Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2025 – ISSN 2582-7820

Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

Collective Bargaining in Nigeria's Free Trade Zones: Strikes and Lockouts

Chinedu Collins Aguocha[a]

[a]Independent Scholar and Legal Practitioner, Nigeria

Received 25 October 2025; *Accepted* 26 November 2025; *Published* 29 November 2025

The recent trade dispute between workers at the Dangote Petroleum Refinery in Lekki Free Trade Zone and their employer has thrown the issue of the right to organise and collective bargaining into legal debate. Public opinion seems to be more sympathetic to the trade unions without thorough consideration of the legality of their conduct. Beyond that, there is also the contention that any restriction on strike or lockout is a violation of the fundamental right to associate and assemble. This paper argues that, while employees and employers can go on strike or lockout, the extent of the exercise of such rights is limited, particularly in a Free Trade Zone (FTZ). Due to the unique trade purpose for which an FTZ is set up, it is appropriate that the law limits strikes and lockouts within it. It further argues that strikes and lockouts are not fundamental human rights. The fundamental right to associate and assemble under the Constitution only protects formation and membership of a trade union; it does not protect the manifestation of the agenda or objectives of trade unions. This paper proffers recourse options for employers and employees in FTZs. Particularly, it explores the measures the Federal Government of Nigeria can take to contain the escalation of such trade disputes in the interest of public order and national security.

Keywords: *free trade zone, strikes, lockouts, collective bargaining, labour, trade union, tort.*

INTRODUCTION

Background on the Dangote Refinery Labour Dispute with Labour Unions: The Dangote Petroleum Refinery, Africa's largest single-train refining facility with a capacity of 650,000 barrels per day, represents a cornerstone of Nigeria's quest for energy self-sufficiency since its commissioning in May 2023.[1] Located in the Lekki Free Trade Zone, Lagos State, the $19 billion project, owned by the Dangote Group under billionaire Aliko Dangote, aims to end Nigeria's chronic fuel import dependence and bolster the naira by producing refined products like petrol, diesel, and aviation fuel for domestic and export markets.[2] However, by September 2025, the refinery became embroiled in a high-stakes labour dispute, with trade unions threatening nationwide fuel shortages, economic losses estimated at ₦14.7 billion daily, and operational shutdowns.[3] The conflict, centered on allegations of anti-union practices, mass sackings, and preferential hiring of expatriates, has drawn in the Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN), National Union of Petroleum and Natural Gas Workers (NUPENG), Trade Union Congress of Nigeria (TUC), and Nigeria Labour Congress (NLC), showing tensions between investor incentives in FTZs and workers' rights. In this paper, the term 'trade union' is used interchangeably with 'labour union'.

The dispute's roots trace back to early September 2025, amid broader concerns over unionisation at the refinery. On September 6, the NLC publicly backed petroleum workers protesting Dangote's alleged restrictions on union activities, particularly for drivers involved in the company's compressed natural gas distribution.[4] The NLC accused the refinery of denying workers the right to organise. On September 9, the management of Dangote refinery signed a Memorandum of Understanding (MoU), which was meant to allow workers to join trade unions of their choice without restrictions. Despite the purported MoU, NUPENG

[1] 'The Dangote Petroleum Refinery' (*Dangote*) <https://www.dangote.com/our-business/oil-and-gas/> accessed 29 September 2025
[2] 'Nigeria commissions Dangote Refinery in bid to end fuel imports' *Al Jazeera* (22 May 2023) <https://www.aljazeera.com/economy/2023/5/22/nigeria-commissions-dangote-refinery-seeks-to-end-fuel-imports> accessed 29 September 2025
[3] Kingsley Jeremiah and Gloria Nwafor, 'Nigeria risks n14.7b daily loss, fuel crisis as Dangote, PENGASSAN rift deepens' *The Guardian* (29 September 2025) <https://guardian.ng/news/nigeria-risks-n14-7b-daily-loss-fuel-crisis-as-dangote-pengassan-rift-deepens/> accessed 29 September 2025
[4] Justice Okamgba, 'NLC backs petroleum workers against Dangote's driver union restrictions' *Punch* (06 September 2025) <https://punchng.com/nlc-backs-petroleum-workers-against-dangotes-driver-union-restrictions/#google_vignette> accessed 29 September 2025

alleged that Dangote's September 11 press statement confirmed an intent to 'crush' the union by limiting membership and imposing non-union contracts, breaching the MoU. On September 12, NUPENG threatened to go on strike, shortly after the Department of State Services had summoned the unions and refinery management due to a heightened threat to national security, should petroleum manufacturing and distribution come to a halt.[5] By September 19, NUPENG escalated warnings of a nationwide strike, citing fears of monopolisation by Dangote and exclusion of Nigerian workers in favour of foreign labourers.

