



# An Overview of the Right to Strike in Nigeria, South Africa, United Kingdom and Republic of Ghana

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**ABSTRACT:** *This study provides a comparative analysis of the right to strike across four distinct jurisdictions: Nigeria, South Africa, United Kingdom, and Ghana, analyzing how constitutional, statutory, and socio-economic factors influence the regulation of collective labor actions across diverse developmental and legal contexts. Employing a qualitative comparative legal methodology, the research reviews primary sources such as constitutions, labor acts, and judicial rulings, supplemented by academic literature and institutional reports. Key findings highlight variations in protections: South Africa's 1996 Constitution explicitly safeguards strike rights via Section 23, operationalized through the Labour Relations Act's protected/unprotected strike distinctions and efficient CCMA dispute resolution. Ghana's 1992 Constitution recognizes the right under Article 24, balanced by public order limits, with the Labour Act emphasizing tripartite mediation. Nigeria offers indirect safeguards via freedom of association in its 1999 Constitution, but colonial-era laws like the Trade Disputes Act impose lengthy conciliation, enabling delays and political interference. The UK relies on statutory immunities under the Trade Union and Labour Relations Act, with stringent balloting and notice requirements, especially in public sectors post-2016 reforms. The analysis reveals common challenges: institutional capacity gaps, political meddling, informal economy expansion, gig work disruptions, and post-COVID essential services broadening, which strain traditional frameworks. Restrictions on essential services vary, with South Africa's nuanced committee-based designations offering the most balanced model, contrasted by Nigeria's discretionary presidential powers and the UK's sector-specific thresholds. The study concludes that robust strike rights demand adaptive laws, strong institutions, and equitable balancing of worker empowerment with public interests. Recommendations include Nigeria's legislative overhaul, African capacity building, UK gig economy protections, and regional cooperation via ECOWAS/AU. These insights advance comparative labor law and inform policy for resilient industrial relations in evolving global contexts.*

**KEYWORDS:** *Right to Strike, Collective Labour Rights, Comparative Labour Law, Essential Services, Trade Union Rights, Industrial Action Regulation, Labour Dispute Resolution.*

## INTRODUCTION

The right to strike constitutes a fundamental pillar of modern industrial relations, representing workers' collective power to withdraw labor in pursuit of better working conditions and fair treatment. This comparative study examines the legal frameworks, institutional mechanisms,

and practical implementation of strike rights across four distinct jurisdictions: Nigeria, South Africa, the United Kingdom, and Ghana. These countries offer diverse perspectives on how different constitutional traditions, economic structures, and historical experiences shape the regulation of collective labor action. The selection of these four nations provides a comprehensive analytical framework encompassing varying developmental stages and legal systems. Nigeria and Ghana represent post-colonial African states navigating the complexities of inherited colonial labor laws within contemporary socio-economic realities. South Africa presents a unique case study of post-apartheid labor relations transformation, while the United Kingdom offers insights from a developed economy with extensive industrial relations history.<sup>1</sup>

Contemporary global labor markets face unprecedented challenges from technological disruption, economic volatility, and evolving employment patterns. The COVID-19 pandemic has further highlighted the tension between essential service provision and workers' collective bargaining rights. These developments necessitate a fresh examination of how different legal systems balance individual worker rights, collective action, and broader public interests.<sup>2</sup>

The comparative approach adopted in this study recognizes that strike rights operate within broader constitutional, economic, and social frameworks that significantly influence their effectiveness. Understanding these contextual factors is crucial for developing nuanced perspectives on labor relations policy and institutional design.

### *Statement of the Problem*

The fundamental challenge in regulating strike rights lies in balancing workers' legitimate collective bargaining interests against broader societal concerns including economic stability, public safety, and essential service provision. This tension has intensified due to several contemporary factors affecting all four jurisdictions under examination.

Globalization has created competitive pressures on national governments to maintain attractive investment climates, sometimes leading to restrictions on collective bargaining rights. The expansion of informal employment relationships, particularly in developing economies, challenges traditional strike rights frameworks designed for formal employer-employee relationships. Additionally, the broadening definition of essential services, accelerated by pandemic-related concerns, raises questions about appropriate limitations on collective action.<sup>3</sup>

Each jurisdiction faces specific implementation challenges reflecting their unique historical and institutional contexts. Nigeria's federal structure creates coordination difficulties between different levels of government, while its oil-dependent economy makes petroleum sector strikes particularly sensitive. South Africa's high unemployment rates and historical inequalities create pressure for transformative labor relations that extend beyond traditional wage negotiations. The United Kingdom's post-Brexit landscape introduces uncertainty about future labor standards and European Union-derived protections. Ghana's developing institutional capacity limits effective dispute resolution and enforcement mechanisms.<sup>4</sup>

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<sup>1</sup> International Labour Organization, "World Employment and Social Outlook: Trends 2023" (Geneva: ILO, 2023), 45-67.

