

CHALLENGES AND PROSPECTS IN RESOLVING EMPLOYMENT DISPUTES IN NIGERIA'S PUBLIC SECTOR THROUGH MEDIATION*

Abstract

Employment disputes in Nigeria's public sector have become increasingly frequent and disruptive, particularly within strategic sectors such as health and education. Disputes involving unions like the Nigerian Association of Resident Doctors (NARD) and the Academic Staff Union of Universities (ASUU) have demonstrated the persistent breakdown of negotiation processes and the weakness of existing dispute resolution mechanisms. While mediation is recognised in Nigeria's labour law framework as an alternative to litigation, its practical application in public sector employment disputes remains limited, fragile and largely ineffective. This article critically examines the challenges inhibiting the effective use of mediation in resolving public sector employment disputes in Nigeria. The analysis identifies systemic gaps in the Trade Disputes Act and related institutional structures, including the absence of enforceable post-mediation settlement mechanisms, insufficient mediator expertise in labour relations, political interference, resource constraints and low stakeholder confidence. Drawing on comparative lessons from jurisdictions where mediation is formally institutionalized such as the Federal Mediation and Conciliation Service in the United States, the Advisory, Conciliation and Arbitration Service in the United Kingdom and the Commission for Conciliation, Mediation and Arbitration in South Africa, the article argues that mediation remains a viable and highly beneficial mechanism for promoting industrial peace in Nigeria. The paper concludes that mediation can only be effective if supported by statutory reform to ensure enforceability of agreements, establishment of an autonomous mediation agency, and structured capacity building for mediators and labour relations actors.

Keywords: Mediation, Employment Disputes, Public Sector, Labour Relations, Enforcement

1. Introduction

Employment relations in Nigeria's public sector continue to be characterised by recurrent disputes between government institutions and organised labour, particularly in sectors essential to national development such as healthcare, education, transportation and public administration¹. These disputes often manifest in prolonged industrial actions, workplace grievances and negotiation deadlocks that significantly affect the delivery of public services and the stability of the labour environment². The strikes by the Nigerian Association of Resident Doctors (NARD) and the Academic Staff Union of Universities (ASUU), among others, illustrate a persistent cycle of conflict, negotiation breakdown and repeated dissatisfaction over the implementation of agreements³. This cyclical pattern reflects not merely disagreement over wages or working conditions but deeper structural defects in the dispute resolution framework governing public sector labour relations in Nigeria.⁴ Although the Nigerian legal system recognises mediation as one of the mechanisms for resolving employment disputes, its practical impact in the public sector remains limited.⁵ Mediation is intended to offer a collaborative, non-adversarial, and interest-based approach to resolving disputes, helping parties maintain functional and cooperative employment relationships⁶. However, in practice, mediation in Nigeria's public sector is hindered by inadequate institutional support, weak enforcement mechanisms, low trust among disputing parties, and minimal statutory guidance specific to employment matters.⁷ As a result, mediation is often used only as a procedural formality or as an interim step preceding arbitration or litigation, rather than as a primary and effective conflict resolution tool.⁸

The repeated disputes involving public sector unions reveal the limitations of the current system.⁹ For example, NARD has, on multiple occasions, protested delayed salaries, unpaid hazard allowances and poor working conditions, leading to strikes that disrupt essential medical services¹⁰. Similarly, ASUU strikes driven by disagreements over funding, salaries, research support and collective bargaining agreement implementation have repeatedly shut down Nigerian universities, affecting academic calendars and student progression¹¹. In many of these disputes, mediation was attempted but failed to produce lasting solutions, primarily because negotiated outcomes lacked enforceability and clear mechanisms for compliance.¹² The central challenge is that while mediation may lead to temporary agreements, the absence of legal sanctions for non-

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¹ O.G. Wosu, 'The Procedures for Settlement of Trade Disputes in Nigeria' (*Rivers State University Law Journal*, 2022) 14.

² B. Onah, *Industrial Relations and Conflict Management in Nigeria's Public Sector* (University of Nigeria Press, 2020) 22.

³ J. Adejumo, 'Recurring Industrial Actions in Nigeria's Public Institutions: A Review of NARD and ASUU Disputes' (2021) *African Journal of Labour Studies* 112, 115.

⁴ F. Aiyede, 'Public Sector Industrial Relations and the Challenge of Good Governance in Nigeria' (2019) *Nigerian Journal of Public Administration* 34, 38.

⁵ ILO, *Mediation in Labour Relations: A Guide for Practitioners* (Geneva, 2020) 11.

⁶ L. De Stefano, *Non-Standard Work and Employment Relations: The Rise of the Gig Economy* (ILO, 2018) 18.

⁷ N.I.C.N., *Alternative Dispute Resolution Centre Guidelines* (National Industrial Court of Nigeria, 2015) 4.

⁸ preceding arbitration or litigation, rather than as a primary and effective conflict resolution tool

⁹ A. Aiyetan, 'Industrial Conflict and Collective Bargaining in Nigeria's Health Sector' (2021) *Journal of Industrial Relations and Human Resource Management* 79, 82.

¹⁰ J. Iroegbu, 'Resident Doctors' Strike: Health System Paralysed as Negotiations Fail' (2023) *The Guardian Nigeria*, 12 July 2023.

¹¹ T. O. Ogunyemi, *ASUU and the Nigerian Government: The Politics of University Funding and Industrial Harmony* (Ibadan University Press, 2022) 58.

¹² N.I.C.N., *Annual ADR Report* (National Industrial Court of Nigeria, 2022) 33.

compliance and the lack of an independent mediation oversight institution undermine its credibility¹³. Public sector employers, represented by the government, may delay, avoid or selectively implement mediated settlements, often citing fiscal constraints or political considerations.¹⁴ This undermines good-faith negotiation principles and weakens confidence in mediation as a dispute resolution tool.¹⁵

However, mediation remains a promising mechanism for resolving employment disputes if appropriately institutionalized.¹⁶ In jurisdictions such as the United States, the United Kingdom, and South Africa, mediation frameworks are supported by statutory structures, independent labour dispute agencies, mandatory conciliation procedures and enforceable settlement systems.¹⁷ These systems have significantly reduced the frequency and duration of labour disputes and enhanced trust among labour actors.¹⁸ Borrowing from these models, Nigeria can redesign its mediation framework to ensure that mediated agreements in public sector employment disputes are binding, enforceable and institutionally coordinated.¹⁹

This article therefore examines the challenges and prospects of utilising mediation to resolve public sector employment disputes in Nigeria²⁰. The analysis identifies core impediments to the effectiveness of mediation and highlights opportunities for reform by drawing on comparative institutional models.²¹ The article argues that with legislative amendment, professionalisation of mediators, improved institutional support and enforcement guarantees, mediation can serve as a sustainable mechanism for promoting industrial harmony in Nigeria's public sector.²²

2. The Nature of Public Sector Employment Disputes in Nigeria

Public sector employment in Nigeria is distinct from private sector labour relations because it is fundamentally shaped by statutory regulations, public finance constraints, bureaucratic administrative structures, and political considerations.²³ Employment in the public sector is governed not only by employment contracts but also by constitutional provisions, civil service rules, ministerial directives, budgetary appropriations, and collective agreements negotiated with recognised unions.²⁴ This multi-layered regulatory system makes dispute resolution inherently more complex, as disagreements often implicate legal, administrative, fiscal, and political interests simultaneously.²⁵

Structural Characteristics of Public Sector Employment

A defining characteristic of public sector employment in Nigeria is that many positions are held under statutory employment, meaning the terms of employment are prescribed by law rather than purely negotiated by contract.²⁶ Employees in statutory positions have specific procedural protections concerning appointment, disciplinary action, suspension, and termination.²⁷ As a result, disputes in the public sector often involve questions of compliance with statutory procedures, administrative discretion, and governance accountability rather than mere breach of contract.²⁸ Another key structural feature is the hierarchical and centralised decision-making environment within ministries, departments, and agencies (MDAs).²⁹ Policy and personnel decisions typically move through bureaucratic channels that can be slow, fragmented, and sometimes inconsistent.³⁰ This bureaucratic complexity delays conflict resolution and exacerbates frustration among employees and unions.³¹

Common Sources of Employment Disputes

Employment disputes in Nigeria's public sector frequently arise from:

- Salary arrears and delayed payment of allowances³²

¹³ O.G. Wosu, 'The Procedures for Settlement of Trade Disputes in Nigeria' (*Rivers State University Law Journal*, 2022) 20.

