The International Labour Standards on the Right to Strike: A Comparison of the Practice in Nigeria, Ghana, Tanzania and Uganda

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Abstract
This article examines the right to strike in Nigeria, Ghana, Tanzania and Uganda on a comparative basis reflecting on the legislation and jurisprudence of these countries. The article relied on the standards set up by the International Labour Organisation (ILO) as the chief regulator and repertory of International Labour Standards and best practices in labour matters. The article contends that although the various jurisdictions examined have made efforts to comply with ILO minimum threshold as far as the right to strike is concerned; they need to do more to ensure substantial or full compliance with the ILO standards. Consequently, several recommendations have been put forward concerning the right to strike in Nigeria, Ghana, Tanzania and Uganda which if implemented will bring these countries into full compliance with ILO prescriptions concerning the right to strike.

1. Introduction

Strike can be defined as a collective stoppage of work that is done to mount pressure on those who depend on the sale or use of the product of that work. The strike must involve a group of employed workers temporarily suspending their services against their employer.[1] It has also been defined as a coordinated and simultaneous withdrawal of labour by workers.[2] Strike plays the same role in labour negotiations that warfare plays in diplomatic negotiations. If the right to strike is taken away from workers, their trade unions will be lame duels. As such it is a very important element of collective bargaining.[3] The right to strike is closely

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[1] KC Knowles, *Strikes: A Study in International Conflict* (Philosophical Library 1952) 1.
[2] ET Hiller, *The Strike: A Study in Collective Action* (University of Chicago Press 1982).
[3] JG Getman and FR Marshall, 'The Continuing Assault on the Right to Strike' [2000] 79(3)(1) *Texas Law Review* 70.

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connected to the collective bargaining process. The Committee on Freedom of Association believes that strikes are part and parcel of trade union activities. The Committee proclaims the right to strike 'as one of the essential means available to workers and their organisations for the promotion and protection of their economic and social interests.[4] Without the right to strike, organized labour would be powerless to deal with management as 'collective bargaining would amount to collective begging.'[5] In most cases, the right to strike is often the only instrument left in the hands of workers to compel recalcitrant employers to recognize and bargain with their trade unions or to comply with the terms of a collective agreement or to generally make improvements regarding the terms and conditions of their employment.[6] In essence, the connection between the right to strike and collective bargaining is that the right to strike is used to enforce collective agreement. Thus, it comes into effect where the collective bargaining process has failed.

This article examines the right to strike in Nigeria, Ghana, Tanzania and Uganda on a comparative basis reflecting on the legislation and jurisprudence of these countries. The article contends that although the various jurisdictions examined have made efforts to comply with ILO minimum threshold as far as the right to strike is concerned; they need to do more to ensure substantial or full compliance with the international labour standards.

2. International Labour Standards on the Right to Strike

International Labour Standards are rules set out by the International Labour Organisation in their legal instruments to govern the treatment of workers and their employers in labour and industrial relations. There are two types of International Labour Standards which are Conventions and Recommendations. A Convention is a form of agreement between groups especially under International Law. Where the International Labour Organisation has adopted a Convention, Member States are required to ratify it. A Convention generally comes into force one year after the date of ratification. On the other hand, Recommendations do not have the binding force of law like Conventions and are not subject to

[4] ILO, *Digest of Decisions and Principles of the Freedom of Association Committee* (5th edn) para 522.

[5] AJM Jacobs, "The Law of Strikes and Lockouts" in R. Blanpain and C. Engels (eds) *Comparative Labour Law and Industrial Relations in Industrialized Market Economies* (5th edn, Denver: Kluwer 1993) 15.

[6] T Novitz, *International and European Protection of the Rights to Strike* (Oxford University Press, 2003) 49.

ratification. They however, are evidence of the thinking of the international labour community on the issues addressed therein.[7] Whereas a Convention lays down the basic principles to be implemented by ratifying countries, a related Recommendation supplements the Convention by providing more detailed guidelines on how it could be applied.[8]

As much as every country has its own local labour legislations, from the origin of labour law, it has always been felt that national legislation on labour matters cannot be solidly implemented in individual countries without support from international bodies.[9] Thus, it has become a standard practice to judge the quality and scope of rights and obligations of employers and workers by a reference to international standards. This development is arguably, a direct fall-out of globalization which has opened up workplaces within national borders, to international participation as well as to scrutiny.[10] By adopting and implementing these international labour standards, member states establish a minimum standard of protection of their workers against inhumane labour practices.[11] Workers are humans and humans are the same all over the world irrespective of race or colour. It is therefore ethically and morally right to have an international standard apply to every worker despite his country of origin or domicile. Several of these standards have been set up by the International Labour Organisation to enhance the practice of the right to strike in ILO Member States.