The flashpoint was on September 24, when Dangote Petroleum Refinery allegedly issued dismissal letters to over 800 Nigerian staff members, primarily senior engineers and technicians affiliated with PENGASSAN. The company justified the sackings as responses to sabotage and underperformance, claiming the workers had displaced qualified Nigerians with expatriates and violated operational protocols.[6] PENGASSAN, representing senior oil and gas professionals, decried the move as retaliatory for unionisation efforts and a ploy to undermine collective bargaining. In a strongly worded resolution, the union accused management of 'anti-worker actions' and ordered an immediate shutdown of crude oil and gas supplies to the refinery, effectively halting operations. On September 29, the TUC condemned the alleged sackings as a violation of trade union rights and placed its members on red alert, threatening a nationwide indefinite strike if the workers were not reinstated pronto.[7]

Relevance to Free Trade Zones in Nigeria: At the heart of the conflict lies a profound tension between workers' constitutional rights to freedom of association, and the restrictive labour environment in FTZs, leading to accusations that Dangote's management has engaged in anti-union practices by imposing non-union contracts and favouring expatriate hires over locals in violation of the Nigerian Oil and Gas Industry Content Development Act 2010,

[5] Ojochenemi Onje, 'DSS summons Dangote Refinery, NUPENG over union dispute' *Business Day* (12 September 2025) <https://businessday.ng/news/article/dss-summons-dangote-refinery-nupeng-over-union-dispute/> accessed 29 September 2025

[6] Saheed Oyelakin, 'Dangote Refinery: PENGASSAN declares nationwide strike starting Monday' *Punch* (28 September 2025) <https://punchng.com/dangote-refinery-pengassan-declares-nationwide-strike-starting-monday/> accessed 29 September 2025

[7] Saheed Oyelakin, 'Dangote refinery: TUC demands apology, reinstatement of sacked workers' *Punch* (29 September 2025) <https://punchng.com/dangote-refinery-tuc-demands-apology-reinstatement-of-sacked-workers/?utm_source=auto-read-also&utm_medium=web> accessed 29 September 2025

which mandates preferential treatment for Nigerian workers in the sector.[8] Jurisdictional overlaps further complicate the matter, as the Nigeria Export Processing Zones Authority's (NEPZA) role to mediate disputes in FTZs collides with the unions' direct escalation to strikes without exhausting the dispute resolution mechanisms. It also challenges the adequacy of FTZ dispute resolution frameworks that subordinate labour protections to trade goals. This crisis exposes the FTZ regime's vulnerability to broader socio-economic fallout, as unchecked labour tensions undermine Nigeria's African Continental Free Trade Area ambitions by discouraging potential investments.

LEGALITY OF LABOUR ACTIONS IN FREE TRADE ZONES

Legal Treatment of Free Trade Zones: Free Trade has been described as a situation where commodities can be imported or exported free of taxes or other restrictions.[9] This is a departure from the conventional practice wherein taxes and certain restrictions are inherent in the import and export of commodities. This is not to say that Free Trade is an unregulated practice. It would follow that a Free Trade Zone, which is interchangeably referred to as Free Trade Area, Foreign-Trade Zone, Export Processing Zone, or Free Zone, is a geographically earmarked place within which Free Trade can be operated. In *Armco Steel Corp. v Stans,* the US Court of Appeals for the Second Circuit held: *Foreign trade zones are areas located in, adjacent to, or nearby, ports of entry, into which foreign merchandise may be brought duty free and stored, sold, exhibited, broken up, repacked, assembled, distributed, sorted, graded, cleaned, mixed with foreign or domestic merchandise, or otherwise manipulated, or be manufactured*.[10]

The description offered by Black's Law Dictionary, while instructive, remains limited in scope. It describes a Free Trade Zone as meaning Foreign Trade Zone. Then it goes ahead to define Foreign Trade Zone as 'areas within the United States', outside the customs zone, where goods may be imported without formal customs entry, free of payment of duty.[11] However, contrary to this definition, FTZs don't exist only in the United States. From the foregoing, exemption from taxes and customs duties is at the core of FTZs. Perhaps, it is the very thing that clads it with uniqueness. Chapter 2, Specific Annex D of the Revised Kyoto Convention by the World Customs Organisation, describes free zones as areas where goods

[8] Nigerian Oil and Gas Industry Content Development Act 2010, s 10(1)(b)
[9] Henry Campbell Black, *Black's Law Dictionary* (6th edn, West Group 1990) 666
[10] *Armco Steel Corporation v Stans* [1970] 431 F.2d 779 (2d Cir.)
[11] Henry Campbell Black (ed), *Black's Law Dictionary* (6th edn, West Group 1990) 666 and 648

are treated as outside the customs territory for duty purposes. As shall be seen, tax exemptions are not the only indices of FTZs. Its unique labour framework is also part of the equation.

