

ADMINISTRATIVE INJUSTICE IN NIGERIAN EMPLOYMENT LAW: THE ROLE OF FAIR HEARING IN DISCIPLINARY PROCEDURE.

Nancy Nzom¹

Abstract

Administrative injustice remains one of the most pervasive challenges in Nigerian employment law, particularly in the context of disciplinary procedures. While the Nigerian Constitution (1999, as amended) and statutory frameworks guarantee the right to fair hearing, the lived reality of many employees both in the public and private sectors reflects persistent violations of procedural justice. Workers are often dismissed without query, suspended without due process, or subjected to biased disciplinary panels. This article interrogates the role of fair hearing in curbing administrative injustice within the Nigerian employment framework. Drawing on constitutional provisions, the Labour Act, staff regulations, and judicial pronouncements of the National Industrial Court of Nigeria (NICN), the article examines how principles of natural justice especially audi alteram partem and nemo iudex in causa sua are applied in disciplinary contexts. It highlights the divergence between statutory employment, where strict compliance with disciplinary procedures is mandatory, and master-servant relationships, where remedies are largely limited to damages. The paper further explores how administrative injustice manifests in arbitrary dismissals, denial of defense opportunities, and selective enforcement of disciplinary rules. Using comparative insights from the United Kingdom and South Africa, the article underscores the importance of codified disciplinary standards, accessible grievance mechanisms, and capacity building for disciplinary panels. It concludes by recommending reforms, including a unified employment code, broader application of fair hearing principles to private sector employment, enhanced dispute resolution mechanisms, and stricter sanctions for employers who violate procedural safeguards. By situating fair hearing as both a constitutional right and a moral imperative, the article argues that its effective enforcement is essential to mitigating administrative injustice, fostering industrial harmony, and promoting justice in Nigerian workplaces.

Keywords: Administrative Injustice; Fair Hearing; Disciplinary Procedure; Nigerian Employment Law and Industrial Relations.

1. Introduction

Employment is one of the most important legal relationships in modern society because it determines how individuals earn their livelihood and how organizations achieve productivity.² In Nigeria, employment relationships are governed by a combination of common law, statutory provisions, constitutional guarantees, and administrative rules.³ Beyond these black-letter rules lies a fundamental question of justice and fairness⁴. Whenever an employer disciplines a worker through suspension, demotion, or dismissal, such disciplinary authority must be exercised within the bounds of fairness.⁵ Where fairness is absent, the outcome is administrative injustice.⁶ Administrative injustice in Nigerian employment law refers to situations where disciplinary decisions are taken in a manner that is arbitrary, one-sided, or procedurally defective.⁷ Injustice in this context does not merely arise from the absence of a contractual term or benefit, but rather from the failure to observe principles of natural justice in disciplinary proceedings.⁸ At the centre of this principle is the concept

¹ NANCY NZOM, PH.D (LAW), M.SC, LL.M, BL, LL.B, NOTARY PUBLIC.

² BA. Garner, *Black's Law Dictionary* (11th edn, Thomson Reuters 2019) 651

³ Labour Act, Cap L1 Laws of the Federation of Nigeria 2004; Constitution of the Federal Republic of Nigeria 1999 (as amended), s 36.

⁴ A. Adeogun, 'Fairness and Justice in Employment Law' (2017) 3(2) *Nigerian Employment Law Journal* 45

⁵ *Olaniyan v University of Lagos* (1985) 2 NWLR (Pt 9) 599

⁶ *Olatunbosun v NISER Council* (1988) 3 NWLR (Pt 80) 25

⁷ EO. Akitayo, 'Administrative Justice and Employment Relations in Nigeria' (2019) 10(1) *Nigerian Labour Law Review* 33

of fair hearing, often captured by the Latin maxim *audi alteram partem*, meaning “hear the other side.”⁹ Fair hearing ensures that no one is condemned without being given the opportunity to respond to allegations, and that no disciplinary process is tainted by bias.¹⁰

The Nigerian Constitution of 1999 (as amended) enshrines the right to fair hearing in section 36, and although it is primarily directed at judicial and quasi-judicial proceedings, courts have consistently extended its application to employment disciplinary processes, especially in cases involving statutory employment.¹¹ In statutory employment, such as public service or employment governed by university or parastatal regulations, courts insist on strict compliance with disciplinary procedures¹² In the absence of fair hearing, disciplinary actions such as dismissal or termination are declared null and void.¹³ In master–servant relationships, which dominate the private sector, the position of the law is different.¹⁴ Courts may not reinstate a dismissed employee, but they frequently award damages where disciplinary procedures were not fairly conducted.¹⁵ In both sectors, fair hearing is therefore recognized as a minimum standard that employers must respect in order to ensure justice.¹⁶

The role of the National Industrial Court of Nigeria (NICN) has been crucial in addressing this problem.¹⁷ The NICN, as the specialist court for labour and employment disputes, has consistently reaffirmed the importance of fair hearing in employment law.¹⁸ Its jurisprudence reflects a commitment to ensuring that workers are not punished arbitrarily and that employers follow due process.¹⁹ However, there remain significant limitations.²⁰ In private employment cases, the remedies available are often limited to damages, which may not sufficiently deter unfair practices.²¹ Moreover, delays in litigation and weak enforcement mechanisms continue to undermine the protection of workers' rights.²²

This article argues that the principle of fair hearing is central to addressing administrative injustice in Nigerian employment law.²³ By insisting that employees be given notice of allegations, the opportunity to defend themselves, and impartial decision-making, the doctrine of fair hearing ensures that disciplinary processes are not only lawful but also just.²⁴ It also helps to maintain industrial peace by fostering trust and legitimacy in workplace governance.²⁵ Where workers believe that they will be heard fairly, they are more likely to accept disciplinary outcomes and less likely to resort to disruptive measures.²⁶

The objectives of this article are therefore threefold.²⁷ First, it seeks to explain the concept of

⁸ AO. Jegede, *Principles of Administrative Law in Nigeria* (3rd edn, Spectrum 2018) 112.

⁹ SU. Bamidele, 'The Doctrine of Fair Hearing in Nigerian Law' (2016) 8(2) *Ilorin Journal of Law* 77

¹⁰ *Garba v University of Maiduguri* (1986) 1 NWLR (Pt 18) 550

¹¹ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 36(1)

¹² *Bamgboye v University of Ilorin* (1999) 10 NWLR (Pt 622) 290

¹³ *Olaniyan v University of Lagos* (1985) 2 NWLR (Pt 9) 599

¹⁴ *National Bank of Nigeria v Omotayo* (2002) 9 NWLR (Pt 771) 583.

¹⁵ *Mrs. Longe v First Bank of Nigeria Plc* (2010) 6 NWLR (Pt 1189) 1

¹⁶ O. Oyewo, *Labour Law in Nigeria* (Malthouse 2019) 203.

¹⁷ NICN Act 2006; Constitution of Nigeria 1999 (Third Alteration Act 2010).

¹⁸ *Mr. Akinbola v Union Bank of Nigeria Plc* (NICN/LA/25/2014)

¹⁹ *Okocha v CSC Delta State* (NICN/EN/48/2012)

²⁰ AM. Adejumo, 'The Challenges of Labour Adjudication in Nigeria' (2018) 2(1) *NICN Law Review* 21

²¹ *Patrick Obiora v Fidelity Bank Plc* (NICN/ABJ/62/2018).

²² Adejumo (n 25) 26.

