

Territorial Jurisdiction of the National Industrial Court of Nigeria: A Case Study of *Johnson V. Eze*

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Abstract: *The National Industrial Court of Nigeria (NICN) is vested with exclusive original civil jurisdiction over labour and employment disputes. Its practice and procedure are regulated by the Court's Civil Procedure Rules and other Statutes particularly the National Industrial Court Act, 2006. One of such statute is the Sheriffs and Civil Process Act (SCPA), sections 97 and 99 thereof, which requires that an originating process to be served outside the jurisdiction of the court it was filed, would be endorsed indicating this fact. This requirement shows that the service of the process is outside the territorial jurisdiction of the issuing court especially with regards to courts that have limited territorial jurisdiction. The NICN is of equal status with the State High Courts (SHCs) and the Federal High Court (FHC) which the issue of the applicability of the SCPA has been adjudicated upon but not the NICN. The issue is, is this requirement of the SCPA (which applicability to the SCH and FHC has been adjudicated upon), applicable to the NICN? What is the effect of failure to comply with the SCPA in proceedings before the NICN? These issues came up in Johnson v. Eze. This paper adopts doctrinal method in examining the impact of the position taken by the Court of Appeal in this case on the territorial jurisdiction of the NICN as well as its mandate as a specialized court. It found that the NICN has a singular nationwide territorial jurisdiction. It concludes that the decision is a welcomed development as it insulates the NICN from the technicalities associated with the application of sections 97 and 99 of the SCPA.*

Keywords: Civil procedure, Court jurisdiction, Labour disputes, Legal practice, Nigeria, Specialised courts

1. Introduction

The Sheriffs and Civil Process Act¹ (SCPA) is a federal legislation that makes provision for the appointment and duties of Sheriffs, regulation of service and execution of court process, execution of judgments and ancillary matters in Nigeria.² A Sheriff is an officer of the Court charged with the responsibility of enforcing judgment (s) and orders of the court through supervising and levying execution against parties who fail to voluntarily abide by the judgment. Thus, execution of a judgment becomes necessary where the judgment debtor fails to comply with the judgment/order of the court and the judgment creditor is desirous of reaping the benefits of litigating. Sections 97 and 99 of the Act (i. e. SCPA), requires that where an originating process (i. e. a process used to commence cases in court such as writ of summons, originating motions or petition), is filed but to be served in a court outside the territorial jurisdiction where it was filed, an endorsement will be made on the process indicating that it is meant for service outside the jurisdiction of the court where it was filed. This Act is applicable to all courts in Nigeria particularly the superior courts of record (SCR). The Act is a subject specific legislations which deals with the appointment and duties of sheriffs, *modus operandi* for the execution/enforcement of judgments/orders of court, issuance and service of court processes particularly outside the territorial jurisdiction of the issuing court. Being a

federal legislation, its provisions are superior to that of a subsidiary legislation such as Rules of Court.

The NICN is a SRC whose status has been enhanced under the 1999 Constitution of the Federal Republic of Nigeria (Third Alteration) Act, 2010. The NICN has and exercises exclusive original civil jurisdiction over labour and employment disputes as well as exercises appellate jurisdiction over appeals from the industrial appeal tribunal (IAP).³ The Court is regarded as a specialized court owing to its mandate.⁴ The NICN has both original, appellate and territorial jurisdiction. Recently, the Court of Appeal (CA) was confronted with the issue of whether or not the provisions of sections 97, 98 and 99 of the SCPA amplified above are applicable to proceedings initiated at the NICN in *Francis O Johnson & Anor. v. Comrade Emma Eze & Anor.*⁵ The Court held that the provisions are inapplicable to the NICN as the SCPA is not superior to the National Industrial Court Act, 2006 which provides the territorial jurisdiction of the NICN. This article aims to analyze the impact of the Court of Appeal decision in Johnson v. Eze on the territorial jurisdiction of the National Industrial Court of Nigeria (NICN) and its role as a specialized court. The study examines the applicability of the Sheriffs and Civil Process Act SCPA to the NICN, the consequences of non -

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¹ Sheriffs and Civil Process Act Cap. S5 Laws of the Federation of Nigeria (LFN) 2004.

² *Ibid.* Section 1.

³ B Atilola, "National Industrial Court of Nigeria and Exclusive Jurisdiction on Labour, Trade Union and Employment Related Matters under the Third Alteration Act: A Review of N. U. T, Niger State v. C.O.S.S. T., Niger State" (2012) 6(2) *Nigerian Journal of Labour Law and Industrial Relations*, 9.

