

FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING RIGHTS FOR CASUAL WORKERS: A COMPARATIVE STUDY OF NIGERIA AND GHANA

Minah, Letam Blessing*

Abstract: *The rise of casualisation as a cost-cutting strategy across Sub-Saharan Africa has generated serious issues between employer flexibility and workers' fundamental rights. This article compares the legal protection and practical enforcement of freedom of association (FoA) and collective bargaining (CB) rights for casual workers in Nigeria and Ghana. Using a comparative legal research methodology, it analyses constitutional provisions, legislative frameworks, judicial decisions and relevant ILO Conventions, specifically Conventions Nos 87 and 98. The article argues that Ghana provides a clearer statutory framework under the Labour Act 2003 (Act 651), particularly its Part X provisions, which define casual work, set a six-month regularisation threshold and guarantee the right to join trade unions. However, Nigeria relies heavily on judicial activism by the National Industrial Court of Nigeria (NICN) to fill legislative gaps, as the Labour Act 2004 contains no definition of casual labour and no automatic regularisation mechanism. The comparative analysis reveals some convergences in constitutional guarantees but significant divergences in statutory specificity and institutional enforcement. The article recommends the immediate amendment of the Nigerian Labour Act to define casual labour and introduce a regularisation threshold modelled on the Ghanaian approach, the strengthening of labour inspection units and the expansion of ECOWAS-level coordination to advance a regional decent work agenda.*

Keywords: *casual labour; freedom of association; collective bargaining; Nigeria; Ghana; Labour Act; casualisation; ILO Conventions*

1. Introduction

Casualisation is generally understood as the strategic substitution of permanent employment with casual, temporary or contract arrangements to reduce labour costs.¹ It has become one of the defining features of labour markets across Sub-Saharan Africa.² The phenomenon is the product of deliberate employer choices, accelerated by globalisation, trade liberalisation and the race to attract foreign investment at the lowest possible regulatory cost.³ Nigeria and Ghana are two West Africa's largest economies, and in these jurisdictions, casualisation has displaced millions of workers from the protections that formal employment

* LL.B (Hons), BL, LLM, Ph.D (in view) RSU; Legal Practitioner, Email: blessing.minah@gmail.com, Phone No: 08032932674.

¹ T M Fapohunda, 'Employment Casualization and Degradation of Work in Nigeria' [2012](3)(9) International Journal of Business and Social Science;257-267.

² International Labour Organization, World Employment and Social Outlook: Trends 2024 (ILO 2024) 15.

³ ILO, Non-Standard Employment around the World: Understanding Challenges, Shaping Prospects (ILO 2016).

ordinarily confers.⁴ Casual workers face wage insecurity, absence of social protection and, most critically for the purposes of this article, denial of their rights to freedom of association and collective bargaining. These denials are, in part, enabled by legislative silence and institutional weakness.

2. Conceptual and Theoretical Framework

2.1 Conceptualising Casual Work in West Africa

No universally accepted definition of casual labour exists in either Nigerian or Ghanaian law. The Nigerian Labour Act defines a 'worker' broadly, but makes no specific mention of casual, temporary or daily-paid workers as a distinct category.⁵ However, Ghana's Labour Act 2003 defines a casual worker as a worker engaged on a work which is seasonal or intermittent and not for a continuous period of more than six months and whose remuneration is calculated on a daily basis.⁶ The Ghanaian Labour Act 2003 also defines temporary worker as a worker who is employed for a continuous period of not less than one month and is not a permanent worker or employed for a work that is seasonal in character.⁷ At the international level, the ILO describes non-standard employment, which encompasses casual, temporary, part-time and on-call work, as employment relationships that deviate from the standard model of full-time, indefinite, bilateral employment.⁸ What is common to all these categories is the transience of the engagement and the corresponding exclusion from the full range of labour protections that standard employment confers.

In West Africa, casualisation take the form of day labour on construction sites, seasonal agricultural workers, contract cleaners and security guards employed through third-party agencies and production-line workers kept on renewable short-term contracts over many years.⁹ The last category is very problematic because it involves long-term economic dependence disguised in a temporary legal form, producing what scholars often call the triangular employment problem.¹⁰

⁴ C S Ibekwe, 'Legal Implications of Employment Casualisation in Nigeria: A Cross-National Comparison' [2016] NAUJILJ;79-89.

