

## Government Public Policies and the Dynamics of Employment Relations in Developing Countries: The Experience of Nigeria

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**Abstract:** Although, there is great diversity among countries in the legal framework governing employment relations, it should be recognized that, in many developing countries including Nigeria, the legal framework is still considered more restrictive especially in the public sector. Paradoxically, going by the recommendation of the ILO conventions, it is expected that both employers' and employees' association(s) will come to the bargaining table each with relatively well-defined positions on the employment relations issues before them, with the public authorities refraining from any sort of interference which could restrict the freedom or impede the lawful exercise thereof. Suffice it to say that, the ILO conventions on employment relations which are; directly or indirectly built around the basic principle of voluntary collective bargaining; allow each government to decide the kind of machinery it considers most suited to the needs of its country, but then provide for equal representation of employers and workers in the branches of industry concerned. However, the experience of Nigeria has shown that over the past years, successive governments have become, perhaps, the most important factor in determining the employment relations climate in the country; through various decrees (acts) that have come to bear on employment relations policies. These Acts are seen as important elements/components of national development strategies/policies aimed at combating inflation, economic recession, unemployment and promoting national unity. In this process, strikes, which had remained the workers most potent way of showing resentment, have been outlawed and compulsory arbitration entrenched in the labour acts which in seen by many as infringing on the freedom of collective bargaining as a means of determining employment relations. In line with the above background, the study therefore is intended to discuss the trend and pattern of the Nigerian Government's in employment relations as well as explore the implications of such strong influence on collective bargaining, wages determination, trade disputes resolution procedures and freedom of association of the workers.

**Key words:** Public police, dynamics, employment rebitions, Nigeria

### INTRODUCTION

The stringency of the economic constraints and government's heightened determination to curb inflation gave rise to the almost centralization of employment relations in Nigeria. An assessment of government public policies and the dynamics of employment relations in Nigeria shows that the adoption of emergency legislations (mostly anti labour) in an effort to mitigate the effects of economic recession has made government to exert more control over employment relations. Research and report has shown over the years that employment relations in Nigeria like in most of the developing countries is restricted and limited.

For instance, Otobo and Omole (1987) expressed that if collective bargaining in the private sector could be considered as a system of rule making and wage determi-

nation, it can hardly be considered the same in the public sector. Also Kester and Ayantunji (2002) was of the opinion that the bargaining concept as known in the private sector and the right to strike cannot be applied in the Nigerian public sector without modifications.

ILO (1992) opined that the Nigerian government in recent time has taken over the job of regulating wages and conditions of work (agreeably in the public sector) on a permanent basis, on the excuse of "public interest" or "protecting" the developing economy. Kester (2003) citing an ILO (1989) report, ascertained that the prevailing economic conditions, productivity changes, minimization of inflationary pressure, cost of living and the need to redistribute income in a more equitable manner, are the major factors that actually influenced the successive Nigerian government wage policy formulations (as well as employment relations).

Essenberg (1985) commenting on the interaction of Industrial relations and the political process in Africa observed that:

- In Nigeria after independence, the major existing labour laws remained in force. These laws, however, were not conducive to the development of a strong and stable trade union movement ... the role of the government has, since the independence, changed from a permissive, abstentionist policy to an interventional approach, without, however, constituting a permanent partnership between the government and the trade union movement. This approach has not changed significantly under the subsequent civil and military government.

While, Ubeku (1986) in his submission, said that while the employers and unions may establish their procedural and substantive rules through the collective bargaining process, that exercise must be subjected to the control and regulations of government. Specifically, Kester and Ayantunji (2002) was of the opinion that conditions of employment of civil servants in Nigeria are practically determined outside free negotiation. However, Fashoyin (1987) was emphatic that this does not mean that the trade unions representing the public servants are less functional. He asserted that the social and psychological reasons of unionism among civil servants have simply become dominant and significant. It should be stressed here that although negotiation through the National Public Service Negotiating Council NPSNC (formerly called Whitley Council) involved representatives of both parties, however decisions reached are still referred to higher bodies like National Council on Establishments (NCE). The NPSNC operates at national, state and local (branch) levels. While the NPSNC at the state level, deals with issues affecting civil servant employed by the state of the federation concerned, the council at the national level handles matters that cut across the entire service (Egbo, 1987).

The experience of Nigeria in employment relations reveals a clear reluctance by successive governments to adhere to the principle of voluntarism. Instead, political process, therefore, seems to have superceded free negotiation between government and its employers.