²³ *Olaniyan v University of Lagos* (n 4).

²⁴ *Olatunbosun v NISER Council* (n 5).

²⁵ Oyewo (n 15) 215

²⁶ Adeogun (n 3) 61

administrative injustice in Nigerian employment law and to show how it manifests in workplace disciplinary procedures.²⁸ Second, it examines the role of fair hearing as a safeguard against such injustice, drawing on constitutional provisions, statutory law, and judicial decisions.²⁹ Third, it explores reform options that can enhance the protection of fair hearing in Nigerian workplaces, with attention to both public and private sector employment.³⁰ The article is structured as follows.³¹ Following this introduction, it considers the concept of administrative injustice and its implications for employment relationships in Nigeria.³² It then analyses the legal and constitutional framework of fair hearing, including the Labour Act, public service rules, and relevant case law.³³ The discussion then turns to how fair hearing operates in disciplinary procedures, with emphasis on notice, opportunity to be heard, impartiality, and consideration of defence.³⁴

2. The Concept of Administrative Injustice in Employment Law

Administrative injustice, as it applies to employment law, refers to unfair, arbitrary, or procedurally defective decisions by employers or disciplinary bodies in the management of employment relationships.³⁵ While employment law is often described in terms of rights and obligations arising from contracts, statutes, and collective agreements, administrative injustice focuses on how these rights and obligations are enforced in practice.³⁶ It is therefore less about what the law provides on paper and more about how justice is administered in reality.³⁷

2.1 Understanding Administrative Justice and Injustice

Administrative justice, in its ideal form, refers to the fair, transparent, and consistent application of rules by those who exercise decision-making authority.³⁸ In the employment context, this means that when an employer disciplines a worker, such action must be taken in accordance with agreed procedures, without bias, and with an opportunity for the employee to be heard.³⁹ When these standards are ignored or abused, administrative injustice arises.⁴⁰ In Nigeria, administrative injustice has been a recurring theme in both statutory and private sector employment.⁴¹ The problem is aggravated by the imbalance of power between employers and employees.⁴² Employers, whether private corporations or government institutions, hold significant control over the means of livelihood of their workers.⁴³ Without effective safeguards, this power can easily translate into abuse.⁴⁴

2.2 Forms of Administrative Injustice in Employment

²⁷ Akintayo (n 6) 40

²⁸ Adeogun (n 3) 55

²⁹ Jegede (n 7) 119

³⁰ Adebayo (n 19) 103

³¹ Structure from author's framework.

³² Akintayo (n 6) 43.

³³ Labour Act (n 2); Public Service Rules (Nigeria, 2008).

³⁴ *Bamgboye v University of Ilorin* (n 11)

³⁵ EO. Akintayo, 'Administrative Justice and Employment Relations in Nigeria' (2019) 10(1) *Nigerian Labour Law Review* 33

³⁶ A. Adeogun, 'Fairness and Justice in Employment Law' (2017) 3(2) *Nigerian Employment Law Journal* 45

³⁷ O. Oyewo, *Labour Law in Nigeria* (Malthouse 2019) 203

³⁸ AO. Jegede, *Principles of Administrative Law in Nigeria* (3rd edn, Spectrum 2018) 112.

³⁹ *Olaniyan v University of Lagos* (1985) 2 NWLR (Pt 9) 599

⁴⁰ *Olatumbosun v NISER Council* (1988) 3 NWLR (Pt 80) 25.

⁴¹ Akintayo (n 1) 37

⁴² CA. Adebayo, 'The Weakness of Employee Rights in Nigeria's Private Sector' (2020) 15(2) *African Journal of Labour Studies* 92

⁴³ *Bamgboye v University of Ilorin* (1999) 10 NWLR (Pt 622) 290

⁴⁴ *Garba v University of Maiduguri* (1986) 1 NWLR (Pt 18) 550.

Administrative injustice manifests in several ways in Nigerian workplaces.⁴⁵ Common examples include:

1. Arbitrary Dismissals: Many employees are dismissed without being given any query or explanation, in breach of both contractual terms and the principle of natural justice.⁴⁶

2. Indefinite Suspensions: Workers are sometimes suspended without pay for prolonged periods, often without clear allegations or opportunities to defend themselves.⁴⁷

3. Biased Disciplinary Panels: In both public and private institutions, disciplinary panels are sometimes composed of individuals with vested interests, making impartial decision-making impossible.⁴⁸

4. Failure to Consider Employee Defense: Even where employees submit written or oral defenses, some employers ignore them completely and proceed to issue disciplinary sanctions.⁴⁹

5. Victimization: Disciplinary rules are sometimes applied selectively, with some employees targeted for victimization while others guilty of the same conduct are left untouched.⁵⁰

Each of these examples illustrates how administrative injustice undermines the legitimacy of disciplinary procedures and erodes trust in the employment relationship.⁵¹

2.3 Contractual Injustice vs. Procedural Injustice

It is important to distinguish between **contractual injustice** and **procedural injustice**.⁵² Contractual injustice occurs when the substantive terms of an employment contract are unfair, for instance, when wages are set below a living standard or when contracts are silent on critical worker protections.⁵³

Procedural injustice, which is the focus of this article, arises when disciplinary measures are taken without compliance with principles of fair hearing and natural justice.⁵⁴

2.4 Principles of Natural Justice in Nigerian Employment Law

The concept of administrative injustice cannot be fully appreciated without reference to the principles of natural justice, which are the foundation of fair hearing.⁵⁵ Two main principles are recognized:

1. Audi Alteram Partem (Hear the Other Side): No person should be condemned without being given notice of allegations and a fair opportunity to respond⁵⁶. In disciplinary proceedings, this means employees must be issued queries, invited to respond, and allowed to present their defence before sanctions are imposed.⁵⁷

2. Nemo Judex in Causa Sua (No One Should Be a Judge in Their Own Cause): Decision-makers must be impartial and free from bias⁵⁸. In disciplinary committees, members should not have personal or institutional interests in the outcome.⁵⁹

These principles are recognized under Nigerian law and have been applied by courts in employment

⁴⁵ Adeogun (n 2) 52.

⁴⁶ *National Bank of Nigeria v Omotayo* (2002) 9 NWLR (Pt 771) 583

⁴⁷ *University of Calabar v Esiaga* (1997) 4 NWLR (Pt 502) 719

⁴⁸ *Bamgboye v University of Ilorin* (n 9).

⁴⁹ *Mrs. Longe v First Bank of Nigeria Plc* (2010) 6 NWLR (Pt 1189) 1

⁵⁰ *Fakoya v St. Gregory's College* (1963) 1 All NLR 74

⁵¹ Adebayo (n 8) 98

⁵² Oyewo (n 3) 210

⁵³ Adeogun (n 2) 58.

⁵⁴ *Olaniyan v University of Lagos* (n 5).

⁵⁵ Jegede (n 4) 119

⁵⁶ *Garba v University of Maiduguri* (n 10).

⁵⁷ *Olatunbosun v NISER Council* (n 6).

