

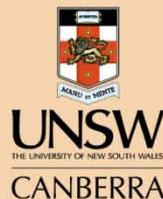
## Global Determinants and Contexts of Contemporary Industrial Relations Policy in Nigeria

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# GLOBAL DETERMINANTS AND CONTEXTS OF CONTEMPORARY INDUSTRIAL RELATIONS POLICY IN NIGERIA

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## Abstract

Globalisation, the collapse of the Soviet bloc and the concomitant triumphalism of capitalism, the dominance of western model democracy, the unprecedented technological advancement and the recurring economic recession since the 1970s are global socio-economic and political factors that shape contemporary world trends in industrial relations of most countries. The article examines how these factors influence industrial relations policy in Nigeria. The article reveals that the Nigerian government has made efforts to adapt to the global context in labour relations policies by pursuing programmes of trade union decentralisation, and restrictive employee rights. It is observed that the effect of the programmes on trade union development in the country will be negative. The authors suggest among others that labour leadership in Nigeria needs a methodological readjustment to save labour unionism and ensure workers' welfare in a developing economy that has been engulfed in the globalised capitalist-dominated economic system.

**Key words:** globalisation; democracy; capitalism, industrial relations policy; leadership

## Introduction

Industrial relations entered national policy with the Industrial Revolution in Europe in the 19<sup>th</sup> Century and had since then continued to change in response to socio-economic, political and other environmental factors faced by countries. The rise of socialism in the early period of the 20<sup>th</sup> century made significant contribution to industrial relations. The world economic recession that started in early 1970s had severe repercussions for most countries of the world especially the less-developed countries of sub-Sahara Africa (Olukoshi, 1994). Also, globalisation increased integration of the world becoming a key factor that has determined world events. Indeed, the force of globalisation especially in spreading western-capitalist and democratic principles has been completely dominant since the collapse of the Soviet Union in 1989. With that collapse, a unitary economic ideology based on the capitalist system has triumphed even among countries that still profess to adhere to the socialist political ideology such as China.

This article highlights some of these factors considered as important determinants of contemporary industrial relations approach in advanced capitalist countries especially Britain, and, examines how these have influenced state-labour relations policy of the Nigerian state. The paper is organised in three sections. Section one provides a brief historical development and contexts industrial relations,

using Britain as a focus. Section two exposes the background of industrial relations and labour laws in Nigeria and examines contemporary state-labour relations policy in the context of the global socioeconomic and political determinants. Section three concludes the article and offers some suggestions for survival and development of trade unionism in Nigeria within this context.

## **Section 1**

### **i. Brief Historical Development and Trends in Industrial Relations**

The concept of 'industrial relations' is very recent. It is traced to the work of Professor John Dunlop of Harvard University who first employed the term in 1958 in his work titled *Industrial Relations Systems*. However, issues of labour-management relations have existed from time immemorial. Beal and Begin (1982) remark that every human society and culture creates some kind of an industrial relations system or system of relations between the people who head organizations and direct its activities and those who do the work. Put in another way, the relationship between workers and those they work for is as old as human society itself. But this relationship has changed in accordance with prevailing socio-political and economic settings. The relationship has variously manifested in history as that between slave and master, between the serf and the baron of feudal societies, between the master and the workman of the industrial revolution era, and between the employee and employer of the present day. As observed by DeCenzo and Robbins (2005: 533),

Association in a union or attempting to organize workers was then deemed a violation of law. For years the courts suppressed unionization, and they, together with the 'big bosses', were successful in keeping union organizers in their place. But many of these suppressive actions were the same things that had propelled the union cause. Workers were treated as pieces of equipment. If the equipment became costly, it was simply replaced. Organizations made unilateral decisions regarding the workers' rights.

The development of the labour movement started with the industrial revolution in Europe and was influenced by discoveries of research in the study of human behaviour in work organizations. Studies in industrial management and other behavioural sciences led to emphasis motivation and the impact of social groups as important factors in achieving high productivity. Starting with scientific managers whose concerns were 'the search for the optimum or "best" methods of work organization in industrial undertakings' (Goodman, 1984: 62) there was an emphasis on a unitary and individualistic approach to industrial relations. Under the unitary perspective of the organizational relationship management saw itself as the only authority to direct industrial relations. In other words, management's job was simply to explain the best methods to the operative staff and to ensure the methods were followed (Goodman, 1984).

The writings of Karl Marx (1818-1883), were very critical to the development of labour movement. His writings elevated labour by arguing that the capitalist's wealth is created by exploitation of surplus labour of the workman. Marx advocated that for the exploitation of labour to cease, the workers must seize and own the means of production. Marx's thesis and the theoretical and practical commitment of his followers, led to the great socialist revolution and labour union movements that dominated the politics and economic thinking of the greater part of 20<sup>th</sup> century. The outcome was the bipolar ideological world in which countries aligned along the two blocs of capitalism and socialism. The presence of labour unions was felt not only in countries that professed socialism but also in core capitalist ones.

By 1919, many developed nations such as the United Kingdom, had become apprehensive of the possible consequences of the revolutionary movements involving workers. One response was the establishment of the International Labour Organizations (ILO) as an arm of the League of Nations. This organization helped to project labour policies through various conventions and resolutions. One view is that ILO was formed to save the interest of capital by finding ways of the revolutionary labour movements across many countries.