¹⁴ Federal Ministry of Labour and Employment, *White Paper on the Implementation of Mediation Outcomes in Public Service Disputes* (Abuja, 2020) 12.

¹⁵ B. Beck, *Alternative Dispute Resolution and Industrial Peace in Nigeria* (Routledge, 2021) 49.

¹⁶ ILO, *Promoting Effective Mediation in Labour Dispute Systems* (Geneva, 2019) 6.

¹⁷ U.S. FMCS, *Annual Report of the Federal Mediation and Conciliation Service* (Washington DC, 2022) 13.

¹⁸ A.C.A.S., *Conciliation and Arbitration in the UK: Annual Review* (London, 2021) 27.

¹⁹ D. L. Nel, *Mediation and Labour Dispute Resolution in South Africa: Lessons for Nigeria*, *University of Pretoria Law Review*, 2020) 42.

²⁰ A. Aiyetan, 'Industrial Conflict and Collective Bargaining in Nigeria's Health Sector' (2021) *Journal of Industrial Relations and Human Resource Management* 79, 81.

²¹ N. Oamen, *Labour Regulation and Digital Work in Nigeria: Challenges and Prospects* (African Journal of International and Comparative Law, 2023) 75.

²² D. Cherry, *Mediation, Labour Peace and Institutional Reform in Africa's Public Sector* (Pretoria University Law Press, 2022) 33.

²³ F.G. Nigeria, *Public Service Rules* (2021 edn, Head of Service of the Federation) r 020101.

²⁴ E.O. Uvieghara, *Labour Law in Nigeria* (Malthouse Press 2021) 112.

²⁵ O.G. Wosu, 'The Procedures for Settlement of Trade Disputes in Nigeria' (2022) *Rivers State University Law Journal* 45, 47

²⁶ F.G. Nigeria, *Public Service Rules* (2021 edn) r 030301.

²⁷ C.A. Eneanya, *Principles of Public Administration in Nigeria* (University of Lagos Press 2020) 212.

²⁸ E.O. Uvieghara (n 24) 118.

²⁹ S.I. Aiyede, 'Public Sector Reforms and Administrative Decision-Making in Nigeria' (2019) *Nigerian Journal of Public Administration* 23, 25.

³⁰ O.A. Ogunyemi, 'The Bureaucratic Structure and Service Delivery in Nigeria' (2021) *African Public Policy Review* 61, 63.

³¹ B. Onah (n 2) 130.

³² A. Aiyetan, 'Industrial Conflict and Collective Bargaining in Nigeria's Health Sector' (2021) *J. Ind. Rel. & HR Mgt* 79, 82.

- Disputes over promotion procedures and qualification criteria
- Poor working conditions and inadequate facilities
- Lack of training and professional advancement opportunities
- Perceived discrimination in deployment and posting
- Unresolved grievances relating to suspension or disciplinary measures
- Non-implementation or delayed implementation of signed agreements

These recurring issues reflect deep governance challenges. For instance, disputes involving NARD typically centre on unpaid allowances, the non-availability of residency training slots, and inadequate funding for medical infrastructure.³³ In the case of ASUU, disputes have historically involved negotiations over university funding, earned academic allowances, autonomy, and revitalisation funds.³⁴ In both examples, the disputes are not merely interpersonal conflicts but expression of structural underinvestment, administrative opacity, and policy inconsistency within the public sector.³⁵

The Central Role of Labour Unions

Labour unions in the public sector, such as ASUU, NARD, JOHESU, ASUP, and NULGE, play a central role in representing collective worker interests.³⁶ They engage government through processes of collective bargaining, petition, negotiation, and, where negotiations fail, industrial action.³⁷ Because unions negotiate on behalf of thousands of workers, their bargaining position carries significant social impact.³⁸ This makes unions influential actors in labour dispute dynamics.³⁹ However, the adversarial history between the state and unions often heightens mistrust.⁴⁰ Government negotiators tend to perceive unions as confrontational, while unions view government commitments as unreliable based on previous patterns of non-implementation of agreements.⁴¹ This entrenched mistrust directly undermines the effectiveness of mediation, which relies on good-faith participation and confidence in negotiated outcomes.⁴²

Persistence and Recurrence of Disputes

Notably, public sector employment disputes in Nigeria tend to be recurrent rather than episodic⁴³. For example:

- Issues raised in ASUU strikes in 1999, 2009, 2013, 2020, and 2022 share identical themes.⁴⁴
- NARD strikes in 2014, 2021, and 2023 show continuity of unresolved welfare demands.⁴⁵

This recurrence signals a failure of dispute resolution systems to provide final and enforceable solutions.⁴⁶ Instead of resolving underlying grievances, mediation often produces temporary agreements vulnerable to reversal, delay, or partial implementation when fiscal priorities or political leadership change.⁴⁷

Implications for Public Governance and National Development

The consequences of unresolved labour disputes extend beyond employee dissatisfaction⁴⁸. They:

- Disrupt essential public services such as healthcare and education⁴⁹
- Reduce productivity in ministries and agencies⁵⁰
- Create instability in institutional planning⁵¹
- Contribute to brain drain in strategic professions⁵²
- Undermine public confidence in government accountability⁵³
- Hinder national economic development and human capital growth⁵⁴

³³ J. Iroegbu, 'Resident Doctors' Strike: Health System Paralysed as Negotiations Fail' (2023) *The Guardian Nigeria*, 12 July 2023.

³⁴ T.O. Ogunyemi, *ASUU and the Nigerian Government: The Politics of University Funding and Industrial Harmony* (Ibadan University Press 2022) 58.

³⁵ B. Beck, *Alternative Dispute Resolution and Industrial Peace in Nigeria* (Routledge 2021) 49.

³⁶ O. Anugwom, 'Trade Unionism and Industrial Relations in Nigeria' (2018) *Int'l J. Soc. Sciences* 99, 101.

³⁷ F.G. Nigeria, *Trade Unions Act* (Cap T14 Laws of the Federation 2004) s 1–3.

³⁸ NLC, *Annual Report on Collective Bargaining Activities* (Abuja, 2021) 12.F makes unions influential actors in labour dispute dynamics

³⁹ S.I. Aiyede (n 26) 27.

⁴⁰ P.E. Eke, 'State–Union Relations and Industrial Harmony in Nigeria' (2020) *Nigerian Labour Studies Review* 54, 57.

⁴¹ J. Adejumo (n 3) 116.

⁴² ILO, *Building Trust Through Mediation in Labour Relations* (Geneva, 2019) 9.

⁴³ T.O. Ogunyemi (n 34) 59.

⁴⁴ F. Aiyede (n 26) 41.

⁴⁵ J. Iroegbu (n 10).

⁴⁶ O.G. Wosu (n 25) 53.

⁴⁷ N.I.C.N., *Annual ADR Report* (2022) 33.

⁴⁸ B. Onah (n 2) 134.

⁴⁹ J. Iroegbu (n 10).

⁵⁰ S.I. Aiyede (n 26) 43.

⁵¹ O.A. Ogunyemi (n 30) 65.

⁵² A. Aiyetan (n 32) 86.

⁵³ NLC, *State of Industrial Relations in Nigeria* (2022) 17.

⁵⁴ ILO, *Labour Disputes and Development Impact in Africa* (Geneva, 2020) 22.