⁴ BB Kanyip, *The National Industrial Court: Current Dispensation in the Resolution of Labour Disputes*, Being a Paper Presented at the Refresher Course for Judges and Kadis Organised by the National Judicial Institute (NJI) held at Abuja on 12th-16th March 2007.

⁵ [2021] 2 NWLR (Pt. 1759) 90.

compliance, and the implications for the courts jurisdiction. Through a doctrinal approach, the article highlights the significance of the decision in clarifying the NICNs nationwide territorial jurisdiction and its avoidance of technicalities associated with the SCPA.

The paper is divided into four sections. Section one contains the introduction. Section two is a synopsis of the origin and jurisdiction of the NICN. Section three is a discussion of the CA decision in the *Johnson's Case*⁶ and matters arising there from. Section four contains the conclusion and recommendations. The paper adopts doctrinal method in interrogating the issues raised. This paper employs a doctrinal method to examine the Court of Appeals position in the case of *Johnson v. Eze*. The analysis focuses on the impact of this decision on the territorial jurisdiction of the National Industrial Court of Nigeria NICN and its role as a specialized court. The study relies on a comprehensive review of relevant statutes, case law, and legal literature to explore the implications of the Court of Appeals interpretation. Through a doctrinal analysis, the article provides insights into the NICNs territorial jurisdiction and its compliance with the Sheriffs and Civil Process Act SCPA.

2. The Evolution and Jurisdiction of the NICN as a SCR

The disruption of indigenous African civilization by British colonization and its introduction of wage labour came with certain implications such as the introduction of various commercial concerns. Waged labour and its concomitants made the occurrence of labour and employment disputes inevitable. The resolution of this dispute became germane hence, putting in place a legal framework became imminent.⁷ Thus, in 1941, the colonialists promulgated the Trade Dispute (Arbitration and Inquiry) Ordinance for settlement of trade disputes within Lagos.⁸ According to Eyongndi,⁹ the apparent shortcoming of this ordinance is that, aside from its restrictive application to only Lagos, government intervention in trade disputes was upon the invitation of the disputants and it only established an *ad hoc* adjudicatory body for settling such disputes. In 1957, the Trade Disputes (Arbitration and Inquiry Federal Application) Ordinance¹⁰ which cured the defects of the 1914 ordinance was promulgated. After independence and upon the military takeover of governance, two decrees were promulgated. The decrees are the Trade Disputes (Emergency Provisions)

⁶*Ibid.*

⁷ EA Oji, and O.D Amucheazi, *Employment and Labour Law in Nigeria* (Lagos, Mbeyi & Associates (Nig.) Ltd., 2015) 253.

⁸ Amucheazi, O.D. and Oji, E.A., "The Status of the National Industrial Court under the 1999 Constitution" (2008)2 (3) *Nigerian Journal of Labour Law and Industrial Relations*, 34.

⁹ DT Eyongndi, "The Civil Jurisdiction of the National Industrial Court under the 1999 Constitution of the Federal Republic of Nigeria (Third Alteration) Act, 2010 and Pre-2010 Fundamental Human Rights Suits" (2020) 5 *Amity University Law Journal, Dubai* 29-36

¹⁰ JOA Akintayo, and DT Eyongndi, "The Supreme Court of Nigeria Decision in *Skye Bank Ltd. v. Victor Iwu: Matters Arising*" (2018) 9(3) *The Gravitas Review of Business and Property Law*, September 113.

Decree 1968 and Trade Disputes (Emergency Provisions) (Amendment) Decree 1969.¹¹ Akeredolu and Eyongndi¹² have pointed out that the latter prohibited strike and lockout action in Nigeria by prescribing a term of imprisonment without option of fine for anyone that violates it. It further established a somewhat permanent tribunal for the settlement of trade disputes known as the Industrial Arbitration Panel (IAP). Eyongndi¹³ commenting on the effectiveness and efficiency of the IAP argued that, its limited jurisdiction and seemingly overbearing influence of the Minister of Labour and Employment and Productivity (MLEP), on its functionality, are albatrosses to its maximal operation. In After the Nigerian Civil War (NCW) in which there was neither winner nor vanquish, ended, the need to foster industrial harmony towards socio - economic recovery became imminent. Hence, the Trade Dispute Decree, 1976 was enacted (which had provisions targeted at engendering socio - economic recovery). Section 20 thereof, created a court known as the National Industrial Court which had exclusive civil jurisdiction over labour and employment disputes.¹⁴ The NICN created by this section of the Decree (which later became the Trade Dispute Act), suffered several limitations as will be seen.