⁵ Labour Act Cap L1 LFN 2004, s 91(1) (defining 'worker' broadly but omitting 'casual worker').

⁶ Ghana's Labour Act 2003, s 78.

⁷ Ibid.

⁸ International Labour Organization, Non-Standard Forms of Employment (ILO 2016); Part-Time Work Convention, 1994 (No. 175); Private Employment Agencies Convention, 1997 (No. 181); Employment Relationship Recommendation, 2006 (No. 198)

⁹ A Zakari and others, 'Assessment of the Nature of Labour Casualization in Nigeria' [2021](8)(1) African Journal of Humanities & Contemporary Education Research;119-135.

¹⁰ O W Onemola, 'Employment Casualisation and Workplace Violation as in Nigeria' cited in P O Ofulue and I MO Nwabuoku, 'Legal Protection for Informal/Casual Workers: A Comparative Study of Nigeria and Australia' [2025](9)(9) International Journal of Research and Innovation in Social Science;9010-9020.

2.2 Labour Market Segmentation Theory

Labour market segmentation theory was developed principally by Piore and later extended by Standing. The theory provides the most analytically useful framework for understanding casualisation. Piore argued that labour markets in industrial economies are divided into primary segment and secondary segment.¹¹ Primary segment is characterised by stable employment, good wages and strong worker protections, whereas the secondary segment is marked by instability, low wages and limited rights.¹² Casual workers occupy the secondary segment, and the theory predicts that workers trapped in this segment face systemic barriers to upward mobility, including denial of union rights.¹³ Standing extended this analysis through his concept of the precariat, arguing that precarious workers constitute a structurally distinct class whose vulnerability is reproduced by the legal and institutional frameworks governing work.¹⁴ Applied to Nigeria and Ghana, this theory reveals that casualisation is not merely an employer preference but a structural outcome facilitated by legal frameworks that fail to extend adequate protection to secondary-segment workers. Freedom of association and collective bargaining are the primary legal tools through which secondary-segment workers can challenge their exclusion, which is precisely why their denial is so consequential.

2.3 International Labour Standards: ILO Conventions Nos 87 and 98

Both Nigeria and Ghana have ratified ILO Convention No 87 (Freedom of Association and Protection of the Right to Organise Convention 1948)¹⁵ and ILO Convention No 98 (Right to Organise and Collective Bargaining Convention 1949).¹⁶ Convention No 87 obliges ratifying states to guarantee workers, without distinction, the right to form and join organisations of their choosing.¹⁷ Convention No 98 obliges them to protect workers against anti-union discrimination and to promote collective bargaining.¹⁸ The ILO Committee of Experts has consistently interpreted the phrase 'without distinction' in Convention No 87 to include non-standard workers such as casual, temporary and contract employees, making exclusion from union membership on the basis of employment status a violation of international law.¹⁹ The Committee on

¹¹ S Ansari, 'Dual Labour Market Theory and the Casualisation of Work in the Age of Micro-Jobs' <https://www.economicsonline.co.uk/behavioural_economics/dual-labour-market-theory-and-the-casualisation-of-work-in-the-age-of-micro-jobs.html/> accessed 14 March 2026.

¹² M J Piore, *Birds of Passage: Migrant Labour and Industrial Societies* (Cambridge University Press 1979).

¹³ Ibid.

¹⁴ Guy Standing, *The Precariat: The New Dangerous Class* (Bloomsbury Academic 2011); A Chhachhi and G Standing, 'Understanding the Precariat through Labour and Work' [2014](45)(5) *Development and Change*, International Institute of Social Studies;963-980.

¹⁵ Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

¹⁶ Right to Organise and Collective Bargaining Convention, 1949.

¹⁷ ILO Convention No 87, art 2;

¹⁸ ILO Convention No 98 (n 6), arts 1 and 4.

¹⁹ E Emudainohwo, 'A Critical Appraisal of the ILO's Supervisory Procedures for International Labour Standards Regarding Freedom of Association' [2023](19)(2) *UNIZIK Law Journal*;127-141.

