



# HR Professionals and Employment Legislations in Nigeria

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# Introduction

I have sat in a number of classes with HR Practitioners and have noticed how we have passed on the responsibility of knowing about employment legislations to Lawyers solely because we assume that everything in the domain of law belongs to the Lawyers.

I have facilitated a number of learning and development sessions where HR practitioners lament how they are in court over things that should have been easily resolved but for their lack of involvement and inadequate knowledge in employment legislations.

My goal in this piece **is to point the HR Professional to the sources of Employment Legislations in Nigeria.** These sources become the focal reference point in drafting and documenting corporate policies that bother on people management.



# Source 1: The 1999 Constitution of the Federal Republic of Nigeria (amended)

Chapter 2 of the constitution covering the Fundamental Objectives and Directive Principles of State Policy is one of the portions of the constitution that holds employment rights and protection. More specifically is Section 16, Subsection 2d states that:

"The State shall direct its policy towards ensuring: that suitable and adequate shelter, suitable and adequate food, reasonable national minimum living wage, old age care and pensions, and unemployment, sick benefits and welfare of the disabled are provided for all citizens."

Furthermore, Section 17, Subsection 3 reads:

**"(3) The State shall direct its policy towards ensuring that – (a) all citizens, without discrimination on any group whatsoever, have the opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment; (b) conditions of work are just and humane, and that there are adequate facilities for leisure and for social, religious and cultural life; (c) the health, safety and welfare of all persons in employment are safeguarded and not endangered or abused; ... (e) there is equal pay for equal work without discrimination on account of sex, or on any other ground whatsoever;"**

It is pertinent to note that the constitution also made provision for a special court, the National Industrial Court of Nigeria, to have jurisdiction over employment related matters as given in Section 254C of the Constitution.