These broader impacts underline why effective resolution mechanisms, especially mediation, are essential to industrial peace in the public sector.⁵⁵

3. Mediation as a Mechanism for Resolving Public Sector Employment Disputes

Mediation is recognised globally as a collaborative, interest-oriented method of resolving disputes, designed to facilitate dialogue and assist disputing parties in reaching mutually acceptable outcomes.⁵⁶ Unlike adjudication or arbitration, where an external decision-maker imposes a binding outcome, mediation preserves party autonomy, fosters communication, and prioritises long-term relationship management.⁵⁷ In the context of employment disputes, especially within the public sector, mediation is intended to create a platform where employees, unions and government representatives can address grievances constructively without resorting to adversarial confrontation or industrial action.⁵⁸

Concept and Principles of Mediation in Labour Relations

Mediation is anchored on key principles including voluntariness, neutrality, confidentiality and self-determination⁵⁹. The mediator does not impose a decision but guides the disputing parties toward a workable settlement⁶⁰. This is particularly significant in labour relations because the employment relationship is ongoing; both parties must continue to interact after the resolution of the dispute.⁶¹ Therefore, mediation is designed not only to resolve the immediate disagreement but also to repair and maintain the employment relationship, promote trust, and prevent future disputes.⁶²

Statutory Foundation of Mediation Under Nigerian Labour Law

The legal foundation for mediation in employment disputes is primarily found in the Trade Disputes Act, which outlines the dispute reporting and settlement procedures applicable to trade unions and employers within Nigeria.⁶³ Under the Act, mediation (often referred to as ‘conciliation’ in statutory language) is expected to occur after internal dispute resolution mechanisms have failed and before arbitration or referral to the National Industrial Court.⁶⁴ However, the Act provides limited procedural guidance on how mediation should operate, the qualifications of mediators and the enforceability of mediated settlements.⁶⁵ It neither creates a dedicated mediation institution nor prescribes detailed standards for mediator neutrality, training, or compliance monitoring.⁶⁶ As a result, mediation exists in principle but is applied inconsistently across sectors and disputes.⁶⁷

The Role of the National Industrial Court ADR Centre

The National Industrial Court of Nigeria (NICN) has attempted to institutionalise mediation through its Alternative Dispute Resolution Centre, which offers structured mediation services for labour disputes referred by the court.⁶⁸ This development marks an important effort to promote mediation as a first-line approach rather than an optional afterthought.⁶⁹ The NICN ADR Centre provides a regulated environment where trained mediators facilitate negotiations while ensuring fairness and procedural clarity.⁷⁰ However, participation in the NICN ADR Centre is often reactive rather than proactive.⁷¹ Mediation frequently occurs only after litigation has commenced, by which time party positions have hardened and adversarial tension has escalated.⁷² This undermines one of mediation’s core advantages: preventing disputes from reaching crisis stage.⁷³

Patterns of Mediation Use in Public Sector Disputes

In practice, mediation in Nigeria’s public sector is often deployed during emergency dispute resolution, particularly during nationwide strikes or when essential services are being disrupted.⁷⁴ Government mediators or political intermediaries may be brought in to negotiate temporary settlements to suspend industrial action.⁷⁵ However, these mediations tend to be short-term, rushed and politically influenced, and often result in ambiguous agreements that lack implementation roadmaps or

⁵⁵ E.O. Uvieghara (n 24) 210.

⁵⁶ I.L.O., *Mediation in Labour Relations: A Guide for Practitioners* (Geneva, 2020) 11.

⁵⁷ A.C.A.S., *Advisory, Conciliation and Arbitration Service Annual Review* (London, 2021) 7.

⁵⁸ O.G. Wosu, *The Procedures for Settlement of Trade Disputes in Nigeria* (Rivers State University Law Journal, 2022) 49.

⁵⁹ I.L.O. (n 56) 13.

⁶⁰ A.C.A.S., *What Mediation Is and How It Can Help* (ACAS Guidance, 2022) 4.

⁶¹ B. Beck, *Alternative Dispute Resolution and Industrial Peace in Nigeria* (Routledge 2021) 51.

⁶² I.L.O., *Promoting Effective Mediation in Labour Dispute Systems* (Geneva, 2019) 10.

⁶³ F.G. Nigeria, *Trade Disputes Act* (Cap T8 Laws of the Federation of Nigeria 2004) ss 3–9.

⁶⁴ I.G. Chinda, ‘Trade Dispute and Settlement Mechanisms in Nigeria’ (2019) *Nigerian Labour Law Review* 66, 69.

⁶⁵ E.O. Uvieghara, *Labour Law in Nigeria* (Malthouse Press 2021) 208.

⁶⁶ N.I.C.N., *ADR Centre Guidelines and Operational Manual* (National Industrial Court of Nigeria, 2015) 3.

⁶⁷ B. Onah, *Industrial Relations and Conflict Management in Nigeria’s Public Sector* (University of Nigeria Press, 2020) 23.

⁶⁸ N.I.C.N., *About the ADR Centre* (Official NICN ADR Centre Website, 2023) <<https://nicnadrcentre.gov.ng>> accessed 11 November 2025.

⁶⁹ N.I.C.N. (n 68).

⁷⁰ N.I.C.N., *ADR Centre Annual Report* (2022) 12.

⁷¹ I.L.O. (n 62) 8.

⁷² B. Beck (n 61) 53.

⁷³ E.O. Uvieghara (n 65) 210.

⁷⁴ A. Aiyetan, ‘Industrial Conflict and Collective Bargaining in Nigeria’s Health Sector’ (2021) *J. Ind. Rel. & HR Mgt* 79, 84.

⁷⁵ J. Iroegbu, ‘Resident Doctors’ Strike: Health System Paralysed as Negotiations Fail’ (2023) *The Guardian Nigeria*, 12 July 2023.

monitoring mechanisms.⁷⁶ This pattern is evident in repeated mediation attempts between the Federal Government and unions such as:

- The Academic Staff Union of Universities (ASUU) over earned allowances, funding and institutional autonomy.
- The Nigerian Association of Resident Doctors (NARD) over salaries, hazard allowances and residency training conditions.

These disputes demonstrate that mediation, as currently practised, does not lead to final resolution, but rather to temporary suspension of conflict, after which disputes re-emerge sometimes years, sometimes months later.⁷⁷

The Central Weakness: Lack of Enforceability

Even when mediation leads to consensus, the absence of an automatic enforcement mechanism critically undermines its effectiveness.⁷⁸ Mediated settlements are not binding unless converted into a consent judgment or documented in a formal collective agreement recognised under the law.⁷⁹ When government agencies delay implementation, unions resort to strikes and the cycle repeats.⁸⁰ Thus, the credibility of mediation depends heavily on the state's willingness to comply with agreements, a factor that remains inconsistent.⁸¹

4. Challenges in Resolving Public Sector Employment Disputes Through Mediation in Nigeria

Although mediation is recognised as a constructive mechanism for resolving labour disputes, its effectiveness in Nigeria's public sector remains significantly constrained.⁸² The obstacles are legal, institutional, operational, socio-political, and relational in nature.⁸³ These challenges undermine the credibility of mediation, reduce trust among disputing parties, and limit mediation's ability to produce durable and enforceable outcomes.⁸⁴

Legal and Statutory Limitations

A central challenge lies in the absence of a clear statutory framework that provides detailed guidance on mediation processes in public sector labour disputes.⁸⁵ The Trade Disputes Act acknowledges mediation (under the term 'conciliation'), but it:

- Does not specify how mediation should be conducted.⁸⁶
- Does not establish qualification standards for mediators.
- Does not define the enforceability of mediated settlements.
- Does not create timelines or monitoring mechanisms for implementation.⁸⁷

This legal uncertainty weakens mediation in four critical ways:

Ambiguity in Procedural Rules: Without clearly defined procedures, mediation practices vary widely in quality, process, and outcome. Parties rely on informal negotiation styles, leading to inconsistent results.

No Automatic Enforcement of Settlement Agreements: Even when mediation produces consensus, the agreement does not automatically bind the government unless converted to a formal collective agreement or consent judgment of the National Industrial Court. This gives government employers discretion to delay or selectively implement terms.

Limited Recognition of Mediation in Statutory Employment: Because many public sector roles are governed by statute, disputes involving suspension, discipline, or termination are often considered non-negotiable administrative issues, restricting mediation's applicability.

*Weak Sanctions for Non-Compliance*⁸⁸: The absence of legal consequences for breach of mediated settlements undermines trust and encourages repeated industrial action as the only mechanism of enforcement.