Freedom of Association has specifically censured Nigeria for practices that inhibit workers from exercising trade union rights.²⁰ These international obligations form the baseline against which the domestic laws of both countries must be assessed.

3. Casual Workers and Labour Rights in Nigeria

a. Legal Framework

The primary constitutional protection for freedom of association in Nigeria is found in section 40 of the Constitution of the Federal Republic of Nigeria 1999 (as amended), which provides that every person shall be entitled to assemble freely and associate with other persons, including the right to form or belong to any political party, trade union or any other association for the protection of his interests.²¹ This provision, read without qualification, extends to all workers regardless of the nature or duration of their employment. However, the right is not self-executing in the context of labour relations, and its practical realisation depends on the statutory framework that governs trade union formation and collective bargaining.

The Trade Unions Act²² provides the principal statutory basis for trade unionism in Nigeria. Section 1 of the Act defines a trade union as:

any combination of workers or employers, whether temporary or permanent, the purpose of which is to regulate the terms and conditions of employment of workers, whether the combination in question would or would not, apart from this Act, be an unlawful combination by reason of any of its purposes being in restraint of trade, and whether its purposes do or do not include the provision of benefits for its members.²³

The reference to temporary workers above is significant in principle, as it suggests legislative intent to include non-standard workers within the ambit of trade union protection. However, the Act does not elaborate on this inclusion, and the practical enforcement of union rights for casual workers remains deeply problematic. The Labour Act,²⁴ which governs the individual employment relationship, defines a 'worker' in section 91(1) as any person who has entered into or works under a contract with an employer, whether the contract is for manual labour or clerical work or is expressed or implied or oral or written, and whether

²⁰ Committee on Freedom of Association, Case No. 2227 (Nigeria), Report No. 332 (November 2003); ILO, 'Report of ILO's Committee on Freedom of Association Highlights Serious Abuses of Trade Union Rights in Colombia, Nigeria, and Sudan' <<https://www.ilo.org/resource/news/report-ilos-committee-freedom-association-highlights-serious-abuses-trade>> accessed 15 March 2026.

²¹ Constitution of the Federal Republic of Nigeria 1999 (as amended) Cap C23L LFN 2004, s 40.

²² Cap T14 LFN 2004.

²³ Ibid., s 1(1).

²⁴ Cap L1 LFN 2004.

it is a contract of service or a contract personally to execute any work or labour.²⁵ This definition is broad enough to encompass casual workers, but the Act contains no provision specifically addressing their rights, no maximum duration for casual contracts and no mechanism for automatic regularisation.

b. The Triangular Employment Problem

The most severe practical challenge in Nigeria is the triangular employment arrangement, in which a host company engages workers through a third-party labour contractor or outsourcing firm, thereby claiming that no employment relationship exists between the host company and the workers.²⁶ Workers engaged under this arrangement are formally employed by the contractor but perform their duties permanently on the host company's premises and under the host company's direction.²⁷ The contractor, typically a shell entity, is unable to honour collective bargaining obligations and has no assets against which enforcement can be pursued.²⁸ The host company, for its part, exploits the contractual form to deny the workers any entitlement to unionise or bargain collectively within the company's industrial relations framework.

In the case of Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN) v. Mobil Producing Nigeria Unlimited (MPNU),²⁹ the NICN captured the nature of triangular employment thus:

The disguised employment relationship of the parties comes in the form of a triangular employment relationship ...The triangular employment relationship comes in a variety of forms, the best known of which (and which relates to the instant appeal) is the use of contractors and private employment agencies. See The Scope of the Employment (ILO Office: Geneva), 2003, at pages 37-39. To the ILO... The determination of the existence of an employment relationship should be guided by the facts of what was actually agreed and performed by the parties, and not by the name they have given the contract.... This is known in law as the principle of the primacy of fact, which is explicitly enshrined in some national legal systems. This principle might also be applied by judges in the absence of an express rule...

²⁵ Ibid, s 91(1).

