STRENGTHENING ALTERNATIVE DISPUTE RESOLUTION IN NIGERIA'S PUBLIC SERVICE: A LEGAL APPRAISAL OF MEDIATION IN EMPLOYMENT DISPUTE.

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Abstract
The rising frequency of employment disputes in Nigeria's public service—particularly involving critical sectors like health and education—highlights systemic weaknesses in the legal mechanisms for dispute resolution. Traditional adjudication often leads to prolonged litigation and industrial unrest, thereby disrupting essential services. This paper critically appraises mediation as an alternative dispute resolution (ADR) mechanism within the framework of Nigerian public sector labour law, with a focus on its legal structure, effectiveness, and enforceability. While statutes such as the Trade Disputes Act and the Labour Act make general provisions for dispute settlement, they fall short of codifying mediation as a binding and autonomous resolution tool. Recent legislative interventions, including the Arbitration and Mediation Act 2023, also fail to adequately address employment-related mediation, thus leaving a significant regulatory gap. This study adopts a doctrinal legal method, analysing statutory instruments, judicial decisions, and relevant international conventions—particularly ILO Conventions 87, 98, and 151. It further examines comparative models such as South Africa's Commission for Conciliation, Mediation and Arbitration (CCMA) and the United Kingdom's Advisory, Conciliation and Arbitration Service (ACAS). Findings reveal that the non-binding nature of mediated outcomes and lack of institutional oversight continue to weaken confidence in ADR within the public service. The paper proposes statutory reforms to embed mediation as a compulsory and enforceable stage in employment dispute resolution. Strengthening mediation frameworks will not only reduce industrial conflict but also promote public trust, institutional accountability, and legal compliance in Nigeria's governance structure.

Keywords: Mediation, Employment Disputes, Public Sector, ADR, Legal Reform

1. INTRODUCTION

Labour disputes in Nigeria's Public Sector have become a persistent feature of industrial relations, often manifesting through strikes, service shutdowns, and prolonged negotiations. Institutions such as public universities and government hospitals are frequently affected, with unions like the Academic Staff Union of Universities (ASUU) and the Nigerian Association of Resident Doctors (NARD) leading high-profile, protracted industrial actions. These disputes, beyond their immediate operational consequences, erode public confidence in governance, disrupt access to essential services, and strain the already fragile infrastructure of public institutions.[3]

While the 1999 Constitution of the Federal Republic of Nigeria[4] (as amended) guarantees freedom of association, including the right to organise and participate in collective bargaining, the legislative mechanisms for resolving employment disputes—especially within the public sector—have remained inadequate. The primary statutory instrument, the Trade Disputes Act, Cap T8 LFN 2004, provides for conciliation, arbitration, and ministerial intervention. However, these mechanisms are frequently undermined by procedural delays, executive discretion, and politicisation of the dispute resolution process, often leaving parties dissatisfied and triggering escalations.

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[4]Constitution of the Federal Republic of Nigeria 1999 (as amended), s 40; Trade Disputes Act, Cap T8, Laws of the Federation of Nigeria 2004, ss 4–9.

Alternative Dispute Resolution (ADR), particularly mediation, offers a timely and less adversarial means of addressing employment-related grievances. Unlike litigation, which is formal, slow, and adversarial, mediation is a confidential, collaborative, and cost-effective process that allows parties to explore mutually acceptable solutions. Globally, mediation has evolved into a core component of employment dispute systems. Countries such as the United Kingdom and South Africa have entrenched mediation in their labour jurisprudence through statutory frameworks, dedicated institutions, and robust procedural safeguards. In these jurisdictions, mediation has helped promote industrial peace, improve compliance with settlement agreements, and build trust between employers and employees.[5]

In Nigeria, however, the legal and institutional landscape for mediation remains underdeveloped. The recently enacted Arbitration and Mediation Act 2023 repealed the Arbitration and Conciliation Act and introduced a unified legal framework for ADR. While commendable in its intent, the Act falls short of addressing the specificities of employment disputes, especially in the public sector. It does not contain cross-references to the Trade Disputes Act, nor does it prescribe how mediated agreements in employment matters may be enforced without resorting to fresh litigation. This legislative omission limits the utility of the Act for resolving labour disputes and undermines the effectiveness of mediation outcomes.[6]

The National Industrial Court of Nigeria (NICN) has established an ADR Centre to promote non-litigious dispute resolution, but the Centre's mediation outcomes are not always binding unless entered as consent judgments, and many public institutions do not submit to its jurisdiction voluntarily. Additionally, there is a lack of institutional mechanisms within Ministries, Departments, and Agencies (MDAs) to support mediation, with most lacking in-house mediators, internal ADR policies, or formal grievance-handling structures. Consequently, disputes that could have been resolved early through mediation are often escalated into full-blown strikes or litigated disputes.[7]

This paper, therefore, seeks to undertake a doctrinal legal appraisal of mediation as a viable tool for resolving employment disputes in Nigeria's public service. It interrogates the statutory and constitutional frameworks governing employment relations and dispute resolution, with particular focus on the Trade Disputes Act, the Labour Act, the Arbitration and Mediation Act 2023, and the National Industrial Court Act 2006. It also considers Nigeria's obligations under international labour conventions, particularly those of the International Labour Organization (ILO), which encourage social dialogue and non-adversarial conflict resolution mechanisms in employment relations.[8]

The study identifies key statutory, procedural, and institutional deficiencies inhibiting the growth of employment mediation in Nigeria. It finds that mediated agreements lack statutory enforceability; mediation is not institutionalised within public service administrative structures; and there is no independent regulatory agency akin to ACAS or CCMA to oversee, promote, and ensure compliance with mediation processes. These shortcomings are compounded by cultural resistance to ADR, inadequate training of mediators, and the perception that mediation lacks legal weight and credibility.[9]

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[5] H. Genn, Judging Civil Justice. Cambridge University Press; Commission for Conciliation, Mediation and Arbitration (CCMA) South Africa, Annual Report 2022. (2010).