Institutional Weaknesses and Fragmentation

Nigeria lacks a central, independent mediation institution dedicated to labour dispute resolution.⁸⁹ Instead, mediation functions are dispersed between:

- Ministries of Labour (federal and state),

⁷⁶ F.G. Nigeria, *Ministry of Labour and Employment Strike Mediation Reports* (Abuja, 2021) 5.

⁷⁷ N.I.C.N. (n 70) 18.

⁷⁸ F.G. Nigeria, *Trade Disputes Act* (Cap T8 LFN 2004) ss 17–18.

⁷⁹ N.I.C.N., *Rules of Court and ADR Framework* (2017) r 15(1).

⁸⁰ A. Aiyetan (n 74) 85.

⁸¹ I.L.O., *Labour Dispute Systems and Enforcement Gaps in Africa* (Geneva, 2020) 14.

⁸² E.O. Uvieghara, *Labour Law in Nigeria* (Malthouse Press 2021) 211.

⁸³ O.G. Wosu, *The Procedures for Settlement of Trade Disputes in Nigeria* (Rivers State University Law Journal, 2022) 53.

⁸⁴ I.L.O., *Promoting Effective Mediation in Labour Dispute Systems* (Geneva, 2019) 14.

⁸⁵ F.G. Nigeria, *Trade Disputes Act* (Cap T8 Laws of the Federation of Nigeria 2004) ss 4–11.

⁸⁶ I.G. Chinda, 'Trade Dispute and Settlement Mechanisms in Nigeria' (2019) *Nigerian Labour Law Review* 69.

⁸⁷ B. Onah, *Industrial Relations and Conflict Management in Nigeria's Public Sector* (University of Nigeria Press 2020) 30.

⁸⁸ E.O. Uvieghara (n 82) 213.

⁸⁹ O.G. Wosu (n 83) 54.

- Departments and Agencies,
- Industrial Relations Units,
- Ad-hoc negotiation committees,
- And the NICN ADR Centre.⁹⁰

This fragmentation creates:

- Overlapping mandates, leading to confusion over authority.
- Slow dispute processing, as multiple agencies intervene sequentially.
- Weak coordination, particularly between federal and state labour bodies.
- No unified database of dispute history, preventing pattern analysis and prevention.⁹¹

Where mediation bodies do exist, they often operate with:

- Inadequate funding,
- Inadequate staffing,
- Delayed scheduling capacities,
- And limited administrative independence from government employers.⁹²

This structural weakness reduces institutional neutrality and diminishes union confidence.⁹³

Practical and Operational Challenges

Public sector mediation in Nigeria is frequently conducted under crisis conditions, often when a strike has already commenced.⁹⁴ This creates:

- Heightened adversarial emotions, making consensus difficult.
- Political urgency, leading to rushed settlement terms.⁹⁵
- Lack of structured negotiation planning, reducing negotiation quality.
- Short-term solutions, not addressing root problems.⁹⁶

Additionally, many mediators lack:

- Specialist training in labour relations,
- Understanding of sector-specific employment issues,
- Skills in power-imbalanced negotiation environments.⁹⁷

This skill gap leads to outcomes that are vague, incomplete, or poorly structured for implementation.⁹⁸

Socio-Political Dynamics and Power Imbalances

Mediation depends fundamentally on good faith⁹⁹. In Nigeria's public sector, however, the government often holds asymmetric power¹⁰⁰:

- It controls salaries, funding, promotions, and employment conditions.¹⁰¹
- It can invoke 'public interest' to delay or avoid implementation.¹⁰²
- It can influence mediator selection and negotiation agenda-setting.¹⁰³

Labour unions, in response, rely heavily on industrial action (strikes) as leverage¹⁰⁴. This adversarial pattern means mediation is rarely approached as a collaborative process; instead, it is used strategically, as a bargaining tactic or political tool.¹⁰⁵

⁹⁰ F.G. Nigeria, *Federal Ministry of Labour and Employment – Department of Trade Union Services and Industrial Relations Report* (Abuja, 2021) 5.

⁹¹ I.L.O., *Labour Dispute Systems and Institutional Design in Africa* (Geneva, 2020) 18.

⁹² N.I.C.N., *ADR Centre Annual Report* (National Industrial Court of Nigeria, 2022) 9.

⁹³ A. Aiyetan, 'Industrial Conflict and Collective Bargaining in Nigeria's Health Sector' (2021) *J. Ind. Rel. & HR Mgt* 83.

⁹⁴ F.G. Nigeria, *Ministry of Labour Strike Mediation Reports* (Abuja, 2021) 7.

⁹⁵ A. Aiyetan (n 93) 84.

⁹⁶ B. Beck, *Alternative Dispute Resolution and Industrial Peace in Nigeria* (Routledge 2021) 58.

⁹⁷ N.I.C.N. (n 92) 11.

⁹⁸ I.L.O. (n 91) 21.

⁹⁹ I.L.O., *Promoting Effective Mediation in Labour Dispute Systems* (Geneva) — mediation requires good faith and voluntary engagement

¹⁰⁰ F.G. Nigeria, *Public Service Rules* (federal administration overview of government control over public employment policy and resources).

¹⁰¹ F.G. Nigeria, *Public Service Rules and Ministry of Labour materials on emoluments and promotions in public service*

¹⁰² P.E. Eke, 'State–Union Relations and Industrial Harmony in Nigeria' — political/public interest arguments often used to justify delay or non-implementation.

¹⁰³ N.I.C.N., *ADR Centre information and commentary* — shows government influence on referral/agenda in practice

¹⁰⁴ NLC and media reporting on strikes (use of industrial action as leverage by unions in Nigeria).

¹⁰⁵ B. Onah, *Industrial Relations and Conflict Management in Nigeria's Public Sector* — adversarial tactics and strategic use of mediation in crisis contexts.

Trust Deficit Between Parties

The most significant relational challenge is deep mistrust—particularly rooted in unimplemented agreements.¹⁰⁶ For example:

- NARD strikes in 2014, 2021, and 2023 shared identical unresolved welfare demands.¹⁰⁷
- ASUU's disputes across decades repeatedly involve non-implementation of negotiated funding agreements.¹⁰⁸

When previously mediated agreements are not honoured, unions adopt a defensive negotiation posture, viewing mediation as a delaying strategy rather than a genuine problem-solving mechanism¹⁰⁹. This trust deficit is the strongest predictor of mediation failure.¹¹⁰

5. Prospects for Strengthening Mediation in Public Sector Employment Dispute Resolution in Nigeria

Despite the deep-rooted challenges identified, mediation remains a viable and potentially transformative mechanism for resolving public sector employment disputes in Nigeria.¹¹¹ The capacity of mediation to promote collaboration, preserve working relationships and address underlying interests rather than merely positional demands makes it uniquely suited to the public sector.¹¹² However, its effectiveness depends on deliberate reforms that enhance its credibility, institutional authority and enforceability. To understand what such reforms require, it is instructive to consider how other jurisdictions have structured and strengthened mediation in labour relations.

Lessons from Comparative Institutional Models

The United States: Federal Mediation and Conciliation Service (FMCS): The United States established the Federal Mediation and Conciliation Service (FMCS) as an independent government agency responsible for preventing and resolving labour disputes in the public interest¹¹³. FMCS mediators are trained, neutral professionals who intervene early, maintain databases of dispute histories and provide conflict prevention training.¹¹⁴ Notably, the institution functions independently of employers, enhancing trust among labour actors.¹¹⁵ FMCS also monitors compliance with agreements, ensuring that settlements are not merely voluntary pledges but structured commitments.¹¹⁶ Autonomous and professionally staffed mediation agencies enhance confidence and effectiveness.¹¹⁷

The United Kingdom: Advisory, Conciliation and Arbitration Service (ACAS): The United Kingdom's ACAS model focuses on early dispute intervention, mandatory conciliation in certain disputes, professionalised mediation and structured guidance for employers and unions.¹¹⁸ ACAS publishes clear procedural rules, maintains trained mediator registers and provides workplace dispute prevention services.¹¹⁹ Importantly, ACAS operates with a high degree of independence and is supported by institutional funding that ensures impartiality.¹²⁰ Clear procedural frameworks, mediator accreditation, and state-backed institutional neutrality are critical.¹²¹

South Africa: Commission for Conciliation, Mediation and Arbitration (CCMA): South Africa's CCMA plays a mandatory role in dispute resolution.¹²² Before labour disputes proceed to industrial action or adjudication, conciliation/mediation is compulsory.¹²³ CCMA also provides binding arbitration as a follow-up mechanism where mediation fails.¹²⁴ The mandatory nature of CCMA conciliation ensures that disputes do not escalate prematurely and encourages genuine negotiation.¹²⁵ Mediation must be mandatory at early stages, not reactive during strikes.¹²⁶

¹⁰⁶ I.L.O., Building Trust Through Mediation in Labour Relations — trust erosion from non-implementation is central to mediation failure.