⁵⁸ *Nemo judex principle: Bamgboye v University of Ilorin* (n 9)

⁵⁹ *Fakoya v St. Gregory's College* (n 16)

cases.⁶⁰ They form the bedrock of procedural fairness in disciplinary processes and are essential for preventing administrative injustice.⁶¹

2.5 Administrative Injustice in Statutory Employment

In statutory employment, which includes positions held under statutes, regulations, or government appointments, administrative injustice is particularly grave.⁶² Nigerian courts have consistently held that once a statute prescribes disciplinary procedures, they must be strictly complied with.⁶³ Any breach of such procedures renders the disciplinary action null and void.⁶⁴ For example, public servants dismissed without due compliance with civil service rules have often been reinstated by the courts.⁶⁵

2.6 Administrative Injustice in Private Employment

In the private sector, where most employment relationships are governed by the master–servant doctrine, the protection against administrative injustice is weaker.⁶⁶ Courts generally recognize the employer's right to hire and fire for any reason, provided notice is given.⁶⁷ However, where contracts or staff handbooks outline disciplinary procedures, courts insist that such procedures must be followed.⁶⁸ Failure to do so amounts to procedural unfairness, for which employees may be awarded damages, even though reinstatement is rare.⁶⁹

2.8 The Centrality of Fair Hearing

Ultimately, the concept of administrative injustice underscores why fair hearing is indispensable in disciplinary processes.⁷⁰ Fair hearing is not just a procedural requirement but a substantive guarantee of justice.⁷¹ By ensuring that employees are heard, that panels are impartial, and that decisions are reasoned, fair hearing transforms disciplinary measures from acts of managerial discretion into exercises of justice.⁷²

3. The Legal and Constitutional Framework for Fair Hearing in Nigeria

Fair hearing in disciplinary proceedings is not merely an ethical principle but a legal requirement in Nigerian law.⁷³ Its foundation lies in the 1999 Constitution of the Federal Republic of Nigeria (as amended), the Labour Act, public service regulations, and the jurisprudence of Nigerian courts, particularly the National Industrial Court of Nigeria (NICN).⁷⁴ This section examines these frameworks and their relevance in protecting employees against administrative injustice.⁷⁵

3.1 Constitutional Basis of Fair Hearing

The Nigerian Constitution is the supreme law of the land, and its provisions on fair hearing are central to employment law.⁷⁶

Section 36(1) provides that:

⁶⁰ *Olaniyan v University of Lagos* (n 5).

⁶¹ *Mrs. Longe v First Bank of Nigeria Plc* (n 15)

⁶² *Olaniyan v University of Lagos* (1985) 2 NWLR (Pt 9) 599

⁶³ *Bangboye v University of Ilorin* (1999) 10 NWLR (Pt 622) 290

⁶⁴ *Olatumbosun v NISER Council* (1988) 3 NWLR (Pt 80) 25

⁶⁵ *Iderima v Rivers State Civil Service Commission* (2005) 16 NWLR (Pt 951) 378

⁶⁶ *National Bank of Nigeria v Omotayo* (2002) 9 NWLR (Pt 771) 583

⁶⁷ *Chukwuma v Shell Petroleum* (1993) 4 NWLR (Pt 289) 512

⁶⁸ *Mrs. Longe v First Bank of Nigeria Plc* (2010) 6 NWLR (Pt 1189) 1

⁶⁹ *Patrick Obiora v Fidelity Bank Plc* (NICN/ABJ/62/2018).

⁷⁰ *Garba v University of Maiduguri* (1986) 1 NWLR (Pt 18) 550

⁷¹ SU. Bamidele, 'The Doctrine of Fair Hearing in Nigerian Law' (2016) 8(2) *Ilorin Journal of Law* 77

⁷² Oyewo, *Labour Law in Nigeria* (Malthouse 2019) 218

⁷³ A. Adeogun, 'Fairness and Justice in Employment Law' (2017) 3(2) *Nigerian Employment Law Journal* 47

⁷⁴ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 36; Labour Act Cap L1 LFN 2004

⁷⁵ O. Oyewo, *Labour Law in Nigeria* (Malthouse 2019) 211

⁷⁶ Constitution (n 2) s 36

*In the determination of his civil rights and obligations, including any question or determination by or against any government or authority, a person shall be entitled to a fair hearing within a reasonable time by a court or other tribunal established by law and constituted in such manner as to secure its independence and impartiality.*⁷⁷

Although the wording refers to courts and tribunals, Nigerian courts have consistently held that disciplinary panels and administrative bodies performing quasi-judicial functions must also comply with this provision.⁷⁸ Thus, employers in statutory employment and even private organizations with formal disciplinary committees are bound by constitutional standards of fair hearing.⁷⁹

The Constitution also reinforces natural justice principles:

- **Audi alteram partem** – every person must be given notice of allegations and an opportunity to respond.
- **Nemo iudex in causa sua** – decision-makers must be impartial and free from bias.⁸⁰

Failure to comply with these principles in employment disciplinary procedures has been repeatedly struck down by Nigerian courts as unconstitutional.⁸¹

3.2 Fair Hearing under the Labour Act

The Labour Act, Cap L1, Laws of the Federation of Nigeria 2004, regulates employment relationships for workers deemed “manual and clerical” in nature.⁸² While the Act is limited in scope, it reflects elements of fairness in termination and disciplinary processes.⁸³

Key provisions include:

- **Section 9:** Employment contracts must state terms of service, including disciplinary procedures if applicable.⁸⁴
- **Section 11:** Provides minimum notice periods for termination, thereby ensuring workers are not arbitrarily dismissed without warning.⁸⁵
- **Section 17:** Requires employers to provide written reasons for dismissal where requested.⁸⁶

Although the Act does not explicitly use the phrase “fair hearing,” its requirements embody fairness and transparency.⁸⁷ For example, providing notice of termination and reasons for dismissal ensures employees are not dismissed arbitrarily.⁸⁸

3.3 Public Service Rules and Statutory Employment

In statutory employment, fair hearing is of particular importance⁸⁹. Public service employees, university staff, and workers of statutory corporations are governed by enabling statutes and regulations, such as the **Public Service Rules (PSR)**, University Acts, or Parastatal Acts. These often prescribe detailed disciplinary procedures.⁹¹

Courts have consistently held that once disciplinary procedures are codified in a statute or regulation,

⁷⁷ *ibid.*

⁷⁸ *Olaniyan v University of Lagos* (1985) 2 NWLR (Pt 9) 599

⁷⁹ *Olatunbosun v NISER Council* (1988) 3 NWLR (Pt 80) 25

⁸⁰ *Garba v University of Maiduguri* (1986) 1 NWLR (Pt 18) 550

⁸¹ *Bangboye v University of Ilorin* (1999) 10 NWLR (Pt 622) 290.

⁸² Labour Act Cap L1 LFN 2004.

⁸³ *ibid* s 7–17

⁸⁴ *ibid* s 9

⁸⁵ *ibid* s 11

⁸⁶ *ibid* s 17

⁸⁷ EO. Akintayo, 'Administrative Justice and Employment Relations in Nigeria' (2019) 10(1) *Nigerian Labour Law Review* 36

⁸⁸ *ibid*

⁸⁹ Public Service Rules (Nigeria, 2008).

⁹⁰ University of Lagos Act Cap U9 LFN 2004.

⁹¹ Public Service Rules (n 17)

they must be **strictly followed**.⁹² Any disciplinary action taken in violation of the prescribed process is null and void.⁹³

3.4 Judicial Interpretation and Case Law

The judiciary has played a decisive role in shaping the doctrine of fair hearing in employment law. Some landmark cases include: *Olaniyan v. University of Lagos* (1985) 2 NWLR (Pt. 9) 599 The Supreme Court held that staff of the University of Lagos enjoyed statutory employment and could not be dismissed except in strict compliance with the University Act. The court emphasized that disciplinary procedures must respect fair hearing, and failure to do so rendered dismissals invalid. *Olatunbosun v. NISER Council* (1988) 3 NWLR (Pt. 80) 25 Here, the Supreme Court reiterated that when an employee is accused of misconduct, they must be informed of the allegation and given a fair chance to respond. The decision underscored that disciplinary actions taken without such opportunity violate constitutional guarantees. *Bamgboye v. University of Ilorin* (1999) 10 NWLR (Pt. 622) 290.