The chief proponent of this organizational theory was F.W Taylor who felt that individual workers could be related to their work rather like machines. Taylor's time and motion study and piece-rate compensation system was thought to provide maximum satisfaction to the worker interested in high wages, and to the employer interested in low labour costs, and would thus secure the harmonious cooperation of both groups (Goodman, 1984). Trade union was not seen as significant.

The Human Relations theory resulting from the Chicago Experiment by Elton Mayo and associates at the Hawthorne Works of the Western Electric Company (1927-1932) significantly contributed to the growth of industrial relations and the attention paid by various states to trade unionism. The implication of the Hawthorne experiment for labour-management relations was that workers could no longer be regarded as socially isolated individuals acting independently of their work mates to maximize income. It produced a reaction against the individualistic and over-rational emphasis of scientific management and also tended to show that high levels of group satisfaction correlated with democratic rather than authoritarian leadership styles. The HR approach allowed workers to participate in the decision making process and it encouraged a pluralist view of industrial relations. This pluralistic view of the HR theory became anchored in the activities of organisations such as the ILO.

More recent examples of the pluralist view, perceive industrial organization as operating within a plural society containing many related but separate interests and objectives which must be maintained in some kind of equilibrium (Armstrong, 2004). Pluralism in this context recognizes the

existence in organizations of ‘a balance of power between two organized interests and a sufficient degree of trust within the relationship (usually) for each side to respect the other’s legitimate and, on occasions, separate interests, and for both sides to refrain from pushing their interest separately to the point where it became impossible to keep the show on the road’ (Cave, 1994). The pluralist view of industrial relations encouraged the tradition of bargaining and other democratic processes of resolving labour-management conflicts.

The development of the pluralist view of course, was country specific and was highly influenced by the ideological, political and economic environment of individual countries. As we noted earlier, this was the period politically and economically defined by the bipolar world order in which socialist countries tried to extol the success and victory of labour over capital. Labour unions had a field day adopting all kinds of militancy in securing advantages over management. Even in core capitalist countries, efforts were made towards enacting labour-friendly policies. Welfare statism was an expression of this. Using the British experience to categorize development in the practice of industrial relations since the 1950s, Armstrong (2004), distinguished four distinctive trends, namely,

- The traditional system existing prior to the 1970s
- The Donovan analysis of 1968
- The interventionist and employment protection measures of the 1970s
- The 1980s programme for curbing what were perceived by the Conservative Government to be excesses of rampant trade unionism

The trend in each of the above stage of development may need further elaboration.

***The traditional System/Voluntarism:*** The traditional system existing prior to the 1970s is described by Armstrong as a ‘system of collective representation designed to contain conflict. Voluntary collective bargaining between employees and employers’ associations was central feature of the system, and the process of joint regulation was largely concerned with pay and basic conditions of employment, especially hours of work in industry, legal abstention on the part of the state and the judiciary. During this time and, in fact, for most of the twentieth century, the British system of industrial relations was characterized by a tradition of voluntarism.’ (Armstrong, 2004:758). Voluntarism can be said to be the direct outcome of the HR school with its focus on increasing research on worker motivation and group dynamics in organizational productivity.

***The Donovan Analysis of 1968:*** the complete neutrality of government in the era of voluntarism led to a high incidence of disputes and strikes as a result of the perceived power of trade unions and their militancy. This led to the setting up of the Donovan Commission to reform industrial relations. The Commission recommended the continuation of voluntarism under a reinforced body of rules for collective bargaining arrangements at the shop floor. ‘Since Donovan, comprehensive policies,

structures and procedures to deal with pay and conditions, shop steward facilities, discipline, health and safety, etc have been developed at plant level to a substantial extent' (Armstrong, 2004:758). Thus, while voluntarism is still encouraged, there was minimal intervention of the state through application of rules and guidelines for both labour and management to comply with.

***Interventionism of the 1970s:*** while Donovan's Commission agreed on the continuation of voluntarism under more controlled atmosphere of rules and procedures provided by the state, one member of that commission took exception to the recommendation and penned a powerful minority report. He was Andrew Shonfield who preferred a more interventionist approach. It was this minority report that championed the next trend in industrial relations, that is, interventionism, in Britain and some advanced capitalist countries. Interventionism started in British industrial relations with the enactment of the Industrial Relations Act of 1971. With the Act, 'trade unions lost their general immunity from legal action and had to register under the Act if they wanted any rights at all. Collective agreements were to become legally binding contracts and a number of 'unfair industrial practices' were proscribed. Individual workers were given the right to belong or not belong to a trade union but no attempt was made to outlaw the closed shop' (Armstrong, 2004:759).

Even though the provisions of the Act were not quite respected by either the trade unions or employers, it did introduce the important general right of employees 'not to be unfairly dismissed' and many other legal must-dos for both parties to industrial relations. It started the era of governmental disposition to intervene in labour disputes through legislation. Though the Act was repealed in 1974, it has institutionalised legislation to guide industrial relations practice. The interventionist trend was not against the interest of labour as such. However, it was abused in some countries, Nigeria included. At this period in Nigeria, successive military regimes use interventionism at their whim so legislation was used to favour unionism where it pleased government or to subdue them otherwise.