²⁶ The Trusted Advisors, 'Legality And Contemporary Legal Issues On Triangular Employment In Nigeria' <<https://www.mondaq.com/nigeria/outsourcing/1646102/legality-and-contemporary-legal-issues-on-triangular-employment-in-nigeria>> accessed 14 March 2026.

²⁷ Petroleum and Natural Gas Senior Staff Association of Nigeria v. Mobil Producing Nig. Unlimited unreported, NICN/LA/411/2016)

²⁸ I Wilson and others, 'Guidelines on Labour Outsourcing: A Guide to Best Practices in Nigeria?' <<https://www.templars-law.com/app/uploads/2022/12/Guidelines-on-Labour-Outsourcing.pdf>> accessed 14 March 2026..

²⁹ (2013) 32 NLLR (Pt. 92) 243 (NIC) 322B – 328F

This practice is pervasive in the oil and gas, banking, manufacturing and hospitality sectors.³⁰ Workers employed under such arrangements have, in documented cases, remained on casual terms for over ten years without regularisation.³¹ Their exclusion from CBAs means they receive wages below the rates agreed for permanent employees performing identical work, a direct violation of the principle of equal pay for equal work. The Labour Act obliges employers to provide workers with written contracts,³² but the provision is rarely enforced for casual workers, leaving many without documentary evidence of any employment relationship.

c. Judicial Approach and NICN Activism

The principal judicial response to the exclusion of casual workers from trade union rights in Nigeria has come from the National Industrial Court of Nigeria. In *Patovilki Industrial Planners Limited v National Union of Hotels and Personal Services Workers*,³³ the NICN upheld the right of casual hotel workers to union membership, rejecting the employer's contention that casual workers fell outside the scope of the Trade Unions Act.³⁴ The Court held that the constitutional guarantee of freedom of association in section 40 of the Constitution, read together with the Trade Unions Act, extends to all workers without distinction as to the nature of their employment.³⁵ This decision is significant because it deployed constitutional interpretation to fill a legislative gap, affirming that the absence of a specific statutory provision for casual workers does not justify their exclusion from union rights.³⁶ It demonstrates a pattern of judicial creativity in filling the space left open by legislative silence. However, judicial activism is an inherently unstable mechanism for rights protection. It depends on access to courts, which casual workers often cannot afford, and on the consistency of individual judges, which cannot be assumed.

d. Unemployment, Enforcement and Legislative Gaps

The challenges to casual worker rights in Nigeria are formidable. High unemployment significantly reduces workers' bargaining power.³⁷ Employers exploit labour surplus conditions to maintain casual arrangements with impunity, knowing that workers who press union rights can easily be replaced.³⁸ The labour

³⁰ G G Otuturu, 'Casualization of Labour: Implications of the Triangular Employment Relationship in Nigeria' [2021](12)(2) *Beijing Law Review*;

³¹ *Ibid.*

³² Labour Act, s 7(1).

³³ NIC/12/89

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ P O Ofulue and I MO Nwabuoku, 'Legal Protection for Informal/Casual Workers: A Comparative Study of Nigeria and Australia' [2025](9)(9) *International Journal of Research and Innovation in Social Science*;9010-9020.

³⁷ S Lala, 'Casual Work In Nigeria: The Shortcomings Of The Current Legal Framework'

<<https://www.mondaq.com/nigeria/employee-rights-labour-relations/968122/casual-work-in-nigeria-the-shortcomings-of-the-current-legal-framework>> accessed 15 March 2026.

³⁸ C R Gershon and others, 'Casualisation of Employment in Nigeria: An Analysis' [2024](10)(1) *African Journal of Energy and Environmental Law (AJIEEL)*;194.

inspectorate, which is responsible for monitoring compliance with employment legislation, is underfunded, understaffed and largely ineffective. The result is that even the limited protections that exist on paper are rarely enforced in practice. The legislative vacuum created by the absence of any statutory definition of casual labour, any regularisation mechanism or any specific provision for casual workers in the collective bargaining framework continues to be the most fundamental obstacle to the effective protection of these workers' rights.

