e) and (b).

The appeal on the refusal of the Registrar to register a trade union lies on the appropriate court, which are the Industrial Arbitration Panel and the National Industrial Court as the case may be.³⁶ Where a request made by a labour organisation for its registration is consequently rejected, according to its rules, the organisation must be dissolved within a time of three months commencing from the date of the last rejection, an application for the registration of a labour organisation must be taken to be consequently rejected:

1. At the end of the thirty days allowed for appeal where no appeal from the registrar's refusal is brought within those days, or
2. Where an appeal was brought and the registrar's refusal is confirmed on a final determination on the date of the final determination;
3. If the refusal was on the ground of its name being objectionable and the matter had been referred to the Minister for his decision on the date on which the minister confirms the refusal.³⁷

A trade union must not be registered under a name containing any words which in the opinion of the registrar are deceptive or objectionable in that they contain a reference, direct or indirect to any personage, practice or institution or are otherwise unsuitable as a name for a trade union.³⁸ However, if the registrar refuses to register a trade union on this ground, official or member of the union may require the matter to be referred to the minister whose decision on the matter is final.³⁹ Where on such reference the minister decides that a particular trade union may be registered under a certain name, the union may be registered under that name.⁴⁰

The Legal Status of Registered Union

Where a trade union is registered, it is recognized in the eyes of the law. In the case of *Agbomagbo Bank Limited vs. General Manager GB Oliviant Limited*,⁴¹ the Court held that trade union has a legal status to its name upon registration and unregistered trade unions have no recognized legal

³⁶ *Ibid.*, s. 5 (5) 6 and 8(1).

³⁷ *Ibid.*, s. 9 (2).

³⁸ *Ibid.*, s. 6 (2).

³⁹ *Ibid.*, s. 6 (3).

⁴⁰ *Ibid.*, s. 6 (4).

⁴¹ (1961) 1 All NLR 116.

existence and an action would not be entertained against a defendant who as at when sued was not a legal person. Similarly in the case of *Nigeria Stevedores and Dock Workers Union vs. Opara and 6 Ors*,⁴² The Court held that the trade union has the capacity to sue as it has been proved that it is a registered union. The court further stated that the union is a quasi juristic person by virtue of the operation of the provisions of our Trade Union Act.

This was also established in the case of *Nigerian Nurses Association vs. Attorney General of the Federation*,⁴³ where the court held that trade union can sue and be sued and has legal capacity. Apart from its capacity to sue and be sued, trade unions have some other attributes of corporate personality including the requirements for a registered office by virtue of Section 21.⁴⁴ It also has the obligation to render annual returns,⁴⁵ submit an audited account of funds to the registrar.⁴⁶ The inability of trade unions which is vested on the union as against the officers or members of the union is another pointer on its legal personality.

Benefits of Registration

Upon registration, a trade union enjoys certain benefits and privileges attached to the status of registration. These benefits draw a line of distinction with unregistered trade unions.

1. Recognition of Trade Union

This is perhaps the most important benefits of registration to trade unions. In the light of this benefit the Supreme Court in the case of *Alhaji Balarabe Musa vs. Independent National Electoral Commission*,⁴⁷ aptly stated that “registration facilitates the recording and certification of the fact of existence. Recognition by employers of labour is what facilitates negotiation and collective bargaining with trade unions. This benefit of recognition is mandatory on employers. The law provides that where there is a trade union of which persons in the employment of an employer

⁴² Unreported PHC U/63, High Court Port Harcourt.

⁴³ (1981) 11-12 SC 1, 11 and 12.

⁴⁴ A Emiola, *Nigerian Labour Law* (Emiola Publishers Limited 2008) 401 – 434.

⁴⁵ Trade Unions Act Cap T14 LFN 2004, s. 37.

⁴⁶ *Ibid.*, s. 34; O V C Okene, *Labour Law in Nigeria: The Law of Work* (Claxton and Derrick Limited 2012) 173-176.

⁴⁷ (2003) 3 NWLR (Pt 806) 72.

are members that trade union shall without further assurance on registration be entitled to recognition by the employer and the law further criminalizes the refusal by an employer to accord recognition.⁴⁸

Generally, recognition means the acknowledgement of a fact or claim.⁴⁹ It means an employer's acknowledgement that a union has the right to act as a bargaining agent for employees.⁵⁰ Recognition is therefore the volitional act of an employer to acknowledge a trade union or its agent with whom to negotiate or consult for the purposes of collective bargaining.⁵¹

Section 25 of the Trade Unions Act⁵² provides that "a duly registered trade union has statutory right to be recognized automatically. Failure to do so is an offence and the employer shall be liable on summary conviction to a fine of N1,000." In view of this, it appears that there is no automatic recognition upon registration for any trade union anymore as was the case in the past, until they form an electoral college to vote for representatives for the purpose of bargaining or consultation with the employer. This is because this provision has been considered to mean that recognition is for the purpose of collective bargaining.

Recognition in this sense promotes and extends collective bargaining thereby reducing managerial prerogatives, and replacing it with bilateral regulations. The primary purpose of recognition therefore is to use it for collective bargaining. It is necessary to note how the National Industrial Court have interpreted and applied the law of recognition in Nigeria. In the case of *Management of Tuyil Nigeria Limited v. National Union of Chemical Footwear, Rubber Leather and Non-Metallic Product Employee*,⁵³ the facts of this case were that the representatives of the respondent made an unequalled visit to the premises of the company (the appellant) to compel its

⁴⁸ Trade Union Act Cap T14 LFN 2004, s.25.