The law treats FTZs as enclaves that, while physically within a country's territory, are considered outside its customs territory for duties, taxes, and certain regulations. This allows goods to be imported, stored, handled, manufactured, processed, or re-exported without immediate payment of import duties, value-added tax (VAT), or excise taxes, which are only assessed if and when the goods enter the domestic market. To achieve this, the Nigeria Export Processing Zones Act (NEPZ Act) of 1992 was enacted. The NEPZ Act expressly exempts enterprises operating in FTZs from Federal, State or Government taxes, rates and levies.[12] Approved enterprises operating within FTZs are also granted a range of incentives.[13] These businesses are exempted from legislative provisions concerning taxes, levies, duties, and foreign exchange regulations. They are permitted to repatriate foreign capital investments at any time, including any capital appreciation. Similarly, foreign investors can freely remit profits and dividends earned within the zones. No import or export licenses are required. Enterprises may sell up to 25 per cent of their production into the domestic customs territory, subject to a valid permit and payment of applicable duties. Land is provided rent-free during the construction phase of the business infrastructure, with rent determined by the Nigeria Export Processing Zones Authority (NEPZA) thereafter. Businesses in the zones can be up to 100 per cent foreign-owned, offering significant control to international investors. Additionally, companies may employ foreign managers and qualified personnel.

The rationale for this liberal legal treatment of FTZs is to stimulate economic growth by attracting foreign direct investment, boosting exports, and creating jobs. In *West Atlantic Shipyard Limited v Federal Inland Revenue Service,* the Tax Appeal Tribunal sitting in Benin-City, Nigeria held that 'The intention of establishing the Free Trade Zones is to encourage companies and provide tax incentives to companies doing business in the Zones'.[14] By reducing bureaucratic and fiscal barriers, FTZs encourage industrialisation, technology transfer, and regional development, particularly in developing economies. FTZs mitigate the impact of high tariffs. The World Trade Organisation's GATT Article XXIV supports FTZs by

[12] NEPZ Act 1992, s 8
[13] *Ibid*
[14] *West Atlantic Shipyard Limited v Federal Inland Revenue Service* Appeal No TAT/SSZ/005/2018

allowing trade-liberalising arrangements. To further appreciate the rationale behind the establishment of FTZs, a quick look at the Preamble in the Agreement Establishing the African Continental Free Trade Area is worthwhile. Therein, state parties in recounting their aspirations, emphasised 'the need to create an expanded and secure market for the goods and services of State Parties through adequate infrastructure and the reduction or progressive elimination of tariffs and elimination of non-tariff barriers to trade and investment'. It is worth noting that when goods are brought from a customs territory into an FTZ, the goods are considered exported.[15] When brought from an FTZ into customs territory, it is considered imported.[16] Suffice to say, FTZs are *sui generis*.

The Right to Peaceful Assembly and Association in FTZs: The Constitution of the Federal Republic of Nigeria (CFRN) 1999 (as amended) guarantees the right to assemble freely and associate with others, and form or belong to any trade union or any other association for the protection of one's interests.[17] Therefore, the right to join or form a labour union for collective bargaining derives its validity from the CFRN. Flowing from this, the Trade Unions Act provides for workers' right to join trade unions primarily through section 12, which declares membership voluntary, prohibits refusal of admission on discriminatory grounds such as community, tribe, origin, religion, or political opinion, and protects employees from being forced to join or victimised for refusing to join or remain a member. Section 20 of the same Act further enables joining by allowing persons aged 16 to 20 to become members and enjoy all associated rights, subject to the union's rules, though they are ineligible to become officials. The Labour Act supports workers' freedom to join trade unions by prohibiting employment contracts from conditioning work on joining or not joining a trade union, and barring dismissal or prejudice due to trade union membership, activities, or refusal to join. The above notwithstanding, under the CFRN, the right to join or form a labour union is not absolute. It is a qualified right which can be derogated from. This means that its exercise is subject to any law that is reasonably justifiable in a democratic society, in the interest of defence, public safety, public order, public morality, public health, or for the purpose of protecting the rights and freedoms of other people.[18] In *All Jaafariyya Development Association*

[15] NEPZ Act 1992, s 12(9)
[16] NEPZ Act 1992, s 12(7)
[17] The Constitution of the Federal Republic of Nigeria 1999, s 40
[18] The Constitution of the Federal Republic of Nigeria 1999, s 45; *Osawe & Ors v Registrar of Trade Unions* [1985] LPELR-2792

& Anr v Government of Kano State & Ors, the Court of Appeal held that 'the government has responsibility to ensure that the enjoyment of such right is done under a peaceful atmosphere that ensures public safety, law and order'.