[6] Arbitration and Mediation Act 2023, Laws of the Federation of Nigeria; Onyema, E. (2023). The New Arbitration and Mediation Act in Nigeria: A Critical Review. Journal of African Law, 67(2), 245–260.

[7] National Industrial Court Act 2006, s 24; National Industrial Court of Nigeria, ADR Centre Guidelines 2015

[8] International Labour Organization, Convention No. 154 on Collective Bargaining (1981); ILO Recommendation No. 92 on Conciliation and Arbitration (1951).

[9] Advisory, Conciliation and Arbitration Service (ACAS), UK, Annual Report 2022; Ugochukwu, B. (2018). ADR in Nigeria: Challenges and Prospects. Nigerian Journal of Contemporary Law, 15(1), 89–104.

To reposition mediation as a credible legal mechanism in the public sector, the paper proposes a multi-pronged reform strategy. First, the Trade Disputes Act and the Arbitration and Mediation Act should be harmonised to allow mediated employment settlements to be enforceable as consent judgments of the NICN. Second, the establishment of a National Employment Mediation Commission (NEMC) should be considered. This Commission would regulate the practice of employment mediation, accredit mediators, maintain a national register, issue compliance directives, and provide procedural guidance for all MDAs.[10]

Third, public sector regulations such as the Public Service Rules should be amended to mandate mediation as a compulsory first step in the resolution of internal employment disputes. MDAs should be legally required to create ADR units, designate internal mediators, and document all grievance resolution efforts. Fourth, government training institutions, including the Administrative Staff College of Nigeria (ASCON) and the Public Service Institute, should include ADR modules in their curricula to ensure that human resource officers, union leaders, and administrators are well-equipped to engage in structured mediation.[11]

By drawing on comparative experiences from South Africa, the UK, and other jurisdictions, this paper demonstrates that mediation, when supported by law and institutional capacity, can significantly reduce the frequency, cost, and social impact of public sector industrial action. It can restore confidence in the dispute resolution system, enhance labour justice, and foster a culture of engagement rather than confrontation. Moreover, a robust mediation system aligns with Nigeria's obligations under the Sustainable Development Goals (SDGs), particularly SDG 8 (decent work and economic growth) and SDG 16 (peace, justice and strong institutions).[12]

This paper argues that mediation must be repositioned as a constitutionally valid, procedurally sound, and institutionally supported component of Nigeria's employment dispute resolution architecture. Through statutory reform, institutional restructuring, capacity-building, and public enlightenment, Nigeria can harness the full potential of mediation to achieve industrial peace and promote sustainable public service delivery.[13]

2. CONCEPTUAL FRAMEWORK

2.1 Alternative Dispute Resolution (ADR)

Alternative Dispute Resolution (ADR) refers to the array of mechanisms employed to resolve disputes outside the conventional judicial process. It encompasses processes such as negotiation, mediation, conciliation, and arbitration, each of which is designed to offer a more flexible, efficient, and participatory method of settling disputes. ADR is particularly significant in jurisdictions such as Nigeria where formal litigation is often protracted, adversarial, costly, and overwhelmed by procedural technicalities.[14]

In the context of employment relations, ADR assumes a unique importance due to the need to preserve ongoing working relationships, reduce workplace tensions, and prevent disruption to essential services—especially in the public sector. By removing the rigidities of the courtroom, ADR processes encourage collaborative dialogue, mutual respect, and tailored outcomes that may not be

[10]T. Odeyemi, "Reforming Nigeria's Labour Dispute Resolution Framework: Lessons from South Africa". *African Journal of Legal Studies*, 12(3), 201–220(2020).

[11]Public Service Rules of Nigeria (2021); Administrative Staff College of Nigeria (ASCON), Training Manual on Public Administration (2022).

[12]United Nations, Sustainable Development Goals, Goal 8 and Goal 16 (2015); CCMA South Africa, Strategic Report on Mediation Outcomes (2023).

[13]S. A. Fagbemi, Advancing Mediation in Nigeria's Labour Jurisprudence: A Case for Reform. Journal of Labour Law and Policy, 8(1), 45–67. (2024).