***The 1980s – Curbing trade Union Powers:*** Margaret Thatcher's Conservative government and her counterparts in other developed economies initiated the next policy context which still has impact on today's industrial relations approach. At the onset of the Thatcher government in 1979, the balance of power was perceived to have moved decisively in favour of trade unions which were described as 'irresponsible, undemocratic and intimidatory' (Armstrong, 2004). There was need to curb this power in the belief that industrial relations cannot operate fairly and efficiently to the benefit of the nation as whole if either employers or employees collectively are given predominant power – that is, the capacity to dictate the behaviour of others (Armstrong, 2004: 759, citing Green Paper on *Trade Unions Immunities* of 1981). The Thatcher government was instrumental in charting the course of political and economic policies that dominated the world from the 1980s till date. The core of such

policies can be summarised in the following extract from the writing of The Commission on Social Justice (1998:12):

The Thatcherites argued the post-war drive for a fairer society had produced high taxes, over powerful trade unions and a bloated public sector. As a result, they said, incentives to entrepreneurship were weak; management could not restructure business or increase efficiency, and the public sector 'crowded out' private-sector expansion.

From the time of Thatcher, globalisation and the dominance of the western world of democracy promoted capitalist principles that support a stiff regulatory approach to industrial relations. This has seen most government's commit towards ensuring a peaceful atmosphere for business operations. The implication for industrial relations is the tendency of most countries to adopt policies to weaken labour unions and the ability of such unions to oppose the dominance of business interests. Thus, the contemporary trend in state-labour relations tilts towards stronger interventionism and democratisation of trade unionism.

## **ii. Determinants and International Contexts of Contemporary Industrial Relations Policies**

We highlighted in the introduction to this article factors that have shaped the contemporary World Order. In this section we take them one by one and explain their implications for IR.

### ***Globalisation***

Globalisation is defined as the process of increasing integration in world civilization. The central idea about globalisation is that many contemporary issues have become factors of global process and cannot be controlled at the level of the nation-state. Globalisation promotes liberalisation and intensification of international linkages in trade, finance, markets, production, research, transportation, energy, medicine, education, politics and culture. Anugwom (2006) goes to the extent of linking globalisation with support for private initiatives and a reduction in the role of government and the public sector. As a global integrative phenomenon, globalisation has also been seen as working against the less developed countries of the world. Ibeanu (1998) argues that the notion of 'one world' or 'global village' as a result of globalisation is illusory. This is because many problems in the world today namely, instability, insecurity, interstate and intra-state conflicts, poverty, hunger, labour unrest etc. continue to be more pronounced in certain parts of the world than in others. Anugwom (2006) sees the deepening of poverty in Africa as a result of globalisation because sub Saharan Africa is not able to compete in the global economic space because of product weakness, debt burdens, corruption, and political instability.

For TWC's the implication of globalisation for industrial relations is the increasing presence of foreign entrepreneurs and international capital in the productive sector in these countries have responded by further curbing the powers of labour unions and intervening in other ways to promote

foreign investment. Labour opposition which often results in strike action is usually viewed as anti-economic activity that can prevent importation of foreign capital.

### ***Dominance of Western Model Democracy***

This factor is linked with that of the collapse of the Soviet Union and they will be discussed together. The nexus between western model democracy and capitalism may be seen in the relationship between business and the rule of law including protection of various rights, (Archer, 1994). Thus, the propagation by the North of the ideals of liberal democracy suggests that the principles of democracy are necessary to maintain fair competition and effective operations of a free market economy. Archer underscores two factors – pluralism and accountability- in understanding the version of democracy propagated after the collapse of Soviet Union. As he explained, ‘pluralism corresponds in the political sphere to competition in the economic market’ and ‘accountability is closely associated with the idea of ‘transparency’ and is considered to be vital to the maintenance of efficiency. Transparency is important to economic as well as political efficiency. Changes of government by lawful process is another factor: this also accords with the concept of political competition’ (Archer, 1994: 28-29). Archer’s insights have direct implications for unionism. For instance democratic principles will have the obvious effect of promoting individualism rather than collectivism. So trade unions are likely to get numerically weaker as individuals will have the right to either belong or not to belong. The right of compulsory check off of union dues would have to stop in countries like Nigeria where this was the norm as result of the past intervention efforts of government to support viable trade unions: on the other hand employers will have more legal rights to deal with strikers and other forms of collective action. In 2005 the 1996 trade Union Act in Nigeria was amended to reflect some of these issues new realities.

### ***Global Economic Recession***

For many countries, including Nigeria, the economic recession really started in the 1970s. Since the 1980s, the West and its International Financial Institutions like the World Bank and International Monetary Fund, has continued to propound structural adjustment measures as panacea to this economic downturn. Such adjustment measures are pivoted on a cluster of policy ideas which claim to constitute a model for good economic and political management. These ideas often called the “Washington Consensus” or Good Government Approach emphasize three strands, namely, the role of competitive markets, government responsibility to management (the state) and the importance of private rights and individual initiative. These policies and related reactions to continued economic crisis have affected industrial relations and labour practices in a number of ways. Internationally as a result many organisations seek to reduce labour costs through retrenchment casualisation and the use of contract workers. Labour saving technologies have created further possibilities of this sort.

Unemployment and casualisation have undermined union membership numbers and this reduced union strength needs to be taken into account in trade unions in labour laws and industrial relations if unions are to play any part in the future.

### ***Unprecedented Technological Advancement***

The unprecedented advancement in technology and its application to organizational processes has transformed how we design, produce, distribute, and sell goods and services (Weihrich, Cannice and Koontz, 2008). It is observed that the technology of the business exerts a major influence on the internal environment – how work is organized, managed and carried out. The introduction of new technology may result in considerable changes to systems and processes. Different skills are required, new methods of working are developed, equipment that can drastically reduce the need for human labour is used. The result may be an extension of the skills base of the organization and its employees, including multi-skilling (ensuring that people have a range of skills that enables them to work flexibly on a variety of tasks often within a team-working environment). But it could result in deskilling and a reduction in the number of jobs (downsizing).