The NEPZ Act bans strikes or lockouts in the initial 10 years of commencing business operations within FTZs, and any trade dispute arising within an FTZ shall be resolved by NEPZA in consultation with the Federal Ministry of Employment and Labour.[19] There are two limbs to this provision: the first is the prohibition of strikes or lockouts for 10 years from the commencement of business in FTZs; the second is that any trade dispute in FTZs, whether within 10 years of commencement of business or afterwards, shall be resolved by NEPZA. The same provision is reproduced in the Oil and Gas Export Free Zones Act (OGEFZ Act).[20] The first limb of the said provision suspends strikes or lockouts for a certain duration, not a total prohibition. Perhaps to allow enterprises in the FTZs to stabilise after the commencement of business. In fact, employers and employees of enterprises which have operated in FTZs for more than 10 years can engage in strikes or lockouts. The provision does not bar formation or membership of trade unions in FTZs. The right to form or join a trade union remains undisturbed. Even though it may be argued that a restriction on the expression of the agenda of an association may amount to a restriction on the right to associate itself, it must be noted that the CFRN does not guarantee the manifestation of the objectives or agenda of an association. The language of the CFRN is centred on membership and formation. Therefore, strikes and lockouts are not constitutionally guaranteed rights. In fact, if the objectives of an assembly or association are unlawful, then the assembly itself becomes an unlawful assembly. In *ABU v State*, the Supreme Court held as follows: *My Lords, Section 40 of the 1999 CFRN guarantees the right to peaceful assembly and association. As stated earlier, the association must be for a lawful purpose and a lawful intent. Any gathering (ab initio lawful) where an illegal act is conceived becomes an unlawful gathering and a gathering to agree and perpetrate an unlawful purpose*.[21]

As mentioned earlier, a reasonably justifiable law is one of the exceptions upon which the right to form or join an association can be derogated from. Here, there is no need to consider whether the NEPZ Act is reasonably justifiable, particularly the section that suspends strikes

[19] NEPZ Act 1992, ss 18(5) and 4(e)
[20] OGEFZ Act 1996, ss 18(5) and 5(1)(f)
[21] *Danjuma Abu v The State* [2024] LPELR-62381

and lockouts for the initial 10 years of business commencement in FTZs. The reason is that the NEPZ Act does not disturb the right to join or form an association or trade union, and as such, does not derogate from the right. It has been established earlier in this paper that the CFRN guarantees only the right to form or join an association or assembly, not the right to manifest the objectives or agenda of the association or assembly, e.g. strike or lockout. The NEPZ Act does not bar employers and workers from forming or joining trade unions. It only places a moratorium on strikes and lockouts for a certain duration. Nothing has stopped employers and workers from forming or joining trade unions over the past 10 years. It also follows that any contract of employment which is conditioned on joining or forming or not joining or forming a trade union is unconstitutional, null and void. Such a contract clause also violates section 9(6) of the Labour Act, which expressly forbids such practice.

Nonetheless, the next consideration is the validity of the 10-year ban on strikes and lockouts in the NEPZ Act.[22] The National Assembly (NA) derives its law-making power from section 4(1) to (3) of the CFRN. It vests exclusive legislative authority in the NA for matters enumerated in the Exclusive Legislative List in the Second Schedule, Part I, enabling it to enact laws for the peace, order, and good government of the Federation of Nigeria. Under Item 62 of the Exclusive Legislative List, the NA is empowered to make laws on 'trade and commerce', which also entails FTZs. Item 34 further empowers the NA to make laws on 'Labour, including trade unions, industrial relations, conditions, safety and welfare of labour, industrial disputes, and industrial arbitrations.' The NA's enactment of the NEPZ Act thus falls within this constitutional mandate. Section 18(5) of the NEPZ Act, which prohibits strikes and lockouts for the initial 10 years of commencement of business in an FTZ, is valid as a targeted measure to ensure industrial stability and attract investment, which is the main purpose of FTZs. It is a manifestation of legislative power to balance economic goals with labour rights. This provision does not violate the CFRN, having established that strikes and lockouts are not constitutionally guaranteed rights. Going by this analysis, the trade unions erred in law when they sought to engage in a strike against Dangote Petroleum Refinery in Lekki Free Trade Zone. Dangote refinery is still nascent. In fact, the refinery is not up to five years old, let alone ten. The NEPZ Act specifically prohibits strikes within FTZs in the initial 10 years of commencement of business. Again, the claim that Dangote sacked workers on

[22] NEPZ Act 1992, s 18(5)

grounds of union membership, if true, is legally wrong. As has been established, being a union member is legally allowed in FTZs.

Treaties and Labour Unionism: Nigeria has ratified 44 ILO conventions, which include all 10 fundamental conventions. The most relevant to the right to strike and lockout are the **Freedom of Association and Protection of the Right to Organise Convention No. 87 of 1948,** and **the Right to Organise and Collective Bargaining Convention No. 98 of 1949**, both ratified in 1960. Convention No. 87 guarantees workers' and employers' right to establish and join organisations of their own choosing without prior authorisation or interference.[23] It protects the right to formulate constitutions, rules, and programs and to elect representatives freely, within the organisation.[24] The right to strike and lockout is not explicitly provided for in Convention No. 87. It interprets 'organisation' as any union of workers or employers for the purpose of defending or furthering their interests.[25] Presently, the International Court of Justice (ICJ) has been invited to give an advisory opinion on whether the right to strike is protected under Convention No. 87. This is a testament that the global community are still unsettled on whether the right to strike enjoys the same legal protection as the right to associate. At the time of this paper, the ICJ has scheduled public hearings on the subject and has not rendered its opinion. In the same vein, Convention No. 98 promotes voluntary collective bargaining and protects against employer interference in union activities.[26] It has no explicit provision on strikes or lockouts. The CFRN mandates that treaties have no domestic legal force unless enacted into law by the legislature.[27] Under the Treaties (Making Procedure, etc.) Act, law-making treaties must be enacted into law to have a binding effect.[28] Nigeria has enacted some provisions of these conventions into its domestic labour laws. More importantly, the CFRN expressly empowers the National Industrial Court (NIC) to exercise jurisdiction over matters connected with the application of any international convention, protocol or treaty of which Nigeria has ratified relating to employment, labour, workplace, industrial relations, or matters connected to it.[29] But neither of the two relevant labour

