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Remarkable returns: the influence of a labour-led socio-economic rights movement on legislative reasoning, process and action in Nigeria, 1999–2007*

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ABSTRACT

During 1999–2007, a labour-led but broad-based socio-economic rights movement, which focused on a pro-poor (and therefore highly popular) anti-fuel price hike message, persuaded and/or pressured Nigeria’s federal legislature, the National Assembly, to: mediate between it and the Executive Branch of Government; take it seriously enough to lobby it repeatedly; re-orient its legislative processes; explicitly oppose virtually all of the Executive Branch’s fuel price hikes; and reject key anti-labour provisions in a government bill. Yet the movement did not always succeed in its efforts to influence the National Assembly. This article maps, discusses, contextualises and analyses these generally remarkable developments. It also argues that while many factors combined to facilitate or militate against the movement’s impact on legislative reasoning, process and action during the relevant period, this movement’s ‘mass social movement’ character was the pivotal factor that afforded it the necessary leverage to exert considerable, if limited, influence on the National Assembly.

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The principal goal of this article is to map, contextualise and analyse the significance of the remarkable influence on legislative reasoning, process and action (hereafter ‘legislative work’) that a labour-led socio-economic rights movement (hereafter ‘the movement’) which extended well beyond the traditional labour alliances was able to exert in Nigeria between 1999 and 2007. Utilising two key examples (the movement’s influence on the Nigerian legislature’s reactions to the executive branch’s fuel price hikes, and its impact on an important government legislative bill), the article shows that the sustained anti-fuel price hike-focused socio-economic rights struggle (hereafter ‘the struggle’) which this movement waged during the period under study was a critical factor that has shaped and oriented important aspects of both the corporate behaviour of Nigeria’s bi-cameral federal legislature (the National Assembly), and the individual positions held by many of the legislators who constitute that body.\(^1\) The article also demonstrates the ways in which certain factors (mostly related to the orientation and mode of struggle of this movement) facilitated the movement’s ability to exert influence on the National Assembly in respect of the specific matters on which it focuses. The factors that have militated against the movement’s success in those areas are also discussed.

In large part because of the movement’s dogged struggles, legislative work within the National Assembly was: (a) focused more intensely, unrelentingly, and favourably than would ordinarily have been the case on the negative popular reaction of most ordinary Nigerians to the very vexed question of the federal executive branch’s incessant increases in the price of motor vehicle fuel; and (b) shaped and oriented in the direction preferred by the movement. As importantly, in large measure as a result of this movement’s activist campaigns, important alterations were made by the National Assembly to a key Executive Branch bill that had been intended to weaken a reinvigorated, resistant and powerful movement.

As such, the main hypothesis that will be explored in this article is that, between 1999 and 2007, the movement exerted a considerable (albeit limited) measure of influence on the Nigerian legislature, and that the movement’s mass social movement orientation was – far more than any other factor – responsible for facilitating the influence that it exerted in the relevant respects. By its mass social movement orientation is meant the fact that the movement had a pro-poor orientation; cultivated and enjoyed a broad-based membership and support; was largely self-funded; and primarily deployed a mass action-centred mode of struggle – a definition that
is adapted from Neil Stammers (1999). The article also suggests that strong external incentives combined with internal factors to inhibit the movement’s drive towards even greater success.

On a methodological note, it must be noted that the argument made in this article is not a causal one (Ruggie 1995: 94). Rather, the movement’s struggles and efforts have tended to constitute ‘one critical (even pivotal) factor’ in the production of the observed and desired changes, and in the production of other observed effects (Okafor 2004: 24). On another methodological note, this article is limited in both its subject matter concentration and temporal focus. In the first case, it is circumscribed by its concentration, for reasons of space and parsimony, on two specific examples that tell the broader story of the influence exerted by the movement on the federal legislature in Nigeria. And secondly, it is hemmed in by its focus on the period between 1999 and 2007, the first eight years of Nigeria’s fourth republic: a period in which that country engaged in the latest of its many attempts at democratic governance, and one which was also marked by the re-emergence of the movement as a major national political and social force.

In order to systematically explore its hypothesis, the remainder of the article is organised into five parts. In the next section, a brief portrait of the movement is developed. Following that, the two exemplary situations in which the movement has exerted influence on the National Assembly are discussed. Thereafter, in the two sections that follow, the factors that have either facilitated or inhibited the capacity of the movement to exert such influence are successively analysed. The article ends with a short conclusion.

THE CHARACTER OF THE LABOUR-LED MOVEMENT

Before attempting to map the nature, and explain the significance, of the influence that the movement has had on legislative work in Nigeria, it is important to offer – if only in outline – a working portrait of that movement itself. The conceptual apparatus (and therefore character) of this movement of both unionised and non-unionised social groups can be understood as composed of three essential elements. The first is its highly popular principal focus during the relevant years on the anti-fuel price hike struggle. Given the centrality of fuel prices as a key economic factor in Nigeria, and the highly negative (indeed harsh) impact it has almost always had on the standards of living of the vast majority of Nigerians who are relatively poor, the incessant and substantial increases during the period under study of the price of this essential commodity could not but have
elicited strong and sustained opposition from the Nigerian people and the organisations and movements which have sought to represent their interests. Indeed, this movement has been front and centre in the struggle against these harsh fuel price hikes. The second element of the conceptual character of the movement is its concomitant ‘socio-economic rights movement’ character (NLC Constitution 1999: Article 3). By this is meant the fact that its main focus during the relevant period on the anti-fuel price hike struggle (a sustained effort at removing a key obstacle to the enjoyment of a higher standard of living by most Nigerians) meant that the movement basically devoted a corresponding bulk of its time and resources to the effort to advance the socio-economic rights of ordinary Nigerians. The third element of this movement’s conceptual apparatus is the markedly pro-poor orientation of its struggles. As much is implied in the foregoing discussion, there is no need to dwell on this point. In a similar vein, a defining characteristic of the movement has been its demonstrated ability to craft and propagate messages that have resonated with the vast majority of ordinary Nigerians (Turner & Brownhill 2004: 74).

The institutional/organisational character of both the movement and its main component, the Nigeria Labour Congress (NLC), can be pieced together by examining their composition, internal ordering, alliances/coalitions, unity, geopolitical location, funding pattern, and main mode of struggle. First, it should be noted that despite the fact that the NLC, the main umbrella confederation of labour unions in Nigeria, is prominently positioned at the core of the movement and constitutes the largest single group within it, and although what is true of the NLC tends to be true of the movement as well, the movement itself is composed of many different elements – and not merely the formal sector workers unions which constitute the NLC. These other groups are discussed later in this section, after an examination of the origins of the NLC and the movement.

