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The Desirability of Conferring Criminal Jurisdiction on Industrial Courts: An Appraisal of the Nigerian Experiment

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Abstract
The conferment of jurisdiction on industrial relations courts has often faced stiff oppositions in many jurisdictions, Nigeria inclusive. This paper appraises the provisions of the 1999 Constitution of Nigeria conferring the National Industrial Court of Nigeria with criminal jurisdiction within the context of the controversies trailing them. It finds that the controversies are informed by a combination of misapprehension of these provisions, the defects inherent in them, and sheer subjective bias. It employs the principles of interpretation to show how to correctly interpret these provisions. It identifies some pitfalls and suggests measures to rectify them. Drawing from international sources, it posits that conferring industrial courts with exclusive and composite civil and criminal jurisdiction better promotes the ideals for which they are established. Primary and secondary sources are used. The primary source is made up of the 1999 Constitution of Nigeria, local statutes and cases, while the secondary source is made up of journal articles, books, the Internet, foreign statutes and cases. These materials are subjected to textual and comparative analysis.
Keywords: industrial court, labour court, industrial relations, employment, criminal jurisdiction, exclusive jurisdiction.

1. INTRODUCTION

Nations all over the world have felt the need to continually intervene in matters of employment and industrial relations. These constant interventions have crystalized in the emergence of employment and labour courts in many nations with varied jurisdictions. These statutory interventions have not always gone without some opposition.[1] The most recent statutory intervention in Nigeria is the Constitution (Third Alteration) Act, 2010 (hereinafter 'Third Alteration Act'). It altered the Constitution of the Federal Republic of Nigeria 1999 (hereinafter '1999 Constitution') by reestablishing the hitherto National Industrial Court (NIC). The reestablished Court is now christened the 'National Industrial Court of Nigeria' (NICN). It also conferred the NICN with composite civil and criminal jurisdiction.[2] Just like in other nations, some aspects of the new jurisdiction of the NICN have been trailed with controversies. These controversies are mainly centred on its criminal jurisdiction,[3] right of appeal against its decisions[4], and its power to review arbitral awards.[5] This research is however limited to the controversies surrounding its criminal jurisdiction. Opposition to the criminal jurisdiction of the NICN ranged from the contention that granting it criminal jurisdiction would turn it into a leviathan with power to entertain all manners of criminal causes, thereby encroaching on the jurisdiction of other Courts,[6] to the contention that, this would becloud the objective of the NICN as a specialized Court.[7] It is also felt that the NICN would do better if its jurisdiction were limited strictly to trial of civil causes.[8]

The objective of this paper is to examine the substance of these criticisms and show whether or not they have merits. The research shows that the basis of these criticisms stems partly from a misapprehension of the provisions conferring the NICN with criminal jurisdiction, misconception about the objective of conferring the NICN with criminal jurisdiction, and partly too, from the inherent clumsiness of the provisions conferring it with

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* The views expressed in this article are, in their entirety, my personal and unofficial views.
[1] Stephen Adler, '*The Israel Labour (and Social Security) Courts – Do they have a Future*?' at http://stephen-adler.com/german.htm (accessed 2 Aug. 2012). See also Emmanuel Kodzo-Bediaku Ntumy (2016) '*Labour Dispute Resolution in Botswana: between Labour Courts and Collective Judicial Responsibility*', *Global Journal of Human-Social Science* (F) Vol. XVI, Issue II, Version 1, 57–63, particularly at 63; and Offornze D. Amucheazi Paul U. Abba (2013) *The National Industrial Court of Nigeria: Law, Practice and Procedure*, (www.wildfirepublishinghouse.com: Wildlife Publishing House), 43–44.
[2] S. 254C–(1)(L)(iii) and 254C-(5) of the 1999 Constitution [as altered].
[3] L.H. Gummi (June 29 2011) '*National Industrial Court: Powers and Jurisdiction*', delivered at the National Judicial Institute. See also Bamidele Aturu (2013) *Law and Practice of the National Industrial Court* (Lagos: Hebron Publishing Co. Ltd), 50.
[4] *Ibid*.
[5] *ibid*.
[6] *Ibid*.
[7] *Ibid*.
[8] *Ibid*.

criminal jurisdiction and, sheer subjective bias. The research also agues in support of continued retention of the criminal jurisdiction of the NICN, and that, it is even necessary too, to confer it with exclusive criminal jurisdiction on industrial relations offences just like its exclusive civil jurisdiction. Drawing from international sources, it shows that other nations have experimented with exclusive and composite civil and criminal jurisdiction with success. The treatise however recognizes the fact that it is necessary to amend the 1999 Constitution in order to straighten out some identified pitfalls militating against the criminal jurisdiction of the NICN. The research, in essence, re-examines the provisions of the 1999 Constitution [as altered] conferring criminal jurisdiction on the NICN, with a view to elucidating them and thereby removing any ambiguity contained therein, and offering suggestions for improvement. The work, by its very nature, demands extensive textual analysis of the relevant provisions of the 1999 Constitution [as altered] within the context of comparative analysis. It therefore relies on both primary and secondary sources. The primary source is made up of the 1999 Constitution, municipal case laws and statutes. The secondary source is made up of journal articles, books, foreign statutes and case laws, and the Internet.

2. THE CRIMINAL JURISDICTION OF THE NATIONAL INDUSTRIAL COURT OF NIGERIA

Hitherto, the NICN had been a Court of only civil jurisdiction until 2011 when the Third Alteration Act amended the 1999 Constitution and conferred it with criminal jurisdiction and powers. Broadly speaking, the criminal jurisdiction and powers of the NICN is traceable to three sources within the 1999 Constitution [as altered]. The first of these is section 6(6)(a) of the 1999 Constitution [as altered], which says, 'The judicial powers vested in accordance with the foregoing provisions of this section – (a) shall extend, notwithstanding anything to the contrary in this Constitution, to all inherent powers and sanctions of a court of law'.