4. Casual Workers and Labour Rights in Ghana

a. Constitutional Framework

The constitutional foundation for freedom of association in Ghana is article 21(1)(e) of the Constitution of Ghana 1992. It states that 'All persons shall have the right to freedom of association, which shall include freedom to form or join trade unions or other associations, national and international, for the protection of their interest.'³⁹ Unlike the Nigerian constitutional provision, which is framed in general terms,⁴⁰ the Ghanaian provision is explicitly worker-focused, linking freedom of association directly to the promotion of economic and social interests, a formulation that reinforces its application in the labour relations context. This constitutional guarantee provides the foundation on which the statutory framework in the Labour Act 2003 is built.

b. Statutory Framework: Labour Act 2003 (Act 651)

Ghana's Labour Act 2003⁴¹ is considerably more specific than its Nigerian counterpart in addressing non-standard employment. The Act defines a 'worker' broadly in section 175 to include any person employed under a contract of employment whether on a continuous, part-time, temporary or casual basis.⁴² The Labour Act 2003 includes provisions for the regulation of temporary, casual and other non-standard workers,⁴³ but it is not specifically devoted to these categories of workers. Section 78 of the Act defines a casual worker as a worker engaged on a work which is seasonal or intermittent and not for a continuous period of more than six months and whose remuneration is calculated on a daily basis.⁴⁴ Section 78 of the Act also defines a temporary worker as a worker who is employed for a continuous period of not less than one month and is not a permanent worker or employed for a work that is seasonal in character.⁴⁵ Furthermore, section 75(1) of the Act provides that a temporary worker employed for a continuous period

³⁹ Constitution of Ghana 1992, art 21(1)(e).

⁴⁰ CFRN 1999, s 40.

⁴¹ Act 651.

⁴² Ibid., s 75.

⁴³ Ibid, part X.

⁴⁴ Ibid., 78.

⁴⁵ Ibid.

of six months or more shall be treated as a permanent worker.⁴⁶ Section 74(2)(a) states that casual workers are entitled to equal pay for work of equal value for each day worked in the organization, but the Act does not explicitly state that casual workers are entitled to the same conditions of employment and other benefits as permanent workers.⁴⁷

Section 76 of Act obliges the employer to pay a casual worker at least the applicable minimum wage for each day of work, ensuring a wage floor below which no casual employment arrangement can lawfully descend. Section 75(1) of the Act is of particular significance in the comparative context because it provides that if a temporary worker has been employed continuously for six months or more, the employer shall be deemed to have entered into a contract of employment with the worker, treating them as a permanent worker.⁴⁸ This automatic regularisation provision is the most important distinctive feature of the Ghanaian framework. It creates a legal mechanism that prevents perpetual casualisation by converting long-term casual arrangements into permanent employment relationships by operation of law, regardless of the contractual label that the employer has applied.

Casual workers who have attained deemed permanent status by being employed for a continuous period of six months or more are entitled to the same termination protections as other permanent workers, including the right to notice of termination as outlined in section 17 of the Act. However, section 79 of the Act does not empower the Minister of Labour to issue regulations specifically prescribing additional terms and conditions for casual workers. Instead, it pertains to the freedom of association and the right of workers to form or join trade unions.⁴⁹ These provisions together create a graduated regime of protection that begins with wage rights on the first day of engagement and escalates to full employment status after six months of continuous service.⁵⁰

c. Freedom of Association and Collective Bargaining for Casual Workers

The Ghanaian Labour Act 2003 grants workers, including casual workers who have attained deemed permanent status, the right to join and form trade unions.⁵¹ Section 79(1) provides that every worker has the right to form or join a trade union of the worker's choice for the promotion and protection of the worker's economic and social interests. Section 87(1) prohibits discrimination in the constitution or rules of trade unions or employers' organisations against any person on grounds such as race, gender, political opinion or disability, thereby prescribing anti-discrimination protections for workers who exercise this right.⁵²

⁴⁶ Ibid., s 75(1).

⁴⁷ Ibid., 74(2)(a).

⁴⁸ Ibid., s 75(1).

⁴⁹ Ibid., s 79.

⁵⁰ Ibid., s 75(1).

⁵¹ Ibid, s 79(1).

⁵² Ibid., s 87.