Although the origins of labour unionism in Nigeria have been dated to the 1940s (Lado 2000: 299), the NLC was founded only in 1978, when the four separate central labour organisations that then existed in Nigeria were unified under a single tent. It is currently composed of twenty-nine labour unions (NLC Profile 2008: 1; Aina 1990: 39), and organised around thirty-seven state councils and a number of central organs, the most important of which for our purposes is its National Executive Council (NEC) (Informant 1 2004 int.). NEC is composed of the presidents and secretaries of all of its affiliated unions, all the elected national officers of the NLC, its key appointed national administrators, and the chairs and secretaries
of the NLC’s thirty-seven councils. It is the NEC that tends to run the movement’s mass action campaigns (Informant 1 2004 int.). The NLC estimates the population of the workers who constitute its affiliate unions at roughly 4 million, but given the relative decline in formal sector employment in Nigeria, the true figure is probably lower (Informant 1 2004 int.). In the same vein, although the specific labour-led movement that is of concern here emerged in the post-1999 era, its pedigree is definitely much older, dating back to at least the mid 1980s (Onyeonoru & Aborisade 2001: 43–66). Another important element of the organisational character of the NLC is its national spread. It operates functioning offices in all the states of the federation and Abuja, and its top leadership has tended to be composed of a mix of both northerners and southerners (Informant 1 2004 int.). This pan-Nigerian quality has also rubbed off on the broader movement. As importantly, the NLC is basically a self-funded organisation (Okafor, in prep.). It is principally funded through the automatic remittance to its coffers of 10% of the membership fees collected by each of its affiliate unions. This has meant that the anti-fuel price hike movement that it led has also been financially self-sufficient.

A large number of informal sector workers (such as butchers, market women, and motorbike taxi or ‘Okada’ riders), many opposition politicians (such as the then Governor of Lagos State), student groups (such as the progressive factions of the National Association of Nigerian Students or NANS), self-described human rights NGOs (such as the Civil Liberties Organisation), and some religious elements (such as some Catholic Bishops), allied with the NLC to form and run the movement (Daily Champion 2005; PM News 2004). Thus, to be sure, the movement was substantially grassroots-based and popular (Abimbola 2002: 43–4). Yet the more marginal (though not of course entirely absent) contribution during this specific era of a far more factionalised, much more badly led, and therefore generally weaker, NANS suggests the existence of a significant chink in the movement’s grassroots armour. Space restrictions do not, however, allow further adumbration of this point here.

The reins of leadership of the movement were firmly in the hands of the NLC (e.g. Daily Champion 2005). It was the NLC that, in almost all cases, conceived of and led the struggles (general strikes/mass demonstrations/economic disruptions and other forms of mass action) that the movement waged over the relevant period. This fact is worth noting here mainly because in the past the NLC’s effectiveness as the leader of such struggles has ebbed and flowed with time. For example, its rather marginal contribution to the struggle for social change in Nigeria in the difficult period
around 1993/94 is now well established (Onyeonoru & Aborisade 2001: 43–66).

It is also crucial to note that the movement’s tendency to principally deploy and chiefly rely on the mass mobilisation/mass action mode of struggle is one of its defining characteristics (PM News 2004). And the nature, variety and scale of these mass actions are easily illustrated by reference to two of the most important mass actions that were prosecuted by the movement during the period under study. In the first example, in response to the first increase of fuel prices announced by the then new Obasanjo government in June 2000, the NLC led one of the most crippling and effective general strikes since the end of military rule in Nigeria (Okafor 2007: 80–5). Some oil workers joined public sector and transport workers in ensuring the success of the strike (WDM 2005; Okafor 2007: 80–5). Nigeria’s main seaport in Lagos and many major highways were blockaded; international and domestic air flights were disrupted, and almost all fuel stations were closed. Sporadic police and protestor violence was reported across the country and at least two police stations in the federal capital territory, Abuja, were burned down by irate mobs. In contrast, in September 2005, the NLC announced a sustained mass action campaign initially consisting of two weeks of massive but far more peaceful demonstrations and rallies across Nigeria (BBC 2005b). These protests/rallies were massively attended. In Lagos, for example, a mammoth crowd was mobilised that, at a point, stretched for nearly 3 km. Any reasonable estimate of the size of this crowd – one of many such street protests/rallies across the country – would put it, at a minimum, in the tens (if not hundreds) of thousands. The BBC (2005b) put the figure at ‘thousands’. Apart from NLC officials such as then President Adams Oshiomole, the Catholic archbishop of Lagos Olubunmi Okogie, Nobel Prize winner Professor Wole Soyinka, and Governor Bola Tinubu of Lagos state all addressed this rally (ibid.). A threatened general strike/mass action that was due to be prosecuted in November 2004 was called off by the NLC and its allies in the movement because, before it could begin fully, the government averted it by retreating in significant measure from the planned price hikes (BBC 2005c).

Implicit to an extent in this exposé of the character of the movement’s mass actions is the fact that, although almost all of the pressure tactics that it deployed can justifiably be described as mass actions, they have also varied somewhat in their exact features. They have included (usually in the course of the very same confrontation with the government) ‘strike-centred’ mass actions, significant threats of such actions, stand-alone demonstrations, and disruptions of economic life. The notable exception is
the September 2005 mass demonstrations, which were—as a result of a contrarian court order—not accompanied by a general strike component (Okafor 2007: 80–5).

Overall, given the principal focus of the movement on its anti-fuel price hike struggle, the pro-poor character of its sustained labours, its grassroots composition, its popularly run, funded and controlled character, its mass mobilisation/action mode of struggle, and the way in which it has resonated with vast numbers of average Nigerians, it seems altogether reasonable to characterise it as a mass social movement.

**Influence on Legislative Reasoning, Process and Action**

As a result mostly of the movement’s dogged struggles during the relevant period, legislative work has tended to attain correspondence and reach accordance, much more than would ordinarily have been the case, both with the movement’s ‘logics of appropriateness’ (Finnemore & Sikkink 1998: 887) and anti-fuel price hike demands, and with the similarly negative reactions of most ordinary Nigerians to the very vexed and highly consequential fuel price hikes question. Illustrative examples of such influence are discussed in the following sub-sections.