The increasing use of technology generates numerous challenges for industrial relations such as in the areas of dealing with redundancy, and retrenchment problems and creating a gap in knowledge of workers. It also affects the social relationship of the workplace and reduces the urge towards unionism. Evidence is emerging that workers are likely to be more attached to their technological tools or devices than to colleagues and social groups; this is contrary to findings of the Hawthorne experiment. Telecommuting provides a particular example of this. Now information technology has the capability to link an organization's computer network to a staff computer terminal at home enabling employees to work at home instead of commuting to work, thus, providing opportunities for reduced contact with colleagues. This increases individualism in work arrangements and agreements and offering reduced interface and workers grouping and unionism.

### ***Impacts of International Trends on IR***

From the above analysis, it is not difficult to see how these global phenomena have determined trends and contexts of contemporary industrial relations and state labour relations policy. Industrial relations as traditionally conceived as a pluralist engagement of management and labour has been declining since 1990s. According to Kessler and Bayliss (1992), it is becoming more of a management-controlled human resource management operation. Governments have tended to reduce the powers of labour as shown in the case of Thatcherite government in Britain. In the early 1990's Cave (1994), identified the following trends in contemporary industrial relations:

- There is a break with the voluntarism or absenteeism tradition; the conduct of industrial relations is now highly regulated by legislative requirements;
- Employers have become more free to decide the basis on which they are to conduct their employee relations – whether with or without unions. They will likely increase individual employee agreements;
- Trade unions now have to operate within a tightly regulated environment that some claim is tighter than any other group in society;
- Trade unions have no legal scope to act on issues that fall outside the immediate ‘bread and butter’ concerns of members’ workplace (Cave, 1994 as cited by Armstrong 2004: 760).

The findings of the 1998 UK Workplace Employee Relations Survey (WERS) (Armstrong, 2004), also support this trend. The survey, sponsored by the Department of Trade and Industry and other Agencies in the UK, made some of these findings:

- There has been a significant decline since 1990 in the number of union recognition agreements by employers;
- The level of overt industrial conflict was low. Industrial action was reported in only 2% of the workplaces surveyed and strikes in only 1%.
- Numerical flexibility in the size of workforces in line with the requirements and demand was observed. There was increase of use of independent contractors (casual workers).
- There was observed increase in the satisfaction of workers despite a relative dissatisfaction with the pay. What counted more to most workers’ satisfaction was job influence, and a sense of achievement and respect from managers, (see Armstrong, 2004:762).

Overall, the findings of the survey according to Armstrong (2004) indicate that unionism in the workplace continued to decline, relationships in workplaces were reasonably good and job satisfaction was quite high except with regard to pay. Interpreting the result of the survey, Millward, Bryson and Forth (2000) posited that individual pay determination was replacing collective bargaining even in those workplaces that recognised union or had partnership agreements. All forms of communication through employee representatives, including consultative committees were in decline. These had been replaced with direct contacts between managers and employees and problem-solving or briefing groups. In brief, the prospect was for a further disintegration of what remained of joint regulation and employee voice (Millward, Bryson and Forth, 2000). For historical reasons these developments in British industrial relations could be expected to have an impact in countries which inherited much of their legislation and managerial practice from Britain. The following section examines how this trend has manifested in Nigeria especially in terms of labour policies pursued by the government.

## Section 2

### i. Background to State-Labour Relations Policy in Nigeria

Nigerian labour policies and legislation has tried to respond to international trends in industrial relations. The development of industrial relations was highly influenced by the British tradition. In fact, the establishment of the first labour law in 1938 was at the instance of the colonial office in London. Not just that.

Indeed, the bulk of the extant labour laws in Nigeria, were enacted before independence in 1960. They have constantly been reviewed and updated for better or worse (worse, particularly with regard to industrial relations under successive military regimes) over the years. Most of the pre-independence legislation derived from International Labour Conventions ratified on behalf of Nigeria by the colonial government (subsequently confirmed by Nigeria at independence) and, enforced by means of Acts and military decrees. (Yesufu, 2000: 77).

The number of the country's labour legislations that were enacted by the colonial government illustrates the extent of this influence. It includes:

- The Trade Unions Ordinance of 1938 which formerly recognized organizations of workers and employers to represent their respective interests in labour relations matters;
- The Labour Code Ordinance of 1941, which stipulated minimum standard of employment. To protect the worker against the abuses of management in the general area of employment;
- The Trade Union Disputes (Arbitration and Inquiry) Ordinance of 1941 which gave the state the power to intervene in labour disputes when the joint machinery for settling disputes and grievances had failed and it thus provided for government intervening machinery processes of inquiry, conciliation and arbitration;
- The Workmen's Compensation Ordinance 1941 which was a social security law that provided payment and compensation to workers who suffered injuries or occupational disease at work or in the case of death, provided for payment to the worker's dependants;
- The Factories Act of 1945 which was to ensure the safety, that employers provided clean and sanitary environment, good ventilation, lighting etc; and
- The Wages Board Act 1957 which established the use of voluntarism between the workers and employers in establishing conditions of work or for the government to prescribe wages and other conditions of employment if, in its judgment, conditions of work were unreasonably poor.