One of the inherent powers of superior courts of record in Nigeria is the power to punish all forms of contempt:[1] *facie curiae* and *ex-facie curiae* or civil contempt. All types of contempt are criminal offences.[2] NICN is by virtue of section 6(5)(cc) of the 1999 Constitution [as altered] one of the superior courts of record in Nigeria and thus, automatically partakes of this power from the commencement of the Third Alteration Act. The second source is the jurisdiction conferred on the NICN by section 254C–(1)(L)(iii) and the third is section 254C–(5) of the 1999 Constitution [as altered]. Though, it will not be correct, in the real sense of the word 'jurisdiction', to say section 6(6)(a) of the 1999 Constitution confers the NICN with criminal jurisdiction, as what it really does, is to invest it with inherent powers to punish for contempt: a criminal offence.[3] The implication of this is that, since inherent powers are activated by assumption of jurisdiction, the power to punish for contempt under section 6(6)(a) of the 1999 Constitution could only be used corollary to the Court's assumption of jurisdiction over a particular subject matter on which it has jurisdiction. Thus, if it has no jurisdiction on a matter, it cannot exercise the power to punish for contempt,[4] except when in the process of determining if it has jurisdiction and as such, still seised of jurisdiction on the matter.[5] Otherwise, the fine distinction between jurisdiction and inherent powers applies.[6]

The criminal jurisdiction of the Court under section 254C–(1)(L)(iii) and 254C–(5) of the 1999 Constitution [as altered], is one of substantive jurisdiction, as distinct from power. It is therefore jurisdiction properly so-called, and cannot be activated *suo motu* by the Court as could be done in contempt *facie curiae*. Filing of suits over which the NICN has jurisdiction is the only means by which it could be activated. For the NICN to exercise jurisdiction under these sub-sections, the offences must therefore be created under specific statutes,[7] meaning section 36(12) of the 1999 Constitution must be fully complied with, unlike contempt of court, which is the only common law offence retained as exception to section 36(12) of the 1999 Constitution.

Then, it is necessary to point out at this juncture the subtle, but very important distinction between the criminal jurisdiction conferred on the Court under section 254C–(1)(L)(iii) and the one conferred under section 254C–(5) of the 1999 Constitution [as altered]. Section 254C–(1)(L)(iii) provides that 'such other jurisdiction, civil or criminal and whether to the exclusion of any other court or not, as may be conferred upon it by an Act of the National Assembly'. It is obvious that the NICN is thereby given the benefit of enjoying additional jurisdiction in both civil and criminal causes, aside those already conferred by the 1999 Constitution [as altered] via an ordinary Act of the National Assembly (NASS). The jurisdiction, as it is, could be best described as

[1] S. 6(6)(a) of the 1999 Constitution [as altered].
[2] *Agu & Ors. v. Anyalogu & Ors*. (2001) LPELR–5724 (CA) 17–18, paras A–B; and *Omoijahe v. Umoru & Ors*. (1999) LPELR–2645 (SC) 11, paras F–G.
[3] *Agbachom v. The State* (1970) LPELR–223 (SC) 14, para. B.
[4] *Group Danone & Anor. v. Voltic (Nigeria) Ltd* (2008) LPELR–1341 (SC) 21, paras B–D, and *Obeya v. FBN PLC* (2010) LPELR–4666 (CA) 16, paras C–F.
[5] *Ebhodaghe v. Okoye* (2004) LPELR–987 (SC) 20-21, paras F-G; and *Dangote v. AP Plc & Ors* (2012) LPELR–7974 (CA) 32 – 37, paras A–C.
[6] *Ajomale v. Yaduat* (No. 1) (1999) 5 SCNJ 172.
[7] S. 36(12) of the 1999 Constitution.

prospective. Until activated by a statute, it remains latent. Thus, it would appear that, it is only section 254C–(5) of the 1999 Constitution [as altered] that, for now, directly conferred criminal jurisdiction on the NICN. Section 254C–(5) provides:

> The National Industrial Court shall have and exercise jurisdiction and powers in criminal causes and matters arising from any cause or matter of which jurisdiction is conferred on the National Industrial Court by this section or any other Act of the National Assembly or by any other law.

From the verbiage of this section, it is clear that the criminal jurisdiction conferred is an immediate one from the inception of the Third Alteration Act, so far the crime in question arises from a civil cause on which jurisdiction is already conferred on the NICN by section 254C or any other Act of the NASS or by any other law. This means that once a statute confers the NICN with civil jurisdiction, it does not matter if another court is thereby given jurisdiction over criminal offences created in the statute, the NICN would have jurisdiction over those criminal offences too. This leads to the question whether the criminal jurisdiction conferred on the NICN is exclusive or concurrent, and what its latitude is.

2.1 The Nature and Latitude of the Criminal Jurisdiction of the National Industrial Court of Nigeria

Since the research has arrived at the conclusion that the NICN has criminal jurisdiction on any offence created in any statute over which the it has civil jurisdiction, it follows that the status of those industrial relations Acts which cede criminal jurisdiction over the offences created to different courts must be examined. In line with the fact that the NICN is given exclusive jurisdiction by section 254C, it might be tempting to argue that it also, by that virtue, has exclusive jurisdiction on the criminal causes over which it has jurisdiction. But a very careful examination suggests that this view is fallacious. Section 254C, in its opening sentence, clearly manifested that the Court only has exclusive jurisdiction over civil matters, for it says, 'Notwithstanding…the National Industrial Court shall have and exercise jurisdiction to the exclusion of any other court in civil causes and matters…'. In creating its criminal jurisdiction, the Constitution did not mention that exclusivity of jurisdiction is extended to it. It follows that the NICN only has exclusive jurisdiction on civil matters and not on criminal matters. The express mention of one thing is the exclusion of those not mentioned.[1] That this line of reasoning is correct was confirmed by the Court of Appeal while interpreting section 251–(3) of the 1999 Constitution, which confers the Federal High Court with similar criminal jurisdiction. It emphatically held in *Momodu v. The State*[2] that the Federal High Court is conferred only with concurrent criminal jurisdiction with other courts. Towing this line, the NICN only has concurrent criminal jurisdiction with those of other courts on the offences created in the relevant employment and labour statutes.

However, the prospective provisions of section 254C–(1)(L)(iii) of the 1999 Constitution [as altered], appears to enable the NASS to grant the NICN additional criminal or civil jurisdiction totally unconnected with the jurisdiction expressly granted by the Constitution. The reasonable presumption is that, there is a difference between the provisions of section 254C– (1)(L)(iii) and 254C-(5) of the 1999 Constitution [as altered]; otherwise, there would not have been the need for section 254C–(5). If this is not the case, it means there is no distinction between the two subsections and that one of them has been created in vain. One must be mindful that the legislature is presumed not to use words in vain,[3] so, subsection 254C–(5) must be presumed not to have been inserted in vain, and therefore inserted for a purpose different from that intended for subsection 254C–(1)(L)(iii). Apart from this fact, there is a snag with section 254C–(1)(L)(iii), which is not presently apparent, but which might boomerang when any other statute attempts to give the NICN additional civil or criminal jurisdiction, aside those directly conferred by the 1999 Constitution [as altered]. This arises from the fact that, the jurisdiction of all superior courts in Nigeria is conferred by the 1999 Constitution.[4] And the 1999 Constitution has provided the specific procedures for alteration of its provisions.

