Labour and Employment Law

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TRADE UNIONISM IN NIGERIA: THE DANGOTE REFINERY AND PENGASSAN DISPUTE IN PERSPECTIVE

1. Introduction

Trade unions have historically played a crucial role in advocating workers' rights and enhancing working conditions around the world. In Nigeria, trade unionism has been a prominent aspect of the labour landscape, particularly in the public sector, where unions have significantly contributed to negotiating better conditions for employees and shaping labour policies.[3]

However, in recent years, the dynamics have begun to shift. With the rapid expansion of the private sector fueled by massive investments and changing employment structures, the terrain of labour relations is evolving. Increasingly, the private sector has become a contested space where corporate interests and workers' rights frequently collide. A notable example of this emerging trend is the recent dispute between Dangote Oil Refining Company Limited ("Dangote Refinery"), a company owned by the Dangote Group and the Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN), a trade union for senior staff in

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3 Nwankwo, C. (2017), 'The Evolution and Impact of Trade Unions in Nigeria', *International Journal of Labour Studies*, 8(3), 123-139.

companies in the oil and gas sector in Nigeria. This high-profile conflict has not only reignited national discourse on union rights but has also brought to light the growing complexities of industrial relations within Nigeria's modern private economy.

This article seeks to examine the parameters of the rights of workers to unionize and the extent to which an employer can limit such rights through the prism of the dispute between Dangote Refinery and PENGASSSAN.

2. Definition of Trade Union

Section 1 of the *Trade Unions Act* 1973 (as amended) defines "trade union" as:

> *… any combination of workers or employers, whether temporary or permanent, the purpose of which is to regulate the terms and conditions of employment of workers, whether the combination in question would or would not, apart from this Act, be an unlawful combination by reason of any of its purposes being in restraint of trade, and whether its purposes do or do not include the provision of benefits for its members.*[4]

3. Grouping Trade Unions in Nigeria

In Nigeria, trade unions can be grouped into three, namely: trade unions that operate in the public sector only, those that operate in the private sector only and those that operate both in the public and private sectors. The sector in which a trade union operates contributes in immense ways to its operational strategies. The grouping impacts on the effectiveness of a trade union. A trade union that operates in the public sector, for example, negotiates at the center, with one authority and the agreement is binding on managements that were not at the negotiation table. Trade unions covering public service workers have this advantage. While a trade union in the private sector may have to negotiate with each employer individually. In this case, the outcomes are not likely going to be same. This poses a serious challenge to the effectiveness of such a union. This challenge becomes even more difficult for trade unions that have members in the public and private sectors.[5]

4. The Right of a Worker/Employee to join a Trade Union

The Constitution of the Federal Republic of Nigeria, 1999 (as amended) ("the Constitution") guarantees every worker the right to freely associate, including the right to join and participate

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4 See, *Trade Unions Act*, Cap T14 of Laws of the Federation of Nigeria, 2004.

5 See, <https://asupng.org/assets/uploads/files/publications/1624011475_f792b1710b3706b379db.pdf> (accessed on 02/10/2025).

in trade unions. This right applies equally to workers in the public sector and the private sector. Section 40 of the Constitution provides as follows:

> *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 interest.*

Beyond the constitutional guarantees, the right to join and participate in trade unions is firmly anchored in international law. Notably, Nigeria is a signatory to several international and regional instruments that uphold workers' rights to freedom of association and collective bargaining. One of the most significant is the *International Labour Organization (ILO) Convention No. 87* on Freedom of Association and Protection of the Right to Organise, which guarantees all workers and employers the right to establish and join organizations of their own choosing without prior authorization.

Similarly, the *African Charter on Human and Peoples' Rights*, which has been domesticated in Nigeria by virtue of the *African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act*, 1983 recognizes the right to freely associate as a fundamental human right. Article 10 of the Charter stipulates that: '*Every individual shall have the right to free association provided that he abides by the law.*'

Taken together, these international commitments affirm that trade unionism in Nigeria is not merely a domestic labour practice, but also, an expression of fundamental human rights protected at national, continental, and global levels.