The court stressed that fair hearing is not about the form but about substance. Even if procedures appear to have been followed, where the employee is not truly given the opportunity to defend themselves, the process is invalid. *National Bank of Nigeria v. Omotayo* (2002) 9 NWLR (Pt. 771) 583 The Court of Appeal held that in master–servant employment, the employer retains the right to terminate employment for any reason or no reason, provided notice is given. However, if the contract stipulates disciplinary procedures, those must be followed, failing which the employer is in breach.

3.5 The Doctrine of Natural Justice in Employment Disciplinary Procedures

Nigerian courts apply the principles of natural justice in interpreting fair hearing in employment law:⁹⁶

- **Notice of Allegation:** Employees must be notified in clear terms of the allegations against them. Ambiguous or vague queries violate fair hearing.
- **Opportunity to Respond:** Employees must be given adequate time and facilities to prepare a defence, either orally or in writing.
- **Impartial Panel:** Disciplinary committees must be free from bias. Where panel members have interests in the case, the proceedings are invalid.
- **Consideration of Defence:** Employers must actually consider the employee's response. Merely receiving it without evaluating it is insufficient.

These standards demonstrate that fair hearing is both procedural and substantive.⁹⁷ It is not enough to go through the motions; the process must be genuine.⁹⁸

3.6 International and Comparative Standards

Nigeria is a member of the International Labour Organization (ILO) and has ratified conventions that touch on fair labour practices.⁹⁹ For example:

- **ILO Convention No. 158** on Termination of Employment requires valid reasons for termination and an opportunity for workers to defend themselves.¹⁰⁰
- **African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act**

⁹² *Iderima v Rivers State Civil Service Commission* (2005) 16 NWLR (Pt 951) 378.

⁹³ *Olaniyan v University of Lagos* (n 6)

⁹⁴ *Olaniyan v University of Lagos* (n 6).

⁹⁵ *Olatunbosun v NISER Council* (n 7).

⁹⁶ *Garba v University of Maiduguri* (n 8).

⁹⁷ *Oyewo* (n 3) 217

⁹⁸ *ibid.*

⁹⁹ ILO Convention No. 158 on Termination of Employment (1982)

¹⁰⁰ *ibid* arts 4–7.

guarantees the right to fair hearing, making it enforceable in Nigerian courts.¹⁰¹ Comparative jurisdictions such as the United Kingdom and South Africa have codified disciplinary procedures through employment legislation and codes of practice.¹⁰² These comparative insights reveal that Nigeria lags behind in providing comprehensive statutory frameworks for fair disciplinary procedures.¹⁰³

4. Fair Hearing in Disciplinary Procedure

Fair hearing is the foundation of justice in disciplinary procedures.¹⁰⁴ It ensures that the rights of employees are respected when allegations of misconduct arise, and that employers do not abuse their disciplinary powers.¹⁰⁵ In Nigeria, the application of fair hearing in employment disputes reflects both constitutional guarantees and judicial insistence on compliance with natural justice.¹⁰⁶ This section explores the practical dimensions of fair hearing in disciplinary procedures, highlighting its key components, manifestations in practice, and judicial interpretation.¹⁰⁷

4.1 Meaning and Scope of Fair Hearing

Fair hearing is the principle that no one should be condemned without being given an opportunity to be heard before an impartial tribunal¹⁰⁸. In the employment context, it requires that disciplinary measures such as queries, warnings, suspensions, demotions, or dismissals be conducted in a transparent and fair manner. Fair hearing does not guarantee that the employee will escape punishment; rather, it guarantees that the process leading to the decision is just.

The scope of fair hearing extends to both statutory employment and private sector employment, although the remedies differ.¹⁰⁹ In statutory employment, non-compliance renders disciplinary action null and void. In private employment, violation of fair hearing may lead to damages but rarely reinstatement.¹¹⁰

4.2 Core Elements of Fair Hearing in Employment Disciplinary Procedure

Fair hearing in disciplinary procedures involves four essential elements:

1. Notice of Allegation

The employee must be informed in clear and unambiguous terms of the allegations against them. Vague or general accusations are insufficient. For example, accusing an employee of “gross misconduct” without stating the particulars deprives them of the opportunity to prepare a defence. Nigerian courts have repeatedly struck down dismissals where queries were vague or inadequately framed.¹¹¹

2. Opportunity to Respond

Once notified, the employee must be given adequate time and facilities to respond. This may involve submitting a written defence, appearing before a panel, or calling witnesses. Denying an employee the opportunity to defend themselves, or giving them an unreasonably short time, violates fair hearing.

3. Impartial Tribunal or Panel

¹⁰¹ African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act Cap A9 LFN 2004, art 7

¹⁰² ACAS Code of Practice on Disciplinary and Grievance Procedures (UK, 2015); Labour Relations Act 1995 (South Africa)

¹⁰³ Adeogun (n 1) 59

¹⁰⁴ A. Adeogun, 'Fairness and Justice in Employment Law' (2017) 3(2) *Nigerian Employment Law Journal* 47.

¹⁰⁵ *Olaniyan v University of Lagos* (1985) 2 NWLR (Pt 9) 599

¹⁰⁶ *Olatunbosun v NISER Council* (1988) 3 NWLR (Pt 80) 25

¹⁰⁷ EO. Akintayo, 'Administrative Justice and Employment Relations in Nigeria' (2019) 10(1) *Nigerian Labour Law Review* 41

¹⁰⁸ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 36(1).

¹⁰⁹ *Bangboye v University of Ilorin* (1999) 10 NWLR (Pt 622) 290

¹¹⁰ *National Bank of Nigeria v Omotayo* (2002) 9 NWLR (Pt 771) 583

¹¹¹ *Garba v University of Maiduguri* (1986) 1 NWLR (Pt 18) 550

The disciplinary body must be impartial and free from bias. The maxim *nemo iudex in causa sua* (no one should be a judge in their own cause) applies strictly. If a panel member has a personal interest in the outcome, the process is tainted. Courts have nullified decisions where disciplinary committees included individuals who were accusers in the same matter.

4. Consideration of Defence

It is not enough for employers to go through the motions of receiving a defence; they must genuinely consider it.¹¹² A disciplinary process where the decision is pre-determined, regardless of the defence, is void. Nigerian courts have emphasized that fair hearing must be substantive, not cosmetic.

4.3 Judicial Elaboration of Fair Hearing Principles

The Nigerian judiciary has elaborated on these principles in numerous cases.¹¹³

- In *Olaniyan v. University of Lagos* (1985) 2 NWLR (Pt. 9) 599, the Supreme Court held that staff of a statutory body cannot be dismissed except in strict compliance with statutory disciplinary procedures. Fair hearing was described as an indispensable requirement.
- In *Olatunbosun v. NISER Council* (1988) 3 NWLR (Pt. 80) 25, the court held that fair hearing is violated if an employee is dismissed without being given the opportunity to answer allegations of misconduct.
- In *Bamgboye v. University of Ilorin* (1999) 10 NWLR (Pt. 622) 290, the Supreme Court emphasized that fair hearing is about substance, not form. Even where procedures are followed mechanically, if the employee is not genuinely given the chance to defend themselves, the process is invalid.
- In *National Bank of Nigeria v. Omotayo* (2002) 9 NWLR (Pt. 771) 583, the Court of Appeal highlighted that in master–servant employment, employers must still comply with agreed disciplinary procedures. Breach of such procedures amounts to unfair treatment.