The major international legal instrument which protects the right to strike is the International Covenant on Economic, Social and Cultural Rights 1976 (ICESCR). Article 8(1)(d) of the ICESCR provides that states should ensure that every worker be given the right to strike in his country. The International Labour Organisation does not explicitly provide for the right to strike in its numerous Conventions and Recommendations. It has however, emphasized the importance of this right in its Constitution and through the Committee on Freedom of

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[7] E.A. Oji and O.D. Amucheazi, *Employment and Labour Law in Nigeria* (Mbeyi Associates Nig. Ltd 2015) 426.
[8] S. Falana, "Strengthening Labour Administration for the Enforcement of Labour Standards in Nigeria" in F. Adewumi & S. Falana (eds), *Rights and Labour Standards in Nigeria* (Frankard Publishers 2008). 28.
[9] N. Valticos, "International Labour Law" in R. Blanpain (ed.), *Comparative Labour Law and Industrial Relations* (Kluwer Law and Taxation Publishers 1982) 2.
[10] C.K. Agomo, *Nigerian Employment and Labour Relations Law and Practice* (Concept Publications Ltd) 49.
[11] G.K. Isholo, "ILO and the International Labour Standards Setting: A Case of Nigerian Labour Act" 1 *Journal of Human Resources Management* 15.

Association and the Committee of Experts on the Applications of Conventions and Recommendations. According to the Committee on Freedom of Association, the right is impliedly protected in Article 1 of Convention No.98 which states that 'workers should use adequate protection against all acts of discrimination in employment, which could be detrimental to union freedom.'[12] It is taken that such 'adequate protection' includes the right to strike. Also, Article 3 of Convention No.87,[13] which makes provision for workers' union to 'organize their administration and activities and formulate their programmes,' has been taken to encompass the right to strike. According to the Committee on Freedom of Association and Committee of Experts on the Applications of Conventions and Recommendations, workers' trade union programmes include embarking on strikes.[14]

Two Resolutions however, emphasize this right. The first which is 'Resolution Concerning the Abolition of Anti-Trade Union Legislation in the State Members of the ILO' called for the adoption of laws to ensure the effective and unrestricted exercise of trade union rights including the right to strike by workers. The second which is 'Resolution Concerning Trade Union Rights and their Relation to Civil Liberties' calls for measures to be taken to ensure full and universal respect for trade union rights particularly the right to strike.[15]

Under the International Labour Standards, there are several conditions workers must fulfill before embarking on a strike action. However, it condemns any provision which, rather than creating reasonable conditions which are to be fulfilled before a strike can be called, makes it virtually impossible to hold a legal strike.[16] Before workers can embark on a strike action, they must have undergone conciliation, mediation and arbitration procedures before the decision to embark on strike. After taking a decision to embark on strike, they must give prior notice to the employer. The Committee on Freedom of Association has considered that the decision to call strike in the local branches of a trade union should be taken by the general assembly of the

[12] Right to Organize and Collective Bargaining Convention, 1949 (No 98).
[13] Freedom of Association and Protection of the Right to Organize Convention, 1948 (No.87).
[14] Report of the Committee of Experts on the Application of Convention and Recommendation, ILC, 43rd Session, 1959, Part 1, Report III. 114.
[15] Freedom of Association: Compilation of Decisions of the Committee on Freedom of Association 2018 (6th edn, International Labour Office) 783.
[16] Report of the Committee of Experts on the Application of Convention and Recommendation 116.

local branches, when the reason for the strike is of a local nature. When the issue affects workers at the national level, the decision to call a strike should be taken by an absolute majority of all members of the executive committee of the trade union.[17] The decision to embark on strike must be made through a secret ballot by a specified majority and the decision of non-strikers should be respected.[18]

The International Labour Organisation provides that not every worker enjoys the right to strike. Workers in the Armed Forces and the Police and public workers exercising authority in the name of the State are barred from embarking on strike. Workers engaged in essential services can also be restricted from exercising this right in so far as a strike there could cause serious hardship to the nation. They should however, be given adequate protection to compensate for the restriction of this right.[19] The Committee on Freedom of Association defines essential services in its strict sense as 'services the interruption of which would endanger the life, personal safety or health of the whole or part of the population.'[20] It listed the health sector, electricity services, fire-fighting services, police and armed forces, air traffic control and the provision of food to pupils in schools as essential services. It also provides that Member States should not make unnecessary provisions that will inhibit the exercise of this right. However, a prohibition of strikes can be justified in the event of an acute national emergency and for a limited period of time.