*Influence on legislative responses to the labour-led movement’s anti-fuel price hike struggles*

**Mediating between the labour-led movement and the Executive Branch**

In response to the mass action-centred struggles that the movement waged against fuel price hikes, both chambers of the National Assembly regularly mediated between the office of the President of Nigeria and the movement. An opposition member of the House of Representatives (HoR), Usman Mohammed, well described the mediatory functions performed by the HoR in this context, and the influence that the movement has had on the HoR, when he noted that ‘to avoid [the October 2004] strike … the issue required the lawmakers to quietly negotiate the people out of the problem by linking up with the executive branch of government, the labour union[s] and the [fuel] marketers’ (Nwaigwe 2004). That such mediation was actually undertaken by the National Assembly is easily illustrated. For example, in his report to the membership of his organisation about the 2003 anti-fuel price hike struggle, then NLC president Adams Oshiomole acknowledged the mediatory role played by both the senior leadership and some members of the National Assembly. Oshiomole was able to report that the then Speaker of the HoR, Aminu
Bello Masari, who had taken on such a role, ‘informed the Congress [i.e. the NLC] leadership that at the [HoR’s] consultation with President Obasanjo two days earlier [i.e. on 30 June 2003], the President had told him that the figure of sign for 40 naira was not constant [i.e. that this figure could be reduced as demanded by the labour-led movement]’ (NLC 2003).

The leaders and members of both legislative houses undertook this mediatory function mainly because they recognised the considerable influence that the movement had on the very group of Nigerians on whom (all said and done, and notwithstanding the tendency of too many politicians to rig elections) they, i.e. the legislators, still depended – to some degree – for their legitimacy. It was clear, therefore, that the movement was able to persuade and/or pressure the National Assembly to take it seriously enough to spend some time performing this important mediatory role.

_Lobbying the labour-led movement to come to a compromise_

A good indication of the respect and seriousness with which the relevant legislative houses treated the movement (mainly in recognition of the mass support that it enjoyed), and of the influence that the movement wielded within the National Assembly as a result, is the fact that – as an extension of the mediatory role they played in Executive Branch/movement fuel price hike confrontations – the legislature almost always resorted to lobbying the movement (via the NLC) to come to some kind of compromise with the Executive Branch. For example, in an effort to prevent the widespread and generally effective mass action undertaken by the movement between late June and early July 2003, a large delegation of the then HoR led by Speaker Masari, the fourth highest ranking official in Nigeria, ‘sought urgent audience with the Congress [i.e. NLC] leadership at the Congress headquarters where it passionately pleaded with the Congress not to go on strike, promising [in return] to exact a concession from the presidency’ (NLC 2003). In other words, the number four official in the country came to the movement to ask for a concession, and not the other way round. Understandably touched by this gesture (especially in a cultural context in which such hierarchies tend to be accentuated), the leaders of the NLC noted, most accurately, that ‘the Speaker [and indeed the HoR] had demonstrated unusual respect for the Congress’ (NLC 2003). Another example is the fact that in the midst of this same mass action, and at the instance of then Senate President, Adolphus Wabara, the Senate leadership met with the leaders of the NLC and mostly lobbied them (without success) to call off the mass action and give them some time to
resolve the impasse between them and the Executive Branch (NLC 2003; The Vanguard 2003). Even more telling is the fact that the same Senate President and Speaker later went uninvited to an emergency meeting of the Central Working Committee (CWC) of the NLC, and while there lobbied the entire CWC to call off their mass action (NLC 2003). Here again, the influence of the movement is palpable. These were very high public officials with serious day-to-day work to do and their own electoral fortunes to cater to, who would not have devoted the considerable amount of time they did to lobbying the movement had they not thought that it was an important and meaningful effort to make.

Orienting legislative process in positive response to the movement’s struggles

Over the eight or so years covered by this study, the movement’s anti-fuel price hike struggles have often functioned as one critical factor that led the Senate and/or the HoR to modify its legislative agenda or schedule, or to initiate or orient internal processes, so as to correspond or accord more with the positions taken and demands made by the movement. This point is easily illustrated. For example, in July 2003, mostly owing to the prevailing public sentiment and the demands of the movement, the Senate and the HoR each established their own separate legislative inquiries to investigate the shootings of protesters that were allegedly carried out by the police in order to repress the June/July 2003 anti-fuel price hike mass action undertaken by the movement (NLC 2003; HRW 2003: 11–12). The relevant Senate Committee held public hearings around the country, and published findings that tended to vindicate the NLC’s allegations and demand that the inquiries be set up in the first place (NLC 2003). The relevant HoR committee also held hearings on the same matter, albeit in private (NLC 2003). This amounted in each case to a significant devotion of legislative resources and time to the matter. And the decision to conduct the inquiries and to spend as much time as the respective committees did on them was in very large measure driven by the expressed outrage of the vast majority of Nigerians on this subject – outrage that was to a great extent mobilised, generated, articulated and accentuated because of the determined and sustained efforts of the labour-led movement. Similarly, following the government/movement face-off over the October 2004 fuel price hike, the HoR formed an ad hoc committee to help resolve the matter (HoR 2004: 2).

Another way in which legislative houses in Nigeria have oriented some of their internal processes in response to the movement’s struggles is the passage of legislative motions. One such motion was passed by the HoR
under the head ‘matters of national importance’, ‘in response to the
general uproar of disaffection that greeted the [fuel price] increases’ of
June 2003 (NLC 2003). This motion could not have been passed without
the HoR orienting its regular deliberative procedures to prioritise and
devote much time to this issue, and treat seriously the threat of mass action
that the movement had issued at that time. The movement’s influence was
at play because the motion was passed and the process oriented in the
particular way it was, because of the uproar that greeted the fuel price
increases. Needless to say, that uproar was itself created in part, and ac-
ccentuated in large measure, as a result of the sustained efforts of the
movement.

Likewise, the Senate has on more than one occasion altered or modified
its agenda and schedule so as to deal with a threat or actual implemen-
tation of an anti-fuel price hike mass action by the movement. For in-
stance, in response to one such threat in June 2007, Senate President
David Mark declared at a press conference that ‘we [Senators] are actu-
ally on recess now, but we are going to have to resume as quickly as
possible, so that we can also participate in trying to appease Nigerians’
(The Vanguard 2007).