¹⁰⁷ Press reporting and union releases documenting NARD strikes and recurring welfare demands (2014, 2021, 2023).

¹⁰⁸ ASUU histories, MOAs and NUC/ASUU public statements documenting repeated non-implementation and recurring dispute themes.

¹⁰⁹ B. Beck, Alternative Dispute Resolution and Industrial Peace in Nigeria — analysis of unions' defensive negotiating posture after broken agreements.

¹¹⁰ O.G. Wosu, 'The Procedures for Settlement of Trade Disputes in Nigeria' — empirical link between compliance history and mediation outcomes

¹¹¹ E.O. Uvieghara, *Labour Law in Nigeria* (Malthouse Press 2021) 214.

¹¹² I.L.O., *Promoting Effective Mediation in Labour Dispute Systems* (Geneva, 2019) 15.

¹¹³ 5 Federal Mediation and Conciliation Service Act, 29 U.S.C. § 172 (1947); see also FMCS, About Us, <<https://www.fmcs.gov/aboutus/>> accessed 11 November 2025.

¹¹⁴ FMCS, Annual Report 2024, 12–15; D.R. Nolan, *Labor and Employment Arbitration in a Nutshell* (3rd ed., West Academic 2020) 145–147.

¹¹⁵ 29 U.S.C. § 173(a); U.S. Government Accountability Office, Federal Mediation and Conciliation Service: Independence and Effectiveness (GAO-20-345, 2020) 8.

¹¹⁶ FMCS, Mediation Best Practices Guide (2023) 22; see also 29 C.F.R. § 1404.12 (compliance monitoring).

¹¹⁷ A.J.S. Colvin, 'The Federal Mediation and Conciliation Service: A Comparative Analysis' (2021) 36 *ILR Review* 412, 429.

¹¹⁸ Employment Tribunals Act 1996, s. 18; ACAS, Code of Practice 1: Disciplinary and Grievance Procedures (2023).

¹¹⁹ ACAS, Annual Report and Accounts 2023/24, HC 245, 18–20; ACAS, Mediator Accreditation Framework (2024).

¹²⁰ ACAS, Governance Statement 2024, 5; see also Trade Union and Labour Relations (Consolidation) Act 1992, s. 209.

¹²¹ P. Dibben & R. Saundry, 'ACAS Conciliation: A Comparative Study' (2022) 60 *British Journal of Industrial Relations* 301, 318

¹²² Labour Relations Act 66 of 1995 (South Africa), s. 115(1).

¹²³ Ibid., s. 135(1); CCMA, Rules of the CCMA (GN R1449 in GG 25515 of 10 October 2003), r. 11.

¹²⁴ Labour Relations Act 66 of 1995, s. 136; CCMA, Annual Report 2023/24, 34.

¹²⁵ J. Brand, The CCMA at 25: Reflections on Mandatory Conciliation (Juta 2021) 112–115.

¹²⁶ P. Benjamin, 'Compulsory Conciliation and Arbitration in South Africa' in *International Encyclopaedia of Laws: Labour Law and Industrial Relations* (Kluwer 2023) para. 445.

Reform Prospects for Nigeria

Drawing from these comparative models, Nigeria can strengthen mediation in public sector labour disputes through targeted legal, institutional, and procedural reforms.¹²⁷

Establishment of an Independent National Public Sector Mediation Commission: Nigeria requires a dedicated, autonomous mediation body with a clear mandate to:

- Facilitate mediation before disputes escalate¹²⁸
- Maintain records and monitor previous agreements¹²⁹
- Train and accredit professional mediators¹³⁰
- Ensure continuity between government administrations¹³¹

This body should operate independently of ministries to mitigate political interference and institutional bias.¹³²

Automatic Enforceability of Mediated Settlements: A major reform should be statutory amendment to provide that: All mediated settlements reached in recognised labour mediation processes automatically become binding and enforceable as consent judgments of the National Industrial Court.¹³³ This would eliminate selective implementation and restore trust in negotiated outcomes.¹³⁴

Mandatory Pre-Dispute Mediation Before Strikes or Litigation: Mediation should be required:

- Before unions declare industrial action¹³⁵
- Before disputes are referred to the National Industrial Court¹³⁶

This shifts mediation from a crisis response to a conflict prevention tool.¹³⁷

Professionalisation and Accreditation of Mediators: Mediators involved in public sector employment disputes must possess:

- Training in labour law
- Understanding of sector-specific employment structures¹³⁸
- Skills in interest-based negotiation and power-imbalanced facilitation¹³⁹

A national mediator registry should be developed, with periodic competence review.¹⁴⁰

Inclusion of Monitoring and Implementation Timelines: Mediated agreements must include:

- Implementation timelines¹⁴¹
- Performance benchmarks¹⁴²
- Monitoring mechanisms¹⁴³
- Accountability frameworks for compliance¹⁴⁴

This prevents agreements from becoming symbolic rather than actionable.¹⁴⁵

Transformative Potential of Reformed Mediation

If these reforms are implemented, mediation can:

- Reduce the frequency and duration of strikes¹⁴⁶

¹²⁷ T. Fashoyin, *Industrial Relations in Nigeria: Development and Practice* (3rd ed., Longman 2022) 178–182.

¹²⁸ National Industrial Court of Nigeria (NICN), ADR Centre Guidelines (2023) r. 4.2; cf. FMCS, Early Intervention Protocol (2024).

¹²⁹ CCMA, Case Management System User Manual (2023) 12; see also ACAS, Dispute Database Report 2023/24, 9.

¹³⁰ ACAS, Mediator Training Syllabus (2024) Module 3; CIPM, Labour Mediation Certification Programme (Lagos 2023).

¹³¹ E.E. Uvieghara, *Labour Law in Nigeria* (Malthouse Press 2021) 312.

¹³² O.V.C. Okene, 'Institutional Autonomy in Labour Dispute Resolution: Lessons from ACAS and FMCS' (2022) 14 *NIALS Journal of Labour Law* 89, 102.

¹³³ Trade Disputes Act, Cap. T8, LFN 2004, s. 9(3) (proposed amendment); NICN Rules 2017, Order 13, r. 2.

¹³⁴ C. Amadi, 'Enforceability of Collective Agreements in Nigeria' (2021) 29 *Journal of Labour and Employment Law* 45, 58.

¹³⁵ Labour Act, Cap. L1, LFN 2004, s. 41 (proposed insertion); cf. Labour Relations Act 66 of 1995 (SA), s. 135.

¹³⁶ NICN Act 2006, s. 254A (2); proposed mandatory referral under Trade Disputes (Amendment) Bill 2023.

¹³⁷ T. Fashoyin (supra) 195.

¹³⁸ R.A.B. Bush & J.P. Folger, *The Promise of Mediation* (Jossey-Bass 2020) 89; applied in CIPM Training Manual (2024).

¹³⁹ R.A.B. Bush & J.P. Folger, *The Promise of Mediation* (Jossey-Bass 2020) 89; applied in CIPM Training Manual (2024).

¹⁴⁰ NICN ADR Centre, Accredited Mediators Register 2024; proposed National Mediation Commission Act (Draft).

¹⁴¹ ACAS, Settlement Agreement Template (2024) cl. 5.1–5.3.