These cases demonstrate the judiciary's commitment to ensuring fairness, while also illustrating the limits of remedies depending on whether the employment is statutory or private.

4.4 Fair Hearing in Statutory Employment

Statutory employment enjoys the strongest protection under Nigerian law.¹¹⁵ Where an enabling statute or regulation prescribes disciplinary procedures, those procedures must be strictly followed. For example, civil servants are governed by the Public Service Rules (PSR), which require:

1. Issuance of a query;
2. Consideration of the employee's written reply;
3. Appearance before a disciplinary panel if necessary;
4. Decision communicated in writing.

Any deviation renders the disciplinary action null and void¹¹⁶. Courts have frequently reinstated public servants dismissed without compliance with these rules. The rationale is that statutory employment confers legal status that cannot be taken away except in accordance with the law.

4.5 Fair Hearing in Private Employment

In the private sector, which is governed by the common law doctrine of master–servant, employers have broader discretion.¹¹⁷ Courts recognize the employer's right to terminate for any reason or no reason, provided notice is given.¹¹⁸ However, where contracts, staff handbooks, or collective agreements prescribe disciplinary procedures, employers must comply.

The NICN has expanded the application of fair hearing in private employment by awarding damages

¹¹² *Mrs. Longe v First Bank of Nigeria Plc* (2010) 6 NWLR (Pt 1189) 1

¹¹³ Adeogun (n 1) 53.

¹¹⁴ *Bamgboye v University of Ilorin* (n 8).

¹¹⁵ *Iderima v Rivers State Civil Service Commission* (2005) 16 NWLR (Pt 951) 378

¹¹⁶ *Olaniyan v University of Lagos* (n 2).

¹¹⁷ *National Bank of Nigeria v Omotayo* (n 10).

¹¹⁸ *Chukwuma v Shell Petroleum* (1993) 4 NWLR (Pt 289) 512

where dismissals were procedurally unfair. For instance, where employees are dismissed without query or investigation, courts have ordered compensation for wrongful dismissal.¹¹⁹ Although reinstatement is rare, the insistence on fair process reflects a growing recognition that fairness is a universal standard.

4.6 Administrative Injustice in Practice

Despite these legal safeguards, administrative injustice persists in Nigerian workplaces. Common examples include:

- Employers dismissing workers summarily without issuing queries.
- Disciplinary panels sitting without notifying the employee.
- Panels composed of biased individuals, such as direct supervisors who initiated the allegation.
- Employers ignoring the employee's defence and issuing predetermined sanctions.
- Prolonged suspension without pay, effectively punishing the worker before investigation is concluded.

These practices highlight the gap between legal ideals and workplace realities.

4.7 Importance of Fair Hearing for Industrial Relations

Fair hearing is not just a legal requirement; it also has practical benefits. It promotes trust in the employment relationship, reduces industrial disputes, and strengthens legitimacy of managerial decisions.¹²⁰ Workers who believe they were treated fairly are more likely to accept disciplinary outcomes, even if unfavorable. Conversely, injustice breeds resentment, litigation, and in extreme cases, strikes or sabotage.¹²¹

4.8 Comparative Lessons

Other jurisdictions provide useful insights.¹²²

- In the **United Kingdom**, the ACAS Code of Practice requires employers to follow fair procedures in disciplinary matters, including written allegations, hearings, and appeal rights.¹²³ Failure to comply often results in awards of unfair dismissal compensation.
- In **South Africa**, the Labour Relations Act mandates fair disciplinary processes and provides workers with access to the Commission for Conciliation, Mediation and Arbitration (CCMA), which resolves disputes quickly and cheaply.¹²⁴

Nigeria can learn from these models by codifying universal disciplinary standards and establishing independent grievance mechanisms.

5. Manifestations of Administrative Injustice in Nigerian Employment Practice

The persistence of administrative injustice in Nigeria becomes evident when disciplinary practices in workplaces are examined in light of judicial pronouncements.¹²⁵ Despite constitutional and statutory safeguards, employees are frequently subjected to arbitrary and procedurally defective decisions. Nigerian courts, especially the Supreme Court and the National Industrial Court of Nigeria (NICN), have intervened in numerous cases to articulate the requirements of fair hearing and to strike down unfair disciplinary practices.¹²⁶ This section highlights common manifestations of administrative injustice and the cases that illustrate them.

¹¹⁹ *Patrick Obiora v Fidelity Bank Plc* (NICN/ABJ/62/2018).

¹²⁰ Adeogun (n 1) 63

¹²¹ *ibid* 65

¹²² ACAS Code of Practice on Disciplinary and Grievance Procedures (UK, 2015).

¹²³ *ibid*

¹²⁴ Labour Relations Act 1995 (South Africa) s 188

¹²⁵ A. Adeogun, 'Fairness and Justice in Employment Law' (2017) 3(2) *Nigerian Employment Law Journal* 62

¹²⁶ AM. Adejumo, 'The Challenges of Labour Adjudication in Nigeria' (2018) 2(1) *NICN Law Review* 21

5.1 Arbitrary Dismissals and Summary Termination

Arbitrary dismissal remains a pervasive form of administrative injustice, particularly in the private sector.¹²⁷ Employers often terminate contracts without giving employees the chance to defend themselves. The courts have repeatedly condemned such practices. In **Olatunbosun v. NISER Council (1988) 3 NWLR (Pt. 80) 25**, the Supreme Court held that it is a breach of fair hearing to dismiss an employee accused of misconduct without affording them the opportunity to answer the allegations. The court stressed that an employee must be confronted with specific allegations and allowed to defend themselves before dismissal. Similarly, in **National Bank of Nigeria v. Omotayo (2002) 9 NWLR (Pt. 771) 583**, the Court of Appeal clarified that although an employer in a master–servant relationship has the right to terminate employment for any reason, where a contract stipulates disciplinary procedures, such procedures must be followed.¹²⁸ Termination without due compliance amounts to wrongful dismissal. These decisions illustrate how courts identify arbitrary dismissals as clear violations of the right to fair hearing.

5.2 Indefinite Suspension Without Pay

Another manifestation of administrative injustice is indefinite suspension, particularly when imposed without pay and without timely conclusion of investigations. In **University of Calabar v. Esiaga (1997) 4 NWLR (Pt. 502) 719**, the Court of Appeal condemned indefinite suspension, holding that disciplinary action must be completed within a reasonable time and that leaving an employee in limbo without pay constitutes unfair treatment. The ruling underscores that suspension must not be punitive without first hearing the employee.

Similarly, in NICN decisions such as **Mr. Akinbola v. Union Bank of Nigeria Plc (NICN/LA/25/2014)**, the court held that prolonged suspension without a concluded investigation violates the employee's right to fair hearing.¹²⁹ These decisions demonstrate the judicial stance that suspension should not be used as punishment before allegations are tested.