Taken together this colonial legislation could be perceived as trying to establish a voluntary approach to industrial relations. Voluntarism is recognized as a by-product of British labour policy in Nigeria

and the notion implies that the law allowed workers to associate in trade unions, and employers in employers' associations, and left the two sides to sort out their problems without any further interference from the law. The law assisted the parties to reach an agreement with various 'props' like facilities for conciliation or arbitration. If either party overstepped the boundary of what was proper, the law could intervene to ensure fair play. But ideally, no such intervention was needed. The law as it were, marked out the battle field but took no part in the fighting (Ministry of Employment, 1977). Simply put, the voluntary approach to industrial relations was based on collective bargaining; intervention was a last resort.

The indigenous leaders that took over the rein of power from the colonial British officers also gave support to voluntary industrial relations approach. At the International Labour Office Ministerial Conference in Geneva in 1955, Nigeria's Labour Minister Okotie Eboh reported:

We have followed in Nigeria the voluntary principle which was so important an element in industrial relations in United Kingdom...compulsory methods might occasionally produce a better economic or political result, but labour management must, I think, find greater possibilities, mutual harmony where results have been voluntarily arrived at by free discussion between two parties. We in Nigeria, at any rate, are pinning our faith on voluntary methods (International Labour Organization, 1955, p.33)

It is, therefore, to be understood that Nigerian labour legislations in the colonial era and first republic was based on voluntarism. However, while legislation seemed to support voluntarism, in practice colonial policies, whether starting the purpose of fostering trade unionism or promoting industrial relations, were primarily control devices to ensure that social institutions like trade unions did not threaten colonial economic interests (Fashoyin, 1992). Despite what might have appeared as democratic and voluntary labour policies during the colonial era, there was the tacit and open opposition to labour protests, by colonial administrators. In colonial times in Nigeria and other parts of Africa, strike actions were normally ruthlessly dealt with in the manner. The Enugu (Nigeria) coal miners' strike of 1949, costing 21 mine workers their lives was a case in point (Fashoyin, 1992). Salaries especially for public sector workers remained the unilateral decisions of government through ad hoc commissions. Between 1934 and 1966 when the military took over government in Nigeria, there was no less than thirteen (13) such ad hoc commissions (see for example Okotoni, 2004 and Ikeanyibe, 2009). It is estimated that about 90% of the work of those commissions had involved issues of review of wages, general conditions of service, the grading system and other issues that could have been resolved through collective bargaining under the provisions of existing labour laws relating to voluntary negotiation between the employer and the unions. These issues should have been negotiated but under the colonial practice they were fixed by administrative fiat.

Thus, in spite of the British initiative in introducing labour laws that accorded with world trends, it would be wrong to claim that industrial relations in Nigeria during the colonial and early

independence era followed the voluntary approach. State-labour relations were interventionist paternalistic rather than voluntary, peaceful and democratic. During the period, trade unions were still at the teething stage of their development. It seemed that the colonial government was enacting labour Ordinances in tune with International Labour Conventions as a *de jure* stance to deceive the nationalists and the world that colonialism was a liberal and altruistic mission rather than an exploitative exercise. Fashoyin (1992) acknowledges that the labour laws were comprehensive but finds that the laws suffered from under-enforcement. In some cases, the enforcement was diametrically opposed to the extant laws.

The voluntary policy of the colonial era adopted by the first republic civilian regime gradually gave rise to the proliferation of small, ineffective trade unions. The development of industrial relations policies thereafter was significantly affected by long military rule that started in 1966 and lasted for close to 30 years. Interventionism became more pronounced due to overbearing and autocratic posture of various military governments. Fashoyin (1992) noted that the introduction of restrictive and interventionist policy in Nigeria was first made in 1968 as a result of the Nigeria-Biafra civil war. This policy direction was initiated by the Trade Disputes (Emergency Provisions) Decree of 1968 which banned strikes and instituted Arbitration Court for compulsory and binding arbitration. Many other decrees and Acts were geared towards increasing unilateral decisions by government in industrial relations matters. Strikes were banned and trade unions were divided.

The Trade Disputes (Essential Services) Decree of 1976 amended the 1968 decree by changing the ban on strikes to a ban on strikes in areas classified by the Ministry of Employment as essential services. It gave enormous responsibilities to the Minister in the resolution of labour disputes including the power to apprehend any dispute and prescribe such steps as he thought appropriate for its immediate settlement {Trade Disputes Act, 1976, Sect1 (1) and sect 3 (2)}. Even where there was settlement through collective bargaining process, a copy of the settlement reached must be deposited with the Minister who in turn might enforce any part of the agreement. So the government through decrees and commissions, singlehandedly continued to fix salaries of public servants, restructured the labour unions, creating in the process, industrial unions, senior staff associations, and employers' associations.

Trade unions on their part continued to be weak and ineffective. The military in a paternalistic and autocratic fashion chose to reorganize the over one thousand existing trade unions into bigger, stronger and manageable groups. This action embarked upon in 1977 was contrary to the Trade Union Decree No 31 of 1973 which repealed and replaced the 1938 statute on trade union and provided for free option for amalgamation among trade unions. The merging and reorganization of trade unions in 1977/78 by the government was purely unilateral. Uvieghara (2001) has noted that

the statutory provisions on amalgamation or merger of trade unions did not apply in 1978 and 1996 when there were such exercises. From the reorganization of 1977/78 emerged fifteen (15) Senior Staff Associations, nine (9) Employers Unions and twenty nine (29) Workers' Unions. Decree 22 of 1978 recognised only these as trade unions in the country (Ikeanyibe, 2009). The reorganization also encouraged formation of federations of trade unions or central labour organizations which eventually led to the emergence of the Nigerian Labour Congress as the only central labour organization in the country (Uvieghara, 2001).