In the light of the above, Yesufu (1980), Fashoyin (1986) and Kester (2002) opined that a persistent criticism and the greatest ironies of the Nigerian Industrial relations system have been government's lukewarm attitude given to dialogue as well as the preference for semi-judicial tribunal system which has remained the most important machinery through which changes in working

conditions (especially in public sector) have been effected since independence. This is so, despite government's own declare policies and legislations to the contrary.

The role of the government in the Nigerian Industrial relations system and in the functioning of the labour-management relationship can be better understood within the framework of its position as the simple largest employer which matches its power and control in industrial relations (Fashoyin, 1980). Also this state intervention largely depended upon the philosophy of the doctrine of "Sovereignty"-that is the absolute authority of the government. It follows therefore, that in adhering strictly to this doctrine, the government necessarily becomes the sole determinant of wages and other conditions of service, especially in the public sector.

The principle of 'guided intervention and democracy' is another relevant government policy as far as employment relations are concerned in the settlement of trade disputes, union recognition and enforcement of the labour agreement. The Trade Disputes Act of 1976, provides the processes which should be adopted in order to resolve trade disputes. It should be realized that, a major problem with these stipulated procedures is that, they are cumbersome and time wasting. Above this, section II of the Trade Union Act of 1973 also stipulates that employees in certain designated employments referred to as "Essential Services" (for example the Armed Forces Police, Prisons Service, Central Bank of Nigeria etc) cannot form or belong to any unions. This seems to run counter to the fundamental human rights provision of the Nigeria constitution and even ILO standards, which guarantee freedom to belong to any union of one's choice.

One major feature of government labour policies, is the absolute power given to the government to either restructure or merge and even sometimes proscribe the trade unions in the country. For instance there were compulsory restructuring and mergers in 1977/78 and 1996 on the excuse of making the trade unions strong and well articulated.

Whether, one views the involvement or intervention of the government as benevolent neutrality or as coercive and undue representation of vested class interests, one thing is clear that, Nigerian government labour policies have played important roles in regulating employment relations since the history of wage employment in Nigeria.

#### **ROLE OF THE NIGERIAN GOVERNMENT IN INDUSTRIAL RELATIONS**

Akanji reports that the state has employed a wide range of actions in regulating employment relations, some

were coercive while some were through various legislations. He posits that the history of state intervention has been characterized by various strategies which include the following; voluntarism, limited intervention, guided democracy, corporatism and direct force.

Government involvements/roles in the Nigerian Industrial relations system are based on certain functions, methods and instruments of intervention, which includes, legislative and regulatory; adjudicatory; leadership; investigatory and advisory and education and training. According to Yesufu (1984) the role of the Nigerian government as regards legislative and regulatory is mainly in the area of enactment and enforcement of labour and industrial relations legislations/laws which ensures minimum basic and acceptable standards of employment conditions of work welfare and security and the institutional framework for the conduct of industrial relations.

The Nigerian government through its adjudicatory role helps to provide machinery for intervention and settlement of industrial disputes, through the use of compulsory arbitrations. The leadership role of the Nigerian government was based on the fact that the state was the custodian of the development of the economy and the largest employer of labour. This leadership role manifest itself through the formulation and enforcement of the "so-called progressive". Economic, labour and industrial relations policies; and by the example of the kinds of remuneration and conditions of employment which the state offers to its employees.

The investigatory and advisory role of the Nigerian government is directly being undertaken by the Federal Ministry of Labour, Employment and productivity. The ministry with scattered state offices throughout the federation constantly form employment establishments to ensure conformity with labour and industrial relations legislations, safety standards and to generally advice private employers on ways of improving upon the existing labour relations and working conditions in their respective establishments.

The Nigerian government in their leaderships and advisory roles contributed a lot to the education and training of the Trade Union leadership as well as that of the rank-and-file members of the Nigerian Trade Union movement. The government in the 1960s and 1970s awarded scholarship regularly to trade union officials to go outside the country for training in labour administration and industrial relations. But later, it was stopped because most union leaders sent abroad for training had deflected to take up more lucrative jobs. However, as a substitute, the government began to give

financial grants to the University of Ibadan (through Department of Adult Education) to organise on an annual basis training courses and seminars for trade unions and employers in the field of labour/management relations generally. (Yesufu, 1984). And to date, these courses have continued to be a permanent feature of the work of the department of Adult Education of the University of Ibadan.

These writers wish to state here that more than any other role(s), the first two role (i.e., legislative and regulatory and adjudicatory) have become so prominent and has continued to generate much debates over what should be the limits of the Nigerian government's intervention in the industrial relations system. Through these roles, the government has seriously infringed on the rights of the average Nigerian worker to strike action and their rights to freedom of association. Contrary to this, an important role/duty of the state anywhere around the globe should be towards the protection and guarantee of the freedom of association to workers and trade union recognition, as a basis for harmonious labour-management relationship.