[23] Freedom of Association and Protection of the Right to Organise Convention 1948, art 2
[24] Freedom of Association and Protection of the Right to Organise Convention 1948, art 3
[25] Freedom of Association and Protection of the Right to Organise Convention 1948, art 10
[26] Right to Organise and Collective Bargaining Convention 1949, arts 1 and 2
[27] The Constitution of the Federal Republic of Nigeria 1999, s 12(1)
[28] Treaties (Making Procedure, etc.) Act 1993, ss 3(1)(a) and (2)(a)
[29] The Constitution of the Federal Republic of Nigeria 1999, s 254C(2)

conventions explicitly provides for the right to strike or lockout, leaving room for inferences which may not stand the test of sound legal argument.

TRADE DISPUTE RESOLUTION OPTIONS IN THE FTZs

Primary Mechanisms under NEPZ Act: Workers and employers in Nigeria FTZs have access to a structured hierarchy of recourse options to address labour and trade disputes, designed to promote industrial harmony and investment stability. These options prioritise administrative resolution through FTZ-specific authorities before escalating to judicial avenues. The second limb of section 18(5) of the NEPZ Act requires that all trade disputes in FTZs be resolved by the Nigeria Export Processing Zones Authority (NEPZA). Does this mean parties cannot go to court at all? Section 10(4) of the NEPZ Act empowers NEPZA to make regulations. Going by NEPZA Regulations 2004, Part 2 Regulation 24(c) requires the referral of trade disputes to NEPZA if the disputing parties can't reach an amicable settlement on their own. Part 2 Regulation 25 provides that in all litigation cases, the laws of Nigeria's customs territory shall apply. Care should be taken at this point, because the fact that the regulation acknowledges the possibility of litigation within the FTZ is not sufficient to conclude that it permits direct litigation in trade disputes. Hence, under Part 8, Regulation 17, trade disputes are to be settled amicably by the parties by a mutually agreed grievance procedure. If still unsettled, it may be referred to the Board of Settlement of Disputes within 10 days. The Board is composed of:

- The employer in question, or the employer's authorised representative;
- The employee in question, or the employee's fully authorised representative;
- A representative of NEPZA who shall be the chairman;
- The Head of the Labour and Employment Services Office or his representative in the Zone.

The decision of the Board becomes enforceable after 10 days, absent objections. If unresolved by the Board, the non-resolution is reported to the Head of Labour and Employment Services Office of the FTZ, who then escalates the matter under the procedure in the Trade Disputes Act. Under the Trade Disputes Act, the procedure for settling trade disputes is a multi-step, statutory process aimed at promoting amicable resolution before further escalation. It begins

with internal negotiations using any existing agreement.[30] If that fails, parties must meet within seven days under a mutually appointed mediator.[31] If unresolved, the dispute is reported to the Minister of Labour within three days.[32] The Minister may appoint a conciliator to negotiate a settlement within seven days.[33] If conciliation fails, the Minister refers the dispute to the Industrial Arbitration Panel (IAP) within 14 days for arbitration, where an award is issued within 21 days.[34] Parties have seven days to object to the award; if none, the Minister shall publish a notice in the Federal Gazette confirming the award and the award shall become binding on the employers and employees to whom it relates.[35] But if objected to, the dispute is referred to the National Industrial Court (NIC) for final determination.[36] Clearly, the parties can go to court. The NIC's award becomes binding on employers and employees to whom it relates.[37] For essential services or special cases, the Minister may refer directly to the NIC.[38] During the pendency of any of these stages of settlement efforts under the Trade Disputes Act, strikes or lockouts are prohibited.[39] Again, parties are not permitted to approach ordinary courts directly, as the Trade Disputes Act excludes the jurisdiction of regular courts over trade disputes, channelling all matters through this administrative settlement process up to the NIC.[40]

Mechanism under OGEFZ Act: For oil and gas-specific FTZs in Nigeria, such as Onne and Warri, the Oil and Gas Export Free Zone Act (OGEFZ Act) tasks the Oil and Gas Export Free Zone Authority (OGEFZA) with resolving trade disputes between employers and employees, in consultation with the Federal Ministry of Employment, Labour and Productivity, emphasising collaborative settlement to avoid escalation.[41] Employers and employees can report disputes directly to OGEFZA, which acts as the primary arbiter, similar to NEPZA's board system. Section 18(5) reinforces this by mandating that all disputes be resolved by OGEFZA to maintain export-oriented stability. OGEFZA Regulations 2019