The implication of this is that, no ordinary Act of the NASS can amend the provisions of the 1999 Constitution without fulfilling the conditions set out in its section 9. This much was borne out in *NUEE v. BPE* in which the Supreme Court held that the then NIC could not have exclusive jurisdiction because the procedures for amending the 1999 Constitution was not complied with in conferring it with exclusive jurisdiction under Decree 47 of 1992 [now Act] and therefore inconsistent with section 272 of the 1999 Constitution,[5] and *ipso facto*, in my view, section 7 of the National Industrial Court Act [NICA]. Now, if an ordinary Act of the NASS purports to give the NICN additional criminal or civil jurisdiction, it will infringe on the jurisdiction of other superior courts, especially the residual jurisdiction of the High Courts, and thus, liable to be struck out for being

[1] *Buhari & Anor v. Yusuf & Anor* (2003) LPELR–812 (SC) 20, paras B–D.
[2] (2008) All FWLR (Pt. 447) 67 at 103.
[3] *Bronik Motors Ltd & Anor. V. Wema Bank Ltd* (1983) LPELR–808 (SC) 45–46, paras G–A.
[4] *Okereke v. Yar'Adua & Ors*. (2008) LPELR–2446 (SC) 47, paras A–D.
[5] *NUEE v. BPE* (2010) LPELR–1966 (SC) 38–42, paras F–D.

in conflict with the Constitution, since there is no subject on which a particular superior court does not presently have jurisdiction.[1] This reasoning is proved right when it is realised that the word 'notwithstanding' introducing section 254C of the 1999 Constitution [as altered], which subjugates the other provisions of the 1999 Constitution to the exclusive jurisdiction of the NICN only relates to the civil jurisdiction expressly so granted under the section and not to any jurisdiction yet to be granted and that could, as it appears, be granted in future.

So, to grant additional exclusive jurisdiction on an item on which the NICN now lacks exclusive jurisdiction and on which another superior court has jurisdiction would need compliance with the procedures[2] dictated for amendment of the 1999 Constitution. If the other view is taken that further jurisdiction could be legally conferred on the NICN by excision from other courts by the NASS without compliance with the procedures of altering the 1999 Constitution because it is the Constitution itself that says so,[3] then, it follows that the objective of establishing the NICN might be defeated, as it could be turned into jack-of-all-trades. Section 254C–(5) is also not without its share of ambiguity. The phrase 'arising from', in the subsection, suggests that any type of criminal matter that arises from the items on which the NICN is granted civil jurisdiction would become cognizable in the NICN. Does it mean if murder were committed in the course of the prosecution of strike or if rape were committed at a place of work that either would be cognizable at the NICN? Whichever way one looks at it, it would appear that subsections 254C–(1)(L)(iii) and 254C-(5) are a recipe for ambiguity. These subsections appear to be the bedrock of the complaints that the NICN might become a leviathan riding roughshod over the jurisdiction of other courts. This cannot definitely be the intention of the legislature.

When there is ambiguity like this, a court is permitted to arrive at the true meaning of the provision of a statute by construing the history behind the enactment and the mischiefs intended to be cured and interpret the provision to accommodate such intendment.[4] The history behind the enactment of the Third Alteration Act is to make the NICN a specialized employment and labour court. It is also relevant to take into account that the NICN hitherto had no criminal jurisdiction. So, if the main object of the Third Alteration Act is to create a specialized court with exclusive jurisdiction on employment, labour and industrial relations, then, all aspects of its jurisdiction must be construed bearing this fact in mind, and the provisions of the 1999 Constitution [as altered] regarding its jurisdiction must therefore be construed to accommodate this objective and not to negate it. The provisions of subsection 254C–(1)(L)(iii) must consequently be construed to limit any additional civil jurisdiction to be conferred on the NICN to issues clearly situated within the strict spectrum of employment and labour relations. As regards the criminal jurisdiction of the NICN, subsection 254C–(1)(L)(iii) must be construed to mean that the NICN can only be conferred with additional criminal jurisdiction arising from the civil causes on which it already has jurisdiction, and which is related to the furtherance of its civil jurisdiction. The subsection must be construed, therefore, as meaning the same thing as subsection 254C–(5), and no more. It would appear that the true purport of section 254C–(1)(L)(iii) of the 1999 Constitution [as altered] can only be fully understood, when read in conjunction with section 254C–(5) of the 1999 Constitution [as altered]; and that, those additional criminal jurisdiction and powers can only be conferred in relation to causes and matters arising from its civil jurisdiction.

Confronting similar problem with respect to section 230(1)(b) of the 1979 Constitution, which appeared, just like the provisions of subsections 254C–(1)(L)(iii) and 254C-(5) of the 1999 Constitution [as altered], to have conferred the NASS with powers to give additional jurisdiction to the Federal High Court, which could infringe on the jurisdiction of State High Court, the Supreme Court opined:

> If section 230(1)(b) has the extensive jurisdiction being canvassed it would cover both the Exclusive and Concurrent Legislative Lists and so exclude the State High Courts!
> I do not think that the framers of the Constitution could have intended that it be beset by these problems. Indeed I think that the problems and absurdities listed above to which there are really no answers ought to settle the issue. It has always to be remembered that it is a principle of interpretation of statutes (and I dare say Constitutions) that where the language of the legislature admits of two possible constructions and, if considered in one way, would lead to absurdity or injustice, the courts act upon the view that such a result could not have been intended, unless the intention to bring it about has been manifested in plain words.[5]

By the above process of reasoning, the Supreme Court curtailed the extensive all-purpose jurisdiction suggested by section 230(1)(b) of the 1979 Constitution that the NASS could confer additional jurisdiction on the Federal High Court to the detriment of the High Courts. Relying on the above authority, it is not difficult to come to the conclusion that section 254C–(1)(L)(iii) and 254C-(5) only gives the NASS power to confer

[1] *Ibid*, 38, paras B–E.
[2] S. 9 of the 1999 Constitution.
[3] S. 254C–(1)(L)(iii) of the 1999 Constitution [as altered].
[4] *Bronik Motors & Anor. v. Wema Bank Ltd, supra* n. 18 at 46, paras C–E.
[5] *Bronik Motors Ltd & Anor. v. Wema Bank Ltd*, *supra*, n. 18 at 45, paras C – G.