[14]J. O. Orojo, & M. A., Ajomo, *Law and Practice of Arbitration and Conciliation in Nigeria* (Mbeyi & Associates, 1999), p. 1.

available through court-imposed judgments. In addition, ADR allows parties to reach outcomes that reflect their shared values, organisational realities, and long-term institutional interests.[15]

In Nigeria, the legal framework for ADR is anchored in statutes such as the Trade Disputes Act, Cap T8 LFN 2004, the National Industrial Court Act 2006, and more recently, the Arbitration and Mediation Act 2023.[16] While these laws provide formal recognition for ADR mechanisms, their operational effectiveness—particularly in the public service employment sector—has remained limited by implementation gaps, weak institutional support, and the lack of enforceability of some ADR outcomes, especially in mediation.

2.2 Mediation: Definition and Characteristics

Mediation is a structured ADR mechanism in which a neutral third party—the mediator—facilitates dialogue between disputing parties with the aim of helping them reach a voluntary, mutually satisfactory resolution.[17] Unlike arbitration or judicial proceedings, the mediator does not issue binding decisions or impose outcomes. Rather, the process is interest-based and consensual, relying on the good faith and willingness of the parties to engage constructively.

Key legal characteristics of mediation include party autonomy, confidentiality, neutrality, flexibility, and informality.[18] The process is grounded in respect for the parties' right to determine both the procedure and the substance of their settlement. These attributes make mediation particularly well-suited for employment disputes, which often involve emotional, relational, and systemic issues that cannot be adequately resolved through adversarial mechanisms.

In Nigeria, mediation enjoys statutory recognition under the Trade Disputes Act, which outlines processes for conciliation and arbitration but does not sufficiently institutionalise mediation as a stand-alone resolution mechanism. The National Industrial Court of Nigeria (NICN), empowered under the 1999 Constitution (as amended) and its establishing Act, has also integrated mediation into its case management process, particularly through its Alternative Dispute Resolution Centre. Nonetheless, mediation outcomes are not automatically enforceable and must be entered as consent judgments to acquire legal force. This requirement introduces procedural delays and reduces the certainty and reliability of mediated outcomes.[19]

The enactment of the Arbitration and Mediation Act 2023 was expected to remedy these weaknesses. While the Act introduces modern provisions for mediation, including recognition of mediated settlement agreements and provisions for their enforcement, it does not explicitly address employment disputes. More importantly, it fails to provide sector-specific mechanisms or linkages to the Trade Disputes Act, thus leaving unresolved the procedural and jurisdictional ambiguities regarding mediation in public employment matters. This omission perpetuates a critical legal gap, undermining the development of mediation as an accessible, enforceable, and trusted mechanism in the public sector employment landscape.[20]

2.3 Mediation and the Sustainable Development Goals (SDGs)

The Sustainable Development Goals (SDGs), adopted by the United Nations General Assembly in 2015, provide a global blueprint for sustainable economic, social, and institutional development.

[15] A. Emiola, *Nigerian Labour Law* (Emiola Publishers, 2008), p. 245.
[16] Trade Disputes Act, Cap T8, Laws of the Federation of Nigeria, 2004, s. 1-8; Arbitration and Mediation Act, 2023, s. 65.
[17] C. W., Moore, The Mediation Process: Practical Strategies for Resolving Conflict (Jossey-Bass, 2014), p. 8.
[18] S. B., Goldberg, et al., *Dispute Resolution: Negotiation, Mediation, and Other Processes* (Wolters Kluwer, 2020), p. 123.
[19] National Industrial Court Act, 2006, s. 24; Constitution of the Federal Republic of Nigeria, 1999 (as amended), s. 254C.
[20] Arbitration and Mediation Act, 2023, s. 67-70; Amazu, A., "Challenges of Mediation in Nigerian Employment Disputes," Nigerian Journal of Labour Law, Vol. 12 (2024), p. 45.

Among these goals, SDG 8 and SDG 16 are of particular relevance to the discourse on mediation in employment disputes.[21]

SDG 8 calls for the promotion of sustained, inclusive, and sustainable economic growth, full and productive employment, and decent work for all. A functioning system of employment dispute resolution is integral to achieving decent work and ensuring fair labour practices. Mediation, by providing an accessible, affordable, and dignified pathway for resolving workplace grievances, contributes directly to the creation of stable, equitable employment conditions and industrial peace. By reducing the incidence and duration of strikes, mediation also promotes economic productivity and continuity of public services.[22]

SDG 16 promotes peaceful and inclusive societies for sustainable development, access to justice for all, and effective, accountable, and inclusive institutions at all levels. Embedding mediation within Nigeria's employment relations framework helps realise these goals by strengthening institutional responsiveness to conflict, reducing the caseload and delays in formal courts, and promoting participatory decision-making. Mediation facilitates peaceful resolution of conflict, enhances institutional legitimacy, and reinforces public confidence in administrative and legal systems.[23]

By incorporating mediation into public sector dispute management, Nigeria stands to benefit from the broader socio-economic dividends of peaceful labour relations, improved service delivery, and enhanced institutional resilience. Furthermore, such integration reflects Nigeria's international obligations under the ILO's Convention No. 151 (Labour Relations in the Public Service) and its commitment to constitutional principles of access to justice and fair hearing under Section 36 of the 1999 Constitution.[24]

The conceptual foundation of this research underscores the strategic value of mediation in transforming Nigeria's employment dispute resolution landscape. As the following chapters will show, mediation offers not only a pragmatic response to systemic inefficiencies but also a normative pathway to achieving fairness, social justice, and sustainable institutional development in the Nigerian public sector.[25]