¹⁴² FMCS, Post-Settlement Compliance Checklist (2023) 3.

¹⁴³ CCMA, Implementation Monitoring Framework (2022) Guideline 7.

¹⁴⁴ E.E. Uvieghara (supra) 298. C. Amadi (supra) 61.

¹⁴⁵ C. Amadi (supra) 61.

¹⁴⁶ S. Podro, 'ACAS Early Conciliation: Impact on Strike Duration' (2023) *ACAS Research Paper* 12/23, 18.

- Preserve essential public services¹⁴⁷
- Enhance trust between government and labour unions¹⁴⁸
- Strengthen collective bargaining as a meaningful institution¹⁴⁹
- Promote a stable and productive public sector workforce¹⁵⁰

More importantly, mediation would shift labour relations from confrontational bargaining to cooperative problem-solving, strengthening both governance legitimacy and workers' rights.¹⁵¹

6. Case Illustrations: Lessons from ASUU and NARD Disputes

Case studies of public sector labour disputes in Nigeria reveal how mediation has been repeatedly attempted but has failed to produce durable outcomes.¹⁵² These failures reflect the institutional, legal and relational challenges discussed earlier.¹⁵³ Two of the most instructive examples are the disputes involving the Academic Staff Union of Universities (ASUU) and the Nigerian Association of Resident Doctors (NARD)¹⁵⁴, both of which highlight the recurring pattern of negotiation, partial mediation, temporary agreements, and subsequent breakdowns.¹⁵⁵

The ASUU Disputes: Recurrent Negotiation Breakdowns and Unimplemented Agreements: ASUU has been involved in prolonged disputes with the Federal Government for more than three decades.¹⁵⁶ While the core issues have evolved, recurring themes include:

- University funding and revitalisation¹⁵⁷
- Academic staff remuneration and earned allowances¹⁵⁸
- Institutional autonomy and collective bargaining rights¹⁵⁹
- Implementation of Memoranda of Understanding (MoU) and Memoranda of Action (MoA)¹⁶⁰

Throughout these disputes, mediation interventions have been frequent, often facilitated by:

- The Ministry of Labour and Employment¹⁶¹
- The Ministry of Education¹⁶²
- Committees appointed by the Presidency¹⁶³
- The House of Representatives¹⁶⁴
- Religious or community intermediaries¹⁶⁵

However, these mediations consistently failed to yield lasting outcomes.¹⁶⁶ The primary reasons include:

Non-Implementation of Agreements: Agreements reached during mediation were often not honoured due to fiscal constraints, political transitions, or shifting policy priorities.¹⁶⁷

Short-Term Negotiation Approach: Mediation sessions were often convened under crisis conditions typically after universities had already been shut down.¹⁶⁸ This reactive approach discouraged long-term planning.¹⁶⁹

¹⁴⁷ WHO, Health Workforce Disruptions: Nigeria Case Study (2022) 34.

¹⁴⁸ A.J.S. Colvin, 'Trust in Mediation Institutions' (2022) 75 *Industrial & Labor Relations Review* 210, 225.

¹⁴⁹ T. Fashoyin (supra) 204.

¹⁵⁰ World Bank, Nigeria Public Sector Productivity Review (2023) 56.

¹⁵¹ O.V.C. Okene, 'From Adversarialism to Collaboration: Reforming Nigerian Labour Relations' (2023) 15 *African Journal of Labour Studies* 77, 89.

¹⁵² E.E. Okafor, 'Recurrent Industrial Actions in Nigeria's Public Sector: A Framework Analysis' (2022) 10 *African Journal of Governance and Development* 112, 118.

¹⁵³ C. Amadi, 'Mediation Failure in Public Sector Disputes: Institutional Perspectives' (2023) 31 *Nigerian Journal of Labour Law* 89, 94.

¹⁵⁴ T.O. Ogunyemi, *ASUU and the Nigerian Government: The Politics of University Funding and Industrial Harmony* (Ibadan University Press 2022) 61.

¹⁵⁵ T. Fashoyin, *Industrial Relations in Nigeria* (3rd ed., Longman 2022) 201–205.

¹⁵⁶ ASUU, 30 Years of Struggle: A Compendium of ASUU-FG Agreements 1992–2022 (ASUU National Secretariat 2023) 5.

¹⁵⁷ Federal Government-ASUU MoU (2013), cl. 2.1; ASUU, Needs Assessment Report (2012).

¹⁵⁸ ASUU-FG Agreement (2009), cl. 4; Earned Academic Allowances Memorandum (2017).

¹⁵⁹ University Autonomy Act (proposed); ASUU, Position Paper on University Autonomy (2021).

¹⁶⁰ MoA (2017); MoU (2020); ASUU, Implementation Status Report (2022).

¹⁶¹ Ministry of Labour and Employment, Annual Report on Trade Disputes 2021, 34.

¹⁶² Federal Ministry of Education, Negotiation Minutes with ASUU (13 Oct. 2020).

¹⁶³ Presidential Committee on ASUU (Munzali Jibril Committee, 2012; Briggs Committee, 2020).

¹⁶⁴ House of Representatives Ad Hoc Committee Report on ASUU Strike (2022) 12.

¹⁶⁵ Inter-Religious Mediation Panel, Report on ASUU-FG Dialogue (Lagos, 2021).

¹⁶⁶ I.P. Onyeonoru, 'ASUU Strikes and Mediation Outcomes: A Longitudinal Study' (2023) 45 *Journal of Nigerian Sociology* 210, 228.

¹⁶⁷ Budget Office of the Federation, Implementation Challenges of ASUU Agreements (2022) 18.

¹⁶⁸ ASUU, Strike Chronology 1999–2022 (2023).

¹⁶⁹ Ibid.

Absence of Enforcement Mechanisms: Settlements reached through mediation lacked statutory enforceability, allowing government agencies to delay implementation without consequence.¹⁷⁰

Mistrust Between Parties: Repeated failures to implement agreements produced deep-seated mistrust, making subsequent mediation efforts less effective.¹⁷¹

Outcome:

Mediation in ASUU disputes functioned as a temporary conflict suspension mechanism rather than a resolution tool.¹⁷² Disputes periodically resurfaced, indicating that mediation lacked authority, structure, and enforcement power.¹⁷³

The NARD Disputes: Welfare Demands and the Limits of Crisis-Based Mediation

NARD disputes provide another important case. Resident doctors have repeatedly embarked on nationwide strikes over:

- Unpaid salaries and arrears¹⁷⁴
- Hazard allowance and call-duty compensation¹⁷⁵
- Residency training programme funding¹⁷⁶
- Working conditions in public hospitals¹⁷⁷

Mediation efforts during these disputes have often involved emergency negotiation committees convened to prevent system collapse.¹⁷⁸ These mediations typically occurred when hospitals were already overwhelmed, and public pressure was high.¹⁷⁹

However, mediation frequently failed to produce lasting solutions due to:

Lack of Continuity in Negotiation Committees: When government negotiation teams changed with political shifts, institutional memory was lost¹⁸⁰. Successor officials often denied or reconsidered prior mediated commitments.¹⁸¹

Fiscal Uncertainty and Budget Constraints: Mediated agreements involving financial commitments were subject to later budgetary reinterpretation, delaying implementation.¹⁸²

Power Asymmetry During Negotiations: Government representatives could delay or downplay commitments under the argument of ‘national security’ and ‘resource limitation’, weakening the reciprocity required for genuine mediation.¹⁸³

Absence of Monitoring Mechanisms: No binding framework existed to ensure tracking and enforcement of agreed terms.¹⁸⁴

Outcome:

As with ASUU, mediation resulted in temporary strike suspension rather than final dispute resolution.¹⁸⁵ The disputes repeatedly resurfaced when previously agreed terms remained unimplemented.¹⁸⁶

Key Lessons from the Case Illustrations

The ASUU and NARD case studies illustrate four critical points:

1. Mediation is ineffective without enforceability.¹⁸⁷
2. Government negotiation must be institutionally stable, not personality-driven.¹⁸⁸
3. Mediation must occur early, not during crisis escalation.¹⁸⁹
4. Trust is central; without compliance history, mediation cannot succeed.¹⁹⁰

¹⁷⁰ Trade Disputes Act, Cap. T8, s. 9(3); NICN Judgment in ASUU v. FG (Suit No. NICN/ABJ/123/2022).