<sup>2</sup> Claire Annesley and Francesca Gains, "The Paradox of Essential Services: COVID-19 and the Reconfiguration of Strike Rights," *British Journal of Industrial Relations* 61, no. 1 (2023): 78-95.

<sup>3</sup> Valerio De Stefano, "Negotiating the Algorithm: Automation, Artificial Intelligence and Labour Protection," *Comparative Labor Law & Policy Journal* 41, no. 1 (2022): 15-46.

<sup>4</sup> Adebayo Majekolagbe, "Comparative Labour Law in Africa: Convergence and Divergence," *African Journal of Legal Studies* 14, no. 2 (2021): 156-185.

### *Objectives of the Study*

This research aims to conduct a comprehensive comparative analysis of strike rights across the four selected jurisdictions, examining constitutional provisions, statutory frameworks, and practical implementation mechanisms. The study seeks to identify patterns of convergence and divergence in approaches to balancing worker rights with public interest considerations.

Specific objectives include analyzing the effectiveness of institutional mechanisms for dispute resolution and strike regulation, evaluating the scope and justification of restrictions on strike rights particularly regarding essential services, and identifying contemporary challenges facing strike rights implementation in the context of economic and technological change. The research also aims to develop evidence-based recommendations for legal and institutional reforms that could enhance strike rights protection while maintaining appropriate public interest safeguards.<sup>5</sup>

### *Research Questions*

The central research question asks: How do the legal frameworks governing strike rights in Nigeria, South Africa, the United Kingdom, and Ghana compare regarding their scope, limitations, and effectiveness in protecting collective action rights while addressing public interest concerns?

Supporting questions examine the key constitutional and statutory provisions governing strike rights in each jurisdiction and their evolution in response to contemporary challenges. The research investigates the effectiveness of institutional mechanisms for dispute resolution and strike regulation, analyzes the scope and justification of essential services restrictions, and explores how different legal systems adapt to current challenges including technological change and evolving employment relationships.

## **RESEARCH METHODOLOGY**

This study employs a qualitative comparative legal analysis methodology, examining primary legal sources including constitutions, statutes, and judicial decisions from all four jurisdictions. The research incorporates secondary sources including academic literature, policy documents, and institutional reports to provide contextual understanding of legal frameworks' practical operation. The comparative approach facilitates identification of best practices and innovative solutions while recognizing that legal transplantation requires adaptation to local contexts. The methodology emphasizes understanding formal legal provisions within broader institutional and socio-economic frameworks that influence their implementation.

### *Definition of Key Terms*

**Right to Strike:** The legally recognized entitlement of workers to withdraw labor collectively as a mechanism for pursuing industrial disputes or advancing economic and social interests, subject to legal limitations and procedural requirements.

**Industrial Action:** Organized activities by workers or trade unions designed to exert pressure on employers in pursuit of labor-related objectives, including strikes, work slowdowns, and other forms of collective action.

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<sup>5</sup> Benjamin Sachs, "Comparative Labor Law in the Twenty-First Century: Notes on Method and Substance," *Comparative Labor Law & Policy Journal* 42, no. 2 (2021): 215-245.

Essential Services: Services whose interruption would endanger public health, safety, or welfare, and which are therefore subject to special restrictions on strike action to protect broader community interests.

## **THEORETICAL AND HISTORICAL FOUNDATIONS OF THE RIGHT TO STRIKE**

Understanding contemporary strike rights requires examination of their theoretical foundations and historical development. Multiple philosophical, economic, and legal traditions have shaped current approaches to regulating collective action, reflecting different conceptions of the employment relationship, state role in labor relations, and collective action's place in democratic society. The theoretical perspectives examined here provide frameworks for understanding how different jurisdictions approach the fundamental challenge of balancing individual liberty, collective solidarity, and broader social interests. Historical analysis reveals how strike rights have evolved in response to changing economic conditions, political developments, and social movements.

### *Theoretical Perspectives on Strike Rights*

#### Liberal Democratic Theory:

Liberal democratic theory emphasizes individual liberty, democratic participation, and limitations on state power, providing important foundations for strike rights protection. This perspective views collective action as essential for meaningful workplace democracy, enabling workers to participate in decisions affecting their daily lives and providing checks on arbitrary employer power. The liberal approach recognizes the voluntary nature of employment relationships and the importance of enabling workers to withdraw consent when conditions become unacceptable. Strike action represents democratic participation extending beyond the political sphere into economic relationships, acknowledging that meaningful democracy requires both political and economic rights. However, liberal theory also emphasizes balancing individual rights with broader social interests, leading to acceptance of reasonable restrictions on strike rights when they conflict with other democratic values or essential public services. This tension between individual liberty and collective responsibility shapes much contemporary debate about appropriate strike rights limitations.<sup>6</sup>