The Court had and exercised this exclusive jurisdiction over labour and employment matters until when the 1979 and 1999 Constitutions were enacted and the court was omitted from the list of SCR expressly mentioned therein. This led to a challenge of the constitutionality of the court and its acclaimed exclusive original civil jurisdiction vis - à - vis the State High Court and Federal High Court.¹⁵ Thus, disputes that were purportedly reserved for the NIC were instituted and litigated at the High Court as was in *Kalango & Ors v Dokubo & Ors*.¹⁶ To address this constitutional and jurisdictional impasse brought about by the exclusion of the NICN in the list of SCR under both constitutions, the National Assembly enacted the National Industrial Court Act, 2006 (NIC Act, 2006). The NIC Act purportedly elevated the NIC to a SCR, with exclusive original civil jurisdiction over labour and employment matters as contained in sections 11 and 7 of the Act. However, this legislative attempt at resolving the quagmire, did not help much as the constitutionality of the NIC Act, 2006 vis - à - vis the exclusive jurisdiction of the FHC and SHC enshrined in sections 251 and 272 of the 1999 CFRN as well as section 1 (3) thereof prevailed.¹⁷ To find a permanent solution to

¹¹*Ibid.*

¹² AE Akeredolu, & DT Eyongndi, "Jurisdiction of the National Industrial Court under the Nigerian Constitution Third Alteration Act and Selected Statutes: Any Usurpation?" (2019)10 (1) *The Gravitas Review of Business and Property Law, University of Lagos* 1-16.

¹³ DT Eyongndi, "Towards Repositioning the Industrial Arbitration Panel (IAP) for the Effective Settlement of Trade Disputes in Nigeria" (2019) 9 *University of Ibadan Law Journal* 114-129.

¹⁴ DT Eyongndi, "The Powers, Functions and Role of the Minister of Labour and Productivity in the Settlement of Trade Disputes in Nigeria: An Analysis" (2016) 9 *Journal of Public Law and Constitutional Practice* 79.

¹⁵ CK Agomo, *Nigerian Employment and Labour Relations Law and Practice*, (Lagos, Concept Publications Press, 2011) 318.

¹⁶ *Kalango & Ors v Dokubo & Ors*. [1987] 1 NWLR (Part 49) 248; [2004] NLLR (Part 1) 180.

¹⁷ *Oloruntoba-Oju & Ors v Dopamu & Anor*,¹⁷ [2008] 4 SCM 128.

this, the 1999 CFRN was amended by the enactment of the 1999 CFRN (Third Alteration) Act, 2010 which conferred exclusive original civil jurisdiction on the NICN, included it in the list of SCR mentioned in section 6 (5) of the constitution. Today, the constitutional and jurisdiction travails of the NICN are admirably and permanently settled as the constitution amendment undertaken in 2010, has put the issue to rest¹⁸ Today, the NICN stands on the same judicial pedestal as the SHC and FHC.¹⁹

Jurisdiction is the power of a court to entertain a dispute, adjudicate over it and render a binding decision.²⁰ Jurisdiction is to legal/court adjudication what blood is to the human body.²¹ Any act taken or done by the court in want of jurisdiction is a nullity, it is the life wire of adjudication.²² The trite position of the law is that owing to its germaneness, once the jurisdiction of a court is challenged, the court is expected to keep at abeyance, further proceedings and decide the challenge one way or the other.²³ In fact, challenge of the jurisdiction of a court, can be raised anyhow and at any stage of the proceedings even at the SC, on appeal, for the first time.²⁴ The subject matter jurisdiction of the NICN is as provided for under section 254C of the 1999 CFRN (Third Alteration) Act, 2010. In fact, this provision is wider and much more loaded than what was obtainable under section 7 of the NIC Act, 2006. As for the territorial jurisdiction of the NICN, section 21 of the NIC Act provides that it is nationwide.²⁵ The territorial jurisdiction of a court refers to the geographical area from which the court can entertain disputes from.²⁶ Like jurisdiction itself, the territoriality of a court's jurisdiction is as defined by the statute that donates jurisdiction to the court and not the party or even the court itself.²⁷ Eyongndi and Opara²⁸ have opined that the constitutional fortification and amplification of the jurisdiction and status of the NICN has led to the opening of new vistas in labour and employment disputes adjudication as since 2010, the NICN, pursuant to its new status and power, has handed down several decisions which are great departures from the orthodox common law postulates.

¹⁸ *Skye Bank Plc v Victor Anaemem Iwu* [2017] 7 SC (Part 1) 1.

¹⁹ See section 253 of the 1999 CFRN (Third Alteration) Act, 2010.