## Constitutional Framework for Employment Rights

### Section 17, Subsection 3

Guarantees equal opportunities and fair conditions

### Section 16, Subsection 2d

Ensures basic needs like shelter and food

### Section 254C

Establishes the National Industrial Court

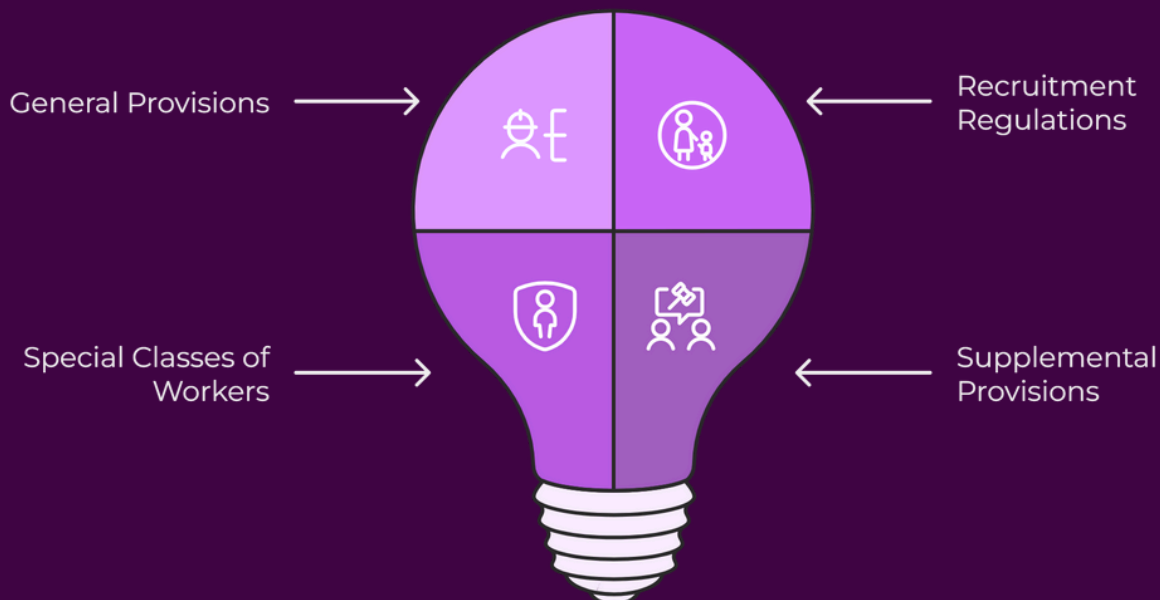


## Source 2: The Labour Act

An abstract from the Labour Act reads,

"Provides comprehensive legislation on conditions of work and employment. Part I sets out general provisions relating to wages, contracts and terms of employment. Employers shall not advance more than one month's wages to an employee (s. 4). Section 8 requires that workers entering a contract be medically examined at the employer's expense. Section 20 governs redundancy. Part II regulates recruiting, including the licensing of recruiters (s. 25), and the right to be accompanied by family (not exceeding 2 wives) (s. 34). Part III relates to special classes of workers, including apprentices (ss. 49-53), women (ss. 54-58), and young persons (ss. 59-64). In general, women and young persons are prohibited from performing underground and night work. Section 73 prohibits forced labour. Part IV contains supplemental provisions relating to administration and the settlement of disputes. Section 90 repeals the Labour Code Act."

### Overview of the Labour Act



## Source 3: Federal and State Laws

These sources are limited to enacted laws by the relevant legislature at both national and state level. The HR Professional should be concerned with laws covering Labour and Employment, Pensions, and Compensation amongst other things.

Examples of these laws include:

1. Trade Disputes Act (2004)
2. National Housing Fund Act (2004)
3. National Health Insurance Scheme Act (2004)
4. Industrial Training Fund Act (2004)
5. Factories Act (2004)
6. Trade Unions Acts of 2004 as amended in 2005
7. Personal Incomes Tax Act of 2004 as amended in 2011
8. National Industrial Court Act (2006)
9. Employees' Compensation Act (2010)
10. Nigerian Oil and Gas Industry Content Development Act (2010)
11. Nigeria Data Protection Regulation 2019 as issued by the 12. Nigerian Information Technology Development Agency Finance Act (2021)
13. Several State Laws on several issues pertaining to Labour and Employment



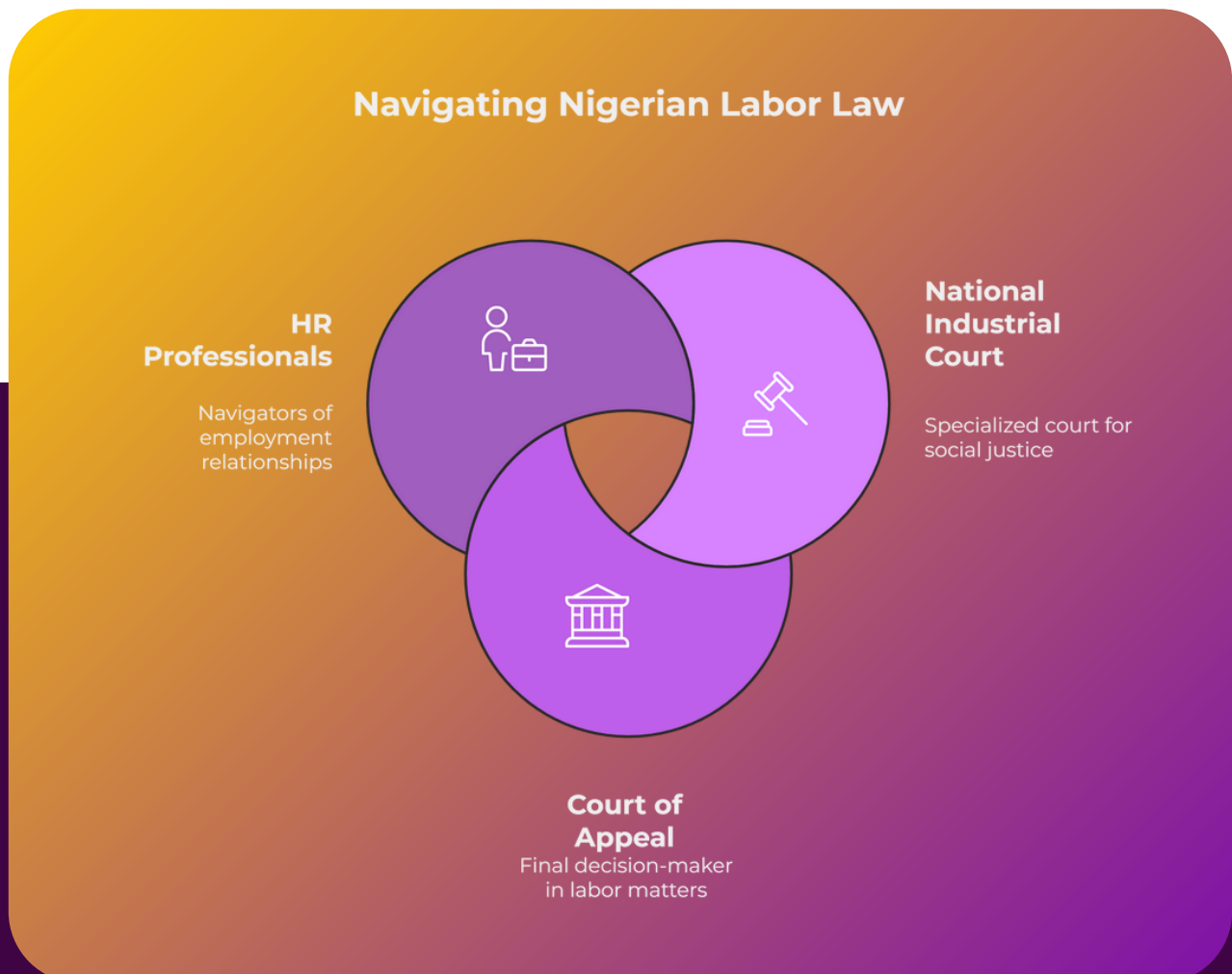
# Source 4: Decisions Of the Courts in Nigeria - Case Laws