additional jurisdiction on criminal matters strictly limited to industrial relations offences emanating from the items on which the NICN has already been conferred with civil jurisdiction by the 1999 Constitution [as altered]. The foregoing view is in consonance with the doctrine of purposeful interpretation of statutes.[1] By this doctrine, a court must interpret a constitutional provision compositely in a way that would give effect to and promote the composite purpose of the constitution,[2] even if it means curtailing or narrowing the operation of the provision or its effect.[3] Therefore, where an opposing construction would produce adverse effect, this signals against the adoption of such construction and dictates a curtailment and narrowing of its operation and effect. This process is known as strict construction.[4]

The above proposition is complimented by the *ejusdem generis* rule,[5] which presupposes that when there is an enumerated list followed by a general word, such general word must be read as accommodative only of the kind contained in the enumerated list. The civil jurisdiction of the NICN is well enumerated and distinctly itemized. Its criminal jurisdiction, which is conferred in general terms, is therefore strictly limited to employment and labour related offences arising from the subject matters over which it has civil jurisdiction. The general words 'any cause or matter' in section 254C–(5), which delimitate its criminal jurisdiction should be read as referring to causes and matters, which are strictly limited to offences created in employment and labour statutes to compel obedience to their provisions. Since the intendment of the Constitution is to make NICN a specialized industrial relations Court, its jurisdiction, be it civil or criminal, must be limited to such purpose. Any other construction would be detrimental to the purpose envisaged by the Constitution. The NICN therefore undoubtedly has a duty to limit the ambit of the provisions of sections 254C–(1)(L)(iii) and 254C–(5) of the 1999 Constitution [as altered] within the compass of the intendment.[6]

It must also be borne in mind that in the construction of statutes, the courts are not strictly bound by the grammatical or literal meanings of words, but rather by the legal meanings,[7] and the legal meanings might not correspond with the grammatical meanings:[8] the whole essence of construction being to arrive at the intention of the legislature, taking into cognizance the statute as a whole and a provision in its special context.[9] The meaning that corresponds with the intention of the legislature is known as the legal meaning.[10] Under this doctrine, a court has the power to vary, limit or extend the meanings of words used in an enactment to make them correspond with the intention of the legislature.[11] As a provision of the Constitution cannot be declared repugnant for being inconsistent with another provision of the Constitution, a court must therefore find a way of interpreting apparently conflicting or ambiguous provisions in an accommodative way in order to further the composite intendment of the Constitution.[12] Therefore, the phrase 'arising from any cause or matter', which appears in line 2 of subsection 254C–(5) must be construed to mean 'arising from employment and industrial relations statutes' in that context. Thus, the NICN would have jurisdiction and power in offences created by employment and industrial relations statutes out of any cause or matter of which civil jurisdiction is conferred on it.

The next question is: what type of criminal offences can be tried by the NICN? In answering this question, regard must be had to the wording of the section 254C–(5) in issue. The two important words that govern the construction of this section are contained in the phrase 'arising from'. To 'arise from', means 'to originate; to stem (from)'[13] or 'to happen as a result of a particular situation'.[14] For example, if a vehicle is involved in an accident, the victims might sustain injuries as a result. It would be right to attribute to the accident the injuries sustained directly as a result. But it would be wrong to say that, injuries sustained by the victims of the accident, while being rescued at the scene of the accident, arose from the accident. No, these subsequent injuries arose from the recue operations and not from the accident. Though, the distinction between the injuries directly caused by the accident and those arising from the rescue operations might be subtle, because both have a nexus to the accident, but the distinction nevertheless exits. In this wise, if murder is committed in a factory, it would not be cognizable in the NICN simply because the Factories Act makes provisions to protect workers against factories

[1] *Attorney-General, Ogun State v. Aberuagba & Ors*. [1985] LPELR–3164 [SC].
[2] *Ibid*, 28, paras A–F.
[3] Lord Hailsham of St. Maryleborne ed. (1995) *Halsbury's Laws of England*, Vol. 44[1] (4th Edition) (London: Reed Elsevier (UK) Ltd), 838, para. 1379.
[4] *Ibid*.
[5] *Fawehinmi v. I.G.P. & Ors*. [2002] LPELR–1258 [SC] 36, paras D–E.
[6] *Akpan v. Julius Berger (Nig.) Plc* [2002] 17 NWLR [Pt. 795) 1 at 25, paras E–G.
[7] *Halsbury's Laws of England*, *supra*, n. 28 at 835–836, paras 1372–1374.
[8] *Ibid*.
[9] *Ibid*.
[10] *Ibid*.
[11] *Akpan v. Julius Berger [Nig.] Plc, supra*, n. 31; also *Abacha v. Fawehinmi* [2000] 6 NWLR [Pt. 660] 228 at 326, paras G–H.
[12] *Ozurumba v. Nwankpa & Ors.* [1999] LPELR–6570 [CA] 19–22, paras F–A.
[13] Bryan A. Garner ed. (2004) *Black's Law Dictionary*, (8th Edition) (St. Paul MN: West Publishing Co.), 115.
[14] Sally Wehmeier ed.(2006) *Oxford Advanced Learner's Dictionary* (7th Edition) (Oxford: Oxford University Press), 65.

hazards, because, murder is a subject matter entirely outside the subject matters on which jurisdiction is granted the NICN. The Factories Act does not provide for the offence of murder. Likewise, if rape or murder were committed in the course of prosecuting strike, a subject matter on which the Court has civil jurisdiction, neither would thereby become cognizable in the NICN for that reason. The offence of rape or murder is not created in the Trade Unions Act, which prescribes offences in relation to strikes. Rape and murder are issues of entirely different species, which do not arise from the subject matters on which the NICN is conferred with civil jurisdiction. In such instances, the alleged murderer or rapist, as the case may be, would be on a frolic of his/her own. This tallies with the view held by the NIC prior to the enactment of the Third Alteration Act.[1]

The above analogies underpin the distinction that must be drawn between jurisdiction of the NICN to try offences created in industrial relations statutes and arising from the matters over which it is conferred with civil jurisdiction and other offences, even though, the offence in question was committed in the course of industrial relations. Therefore, for an offence to be cognizable in the NICN, it must have arisen directly from a cause or matter on which civil jurisdiction is already granted the NICN and where a labour or employment statute creates the offence in question, and not otherwise. The intendment of section 254C–(5) is to afford the NICN the jurisdiction to try the offences created in the various statutes relating to the subject matters on which it has exclusive civil jurisdiction and no more. Section 254C–(1)(b) of the 1999 Constitution [as altered] gives the NICN exclusive civil jurisdiction on: Factories Act, Trade Disputes Act, Trade Unions Act, Employees' Compensation Act and any other statute replacing these statutes or relating to employment and labour matters. Various duties are imposed in these statutes, and in order to make people perform these duties, criminal sanctions are provided for breaches. Therefore, any offence created in any of these statutes or any other law dealing with labour, employment, workplace and industrial relations can come to the NICN.[2] To hold otherwise would defeat the whole purpose of conferring criminal jurisdiction on the NICN and would make its jurisdiction unwieldy. And to argue that the NICN should not possess criminal jurisdiction at all, is to stultify the objectives for which it was established. Why?

