**Keynote Address at the 2026 Legal Stakeholders' Engagement Themed, "Enhancing Judicial Interpretation, Adjudication, and Enforcement under the Employees' Compensation Act (ECA), 2010", Organised by the Nigerian Social Insurance Trust Fund (NSTIF), which held on 29 and 30 October 2026 at Johnwood Hotel By Bolton, 6 Sokode Crescent, Wuse Zone 5, Abuja**
**29 October 2026**

**By**

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**AND**
**Member, ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR)**

1. Courtesies

2. Last year's Legal Stakeholders' Interactive Session on Employees' Compensation Scheme (ECS) Operations organised by the Nigerian Social Insurance Trust Fund (NSTIF) held on 24 and 25 November 2025 here in Abuja. I delivered the keynote address in that interactive session. Today, I have the honour, but indeed onerous task, of delivering the keynote address. The theme this time around is, "*Enhancing Judicial Interpretation, Adjudication, and Enforcement under the Employees' Compensation Act (ECA), 2010*".

3. May I, on behalf of the Judges, Management and Staff of the National Industrial Court of Nigeria (NICN) thank, the Managing Director (MD) of the Nigerian Social Insurance Trust Fund (NSTIF), and the Management and Staff of the NSTIF for continuing with this Legal Stakeholders' Engagement.

4. Injury in workplaces is a commonplace. Nigeria is expected to adopt measures that prevent workplace injuries. And where injuries do occur, to compensate for them. Nigeria is a member of the International Labour Organisation (ILO), and has ratified the ILO Occupational Safety and Health

Convention 1981 (C155), ratified on 3 May 1994[1]; and the Promotional Framework for Occupational Safety and Health Convention, 2006 (C187), ratified on 8 November 2022[2].

4. Aside from the ratification of C155, Nigeria adopted a National Policy on Occupational Safety and Health 2020 (National OSH Policy)[3]. In 2010, Nigeria passed into law the Employees' Compensation Act (ECA) No. 13 of 2010, which is the cornerstone of workplace social security in Nigeria, designed to provide a fairer, more efficient, and automated system for compensating employees who suffer work-related injuries, disabilities, or occupational diseases.

5. To optimise the impact of the ECA, the legal ecosystem must continuously refine how the Act is interpreted, how disputes are adjudicated, and how its provisions are enforced. It is here that we come in as judges saddled with the responsibility of interpreting the provisions of the ECA and adjudicating the disputes that may arise therefrom. In terms of its mandate and scope, the ECA repealed and replaced the the outdated Workmen's Compensation Act (section 72 of the ECA), and shifts the burden of compensation from individual employers to a collective pool known as the Employees' Compensation Fund (sections 56 and 58 of the ECA). All employers are obliged to make the statutorily imposed minimum contribution, which is 1% of the total monthly payroll, into this Fund (sections 33, 34 and 35 of the ECA).

6. The Fund is managed exclusively by the Nigeria Social Insurance Trust Fund (NSITF) — section 57 of the ECA. The ECA applies to all employers and employees in both the public and private sectors across Nigeria except military personnel, but not those employed in a civilian capacity (sections 2 and 3 of the ECA).

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[1] See https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103259 as accessed on 19 October 2026.

[2] *Ibid*.

[3] Available at https://nelex.gov.ng/documents/NATIONAL_POLICY_ON_OCCUPATIONAL_SAFETY_AND_HEALTH.pdf as accessed on 19 October 2026.

7. Compensation for workplace injuries in Nigeria is vide the Employees' Compensation Scheme (ECS) as governed by the ECA 2010. The ECS is a "no-fault" social insurance scheme that guarantees compensation for employees or their dependents in the event of occupational (work-related) injuries, diseases, disabilities, or death. Compensation is paid regardless of who was at fault for the injury, accelerating the relief process for injured workers. The ECS is managed and implemented by the NSITF and, as indicated earlier, is funded solely by mandatory employer contributions.

8. In general, in matters of employment injury protection, the ILO has adopted the concept of occupational risk, which "acknowledges that injuries arise from risks inherent in the job and that compensation costs should be treated in at least the same way as the cost of equipment repairs, maintenance of premises, or wages"[4]. The ILO enjoins a no-fault regime under which "compensation should be awarded whether or not there is any fault on the part of the worker or employer"[5]. This is in contradistinction to the fault regime of tort law, where workers ordinarily could only receive compensation if they prove that the injury sustained was the result of a faulty employer. The difficulties in proving an employer's fault and the lack of predictability regarding any award of compensation and the amount thereof for both workers and employers led the ILO to enjoin the replacement of tort liability with the concept of occupational risk on the part of the employer[6].