**The National Industrial Court of Nigeria:** The National Industrial Court of Nigeria is a specialized superior court of record of dispensing social justice, dedicated to administering justice in an equitable impartial and timely manner. In accordance with the rule of law and by fostering public trust, understanding and confidence. It provides the public and other agencies it serves with an accessible, safe, respectful environment in which to conduct business and resolve disputes.

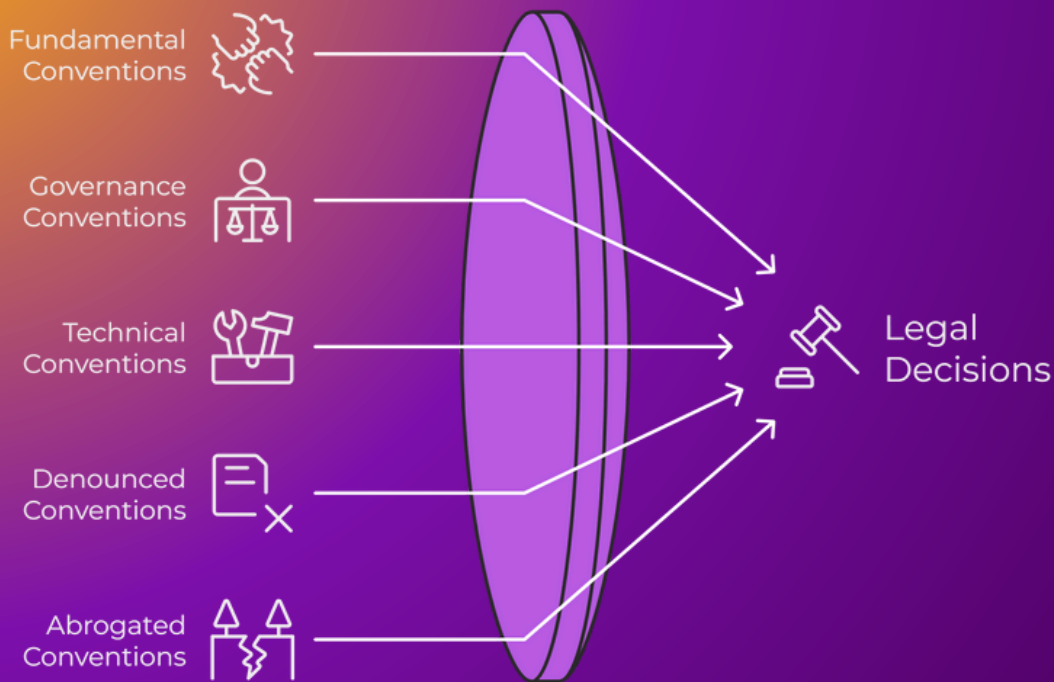
The Court aims at promoting industrial harmony through a timely, but fair resolution of disputes arising from industrial relations in a flexible, expedient, reliable and affordable manner thereby providing the enabling environment for the nation's industrial development and economic growth.