⁴⁹ W R Alkan, *The New International Website Comprehensive Dictionary of the English Language* (Encyclopedia Edition) typhoon International Corporation Florida, 1954.

⁵⁰ B A Garner Black's Law Dictionary (7th Edition, West Group St. Paul) 1277; K U Eze and A Gatugel, 'A Brief Legal Reflection on the Recognition of Trade Unions: The Law in Nigeria' (2015) 36 *Journal of Law Policy and Globalization*, 5 – 11.

⁵¹ K U Eze and A Gatugel, 'A brief legal Reflection on the Recognition of Trade Unions: The Law in Nigeria' (2015) 36 *Journal of Law Policy and Globalization* 5 – 11.

⁵² Cap T14 LFN 2004; L C Opara, 'The Legal Framework of Trade Union Activism and the Role of National Industrial Court (NIC) in Handling trade Disputes (2014) Vol. 4, No 3 *International Journal of Humanities and Social Science* 302 – 309.

⁵³ (Unreported) Suit No NIC/9/2003 delivered on January 23, 2008; K U Eze and A Gatugel, 'A brief legal Reflection on the Recognition of Trade Unions: The Law in Nigeria' (2015) Vol 36 *Journal of Law Policy and Globalization* 5 – 11.

workers to join or belong to the respondents union. The appellant duly considered the request proposal and entreaties but ensured that due process and procedures must be followed before the union can be recognized by it as it has no power to compel any of its employees to join or belong to any trade union as that is expressly outlawed.

The appellant submitted that the foregoing findings of the industrial arbitration panel were erroneous and has no legal backing. The appellant contended that the duty to recognize the respondent could only arise where the respondent shows that persons in the appellants' employment are members of the respondents unions. The respondent on the other hand, contended that by virtue of the provisions of section 24 (1) of the Labour Act,⁵⁴ the appellant is under legal obligation to recognize and inaugurate a branch of its union on the appellant business premises. The court thereafter observed that the critical issue for determination was the question of recognition and the existence or non-existence of a trade dispute between the parties. The court therefore took the opportunity to reiterate the guiding principles on recognition of trade union and summarized as follows:

- a. The question of recognition of a trade union or deductions of check of dues is one that is connected with the employment or non-employment or terms of employment or conditions of work or service, so too is the question as to what deductions to make from a workers' wages or salaries which is statutorily provided for under S. 5 of the Labour Act.⁵⁵
- b. Recognition of a trade union by an employer is compulsory and automatic by the combined effect of sections 5 (7), 25(1) of the Trade Union Act⁵⁶ and by section 5 (3) (a) and (b) of the Labour Act.⁵⁷
- c. Regarding the workers union, the combined effect of sections 24(1) and (2) and 16A of the Trade Union Act⁵⁸ is that the law extends and stipulated for compulsory recognition and deductions of check off dues in respect of workers who are eligible to be members of a union. The eligibility for being a member of a trade union is the yardstick test or standard for dexterously deductibility of check off dues for which the employer has no choice in the matter. The duty to deduct check off dues is mandatory and no employer is permitted to choose whether or not to deduct.

⁵⁴ Cap L1 LFN 2004.

⁵⁵ *Ibid.*

⁵⁶ Trade Union Act, Cap T14 LFN 2004.

⁵⁷ Cap LI LFN 2004.

⁵⁸ Trade Unions Act, CAP T14 LFN 2004

- d. The employer has a duty to grant a recognized union access to eligible members of the trade union unto its employment.
- e. Once any trade union listed in the third schedule to the Trade Union Act exhibits enough intention to be recognized by an employer by indicating its willingness to unionize workers who are eligible to be its members, an employer is obliged to accord recognition and not pose obstacles in the way of such unionization.
- f. Refusal of an employer to accord recognition to a trade union to unionize eligible members in its employment will be ground for a valid trade dispute even if the union is yet to form a branch on the employment premises.

The Supreme Court in the case of *Osawe v. Registrar of Trade Unions*⁵⁹ had declared the system of restructured and highly compartmentalized trade unions as being constitutional. It is important to emphasize here that for the purpose of recognition while it is proper to express intention in writing to denounce membership of a union, the same written intention is not required for the membership of a union to which a worker appropriately belongs. The employer is obliged to accord recognition to the union and allow the union to unionize eligible members by making available to the union the names of persons who are deemed to be members of the union.

Conclusion

The purpose of the various legislations is to regulate the formation and activities of Trade Unions in Nigeria. Trade Union in Nigeria must operate within the ambits of the law. The aim of the law of recognition is to compel employers to negotiate with the registered trade unions in order to prevent dispute. By the structure of the statutes, workers have to struggle for recognition. The lack of statutes of a union can lead to non-recognition of trade union. In other words, unions may not have the legal right to represent workers. Unions have certain rights most especially the right to engage in collective bargaining. Recognition and eligibility is the yardstick once a trade union indicates its willingness to unionize workers who are eligible to be its members.

Recommendation

It is necessary for the laws regulating the formation, activities and registration of Trade Unions in Nigeria to meet international standards.

⁵⁹ (1985) 1 NWLR (Pt 4) 755.