5.3 Biased or Improperly Constituted Disciplinary Panels

The principle of *nemo iudex in causa sua* requires impartial decision-makers. Administrative injustice occurs where disciplinary panels are biased or improperly constituted. In **Bamgboye v. University of Ilorin (1999) 10 NWLR (Pt. 622) 290**, the Supreme Court invalidated disciplinary proceedings against academic staff because the panel was improperly constituted.

The court emphasized that any panel that fails to meet statutory requirements or is tainted by bias cannot validly impose sanctions.

Likewise, in *Garba v. University of Maiduguri* (1986) 1 NWLR (Pt. 18) 550, the Supreme Court nullified the expulsion of students because the disciplinary panel was both accuser and judge¹³⁰. Although this case involved students, the principle applies equally in employment contexts: no person should decide a matter in which they have an interest.

6. The Role of the National Industrial Court (NICN)

The National Industrial Court of Nigeria (NICN) has emerged as the most important institution in the enforcement of labour rights in Nigeria.¹³¹ As the specialized labour court, the NICN has exclusive jurisdiction over disputes relating to employment, industrial relations, trade unions, and workplace discrimination. Since its establishment under the Trade Disputes Decree of 1976 and its strengthening under the Third Alteration Act of 2010, the NICN has become the custodian of fair

¹²⁷CA. Adebayo, 'The Weakness of Employee Rights in Nigeria's Private Sector' (2020) 15(2) *African Journal of Labour Studies* 94

¹²⁸*National Bank of Nigeria v Omotayo* (2002) 9 NWLR (Pt 771) 583

¹²⁹*Mr. Akinbola v Union Bank of Nigeria Plc* (NICN/LA/25/2014).

¹³⁰*Garba v University of Maiduguri* (1986) 1 NWLR (Pt 18) 550.

¹³¹E. Uvieghara, *Labour Law in Nigeria* (Malthouse Press, 2001), 215

hearing in employment law.¹³² Its jurisprudence has progressively shaped the meaning of administrative justice and clarified the boundaries of managerial power in disciplinary procedures.¹³³

6.1 Expansion of Jurisdiction

The NICN's exclusive jurisdiction under section 254C of the 1999 Constitution (as amended) covers all matters relating to employment, unfair dismissal, redundancy, labour rights, and discrimination.¹³⁴ This constitutional mandate gives the NICN the authority to interpret not only the Labour Act but also the Constitution, international treaties (such as ILO conventions), and even human rights instruments like the African Charter on Human and Peoples' Rights. This expansive jurisdiction has enabled the NICN to extend the doctrine of fair hearing beyond statutory employment to private sector relationships.¹³⁵

6.2 NICN and the Enforcement of Fair Hearing

The NICN has consistently emphasized that employees must not be punished without being given the opportunity to defend themselves.

In *Mr. Akinbola v. Union Bank of Nigeria Plc* (NICN/LA/25/2014), the NICN held that an indefinite suspension without pay, where the employee was not given an opportunity to be heard, violated the right to fair hearing. The court awarded damages for wrongful suspension and condemned the employer for using suspension as a tool of punishment rather than investigation.

Similarly, in *Okocha v. CSC Delta State* (NICN/EN/48/2012), the NICN nullified the dismissal of a public servant who was disciplined without being allowed to present a defence.¹³⁶ The court stressed that fair hearing is a constitutional right that applies to all disciplinary proceedings, whether in the public or private sector. These cases show that the NICN treats fair hearing as a minimum procedural standard that no employer can ignore.¹³⁷

6.5 NICN and International Standards

One of the unique contributions of the NICN is its willingness to apply international labour standards. Under section 254C(1)(f) of the Constitution, the NICN can enforce international treaties even where they have not been domesticated, provided they relate to labour rights.

In *Mix & Bake Flour Mills Ltd v. NUFBTE* (2004) 1 NLLR (Pt. 2) 247, the NICN relied on ILO conventions to reinforce workers' rights to fair treatment. Similarly, in *Bamidele Aturu v. Minister of Labour & Productivity* (2005) NLLR (Pt. 9) 1, the court recognized the relevance of international human rights norms in interpreting fair labour practices.¹³⁸

By aligning Nigerian employment law with international standards, the NICN has given the doctrine of fair hearing a global dimension.

6.6 Limitations of NICN Jurisprudence

Despite these advances, the NICN faces limitations in fully addressing administrative injustice.

1. **Limited Remedies in Private Employment:** As discussed, the NICN rarely grants reinstatement in master–servant contracts, even where fair hearing was denied. This limits the deterrent effect on employers who may view damages as a manageable cost.
2. **Delays in Litigation:** Employment disputes often take years to conclude, undermining the principle that fair hearing must occur “within a reasonable time.”

¹³²Trade Disputes Decree No. 7 of 1976; Constitution of the Federal Republic of Nigeria (Third Alteration) Act, 2010

¹³³B. Alo, 'The Role of the National Industrial Court in Employment Dispute Resolution' *Nigerian Labour Law Review* 5, no. 2 (2018): 45

¹³⁴Constitution of the Federal Republic of Nigeria 1999 (as amended), s. 254C(1)

¹³⁵K. Idigbe and A. Adeogun, 'The Expanding Jurisdiction of the NICN under the 1999 Constitution (as amended),' *Nigerian Employment Law Journal* 3, no. 1 (2017): 77

¹³⁶*Okocha v. Civil Service Commission, Delta State* NICN/EN/48/2012 (unreported, judgment of 27 March 2013).

¹³⁷O. Okene, 'Fair Hearing and Disciplinary Procedures in Nigerian Labour Law' *Journal of African Law* 59, no. 2 (2015): 249.

¹³⁸*Bamidele Aturu v. Minister of Labour & Productivity* (2005) NLLR (Pt. 9) 1

3. **Weak Enforcement:** Even when the NICN awards reinstatement or damages, enforcement can be slow, particularly against public institutions that resist compliance.
4. **Awareness Gap:** Many employees, especially in the informal sector, are unaware that the NICN exists as a forum for redress, meaning that administrative injustice often goes unchallenged.¹³⁹

6.7 NICN and ADR in Disciplinary Matters

Another significant role of the NICN is promoting Alternative Dispute Resolution (ADR). The NICN Rules 2017 require parties to explore ADR before litigation. This mechanism is particularly useful in disciplinary disputes, as it provides faster and less adversarial solutions¹⁴⁰. For instance, in cases involving allegations of misconduct, mediation has been used to secure reinstatement with conditions such as apology letters or retraining, rather than protracted litigation. This ADR approach enhances access to justice and reduces the impact of administrative injustice.

7. Comparative Insights from Other Jurisdictions

The challenge of ensuring fairness in disciplinary procedures is not unique to Nigeria¹⁴¹. Other jurisdictions have faced similar struggles in balancing managerial authority with the rights of employees. Two jurisdictions offer particularly useful lessons: the United Kingdom, with its common law heritage and statutory reforms, and South Africa, which has developed a robust statutory framework for workplace justice under its democratic constitution.¹⁴²

7.1 The United Kingdom

The UK provides a valuable comparison because, like Nigeria, it is rooted in the common law tradition. Historically, the UK followed the doctrine of master–servant, which allowed employers to dismiss workers at will, provided contractual notice was given. However, statutory reforms and judicial developments have transformed the landscape.

Unfair Dismissal Regime:

The **Employment Rights Act 1996** introduced protection against unfair dismissal.¹⁴³ Employers must demonstrate that dismissal was for a “fair reason,” such as misconduct, redundancy, or capability, and that it was carried out in accordance with a fair procedure. Failure to do so renders the dismissal unfair, regardless of contractual terms.