These provisions are minimum standards which Member States are encouraged to adopt and build up on to adequately protect the workers' right to strike in their various countries. The level of compliance with these international labour standards in Nigeria, Ghana, Tanzania and Uganda will be examined in the next section.

3. Right to Strike in Selected Jurisdictions

3.1 Nigeria

The right to strike in Nigeria is not a constitutional right. However, it is provided in the Trade Unions (Amendment Act) 2005, the Trade Disputes Act 2004 and the Trade Disputes Act 2004. Section 18(1) of the Trade Disputes Act 2004 provides that workers can only embark on a strike action after they have unsuccessfully undergone alternative dispute

[17] *Ibid.*
[18] *Ibid.*
[19] (n.15) 596.
[20] (n.14).

resolution process to settle a trade dispute. A contravention of this provision constitutes an offence which upon conviction makes the offender liable to a fine of ₦100 or a six-month imprisonment term. This is consistent with Recommendation No. 130 which recommends the institution and proper implementation of a suitable grievance procedure as an essential element in sound labour relations in an establishment.[21]

Furthermore, section 18(2) of the Act provides that where a dispute is settled, either by agreement or by acceptance of an award made by a tribunal, the dispute shall be deemed to have ended. Any further trade dispute involving the same matters (including a trade dispute as to the interpretation of an award made as aforesaid by which the original dispute was settled) shall be treated as a different trade dispute.[22] For such a trade dispute, workers cannot also embark on strike until all the settlement procedures have been exhausted. This cycle continues *ad infinitum.* This has been viewed by many scholars as a merry-go-round, where one can never differentiate one stage from another. It can therefore be said that this section is a total ban on the right to strike.[23] This contradicts the international labour standard which condemns any provision which, rather than creating reasonable conditions which are to be fulfilled before a strike can be called, makes it virtually impossible to hold a legal strike.[24]

No trade union can embark on a strike action unless majority of the members agree by secret ballot to embark on it. This is in line with international labour standards.[25] In situations where the company has branches across different states, it may be difficult for all the workers to assemble in one place for the purpose of voting by secret ballot. Section 31(6)(e) of the Trade Unions (Amendment Act) requires as a condition for a lawful strike that a ballot must have been conducted in accordance with the rules or Constitution of the trade union at which a simple majority of all registered members must have voted to go on strike. The requirement of a strike ballot to embark on strike has excluded the incidence of wildcat strikes. The obligation to observe a certain quorum and to take strike decision by secret ballot may be considered acceptable. However, the requirement of a decision by over half of all the workers involved in order

[21] Examination of Grievances Recommendation No 130 of 1967.
[22] Trade Disputes Act 2004, s.18(3).
[23] C.K. Agomo, 'Federal Republic of Nigeria' in Blanpain (ed.), *International Encyclopedia of Labour Law and Industrial Relations* (Kluwer Law International 2000) 270.
[24] (n.14).
[25] *Ibid.*

to declare a strike is oppressive and could hinder the possibility of carrying out a lawful strike, particularly by workers in large enterprises.[26] This is at variance with the international labour standards. The Committee on Freedom of Association has considered that the decision to call strike in the local branches of a trade union should be taken by the general assembly of the local branches, when the reason for the strike is of a local nature. When the issue affects workers at the national level, the decision to call a strike should be taken by an absolute majority of all members of the executive committee of the trade union.[27] After obtaining a strike ballot, the workers and their union are obliged to give to their employer a notice of their intention to go on strike.