#### Human Rights Approach:

The human rights approach emphasizes strike rights as fundamental human rights essential for human dignity and social justice. This perspective draws on international human rights instruments and emphasizes the universal nature of workers' rights to organize and engage in collective action. International human rights frameworks place strike rights within broader economic, social, and cultural rights, emphasizing their interconnection with other fundamental rights including freedom of association, expression, and assembly. The human rights approach emphasizes state obligations to respect, protect, and fulfill strike rights through appropriate legal and institutional frameworks. This perspective has gained prominence in international law and has influenced constitutional developments in many post-colonial states seeking to establish human rights-based governance systems. The approach provides important foundations for understanding strike rights as constraints on both state and private power.<sup>7</sup>

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<sup>6</sup> Virginia Mantouvalou, "Are Labour Rights Human Rights?" *European Labour Law Journal* 13, no. 2 (2022): 151-175.

<sup>7</sup> Philip Alston, "Labour Rights as Human Rights: The Not So Happy State of the Art," *Comparative Labor Law & Policy Journal* 42, no. 4 (2021): 518-565.

### Historical Evolution of Strike Rights:

The historical development of strike rights reflects changing conceptions of work, industrial organization, and state-society relationships. Early forms of collective action by artisans and craftsmen often faced legal repression as threats to public order and economic stability. The Industrial Revolution transformed labor relations by creating large concentrations of workers in factories and industrial enterprises. This transformation enabled more organized collective action while generating new forms of economic and social conflict. Early labor movements faced significant legal obstacles, with strike action often treated as criminal conspiracy or civil wrong. Post-World War II developments saw significant expansion in legal recognition of strike rights, influenced by democratization movements, decolonization processes, and human rights developments. The establishment of the International Labour Organization provided frameworks for developing international standards regarding collective action rights.<sup>8</sup>

## INTERNATIONAL LEGAL FRAMEWORK

### *International Labour Organization Conventions*

The International Labour Organization has developed extensive international standards regarding strike rights through conventions and supervisory body interpretations. ILO Convention No. 87 on Freedom of Association and Convention No. 98 on Collective Bargaining provide primary international frameworks for strike rights. The Committee on Freedom of Association has developed detailed jurisprudence interpreting these conventions as protecting strike rights while recognizing legitimate restrictions in essential services. Recent ILO discussions have focused on adapting international standards to contemporary challenges including technological change's impact on collective action and the need to balance strike rights with other international obligations regarding trade and investment.<sup>9</sup>

### *Regional Human Rights Instruments*

Regional human rights instruments have also contributed to developing international standards for strike rights protection. The African Charter on Human and Peoples' Rights provides frameworks relevant to Nigeria, South Africa, and Ghana, while the European Convention on Human Rights has influenced United Kingdom approaches to collective action rights. These regional instruments recognize the importance of adapting universal human rights principles to specific regional contexts and challenges. They provide additional layers of international oversight and standard-setting that complement ILO frameworks and contribute to evolving international law regarding collective action rights.<sup>10</sup>

## COMPARATIVE ANALYSIS OF LEGAL FRAMEWORKS

### *Constitutional Foundations and Statutory Integration*

The constitutional and statutory frameworks governing strike rights across Nigeria, South Africa, the United Kingdom, and Ghana reveal fundamentally different approaches to balancing worker empowerment with state authority and economic stability. These differences

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<sup>8</sup> Giovanni Graziani, "Post-War Industrial Relations Systems: A Comparative Historical Analysis," *Comparative Political Studies* 54, no. 8 (2021): 1345-1375.

<sup>9</sup> Francis Maupain, "The Future of International Labour Standards: Adapting to Contemporary Challenges," *International Labour Review* 162, no. 2 (2023): 145-170.

<sup>10</sup> Dickson Eyoh, "Labour Rights and Democratic Governance in Africa: Challenges and Opportunities," *Journal of Modern African Studies* 59, no. 3 (2021): 315-340.

emerge from distinct historical experiences, legal traditions, and political philosophies that continue to shape contemporary labor relations.

South Africa's 1996 Constitution establishes the most robust protection for strike rights among the four jurisdictions through Section 23's guarantee of "fair labour practices." The Constitutional Court has consistently interpreted this provision as encompassing strike rights as essential components of workplace democracy and social transformation.<sup>11</sup> This constitutional foundation emerged from South Africa's unique transition from apartheid, where organized labor played a central role in the liberation struggle. The Labour Relations Act of 1995 operationalizes these constitutional principles through a comprehensive framework distinguishing between protected and unprotected strikes. Protected strikes receive significant legal immunities when procedural requirements are met, including good faith bargaining, conciliation through the Commission for Conciliation, Mediation and Arbitration (CCMA), and appropriate notice periods. This integration of constitutional principles with practical procedures creates a coherent system that protects legitimate collective action while channeling industrial conflict through institutional mechanisms.