The ACAS Code of Practice:

The Advisory, Conciliation and Arbitration Service (ACAS) issues a **Code of Practice on Disciplinary and Grievance Procedures**, which sets out the minimum standards employers must follow.¹⁴⁴ These include:

- Written notice of allegations.
- A hearing where the employee can present a defence.
- The right to be accompanied by a representative.
- An appeal process after the decision.

While the ACAS Code is not legally binding, employment tribunals take it into account. Failure to follow the Code can result in increased compensation awards against employers. UK courts and tribunals focus heavily on procedural fairness.¹⁴⁵ In *Polkey v. A.E. Dayton Services Ltd* [1987] UKHL 8, the House of Lords held that even if a dismissal was substantively justified,

¹³⁹T. Fajana, *Industrial Relations in Nigeria* (Lagos: Labofin, 2017), 214

¹⁴⁰NICN ADR Centre Report 2019

¹⁴¹D. Cabrelli, *Employment Law in Context* (Oxford: OUP, 2016), 301

¹⁴²S. Rycroft, 'Labour Dispute Resolution in Comparative Perspective' *ILJ South Africa* 38, no. 1 (2017): 45

¹⁴³Employment Rights Act 1996 (UK), s. 94z

¹⁴⁴ACAS, *Code of Practice on Disciplinary and Grievance Procedures* (2015).

¹⁴⁵Cabrelli, *Employment Law*, 317

failure to follow proper procedure rendered it unfair. This mirrors Nigerian cases like *Olatunbosun v. NISER*, where the failure to hear the employee invalidated the disciplinary process.¹⁴⁶ The UK experience demonstrates the importance of codifying procedural fairness through legislation and supplementary codes. Unlike Nigeria, where fair hearing in private employment largely depends on contractual terms, the UK imposes statutory standards that apply universally. Nigeria could adopt a similar approach by enacting an Employment Act that codifies fair disciplinary procedures across all sectors.

7.2 South Africa

South Africa offers another model, particularly relevant to Nigeria as a fellow African state with a plural legal system.¹⁴⁷ The South African approach is notable for combining constitutional protections, statutory regulation, and accessible dispute resolution mechanisms.

Labour Relations Act (LRA) 1995:

The LRA provides detailed protections for employees against unfair dismissal. Section 188 stipulates that a dismissal is unfair unless the employer proves it was for a fair reason and followed a fair procedure. The Act distinguishes between substantive fairness (valid reasons) and procedural fairness (due process).

CCMA and Bargaining Councils:

The Commission for Conciliation, Mediation and Arbitration (CCMA) provides free and accessible dispute resolution for employees.¹⁴⁸ An employee who believes they were unfairly dismissed can file a complaint with the CCMA, which facilitates conciliation and, if necessary, arbitration. This ensures quick and affordable justice compared to prolonged litigation.

Constitutional Backing:

The South African Constitution of 1996 guarantees the right to fair labour practices under section 23. Courts have interpreted this to mean that employees are entitled to fair treatment in disciplinary processes, making it a constitutional imperative rather than a mere contractual expectation. In *Sidumo v. Rustenburg Platinum Mines Ltd* (2007) ZACC 22, the Constitutional Court held that fairness must be assessed both substantively and procedurally, and that employers do not have unfettered discretion in dismissals.¹⁴⁹ This reflects a stronger judicial stance than Nigeria, where remedies in private employment remain limited. The South African model highlights the importance of accessible and affordable dispute resolution. Nigeria's NICN provides specialized adjudication, but its processes can be costly and slow. Establishing an independent grievance mechanism, akin to the CCMA, would enhance access to justice for Nigerian workers, particularly in the private sector.

8. Reform Recommendations

The persistence of administrative injustice in Nigerian employment law, despite constitutional safeguards and judicial interventions, calls for comprehensive reform.¹⁵⁰ The current framework is fragmented, uneven in application, and inadequate in protecting workers in both public and private employment. To align Nigeria's labour system with constitutional guarantees and international best practices, reforms should address legal, institutional, and procedural gaps.¹⁵¹

8.1 Enactment of a Unified Employment Code

One of the biggest weaknesses of Nigeria's current framework is the fragmented nature of employment regulation. The Labour Act (2004) is outdated and limited in scope, covering mainly

¹⁴⁶ *Olatunbosun v. NISER Council* (1988) 3 NWLR (Pt. 80) 25.

¹⁴⁷ S. van Niekerk et al., *Law@Work* (Cape Town: LexisNexis, 2019), 141

¹⁴⁸ Commission for Conciliation, Mediation and Arbitration (CCMA), *Annual Report 2018/19*, 12

¹⁴⁹ *Sidumo v. Rustenburg Platinum Mines Ltd* (2007) ZACC 22

¹⁵⁰ Constitution of the Federal Republic of Nigeria 1999 (as amended), s. 36(1)

¹⁵¹ International Labour Organization (ILO), *Termination of Employment Convention*, C158 (1982)

manual and clerical workers, while professional and managerial employees remain outside its protective ambit.¹⁵² At the same time, statutory employees enjoy extensive protections under sector-specific laws, leaving a significant disparity between public and private workers.

Recommendations: Nigeria should enact a comprehensive Employment Code that codifies minimum procedural standards for all categories of workers.¹⁵³ Such a code should:

- Mandate clear procedures for dismissal, suspension, and disciplinary actions.
- Require written allegations, reasonable notice, impartial disciplinary bodies, and the right of appeal.¹⁵⁴
- Apply universally to public and private sector employees, closing the gap created by the master–servant doctrine.

This would ensure uniform protection and bring Nigerian law in line with the **UK Employment Rights Act 1996** and **South Africa's Labour Relations Act 1995**.

8.2 Strengthening the Role of the NICN

The National Industrial Court of Nigeria (NICN) is the primary institution for enforcing fair hearing in employment disputes, but its effectiveness is hindered by delays, weak enforcement, and limited remedies in private employment cases.

Recommendations:

- Grant the NICN broader remedial powers to order **reinstatement in private sector employment** where fair hearing is violated, not just damages.
- Streamline NICN procedures to reduce delays, possibly through mandatory **fast-track mechanisms** for disciplinary disputes.
- Enhance enforcement powers, ensuring judgments particularly against public institutions are implemented without delay.

By expanding the NICN's jurisdiction and capacity, Nigeria can make fair hearing not just a theoretical right but a practical reality.¹⁵⁵

8.3 Establishment of Independent Grievance Mechanisms

The experience of **South Africa's Commission for Conciliation, Mediation and Arbitration (CCMA)** demonstrates the importance of affordable, accessible dispute resolution mechanisms. The NICN, while specialized, remains too formal and expensive for many employees.

Recommendations:

- Establish **Domestic Labour Tribunals or Grievance Desks** within the Ministry of Labour, accessible at the state level.¹⁵⁶
- Mandate compulsory conciliation before escalation to the NICN, reducing caseload and providing faster remedies.
- Partner with trade unions, professional bodies, and civil society organisations to provide mediation and pro bono support.

Such mechanisms would address the problem of access to justice, especially for informal workers and those unaware of their rights.¹⁵⁷

¹⁵² Labour Act, Cap L1, LFN 2004, s. 91 (definition of 'worker')

¹⁵³ K. Idigbe and A. Adeogun, 'Towards a Unified Employment Code for Nigeria,' *Nigerian Employment Law Journal* 7, no. 1 (2019): 77f Require written allegations, reasonable notice, impartial disciplinary bodies, and the right of appeal

¹⁵⁴ Advisory, Conciliation and Arbitration Service (ACAS), *Code of Practice on Disciplinary and Grievance Procedures* (2015).