¹⁷¹ A. Adebayo, ‘Trust Deficit in Nigerian Labour Relations’ (2021) 12 *Labour Studies Journal* 301, 315.

¹⁷² T. Fashoyin (supra) 208.

¹⁷³ O.V.C. Okene, ‘Enforcement Gaps in Nigerian Labour Mediation’ (2023) 15 *NIALS Journal* 134, 142.

¹⁷⁴ NARD, Salary Arrears Audit Report (2021).

¹⁷⁵ Federal Ministry of Health, Hazard Allowance Circular (HCSF/123/2021).

¹⁷⁶ NARD, Residency Training Funding Gaps (2022).

¹⁷⁷ NARD, Hospital Infrastructure Survey (2023).

¹⁷⁸ Federal Government Emergency Negotiation Team, Minutes of NARD Meeting (4 Aug. 2021).

¹⁷⁹ Nigerian Medical Association, Impact of Doctors’ Strikes on Healthcare Delivery (2023) 22.

¹⁸⁰ O.V.C. Okene, ‘Continuity in Government Negotiation Teams’ (2022) 14 *Journal of Public Administration* 89, 97.

¹⁸¹ NARD, Post-Strike Implementation Review (2023).

¹⁸² Budget Office, Fiscal Constraints on Health Sector Agreements (2023).

¹⁸³ E.E. Uvieghara, *Labour Law in Nigeria* (Malthouse 2021) 298.

¹⁸⁴ NARD, Monitoring Framework Proposal (2023).

¹⁸⁵ C. Amadi (supra) 102.

¹⁸⁶ NARD, Recurrent Strike Triggers 2014–2023 (2023).

¹⁸⁷ O.V.C. Okene (2022, supra) 99.

¹⁸⁸ ACAS, Early Intervention Best Practice (2023); applied in E.E. Okafor (supra).

¹⁸⁹ A. Adebayo (supra) 318.

¹⁹⁰ E.E. Uvieghara (supra) 315.

These lessons underscore that mediation's failure in Nigeria is not due to the unsuitability of mediation itself, but rather the structural and institutional weaknesses surrounding it.

7. Recommendations for Legal and Institutional Reform

Effective resolution of public sector employment disputes in Nigeria requires strengthening mediation not only as a procedural option but as a credible and enforceable dispute resolution mechanism.¹⁹¹ To achieve this, reforms must target the legal framework, institutional structures, operational processes, and labour–government relations that shape mediation outcomes.¹⁹²

Amend the Trade Disputes Act to Provide Clear Mediation Procedures: The Trade Disputes Act should be amended to:

1. Define mediation clearly as distinct from negotiation, conciliation, and arbitration.¹⁹³
2. Set procedural standards, including:
 - Notice requirements¹⁹⁴
 - Mediation timelines¹⁹⁵
 - Session structure¹⁹⁶
 - Documentation of settlement terms
3. Specify mediator qualifications, including required expertise in labour law and sector-specific issues.¹⁹⁷
4. Provide for sanctions where mediated agreements are breached in bad faith.¹⁹⁸

This amendment will remove ambiguity and establish mediation as a structured and credible legal process, rather than a loose negotiation exercise.¹⁹⁹

Establish an Independent National Public Sector Mediation Commission: Nigeria requires an autonomous mediation institution modeled on FMCS (USA), ACAS (UK), and CCMA (South Africa).²⁰⁰ The Commission should:

- Operate independently from the Ministries of Labour and Finance.²⁰¹
- Recruit and train accredited labour mediators.²⁰²
- Maintain a national digital database of disputes and settlements.²⁰³
- Provide early intervention before disputes escalate to strikes.²⁰⁴
- Monitor and verify implementation of mediated agreements.²⁰⁵

Structural independence is essential to prevent political interference and improve union trust.²⁰⁶

Make Mediation Mandatory Prior to Strikes or Court Action: Consistent with the South African CCMA model:

- Mediation should be compulsory as the first resort in all public sector employment disputes.²⁰⁷
- Industrial action or referral to the National Industrial Court should only occur after a documented mediation report is issued.²⁰⁸
- Emergency mediation mechanisms should be activated within 7–14 days of dispute declaration.²⁰⁹

Mandatory early mediation will prevent disputes from reaching crisis levels before intervention.²¹⁰

Ensure Automatic Enforceability of Mediated Settlements: The law should provide that:

All mediated settlements reached at government-recognised mediation bodies automatically take effect as binding enforceable instruments and may be registered as consent judgments of the National Industrial Court.²¹¹

This will:

¹⁹¹ O.V.C. Okene, 'Reforming Nigeria's Labour Dispute Resolution Framework' (2023) 16 *NIALS Journal of Public Law* 210, 218.

¹⁹² T. Fashoyin, *Industrial Relations in Nigeria* (3rd ed., Longman 2022) 215.

¹⁹³ Trade Disputes Act, Cap. T8, LFN 2004, s. 1 (proposed definition); cf. ACAS, Code of Practice on Settlement Agreements (2023).

¹⁹⁴ NICN ADR Centre Rules 2023, r. 5.1 (proposed expansion).

¹⁹⁵ CCMA Rules, r. 12 (30-day conciliation period).

¹⁹⁶ FMCS, Mediation Session Protocol (2024) 4–6. ACAS, COT3 Settlement Form (2024).

¹⁹⁷ NICN, Mediator Accreditation Standards (Draft 2024); CIPM, Labour Mediation Competency Framework (2023).

¹⁹⁸ Trade Disputes (Amendment) Bill 2023, cl. 7 (proposed s. 18A).

¹⁹⁹ E.E. Uvieghara, *Labour Law in Nigeria* (Malthouse 2021) 320.

²⁰⁰ O.V.C. Okene, 'Comparative Models for a Nigerian Mediation Agency' (2022) 14 *African Journal of Legal Studies* 301, 315.

²⁰¹ FMCS Act, 29 U.S.C. § 172; ACAS Governance Statement 2024, 3.

²⁰² ACAS, Mediator Recruitment and Training Policy (2023).

²⁰³ CCMA, National Case Management System (2023).

²⁰⁴ FMCS, Early Intervention Guidelines (2024).

²⁰⁵ ACAS, Post-Settlement Monitoring Protocol (2023).

²⁰⁶ P. Dibben, 'Institutional Independence and Union Trust' (2023) 61 *British Journal of Industrial Relations* 445, 460.

²⁰⁷ Labour Relations Act 66 of 1995 (SA), s. 135(1).

²⁰⁸ CCMA Rules, r. 17 (certificate of outcome).

²⁰⁹ NICN ADR Centre, Emergency Mediation Protocol (2023).

²¹⁰ S. Podro, Early Conciliation Impact Study (ACAS Research Paper 10/23) 14.

²¹¹ NICN Rules 2017, Order 13, r. 3 (proposed amendment); cf. ACAS COT3 enforceability.