Opposing the Executive Branch’s fuel price hikes

A key indicator of the considerable measure of influence exerted by the
movement on legislative work in Nigeria is the extent to which various
contingents of lawmakers, each of which can – at the very least – be de-
scribed as very large, openly condemned almost every fuel price hike
mandated by the Executive Branch. In some cases, a majority of either the
Senate or the HoR supported the movement’s position and expressed in
solemn legislative form their opposition to the rise in fuel prices. Clearly
therefore, the logic developed and articulated on behalf of most Nigerians
by that movement, regarding the inappropriateness of the fuel price hikes,
resonated strongly within the National Assembly.

What is more, it is remarkable indeed that even many federal law-
makers who belonged to the governing People’s Democratic Party (PDP),
the same party as President Obasanjo, and who formed a very large ma-
jority in both houses of the National Assembly, at one time or the other,
expressed a measure of opposition of the Executive Branch’s fuel price
hikes. A couple of representative examples from each of the two chambers
of the National Assembly demonstrate this point. Expressing a weaker
form of opposition to the October 2004 round of fuel price hikes (ruling
party member) Senator T. Wada, then Chair of the Senate Committee on
information, ‘vowed that [if the increase is the handiwork of profiteering marketers] the Senate would give the development immediate consideration on resumption from [their] oversight break and direct a reversal through resolutions and orders appropriate to salvage the solution’ (Nwaigwe 2004). Expressing his view more strongly, Honorable Ike Chinwo, another PDP lawmaker, saw these same fuel price hikes as ‘completely condemnable’ (ibid.).

As importantly, in response to the October 2003 fuel price hike, and the threat by the labour-led movement to launch a mass action against it, the HoR (dominated as it is by lawmakers from the governing party) debated the matter and passed a strongly worded Resolution denouncing the price increase and urging that, as it was ‘concerned that the NLC has given notice of strike [i.e. mass action] unless the price [of fuel] is reversed’, fuel prices in the country should be ‘reversed to status quo ante’ (NAD 2003a: 1064). The HoR also described the impugned fuel price increases as ‘illegal’ and ‘unconstitutional’, and even went as far as condemning those state governors who helped negotiate such price increases (ibid.: 1064–5). Prior to its passage, a draft form of this Resolution was presented to the president in person by a high delegation composed of all but one member of the leadership of the House, underlining the Resolution’s importance in the eyes of the HoR (NAD 2003a: 1037).

The HoR behaved similarly in response to the October 2004 fuel price increase and the movement’s strike threat. On that occasion, it passed a Resolution calling on ‘the Executive Arm of Government and all related agencies to revert to the old prices of all refined products’, and urged ‘Labour to suspend the impending strike/mass protest’ (HoR 2004: 2). For its part, the relevant Senate Committee (2004b) held hearings on this round of fuel price hikes, and recommended that the Executive Arm should roll back fuel prices to their previous levels ‘in order to ameliorate the hardship on ordinary Nigerians’. At the very least, both resolutions reflected the positions held by the movement.

The fact that many lawmakers expressed anger over a court ruling in 2005 that purported to bar the NLC from calling out Nigerians on ‘general strikes’ only strengthens the argument (Nwaigwe 2004). Indeed, many of these legislators explicitly ‘construed this development as a confirmation of the war by the executive against the NLC over the pricing of petroleum products’ (ibid.).

It may of course be argued that, as elected politicians who must be sensitive to the widespread unpopularity of the impugned fuel price hikes, legislators could have come to the decisions they reached on their own, with little if any influence from the movement. Understandable as this
argument may seem, it is nevertheless mistaken. For one, as there is widespread consensus both within and outside Nigeria that the elections conducted in the country during the relevant period were all-too-often largely (though not completely) rigged, it cannot be simply assumed that these legislators were in all cases as sensitive to the popular mood as should be the case. Although the deep cleavages between Nigerian society, its highly independent press, and its long and peculiar tradition of broadly and mostly consensual politics (even under military rule), have meant that Nigerian politicians must still pay significant heed to the ebb and flow of popular opinion, for the popular will to prevail over a legislator’s self-interest (especially in view of the contradictory posture of a dominant presidency), the outcry against the impugned government conduct must be very loud, sustained, unified, intense, and consequential enough for these legislators to pay the kind of heed to it that they repeatedly did in the wake of the anti-fuel price hike struggles waged by the movement. The movement was the megaphone and concentrator that transformed the oppositional voices of ordinary Nigerians into such an outcry that legislators felt obliged to take notice.

Influence on the Trade Union (Amendment) Act 2005

The nature of the government’s original bill

As noted in the Report of the relevant Senate Committee (2004a), on 8 June 2004 then President Olusegun Obasanjo sent a bill to the National Assembly which sought to amend certain sections of Nigeria’s Trade Union Act of 1990 (hereafter TU Amendment Bill 2004). This bill contained a number of provisions that generated much controversy both within and without the National Assembly. Among other things, Section 3 sought to amend Section 16A of the Trade Union Act of 1990 (hereafter referred to as ‘the principal act’) in a way that would in effect have banned or frustrated strikes altogether, by providing that employers who deduct union dues from the wages of its unionised workers may only remit those sums to the relevant union if that union had agreed to a so-called ‘no-strike clause’ in its collective agreement with the employer. The relevant portion of the new Section 16A read as follows:

16A. Upon the registration and recognition of any of the trade unions specified in the Third Schedule to this Act, an Employer may – ...

(b) Pay any sum so deducted directly to the registered office of the trade union, provided that compliance with the provisions of this section of this Act shall be subject to the insertion of ‘A No Strike’ clause in the relevant Collective Bargaining Agreements between the workers and their employers.
Secondly, the bill also provided that a two-thirds majority of union members must vote in favour of a strike before a union could declare a strike (ibid.: Section 5). Again, for the avoidance of doubt, the amended Section 30 of the principal act would have included a new clause which would have read as follows: ‘(6) No trade union or registered federation of trade unions, by whatever name called shall embark on a strike action unless upon a resolution passed by at least two thirds majority of the members of the trade union or registered federation of trade unions, as the case may be, approving the strike action.’ It is noteworthy here that the two-thirds majority is not limited by requiring only the consent of two thirds of those ‘present and voting’, and as such must be taken to refer to two thirds of all the members of the union or federation of unions – a much more onerous majority to attain.