¹⁵⁵ O. Okene, 'Fair Hearing and Judicial Remedies in Nigerian Employment Law,' *Journal of African Law* 59, no. 2 (2015): 249

¹⁵⁶ Federal Ministry of Labour and Employment (Nigeria), *Policy on Labour Dispute Resolution* (Abuja: FML&E, 2019).

¹⁵⁷ J. Mudiaga, 'Access to Justice for Informal Sector Workers in Nigeria,' *African Labour Law Journal* 12, no. 1 (2021):

8.4 Protection Against Indefinite Suspension

Indefinite suspension without pay is one of the most pervasive forms of administrative injustice in Nigeria. Although condemned by the courts, it remains widespread due to weak enforcement and lack of codified standards.

Recommendations:

- Codify maximum suspension periods (e.g., 3 months) in law.
- Require employers to either conclude investigations within that period or reinstate the employee.¹⁵⁹
- Prohibit suspension without pay unless the allegations involve financial impropriety or gross misconduct, and even then, mandate half-salary payments pending investigation.

These measures would prevent employers from using suspension as disguised punishment.

8.5 Promotion of Awareness and Capacity Building

Another root cause of administrative injustice is the lack of awareness among employees about their rights, and the inadequate capacity of disciplinary panels to administer justice fairly.

Recommendation:

- Introduce workplace rights education programs, possibly through the Ministry of Labour and trade unions, targeting both formal and informal sector workers¹⁶⁰
- Provide training for disciplinary panel members in public and private organizations on principles of fair hearing, natural justice, and labour rights.
- Encourage universities, law faculties, and professional institutes (e.g., CIPM, NBA) to integrate employment law and workplace justice modules into their training.¹⁶¹

Awareness and capacity building would bridge the gap between legal standards and workplace practice.

8.6 Alignment with International Standards

Nigeria has ratified key International Labour Organization (ILO) Conventions, including Convention No. 158 on Termination of Employment.¹⁶² However, domestic legislation has not been fully aligned with these standards.

Recommendations:

- Domesticate ILO Convention No. 158 to provide statutory protection against unfair dismissal.
- Integrate provisions of ILO Convention No. 87 (Freedom of Association) and Convention No. 98 (Right to Organise and Collective Bargaining) to strengthen employee representation in disciplinary matters.¹⁶³
- Require employers to adhere to international best practices, especially in industries with global links such as banking, oil and gas, and telecommunications.¹⁶⁴

This would reinforce Nigeria's commitment to global labour standards and enhance the legitimacy of its employment framework.

¹⁵⁹ *Okocha v. CSC Delta State* NICN/EN/48/2012 (judgment of 27 March 2013)

¹⁶⁰ Federal Ministry of Labour and Employment (Nigeria), *Workplace Rights Education Programme Report* (Abuja, 2019).

¹⁶¹ Nigerian Bar Association (NBA), *Continuing Legal Education on Labour Law* (Abuja: NBA, 2021)

¹⁶² Organization (ILO) Conventions, including Convention No. 158 on Termination of Employment

¹⁶³ ILO, *Freedom of Association and Protection of the Right to Organise Convention*, C87 (1948); *Right to Organise and Collective Bargaining Convention*, C98 (1949).

¹⁶⁴ M. Kanyip, *International Labour Standards and Nigerian Labour Law* (Abuja: NICN Press, 2018), 77

9. Conclusion

Administrative injustice remains one of the most pressing challenges in Nigerian employment law¹⁶⁵. Despite the constitutional guarantee of fair hearing and the presence of statutory frameworks such as the Labour Act and public service regulations, many employees continue to face disciplinary actions that fall short of the standards of justice. Arbitrary dismissals, indefinite suspensions, biased disciplinary panels, selective enforcement of rules, and procedural delays illustrate the persistent gap between legal ideals and workplace realities.¹⁶⁶

The right to fair hearing is not merely a legal formality; it is the foundation of procedural justice. It ensures that when allegations of misconduct arise, employees are given adequate notice, an opportunity to respond, an impartial panel to adjudicate, and the assurance that their defence will be genuinely considered. Without these safeguards, disciplinary processes become instruments of victimization rather than mechanisms of accountability.

The analysis in this article demonstrates that Nigeria's current framework provides uneven protection.¹⁶⁷ While statutory employees enjoy stronger safeguards through detailed rules and regulations, private sector workers remain largely subject to the outdated master–servant doctrine, where remedies are limited and procedural fairness is often ignored. This dual system undermines coherence in employment law and perpetuates vulnerability among a large proportion of the workforce.¹⁶⁸

Comparative insights reveal that other jurisdictions have moved beyond these challenges by codifying universal disciplinary standards and creating accessible enforcement mechanisms. The United Kingdom has embedded procedural fairness into law and practice through statutory codes, while South Africa ensures fairness through constitutional guarantees and affordable, independent dispute resolution mechanisms. These models show that injustice is not inevitable; it can be reduced with the right reforms. For Nigeria, the way forward requires comprehensive reform.¹⁶⁹ A unified Employment Code should be enacted to harmonize protections across all categories of workers. The National Industrial Court of Nigeria must be strengthened to deliver timely remedies and expanded powers to ensure full compliance with fair hearing standards. Independent grievance mechanisms should be introduced to provide quick, affordable access to justice, particularly for vulnerable workers in the informal sector.¹⁷⁰ Protections against indefinite suspension must be codified, and education programs should be developed to increase awareness of workplace rights.¹⁷¹ Finally, alignment with international labour standards will reinforce Nigeria's commitment to global best practices. Ultimately, administrative injustice corrodes the dignity of workers, erodes trust in management, and undermines industrial peace. By embedding fair hearing into both law and workplace practice, Nigeria can create a system that promotes dignity, accountability, and harmony.¹⁷² Fair hearing must not remain a constitutional promise on paper; it must become the lived reality of all Nigerian workers.¹⁷³

¹⁶⁵ Constitution of the Federal Republic of Nigeria 1999 (as amended), s. 36(1).

¹⁶⁶ O. Okene, 'Procedural Injustice in Nigerian Employment Law,' *African Journal of Comparative Law* 23, no. 2 (2015): 233

¹⁶⁷ F. Dafe, *Employment and Labour Law in Nigeria* (Lagos: Malthouse Press, 2020), 233

¹⁶⁸ E. Ebere, 'The Master–Servant Doctrine in Contemporary Nigerian Labour Law,' *Journal of African Law* 62, no. 3 (2018): 315

¹⁶⁹ K. Idigbe and A. Adeogun, 'Towards a Unified Employment Code for Nigeria,' *Nigerian Employment Law Journal* 7, no. 1 (2019): 77

¹⁷⁰ CCMA, *Rules for the Conduct of Proceedings* (2020)

¹⁷¹ Federal Ministry of Labour and Employment (Nigeria), *Workplace Rights Education Programme Report* (Abuja, 2019)

¹⁷² M. Kanyip, *The National Industrial Court and the Future of Nigerian Labour Law* (Abuja: NICN Press, 2020), 122

¹⁷³ Constitution of the Federal Republic of Nigeria 1999 (as amended), s. 36(1).