²⁰ *Egharevba v. Eribothe* [2010] All FWLR (Pt. 530) 1213 at 1228.

²¹ *Yakubu v. Governor of Kogi State* [1997] 7 NWLR (Pt.511) 66.

²² *Oruobu v. Anekwe* [1997] 5 NWLR (Pt. 506) 618.

²³ DS Orkar, 'The Nigerian Child's Right Act 2003 Cum the Cybercrimes Act 2015: Has the Jurisdiction of the National Industrial Court of Nigeria been Usurped?' (2018) 9(14) *Sound Counsel* 20.

²⁴ *National Electoral Commission & Anor v Izuogu* [1993] 2 NWLR (Part 275) 270.

²⁵ GG Otuturu, 'Powers and Jurisdiction of the National Industrial Court in the Resolution of Labour Disputes in Nigeria' (2015) 9(1) *Nigerian Journal of Labour Law and Industrial Relations* 35.

²⁶ *B.B. Apugo v. & Sons Ltd. v. OHMB* (2016) LPELR-40598 (SC).

²⁷ *Golit v. IGP* (2020) LPELR-50636 (SC).

²⁸ DT Eyongndi & NF Opara, "Lack of Protection for Whistleblowers at the Workplace in Nigeria: Drawing Lessons from Selected Jurisdictions" (2022) 9(3) *Padjadjaran Journal of Law* 432-455.

3. Explicating *Johnson v. Eze*

This section of the paper contains a brief fact of the decision under review, matters arising from the decision as well as its impact on the territorial jurisdiction of the NICN and its mandate as a specialized court. The brief facts of the case are that: the 1st Respondent and 1st Appellant contested in an election conducted for the post of the President of the 2nd Appellant by its National Delegates Conference. After the electioneering, the 1st Appellant was declared the winner of the election. The 1st Respondent was unsatisfied with the outcome of the election wherefore, he petitioned the electoral panel constituted by the 2nd Appellant's National Delegates Conference. His petition was dismissed having been adjudged unmeritorious. Aggrieved by this outcome, he instituted proceedings at the National Industrial Court of Nigeria, Calabar Judicial Division and sought declarative and injunctive reliefs. Based on the pleadings in the originating process, it was obvious that the cause of action arose in Abuja while the Appellants reside and carry on business in Lagos.

Upon being served with the processes, the Appellants entered conditional appearance and filed a notice of preliminary objection to the jurisdiction of the court entertain the suit as constituted. The objection was predicated on the basis that the Constitution of the 2nd Appellant provides that all internal disputes amongst its members, ought to first and foremost be submitted to internal resolution in which the decision of the National Delegates Conference was final and that had not been complied with and that the originating process was not endorsed as required by sections 97 and 99 of the SCPA. The trial court after hearing arguments of the parties on the objection, dismissed same finding and holding that, having submitted his grievance to the election tribunal constituted by the National Delegates Conference of the 2nd Respondent, the 1st Respondent had exhausted the internal dispute resolution mechanism of the 2nd Appellant and was therefore entitled to approach the court for redress and that the provisions of the SCPA are inapplicable to the trial court which has a single nationwide territorial jurisdiction.

Being dissatisfied with the decision of the trial court, the appellants appealed to the CA. The appellants' appeal was based on five grounds but this paper is concerned with ground one which is "whether or not the provisions of sections 97 and 99 of the SCPA are applicable to proceedings before the NICN." The appellant also raised an interesting issue which was whether the act of instituting the case in Calabar Division of NICN, which had no connection with the facts of the case like Abuja where the cause of action arose and Lagos where the Appellants are based does not amount to forum shopping. A brief comment shall be made on this issue albeit, passively.

3.1 Appellants' Argument

The appellants argued that the trial court's decision that sections 97 and 99 of the SCPA is inapplicable to the NICN is an affront to the 1999 CFRN as Item 57 of Part I of the second Schedule of the constitution, empowers the National Assembly to legislate on matters dealing with the