Furthermore, section 83 of the Act states that a trade union or employers' organisation may apply for registration with the Chief Labour Officer (CLO), and upon registration, the rights and powers conferred on trade unions or employers' organisations under the Act can be exercised.⁵³ However, the entitlement of a trade union to represent its members in collective bargaining and the obligation of employers to recognise and bargain with recognised trade unions are addressed under section 99 of the Act, which outlines the issuance of a collective bargaining certificate to a trade union for the purpose of negotiating on behalf of a specified class of workers.⁵⁴

These provisions imply that a casual worker in Ghana who has been employed for six months or more is not only deemed a permanent employee but also enjoys the full panoply of trade union rights, including the right to union membership, protection against anti-union discrimination and the right to be represented in collective bargaining. Even before the six-month threshold, a casual worker has the right to equal wages and day-to-day conditions. This provides a floor of protection that Nigeria's legislative framework does not match. It should be noted that in practice, the enforcement of these rights, particularly in the informal economy and among smaller employers, is still a challenge, as authors have posited that the coverage of CBAs in Ghana does not consistently extend to casual workers even where they are technically eligible. That notwithstanding, the statutory architecture in Ghana is unambiguously more protective than that which exists in Nigeria.

5. Comparative Analysis: Nigeria and Ghana

a. Statutory Definition of Casual Labour

The most fundamental difference between the two legal systems is the presence or absence of a statutory definition of casual labour. Ghana's Labour Act 2003 defines casual workers and temporary workers,⁵⁵ creating distinct legal categories with specific rights attaching to each.⁵⁶ Nigeria's Labour Act contains no equivalent provision. The Nigerian Labour Act defines 'worker' broadly but treats all workers as if they fall within a uniform category, ignoring the structural differences between permanent and casual employment. This gap in Nigerian law is the primary legislative mechanism through which employers in Nigeria are able to deny casual workers access to trade union rights and collective bargaining. Without a statutory definition, employers can always contest whether a particular worker qualifies for a given protection, and courts must resolve that question case by case, at considerable cost and delay.

⁵³ Ibid., s 83(1).

⁵⁴ Ibid., s 99.

⁵⁵ Ibid., s 78.

⁵⁶ Labour Act (Nigeria) (n 17), s 91(1); Labour Act (Ghana) (n 8), ss 73–75.

b. The Right to Unionise

Both Nigeria and Ghana, in principle, extend the right to join trade unions to all workers. The Trade Unions Act in Nigeria and the Labour Act in Ghana both contain provisions that, on their face, include casual workers within the class of persons entitled to union membership.⁵⁷ In Nigeria, the NICN confirmed this in *Patovilki*⁵⁸ by upholding the right of casual workers to union membership. In practice, however, Nigeria faces significantly higher resistance to casual worker unionisation than Ghana.⁵⁹ The triangular employment model, which does not exist as a regulated phenomenon in Nigeria's statutory framework, enables employers to argue that workers employed through contractors are the contractors' employees and therefore not eligible for membership in the host company's recognised unions.⁶⁰ Ghana's Labour Act, by virtue of the deemed employment,⁶¹ prevents employers from relying on contractual forms to deny union rights after six months, thereby cutting off the triangular employment argument at its root.

c. Collective Bargaining Coverage

Collective bargaining coverage for casual workers is, in both jurisdictions, lower than the law suggests. Studies show that casualisation is a strategy used in Nigeria to avoid unionisation and reduce labor costs.⁶² Casual workers are often excluded from collective bargaining, and their contracts are intentionally kept short-term to prevent them from acquiring the legal status necessary to join unions.⁶³ Although the NICN has held that casual workers have the right to join unions,⁶⁴ in practice, they relent in exercising this right due to the fear of contract termination. This problem makes it functionally impossible to exercise the right of collective bargaining in many sectors. In Ghana, under the Labour Act 2003, casual workers technically gain rights if they meet "deemed employment" criteria; however, employers often exploit loopholes, such as renegotiating contract terms, to exclude them from union recognition agreements. Thus, statutory clarity is a necessary but not sufficient condition for effective collective bargaining coverage; institutional enforcement is equally critical.