2.2 Justification for Conferring the National Industrial Court of Nigeria with Criminal Jurisdiction

To say the NICN, now a superior court of record, should not possess criminal jurisdiction or power at all, would mean that it should not even be able to deal with contempt of court, which is undoubtedly a crime.[3] This would return it to its hitherto position when it had no inherent power to try and punish any form of contempt committed against it and had to go to the High Court to try such contempt.[4] All superior courts of record have powers to try and punish contempt of court[5]. It is the most prominent offshoot of their superior status from time immemorial. The hitherto situation definitely had the unsavory effect of turning the then NIC into a toothless bulldog. It is inconceivable that any court of law, talk less, a superior court, would be so powerless as not to be able to try contempt committed right in its presence! Even this power is not denied Magistrates' Courts; though, they are inferior courts. Now that the NICN is a superior court of record, the fact that it is an employment and labour court should not deny it what naturally inheres in superior courts. In other climes, labour and employment courts have the inherent powers to punish contempt of court.[6] So, it is not as if Nigeria is the only nation that grants its labour court the power to try and punish contempt. What should matter is the purpose of granting this power to the NICN.

The implication of denying it this very useful power would have been that when a person refuses to comply with its lawful order or contemptuously interferes with its proceedings or does anything that has the tendency of putting a stop to the continuation of a case, the NICN would have had to wait till the High Court pronounces on the contempt. And until the contempt proceedings at the High Court have undergone the full circles of appeals to the Supreme Court, it would have had to fold its arm, notwithstanding that this contempt was committed right its presence and in the course of the its proceedings! This perhaps would have effectively been the end of the trial before it, since it is not unusual for cases, including criminal cases, to drag on for decades in Nigeria before completion at the Supreme Court. This too, would have defeated the aim of fast-tracking trials of employment and industrial relations cases and consequently impact negatively Nigeria's bid for sustainable industrial harmony and economic development. Lawyers and litigants naturally would have exploited this loophole to the detriment of industrial relations adjudication. Reasons similar to this prevented the erstwhile NIC from

[1] *Industrial Cartons Ltd v. National Union of Paper and Paper Products Workers*[1] [Suit No. NIC/3/80 delivered on 23rd March 1981] where it was held that a unionist that commits crime in the course of union activities is on a frolic of his/her own.
[2] S. 254C–(5) of the 1999 Constitution [as altered].
[3] *Agbachom v. The State* [1970] LPELR – 223 [SC] *supra*, n. 11.
[4] S. 36(4) of the Trade Disputes Act.
[5] S. 6(6)(a) of the 1999 Constitution [as altered].
[6] S. 7. (2) Industrial Relations Act, *Laws of Trinidad and Tobago*, confers the inherent powers of the High Court of Trinidad and Tobago on its Industrial Court to punish for contempt.

functioning optimally.[1]

Whereas contempt committed in the face of court has always been triable *brevi manu* in all other superior courts.[2] In fact, the power to commit for contempt *facie curiae* is the greatest vestige of the coercive powers of a court and, it is for the benefit of the Court and the society and not for the judge.[3] A court that has no power to commit for contempt committed in its presence has no justifiable claim to being a court, and would be treated with the ignominy it deserves. The mere citation for contempt could perform the magic of compelling obedience to the violated directive of a court, which advantage would be lost in a situation where contempt *facie curiae* had to be taken to another court for trial. At least, a charge (if not information)[4] would have to be drafted and all other procedures would be complied with. These would definitely take some time and would be counter-productive, thus defeating the whole essence of speedy disposal of matters connected with employment and labour relations. An additional issue is that the necessity of trying the contempt before a High Court means the Judge of the NICN would have to appear in *facie curiae* contempt to give evidence at the High Court, being the principal witness, in a case he could have dealt with in His Court *brevi manu*. No superior court worth its salt should be subjected to such needless humiliation.

It is to obviate the problems enunciated above that the 1999 Constitution [as altered], in its wisdom, preserves the powers of all superior courts to punish for contempt and now extends it to the NICN via the Third Alteration Act.[5] For the same reasons, the NICN should also retain the powers to punish for contempt committed *ex facie curiae*. It is not difficult to infer that if criminal charges in respect of contempt committed *ex facie curiae* against the NICN or its orders, are tried in the NICN, it would be more expeditious than if it had to be tried in another court. This is axiomatic. Besides, it would enable the NICN to take into consideration employment and labour nuances in coming to a just decision in such contempt trials, the expertise in these nuances, which might be lacking in other courts.[6] The conferment of employment and labour courts with power to punish for contempt is not peculiar to Nigeria. It is in consonance with international best practices.[7] It should by now be sufficiently settled beyond objection the justifications for NICN retaining the powers to punish all forms of contempt.

With regard to the conferment of criminal jurisdiction on offences arising from the causes and matters over which it has civil jurisdiction by section 254C–(5) of the 1999 Constitution [as altered], this is in furtherance of the specialized nature of the Court. It must be brought to the fore that offences contained in these employment and labour related statutes are not the ordinary criminal offences but special criminal offences created to encourage full compliance with the objects of these statutes. If one examines the provisions of these statutes, it would become clear that most of these offences are strict liability and/or simple offences. Hence, the object is not to punish as such, but to ensure that the provisions of these statutes are complied with for the betterment of employment and labour relations in Nigeria. This is why in most cases, fines are provided as against imprisonment. In essence, the fines are created to implant the nation's desired culture of employment and labour relations. They therefore have their special nuances, which are better appreciated by persons specially trained and experienced in employment and labour relations' laws and practice. And in ensuring that the necessary expertise is brought to bear in employment and industrial relations adjudication, the 1999 Constitution [as altered] specifically ensures that the judges of the NICN are specially qualified in these regards.[8]

As this expertise is lacking in judges not trained in the nuances of employment and labour relations, the deficiency would axiomatically impact negatively their decisions on industrial relations offences, and consequently defeat the aims and objectives of the statutes and the overall aims and objectives of sustainable industrial harmony and economic development for which the NICN was established. In trying such criminal offences, the judges constantly have to bear in mind the reasons for the establishment of the NICN and for the enactment of the Acts and the objectives they are designed to achieve, which are to evolve peaceful and harmonious industrial relations climate and thereby promote sustainable economic development. The expertise of the judges of NICN would be a constant policy guide in the exercise of their discretion as to what punishment is most appropriate at a given time and that would best promote the object of the statutes and engender the desired sustainable industrial harmony and economic development. So, judges specially trained to appreciate these nuances would do better to handle these special criminal offences created in furtherance of the civil jurisdiction of the NICN.