**Court of Appeal:** The Supreme Court of Nigeria has ruled that the decision of the Court of Appeal on Labour and Employment matters remains final.

The foregoing suggests that HR Professionals must become aware of the decisions of these courts as they navigate employment relationships within their organizations.



## International Treaties in Nigerian Law



## Source 5: International Conventions, Treaties, and Protocols related to Labour and Employment matters already ratified by Nigeria

It is important for every HR professional to know that whether or not a treaty has been domesticated, it stands as a veritable reference for legal decisions provided Nigeria has ratified it. There are many decided cases of the National Industrial Court based on this premise.

Nigeria has ratified 40 conventions of the International Labour Organization. Of the 10 Fundamental Conventions, Nigeria ratified 9. Under the Governance Conventions, Nigeria ratified 2 of 4. In the Technical Conventions category, Nigeria ratified 29 of 176. Only 26 of the 40 conventions are in force because 5 have been denounced and 8 have been abrogated. (See references for link to full conventions)

# HR Policy Formulation vs Employment Legislations

As HR Professionals continue to ensure they keep their organizations out of court, necessity is laid on them to ensure alignment of internal corporate policies with these legislations.

It is not enough to comply with local (state), and national (federal) laws, one must be conversant with recent judgements of the relevant courts on employment matters and ensure to keep tabs with treaties being entered into by the government of Nigeria.

One of the focal points of reference before approving or recommending any policy for approval by management is an alignment check with these laws.

HR has a responsibility of ensuring clarity that is void of ambiguity when designing her policies. There is a rising trend of employees seeking leave to mourn their pets (See SHRM Reference). HR cannot be blind to these trends as they discharge their assignments.



# Final Word

HR Practitioners may wonder what then should be deemed as important of all the functions of the Human Resources Department when Employment Legislations seem to be so exhaustive. I recommend that HR Departments have a Research and Development Unit within it that keeps tabs on these emerging laws and the decisions coming from the courts.



## Links to Referenced Articles

1. Employment Rights and Protection, Constitution of the Federal Republic of Nigeria 1999, as amended to 2018, <https://constitutions.unwomen.org/en/countries/africa/nigeria?provisioncategory=c5a0e20456084261933d9aff41ce59e>
2. The Nigerian Labour Act, [https://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=42156](https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=42156)
3. Employment & Labour Laws and Regulations in Nigeria <https://iclg.com/practice-areas/employment-and-labour-laws-and-regulations/nigeria>
4. Judgements of the National Industrial Court of Nigeria. <https://nicn.gov.ng/judgement?page=20>
5. National Industrial Court of Nigeria. <https://nicn.gov.ng/>
6. Ratifications for Nigeria. [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200\\_COUNTRY\\_ID:103259](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:103259)
7. Grieving a Pet's Death: Should Workers Get Time Off <https://www.shrm.org/resourcesandtools/hr-topics/employee-relations/pages/grieving-a-pets-death-should-workers-get-time-off.aspx>



## Profile for Nathan Leadgate

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### Our Principal

Everything we do is centered on empowering people and organisations with the appropriate capabilities and strategies to succeed.

**Dr. Olumuyiwa A. Oludayo**



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