⁵⁷ Trade Unions Act (Nigeria), s 1; Labour Act (Ghana), s 99.

⁵⁸ NIC/12/89.

⁵⁹ R Bamidele and others, 'Casual Work Arrangements (CWAs) and Its Effect on Right to Freedom of Association in Nigeria' [2019](7)(1) International Journal of Innovative Legal & Political Studies;1-17; S Lala, 'Casual Work in Nigeria: The Shortcomings of the Current Legal Framework' <<https://proshare.co/articles/casual-work-in-nigeria-the-shortcomings-of-the-current-legal-framework?menu=Business&classification=Read&category=People>> accessed 16 March 2026..

⁶⁰ The Trusted Advisors, 'Legality And Contemporary Legal Issues On Triangular Employment In Nigeria' <<https://www.mondaq.com/nigeria/outsourcing/1646102/legality-and-contemporary-legal-issues-on-triangular-employment-in-nigeria>> accessed 14 March 2026.

⁶¹ Ghanaian Labour Act 2003, s 75.

⁶² P O Ofulue and I MO Nwabuku, 'Legal Protection for Informal/Casual Workers: A Comparative Study of Nigeria and Australia' [2025](9)(9) International Journal of Research and Innovation in Social Science;9010-9020.

⁶³ K C Nwogu and A I Uwadinma, 'The Legal Implications of Casualisation on Trade Unionism in Nigeria's Oil and Gas Sector' [2024](6)(3) International Review of Law and Jurisprudence (IRLJ);72.

⁶⁴ *Patovilki Industrial Planners Limited v National Union of Hotels and Personal Services Workers* NIC/12/89

d. Role of the Judiciary and Regulatory Institutions

The institutional architecture for dispute resolution in the two countries reflects their divergent approaches to casual worker protection. Both Nigeria and Ghana have specialised labour dispute resolution bodies: the National Industrial Court of Nigeria (NICN) and the National Labour Commission (NLC) in Ghana respectively.⁶⁵ The NLC in Ghana performs a primarily administrative and conciliatory function, with jurisdiction to investigate and settle labour disputes and to enforce compliance with the Labour Act.⁶⁶ The NICN in Nigeria is a superior court of record with full adjudicatory powers.⁶⁷ The NICN has exclusive jurisdictions over matters relating to labor, employment, trade unions, industrial relations, and conditions of service.⁶⁸

The key distinction is that the NLC in Ghana operates primarily within a statutory framework that expressly defines casual workers' rights, and its enforcement function is therefore one of applying clear legislative standards. By contrast, the NICN in Nigeria must derive casual worker rights from constitutional guarantees and general statutory provisions in the absence of specific legislative protection. The NICN's decisions in *Patovilki* demonstrate considerable judicial creativity, but they also illustrate the fragility of a rights-protection regime that depends on individual litigants accessing a superior court and on the consistency of judicial interpretation. The Ghanaian model, where statutory provisions are sufficiently specific to enable administrative enforcement without recourse to litigation, is structurally more efficient and more accessible to the workers that it is designed to protect. Therefore, Nigeria's reliance on the NICN as the primary vehicle for casual worker rights protection is a second-best solution that cannot substitute for clear legislative reform.

6. Emerging Trends and 2025 Outlook

At the legislative level, the Labour Amendment Bill 2021 proposed, among other things, the criminalisation of casualisation and the introduction of a compulsory regularisation provision for workers engaged on casual terms for more than three months. The Bill has not been enacted as of the time of writing, and its passage remains uncertain in the context of competing legislative priorities and employer lobbying.⁶⁹ In 2024, the Government of Ghana introduced a new Labour Bill to Parliament intended to replace the existing Labour Act, 2003, with a view to strengthening protections for non-standard workers, including casual and

⁶⁵ Labour Act 2003 (Ghana), s 135; National Industrial Court of Nigeria Act 2006, s 1; Section 254C of the 1999 Constitution (as amended by the Third Alteration Act, 2010).

⁶⁶ Labour Act 2003 (Ghana), s 138.

⁶⁷ NICN Act 2006, s 1(3)(a).