appointment and duties of sheriffs, service of court process and execution of judgments and orders throughout the federation. Aside this, section 254D has placed the NICN on the same judicial pedestal as the Federal High Court and State High Courts which the SCPA are applicable.²⁹ They contended that the definition of court under section 2 of the SCPA is expansive enough to accommodate the NICN. While conceding that sections 254F of the third alteration Act to the 1999 Constitution as well as section 36 of the NIC Act, 2006 empowers the President of the NICN to make for the regulation of the practice and procedure of the Court, such powers do not extend to making rules on the issuance of originating process which is a matter on the Exclusive Legislative List (ELL) and that the rules are not superior to the SCPA.³⁰ They contended further that based on the decisions in *NNPC v. Famfa Oil Ltd.*³¹ and *Federal Republic of Nigeria v. Dariye*³² the NICN Civil Procedure Rules, 2017 are inferior to the SCPA. It was also argued, the provisions of sections 97 and 99 of the SCPA are couched in mandatory terms and having not fulfilled them, the trial court lacked jurisdiction to adjudicate over the dispute as was held in *Arabella v. NAIC*³³ and *CBN v. Interstella Communications Ltd. & 3 Ors.*³⁴ They urged the court to uphold the appeal and set aside the decision of the trial court. On the issue of forum shopping, the appellant contended that the act of instituting the case at Calabar which had no real connection with the disputes as opposed to Lagos and Abuja, amounted to forum shopping and the trial court ought to have struck out the case for forum shopping.

3.2 Respondents' Argument

The Respondent having copiously referred to sections 97, 98 and 99 of the SCPA, contended that where a statute expressly mentioned certain matters, the intention of the law is that those not mentioned are excluded; accordingly, the SCPA having specifically defined courts to which its provisions are applicable to, to mean High Court and magistrate court, it is inapplicable to courts such as the Federal High Court and NICN which are not mentioned. This is based on the trite position of law that the express mentioning on one thing, is the exclusion of all others not mentioned. They argued that the intendment of the clear provisions of the SCPA is that it is only applicable to the Magistrate and High Court whose territorial jurisdiction is limited to where they are situated.³⁵ They further argued that the NIC Act ranks *pari passu* with the SCPA and it having stated in section 21 (i) and (ii) that the NICN's territorial jurisdiction is the whole area of the federation, cannot be impugned. Thus, pursuant to section 36 (1) and (2) of the NIC Act 2006, the President of the NICN is empowered to make rules regulating the issuance, service or execution any writ, warrant order or processes. Beyond this, the NICN Civil Procedure Rules, 2017 is a subsidiary legislation made by the President of the court pursuant to the powers conferred on him by section 254F (1) of the 1999

CFRN Third Alteration Act, 2010 which buttresses the provisions of the NICN Act, 2006 that rendered inapplicable sections 97, 98 and 99 of the Sheriffs and Civil Process Act, 2004 based on the decision in *Omatseyev. Federal Republic of Nigeria.*³⁶ The Respondents further submitted that the cases of *Owners of M. V. Arabella v. NAIC*³⁷ and *Izeze v. INEC*³⁸ relied upon by the Appellants, the Supreme Court (SC) did not consider the peculiar provisions of section 21 and 36 of the NIC Act, 2006 hence, these cases cannot be precedent for this present one.³⁹ The Respondent placed reliance on *Biem v. Social Democratic Party*⁴⁰ decided by the SC that an originating process issued by the Federal High Court (FHC) in one territorial jurisdiction to be served in another (within Nigeria), cannot be regarded as service outside jurisdiction since the FHC has a single nationwide jurisdiction making sections 97 and 99 of the SCPA inapplicable.⁴¹

On the issue of forum shopping, before the determination of the suit, pursuant to the NICN Civil Procedure Rules, 2017, the Respondent had the matter transferred from Calabar to Abuja thus, the issue of forum shopping hence, it has become academic.

3.3 Court Resolution of the Issue

Having taken arguments of the parties, the Court agreed with the 1st Appellant's argument on the purpose of the SCPA. It found that section 2 of the SCPA had defined what court means and the definition refers to the Magistrate and High Court and the SC in *Owners of M. V. Arabella v. NAIC*⁴² held that section 98 of the Act is inapplicable to proceedings before the FHC while in *Izeze v. INEC*⁴³ and *CBN v. Interstella Communications Ltd. & 3 Ors.*⁴⁴ it was held that the provisions of sections 97 and 98 of the SCPA are applicable to the FHC on the ground that it is a federal legislation which is superior to the FHC Civil Procedure Rules.⁴⁵ Having presented the subsisting contradictory position of the law based on the decisions of the SC, the CA placed reliance on *Biem v. S. D. P*⁴⁶ and *Omajali v. David*⁴⁷ wherein the SC subsequently and rightly held that the provisions of the SCPA in issue are only applicable to the State High Court and High Court of Federal Capital Territory, Abuja whose territorial jurisdiction is limited and not to the Federal High Court (FHC) which has a nationwide territorial jurisdiction. Thus, section 19 of the FHC Act and Order 6 Rule 31 of the FHC Civil Procedure Rules negates the seeking of leave of the court or endorsement of an originating summons issued by the FHC to be served within Nigeria to be endorsed on it as to be served outside the jurisdiction of the Court as required by the SCPA. The

²⁹Footnote 5 at 102, Paras. B-D.