9. The ECA was thus designed to take after the ILO prescription, and hence speed up and humanize the compensation process. Injured workers under the ECA, as reported by the MD of the NSITF[7], are entitled to immediate medical treatment without the burden of proving employer negligence. And beyond treatment, workers receive physical rehabilitation, vocational training, and support for reintegration into the workforce.

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[4] See paragraph 32 of the ILO's General Survey 2025 - *Achieving Comprehensive Employment Injury Protection*, available at https://www.ilo.org/resource/conference-paper/achieving-comprehensive-employment-injury-protection as accessed on 16 November 2025.

[5] *Ibid*.

[6] *Ibid*.

[7] Barr. Oluwaseun M. Faleye - "Enhancing Workplace Safety and Social Protection: The Role of the Employees' Compensation Act, 2010", a presentation at the 65th Annual General Conference of the Nigerian Bar Association (NBA), which held at the International Conference Centre, Enugu, 24th August 2025.

10. Disputes arising from the application of the ECA entail that the provisions of the ECA would be interpreted. This task is by no means easy given the open texture of the language of the ECA. Here, judicial interpretation is required to bridge statutory text and real-world labour dynamics. We may thus be called upon to enhance the application of the ECA through the following focus areas:

- *Expansive definition of "employee"*: Despite that section 73 of the ECA broadly defines the term "employee", courts may need to particularly interpret the definition of an employee generously to protect casual workers, gig economy participants, and third-party contractors who are frequently exposed to workplace hazards but excluded by strict contractual technicalities.
- *Broadening the concept of "in the course of employment"*: Interpretation regarding injuries sustained during transit, remote work, or off-site assignments should lean towards worker protection, recognising modern, flexible working arrangements.
- *Clarity on concurrent remedies*: At the moment, a review of especially the NICN cases shows that while an employee can claim statutory compensation under the ECA, he cannot simultaneously pursue a common-law claim for negligence against their employer. This presupposes that compensation for workplace injuries is governed by both the tort law and the ECA 2010. This duality may work injustice to the victim. Under section 12 of the ECA 2010, a victim must choose either compensation under the ECA or that under tort law, not both. A wrong choice would inevitably mean that the victim can go without a remedy, as *Sadiq Isiaku v. Arab Contractors (O. A. O.) Nigeria Ltd*[8] showed.

11. On balance, it does seem that claims for compensation for occupational injuries under the ECA 2010 would be preferable to an employee than claims under the tort of negligence. This latter route portends a number of booby traps that may leave the claimant without any recompense. And this is especially so since the tort of negligence relies on the fault concept for sustenance. With the duty concept being used to limit liability in negligence[9],

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[8] Unreported Suit No. NICN/ABJ/177/2018, the judgment of which was delivered on 20 June 2022; available at https://nicnadr.gov.ng/judgement/details.php?id=7116 as accessed on 16 November 2025.

[9] See BS Markesinis and SF Deakin – *Tort Law* (Clarendon Press: Oxford), 1994, 3rd ed. at pages 68 – 70.

as where it is used to justify the law's refusal to grant equal protection to different kinds of damage, heads of recovery like occupational health in terms of mental and social wellbeing of workers, would be seriously compromised. And with its attributive inquiry, there is little opportunity to look beyond the occupational injury victim (the employee) and the tortfeasor (the employer) when determining liability.

12. Adjudication is central to employee recovery for workplace injuries. But adjudication is often bugged down by slow judicial processes, which defeat the welfare-oriented purpose of the ECA. Accordingly, adjudication can be made more responsive through the utilisation of the NICN as a fast-track forum for ECA appeals as this ensures that disputes are handled by judges with deep expertise in labour relations and industrial hazards; the use of Alternative Dispute Resolution (ADR), which promotes mediation and arbitration within the NSITF framework (and the NICN itself) before escalating matters to full-blown litigation so as to drastically cut down timelines for injured workers; and simplifying the evidentiary burden by adopting flexible evidentiary rules regarding medical reporting and occupational disease verification, ensuring that bureaucratic red tape does not block valid claims.