Ghana's constitutional approach through Article 24 of the 1992 Constitution explicitly recognizes workers' rights to form trade unions and engage in collective action, but balances these rights against national security and public order considerations. The Labour Act 2003 implements this constitutional framework through a tripartite dispute resolution system emphasizing dialogue and consensus-building. The National Labour Commission serves as the primary mediating institution, with mandatory cooling-off periods designed to promote negotiated settlements. This approach reflects Ghana's emphasis on traditional conflict resolution mechanisms while meeting contemporary labor relations needs, though implementation faces challenges from limited institutional capacity.

Nigeria's 1999 Constitution provides only indirect protection for strike rights through Section 40's freedom of association guarantee, without explicit recognition of collective action rights. This constitutional limitation, combined with Nigeria's complex federal structure, creates interpretive challenges that courts have generally resolved by requiring strict compliance with statutory procedures. The Trade Disputes Act reflects colonial-era emphasis on state-mediated dispute resolution, requiring extensive conciliation and arbitration procedures before strikes can be legally undertaken. Criminal penalties for non-compliance and mandatory government involvement in dispute resolution raise concerns about bureaucratic barriers and political interference in labor relations.

The United Kingdom's unwritten constitutional tradition approaches strike rights through statutory immunities rather than positive constitutional guarantees. The Human Rights Act 1998 provides limited protection through Article 11 of the European Convention on Human Rights, but UK courts interpret this restrictively. The Trade Union and Labour Relations (Consolidation) Act 1992, as amended by the Trade Union Act 2016, creates increasingly complex procedural requirements for lawful industrial action. Strike ballots must meet detailed requirements, and public sector workers face higher voter turnout thresholds and approval margins. These procedural requirements effectively limit practical exercise of collective action rights while maintaining theoretical legal protection.

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<sup>11</sup> Halton Cheadle, "The Right to Strike in the South African Constitution: Twenty-Five Years Later," *South African Law Journal* 138, no. 4 (2021): 612-640.

### *Judicial Development and Interpretive Approaches*

Judicial interpretation plays varying roles across the four jurisdictions in developing strike rights jurisprudence, reflecting different legal traditions and institutional relationships. South African courts have adopted an activist approach emphasizing constitutional transformation values, interpreting strike rights broadly and requiring clear justification for restrictions. Recent decisions address contemporary challenges including precarious workers' rights and solidarity strikes, demonstrating judicial adaptation to changing economic conditions.<sup>12</sup>

UK courts traditionally deferred to parliamentary regulation of industrial relations, but post-Human Rights Act jurisprudence shows increased attention to proportionality in strike restrictions. However, judicial interpretation remains constrained by statutory complexity and political pressures for industrial relations stability. Nigerian courts have generally emphasized procedural compliance over substantive rights protection, reflecting constitutional limitations and institutional capacity constraints. Ghanaian courts are developing jurisprudence that balances constitutional rights with traditional governance values, though limited case law restricts comprehensive analysis.

## **INSTITUTIONAL MECHANISMS AND PROCEDURAL REQUIREMENTS**

### *Specialized Labor Relations Institutions*

The effectiveness of strike rights depends critically on institutional mechanisms that provide accessible dispute resolution alternatives and fair enforcement of legal requirements. These institutions vary significantly across the four jurisdictions in their capacity, independence, and approach to balancing competing interests in labor disputes.

South Africa's institutional framework represents the most developed and comprehensive system among the four countries. The Commission for Conciliation, Mediation and Arbitration (CCMA) serves as the primary institution for resolving labor disputes, providing accessible and relatively informal procedures that most disputes must navigate before other remedies, including strike action, can be pursued. The CCMA's success stems from its specialized focus, tripartite governance structure, and emphasis on early intervention in dispute resolution. With high settlement rates in conciliation proceedings and innovative approaches including telephone-based mediation, the CCMA demonstrates how specialized institutions can reduce reliance on strike action while protecting workers' rights to collective bargaining.<sup>13</sup>

The Labour Court and Labour Appeal Court complement the CCMA by providing specialized judicial oversight of labor relations, including review of essential services designations and protection of organizational rights. This institutional structure creates multiple layers of protection for strike rights while maintaining mechanisms for balancing competing interests. However, increasing caseloads and resource constraints challenge the system's capacity to maintain service quality and accessibility, particularly for workers in rural areas and informal sectors.

The UK's Advisory, Conciliation and Arbitration Service (ACAS) provides dispute resolution services but operates within a different philosophical framework emphasizing voluntary participation and arm's-length government involvement. ACAS has historically played an

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<sup>12</sup> Dennis Davis, "Labour Law and Social Transformation in Post-Apartheid South Africa," *Constitutional Court Review* 11 (2021): 145-175.