5. Can an Employer Limit an Employee's Right to Join a Trade Union?

Legally, an employer cannot limit, restrict, or undermine a worker's right to join or participate in a trade union. Section 9 of Nigeria's *Labour Act* provides that:

> *No contract shall- (a) make it a condition of employment that a worker shall or shall not join a trade union or shall or shall not relinquish membership of a trade union; or (b) cause the dismissal of, or otherwise prejudice, a worker- (i) by reason of trade union membership, or (ii) because of trade union activities outside working hours or, with the consent of the employer, within working hours, or (iii) by reason of the fact that he has lost or been deprived of membership of a trade union or has refused or been unable to become, or for any other reason is not, a member of a trade union.*[6]

In addition, employers are prohibited from victimizing, intimidating, or dismissing workers due to their union activities or affiliations. Any such actions would constitute unfair labor practices,

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6 Section 9(6) of the *Labour Law* Cap 198 LFN 1990.

which may be challenged in the National Industrial Court of Nigeria (NICN), the court with exclusive jurisdiction over labour disputes. The Court in the case of **Olgette Projects Ltd v. Ufokiko**[7] restated the law that the right of a worker to join a trade union is a constitutional right and held that the termination of the Respondent's employment by reason of the Respondent's union activities runs afoul of section 9 of the *Labour Act*.

Trade unions can also not compel any worker who is not so disposed to join their union. Section 12 (4) of the *Trade Unions Act* (as amended) provides that:

> *Notwithstanding anything to the contrary in this Act, membership of a trade union by employees shall be voluntary and no employee shall be forced to join any trade union or be victimized for refusing to join or remain a member.*

6. The Dangote Refinery and PENGASSAN Dispute

Dangote Refinery is an oil refinery that was inaugurated on 22nd May 2023 in the Lekki Free Trade Zone, Lagos, Nigeria. When fully operational, it is expected to have the capacity to process about 650,000 barrels of crude oil per day, making it the largest single-train refinery in the world, with an investment worth over US$19 billion.[8]

PENGASSAN is a Nigerian trade union formally established in November 1979. The union's jurisdiction covers upper and middle level employees in the oil and gas industry in Nigeria as opposed to the Nigeria Union of Petroleum and Natural Gas Workers, whose jurisdiction includes junior staff members of the oil and gas industry. The impetus behind its establishment was to safeguard and promote the welfare of workers and national interest in the industry and regulate terms and conditions of employment.[9]

The rift between Dangote Refinery and PENGASSAN started sometime in September 2025 when PENGASSAN accused Dangote refinery of sacking over 800 of its Nigerian staff as a result of their decision to unionize under PENGASSAN. PENGASSAN asserted that the alleged sackings amount to targeted intimidation and victimization of workers for exercising their constitutional rights to freedom of association. Meanwhile Dangote Refinery refuted the claim, asserting that the refinery is going through reorganization which followed multiple cases

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7 *Olgette Projects Ltd v. Ufokiko* (2021) LPELR – 56951 (CA).

8 See, <https://en.wikipedia.org/wiki/Dangote_refinery#cite_note-1> (accessed on 02/10/2025).

9 See, <https://en.wikipedia.org/wiki/PENGASSAN#:~:text=Petroleum%20and%20Natural%20Gas%20Senior,terms%20and%20conditions%20of%20employment> (accessed on 02/10/2025).

of reported sabotage across refinery units that posed major safety risks which affected some staff of the company.[10]

In response to Dangote Refinery's alleged action, PENGASSAN ordered its members across the oil and gas industry to not only halt crude oil and gas supplies to the refinery but also urged its members across the country to suspend their services.[11] This action triggered widespread concern across the energy sector, leading to immediate fears of fuel scarcity and scarcity of gas in the Nigerian market, with the attendant rapid increase in prices. Dangote Group labeled the union's actions as "economic sabotage" and obtained a court injunction to stop the supply cuts.[12]

Eventually, the Federal Government of Nigeria stepped in and resolved the dispute given the impact that it was beginning to have on the nation's energy sector in particular and the economy at large.

By the time the dispute was resolved with the suspension of the strike action by PENGASSAN, both the common man on the street and entities in the oil and gas sector were left to count their losses. According to the Group Chief Executive Officer of the Nigerian National Petroleum Company Limited ("NNPC Ltd."), Mr. Bashir Ojulari, the three-day strike action embarked upon by PENGASSAN forced the shutdown of major oil terminals, gas plants and power facilities, leading to a 20 percent power supply shortfall across the nation and the deferment of 283,000 barrels of crude oil per day and 1.7 billion standard cubic feet of gas daily. This resulted in significant economic losses to the Federal Government of Nigeria.[13]

7. Legal Issues Arising from the Passenger and Dangote Refinery Dispute

At the heart of the dispute between Dangote Refinery and PENGASSAN lies the right of workers to freely associate and join trade unions, a right firmly protected by the Constitution of the Federal Republic of Nigeria and reinforced by international labour conventions.