[30] Trade Disputes Act 1947, s 4(1)
[31] Trade Disputes Act 1947, s 4(2)
[32] Trade Disputes Act 1947, s 6
[33] Trade Disputes Act 1947, s 8
[34] Trade Disputes Act 1947, ss 9 and 13(1)
[35] Trade Disputes Act 1947, ss 13(2) and (4)
[36] Trade Disputes Act 1947, s 14
[37] Trade Disputes Act 1947, s 14(2)
[38] Trade Disputes Act 1947, s 17
[39] Trade Disputes Act 1947, s 18
[40] Trade Disputes Act 1947, s 2
[41] OGEFZ Act 1996, s 5(1)(f)

require disputes to be settled amicably between parties first; if unsuccessful, they must be referred to OGEFZA, which takes all necessary steps for settlement and reserves the right to intervene at any stage without notice to maintain industrial peace.[42] It is worthy of note that, unlike the NEPZA Regulation, the OGEFZA Regulation provides that a party that is dissatisfied with the decision of OGEFZA may approach the law courts.[43] That notwithstanding, ideally, upon failure of OGEFZA to settle the dispute, the dispute should transition to the procedure under the Trade Disputes Act discussed above, which is the principal legislation on trade disputes.

Courts and Injunctive Relief: The question of whether disputing parties can go to court at all has been answered in the affirmative. But what remains unclear is whether parties are precluded from going directly to court without exhausting the administrative dispute resolution mechanisms? The Trade Disputes Act limits the freedom of employers and employees to approach the court directly. The exhaustion of the administrative dispute resolution channels may function as a condition precedent for the National Industrial Court (NIC) to exercise jurisdiction. However, employers or employees can seek injunctive relief and compliance orders primarily through the NIC to prevent or halt disruptive actions like unauthorised strikes or lockouts. But nothing in the NEPZ Act or regulation allows employers or employees to directly approach the court over trade disputes. Under the CFRN, the NIC has the jurisdiction to hear and determine applications for the enforcement of awards, decisions, rulings, or orders issued by arbitral tribunals, commissions, administrative bodies, or boards of inquiry concerning matters within its jurisdiction, including those related to such issues.[44] The NIC has exclusive jurisdiction for all trade disputes, including disputes arising from the Trade Disputes Act, Trade Unions Act, Labour Act or any other labour legislation.[45] In the exercise of its constitutional powers, nothing stops the NIC from directly adjudicating any trade dispute, whether or not the administrative dispute resolution channels have been exhausted first. Still, the argument that the administrative dispute resolution channels should be exhausted first cannot be ignored.

[42] OGEFZA Regulation 2019, regs 16(4) and (5)
[43] OGEFZA Regulation 2019, reg 16(7)
[44] The Constitution of the Federal Republic of Nigeria 1999, s 254C(4)
[45] The Constitution of the Federal Republic of Nigeria 1999, ss 254C(1)(a) and (b)

ECONOMIC SABOTAGE AND TORT

Economic sabotage and recourse by the Federal Government: Until the emergence of Dangote Petroleum Refinery in 2023, Nigeria was highly dependent on imported fuel to serve its massive population. As a breath of fresh air, the emergence of Dangote Refinery not only promises an end to fuel scarcity but also assures an inflow of foreign returns. As the only fully functional refinery in Nigeria, the refinery is at the heart of Nigeria's economy. Against this backdrop, the orchestration of strikes by trade unions at the refinery can be construed as economic sabotage, given the refinery's pivotal role in Nigeria's energy security and economy. As Africa's largest refinery, producing 650,000 barrels per day and contributing to fuel self-sufficiency, any disruption, such as the brief work stoppage, is a threat to national revenue, supply chains, and public welfare, potentially causing widespread shortages and inflation. Such actions fall within the ambit of economic sabotage.

A vital recourse for the government lies in the President's power to proscribe trade unions under the Trade Disputes (Essential Services) Act. Section 1(1) empowers the President to proscribe any trade union or association whose members are employed in essential services if satisfied that it is engaged in acts calculated to disrupt the smooth running of such services or has wilfully failed to comply with Trade Disputes Act procedures for reporting and settling disputes. Essential services are defined therein to include 'fuel of any kind', which encompasses refinery operations like Dangote's.[46] The unions' actions of bypassing NEPZA dispute resolution channels, disregarding the 10-year ban on strike, and escalating without following the procedure under the Trade Disputes Act, are disruptive, and the President can issue a proscription order published in the Federal Gazette, effectively dissolving the unions involved.[47] The proscribed trade union must surrender their certificates of registration to the Registrar of Trade Unions within fourteen days from the date of the order, who will then cancel the registration.[48] All properties of the proscribed trade unions, whether movable or immovable, held by the trade unions or in trust, are forfeited to the Federal Government and vest in it free of encumbrances from the commencement of the order.[49] Any person holding such property must deliver it to the Secretary of the Federal Government within fourteen