13. A law is only as strong as its enforcement. Accordingly, compliance and enforcement of the ECA can be enhanced by:

- *Robust employer audits*: The NSITF must deploy rigorous inspectors to audit corporate payrolls, ensuring that employers remit the statutory 1% of their total monthly payroll to the fund.
- *Stricter penalties for non-remittance*: Enforcing criminal and administrative sanctions against defaulting employers serves as a deterrent. Non-compliant employers should face corporate blockages, such as the denial of government contracts or compliance certificates.
- *Automated claims and reporting*: Transitioning to fully digital reporting systems allows employees and hospitals to log workplace accidents immediately, making it harder for employers to suppress injury data or evade compensation claims.

14. Despite that the ECA 2010 transformed Nigerian labour law in establishing a no-fault compensation framework administered by the NSITF,

gaps in statutory drafting, complex parallel redress options, and structural enforcement issues require deliberate interventions to enhance judicial interpretation, adjudication, and enforcement.

15. Judicial interpretation of the ECA 2010 faces challenges due to statutory lacunae and ambiguities. One stands out. Section 5(1) of the ECA imposes a duty on the employer to report to the Board and "the nearest office of the National Council 'for' Occupational Safety and Health in the State within 7 days of its occurrence every injury to an employee that is or is claimed to be one arising out of and in the corse of employment". Section 5(7) goes on to provide that "The Board shall verify if the injury or disease for which a claim for compensation is raised has been reported to the National Council 'for' Occupational Safety and Health Office in the State where the accident or disease occurred as required under section 30 of the Occupational Safety and Health Act, 2005 prior to the settlement of such claim". Section 10(2) permits the NSITF Management Board (the Board) to, in consultation with the National Council 'for' Occupational Safety and Health, make regulations regarding the calculation of compensation to employees suffering from hearing impairment of non-traumatic origin. Section 32(f) of the ECA goes on to empower the Board to cooperate with the the National Council 'for' Occupational Safety and Health for the prevention of occupational accidents and diseases and for the promotion of safety and health culture at the workplace. Section 73 of the ECA then defines the National Council 'on' Occupational Safety and Health as meaning "the Council established under the Occupational Safety and Health Act, 2005".

16. Two problems are discernible here: the first, is it National Council 'for', or is it National Council 'on' Occupational Safety and Health? Sections 5 (1) and (7), 10(2) and 32(f) of the ECA talk of 'for', while section 73 talks of 'on'. In practice, this anomaly may be inconsequential. Yet, it does not take away the fact of the untidiness in the use of language.

17. Secondly, to the best of my knowledge, there is no Act in Nigeria called "the Occupational Safety and Health Act, 2005". So, if this Act is non-existent, which Council is the ECA referring to? My enquiry revealed that in the National Assembly Journal No 18, Vol 22 of 17 March 2025, listed as HB. 2195 is "A Bill for an Act to Repeal the Factories Act, Cap F1, LFN, 2004; and to Enact the Occupational Health and Safety Act, 2025 to provide

for a comprehensive legal framework for Occupational Safety, Health and Welfare of Workers in workplaces; and for Related Matters". What should a court of law make of all this if called upon to interprete and adjudicate on these provisions?

18. It behoves on us as judges to resolve whatever ambiguities may be found in the ECA. How can we improve the clarity of the ECA? Given section 12 of the ECA, we have, for instance, established that the ECA does not completely exclude common law negligence. We must thus strictly enforce the "principle of election", by ensuring that once a claimant chooses either the statutory no-fault route or a tortious claim, double compensation is barred.

19. We may be called upon to give a liberal interpretation of the phrase, "in the course of employment", used liberally throughout the ECA. Progressive judicial interpretation would require the extension of this phrase to modern working arrangements (such as remote work and mental stress), thus ensuring that the definition of commuting and workplace hazards adapts to evolving corporate realities.

20. There is also the issue of harmonising section 9 discrepancies, where we may be required to creatively navigate strict statutory drafting hurdles, such as the rigid exposure clauses in section 9(4)(b) and omissions in the First Schedule to the ECA, by heavily relying on international labour standards via section 254C(1)(f) and (h) of the 1999 Constitution. The First Schedule lays down a long list of occupational diseases. What happens when new occupational diseases not listed reveal themselves?

21. Given the current legal ecosystem, a number of questions arise, which we may need to ruminate on. For instance, does it not create an inherent conflict of interest for the NSITF to act simultaneously as the regulator, manager, and initial dispute resolver? Are trial dockets clogged because the NICN handles direct appeals from the NSITF Board? And can it be said that proving claims outside of the basic parameters remain highly technical, and so cause lengthy delays?