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10 See, <https://www.vanguardngr.com/2025/09/pengassan-expresses-concern-over-alleged-mass-sack-at-dangote-refinery/?utm_source> (accessed on 02/02/2025).

11 See, <https://businessday.ng/breaking-news/article/pengassan-declares-nationwide-strike-against-dangote-refinery-over-workers-layoff/> (accessed on 6/10/25).

12 See, <Dangote Refinery Accuses PENGASSAN of Economic Sabotage, Says Union's Directive Threatens Fuel Availability, Govt revenue – THISDAYLIVE> (accessed on 30/09/2025).

13 See, <https://punchng.com/pengassan-strike-nnpc-laments-losses-as-union-halts-action/> (accessed on 6/10/25).

If the dismissal of workers by the Dangote Refinery was indeed linked to their decision to unionise or participate in union activities, such action would constitute a grave violation of their constitutional and internationally recognized labour rights. It would not only undermine the legal framework that protects workers but also set a troubling precedent for industrial relations in Nigeria's private sector.

If, however, the workers were dismissed because of acts of sabotage as alleged by Dangote Refinery, then the company would be within its rights to dismiss the workers provided due process was followed.

Another legal issue that arose from the dispute between Dangote Refinery and PENGASSAN is the extent of the right of a trade union to embark on a strike action. A "strike" is defined under section 48 of the *Trade Disputes Act*, 1976 (TDA) as:

> *…the cessation of work by a body of employed persons acting in combination, or a concerted refusal under a common understanding of any number of persons employed to continue to work for an employer in consequence of a dispute, done as a means of compelling their employer or any person or body of persons employed, or to aid other workers in compelling their employer or any persons or body of persons employed, to accept or not to accept terms of employment and physical conditions of work*.

Under the TDA, strike actions are permitted only after strict procedural requirements have been followed. Specifically, sections 4 to 18 of the TDA outline the mechanisms for dispute resolution, including reference of the dispute to mediation, conciliation, and arbitration or the National Industrial Court. A strike is only lawful when these procedures have been exhausted. Any worker or trade union that goes on strike without complying with these procedural requirements is guilty of an offence and is liable upon conviction to a fine of ₦100.00 or six months imprisonment in the case of an individual or a fine of ₦1,000.00 in the case of a body corporate.

Furthermore, by section 41(1) of the TDA any worker employed in any essential service who ceases to carry out his services or embarks on a strike without giving his employer at least 15 days' notice of his intention to do so is guilty of an offence and is liable upon conviction to a fine of ₦100.00 or imprisonment for a term of six years.

Also, section 1 of the *Trade Disputes (Essential Services) Act* empowers the President of the Federal Republic of Nigeria to proscribe any trade union or association of members employed in any essential service who have been engaged in acts calculated to disrupt the economy or

to obstruct the smooth running of any essential service or has failed to comply with the procedure prescribed in the TDA in relation to the reporting and settlement of trade disputes.

The First Schedule to the TDA sets out a list of essential services. The list includes services provided in the public service or private sector in connection with the supply of electricity, power or fuel. PENGASSAN is without doubt a trade union of workers who provide essential services

In the Dangote Refinery case, the Refinery in its suit at the NICN, Abuja Division while applying for an interim injunction against PENGASSAN claimed that PENGASSAN refused to exhaust all the dispute resolution procedures as stated in the TDA before commencing the strike action.[14] If it is correct as was asserted by Dangote Refinery that PENGASSAN failed to follow statutory processes, including exhausting dispute resolution mechanisms and giving adequate notice, then the strike action though perhaps justified may be deemed illegal under Nigerian law and PENGASSAN and its members run the risk of incurring the sanctions stipulated in the TDA and the *Trade Disputes (Essential Services) Act*.

8. Conclusion

While trade unions in Nigeria enjoy significant legal protection and legitimacy under the law in Nigeria, their rights and powers are not absolute. When trade unions exceed their lawful mandate particularly during industrial disputes, they may face legal consequences under the law in Nigerian. Failure to follow laid down procedures and disruption of essential services can expose trade unions and their members to significant criminal sanctions as prescribed in the TDA and the *Trade Disputes (Essential Services) Act*.

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[14] See, <https://www.vanguardngr.com/2025/09/court-stops-pengassan-others-from-cutting-gas-supply-to-dangote-refinery/?utm> (accessed on 7/10/2025).