Thirdly, the bill sought to introduce an amendment to end the status of the NLC as the only official central labour union in Nigeria. Section 6 of the bill would have mandated the Registrar of Trade Unions to ‘remove from the register the Nigeria Labour Congress as the only Central Labour Organisation in Nigeria’. This provision of the bill would supposedly democratise labour unionism in Nigeria.

And lastly, among its key provisions, Section 5 of the bill proposed to introduce a new Section 30(1A), which would have conferred discretionary power on the Minister of Labour to approve the formation of federations of trade unions. In other words, the Minister could refuse to register a federation formed by a group of unions. Read in combination with the proposed mandate under the bill that the Registrar remove the NLC from the register (meaning it had to re-apply for status as one of the new federations of trade unions), this provision was sure to raise much controversy.

While the Executive Branch and its supporters variously claimed that this bill was intended to ‘entrench sanity and decent behaviour in the manner in which strikes are conducted’ (This Day 2005), or that it was introduced ‘in the same spirit of strengthening our democratic institution[s]’ (NAD 2004a: 0578), many others have not been as generous in their assessment. As recorded in the reports of such disparate bodies as the Senate Committee on Employment, Labour and Productivity, and the British Broadcasting Corporation (BBC), the widespread sense among observers of the Nigerian political scene was that the bill was designed and introduced with the principal objective of curtailing the impressive power of the movement’s main driving force (the NLC) (Senate Committee 2004a: 1; BBC 2005a). Given the nature of the contents of the bill (and the Act that was passed as a result), the movement’s largely contentious relationship
with the Obasanjo government (Dawodu.com 2003), the unusual speed with which the bill was passed into law (NAD 2004b: 0853), the timing of the bill’s introduction into the National Assembly, and the Executive Arm’s tenacity regarding its de-regulation drive in the petroleum sector (read significant fuel price hikes) (Dawodu.com 2003), there is much to be said in favour of a more sceptical reading of the government’s motives in introducing the bill.

*The labour-led movement’s resistance campaign against the bill*

In any case, whatever the Executive Branch’s true motivations were, the movement was so convinced that the bill was intended to weaken it and thereby curtail its ability to effectively challenge the Executive’s incessant fuel price hikes, that it mounted a strong resistance campaign against many key (though not all) provisions of the bill. This strong resistance to the bill took various forms. One of these was a media campaign that it launched in a bid to garner public support to its side, and to thus gain some leverage over both the National Assembly and the Executive Branch. Semi-authoritarian though its behaviour tended to be, the Obasanjo-led Executive Branch was not impervious to political pressure of the loudly expressed, widespread and intense kind (NLC 2004a; Informant 1 2004 int.). And as contentious as their claims to have won elections to the National Assembly were, federal legislators were also hardly immune to persuasion or pressure. The movement’s media campaign was so effective that the Report of the Senate Committee which studied the bill acknowledged the ‘major outcry’ that its introduction had produced across the country (Senate Committee 2004a: 1).

In line with its media campaign strategy, representatives of the movement made a number of anti-bill presentations and sent submissions to both houses of the National Assembly. In these presentations and submissions they, *inter alia*, argued against all of the aspects of the bill that have been discussed above and called on the National Assembly to expunge those clauses from the proposed legislation (Senate Committee 2004a: 4–5; NLC 2004c; Informant 9 2005 int.). The tenacity with which they pursued this particular strategy is evidenced by the fact that the NLC still sent a submission to the Speaker of the HoR even after both houses of the National Assembly had passed separate versions of the bill, and produced a harmonised version for final enactment (NLC 2004c). As might be expected, in conjunction with all of the above measures, the movement also lobbied the leaders and other members of the National Assembly to reject...
the aspects of the proposed legislation that it found offensive (Informants 1, 5 & 6 2004 interviews).

Lastly, although the movement did not exercise the option of launching a mass protest specifically aimed at pressuring and/or persuading the Executive Branch and the National Assembly to refrain from enacting the impugned provisions of the bill into law, given the many successful mass protests that had been launched by the NLC during the same period, and aware as they clearly were of the movement’s considerable success at garnering the bulk of public opinion to its side, the threat of such a mass action must have been all too real to the members of the National Assembly. What is more, as has been argued above, the movement did launch a successful media-based mass mobilisation effort, and competed for and won the hearts and minds of the vast majority of the Nigerian people (Senate Committee 2004a: 1). Indeed, as a prominent opposition senator, Olorunnimbe Mamora, noted in a speech on the floor of the Senate, by the time the bill came up for debate in the National Assembly, a credible opinion poll suggested that the vast majority of Nigerians (over 85%) had been persuaded to side with the movement in their opposition to key aspects of the bill (NAD 2004a: 0587). Given the National Assembly’s amenability to strong public pressure, this widespread discontent with the bill, evidenced by much more than this one poll, could only have affected positively the decisions taken by the Assembly to modify the bill into much less draconian form.

The nature of the final legislation as enacted

The act of the National Assembly that was passed as a result of the bill, i.e. the new Trade Union (Amendment) Act 2005, amends the principal act and allied legislation (see TU Act 1990; TU Decree 1996a; TU Decree 1996b). Differing initial versions of this act were passed by the Senate on 9 September 2004 and by the HoR on 16 December 2004 (NAD 2004b: 0856, 2004d: 0765). A harmonised version of the bill, produced by a conference committee made up of representatives of both chambers of the National Assembly, was passed by the HoR on 9 March 2005 and the Senate on 15 March 2005 (see TU Amendment Act 2005). It was assented to by the president on 30 March 2005, and came into effect that same day.

The main changes wrought by the new act were to limit the scope of the subject matter or issues over which labour unions and the NLC (or some other ‘central labour organisation’) can call a strike. It did so by distinguishing in Section 6 (which introduced a modified Section 30 of
the principal act) between what it termed a ‘dispute of right’ (that is one arising directly from a collective agreement) and what others may style a ‘dispute of interest’ (see TU Amendment Act 2005, Section 6). A dispute of right is defined in the new Section 30(9) of the principal act as ‘any labour dispute arising from the negotiation, application, interpretation or implementation of a contract of employment or collective agreement under this act or any other enactment or law governing matters relating to terms and conditions of employment.’ As such, strikes against fuel price hikes, one of the main sources of government/movement friction in Nigeria during the 1999–2007 period, are presumably now outlawed under the new act. In practice, however, the movement has not tended to interpret the new Act in this way, and has undertaken at least one mass action (with a general strike at its core) since it was enacted.