This is usually called strike notice. The requirement for strike notice is contained in section 42(1) of the Trade Disputes Act which provides that a worker who ceases to perform his job without giving his employer at least fifteen days' notice of his intention to do so in circumstances involving danger to persons or property commits an offence. Section 41 of the Trade Disputes Act provides that where a worker in essential services embarks on strike without giving his employer at least fifteen days' notice of his intention to do so, such act would constitute an offence which upon conviction makes the offender liable to pay a fine of ₦100 or a six-month imprisonment term unless he proves that he was not aware that his duty is an essential service. It cannot be over-emphasized that every strike involves danger to the employer's property or business. The obligation to give prior notice to the employer before calling a strike is consistent with international labour standard.[28] The period of notice serves as a cooling-off period. It is designed to provide a period of reflection, which may enable both parties to come once again to the bargaining table and possibly reach an agreement without having recourse to a strike.[29]

The right to strike is not enjoyed by all workers in Nigeria. Certain categories of workers are exempted. In the first instance, Nigerian law prohibits workers in essential services from embarking on strike.[30] This is in line with international labour standards. However, the list of essential services in Nigeria is far and overreaching and includes services

[26] G.G. Otuturu, 'Trade Unions (Amendment) Act 2005 and the Right to Strike in Nigeria: An International Perspective' 2014] (8)(4) *Labour Law Review* 25.
[27] (n.14).
[28] (n 14).
[29] (n 26).
[30] G.S. Morris, 'The Regulation of Industrial Action in Essential Services' [1983] (12) *Industrial Law Journal* 7.

which are not in the very best essential.[31] These include workers in the Armed Forces and allied industries which produce their materials; public workers in the federal state or local government level connected with the supply of electricity, power, fuel or water; workers involved in sound broadcasting or postal, telegraphic, cable, wireless or telephonic communications; workers involved in maintaining ports, harbours, docks or aerodromes; workers involved in transportation of persons, goods or livestock by road, rail, sea, river or air; workers involved in the burial of the dead, hospitals, the treatment of the sick, the prevention of disease, or public health matters such as sanitation, road-cleaning and disposal of night soil and rubbish, and outbreak of fire; workers in the Central Bank of Nigeria, Nigeria Security Printing and Minting Company Limited, and bankers. By this definition, virtually all workers in the public sector and bankers are restricted from enjoying this right under the guise of their services being essential.

It has been observed that Nigeria has the widest definition of essential services with so many workers being denied the right to strike when their work stoppage will in no way have any adverse effect on the public. The following services which are considered essential services in Nigeria are not categorized as essential by the international labour standards. They are the production, transportation and distribution of fuel, transportation of persons, goods or livestock, teaching, banking, printing and minting of currencies. The Committee of Experts on the Applications of Conventions and Recommendations has reported that the definition of essential service is overly broad and should be amended to conform to the true notion of essential services-which are only those the interruption of which would endanger the life, personal safety or health of the whole or part of the population.[32] More specifically, the Committee on Freedom of Association has urged Nigeria to amend her legislation to comply with the appropriate scope of essential services. It requested the government to limit the scope of essential services to situations where there is a clear and imminent threat to the life, personal safety or health of the whole or part of the population.[33]

Secondly, workers in the Export Processing Zone are absolutely denied the right to form unions, bargain collectively and exercise the right

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[31] Trade Disputes (Essential Services Act) 2004 s.7 (1).
[32] ILO, CEAR, 2007, 96th Session: Individual Observation Concerning Freedom of Association and Protection of the Right to Organize Convention, 1948 (No.87) Nigeria.
[33] ILO, Committee on Freedom of Association, 343rd Report, Case No. 2432 (2006) (Nigeria), paras 1024; M.E. Ackerman, 'The Right to Strike in Essential Services in MERCOSUR Countries' [1994] (133)(3) *International Labour Review* 385.

to strike. However, the EPZ authority is given the mandate to handle their disputes rather than letting them have trade unions.[34] This is incompatible with the international labour standard which demands that no such restrictions should be placed on workers. The Freedom of Association and Protection of the Right to Organize Convention, 1948(No.87) guarantees that all workers, without distinction whatsoever, shall have the right to establish organisations of their own, organize their activities which includes the right to strike. Thirdly, the Trade Unions (Amendment Act) limits the right to strike in Nigeria to disputes of rights which is interpreted as 'any labour disputes arising from the negotiation, application, interpretation of a contract of employment or collective agreement under this Act or any other enactment or law governing matters relating to terms and conditions of employment.'[35] Workers are prohibited from embarking on strike where they have disputes with the employers over their interests. This contradicts the international labour standard which provides that the right to strike should not be limited to disputes of interests alone but that workers should be able to express their dissatisfaction as regards economic and social matters affecting their interests.[36]