³⁰*Ibid.* at Paras. E-G.

³¹ [2012] 17 NWLR (Pt. 1328) 148.

³² [2011] 13 NWLR (Pt. 1265) 521.

³³ [2008] 17 NWLR (Pt. 1097) 182.

³⁴ [2018] 7 NWLR (Pt. 1618) 294.

³⁵Footnote 5 at 103, Paras. B-D.

³⁶ [2017] LPELR-42719

³⁷ [2008] 17 NWLR (Pt. 1097) 182.

³⁸ [2018] 11 NWLR (Pt. 1629) 110.

³⁹Footnote 5 at 103-104, Paras. G-H, A-B.

⁴⁰ [2020] 2 NWLR (Pt. 1708) 379.

⁴¹ Footnote 5 at 104, Paras. A-C.

⁴² [2008] 17 NWLR (Pt. 1097) 182.

⁴³ [2018] 11 NWLR (Pt. 1629) 110.

⁴⁴ [2018] 7 NWLR (Pt. 1618) 294.

⁴⁵Footnote 5 at 107, Paras. D-H.

⁴⁶ [2020] 2 NWLR (Pt. 1708) 379.

⁴⁷ [2019] 17 NWLR (Pt. 1702) 438 at 458-459.

aforementioned section of the FHC Act and Rules are *pari materia* with section 21 (1) and (2) of the NIC Act and Order 7 Rule 15 (1) (2) of the NICN Civil Procedure Rules, 2017 therefore applies to negate the application of sections 97 and 99 of the SCPA.⁴⁸ Beside the SCPA and the NIC Act are on equal statutory pedestal and the NICN Rules, although delegated legislation, the power to make them by the President of the NICN is derived from the constitution. The court came to the conclusion that based on the subsisting position of the law, sections 97, 98 and 99 of the SCPA is inapplicable to the NICN since it is a federal court with a single nationwide territorial jurisdiction over the whole of Nigeria.⁴⁹

This decision is profound and sound in logic and law. The decision of the CA highlighted above is justifiable on several unimpeachable grounds. Firstly, it would have amounted to statutory subjugation if the CA had elevated the SCPA over the NIC Act 2006. The SCPA and the NIC Act, 2006 stands on the same legal footing on the hierarchy of legislation under Nigeria's legal system with the NIC Act being specifically applicable to the NICN. The NIC Act is only inferior to the 1999 Constitution of Nigeria which is the supreme law and not an Act of the National Assembly like itself. The Appellants argument that the provision of the SCPA are superior to that of the NIC Act 2006, aside being legally untenable, is capable of leading to absurdity if followed by the court.

Furthermore, the NICN is a specialized court that deals with a critical subject matter. Labour and employment matters are issues that are core to the economy and would require expeditious settlement and not to be embroiled in delay under any guise. One would even wonder the importance of endorsing an originating process indicating that its service is outside the jurisdiction of the issuing court, especially when it is considered that the matter will nevertheless be litigated in the court from which the process originated. If the Court of Appeal had allowed or agreed that the NICN is amenable to the provisions of the SCPA as was contended by the appellants, the imbroglio that would ensue from deployment of technicalities by litigants, is unimaginable. The undesirability of placing the NICN in a situation where non-essential matters like endorsement of originating processes is used to buffet the court becomes apparent when the nature of labour and employment disputes is examined. One cannot wish away the possibility of an unscrupulous litigant latching onto such a technical matter as non-endorsement to frustrate or inordinately delay settlement of an employment matter such as a trade dispute with its cataclysmic tendency. While commenting on the need to absolve the NICN from technicalities especially on procedural matters, Eyongndi and Oyeniran⁵⁰ have argued that the NICN should be immune from such hullabaloo and this is what the Court of Appeal rightly did. In fact, the prevailing stance in administration of justice is the

promotion of substantial justice as opposed to technical justice or rules. Lawyers are ministers in the temple of justice and as such, should eschew the tendency of ramshaking the court with technical arguments or points. It is imperative that in riding lawyers of the tendency to pander to technicalities, the sensitisation begins from the stage of university education. The University and Law School curricula should be restructured and infused with a high percentage of discussion dealing with the ideal of substantial justice. Once this ideal are ingrained from this grooming stage, the expectation is that in practice, such lawyers will tend less to technicalities in the course of their practice either before the courts or advising their clients. Another way out is to ensure that there is continuous discussion on the ideal of doing substantial justice as opposed to clinging unto technicalities at Bar fora at the national and local Nigerian Bar Association branches during continue legal education seminars or other functions.