Perhaps ironically it is this umbrella labour union that has subsequently championed the onslaught against the autocratic and interventionist approach to labour relations of the state in the contemporary context and has also determined government responses to the labour issues in the contextual socio-economic and political developments in the country. The contemporary state labour relations policy in the country is geared towards crippling labour which has gained substantial power under the auspices of Nigerian Labour Congress (NLC).

## **ii. Contemporary Determinants of State-Labour Relations in Nigeria**

The contemporary trend in industrial relations in Nigeria could be said to have begun with the Structural Adjustment Programme, SAP, introduced in the country in 1986. It is with SAP that the mixed economy system that has dominated the economic policy of the country since independence began a transformation to the more restrictive market economy approach to development issues. From that period onwards, the world socio-economic and political contexts described above (i.e. globalisation, democratisation, economic down town and effects of increased technological advancement), became visible determinants of industrial relations policy and practice in Nigeria. These new understandings of factors influencing the labour policies of the state were reached with little understanding and cooperation from the labour leaders.

The introduction of SAP was triggered off by the obvious need to withstand the intense economic crisis faced by the country following the collapse of the world market price of oil starting from 1981 and the consequent suffocating external debts burden. The Nigerian economy, being a mono-cultural one fully depends on oil revenue, had little option than turning to external borrowing to counter the effects of drastic revenue fall. Explaining the factor of economic recession in Nigeria's huge external debt that led the Government to seek an IMF loan in 1986 and to adoption of the SAP as a condition of borrowing, Oluyemi-Kusa writes:

In a bid to meet its domestic obligations, the Nigerian state intensified its approaches to international financiers for loans. So too did state governments and sections of the private sector. In time, Nigeria became burdened by a huge external debt which, by the mid-1980s, in the face of declining world oil market, it had difficulties servicing, the magnitude of the

Nigeria debt which was one of the key factors that propelled the country towards structural adjustment (Oluyemi-Kusa,1994:82).

Of course, SAP was not peculiar to Nigeria. As an international phenomenon, it was a requisite economic policy to tackle the effects of economic recession and globalisation on less developed economies of the world especially in Africa, Asia and former socialist countries of Europe. SAP was a package of economic policy adjustments determined by International Financial Institutions like the World Bank and International Monetary Fund to benefiting countries borrowing as they sought to survive the crippling effects of the economic downturn and the consequential sovereign debt burden. The conditionality given by these international financiers were mainly in terms of adjustments to shrink the public sector, privatise publicly owned enterprises, reduce regulation of foreign trades, end consumer subsidies (including subsidies on food and basic needs), and promote the production of goods for export (Archer, 1994). SAP conditionality included other good governance measures understood in terms of westernized democratic and capitalistic viewpoints.

It is crucial to note that some of the conditionality of International Financiers and donor governments of the Organization of European Cooperation and Development (OECD), countries like trade liberalisation further pushed the peripheral countries including Nigeria, deeper into the world capitalist system. Building the economy of most sub Saharan African countries is often anchored on the call for foreign investment and free trade. In Nigeria, the major thriving industries are Multi National Companies (MNCs) as a result of weak capability of the indigenous entrepreneurs. Major policies of these companies are influenced by their metropolitan head offices in developed countries. Most of them have management approaches which are well developed in terms of reducing labour costs and individualising employment conditions. Their employees are hardly involved in labour crisis, not because of adequate conditions of employment, but more because of the union-restrictive policies they adopt. Yaqub (2006) reveals that employers in Nigeria resort to the use of contract/casual labour not just to cut cost and maximise profit at the expense of the workers and the national economy, but also to deny their workers the right to belong to trade unions. In this way these companies avoid being compelled to implement collective agreements, or subject their conditions of service to the process of collective bargaining.

The effects of the implementation of the SAP programme under the conditionality of creditor nations added to the pressures on workers and unions. The fallout of the unpalatable effects of SAP in most African countries was a great deal of political opposition which was most often masterminded by trade unions, which are among the few cohesive civil society groups. In Nigeria, the Nigerian Labour Congress was at the centre of most of the oppositions in government restructuring programmes. NLC was created as the only central labour organization along with other trade unions in the 1977/78 reorganization. All other trade unions were compulsorily affiliated to it and contribute 10% of their

check off dues to finance it (Fashoyin, 1992). NLC represents the general interest of workers. It has disciplinary powers over its affiliate members but each trade union is independent and autonomous. What this implies is that NLC does not have the *locus standi* to negotiate on behalf of various unions and their managements including those of the public sector. This generalist role gradually reduced the function of NLC to political bargaining, principally with government over national policies as they affect labour.

Because of this the effect of NLC leadership has been to move industrial conflicts from being a sectional industrial issue between particular trade unions and their management or the government and sections of its employees to being a national phenomenon. Strikes became total and comprehensive. NLC became a titan that could call off business activities in the entire country at the least provocation or refusal of the government to acquiesce to its demands. The effects of labour unrest became too frustrating to government's reform policies and NLC became so powerful that president Obasanjo in 2004 accused it of attempting to overthrow the government through its paralysing strike activities (Odunfa, 2004).