Another restriction is the provision that any worker who takes part in a strike shall not be paid wages for the period of the strike. However, where it is the employer that locks out his workers, the workers shall be entitled to their wages.[37] However, despite these restrictions, there have been frequent strikes or news of strikes in Nigeria. Workers in every sector of the economy, whether public or private, essential or non-essential, have embarked on strike. This trend lends support to the view that restriction or not, 'Nigerian workers have made ample use of this freedom of strike.'[38]

3.2 : Right to Strike in Ghana

Ghana became a Member State of International Labour Organisation after she gained independence in 1957 and has ratified fifty international labour standards including the eight core conventions concerning the right to form or join a trade union, collective bargaining, equal treatment

[34] Nigerian Export Processing Zones (EPZ) Act Cap O5 LFN 2004, s. 4 (c).
[35] Trade Unions (Amendment Act) 2005, s. 31 (6) (b).
[36] O.V.C Okene & C.T. Emejuru, 'The Disputes of Rights Versus Disputes of Interests' Dichotomy in Labour Law: The Case of Nigerian Labour Law' [2015] (35)(23) *Journal of Law, Policy and Globalization* 137.
[37] Trade Disputes Act 2004, s. 43(1)(a)(b).
[38] A.A. Adeosun, 'Strikes- The Law and the Institutionalization of Labour Protest in Nigeria' [1980] (16)(1) *Indian Journal of Industrial Relations* 6.

in employment, minimum age for employment, abolition of forced labour and the elimination of worst forms of child labour.[39] The country has also passed a number of legislations to bring national laws in conformity with ratified Conventions. These include the Ghanaian Constitution and the Labour Act, which is comprehensive and provides for all the workers' rights. The right to strike is not a constitutional right in Ghana. It is however provided for in the Labour Act 2003.

Before parties embark on strike in Ghana, they are expected to have undergone the trade dispute settlement process which includes collective bargaining, mediation and voluntary arbitration.[40] This is in line with the international labour standard. Section 161 of the Labour Act provides that parties to an industrial dispute shall not resort to strike or lockout when negotiation, mediation or arbitration proceedings are in progress. This is known as the 'cooling-off period'. Any party who contravenes this provision is liable for any damage, loss or injury to the other party to the dispute. Where alternative dispute resolution fails, the party intending to take a strike action shall give a written notice of this to the other party and the National Labour Council within seven days.[41] This is in line with international labour standard. The intending strike can only be embarked on after the expiration of seven days from the date of notice, and not at any time before the expiration of the period. The dispute shall be settled by compulsory arbitration under section 164 of the Labour Act if it remains unresolved within seven days from the commencement of the strike or lockout.

Workers in essential services are restricted from embarking on strike.[42] This is in line with international labour standard. Under the Labour Act, essential services include persons working in an area where an action can lead to a total loss of life or pose a danger to public health safety and such other services as the Minister may by legislation determine. The Labour Act protects workers when they embark on lawful strikes. During any lawful strike, the employment relationship between the employer and the workers will not be affected. To this effect, an employer cannot sack a worker who embarked on a lawful strike. No civil procedure or acts of physical coercion against him or his property can be made against him.[43]

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[39]ILO http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11 accessed 20 April 2020.
[40] Sections 153-157 Labour Act 2003 Act 651.
[41] ibid, s 159.
[42] ibid, s.163.
[43] ibid, s.169.

3.3 : Right to Strike in Tanzania

The right to strike in Tanzania is governed by the Employment and Labour Relations Act 2019. The Act applies to all private and public workers in Tanzania but does not apply to workers in the Tanzania People Defence Force, the Police Force, the Prisons Service and the National Service.[44] Workers may engage in a lawful strike if the dispute is a dispute of interest and they have undergone a mediation process to settle the dispute.[45] This is in line with international labour standards. As recommended by the international labour standard, the Employment and Labour Relations Act provides that no trade union can embark on a strike action unless a ballot has been conducted and majority has voted in favour of the strike.[46] Where the decision to embark on strike has been reached, a forty-eight hours notice should be given to the employer of their intention to strike.[47] Section 80(2) of the Act however provides that this procedure may not be followed where the employer unilaterally altered the terms and conditions of employment of the workers or where the workers and employers have agreed on their preferred strike procedure in a collective agreement.