3. LEGAL FRAMEWORK FOR EMPLOYMENT DISPUTE RESOLUTION IN NIGERIA

3.1 Overview

The legal architecture for resolving employment disputes in Nigeria consists of a complex but fragmented collection of statutes, judicial mechanisms, and administrative practices. Core instruments include the **Trade Disputes Act** (Cap T8, Laws of the Federation of Nigeria 2004), the **Labour Act** (Cap L1, LFN 2004), the **National Industrial Court Act 2006**, and the recently enacted **Arbitration and Mediation Act 2023**. These laws form the backbone of Nigeria's employment dispute resolution regime, governing how workplace grievances are handled, mediated, adjudicated, or enforced. Yet, despite this statutory presence, the framework remains structurally deficient, especially in the area of mediation. It lacks coherence, enforcement mechanisms, and institutional autonomy—challenges which are particularly acute in public sector employment where government is both employer and regulator.[26]

[21]United Nations General Assembly, Resolution 70/1: Transforming Our World: The 2030 Agenda for Sustainable Development (25 September 2015).
[22]International Labour Organization (2018). Decent Work and the Sustainable Development Goals: A Guidebook on SDG Labour Market Indicators. ILO Publications.
[23]United Nations Development Programme (2020). Strengthening the Rule of Law and Access to Justice through SDG 16. UNDP Policy Brief.
[24]International Labour Organization, Convention No. 151 on Labour Relations (Public Service) (1978); Constitution of the Federal Republic of Nigeria 1999 (as amended), s 36.
[25]S. A. Fagbemi, Advancing Mediation in Nigeria's Labour Jurisprudence: A Case for Reform. Journal of Labour Law and Policy, 8(1), 45–67. (2024).
[26]A. Emiola, Nigerian Labour Law (4th ed.). Emiola Publishers; Onyema, E. (2023). The New Arbitration and Mediation Act in Nigeria: A Critical Review. Journal of African Law, 67(2), 245–260. (2015).

The various laws, while individually significant, do not align to form a unified dispute resolution framework. The result is a disjointed system wherein different legal provisions operate in silos without synergy or mutual reinforcement. This absence of statutory and institutional cohesion continues to obstruct the effective utilisation of mediation as a credible alternative to litigation, contributing to the proliferation of industrial actions, the erosion of labour peace, and the overburdening of the judicial system.[27]

3.2 The Trade Disputes Act

The **Trade Disputes Act** (TDA) remains the principal legal instrument for resolving industrial conflicts in Nigeria. Originally enacted in 1976 and subsequently codified as Cap T8 LFN 2004, the TDA prescribes a multi-tiered dispute resolution structure. It requires disputing parties to initiate internal mechanisms for resolving grievances, failing which the matter is reported to the Minister of Labour and Employment. The Minister, at discretion, may refer the matter to the **Industrial Arbitration Panel (IAP)**, and subsequently, to the **National Industrial Court of Nigeria (NICN)** for final adjudication.[28]

Although the Act acknowledges conciliation and mediation as possible steps in the resolution process, these are neither made compulsory nor supported by detailed procedures. Mediation is thus treated more as a symbolic first step than as a substantive and enforceable dispute resolution method. Crucially, the TDA does not confer legal enforceability on settlements reached through mediation unless the agreement is transformed into a consent judgment at the NICN. This lack of statutory recognition undermines confidence in mediation and creates disincentives for parties—especially government institutions—to participate in good faith.

In addition, the Act vests excessive discretion in the Minister of Labour, who holds unilateral authority to decide when and how to escalate disputes to arbitration or the courts. This centralised control has been criticised for delaying dispute resolution and for allowing political considerations to influence what should be neutral processes. The absence of an independent mediation authority further weakens the TDA's effectiveness in managing modern public sector employment conflicts.[30]

3.3 The Labour Act

The **Labour Act** (Cap L1, LFN 2004) regulates the terms and conditions of employment in Nigeria, including contract formation, wages, employment of women and children, and redundancy. However, in the area of dispute resolution, the Act is largely silent. It does not provide detailed procedures for resolving employment-related conflicts, nor does it promote mediation or other ADR mechanisms.[31]

Moreover, the Labour Act is generally considered outdated and limited in scope. It primarily addresses private sector employment and does not adequately cover the unique dynamics of public sector employment relationships. Collective agreements, though mentioned in the Act, are not granted the status of enforceable contracts and remain subject to the employer's discretion unless formalised through court recognition. There is no statutory obligation on public employers to engage in structured dialogue, grievance procedures, or mediated settlement before taking disciplinary or dismissal actions.[32]

[27] B. Ugochukwu, ADR in Nigeria: Challenges and Prospects. Nigerian Journal of Contemporary Law, 15(1), 89–104. (2018).
[28] Trade Disputes Act, Cap T8, Laws of the Federation of Nigeria 2004, ss 4–9; Adeogun, A. A. (1986). The Legal Framework of Industrial Relations in Nigeria. Nigerian Journal of Labour Studies, 2(1), 23–35.
[29] National Industrial Court Act 2006, s 24; Odeyemi, T. (2020). Reforming Nigeria's Labour Dispute Resolution Framework: Lessons from South Africa. African Journal of Legal Studies, 12(3), 201–220.
[30] S. A. Fagbemi, Advancing Mediation in Nigeria's Labour Jurisprudence: A Case for Reform. Journal of Labour Law and Policy, 8(1), 45–67. (2024).
[31] Labour Act, Cap L1, Laws of the Federation of Nigeria 2004, ss 1–21; Emiola, A. (2015). Nigerian Labour Law (4th ed.). Emiola Publishers.
[32] A. A. Adeogun, The Legal Framework of Industrial Relations in Nigeria. Nigerian Journal of Labour Studies, 2(1), 23–35. (1986).