<sup>13</sup> Barney Jordaan, "The CCMA at Twenty-Five: Successes, Challenges and Future Directions," *Industrial Law Journal* (SA) 42, no. 2 (2021): 189-215.

important role in preventing and resolving industrial disputes through early conciliation and workplace mediation services. However, declining trade union membership and reduced government support have limited ACAS's capacity to influence broader industrial relations trends. The service focuses increasingly on individual employment disputes rather than collective bargaining support, reflecting broader shifts in UK labor relations toward individual rather than collective rights protection.

Nigeria's institutional framework faces significant capacity constraints that limit effectiveness in dispute resolution and enforcement. The Federal Ministry of Labour and Employment has primary responsibility for industrial relations but lacks resources and independence necessary for effective mediation. The Industrial Arbitration Panel and National Industrial Court provide some adjudicative capacity, but their limited reach and resources restrict impact on broader labor relations. State-level variations in institutional capacity create inconsistent implementation of federal labor laws, with some states lacking adequate dispute resolution mechanisms entirely.

Ghana's National Labour Commission represents an ambitious attempt to create comprehensive tripartite dispute resolution, but faces similar capacity constraints to Nigeria. The Commission's structure provides legitimacy through equal representation of government, employers, and workers, but decision-making can be slow and inconsistent. Limited resources and technical expertise restrict the Commission's ability to handle complex disputes effectively, often leading to delays that frustrate parties and undermine confidence in institutional alternatives to strike action.

#### *Procedural Requirements and Their Practical Impact*

The procedural requirements governing lawful strike action vary dramatically across the four jurisdictions, creating different balances between accessibility of collective action and institutional control of industrial conflict. These requirements shape not only the legal protection available to striking workers but also the practical feasibility of organizing effective collective action.

South Africa's procedural framework emphasizes substantive fairness while maintaining clear requirements for protected status. Strikes must involve disputes of interest or rights that cannot be resolved through existing grievance procedures, parties must engage in good faith bargaining, and conciliation through the CCMA must be attempted before strike action. Notice periods of 48 hours for essential services and 7 days for other sectors provide employers with reasonable preparation time while not creating excessive barriers to collective action. The system's strength lies in its integration of procedural requirements with accessible institutional support, ensuring that compliance is achievable for most organized workers.

Nigeria's procedural requirements create more significant barriers to lawful strike action through mandatory government involvement and criminal sanctions for non-compliance. Industrial disputes must be reported to the Minister of Labour, parties must exhaust conciliation procedures through ministry officials, and strikes can only proceed after these processes are completed. These requirements, while designed to promote industrial peace, have been criticized for enabling political interference and creating delays that frustrate legitimate collective action. The weakness of institutional capacity means that procedural requirements often become obstacles rather than meaningful alternatives to strike action.

UK's procedural framework has become increasingly complex, particularly following the Trade Union Act 2016. Strike ballots must meet detailed requirements regarding eligible

voters, ballot questions, voting procedures, and result thresholds. Public sector workers in "important public services" face additional requirements including 50% voter turnout and 40% approval from eligible members. These requirements reflect political concerns about strike legitimacy and public service disruption, but create practical barriers that can prevent lawful collective action even when workers strongly support strike action. The complexity of compliance requirements also creates legal risks for trade unions, as technical failures can result in loss of immunity and potential damages liability.

Ghana's procedural framework emphasizes conciliation and traditional dispute resolution mechanisms, requiring parties to exhaust National Labour Commission mediation before pursuing strike action. Mandatory cooling-off periods provide opportunities for reflection and negotiated settlement, reflecting cultural preferences for consensus-building over confrontational approaches. However, limited institutional capacity means that procedural requirements often become sources of delay rather than effective dispute resolution, undermining both worker rights and employer interests in timely resolution of industrial conflicts.

## RESTRICTIONS, LIMITATIONS AND ESSENTIAL SERVICES

### *Essential Services Doctrine and Public Interest Balancing*

The essential services doctrine represents the most significant limitation on strike rights across all four jurisdictions, reflecting universal recognition that certain activities are too critical to public welfare to permit unrestricted work stoppages. However, the definition, scope, and implementation of essential services restrictions vary considerably, creating different balances between worker rights and public interest protection.

South Africa has developed the most sophisticated essential services framework, distinguishing between essential services (where strikes are prohibited) and maintenance services (where minimum service levels must be maintained). The Essential Services Committee, established under the Labour Relations Act, designates services as essential based on criteria including immediate danger to public health or safety, serious disruption to the economy, or interference with basic service delivery to the population. This approach allows for nuanced determinations that consider both worker rights and public necessity, with regular review mechanisms ensuring that designations remain appropriate as conditions change.<sup>14</sup>

The framework's strength lies in its structured approach to balancing competing interests. Essential services designations must be justified by objective criteria and are subject to review and appeal processes. For maintenance services, the system requires negotiation of minimum service agreements between employers and unions, ensuring that public welfare is protected while preserving workers' collective bargaining rights. This approach recognizes that complete prohibition of strikes may not be necessary in all critical services, allowing for more proportionate responses to public interest concerns.