⁶⁸ CFRN 1999 (s 254C; NICN Act 2006, s 7).

⁶⁹ I Bankole, 'Reps Move against Casual Labour in Banks as Laguda's Bill Scales Second Reading' <<https://www.vanguardngr.com/2025/12/rep-move-against-casual-labour-in-banks-as-lagudas-bill-scales-second-reading>> accessed 15 March 2026; Kaftan TV, 'Labour Market Reforms: Pledges to Tackle Casualisation, Promote Decent Work Standards in Nigeria' <<https://www.youtube.com/watch?v=1PBJTfVdJvY>> accessed 15 March 2026.

temporary workers.⁷⁰ At the international level, the ILO has strongly urged that workers in non-standard employment, such as temporary, casual, or platform work, receive equal treatment, freedom of association, and collective bargaining rights.⁷¹ The 2024 update emphasises that achieving the 2030 Agenda requires a comprehensive approach that includes social dialogue at all levels, effective labour administration and better enforcement of labor laws.

7. Conclusion

The comparative analysis in this article shows that Nigeria and Ghana approach the protection of casual workers' rights to freedom of association and collective bargaining from fundamentally different legislative points. Ghana has chosen a statutory-led model, anchored in the Labour Act 2003. Nigeria has, by default, adopted a judicial-led model, in which the NICN fills legislative gaps through constitutional interpretation and the application of general statutory principles. Both models share a common constitutional foundation and a common obligation under ILO Conventions Nos 87 and 98. But they diverge in the degree of statutory clarity, institutional accessibility and effectiveness that they offer to casual workers on the ground. The judicial-led model in Nigeria produces rights that are real but contingent. The NICN has established that casual workers are entitled to trade union membership and to protection against anti-union discrimination. However, these rights are enforceable only by workers who can access the Court, fund litigation and secure favourable outcomes against employers who resist with greater resources. The conditions of the Nigerian labour market, marked by high unemployment, weak inspectorate capacity and legislative silence on casualisation, ensure that the gap between legal entitlement and practical protection remains wide. The statutory-led model in Ghana does not eliminate this gap but it narrows it considerably by creating automatic entitlements that apply without the need for adjudication and by providing administrative enforcement mechanisms through the NLC.

8. Recommendations

The article therefore makes the following recommendations:

1. For Nigeria, the most urgent reform is the amendment of the Labour Act to introduce a statutory definition of casual labour and a maximum duration for casual engagements, after which a deemed employment provision would automatically convert casual arrangements into permanent employment relationships. A three-to-six-month regularisation period would be appropriate. The amendment should also explicitly prohibit the use of third-party contractor arrangements to

⁷⁰ N Dowuona & Company, 'Legislative developments & Expected changes from the Labour Bill, 2024 (Labour Bill)' <<https://www.lexology.com/library/detail.aspx?g=ee85d26c-aa04-4b23-972b-67efee9b9550>> accessed 17 March 2026.

⁷¹ ILO, 'Non-standard forms of employment, a feature of the contemporary world of work' <<https://www.ilo.org/resource/news/ilo-non-standard-forms-employment-feature-contemporary-world-work>> accessed 16 March 2026.

circumvent union membership rights, and should impose liability on host companies for anti-union practices carried out through contractors. The labour inspectorate must be adequately resourced and its mandate extended to cover casual and contract workers in the informal economy.

2. For Ghana, the principal recommendation is the enactment of the Labour (Amendment) Bill and the reduction of the regularisation threshold to three months, which would address the problem of deliberate pre-threshold termination. Ghana must also ensure that the right of regularised casual workers to protection against unfair termination is effectively enforced in practice, and that CBAs concluded within enterprises are not drafted in a manner that excludes deemed permanent workers from their scope.
3. At the regional level, both countries should press within the ECOWAS framework for the development of a regional decent work protocol that establishes minimum standards for the treatment of non-standard workers across member states. The ECOWAS Supplementary Act on Free Movement of Persons already creates conditions that facilitate labour mobility across the region. A regional labour standard on casual work would complement this framework by ensuring that mobility does not result in a race to the bottom in workers' rights. The ILO's decent work agenda provides the architecture for such a regional initiative.