The Act's failure to provide for mediation, conciliation, or even formal grievance resolution procedures renders it ineffective as a standalone framework for resolving employment disputes. In the context of a modern labour regime committed to industrial harmony and institutional accountability, the Labour Act's silence on ADR constitutes a serious legislative omission.[33]

3.4 The National Industrial Court of Nigeria (NICN)

The **National Industrial Court of Nigeria (NICN)** was established by the **National Industrial Court Act 2006** and conferred exclusive jurisdiction over matters relating to labour, employment, and industrial relations. Under section 254C of the 1999 Constitution (as amended), the NICN is constitutionally recognised as a superior court of record with powers equivalent to the High Court. The Court is mandated to adjudicate not only contractual employment disputes but also matters involving trade unions, collective agreements, strikes, and workplace discrimination.[34]

The NICN Rules encourage amicable settlement and provide for case management processes that allow the court to refer matters to its **Alternative Dispute Resolution (ADR) Centre**. This Centre facilitates mediation and conciliation sessions, particularly during pre-trial conferences. While the existence of the ADR Centre is commendable, its procedural integration with formal court proceedings remains limited. Participation in mediation is voluntary and, in the absence of mutual consent, parties can proceed directly to litigation. Furthermore, settlements reached during mediation are not binding unless entered as consent judgments—a process that requires formal court documentation, delay, and additional legal costs.[35]

Despite its institutional standing, the NICN has not yet developed a specialised framework or rules for the enforcement of mediated outcomes outside of litigation. This limits the Centre's effectiveness and does little to incentivise public sector actors to embrace mediation. For mediation to serve as a credible alternative to adjudication, it must be made compulsory in certain disputes, and its outcomes must be self-enforcing by statute or regulatory mandate.[36]

3.5 The Arbitration and Mediation Act 2023

The **Arbitration and Mediation Act 2023** marks a significant step forward in Nigeria's legal treatment of ADR. It repeals the **Arbitration and Conciliation Act** and incorporates modern provisions aligned with the **UNCITRAL Model Law**, particularly in the commercial context. The Act introduces comprehensive rules on the conduct of mediation, appointment and remuneration of mediators, confidentiality, and enforcement of settlement agreements.[37]

Nevertheless, the Act's application to employment disputes—especially those arising in the public sector—is ambiguous. The mediation provisions, though extensive, do not make specific reference to the Trade Disputes Act, the Labour Act, or employment relationships governed by statute. There is no guidance on how mediated outcomes in labour disputes are to be enforced, whether they can be submitted directly to the NICN for entry as judgments, or what procedures apply in the case of breach.[38]

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[33] B. Ugochukwu, ADR in Nigeria: Challenges and Prospects. Nigerian Journal of Contemporary Law, 15(1), 89–104. (2018).

[34] National Industrial Court Act 2006, s 1; Constitution of the Federal Republic of Nigeria 1999 (as amended), s 254C.

[35] National Industrial Court of Nigeria, ADR Centre Guidelines 2015; National Industrial Court (Civil Procedure) Rules 2017, Order 17.

[36] S. A. Fagbemi, Advancing Mediation in Nigeria's Labour Jurisprudence: A Case for Reform. Journal of Labour Law and Policy, 8(1), 45–67. (2024).

[37] Arbitration and Mediation Act 2023, Laws of the Federation of Nigeria, ss 67–88; United Nations Commission on International Trade Law, UNCITRAL Model Law on International Commercial Arbitration (1985, as amended 2006).

[38] E. Onyema, The New Arbitration and Mediation Act in Nigeria: A Critical Review. Journal of African Law, 67(2), 245–260. (2023).

The failure to integrate employment-specific provisions into the 2023 Act reflects a missed opportunity to harmonise Nigeria's ADR landscape with its labour laws. Without express legislative linkage between the Arbitration and Mediation Act and labour dispute statutes, parties to employment disputes are left in uncertainty regarding the status of their mediated agreements, enforcement options, and applicable procedures. This disconnect further entrenches the fragmentation of Nigeria's employment dispute resolution regime.[39]

4. COMPARATIVE REVIEW

To properly contextualise the structural and normative limitations in Nigeria's employment mediation regime, it is instructive to examine jurisdictions that have successfully integrated structured, enforceable, and independent alternative dispute resolution systems into their public sector labour frameworks. Such comparative analysis helps to demonstrate what is achievable through legislative will, institutional autonomy, and the professionalisation of mediation. This chapter reviews three well-established models: South Africa's Commission for Conciliation, Mediation and Arbitration (CCMA), the United Kingdom's Advisory, Conciliation and Arbitration Service (ACAS), and the United States' Federal Mediation and Conciliation Service (FMCS).[40]