[46] Trade Disputes (Essential Services) Act 1976, s 7(1)(b)(i)
[47] Trade Disputes (Essential Services) Act 1976, s 1(1)
[48] Trade Disputes (Essential Services) Act 1976, s 1(2)
[49] Trade Disputes (Essential Services) Act 1976, s 1(3)

days of the order, or notify the Secretary of its location and assist in its recovery.[50] For immovable property or registrable negotiable securities, the appropriate registration authority must register the property in the name of the Federal Government upon presentation of the Trade Disputes (Essential Services) Act and the proscription order.[51]

The Act also imposes clear restrictions on the formation of new trade unions or associations following the proscription of an existing trade union or association.[52] It stipulates that no new trade union, composed of the same or substantially the same members as the proscribed union, may be registered under the Trade Unions Act until a minimum of six months has passed since the date of the proscription order. Similarly, no new association with the same or similar objectives, and consisting of the same or substantially the same members as the proscribed association, may be formed during these six months. The bottom line is that six months is the minimum, which leaves a blanket discretion to the President as to the maximum duration of the ban to order in each case. This provision ensures a temporary halt to the re-establishment of similar organisations, allowing time for stability to be restored in essential services. Section 2 of the Act further imposes penalties for acts calculated to disrupt the economy, including fines or imprisonment.

Be that as it may, such a stringent step, if taken by the President, will no doubt erupt an outcry and claims of violation of the right to associate and assemble under the CFRN. This power, while seemingly draconian, is justified under constitutional derogations for public order.[53] For Dangote Refinery, classified as essential due to its role in fuel production, the government could argue the unions' brief strike threatened national security and public order, invoking proscription as a deterrent. Strike by workers in the Dangote Refinery will certainly affect fuel production, transportation, distribution and sale. This will trigger disorder throughout Nigeria and lead to inflation of fuel prices by malevolent fuel hoarders. Nonetheless, such a step, if taken by the President, should be proportionate to avoid accusations of suppressing labour rights or trade unionism.

[50] Trade Disputes (Essential Services) Act 1976, s 1(4)
[51] Trade Disputes (Essential Services) Act 1976, s 6(1)
[52] Trade Disputes (Essential Services) Act 1976, s 3
[53] The Constitution of the Federal Republic of Nigeria 1999, s 45(1)(a)

Economic Tort in FTZs: By engineering a strike at the Dangote Refinery, the trade unions procured a breach of the employment contract between employees of the refinery and their employer. Without doubt, this raises the issue of economic tort. In *Lumley v Gye*, the English Court of Queen's Bench established the tort's core definition. The defendant enticed an opera singer to break her exclusive performance contract with the plaintiff theatre owner. [54] The court held that liability arises from (1) knowledge of the contract, (2) intent to procure its breach, and (3) resulting damage. Therefore, economic tort can be described as an actionable interference by a third party in contractual relations to secure economic expectations, usually by unlawful means. Building on this, in *Torquay Hotel Co Ltd v Cousins*, the English Court of Appeal clarified that 'unlawful means' could include threats or intimidation, even if not independently tortious.[55] In this case, a union's oil embargo pressured suppliers to breach contracts with a hotel during a labour dispute, causing the hotel to purchase oil from a different supplier at an exorbitant price. The court defined the tort broadly, requiring only that the interference be intentional and cause loss, but introduced defences like justification, e.g., legitimate trade interests. This expanded the tort's scope.

Earlier, in *Allen v Flood*, the House of Lords shaped the tort by ruling that lawful acts causing harm, e.g., union persuasion without threats, are not tortious unless motivated by malice.[56] This emphasised intent over mere foreseeability, defining the tort as requiring wrongful conduct beyond legitimate competition. Again, in the United States case of *Pennzoil Co v Texaco Inc*, the Supreme Court affirmed similar principles in a high-stakes corporate context, where Texaco induced Getty Oil to breach a merger agreement with Pennzoil, leading to billions of dollars in damages award.[57] The court described the tort as requiring proof of a valid contract, defendant's knowledge, intentional inducement without justification, and damages, reinforcing its role in protecting business deals from predatory takeovers.

However, in the landmark case of *OBG Ltd v Allan*, the UK House of Lords provided a pivotal modern definition, consolidating and clarifying the tort after decades of confusion.[58] The Lords emphasised that economic torts must be clearly defined and not based on vague

[54] *Lumley v Gye* [1853] 2 E & B 216
[55] *Torquay Hotel Co Ltd v Cousins* [1969] 2 Ch 106
[56] *Allen v Flood* [1898] AC 1
[57] *Pennzoil Co v Texaco, Inc* [1987] 481 US 1
[58] *OBG v Allan* [2007] UKHL 21

notions like 'unjustified interference' or 'malicious intent.' This prevents courts from creating open-ended liability based on subjective moral judgments or business ethics. Earlier decisions had tried to merge various economic torts into a single broad tort of interference with contractual relations.