22. The point needs to be stressed that an excellent compensation framework is useless without strict, and predictable execution. Enforcement accordingly should be strengthened through these targeted mechanisms:

- Ensuring that the 1% monthly payroll contribution requirement is not evaded by informal and small-scale employers. Here, the NSITF may need to integrate its collection system with other bodies like the Nigeria Revenue Service (NRS) and the Corporate Affairs Commission (CAC) to automate verification.
- There should be stiffer penalties for non-reporting. Employers who conceal workplace injuries to evade liability or preserve reputation, thus violating the mandatory 7-day reporting rule, must be severely penalised through imposition of the maximum statutory penalties, or imprisonment, where non-compliant corporate officers are involved.
- In order to safeguard the liquidity of the Fund, keeping it solvent for its primary beneficiaries, judicial oversight is necessary. Here, the courts may need to aggressively enforce cost orders and penalties against defaulting employers.

23. For us at the NICN, we have, for instance, systematically shaped the interpretation of section 12(1) of the ECA 2010. Through our decisions, the Court has rejected the notion that the ECA strips employees of their constitutional right to litigate, firmly establishing that the law provides two distinct pathways governed by the principle of election. Employers' preliminary objections on grounds that the ECA creates an exclusive administrative loop through the NSITF, meaning that courts lack original jurisdiction over injury claims, have been rejected by us as can be seen in *Amina Hassan v. Airtel Networks Ltd & anor*[10]. Adejumo, PNICN specifically addressed section 12(1) of the ECA, and held that an employee who suffers a workplace injury can bypass the NSITF entirely and launch a civil lawsuit directly against the employer, provided they have not already applied for or received statutory compensation from the NSITF Management Board. And Ogbuanya J in *Amadi Ambrose Agbobi v. SIAT Nigeria Limited*[11] explicitly declared that treating the ECA as the sole remedy for workplace injury is a "gross misconception", affirming that the ECA does not extinguish common law negligence.

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[10] Available at https://www.nicnadr.gov.ng/judgement/details.php?id=7254 as accessed on 20 October 2026.

[11] Available at https://nicnadr.gov.ng/nicnweb/details.php?id=9755&p= as accessed on 20 October 2026.

24. Discerning from caselaw emanating from the NICN, the "two mutually exclusive routes" has been formulated. By this, the NICN has delineated exactly how the election of remedies functions procedurally, drawing a sharp line between original and appellate jurisdiction. In *Mr Anthony Godwin Utibe v. Jiuxing Integrity Industries Ltd*[12], for instance, the court clarified that the principle of election creates two distinct, non-converging pathways:

- The statutory route, which allows an employee to claim compensation from the NSITF. If a dispute arises over the computation or liability, the NICN can only step in under its appellate jurisdiction to review the NSITF Board's decision.
- The common law route, where an employee may sue the employer directly for breach of a duty of care. Here, the NICN exercises its original jurisdiction and can award significant general damages. In this specific case, because the claimant elected the common law route, the court awarded ₦30 million in general damages due to the employer's severe health and safety failures. But as pointed out earlier, a wrong choice especially as to the common law route may inevitably mean that the victim can go without a remedy.

25. It should be noted that while the NICN protects an employee's choice as to whether to take the statutory or common law route, it strictly enforces the equitable maxim that "equity leans against double portion" in order to prevent unjust enrichment through double compensation. In Godwin Lawrence v. Rockview Hotel Ltd[13], for instance, Essien J dismissed the claimant's case where he sought for damages after already initiating or benefiting from compensation processes under the ECA framework. The Court reiterated that once an option is chosen, the other is permanently closed, ensuring an employer is not penalized twice for the same act.

26. What all this presupposes is that the NICN's current stance signifies that workplace safety compliance cannot be offset simply by paying the 1% NSITF statutory premium. If an employer operates an unsafe environment, an injured employee retains the leverage to completely bypass the NSITF and

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[12] Available at https://www.nicnadr.gov.ng/nicnweb/details.php?id=8987&p= as accessed on 20 October 2026.

[13] Available at https://www.nicnadr.gov.ng/judgement/details.php?id=4666&party= as accessed on 20 October 2026.

sue the company directly for substantial common law damages, subject of course to the associated risks of taking that route.

27. In conclusion, it remains hazy whether an employee, who is a victim of occupational injury but cannot claim from the NSITF under the statutory route of the ECA because his employer did not remit its contribution as enjoined under section 33 of the ECA, can succeed against the employer for statutory negligence i.e. for failure to remit the contribution.

28. I thank you all for your attention.