Also, by this decision, the CA has sanctioned the fact that the NICN is a federal court just like the FHC, Court of Appeal and Supreme Court (SC). It (i. e. the NICN), has a single or unified nationwide territorial jurisdiction but scattered all over the nation into judicial divisions for the main aim of wider coverage and speedier dispensation of justice. It will be excruciating as well as a herculean task, if every litigant all over the nation has to litigate at a single place or venue of the NICN as in the case of the Supreme Court. The delay that will be caused by this, is better imagined than experienced. This will make the aphorism, justice delayed is justice denied a reality. Litigants' constitutional right of access to court enshrined in section 36 of the 1999 CFRN will be severely impeded and likely eroded. The disposition of litigants, sometimes aided by their legal practitioners, towards clinging unto technical points as dilatory tactics, especially when their cases are lacking in substance, is a reality which cannot be swept under the carpet. It would not be improper to think that issues such as failure to endorse a writ in accordance with the provisions of the SCPA, which may not have any bearing on the substance of the case, could be strenuously deployed by an unscrupulous sinking litigant to delay a case.

On the issue of forum shopping, which the appellant implored the CA to set aside the trial court's decision, the CA held that the initial action of instituting the matter in Calabar, which had no connection with the cause of action amounted to forum shopping. It however held that, the subsequent action of transferring the matter to Abuja, where the cause of action emanated from, has rendered impotent and academic, the issue of forum shopping raised by the appellant.⁵¹ The decision on this issue was quite apt and lawyers and judges need to really appreciate the proper forum for filing cases as much as possible, even though the NICN is deemed to have a single territorial jurisdiction. The failure to file in an appropriate forum rightly attracts a transfer to the appropriate court division and nothing more.

By this decision, the CA has rightly affirmed the single territorial jurisdiction of the NICN thereby sequestering it from the shenanigans of deploying technical points (failure

⁴⁸Footnote 5 at 108-109, Paras. D-H, A-D.

⁴⁹*Ibid.* at 109, Paras. E-F.

⁵⁰ DT Eyongndi & LO Oyeniran, "Enforceability of Restraint of Trade Agreement under Nigerian Labour Jurisprudence: Iroktv.com Ltd. v. Ugwu in Perspective" (2022) 14 *Jimma University Journal of Law* 51-70.

⁵¹Footnote 5at 109-110, Paras. F-H, A-H.

to endorse an originating process to be served outside jurisdiction), to hold to ransom substantial justice. It is a decision that enables the actualisation of the NICN mandate of expeditious labour adjudication to all litigants who come to the court to seek justice. The decision is indeed a welcomed development.

4. Conclusion and Recommendations

From the foregoing, the NICN has evolved through a belligerent process into a SCR. It has and exercises exclusive original civil jurisdiction over labour and employment matters in Nigeria as a specialized court. Interestingly, since its enhanced jurisdiction and status, the NICN has rigorously engaged in radical paradigm shifts in labour adjudication by unsettling archaic and anachronistic *status quo*. The decision of the CA examined above is a welcomed development which has insulated the NICN from the unpalatable claws of technicalities that it can be submerged into by the application of the provisions of section 97 and 99 of the SCPA. Labour and employment matters by their nature, are deserving of expeditious settlement, one can only imagine the cacophonous and acrimonious outcomes where these categories of dispute are entrapped in the ambush of failure to endorse same as one meant to be served outside the court's jurisdiction. The utilitarian value of such endorsement to the actual adjudication of the dispute is hardly justifiable. The importance of the SC and CA avoiding rendering contradictory judgments on an issue owing to its potential to engender avoidable conflict cannot be overemphasized. The decision is in furtherance of the mandate of the NICN.

Based on the foregoing, it is recommended that the position taken by the CA in this case, should be followed in subsequent cases since the CA is the final court on civil appeals from the NICN. Furthermore, section 1 of the SCPA should be amended to expressly exclude the NICN from its definition of Courts when it relates to issuance of writs outside jurisdiction so as to clear any iota of doubt. There is need for greater emphasis on continuing legal education of law students, lawyers, judges and labour leaders on the jurisdiction and general operations of NICN so that some blunders and objections can be minimized.