Each of these institutions represents a different legal tradition and industrial relations culture, but they converge on one fundamental principle: mediation must be accessible, mandatory at key procedural stages, and legally enforceable. Their comparative success illustrates how institutional design, legal mandate, and operational independence can collectively promote industrial peace and reinforce confidence in employment dispute resolution mechanisms.[41]

4.1 South Africa: Commission for Conciliation, Mediation and Arbitration (CCMA)

The South African Labour Relations Act 66 of 1995 provides a compelling model of a statutory, independent dispute resolution body. The **CCMA** was created to oversee conciliation, mediation, and arbitration processes in all employment-related disputes. It functions independently of government departments and trade unions, offering free services to employees and employers alike. [42]

One of the CCMA's most notable strengths lies in the **mandatory nature of its early dispute resolution processes**. Before any party may refer a dispute for litigation or arbitration, pre-litigation conciliation through the CCMA is legally required. This mandate ensures that parties must engage in good-faith dialogue before resorting to adversarial procedures. Where conciliation fails, the matter may be escalated to arbitration, with outcomes that are **legally binding and directly enforceable** through the Labour Court without the need for re-litigation.[43]

Importantly, the CCMA is **adequately funded** and **professionally staffed**, with accredited commissioners who undergo continuous training. The statutory framework provides **clear timelines**, procedural rules, and defined party obligations. These features ensure that dispute resolution is swift, accessible, and procedurally fair. The CCMA model demonstrates the value of a unified, independent, and enforceable system in promoting industrial harmony and reducing systemic bottlenecks in employment conflict resolution.[44]

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[39] B. Ugochukwu, ADR in Nigeria: Challenges and Prospects. Nigerian Journal of Contemporary Law, 15(1), 89–104. (2018).

[40] T. Odeyemi. Reforming Nigeria's Labour Dispute Resolution Framework: Lessons from South Africa. *African Journal of Legal Studies*, 12(3), 201–220. (2020).

[41] H. Genn, Judging Civil Justice. Cambridge University Press. (2010).

[42] Labour Relations Act 66 of 1995 (South Africa), s 112; Commission for Conciliation, Mediation and Arbitration (CCMA), Annual Report 2022.

[43] Labour Relations Act 66 of 1995 (South Africa), s 135; Benjamin, P. (2016). Conciliation, Arbitration and Enforcement: The CCMA's Achievements and Challenges. Industrial Law Journal, 37(1), 29–48.

[44] CCMA, Guidelines on Conciliation and Arbitration Procedures (2021); Bhorat, H., & van der Westhuizen, C. (2019). The Role of the CCMA in South Africa's Labour Market. Development Policy Research Unit Working Paper.

4.2 United Kingdom: Advisory, Conciliation and Arbitration Service (ACAS)

The UK's **ACAS** was established under the Employment Protection Act 1975 and now operates under the **Employment Rights Act 1996**. It is a non-departmental public body that plays a pivotal role in resolving employment disputes, both pre-litigation and during proceedings. ACAS provides free, impartial advice and facilitates conciliation and arbitration in employment disputes, with a focus on prevention, early intervention, and relationship preservation.[45]

A key innovation of the ACAS model is the requirement for **early conciliation**. Under the UK's **mandatory early conciliation procedure**, parties are required to notify ACAS before initiating a claim before an Employment Tribunal. ACAS will then offer to facilitate conciliation between the parties. Failure to engage in this process, or to at least attempt it, may adversely affect a party's standing in formal proceedings.[46]

Unlike Nigeria's framework where mediated agreements require formal court transformation to be enforceable, **ACAS-facilitated settlements are legally binding once agreed**. Parties sign a legally recognised form known as a **COT3 agreement**, which is enforceable without further litigation. Additionally, ACAS plays an **advisory and educational role**, issuing Codes of Practice and guidance materials that shape employer and employee conduct and reduce disputes from arising in the first place.[47]

The ACAS model highlights the efficacy of embedding conciliation into the procedural lifecycle of employment disputes. It also demonstrates how **legally mandated participation**, **enforceability**, and **institutional authority** can elevate mediation from a soft alternative to a central pillar of dispute resolution.[48]

4.3 United States: Federal Mediation and Conciliation Service (FMCS)

Established in 1947 by the Labor-Management Relations Act (Taft-Hartley Act), the **FMCS** is an independent agency of the US federal government. It was created specifically to **promote labour peace** through mediation, conciliation, and arbitration in both the private and public sectors. The FMCS assists in resolving collective bargaining disputes, grievance mediations, and workplace conflicts across a wide range of industries, including public administration.[49]

Unlike the UK or South Africa, FMCS mediators are **full-time, professional neutral officers**. They are not political appointees and operate with high institutional independence. FMCS does not adjudicate disputes; rather, it provides expert facilitation and negotiation support, particularly in situations involving large-scale or high-impact industrial disputes. Its mandate includes both **preventive mediation**—such as helping parties build dispute resolution systems—and **reactive mediation** for ongoing conflicts.[50]

FMCS services are recognised in US federal and state employment statutes and collective bargaining agreements. The agency has a longstanding record of successfully resolving disputes that might otherwise have escalated to strikes or lockouts, especially in the public education, healthcare, and transport sectors. Importantly, FMCS also trains union leaders, HR professionals, and public