But the House of Lords here rejected this approach, stating that each economic tort, such as (a) inducing breach of contract or (b) causing loss by unlawful means, has distinct elements and must be treated separately. In clarifying the scope of each tort, the court held that inducing breach of contract requires the following elements: (1) Knowledge of the contract, (2) Intention to cause breach and (3) Actual breach. On the other hand, causing loss by unlawful means requires the following elements: (1) Use of unlawful means against a party, e.g, the defendant threatening a supplier of goods with violence unless they stop supplying to the claimant, (2) Intention to harm the claimant, and (3) Resulting economic loss. The Lords found that unlawful acts must be independently actionable by the party and interfere with their freedom to deal with the claimant, stating, 'Unlawful means therefore consists of acts intended to cause loss to the claimant by interfering with the freedom of a third party in a way which is unlawful as against that third party and which is intended to cause loss to the claimant. It does not, in my opinion, include acts which may be unlawful against a third party but which do not affect his freedom to deal with the claimant.' If a defendant's conduct doesn't meet the criteria for either, no liability arises, even if the conduct seems morally questionable. The Lords firmly stated that there is no general tort of interference with economic interests. Liability must be anchored in a recognised cause of action, not in a general sense of wrongdoing or unfair competition. This principle protects defendants from excessive or speculative claims. It ensures that only conduct that meets the strict legal tests for a tort can result in damages.

Flowing from the above, the trade unions declared a strike over alleged anti-worker practices, including the alleged sacking of over 800 staff for unionising. This led to a short-lived strike that halted operations at the refinery, even though Dangote Refinery has bragged that the strike didn't disrupt its operations 'for a second'.[59] The strike directly encouraged

[59] Ogaga Ariemu, 'PENGASSAN strike didn't disrupt our operations – Dangote Refinery commends Tinubu, others' *Daily Post* (06 October 2025) <https://dailypost.ng/2025/10/06/pengassan-strike-didnt-disrupt-our-operations-dangote-refinery-commends-tinubu-others/> accessed 29 September 2025

employees to deviate from their contractual obligations to perform their work. As established in *OBG Ltd v Allan* above, the core of inducing breach of contract involves (1) knowledge of the contract, (2) intent to procure its breach, and (3) actual breach. Here, the unions, aware of standard employment contracts requiring continuous performance of work, intentionally procured breaches by directing workers to strike, resulting in operational losses, e.g., delayed production and fuel scarcity. This also mirrors *Lumley*'s enticement scenario, where the defendant induced a performer to abandon her contract, precisely what Dangote could claim against the unions for undermining refinery contracts. However, defence exists: the unions may argue immunity from tort under section 24 of the Trade Unions Act for acts in contemplation of disputes. This section ousts the jurisdiction of courts in Nigeria on actions in tort against trade unions or their representatives.

RECOMMENDATION

In light of the intricate legal framework governing FTZs in Nigeria, including the NEPZ Act, OGEFZA Act, Trade Disputes Act, and constitutional provisions, a balanced reform is essential to harmonise economic imperatives with labour rights. For employers, the current system, bolstered by mechanisms like NEPZA's Board of Settlement and OGEFZA's interventionist powers, provides a robust shield against disruptions, ensuring operational continuity through mandatory administrative resolutions and the 10-year strike prohibition under Section 18(5) of both Acts. This stability is crucial for attracting foreign direct investment, fostering export-led growth, and creating jobs in zones like Lekki and Onne, where swift dispute handling minimises financial losses and enhances competitiveness. To strengthen this, employers should proactively engage in collective bargaining and invest in internal grievance procedures, while also advocating for streamlined digital platforms within NEPZA and OGEFZA for faster referrals and reduced resolution timelines. Simultaneously, employees will benefit from swift access to administrative dispute resolution mechanisms and access to the NIC for the enforcement of awards, ensuring accountability against exploitative practices. To empower workers further, shorter strike bans, e.g., 5 years instead of the 10-year ban, are worth considering, and enhanced training on dispute resolution. By implementing these dual-focused measures, it will create a resilient ecosystem where employers thrive through predictability and employees through equity.

CONCLUSION

The Nigerian FTZ regime exemplifies a strategic blend of economic liberalisation and regulatory oversight, positioning the country as an attractive hub for global trade while navigating the tensions between capital and labour. For employers, the advantages are clear: administrative bodies like NEPZA and OGEFZA, coupled with judicial recourse through the NIC, provide efficient tools to resolve disputes without halting operations, as evidenced by the Trade Disputes Act's structured pathway from conciliation to arbitration, up to the NIC. This not only protects investments but also encourages innovation and job creation in high-potential sectors. For employees, prohibitions against discriminatory employment conditions ensure voices are heard, with safeguards against victimisation and access to binding remedies. Ultimately, while considering the recommendations above, it is worth noting that the present FTZ framework makes a good attempt to foster mutual prosperity; employers gain a stable environment to expand, while employees secure fair treatment, reinforcing Nigeria's role in the global economy through inclusive industrial policies.