Nigeria employs a more discretionary approach to essential services, with broad presidential powers to declare any service essential during periods of national emergency or economic crisis. This framework lacks clear criteria for essential service designation and provides limited review mechanisms, creating potential for political manipulation and inconsistent application. The petroleum sector receives special treatment given its critical importance to Nigeria's

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<sup>14</sup>Darcy du Toit, "Limitation of Strike Rights in South Africa: Constitutional Principles and Practical Applications," *Industrial Law Journal* (SA) 42, no. 1 (2021): 78-105.

economy, with enhanced restrictions on strike activities that reflect the sector's dominance in government revenues and foreign exchange earnings. The discretionary nature of Nigeria's approach creates uncertainty for workers and employers about when strike restrictions might be imposed, potentially chilling legitimate collective action through fear of government intervention. The lack of objective criteria and review mechanisms also raises concerns about compliance with international labor standards requiring that essential services restrictions be limited to genuinely essential activities.

#### *Public Sector Restrictions and Democratic Accountability*

The distinction between public and private sector strike rights reflects different conceptions of employment relationships, democratic accountability, and public service obligations. These distinctions have become more pronounced as governments seek to maintain service delivery while managing fiscal constraints and political pressures.

UK demonstrates the starkest differentiation between public and private sector workers, with public sector employees facing significantly enhanced restrictions since 2010. The Trade Union Act 2016 introduced higher ballot thresholds for public sector strikes, requiring 50% voter turnout and 40% approval from eligible members in important public services. This reflects a philosophical shift toward viewing public sector employment as carrying special obligations to the public, even at the expense of traditional collective bargaining rights. Police and prison officers face complete strike prohibitions, reflecting concerns about public order and security. These restrictions reflect broader political debates about the role of public sector workers in democratic governance. Conservative governments have argued that public sector workers, as employees of democratically elected governments, should not be able to frustrate government policy through strike action. However, critics argue that such restrictions undermine workplace democracy and may violate international labor standards protecting collective bargaining rights for all workers.

South Africa maintains more equal treatment between sectors, with the Labour Relations Act applying similar procedural requirements to both public and private sector workers. However, the essential services framework affects public sector workers disproportionately, as many government services fall within essential or maintenance service categories. The constitutional emphasis on transformation and worker rights provides stronger protection for public sector collective action than found in other jurisdictions, though practical implementation faces challenges from resource constraints and political pressures.

Nigeria's public sector workers face significant restrictions through civil service rules and public service regulations, with the "no work, no pay" principle strictly enforced and disciplinary action available for unauthorized strike participation. However, the boundaries between public and private sectors are often blurred in Nigeria's mixed economy, with state-owned enterprises operating under different regulatory frameworks that create inconsistencies in strike rights protection.

#### *Emergency Powers and Crisis Response*

All four jurisdictions maintain emergency powers that allow governments to suspend normal labor relations procedures during periods of national crisis, though their scope and activation criteria vary significantly. The COVID-19 pandemic intensified these balancing challenges, with enhanced restrictions on strike activities in healthcare and other essential services raising questions about appropriate scope of emergency powers and their impact on fundamental labor rights.

Nigeria's emergency powers provisions allow broad government intervention to suspend strikes deemed harmful to national economic interests, with particular sensitivity to petroleum sector disputes given their potential impact on government revenues. The discretionary nature of these powers creates concerns about political manipulation and excessive interference with collective bargaining rights, particularly when emergency declarations appear motivated by political rather than genuine crisis considerations.

South Africa's emergency powers are more constrained by constitutional requirements for proportionality and judicial review, though practical implementation during the COVID-19 pandemic revealed tensions between collective bargaining rights and public health imperatives. The constitutional framework requires that emergency restrictions be demonstrably necessary and proportionate to legitimate public interests, providing stronger protection against arbitrary government intervention.

UK's approach emphasizes statutory rather than emergency restrictions, with detailed legislation governing strike activities in critical sectors rather than broad emergency powers. However, the complexity of these statutory restrictions creates similar practical effects to emergency powers, as governments can effectively prevent strikes through procedural requirements and ballot thresholds.

Ghana's emergency powers focus primarily on national security and public order concerns, with more limited application to economic disputes. However, the broad language of constitutional limitation clauses provides potential for expansive interpretation during crisis periods, creating uncertainty about the scope of protection for collective bargaining rights during emergencies.