[45]Employment Rights Act 1996 (UK), s 211; Advisory, Conciliation and Arbitration Service (ACAS), Annual Report 2022.
[46]ACAS, Early Conciliation Rules (2020); Gibbons, M. (2007). Better Dispute Resolution: A Review of Employment Dispute Resolution in Great Britain. Department of Trade and Industry, UK.
[47]Employment Rights Act 1996 (UK), s 203; ACAS, Code of Practice on Disciplinary and Grievance Procedures (2015).
[48]L. Dickens, The Evolution of ACAS: From Conciliation to Mediation. British Journal of Industrial Relations, 52(2), 234–256. (2014).
[49]Labor-Management Relations Act 1947 (Taft-Hartley Act), 29 USC §§ 171–173; Federal Mediation and Conciliation Service, Annual Report 2023.
[50]W. E. Simkin, Mediation and the Dynamics of Collective Bargaining. Bureau of National Affairs. (1971).

administrators on effective conflict management, thereby contributing to long-term institutional reform.[51]

5. Recommendations

To reposition mediation as a functional, credible, and enforceable mechanism for resolving employment disputes in Nigeria's public sector, wide-ranging legal, institutional, and operational reforms are required. These reforms must go beyond token recognition of mediation and focus on establishing a legally binding, professionally managed, and structurally autonomous dispute resolution system. Nigeria must align with international best practices and ensure compliance with its obligations under ILO Conventions and the Sustainable Development Goals—particularly SDG 8 (Decent Work and Economic Growth) and SDG 16 (Peace, Justice and Strong Institutions).[52]

5.1 Codify Mediation in Employment Law

There is an urgent need to amend existing labour legislation—particularly the Trade Disputes Act and the Labour Act—to explicitly codify mediation as a statutory precondition in the resolution of public employment disputes. Currently, mediation is referenced but not defined with sufficient precision or enforceability. The legislative amendment should clearly define mediation, outline when it must be used, prescribe statutory timeframes for participation, and stipulate consequences for non-compliance. Additionally, public sector employment instruments, including the Public Service Rules and civil service guidelines, should be revised to institutionalise mediation in internal grievance and disciplinary processes.[53]

This codification would not only provide clarity and legal certainty, but also help reduce the volume of avoidable litigation by compelling parties to resolve their disputes amicably in the first instance. Codified mediation procedures will promote administrative efficiency, ensure early dispute resolution, and help preserve working relationships in essential public service sectors.

5.2 Establish an Independent Public Sector Mediation Agency

Drawing inspiration from South Africa's Commission for Conciliation, Mediation and Arbitration (CCMA) and the United Kingdom's Advisory, Conciliation and Arbitration Service (ACAS), Nigeria should establish a statutory body dedicated exclusively to public sector employment dispute resolution. This body should be institutionally independent—separate from the Ministry of Labour and Employment—and should operate with a clear legislative mandate to regulate, facilitate, and enforce mediation processes.[54]

The proposed body must be adequately funded, professionally staffed, and free from political interference. It should be empowered to appoint and train mediators, accredit practitioners, issue procedural rules, and monitor compliance with settlement agreements. Independence will ensure public trust, reduce perceived bias, and create a structured and credible platform for neutral dispute resolution across all tiers of public administration.

5.3 Amend the Arbitration and Mediation Act 2023

Although the Arbitration and Mediation Act 2023 modernises Nigeria's ADR landscape, its current form does not explicitly extend mediation provisions to employment-related disputes. This represents a critical oversight. The Act should be amended to define employment mediation, clarify its procedures, and set enforceability standards. The amendment should provide for the automatic

[51]Federal Mediation and Conciliation Service, Training and Education Programs Overview (2022); Kochan, T. A., & Jick, T. (1978). The Public Sector Mediation Process: A Theory and Empirical Examination. Journal of Conflict Resolution, 22(2), 209–238.

[52]International Labour Organization, Convention No. 151 on Labour Relations (Public Service) (1978); United Nations General Assembly, Transforming Our World: The 2030 Agenda for Sustainable Development (2015).

[53]Trade Disputes Act, Cap T8, Laws of the Federation of Nigeria 2004; Public Service Rules of Nigeria (2021).

[54]Commission for Conciliation, Mediation and Arbitration (CCMA), Annual Report 2022; Advisory, Conciliation and Arbitration Service (ACAS), Annual Report 2022.

registration of mediated agreements as enforceable instruments, akin to arbitral awards, without requiring additional litigation.[55]

Such a reform would align Nigeria's legislative framework with international trends where mediation outcomes in labour disputes enjoy equal legal force with judgments or awards, once properly executed. It would also support the National Industrial Court of Nigeria (NICN) in streamlining case management by encouraging pre-trial resolution.

5.4 Make Pre-Litigation Mediation Mandatory

To promote early settlement of disputes and reduce litigation costs, Nigeria should mandate pre-litigation mediation for all public employment disputes before a matter can be heard by the NICN. This model, similar to the UK's ACAS "Early Conciliation" scheme, would require parties to first attempt mediation and obtain a certificate of participation before initiating formal proceedings.[56]

Mandatory pre-litigation mediation would ensure that parties explore collaborative options before invoking adversarial mechanisms. This process is especially important in the public sector, where protracted legal disputes disrupt services, delay policymaking, and generate public discontent. Institutionalizing this requirement in both statute and NICN Rules would lead to earlier resolution of conflicts, promote cost savings, and strengthen institutional harmony.