References

- [1] 1999 Constitution of the Federal Republic of Nigeria Cap. C23 Laws of the Federation of Nigeria, 2004.
- [2] Amucheazi, O. D. and Oji, E. A., "The Status of the National Industrial Court under the 1999 Constitution" (2008) 2 (3) *Nigerian Journal of Labour Law and Industrial Relations*, 34.
- [3] *Arabella v. NAIC* [2008] 17 NWLR (Pt.1097) 182.
- [4] B Atilola, "National Industrial Court of Nigeria and Exclusive Jurisdiction on Labour, Trade Union and Employment Related Matters under the Third Alteration Act: A Review of N. U. T, Niger State v. C. O. S. S. T., Niger State" (2012) 6 (2) *Nigerian Journal of Labour Law and Industrial Relations*, 9.
- [5] *B. B. Apugo v. & Sons Ltd. v. OHMB* (2016) LPELR - 40598 (SC).
- [6] *Biem v. S. D. P* [2020] 2 NWLR (Pt.1708) 379.
- [7] *CBN v. Interstella Communications Ltd. & 3 Ors.* [2018] 7 NWLR (Pt.1618) 294.
- [8] CK Agomo, *Nigerian Employment and Labour Relations Law and Practice*, (Lagos, Concept Publications Press, 2011) 318.
- [9] DS Orkar, 'The Nigerian Child's Right Act 2003 Cum the Cybercrimes Act 2015: Has the Jurisdiction of the National Industrial Court of Nigeria been Usurped?' (2018) 9 (14) *Sound Counsel* 20.
- [10] DT Eyongndi, "The Civil Jurisdiction of the National Industrial Court under the 1999 Constitution of the Federal Republic of Nigeria (Third Alteration) Act, 2010 and Pre - 2010 Fundamental Human Rights Suits" (2020) 5 *Amity University Law Journal, Dubai* 29 - 36
- [11] DT Eyongndi, "The Powers, Functions and Role of the Minister of Labour and Productivity in the Settlement of Trade Disputes in Nigeria: An Analysis" (2016) 9 *Journal of Public Law and Constitutional Practice* 79.
- [12] EA Oji, and OD Amucheazi, *Employment and Labour Law in Nigeria* (Lagos, Mbeyi & Associates (Nig.) Ltd., 2015) 253.
- [13] *Egharevba v. Eribothe* [2010] All FWLR (Pt.530) 1213 at 1228.
- [14] *Federal Republic of Nigeria v. Dariye* [2011] 13 NWLR (Pt.1265) 521.
- [15] GG Otuturu, 'Powers and Jurisdiction of the National Industrial Court in the Resolution of Labour Disputes in Nigeria' (2015) 9 (1) *Nigerian Journal of Labour Law and Industrial Relations* 35.
- [16] *Golit v. IGP* (2020) LPELR - 50636 (SC).
- [17] *Izeze v. INEC* [2018] 11 NWLR (Pt.1629) 110.
- [18] JOA Akintayo, and DT Eyongndi, "The Supreme Court of Nigeria Decision in *Skye Bank Ltd. v. Victor Iwu: Matters Arising*" (2018) 9 (3) *The Gravitas Review of Business and Property Law*, September 113.
- [19] *Johnson & Anor. v. Eze & Anor* [2021] 2 NWLR (Pt.1759) 90 at 103 - 104, Paras. G - H, A - B.
- [20] *Kalango & Ors v Dokubo & Ors.* [1987] 1 NWLR (Part 49) 248; [2004] NLLR (Part 1) 180.
- [21] Kanyip, B. B. *The National Industrial Court: Current Dispensation in the Resolution of Labour Disputes*, Being A Paper Presented at the Refresher Course for Judges and Kadis Organised by the National Judicial Institute (NJI) held at Abuja on 12th - 16th March 2007.
- [22] *National Electoral Commission & Anor v Izuoguo* [1993] 2 NWLR (Part 275) 270.
- [23] National Industrial Court (Civil Procedure) Rules, 2017.
- [24] National Industrial Court Act, 2006.
- [25] *NNPC v. Famfa Oil Ltd.* [2012] 17 NWLR (Pt.1328) 148.
- [26] *Oloruntoba - Oju & Ors v Dopamu & Anor,* ¹ [2008] 4 SCM 128.
- [27] *Omajali v. David* [2019] 17 NWLR (Pt.1702) 438 at 458 - 459.
- [28] *Omatseyev. Federal Republic of Nigeria* [2017] LPELR - 42719
- [29] *Oruobu v. Anekwe* [1997] 5 NWLR (Pt.506) 618.
- [30] Sheriffs and Civil Process Act Cap. S5 Laws of the Federation of Nigeria (LFN) 2004.
- [31] *Skye Bank Plc v Victor Anaemem Iwu* [2017] 7 SC (Part 1) 1.

[32] *Yakubu v. Governor of Kogi State* [1997] 7 NWLR
(Pt.511) 66.