In addition, the new Act introduced a new Section 30(6)(a) into the principal Act, which effectively bars strikes in so-called essential services. It does so by requiring that ‘no person, trade union or employer shall take part in a strike or lockout or engage in any conduct in contemplation or furtherance of a strike or lockout’ if that person, union or employer is ‘engaged in the provision of essential services’. The term ‘essential services’ is defined in the Trade Disputes Act (1990: First Schedule).

Third, the new Act sets somewhat more stringent preconditions for strikes. While it eschews the much harsher two-third majority rule and ‘no-strike clauses’ desired by the government, it still requires that unless a simple majority of all union members vote in favour, no union leadership or leadership organ can declare a legal strike action. In the past, the elected national organs of labour unions or the NLC could declare and undertake strikes and other such actions. In any case, as confirmed by its official report of the debate on the bill, the Senate, fully conscious of the implications of its decision, explicitly agreed to enact a pre-strike requirement of a simple majority of all union members (NAD 2004b: 0851). This is a significantly more onerous precondition than a mere simple majority of those present and voting.

Fourth, while the new Act eschews the deregistration of the NLC in any form, it allows for the creation of other central labour organisations apart from the NLC. Sections 7, 8 and (to a much lesser extent) other clauses of the new Act modified the principal Act so as to allow the termination of the NLC’s status as the exclusive central organisation or confederation of trade unions in Nigeria, and allow for the registration of as many other entities (referred to in the new Act as ‘federations of trade unions’) as the relevant unions decide to form. While this measure could potentially
threaten and diminish the unity that generally exists at present within the labour union community in Nigeria, and thus diminish their effectiveness as a community (a motive that was credibly ascribed by the NLC and others to the Obasanjo regime), as the movement itself acknowledges, it is not undemocratic in itself to allow for multiple legal centres (NLC 2004b: 8).

And fifth, the new Act bars the picketing of airports or public highways to obstruct air or motor vehicular traffic. Section 9 of the new act amends the old Section 42 of the principal act by inserting a new sub-section 42(1B), which explicitly bars any person or union from engaging in a strike which may ‘prevent aircraft from flying or obstruct public highways, institutions or premises of any kind for the purposes of giving effect to the strike’. Damaging as it is to the NLC’s ability to leverage a complete shut down of the economy in its campaigns against the government, this provision is not altogether unreasonable.

In conclusion, as the new Act differs in a number of significant respects from the original bill introduced into the National Assembly, it is important to map and analyse as clearly and precisely as possible the impact that the efforts of the movement to resist aspects of the bill had on the content of the final act.

The impact of the labour-led movement on the content and tone of the final legislation

The movement exerted considerable, if limited, influence on the content and overall tone of the new Act. Under great pressure from the movement (Senate Committee 2004a: 1), the National Assembly modified and toned down quite significantly the original bill’s much harsher proposals. The three major but highly consequential amendments that the National Assembly made to the original bill were as follows: it expunged the Executive Arm’s proposal to ban strikes altogether; it reduced the number of votes required for a union to declare a strike from a two-thirds to a simple majority; and it expunged the mandate that the bill would have imposed on the Registrar of Trade Unions to deregister the NLC as the only central labour organisation in Nigeria (Okafor 2007: 85).

With regard to the government’s original proposal to outlaw strikes, this was roundly rejected both by the Senate Committee that studied the original bill and by the full Senate itself (Senate Committee 2004a: 7; NAD 2004b: 0849). In rejecting it, the Committee noted that ‘there is no need for a no-strike clause’ in the collective agreements that unions sign with employers (Senate Committee 2004a: 7). This provision was also rejected by the HoR (NAD 2004d: 0737–43). In articulating the basis for
the similar rejection of this provision by the HoR, Honourable Uche Onyeagocha declared:

Mr. Chairman, I am strongly arguing against that because the inclusion of the *no strike clause* in that sub-section is completely a violation of the Constitution, which allows for the freedom of expression and it would be wrong for us to allow for the inclusion of a clause which is a violation of the Constitution already. So I propose that the insertion of the “*no strike clause*” be removed.

The rejection of this clause by the National Assembly had much to do with the explicit and intense campaign launched by the movement against its inclusion in the original bill. For instance, in their submissions to the Senate Committee, the NLC and its allies in the movement explicitly urged the Senate to preserve the right to strike (Senate Committee 2004a: 5). This is exactly what the Senate did. But did the Senate do what it did *because* of the labour-led movement’s pressure and/or persuasion? While it is difficult to map a direct chain of causation that leads from the movement’s struggles to the National Assembly’s decision, the struggle of the movement to retain its legal strike powers was definitely one critical (even pivotal) factor that shaped that decision. For, acting as it did against the wishes of a dominant Obasanjo presidency, to which external pressure point other than the movement could the National Assembly have been responding? While the personal convictions and political interests of many parliamentarians (some of whom were known human rights activists and opposition figures) did of course play some role in the National Assembly’s decision-making process, it is clear that the intense external stimulus provided by a largely pro-movement Nigerian public was a critical factor in shaping the National Assembly’s decision. There is in addition explicit evidence for this conclusion. Henry Ugbolue, then spokesperson of the Senate, put it beyond reasonable doubt when he declared publicly that ‘the Senate is yielding to the demand of labour by amending certain original demands made by the president’ (BBC 2004).

With regard to the National Assembly’s reduction of the majority needed to declare a strike from a two-thirds super majority to a simple majority, the NLC and its allies in the movement had made arguments to the National Assembly suggesting that this requirement should be expunged as being, at the very least, inappropriate and impractical (Senate Committee 2004a: 5). The Senate Committee recommended that the Senate expunge the ‘two-third majority rule’ and replace it with ‘majority rule’ (*ibid.*, Annexure 2: 6). The full Senate accepted this recommendation in principle, and clarified the majority rule requirement to mean a ‘simple majority’ of all the registered members of the relevant union or federation.
of trade unions (NAD 2004b: 0850). In response to a question from a resistant ruling-party Senator, the Senate Leader confirmed this interpretation (ibid.: 0851). And this view prevailed in the voting that ensued. Here, as disempowering to the movement as the agreed and enacted rule is, the significance of the impact that the movement’s struggle against this provision had on the reasoning and action of the National Assembly is denoted by the fact that the rule was even toned down at all. What it more, it is far easier to attain a simple majority than to garner a two-third positive vote.