5.5 Institutionalize Training and Certification

For mediation to thrive, there must be a robust regime for mediator accreditation, continuing professional development, and institutional training. All mediators handling employment disputes—whether operating through the NICN ADR Centre, ministry panels, or independent platforms—must undergo formal training and certification. This should be supported by a national register of qualified employment mediators.[57]

In parallel, ministries, departments, and agencies should be mandated to train their HR officers, legal advisers, and union representatives in ADR principles and negotiation techniques. Such institutional competence will improve the quality of dispute resolution processes and reduce the risk of procedural abuse or ethical lapses during mediation.

5.7 Encourage Regional and International Collaboration

Nigeria should proactively seek partnerships with international ADR bodies and labour institutions such as the **International Labour Organization (ILO)**, the **Federal Mediation and Conciliation Service (FMCS)** of the United States, and the **Advisory, Conciliation and Arbitration Service (ACAS)** of the United Kingdom. These collaborations would enable Nigeria to benefit from technical assistance, policy expertise, and global best practices in designing, implementing, and evaluating its mediation framework.[58]

Through these networks, Nigerian mediators and dispute resolution bodies can participate in international training programmes, exchange research data, and benchmark procedural standards. This global engagement will accelerate institutional development and reinforce Nigeria's credibility as a rights-respecting, conflict-resolving labour jurisdiction.[59]

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[55]Arbitration and Mediation Act 2023, Laws of the Federation of Nigeria, ss 67–88; Onyema, E. (2023). The New Arbitration and Mediation Act in Nigeria: A Critical Review. Journal of African Law, 67(2), 245–260.

[56]ACAS, Early Conciliation Rules (2020); National Industrial Court (Civil Procedure) Rules 2017, Order 17.

[57]F. Adewumi, Industrial Relations in Nigeria: Trends and Challenges. Lagos: Concept Publications. (2013).

[58]International Labour Organization, Technical Assistance and Training Programmes (2023); Kochan, T. A., & Jick, T. (1978). The Public Sector Mediation Process: A Theory and Empirical Examination. Journal of Conflict Resolution, 22(2), 209–238.

[59]United Nations Development Programme (2020). Strengthening the Rule of Law and Access to Justice through SDG 16. UNDP Policy Brief.

These recommendations, if implemented, will mark a transformative shift in how Nigeria handles public sector employment disputes. By embedding mediation into law, ensuring its enforceability, building institutional capacity, and aligning with global standards, Nigeria will move closer to fulfilling the goals of sustainable peace, social justice, and effective governance.

6. Conclusion

The effective resolution of employment disputes in Nigeria's public sector is not merely a matter of industrial efficiency—it is a constitutional imperative, a governance necessity, and a developmental priority. The persistent breakdown in labour relations, evidenced by prolonged strikes, failed negotiations, and recurring litigation, underscores the systemic weaknesses of the current dispute resolution framework. These weaknesses have had a detrimental impact on public service delivery, eroded institutional credibility, and strained the relationship between the state and its workforce.

This study has demonstrated that mediation, when properly institutionalised, offers a viable alternative to adversarial litigation in resolving employment conflicts. It is less confrontational, more inclusive, and better suited to preserving long-term employment relationships—especially in essential sectors such as education, healthcare, and civil administration. However, in Nigeria, the potential of mediation remains largely untapped due to a combination of statutory gaps, institutional inertia, and procedural deficiencies.

The current legal framework—comprising the Trade Disputes Act, Labour Act, National Industrial Court Act, and Arbitration and Mediation Act 2023—fails to provide a unified, enforceable, and sector-specific structure for mediation in employment disputes. Mediation remains largely voluntary, outcomes are non-binding unless judicially validated, and there is no independent public body dedicated to managing employment-related mediation. These structural omissions have rendered the process ineffective in the face of growing industrial complexity and increasing demands for labour justice.

Moreover, the public sector lacks the institutional architecture and professional capacity necessary to support mediation. Ministries, Departments, and Agencies (MDAs) operate without internal mediation protocols; mediators are not formally trained or accredited; and collective agreements reached through informal mediation lack enforceability unless incorporated into statutory instruments or individual contracts.

In light of these findings, this thesis strongly recommends a multi-layered reform strategy. This includes codifying mediation in public employment law, establishing a statutory mediation commission, amending the Arbitration and Mediation Act to include employment-specific provisions, and creating enforcement mechanisms that give legal effect to mediated outcomes. Furthermore, there is a pressing need for institutional training, public sector ADR literacy, and international collaboration to align Nigeria's practices with global standards.

Ultimately, if Nigeria is to achieve Sustainable Development Goal 8 (decent work and economic growth) and Goal 16 (peace, justice, and strong institutions), it must transform the culture, law, and structure of employment dispute resolution in the public service. Mediation must evolve from being an aspirational option to becoming a functional, enforceable, and credible legal process. Only then can Nigeria move towards a more stable industrial environment, efficient governance, and a rights-respecting public administration system.

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