Tanzanian workers also have the right to embark on a secondary strike or sympathy strike after a fourteen days notice of the secondary strike has been given to the employer.[48] Employers and workers also have the power to, in their collective agreement, provide for some minimum services to be performed during the duration of a strike action.[49] This is a commendable provision as it is not envisaged by the International Labour Organisation. Where a trade union embarks on a lawful strike action (a strike in compliance with the provisions of this Act), the workers' employment cannot be terminated by the employer neither will they be liable for a breach of the contract of employment or for any civil or criminal proceeding.[50] The worker may however not be remunerated during the duration of the strike. Where the employer pays the worker's accommodation, food or other amenities during the strike period, he will be entitled to a refund by the worker.[51] Conversely, where the strike

[44] The Employment and Labour Relations Act [CAP. 366 R.E. 2019], s. 2 (1)..
[45] ibid, s 80(1)(a)(b).
[46] ibid, s 80(1)(d).
[47] ibid, s 80(1)(e).
[48] ibid, s 80(2)(a).
[49] ibid, s 79(1).
[50] ibid, s 83(1)(2)(3).
[51] ibid. s 83(4).

action was not lawful, the workers shall be liable to indemnify the employer for any loss resulting out of the strike.[52]

Section 76(3) of the Employment and Labour Relations Act prohibits some conducts associated with strikes. These are picketing, use of replacement labour, locking employers in the premises and preventing employers from entering the premises. The Act restricts so many workers from exercising the right to strike. They include workers engaged in essential services; workers engaged in a minimum service; workers bound by an agreement that requires the issue in dispute to be referred to arbitration; workers bound by a collective agreement or arbitration award that regulates the issue in dispute; workers bound by a wage determination that regulates the issue in dispute during the first year of that determination; a magistrate, a prosecutor or a court personnel.[53] In addition to this list, the Essential Services Committee may designate a service as essential if the interruption of the service endangers the personal safety or health of the population or any part of it.[54] This is a very large list of essential services which is contrary to international labour standards.

3.4 : Right to Strike in Uganda

The right to strike in Uganda is a constitutional right for all workers in Uganda.[55] The right to strike is also guaranteed under section 3(d) of the Trade Unions Act 2006. Section 7 of the National Labour Relations Act[56] provides that workers shall have the right "to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection." Strikes are included among the concerted activities protected for workers by this section. Section 13 of the Act further provides that nothing in this Act shall be construed so as either to interfere with or impede or diminish the right to strike, or affect the limitations or qualifications on that right.

Section 30 of the Labour Disputes (Arbitration and Settlement) Act provides that every worker has the right to strike.[57] Workers may embark on strike where there is a trade dispute. However, they are required to

[52] ibid, s 84.
[53] ibid, s 76(1)(2).
[54] ibid, s 77(2).
[55] Article 40(3) of the Constitution of the Republic of Uganda Amended by the Constitution (Amendment) Act 11/2005 and the Constitution (Amendment) (No.2) Act, 21/2005.
[56] National Labour Relations Act 29 U.S.C.
[57] Labour Disputes (Arbitration and Settlement) Act 2006, s.30.

undergo some dispute resolution procedure which includes collective bargaining, conciliation or adjudication by the Industrial Court.[58] Where an award has been made by the Industrial Court on a trade dispute, it shall be unlawful to embark on a strike to vary that award. Any person who does this is liable, on conviction, to a fine not exceeding twenty-four currency points or a one-year imprisonment or both.[59] This is not in line with international labour standards and is similar to the Nigerian situation which stipulates a tedious and unending cycle of dispute resolution which aims at truncating the right of workers to strike. Section 30 of the Act provides that workers are immune from any civil liabilities arising from embarking on a lawful strike.[60]

Section 34 gives workers in essential services the right to embark on strike after giving a fourteen days' strike notice to the employer.[61] This is a welcome provision as it is better than the international labour standard that restricts workers in essential services from embarking on strike. Essential services in Uganda includes water, electricity, health, sanitary, hospital, fire, prisons, air traffic control, civil aviation, telecommunication, ambulance, central and local government police services and all transport services necessary for the operation of any of these services. This is albeit a long list. However, it does not impede the right to strike as they can see embark on strike after giving the required notice.