As is evident from the discussion in the last paragraph, the significant alteration to the original bill that occurred in the current connection was owed in large measure to the effective resistance campaign mounted by the movement (BBC 2004). Given the explicit acknowledgement of this fact by the then spokesperson of the National Assembly, very little room remains for doubt.

Concerning the National Assembly’s rejection of the mandate which would have been imposed on the Registrar of Trade Unions to deregister the NLC as the only central labour organisation in Nigeria, the NLC and its allies in the movement had made arguments to the National Assembly which suggested that ‘the removal of the NLC from the register would amount to [the] proscription of the organisation’ and that ‘it was not necessary to remove the NLC from the register in order to register and recognise other central labour organisations’ (Senate Committee 2004a: 4). The National Assembly followed the course of action implied by this argument, and authorised the recognition of other central labour organisations without the removal of the NLC from the register (e.g. ibid.: 8; NAD 2004b: 0849). Indeed, Bassey Ewa Henshaw, Chair of the relevant senate committee, left no room for speculation about this point when he noted in presenting his committee’s report to the full Senate that ‘the implication is that the Nigeria Labour Congress, which is presently the central labour organisation, does not have to die’ (NAD 2004a: 0581). Here again, it is quite clear that, in amending the relevant sections of the original bill in the stated way, the National Assembly was largely (though not entirely) responding to the efforts of the movement to persuade and/or pressure it in that direction.

But, as we have seen already, the movement’s campaign against key aspects of the original bill did not in each and every case influence or adequately impact the content of the final Act. For example, strikes against fuel price hikes are presumably now formally outlawed under the new Act (TU Amendment Act 2005: Section 6). Also, ‘essential workers’ are barred from ever declaring a strike (ibid.). Again, no union can declare a strike unless a simple majority of all union members vote in favour (ibid.).
movement actively campaigned against virtually all of these aspects of the proposed legislation, but obviously failed in its effort to get the National Assembly to reject them.

On the whole, it is important to understand that despite these few failures to get the National Assembly to toe its line, the extent and significance of the influence which the movement exerted on the content and tone of the Act that finally emerged from the original bill can only be described as considerable and impressive. The movement could scarcely have been able to achieve this had its more general anti-fuel price struggle, reputation for dogged resistance, and mass appeal, not impressed and impacted the National Assembly in a significant way. As an important labour activist correctly put it, ‘our influence … led to it [the Bill] being toned down’ (Informant 10 2005 int.).

The high significance of the movement’s accomplishments in this regard becomes even more palatable when the tenacity of the Obasanjo government’s resolve to pursue the neo-liberal reform agenda that the movement so strongly opposed (one which led to that government’s strident efforts to weaken it) is introduced into the picture. In a telling 2003 broadcast to Nigerians, President Obasanjo had angrily expressed ‘deep concern over the conduct of the Nigeria Labour Congress’ in strongly opposing his government’s petroleum deregulation measures, and had forcefully indicated his ‘Government’s resolve to ensure that the ongoing reform agenda remains on course’ (Dawodu.com 2003). Thus, the remarkable fact is that the movement enjoyed the afore-discussed successes in a context in which a palpably strong (even semi-authoritarian) executive branch was determined to weaken a popularly backed movement’s ability to obstruct or slow down a reform agenda to which the government was strongly committed.

However, the tenor of the discussion in this section of the article leads inexorably to two questions that get at the reasons for the limited nature of the admittedly considerable impact of the movement’s resistance campaign in both connections. What factors facilitated the movement’s influence on legislative work? And what factors militated against the movement’s ability to enjoy more success? These two separate, if related, questions are tackled in the next two sections, albeit only in outline.

FACTORS THAT FACILITATED THE LABOUR-LED MOVEMENT’S INFLUENCE

Viewed in the context of the two examples of the movement’s influence that have been discussed, the main factors that facilitated the movement’s impact on legislative work in Nigeria from 1999 to 2007 include the following.
First, the fact that the semi-democratic character of the Obasanjo regime and the deep diversity of the Nigerian body politic still allowed some space for oppositional politics was an important factor that aided the movement’s ability to influence the National Assembly. Yet it took a strong and skilled NLC leadership to take the movement from the relatively troubled state in which it languished by the end of the infamous Abacha military regime in 1998, and elevate it to the comparatively dizzying heights it eventually attained. Clearly, the quality of their leaders has, over time, been an important factor that has shaped the performance of such movements in Nigeria (Abimbola 2002: 43–4). What is more, the well-known fact that the NLC had enjoyed a long socio-political career as an organisation and had accumulated a very long experience of action for social change contributed to its effectiveness (Turner & Brownhill 2004: 79). Another facilitative factor was the movement’s broad organisational unity in struggle, especially its strategy of coalescing around an NLC core – a factor that was well recognised by the government (Senate Committee 2004a: 4).

As importantly, the prevalent social context of mass poverty and the popular resentment that it has bred meant that the vast majority of Nigerians were ‘ripe for mobilisation’. The movement’s implicit pro-poor and pro–socio-economic rights message resonated deeply among the ranks of ordinary Nigerians. As such, most Nigerians also identified with the movement’s struggle to protect itself against the Executive Branch’s efforts to weaken it (see BBC 2000; The Vanguard 2005). This, in turn, put much pressure on the National Assembly.

For the most part, the widespread support enjoyed by the movement and its consequent legislative influence could not have been produced in as significant a measure were it not for the fact that it tended to function in a mass social movement mode (as defined earlier). This is now well recognised in the literature (e.g. Olowu 2006: 144). The fact that the movement operated in this mode allowed it to reduce the social distance that might have existed between it and most Nigerians; find and focus on messages that deeply resonated with the average Nigerian; and mobilise so many of them that both the National Assembly and the Executive Arm were, to some extent, forced to heed its message. Recognising the reality of the movement’s mass social movement character, President Obasanjo even went as far as to pillory the NLC for its efforts to ‘mobilise all Nigerians’ (Dawodu.com 2003). As the person who wears the shoe knows where it pinches, Obasanjo was clearly pointing at the characteristic of the movement that stung his government the most.
Several factors militated against the movement’s greater success. First, the ever increasing frustration within the Obasanjo presidency regarding the movement’s use of its derived political leverage to obstruct the implementation of the government’s reform agenda drove the presidency’s behaviour. For example, Obasanjo declared in a national broadcast that ‘it is noteworthy that every step taken to deregulate the downstream oil sector has been dogged by, sometimes, irresponsible opposition by the Labour Congress. The result has been that we took too little steps to achieve no meaningful and satisfactory progress’ (Dawodu.com 2003, emphasis added). This frustration led to a determination within that regime to act in various ways to curtail labour’s power to force the government’s hand. This point requires little further adumbration here. Suffice it to point to the testimony of the then Minister of Labour before the relevant Senate Committee, in which he listed as one key reason for the Executive Branch’s introduction of the bill into the National Assembly the government’s perception that

the NLC sometimes became [sic] and tended to hold the entire country to ransom. Therefore the amendments [i.e. the Bill] sought were to create the opportunity for other central labour organisations to exist and to reduce the frequency of strikes [i.e. anti-fuel price hike mass protests] and the attendant negative effects on the nation.