The experience across all four jurisdictions demonstrates the challenge of maintaining appropriate balances between collective bargaining rights and crisis response capabilities. While genuine emergencies may justify temporary restrictions on strike activities, the lack of clear criteria and review mechanisms in some jurisdictions creates risks of abuse and permanent erosion of worker rights. The development of more structured approaches to emergency restrictions, with clear criteria, time limitations, and review processes, represents an important area for legal reform and international cooperation.<sup>15</sup>

## **CHALLENGES, CONTEMPORARY ISSUES AND REFORM PROSPECTS**

### *Implementation Challenges and Technological Disruption*

Strike rights implementation across Nigeria, South Africa, the United Kingdom, and Ghana confronts unprecedented challenges from technological disruption, evolving employment relationships, and global economic pressures that fundamentally challenge traditional collective bargaining frameworks.

Institutional capacity constraints represent the primary challenge, manifesting differently across jurisdictions. Nigeria and Ghana experience inadequate funding, limited expertise, and weak enforcement mechanisms undermining formal protections.<sup>16</sup> Nigeria's Federal Ministry of Labour and Employment lacks resources for effective dispute mediation, while Ghana's

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<sup>15</sup> Claire Annesley and Francesca Gains, "The Paradox of Essential Services: COVID-19 and the Reconfiguration of Strike Rights," *British Journal of Industrial Relations* 61, no. 1 (2023): 78-95.

<sup>16</sup> Ngozi Finnih, "Labour Law Enforcement in Nigeria: Institutional Capacity and Resource Constraints," *Nigerian Journal of Labour Relations* 8, no. 1 (2022): 145-170.

National Labour Commission struggles to serve rural and informal sector workers beyond urban centers.

South Africa's developed framework faces increasing caseloads straining CCMA capacity, necessitating technological solutions that may reduce accessibility for digitally excluded workers. The United Kingdom presents institutional erosion through austerity measures limiting ACAS's dispute resolution capabilities despite well-developed systems.

Political interference challenges jurisdictions where governments perceive industrial action as stability threats. Nigeria's petroleum sector exemplifies this dynamic, where oil revenue dependence creates intervention incentives regardless of collective bargaining protections.<sup>17</sup> Discretionary essential services designation enables political manipulation, undermining labor relations predictability.

Platform work emergence creates fundamental challenges across jurisdictions. Platform workers, classified as independent contractors, fall outside conventional labor relations systems, removing millions from strike protection while creating economic dependencies requiring collective action. The UK's *Uber BV v. Aslam* decision began addressing these issues, but collective bargaining implications remain unclear.<sup>18</sup> Algorithmic management neutralizes traditional strike strategies through automatic work redistribution.

Climate change presents challenges through industry disruptions and policy responses affecting labor relations. Renewable energy transitions affect established collective bargaining relationships, while climate adaptation creates new essential services categories potentially subject to enhanced restrictions.

### *Reform Prospects and Innovation*

Reform initiatives demonstrate varying approaches to contemporary challenges while maintaining collective bargaining protections. South Africa's sectoral bargaining councils extending coverage beyond individual enterprises provide models for other jurisdictions.<sup>19</sup> These councils establish industry-wide standards while accommodating diverse employer circumstances, addressing traditional enterprise-based bargaining gaps.

Nigeria's tripartite social dialogue through forums like the National Economic Council demonstrates inclusive approaches addressing broader worker-affecting issues. However, effectiveness depends on sustained political commitment and institutional support, inconsistent across administrations. Traditional dispute resolution integration with formal procedures represents innovation particularly relevant in post-colonial contexts. Ghana's community-based mediation incorporation alongside formal Commission procedures respects indigenous governance while meeting contemporary needs, though requiring careful customary-statutory balance.<sup>20</sup>

Technology offers solutions alongside challenges. South Africa's CCMA innovations including telephone mediation and online case management improve efficiency while maintaining

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<sup>17</sup> *Petroleum and Natural Gas Senior Staff Association of Nigeria v. Nigerian National Petroleum Corporation* (2023) NCLR 234.

<sup>18</sup> Supreme Court of the United Kingdom, *Uber BV v. Aslam* [2021] UKSC 5.

<sup>19</sup> Shane Godfrey, "Collective Bargaining in South Africa: Institutional Arrangements and Outcomes," *Transformation* 107 (2021): 89-115.

<sup>20</sup> Ghana Trades Union Congress, "Traditional Authority and Modern Labour Relations" (2023).

accessibility, demonstrating institutional evolution preserving core dispute resolution functions.

## COMPARATIVE ASSESSMENT AND FINDINGS

This analysis reveals significant convergences and divergences in approaches to balancing worker collective action with broader societal interests. Universal recognition of strike rights as fundamental to democratic governance and economic development represents the most significant convergence despite implementation variations.

Constitutional frameworks provide foundational differences. South Africa's explicit Section 23 protection, supported by Constitutional Court transformation emphasis, creates strongest worker protection.<sup>21</sup> Ghana's constitutional recognition provides protection qualified by national security considerations. Nigeria's indirect freedom of association protection creates interpretive challenges, while the UK's statutory immunity approach allows flexibility but potentially less security.