4. Comparison of the Right to Strike in Nigeria, Ghana, Tanzania and Uganda with the International Labour Standards

In this section, the Nigerian, Ghanaian, Tanzanian and Ugandan practice of the right to strike will be analyzed to discover their level of compliance with international labour standards on the right to strike.

a) The ILO recommends that disputing parties should engage in alternative dispute resolution mechanism whenever there is a trade dispute. Parties can only resort to strike where these procedures have failed. This standard is practiced in all the four jurisdictions. Nigerian labour legislation provides for collective bargaining, mediation, conciliation and arbitration as its pre-strike dispute resolution mechanism. Under the Ghanaian regime, collective bargaining, mediation and voluntary arbitration is

[58] ibid, s 28.
[59] ibid, s 29.
[60] (n 57).
[61] ibid.

practised. Uganda practices collective bargaining, conciliation and even adjudication. For Tanzania, only mediation is required. The Tanzanian practice of using only mediation as a pre-strike resolution mechanism is ideal. Having workers go through a myriad of processes before embarking on strike negates this standard.

b) International labour standards provide that the decision to embark on strike must be made through a secret ballot by a specified majority and the decision of non-strikers should be respected. In Nigeria and Tanzania, the standard of obtaining a secret ballot before embarking on strike is followed. It is however not practiced in Ghana and Uganda.
c) The standard of giving a strike notice to the employer before embarking on a strike action as recommended by international labour standards is practiced in the four jurisdictions. Whereas Nigeria provides for fifteen days' notice, it is seven days' notice for Ghana, two days notice' for Tanzania and fourteen days' notice in Uganda.
d) The international labour standards provide that the right to strike should cover both dispute of rights and dispute of interest. This is not practiced in Nigeria, Ghana and Uganda but practiced in Tanzania.
e) The ILO prohibits workers employed in essential services from enjoying the right to strike. In compliance to this, the four jurisdictions provide a list of essential services. Workers working in establishments that provide these services are barred from striking. Whereas Ghana has a compact list of essential services, Nigeria, Tanzania and Uganda have a bogus list which deprives so many workers from embarking on strike.

5. Concluding Remarks and Recommendations

From the above facts, it is evident that the four jurisdictions compared are complying with the standards set up by the ILO on the right to strike to a reasonable extent. However, if the standards are seen as a minimum, then much is expected from these countries. To this end, the Nigerian, Ghanaian, Tanzanian and Ugandan government are expected to draw lessons from each other in order to boost the practice of the right to strike in their respective countries. Notable lessons from each jurisdiction will be highlighted and recommended for the other jurisdictions to adopt. The recommendations are stated below;

a) As practiced in Uganda, the right to strike should be made a constitutional right in Nigeria, Ghana and Tanzania.
b) The Ugandan practice of fourteen days' strike notice is ideal. It is ample time for the employers and workers to have a re-think on settling the trade dispute and thus averting the strike action.
c) The right to strike should be extended to cover disputes of interests as envisaged by international labour standards and practiced in Tanzania.
d) Ghana has the list number of essential services. Thus more workers have the right to strike in Ghana. This should be adopted in Nigeria, Tanzania and Uganda.
e) The Tanzanian practice of choosing minimal services that can be performed during a strike action should be adopted so all workers including those in essential services can embark on strike without putting the country into chaos as a result of their withdrawal of essential services.
f) Where employers unilaterally alter the terms and conditions of employment of the workers, the workers should be allowed to strike without following the procedure for strike. This is the practice in Tanzania and it should be adopted in Nigeria, Ghana and Uganda. This will restrict employers from unilaterally and arbitrarily altering workers' contract of employment.
g) The Tanzanian practice of using only mediation as a pre-strike resolution mechanism is ideal. Having workers go through a myriad of processes before embarking on strike is against the international labour standards.
h) The Tanzanian practice whereby the right to strike covers both dispute of rights and disputes of interest is in line with international labour standards and should be adopted in Nigeria, Ghana and Uganda.
i) Finally, it is recommended that the International Labour Organisation help these four jurisdictions by actively supervising the practice of the right to strike. Where there are problems in the application of the standards, the ILO should seek to assist them through social dialogue and technical assistance. This is due to the fact that being a voluntary organisation; it has limited powers to enforce the international labour standards.[62]

[62] W Sengenberger, *Globalisation and Social Progress: The Rule and Impact of International Labour Standards* (2nd edn, Freidrich-Ebert-Stifling 2005) 7.

If these recommendations are put in place in Nigeria, Ghana, Uganda and Tanzania, the workers' right to strike in these jurisdictions will be reasonably protected.