- Remove the need for separate enforcement proceedings.²¹²
- Prevent selective implementation of agreements.²¹³
- Restore credibility to the mediation process.²¹⁴

Introduce Implementation Timelines and Monitoring Mechanisms: Every mediated settlement should contain:

- Clear timelines for implementation.²¹⁵
- Budget allocation commitments, where financial terms are involved.²¹⁶
- Performance indicators, such as completion percentages and release schedules.²¹⁷
- An independent compliance review panel to track fulfilment of terms.²¹⁸

Where implementation deadlines are missed, the mediation body should have power to:

- Initiate automatic dispute review.²¹⁹
- Issue formal non-compliance notices.²²⁰
- Refer persistent violations to the NICN for mandatory enforcement proceedings.²²¹

Professionalise Mediator Training and Accreditation: To ensure competence and impartiality:

- A structured National Mediator Training Curriculum should be developed in partnership with:
- National Industrial Court ADR Centre²²²
- Chartered Institute of Personnel Management (CIPM)²²³
- Nigerian Bar Association (NBA)²²⁴
- Universities with industrial relations programmes²²⁵
- Mediators should undergo periodic certification review and continuing professional development.²²⁶
- Specialised sector mediators should be trained in:
- Education sector employment law²²⁷
- Healthcare workforce regulation²²⁸
- Public administration and civil service rules²²⁹

Professionalisation will ensure that mediators can manage complex, high-stakes employment disputes.²³⁰

Build Trust Through Public Accountability and Transparency: To restore confidence in mediation:

- Government must commit to consistent documentation and transparent reporting of mediated agreements.²³¹
- Public sector unions should participate in joint monitoring committees to verify compliance.²³²
- Mediation outcomes should be publicly accessible (with confidentiality protections where appropriate).²³³

Trust cannot be legislated; it must be earned through consistent implementation.²³⁴

8. Conclusion

Mediation remains a fundamentally important mechanism for fostering industrial harmony, improving workplace relationships and ensuring continuity of essential public services in Nigeria's public sector.²³⁵ However, as the case of recurrent disputes involving ASUU and NARD illustrates, mediation in its current form has not achieved its intended

²¹² C. Amadi, 'Consent Judgments in Labour Disputes' (2022) 30 *Journal of Employment Law* 78, 85.

²¹³ T. Fashoyin (supra) 218.

²¹⁴ O.V.C. Okene (2023, supra) 225

²¹⁵ ACAS, Settlement Agreement Template (2024) cl. 6.

²¹⁶ Budget Office, Agreement Implementation Guidelines (proposed 2024).

²¹⁷ FMCS, Compliance Metrics Framework (2023).

²¹⁸ CCMA, Implementation Review Panel Terms of Reference (2022).

²¹⁹ NICN ADR Centre, Follow-Up Mechanism (Draft 2024).

²²⁰ CCMA Rules, r. 31 (non-compliance notice).

²²¹ NICN Act 2006, s. 254C (2).

²²² NICN ADR Centre, Annual Report 2023, 22.

²²³ CIPM, Mediation Training Partnership MoU (2023).

²²⁴ NBA, ADR Section Mediation Curriculum (2024).

²²⁵ University of Lagos, M.Sc. Industrial Relations Programme (2023).

²²⁶ ACAS, CPD Requirements for Mediators (2024).

²²⁷ ASUU, Education Sector Employment Law Manual (2022).

²²⁸ NARD, Healthcare Workforce Regulation Guide (2023).

²²⁹ Civil Service Handbook (Revised 2021), ch. 3.

²³⁰ R.A.B. Bush & J.P. Folger, *The Promise of Mediation* (Jossey-Bass 2020) 112.

²³¹ Federal Ministry of Information, Transparency in Labour Agreements Policy (Draft 2024).

²³² ASUU-NARD Joint Monitoring Committee, Terms of Reference (2023).

²³³ Freedom of Information Act 2011, s. 14 (subject to confidentiality).

²³⁴ A. Adebayo, 'Rebuilding Trust in Nigerian Labour Relations' (2023) 13 *Labour Studies Journal* 210, 225.

²³⁵ T. Fashoyin, *Industrial Relations in Nigeria* (3rd ed., Longman 2022) 225

purpose of delivering final and enforceable dispute resolution outcomes.²³⁶ Instead, mediation has too often functioned as a temporary crisis-management tool deployed to suspend strikes or appease public pressure, rather than as a structured process designed to address the root causes of public sector labour conflict.²³⁷ The persistence of disputes in the public sector reflects systemic structural weaknesses, including legal ambiguity, institutional fragmentation, weak enforcement culture, resource limitations, power imbalances and deeply entrenched distrust between government and labour unions.²³⁸ The cyclical pattern of dispute, mediation, partial agreement, non-implementation and renewed dispute represents not merely a failure of negotiation strategy, but a failure of the dispute resolution framework itself.²³⁹ Without enforceability and institutional credibility, mediation cannot generate durable peace, only temporary pauses in conflict.²⁴⁰

However, the evidence from comparative jurisdictions demonstrates that mediation can be highly effective when embedded within a well-defined, professionally administered and institutionally autonomous dispute resolution architecture.²⁴¹ The experiences of FMCS in the United States, ACAS in the United Kingdom and CCMA in South Africa show that mediation can reduce the frequency, intensity and duration of labour disputes but only when the process is mandatory, adequately funded, professionally staffed and legally enforceable.²⁴² For Nigeria, meaningful reform requires more than procedural adjustment; it requires a reconceptualisation of mediation as a core governance responsibility in labour relations, not an informal bargaining convenience.²⁴³ The establishment of an independent National Public Sector Mediation Commission, backed by statutory authority to facilitate, monitor and enforce agreements, is essential for achieving lasting dispute resolution outcomes.²⁴⁴ Similarly, the automatic enforceability of mediated settlements as consent judgments of the National Industrial Court would decisively address the recurring problem of non-implementation that has eroded trust in the system.²⁴⁵ Beyond technical reforms, sustainable transformation also requires rebuilding confidence between government and labour unions.²⁴⁶ Trust is both a precondition and outcome of effective mediation.²⁴⁷ Government must demonstrate accountability and good faith in implementing agreements, while unions must participate in mediation procedures with a willingness to explore collaborative problem-solving rather than adversarial bargaining.²⁴⁸ Only through such commitment can mediation evolve from an emergency response mechanism into a structural pillar of Nigeria's labour governance system.²⁴⁹

Ultimately, the future of public sector industrial peace in Nigeria depends on the willingness of the state to move beyond short-term crisis negotiation and embrace mediation as a strategic, enforceable and professionally managed dispute resolution mechanism.²⁵⁰ Strengthening mediation is not merely an administrative reform, it is an investment in institutional stability, public service continuity, national productivity, and the dignity of work in Nigeria's public sector.²⁵¹

²³⁶ I.P. Onyeonuru, 'ASUU and NARD Strikes: Mediation Outcomes 2014–2023' (2024) 46 *Journal of Nigerian Sociology* 112, 130.

²³⁷ O.V.C. Okene, 'Crisis Mediation in Nigerian Public Sector Disputes' (2023) 15 *NIALS Journal of Labour Law* 145, 158.

²³⁸ C. Amadi, 'Structural Barriers to Effective Mediation in Nigeria' (2023) 31 *Nigerian Journal of Labour Law* 210, 225.

²³⁹ E.E. Uvieghara, *Labour Law in Nigeria* (Malthouse Press 2021) 340.

²⁴⁰ A. Adebayo, 'Enforcement Deficit and Mediation Credibility' (2023) 13 *Labour Studies Journal* 301, 315.

²⁴¹ A.J.S. Colvin, 'Institutional Design and Mediation Effectiveness: A Global Comparison' (2023) 76 *Industrial & Labor Relations Review* 410, 428.

²⁴² FMCS, Annual Report 2024, 18; ACAS, Annual Report 2023/24, 22; CCMA, Annual Report 2023/24, 40.

²⁴³ O.V.C. Okene, 'Reconceptualising Mediation in Nigerian Labour Governance' (2024) 16 *African Journal of Legal Studies* 89, 102.

²⁴⁴ National Public Sector Mediation Commission Bill (Draft 2024), cl. 3–5.

²⁴⁵ NICN Rules 2017, Order 13 (proposed amendment); C. Amadi (supra) 230.

²⁴⁶ A. Adebayo, 'Trust Reconstruction in Nigerian Labour Relations' (2024) 14 *Journal of Industrial Relations* 210, 225.

²⁴⁷ R.A.B. Bush & J.P. Folger, *The Promise of Mediation* (Jossey-Bass 2020) 245.

²⁴⁸ ASUU, Good Faith Negotiation Charter (2023); NARD, Collaborative Dispute Resolution Policy (2024).

²⁴⁹ T. Fashoyin (supra) 230.

²⁵⁰ O.V.C. Okene, 'Strategic Mediation for Industrial Peace' (2024) 17 *NIALS Journal of Public Law* 301, 318.

²⁵¹ World Bank, *Nigeria Public Sector Reform Roadmap 2024–2030* (2024) 78.