[1] Amucheazi and Abba, *supra* n. 1, at 43–44 and 54–55, items (j) & (k).
[2] *Oku v. The State* [1970] LPELR – 2525 [SC] 11–12, paras B–A.
[3] *Onocha v. Attorney-General Delta State* [2013] LPELR – 20781 [CA] 40–41, paras B–C.
[4] *Oku v. The State supra*, n. 47, 15, paras A-C.
[5] S. 6(3) & (5)(CC) of the 1999 Constitution [as altered].
[6] Ntumy, *supra*, n. 1, at 62, where it is shown that expertise in industrial relations redounds on sound judgments in industrial courts.
[7] S. 7(2) of the Industrial Relations Act of Trinidad and Tobago.
[8] S. 254B–(3) & (4) of the 1999 Constitution [as altered].

The practice, which has a good foundation in the foregoing analysis, is that specialized courts are given composite civil and criminal jurisdiction over the subject matters on which they are conferred with jurisdiction. A good example is the Federal High Court of Nigeria, which equally has jurisdiction on offences arising from the subjects of its civil jurisdiction.[1] The whole essence is to bring together under the same canopy, all matters that are covered by statutes relating to the subject matters over which the NICN is conferred with jurisdiction. Scattering the criminal and civil jurisdiction in different court systems will defeat the whole essence for which the NICN was conceived and set up. This essence is contained in quick dispensation of justice within an efficient and effective court system with the aims of promoting sustainable industrial harmony and economic development. In realization of similar objectives, other nations have deemed it fit to equally confer their employment and labour courts with fused civil and criminal jurisdiction to further their bid to establish coherent industrial relations jurisprudence unencumbered by divergence of jurisdiction. For example, section 7. (1)(d) & (2) of the Industrial Relations Act[2] of Trinidad and Tobago conferred its Industrial Court with the exclusive jurisdiction to try all industrial relations offences. The remaining subsections of section 7 conferred its exclusive civil jurisdiction thus, ensuring fusion of both civil and criminal jurisdiction in one Court in Trinidad and Tobago. In like manner, the National Labour Court of Israel is conferred with an all-round exclusive civil and criminal jurisdiction.[3] Evidence abound that peace has reigned in the industrial sectors of Trinidad & Tobago and Israel since the creation of Industrial Courts with fused and exclusive criminal and civil jurisdiction.[4] It is thus clear that the opposition to the conferment of the NICN with criminal jurisdiction stems mainly out of the human inclination to resist change: not because of any objective reason. This itself is an offshoot of the initial antagonism to the very establishment of labour courts in other jurisdictions,[5] which antagonisms have waned with the successes of labour courts in these jurisdictions.[6]

Since the essence of creating industrial courts is specialization in the adjudication of all aspects of employment and labour disputes, be they civil or criminal, rather than clouding the objectives for which the NICN was created, conferring it with criminal jurisdiction on industrial relations offences has the potential of actually strengthening these objectives by lifting adjudications in this area out of the clumsiness of scattering different aspects of employment and labour related disputes in different court systems with divergent philosophies and procedures. This fusion of jurisdiction has the singular advantage of preventing the emergence of forum shopping, a cankerworm of judicial efficiency,[7] which is bound to occur with time if the present diffusion of jurisdiction in different courts' systems is continued. The argument that the NICN's criminal jurisdiction would impinge on the jurisdiction of other courts stems from a misconception and the reluctance of the High Courts – borne out of sheer subjective bias – to accord the industrial courts needed recognition in several jurisdictions.[8] As it would be seen, in Nigeria, only an item in the vast fold of crimes – industrial relations offence – has been concurrently conferred on the NICN. So, the High Courts and the Magistrates' Courts remain as busy as ever with regard to criminal trials, with or without the removal of this item. In fact, there is dearth in the prosecution of industrial relations offences in Nigeria.[9] In any case, industrial relations had all along being in the exclusive legislative list,[10] and therefore, all industrial relations issues [criminal and civil] ought ordinarily to be consigned exclusively to a federal industrial court, as has rightly been done with regard to civil causes.

What is more, the judges of the NICN have exactly the same educational qualifications and received the same trainings as the judges of the regular courts, in addition to their special employment and industrial relations qualifications. So, there is no question of saying they lack the requisite knowledge to try criminal cases, more so, when these criminal cases border on purely employment and industrial relations offences. The necessity of

[1] S. 251. (1)(3) of the 1999 Constitution.
[2] Chapter 88:01, Laws of Trinidad and Tobago.
[3] Stephen J. Adler and Ariel Avgar, '*National Labour Law Profile: The State of Israe*l' under sub-head '*The Labour Courts and their contributions to labour regulation*' at http://www.ilo.org/ifdial/information-resources/national-labour-law-profiles/WCMS_158902/lang-en/index.htm (accessed 21 Feb. 2017). See also Zvi Bar-Niv (1986) '*The Labour Courts in Israel*' in Bert Essenberg ed., *Labour Courts in Europe*, (Geneva: International Institute for Labour Studies), 41–43; and Israel Ministry of Foreign Affairs, '*The Judiciary: The Court System*' at www.mfa.gov.il (accessed 10 May 2017).
[4] *Ibid*. See also Avril Rahim, Natacha Wexels-Riser updated, '*National Labour Profile: Trinidad and Tobago*', www.oit.org (accessed 25 May 2017).
[5] Adler, *supra*, n. 1. See also Ntumy, *supra* n. 1.
[6] Adler, *supra*, n. 1. See also Rahim, *supra*, n. 57.
[7] Amucheazi and Abba *supra n. 1 at* 53 item (h). See also Ntumy, *supra*, n.1, at 63.
[8] Adler and Avgar, *supra* n. 56 and Ntumy, *supra*, n. 1 at 62.
[9] Editorial, (Feb. 8 2013) '*Issues from Ota factory explosion*', *National Mirror*, at 16 where government's lackadaisical attitude to industrial offences was identified as the cause of the tragedy. See also Oluwakayode O. Arowosegbe, (March 2013) '*The Nigerian Factories Act: The Need for Reform*', in *Labour Law Review: Nigerian Journal of Labour and Industrial Relations*, Vol. 7, No. 1, March 2013 at 47, where similar observation was earlier made.
[10] Item 34, Second Schedule, 1999 Constitution.

stating that only legally qualified judges could try industrial relations offences as done with the Israel's Labour Court,[1] would not arise in Nigeria, since the idea of appointing laymen to sit with lawyer-judges has been done away with in Nigeria and only lawyers are now appointed judges of the NICN.[2] So, in essence, for this and other reasons earlier given, the NICN actually needs to be conferred with exclusive jurisdiction on all criminal offences created in employment and labour statutes just like in Israel and Trinidad & Tobago.