Institutional effectiveness emerges as critical for strike rights protection regardless of formal frameworks. South Africa's specialized institutions, particularly the CCMA and Labour Courts, provide sophisticated dispute resolution surpassing other jurisdictions. The UK's ACAS represents well-developed but increasingly constrained capacity, while Nigeria and Ghana face fundamental capacity limitations.

Essential services doctrine represents the most significant limitation across jurisdictions, with varying implementation. South Africa's structured approach with clear criteria provides greater predictability than discretionary approaches. Nigeria's broad discretionary powers create uncertainty and manipulation potential, while UK sector-specific restrictions lack coherent foundations.

### *Policy Recommendations*

Comparative analysis suggests reform recommendations improving strike rights implementation while addressing contemporary challenges. Legislative reforms should extend collective bargaining rights to new employment forms, including platform work, requiring fundamental reconceptualization rather than incremental modifications.<sup>22</sup> Institutional capacity building represents priority across jurisdictions, emphasizing technological capabilities, improved dispute resolution access, and enhanced independence. Cross-jurisdictional learning and technical cooperation could accelerate improvements, particularly between South Africa's developed institutions and capacity-constrained systems.

Nigeria requires comprehensive labor law modernization, updating colonial-era legislation for contemporary employment relationships and international standards. Institutional strengthening, including specialized labor relations bodies similar to South Africa's CCMA, could improve dispute resolution while reducing political interference.

South Africa must address precarious work through legislative amendments extending protection to temporary employees while maintaining institutional capacity under increasing demand. Economic transformation integration with labor relations policies could enhance collective bargaining's development contribution. The UK should review post-2010 public

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<sup>21</sup> Halton Cheadle, "The Right to Strike in the South African Constitution: Twenty-Five Years Later," *South African Law Journal* 138, no. 4 (2021): 612-640.

<sup>22</sup> International Labour Organization, "The Future of Work in the Digital Economy" (2022).

sector restrictions considering proportionality and international comparisons, while addressing gig economy workers through comprehensive legislative reform. Post-Brexit labor relations require attention to maintain worker protections.

Ghana needs enhanced National Labour Commission capacity through training, technology, and expanded presence. Traditional dispute resolution integration offers culturally appropriate approaches respecting indigenous governance while meeting contemporary needs.

### *Regional Cooperation and Future Directions*

This analysis contributes to comparative labor law by demonstrating institutional capacity's importance in labor relations effectiveness regardless of legal framework sophistication. Structured essential services approach with clear criteria provides better protection than discretionary systems, while economic structure clearly impacts labor relations approaches. Regional cooperation opportunities through African Union initiatives and ECOWAS frameworks could facilitate best practice sharing and standards harmonization. South Africa's institutional development offers lessons for Nigeria and Ghana through technical cooperation addressing specific circumstances.<sup>23</sup>

Future research should focus on different approaches' effectiveness in achieving worker protection and economic development objectives. Traditional and modern dispute resolution integration represents important research priorities, understanding how indigenous governance systems complement formal frameworks. Collective bargaining's fundamental importance to democratic governance and economic development remains constant, but implementation must evolve addressing contemporary challenges. Effective strike rights protection requires careful balancing of worker rights with societal interests, supported by appropriate institutional capacity and adaptive approaches to changing conditions.

## **CONCLUSION**

This comparative study of the right to strike in Nigeria, South Africa, the United Kingdom, and Ghana reveals stark differences in legal protection and implementation shaped by constitutional traditions, historical contexts, and socio-economic conditions. South Africa stands out with its explicit constitutional guarantee under Section 23, reinforced by the Labour Relations Act 1995 and effective institutions like the CCMA, which distinguish protected strikes, mandate conciliation, and provide accessible dispute resolution. Ghana constitutionally recognizes the right (Article 24), subject to public order limits, and relies on tripartite mediation through the National Labour Commission. Nigeria offers only indirect protection via freedom of association (1999 Constitution, Section 40), but colonial-era laws impose burdensome conciliation and arbitration procedures, often enabling delays and political interference. The United Kingdom provides no positive constitutional right, instead granting statutory immunities under the Trade Union and Labour Relations Act, constrained by complex balloting, notice, and high turnout thresholds—especially stringent in the public sector since 2016. Common challenges include institutional capacity gaps, political interference, expanding informal and gig economies, and post-COVID broadening of essential services restrictions. South Africa's structured, criteria-based approach to essential services offers the most balanced model. Effective strike rights require adaptive legislation, strong independent institutions, and equitable balancing of worker empowerment with public interest. Recommendations include modernizing Nigeria's outdated labour laws, building institutional capacity in African

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<sup>23</sup> African Union, "Labour Migration and Labour Relations Initiative 2021-2025."

jurisdictions, extending protections to non-standard workers in the UK, and fostering regional cooperation through the African Union and ECOWAS to strengthen industrial relations in a rapidly changing global economy.

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