This political motive to weaken trade unionism combined with the socio-economic and political programmes made necessary by globalisation, democratisation, economic down turn, move to private-sector driven economy and other restructuring programmes and the attendant strikes and labour oppositions that followed since the introduction of SAP. The result was an overwhelming motive for various epochs of the Nigerian government to increase restrictive legislation in to industrial relations. In 1998 the military government had began a plan to reduce the power of labour. According to Yesufu (2000:518),

Following upon the Civil Service (Re-organization) Decree (No.43) of 1988, the military regime embarked on a pronounced and misguided policy of 'deregulation' of industrial relations in the public service. That policy stipulated that the relevant trade unions should henceforth negotiate with each state and local government over its terms and conditions of employment bearing in mind its ability to pay.

The provisions of this decree did not seem to have received much attention until the country returned to democratic rule. The democratic government elected in 1999 aimed at consolidating the SAP by emphasizing a private sector led economy and restructuring the government to make it smaller. Development plans prioritized privatization, commercialisation, deregulation and liberalisation. Naturally, opposition to these policies heightened under the leadership of NLC and strikes became common place in Nigeria.

The government reacted by pursuing a trade union decentralisation policy and creating a stiffer regulatory environment against labour. Chief Olusegun Obasanjo, the first president of the 4<sup>th</sup>

republic in 2004, hurriedly introduced a bill to the National Assembly to amend the Trade Union Act of 1996. Yaqub described Obasanjo's efforts in this direction thus:

The eventual outcome of this hasty, malicious effort by the Obasanjo regime, tinkered with section 42 CAP 437 of the former Trade Union Act in favour of the employers and all those who wish to continue the massive enslavement of Nigeria workers, through casualisation, contract labour, abuse of occupational health and safety and indeed all forms of anti-workers actions in Nigeria (Yaqub, 2006:85)

The amendment gave rise to the Trade Union (Amendment) Act 2005. Important highlights of the Act include:

- Abolition of any trade union such as NLC as the only central federation of trade unions in the country;
- Prevention of any trade union from embarking on strike action unless upon a resolution approving the strike action passed by a two thirds majority of delegates representing all the members of the union or federation of trade unions in a secret ballot held at a meeting for that purpose;
- Abolition of automatic membership dues check-off;
- Provision that a worker shall or shall not join a trade union or shall or shall not relinquish membership of a trade union ;
- Making it unlawful to subject any person to any kind of constraint or restriction of his personal freedom in the cause of persuasion;
- Prohibition of any union federation of unions or any member thereof from compelling any person who is not a member of its union to join any strike or in any manner whatever.

The government also brought pressure to bear on workers striking under the maxim of 'no work no pay for strikers'. While this maxim reveals the extent of government determination to diffuse the powers of labour union in contemporary Nigeria it is yet to become an acceptable labour practice in the country since the refusal to pay salary for the period of strike has always constituted a legitimate reason for another strike. One result revealed in the annual survey of the International Trade Union Confederation (2007) is that the country's unions report strong anti labour attitudes and practices by government and employers.

The objective of the 2005 Trade Union (Amendment) Act as presented by the President was based on democratising labour unionism and ensuring human rights and liberties of the citizens. Obasanjo's government was, however, notable for abuse of human rights and rule of law. The rhetoric of democratisation and human rights could therefore be seen as a ploy to mask the real aim of the Act. It is widely believed that the hidden intention of government to quickly enact the 2005 Trade Union (Amendment) Act was to curtail the tremendous powers which labour had garnered under NLC. The Act fundamentally prohibits and criminalises strikes which are deemed to be about disputes of interest or any strikes about economic issues. This bans strikes like those that unions have organised

in recent years over government decisions to raise the price of petrol and any other economic policy. The opportunity to engage in strike action has been further limited by expanding the definition of essential service sectors to include public transport and education, which are outside the ILO definition of essential services (ITUC, 2007).

Since Obasanjo's government ended in May 2007, has become very clear what the trend is in labour relations policy in Nigeria with decentralisation of collective bargaining a major characteristic. In 2008 labour-conflict developed between the government and the Academic Staff Union of the Universities (ASUU). One crucial factor that came up was the insistence of the federal government that members of ASUU of state Universities should negotiate with the various state governments while ASUU branches of federal universities should negotiate with their university Council. So each group of employees were to deal with their direct employers. The question that becomes relevant here is whether this is better than a common collective bargaining between ASUU as a single national union of workers and their different employers – the federal government and thirty six state governments and probably the private universities whose employees are not yet members of ASUU.

It does seem right that Nigeria being a federation, collective bargaining should not be too embracing to make room for the spirit of federalism and regional differences in the ability to pay. The fact of prohibiting the right of mandatory check off dues may also seem right in the spirit of individual choice. It is also arguable that labour might have exceeded reasonable limit by frequently engaging in political opposition rather than collective bargaining. While it seems reasonable for labour to engage in political activities, it is not reasonable to use instruments of labour-management and industrial relations such as strike to oppose government policies. This reveals a duality in the role of unions. On one hand as a civil society group they should have a right to participate in civil liberty group activities such as opposing government programmes and policies. On the other hand as a representative of members in workplaces they should have collective bargaining rights to negotiate with employers. Confusing the two roles has been a problem in Nigeria.

The provisions of the 2005 Trade Union Act are gradually taking hold on trade unionism in Nigeria. The abolition of the right of unions to compulsory check off dues has drastically affected the resources available to unions. It is a theoretical possibility that in a country where an average worker feels that his/her salary is not enough, making union dues optional will likely lead to avoidance of voluntary payment of union dues and this is now the case with most Nigeria trade unions. Membership of unions is now optional and many workers are becoming nonchalant about union membership. In most universities, many academic staff members are not financial members of the Association of Academic Staff of Universities (ASUU). Given relatively grad salaries and a

workforce which is well informed about the nature of unionism this presents a real challenge to unionism.