Having situated the justifications for conferring the NICN with criminal jurisdiction and made a case for the exclusivity of this jurisdiction, the next task is to examine the nature of the criminal procedure dictated by the provisions conferring it with criminal jurisdiction.

2.3 Nature of Criminal Procedure in the National Industrial Court of Nigeria

In examining the nature of criminal procedure applicable in NICN, recourse must first be had to the type of Court NICN is and the objective of creating it. The NICN is established to fast-track trial of employment and labour disputes.[3] This rationale must also guide the trial of its criminal cases, though, it being bound by the Evidence Act in its criminal jurisdiction,[4] its criminal trials would ordinarily be subjected to technicalities as is wont in the regular adversarial courts. For, in the rules of evidence, particularly with regard to tendering of documents, the technicalities beclouding justice abound. Fast tracking of trials is in fact one of the reasons for the fusion of civil and criminal jurisdiction in the NICN, so that, it could expeditiously deal with all matters directly emanating from employment and labour causes: be they civil or criminal.[5] The question then, is: how can the NICN achieve its main objective of fast-tracking trials in its criminal jurisdiction with the challenges posed by adherence to technicalities in its criminal jurisdiction?

The offences created in the various employment and labour related statutes are mainly simple offences. Simple offences are not ordinarily supposed to entail the full complements of trial on information and proof of evidence dictated for felonious offences. Herein lies the answer to fast-tracking its criminal trials. Most of these statutes give magistrates' courts jurisdiction over the offences created.[6] Trial in magistrates' courts is summary: that is, without the need to prepare information and proof of evidence. Summary trial also entails that, on admission, the offender could be sentenced without much ado. The cumulative effect is that summary trial saves time unlike trial on information. The law is that, unless specifically stated, all offences are triable summarily.[7] Section 254F-(2) of the 1999 Constitution [as altered] simply provides that in exercising the criminal jurisdiction of the NICN, the provisions of the Criminal Code, Penal Code, Criminal Procedure Act (CPA) and Criminal Procedure Code (CPC) or Evidence Act shall apply. The CPA, CPC and the Evidence Act are adjectival laws of procedures in trials. Within the compass of the CPA and CPC, simple offences are triable summarily.[8] So, it is safe to conclude that criminal trials in the NICN would be summary in line with its main objective of fast-tracking trials of employment and labour related cases.

Nevertheless, there are some misgivings as to the applicability of the Criminal Code and Penal Code in NICN. These two statutes create substantive offences as distinct from procedural issues covered by the CPA, CPC and the Evidence Act. Now, the Criminal Code and the Penal Code are not industrial relations statutes and the offences created therein are mainly unconnected with industrial relations. Section 254C–(5) which confers the NICN with criminal jurisdiction has indicated the type of offences that could be tried by it, and these are limited strictly to offences created in industrial relations statutes. The mere presence of one or two industrial relations offences[9] in the Criminal Code and Penal Code would not make them applicable in the NICN. There is no known offence connected with industrial relations contained in these statutes, which are not covered by the special industrial relations statutes. These two statutes create general criminal offences, while the industrial relations statutes over which the NICN has jurisdiction are special statutes addressing offences specifically tailored for the promotion of sound industrial relations. As the specific overrides the general,[10] the specific provisions of these industrial relations statutes override the general provisions of the Criminal Code and Penal Code. To hold otherwise is to say that section 254F–(2) also confers the NICN with criminal jurisdiction, which is obviously not the case. Since it is section 254C–(5) that confers the NICN with criminal jurisdiction, the only

[1] Adler and Avgar, *supra*, n. 56.
[2] S. 254B–(3) & (4) of the 1999 Constitution [as altered].
[3] The Presidential speech (March 4 2011) at the signing-into-law ceremony of the Third Alteration Act.
[4] S. 254F–(2) of the 1999 Constitution [as altered].
[5] The Presidential speech, *supra*, n. 66.
[6] For example s. 77 of the Factories Act, Cap. F1, LFN, 2004; s. 51 of the Trade Unions Act Cap. T14, LFN 2004.
[7] Ss. 77, 78 and 277(c) & (d) of the CPA.
[8] *Ibid*.
[9] For example, s. 195 of the Penal Code, which forbids ceasing of work by employees in public utility without notice, in essence, proscribing strike by those employed in essential public services. This type of strike has been taken care of by ss. 41 & 42 of the Trade Disputes Act, and s. 2 of the Trade Disputes (Essential Services) Act.
[10] *Corporate Affairs Commission v. Davis* (2006) LPELR–11411 (CA) 15–16, paras F–C.

thing which section 254F–(2), could, and which it has done, is to deal with the applicable procedure for trial of offences in the NICN, making applicable the CPA, CPC and Evidence Act. The addition of the Criminal and Penal Codes, which do not deal with issue of procedures, is therefore a misnomer. It promotes the accusation that the NICN might be turned into a leviathan with power to try all forms of criminal offences thus, beclouding the objective of its establishment. In line with the principle of narrow construction of statutes, the reference to the Criminal Code and Penal Code should be ignored.[1]

The next question relates to the geographical jurisdiction of the CPA and CPC: whether they apply simultaneously throughout the federation without regard to the main geopolitical zones of the North and South? This poser appeared resolved if it is taken into consideration the history behind the enactments of the two statutes. The CPA, which is fashioned after the British common law criminal procedure was meant to apply in the South[2] while the CPC, which is fashioned after the Pakistani and Sudanese Codes, was meant to apply in the North[3] because of divergence in religions and cultures.[4] It would follow that since the two different statutes, which reflect these divergence were never meant to and never operated simultaneously throughout the federation, the Constitution must have taken this fact as granted in dictating that the two statutes should apply in criminal trials before the NICN, which has a nationwide jurisdiction. So, in criminal trials in the Divisions of the NICN in any of the Southern States of the federation, the CPA would apply, while the CPC would apply in the States of the Northern part of the country. The question remains as to the continued relevance of the CPA and CPC in view of the enactment of the Administration of Criminal Justice Act (ACJA), which is meant to replace the CPA and CPC with regards to the trial of all federal offences.[5]