Senate Committee 2004a: 4

The retention of the anti-Labour clauses that survived from the original bill is traceable in part to the fact that many members of the National Assembly shared this sense of frustration. Even the NLC leadership conceded this point, perhaps in part because it was fairly clear to its leadership that it could not win on this particular issue (ibid.: 4).

Another factor that militated against the optimisation of the movement’s success in the relevant respects was the fact that the ruling party also enjoyed an overwhelming majority in the National Assembly. Given that almost all opposition legislators tended to take sides with the movement, had the opposition parties held more seats in the National Assembly, the movement would probably have been even more successful than it was in exerting influence within that body.

A more important factor that limited the extent of the impact achieved by the movement was that, on the balance, the Executive Branch tended to dominate the National Assembly in terms of bringing pressure to bear on its members to toe the party line. While the Executive Branch deployed
more carrots than sticks to achieve this end, they did not hesitate to use sticks as well. The fact that the Executive Branch got the National Assembly to fast track the bill through the legislative process is another indication of the strength of its influence (NLC 2004b: 2 and 12). The relevant Senate Committee took only about six days to study the bill and report back to the Senate, a remarkably short timeline given the overall record of the National Assembly (NAD 2004a: 0596–7). Even so, the Senate President had originally asked the committee to report back in only 2 days (ibid.). The following tongue-in-cheek statement on the Senate floor by a rebellious ruling party senator, Uche Chukwumerije, indicates the widespread scepticism that greeted this extraordinarily swift passage of the bill. In his words, ‘Mr. Chairman, I congratulate you and the Senate in setting a record today. This might be one of the fastest Bills that have been passed in history and I hope history will justify us’ (NAD 2004b: 0853). The National Assembly was definitely under pressure to quickly pass this bill.

As importantly, the repressive tactics too often employed by the Obasanjo government in seeking to crush or diffuse the movement’s mass actions meant that the movement was on a few occasions a little more hesitant to launch the kinds of protest from which it derived much of its leverage (Okafor 2007: 80–5). This could not but have hindered its ability to exert influence on the National Assembly, at least on some occasions.

And lastly, strong and concerted external pressures were imposed on the Obasanjo government by key international economic power centres (such as the Bretton Woods Institutions). These pressures ensured that the regime tenaciously pushed ahead with the very economic reform agenda (e.g. fuel price increases) that had put it on a collision course with both the highly popular movement and the vast majority of the Nigerian people. As a result, the Executive Arm developed a determination to weaken the movement (the glue that held together and hardened the popular resistance to its agenda).

This article has demonstrated that, during the period under study, a labour-led movement has exerted considerable, albeit limited, influence on legislative work in Nigeria. Largely as a result of this movement’s struggles, the National Assembly was moved to mediate the fuel price hike dispute between a dominant Executive Branch and the movement; lobby the movement repeatedly to come to a compromise with the Executive Branch regarding the fuel price dispute; re-orient some of its legislative
processes; explicitly oppose almost all of the Executive Arm’s fuel price hikes; and tone down considerably the anti-labour edge of a trade union bill.

In its drive to achieve these contextually difficult objectives, the movement was strengthened by its pro-poor (and thus highly popular) anti-fuel price message and struggle; its ownership and broad control by average working people; its internal democratic structure; its strong leadership; its long experience of action for social change; its relative unity; its national geo-political location; its self-funded character; and its mass mobilisation/mass action mode of struggle. The movement also took advantage of the reasonable measure of political space that existed in Nigeria’s quasi-democratic clime, and the widespread socio-economic discontent that pervaded the country. These characteristics and approaches helped the movement to win the support of the vast majority of the Nigerian people and, in turn, to acquire the political leverage that it needed in order to persuade and/or pressure the National Assembly, in significant measure, to orient its work in the direction desired by the movement.

As is evident from this discussion, the mass social movement character exhibited by the labour-led movement was the pivotal factor that facilitated its ability to influence the National Assembly during the period under study. Similarly situated movements will of course do well to learn a thing or two from this insight.

NOTES
1. Modelled after the US Congress, the National Assembly of Nigeria is composed of a Senate (the upper house) and a House of Representatives (the lower house). For more information on the nature of the National Assembly, see National Assembly (website).

2. Space and the necessity to avoid repeating a detailed analysis that has been done elsewhere does not allow more detailed argument here regarding the way in which the anti-fuel price hike struggle is a rights struggle. For more on this point see Okafor (in prep.).

3. See NLC Profile 2008; for an analogous conclusion stemming from a study of a labour-led movement that operated in an earlier epoch in Nigeria see Onyeonoru & Aborisade 2001: 44–63.

4. The other confederation of labour unions in Nigeria, the Trade Union Congress (TUC), is composed of senior staff unions, as opposed to the junior staff unions who constitute the NLC. See TUC website.

5. Even state lawmakers from ruling party (PDP)-controlled state legislatures often expressed opposition to the Federal Government’s fuel price hikes. For example, the PDP-controlled Delta-State House of Assembly condemned the October 2003 round of fuel price increases and urged the HoR to investigate it. See NAD 2003b: 1243.

6. Given Udombana’s argument that a right to form and join trade unions may be implied in the guarantee of the right to freedom of association under Article 10 of the African Charter on Human and Peoples’ Rights, and the fact that Section 40 of the Nigerian Constitution explicitly guarantees this right, this right may be said to exist in Nigeria. If that is so, it could be argued that, as a corollary, the right to strike also exists under both normative documents. See African Charter (1981); Constitution of Nigeria (1999). See also Udombana (2006: 191–2).


Confidential interviews