One problem is the weakness and poor leadership quality of most individual trade unions. Survival and continued development of trade unionism in Nigeria, will, require a new approach from labour leaders rather than the confrontational and militant approach that has persisted in the country and which the current state policy has aimed at curbing.

### **What situation do Nigerian unions face?**

In this article we have argued that industrial relations tradition in Nigeria has been more interventionist than voluntary and democratic. Governments have intervened to build or decimate unions in accordance with their current policy. They have frequently paid what in practice transpired to be mere lip service to the principle of industrial democracy. Numerous draconian and reckless labour laws introduced by various epochs of Nigerian government to curb trade union rights and industrial democracy continue to have an impact on practice (Ikeanyibe, 2009). On the other hand, labour has been both reactionary and militant in approach, holding strikes and other industrial actions as the only effective way to challenge the over-bearing posture of the state in industrial relations. This encouraged the development of confrontational state-labour relations that led to what Yesufu (2000:511) describes as 'the traditional war game of 7 to 14 day ultimatum followed by strikes.' The confrontational approach became economically and socially devastating under the leadership of NLC as the central labour organization in the country since the 1980s. It became obstructive to the aspirations of the government to adapt to global trends that the country could not isolate itself from.

The engulfing world political and economic phenomena of globalisation, the disintegration of Soviet Union and what it stands for, recurrent economic downturn, democratisation, and technological advancement are factors that encourage the overriding role of capitalist and neo-liberal ethos in both the internal and external activities of states. How states will manage and adapt to these intervening forces in issues of industrial relations will however depend on the capacity and level of development of the state. Like in most global phenomena, the sub-Saharan African states will continue to be at the receiving end have a limited capacity to resist or adapt to IR trends. Indeed most of the determining factors of the contemporary world order, especially globalisation and the free market economy are factors that have continued to increase the dependence, peripherization and pauperization of the less developed economies as against the affluence, convergence and integration of the core capitalist states (Petrella, 1996). Most developing countries do not have the capacity to counteract global challenges and usually fail to make appropriate responses to world events and trends inexorably initiated by the global socio-economic and political contexts often piloted by western developed

countries. They will therefore, continue to be ‘susceptible to extra-national policy prescriptions’ (Anugwom, 2006:38).

In terms of industrial relations practice in Nigeria, the new democratic dispensation since 1999 has moved the country’s labour policies deeper into strong regulations of industrial relations that are directed towards total decimation of the labour unions in the country. Unless labour leaders understand the facts deriving this trend, they may not appreciate the need for changing their approach in management-labour relations so as to continue to be relevant in issues of industrial relations in the new momentum to decentralisation, individualism and highly regulated industrial relations approach.

### **How can unions adapt?**

In the reality of the contemporary contexts of industrial relations, we conclude that five key issues need to be addressed for survival of trade unions and their continued relevance:

i. Unions need to support the progressive policies of management. The emerging trend requires mutual understanding between labour and management of the common problems of the organization and an approach that such problems can better be solved by a closer relationship, involving dialogue, negotiation, compromise and cooperation rather than antagonism and confrontation. Thus, labour unions should exploit a synergistic approach to industrial relations. For this to work, labour and management need to treat each other as partners in organizational progress.

ii. Labour leaders should strive to convince union members or would-be members to freely decide to belong and to pay dues by exhibiting transparent and productive leadership. With the end of the era in which belonging to an occupation or working for a particular organization, meant workers were automatically conscripted to union membership there is the great challenge of labour leaders to attract as many financial and committed members as possible through effective leadership activities.

iii. Trade union leaders must not neglect the socio-economic and political contexts in which they operate. countries including the core socialist countries are following capitalist ethos today. Privatisation and marketization, and roll-back of the state in terms of productive activities and personnel, are among the currently preferred policy options for socio-economic development in most countries. The government, being responsible for the entire society, has the right to whatever policy it feels that can bring better fortunes to the country. The role of labour union is to ensure that its members are protected within a given productive space. Hence, the initiation of the subsisting policy of privatization, commercialisation, deregulation and the like is the prerogative of the government. While the outcome of these policies can also not be overlooked, the concern of labour should be how

its members affected should be treated but not out rightly to reject or undermine these policies. Alternatively, labour can support political parties that can be sympathetic to some kinds of policies as a political approach. Yesufu asserts: 'the concept that an employee, whether in the public or private sector must be foisted or inflicted forever upon his employer, and must not be retrenched is completely outdated. In the modern global economy, technological change, amalgamations and take-overs have become the norm in order to ensure competitiveness and profitability or, at least, viability.' (Yesufu, 2000:508). In the public sector, the tendency is to embark on reorganisations that lead to small and effective bureaucracy. Labour should be ever ready to negotiate how union members should be compensated for effects of any policy or programme introduced by government or management as the case may be, rather than outright opposition to policy changes which in the long run may be better in real terms.

iv. Finally, labour leadership should be more interested in how productivity can be improved, how corruption can be reduced among the employees and how work processes can be made more effective. It 'should no longer be just interested in how much wages, salaries and allowances can be extracted from employers. It should insist on the installation of appropriate productivity schemes to which such earnings should be related' (Yesufu, 2000:508). At the national level, labour must properly distinguish between political and industrial relations roles and the approach towards the realisation of each of the objectives. In particular it is inappropriate to use strikes to fight government policies as a trade union rather than as civil society organization.

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