2.4 The Continued Relevance of the Criminal Procedure Act and the Criminal Procedure Code in the National Industrial Court of Nigeria

The complexity of this issue is accentuated by the fact that the ACJA directly repealed the CPA and CPC,[6] meaning they ordinarily ought to be no longer in existence. But the poser is: can this repeal apply to the Constitution, which continues to postulate the existence of these statutes? The answer should be situated within the confines of the principle that an ordinary Act of the NASS cannot repeal any part of the Constitution.[7] Unfortunately, section 254F–(2), which makes these statutes applicable to criminal trials in the NICN does not make room for any Act to replace them like done in relation to the statutes mentioned in section 254C–(1)(b). It follows that, for the purpose of criminal trials in the NICN, the CPA and the CPC remain in existence and would still continue to govern its criminal procedure.[8] The ACJA would therefore be void to the extent of its inconsistency with the provisions of section 254F–(2) of the 1999 Constitution[9] [as altered], which validates the CPA and CPC to govern criminal procedures in the NICN.

From the discussions so far, it is apparent that there are some shortcomings in the provisions conferring the NICN with criminal jurisdiction and the consequential procedures of criminal trials in the NICN. The need for rectification therefore arises.

3. SUGGESTIONS FOR IMPROVEMENT

The interpretative skills to be used in unraveling the true purports of the provisions conferring the NICN with criminal jurisdiction has been espoused, nevertheless, the fact remains that the treatise admits that ambiguities and defects inhere in these provisions, and that they are part of the controversies surrounding its criminal jurisdiction. Since clarity of language is the hallmark of legislative drafting, it is apposite that the provisions of the Constitution conferring the NICN with criminal jurisdiction be couched in very clear language to obviate these controversies. It is therefore suggested that the provisions of section 254C–(1)(L)(iii) & 254C–(5) of the 1999 Constitution [as altered] be completely removed and a single provision inserted in their stead in the manner of the provision conferring the Industrial Court of Trinidad and Tobago with criminal jurisdiction. In conferring the Industrial Court of Trinidad and Tobago with criminal jurisdiction, section 7. (1)(d) of the Industrial Relations Act of Trinidad and Tobago simply provides:

In addition to the powers inherent in it as a superior Court of record, the Court shall have jurisdiction –

(a) …

[1] *Akpan v. Julius Berger*, *supra*, n. 31 and *Abacha v. Fawehinmi*, *supra*, n. 36.
[2] Olakanmi & Co (2008) *Criminal Procedure Act: Synoptic Guide*, (2nd Edition) (Abuja: LawLords Publications), 9–10.
[3] *Ibid*.
[4] *Ibid*.
[5] S. 2 of the ACJA.
[6] S. 493 of the ACJA.
[7] S. 9 of the 1999 Constitution.
[8] S. 254F–(2) of the 1999 Constitution [as altered]. See also ss. 2 & 86 of the ACJA, which suggest that some provisions of the ACJA might be exempted from compliance by a statute.
[9] S. 1(3) of the 1999 Constitution.

(b) …
(c) …
(d) to hear and determine proceedings for industrial relations offences under this Act…

This method logically removes any room for controversy on the nature and extent of the criminal jurisdiction conferred on the Industrial Court of Trinidad and Tobago. It is clear that the offences it could try are purely industrial relations offences and the source of their existence is equally specifically identified. The 1999 Constitution should be amended to have a provision that says 'the National Industrial Court of Nigeria shall have jurisdiction to hear and determine industrial relations offences created by the statutes mentioned in section 254C–(1)(b) of this Constitution or any Acts replacing them or any other Act on employment and industrial relations to the exclusion of any other Court'.

It is also suggested that the 1999 Constitution be altered to take care of the obvious conundrum created in section 254F–(2) of the 1999 Constitution [as altered], which ossified the procedure to be followed in trying criminal cases at the NICN. It is apparently an oversight in not anticipating that the CPA and CPC could be repealed and replaced with other statutes in line with the exigencies of time. Now that this has happened, it would be wrong to continue to tie the NICN to the apron strings of the outdated CPA and CPC in the trial of criminal cases thereby preventing it from reaping the advantages of improvements contained in the ACJA. This would amount to inadvertently short-circuiting the lofty objective of fast-tracking industrial relations cases in an efficient manner for which the NICN was created. An additional provision should therefore be inserted in section 254F–(2) of the 1999 Constitution [as altered] to give room for any Act of NASS to replace the CPA and CPC. In addition, section 254F–(2) should be further tinkered with by excising the Criminal Code and the Penal Code from the list of statutes that would govern criminal procedure in the NICN, since they do not deal with criminal procedure, which is the object of section 254F–(2), they have no business within the tenor of provisions dealing solely with the procedures of criminal trial in the NICN. The excision would also go a long way in clearing any misgiving regarding the breadth of the criminal jurisdiction of the NICN. This becomes important in view of the recommendation that its criminal jurisdiction should be made exclusive too.

4. CONCLUSION

In line with established tradition, which serves a mnemonic purpose, it becomes necessary to recapitulate before signing off. The paper examines the merits and demerits of granting the NICN criminal jurisdiction; and comes out with the position that the NICN is rightly conferred with criminal jurisdiction, and advocates its exclusivity. It elucidates the provisions of the 1999 Constitution [as altered] conferring the NICN with criminal jurisdiction with a view to obviating the controversies surrounding them. It however identifies some lapses, which if rectified would better promote the objectives of conferring the NICN with criminal jurisdiction: necessary suggestions are made. No statute, including constitutions, has ever been perfect as originally made. Hence, legislators' continual strives to review statutes to attain perfection. The NASS should therefore have a second look at the provisions of the 1999 Constitution [as altered] conferring the NICN with criminal jurisdiction with a view to rectifying the defects identified. With this done, it is certain that the criminal jurisdiction of the NICN will take shape and contribute positively, alongside its civil jurisdiction, to industrial harmony and economic development in Nigeria just like its counterparts with composite civil and criminal jurisdiction in Israel and Trinidad & Tobago have done with admirable success.

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