#### **TRENDS IN GOVERNMENTS POLICY AND THEIR UNDERLINING PHILOSOPHIES**

All labour/employment policies in Nigerian are to be seen as integral part of the national policies and objectives of the country as a whole. And the national policy and objectives of the country at a particular period in time is a function of the philosophy and ideological orientation of the nation's leadership at that time/period in question be it colonial; civilian or military.

In this connection, the Nigerian labour policy has passed through some fairly well defined phases/periods, each being determined characterized by the ideological state of the government in power then. Up to 1937, the undertaking philosophy of government labour policy was the *laissez-faire* which implies absence intervention. The policy trust was built on the fact that the colonial administration then felt it is better to leave both the employers and employees free to determine and regulate their relations as best as they can. This policy was geared towards attracting the rural population to take on wage employment to meet the demands of government administration, the mining industry, railway and road construction and commerce. The government neither recognized nor suppressed the unions and, as when convenient, listened to labour grievances. However, during this period, there were very few trade unions: the rail workers union; the Nigerian Union of Teacher; the Nigerian Civil Service Union and the Marine Workers Union.

Prior to the independence of Nigeria, the principal labour laws that influenced employment relations were:

- The Trade Union act of 1939.
- The Trade Disputes Act of 1941.

The Trade Union Act gave legal status to trade unions and enforced the employers to recognize trade unions. The trade unions were also mandated under the act to be registered with the director of trade union. Under the trade disputes act, the role of the government was to reinforce and supplement the voluntary agreement reached by labour and management themselves. Based on the British model of industrial relation, collective bargaining under this system is perhaps most noted for its lack of legal relations (Bratton, 1999).

With the passing of the Trade Union ordinance of 1938 and the establishment of a labour inspectorate ( then a Department of labour); it therefore became so much easier to formulate national labour policies. At this particular period, the philosophy of government was changed from the laissez-faire role to a guided interventionism where the government became committed as a matter of policy to accept and protect trade unions existence. The labour policies was to take into accounts the growing cadre of the labour force and the increasing number of trade unions as a result of the new Trade Unions Ordinance. In the words of Yesufu (1984) the main objective of the labour policy was to mobilize all available manpowers towards supplementing the efforts of Britain to win the second world war that had just commenced. Thus, showing that the policies took the form of positive acceptance of the restive trade unions developing in the face of rapid inflation and shortage of consumable goods.

Specifically, there was a change of policy trust from guided interventionism to a restrictive or limited intervention policy in 1968. During this period there was a change from voluntarism to interventionism especially in the area of the settlement of trade disputes and their settlement. The Nigerian government introduced a compulsory statutory machinery for resolving trade disputes through a binding arbitration. This was done through the enactments of Trade Disputes (Emergency provisions). Decree No. 21 of 1968 and Trade Disputes (Essential services amendment) Decree No 53 of 1969. The latter decree makes unionism and strike action illegal in such government public sector (designated as essential services) as the Nigerian police, the Nigerian prisons services, central bank of Nigeria etc. These decrees according to Adewunmi (1995) practically banned all forms of strikes actions (including lockouts). The Trade Disputes Act provides for mediation, conciliation and

arbitration. While the principal law does not explicitly impose ban on strikes, the parties are required to follow laid-down procedures without resort to the strike weapon (Fashoyin, 1981). However, the attempt to curtail and control labour of stifling its opposition even after the end of the civil war in 1970 can be best illustrated with a report on the use of government strong arm. When the workers refuse to be deterred by the provisions of the law, most 'intransigent' union leaders are either arrested or their unions proscribed. For example the Academic Staff Union of Universities (ASUU) was proscribed in 1988 and 1992. There was the trial and subsequent conviction of 11 senior staff members of the National Electric Power Authority (NEPA) in 1989. For leading a strike action. "Curiously, they were not tried under the Trade Disputes Act but under a special device" (Adewumi, 1995). It should be noted that the establishment of the Industrial Arbitration Panel and the Industrial Court as his appellate body to arbitration to incidence of trade disputes in the country have become serious impediments to peaceful resolution of conflicts between labour and management in Nigeria over the years. Adewumi (1995) in his observation had this much to say:

- The composition of the IAP and NIC are quite Instructive. Most of the appointee represents interests Other than those of labour and they not expected to come Out with decisions that are likely to upset the prevailing balance of power within the employment relationship. Even members of these bodies that represent labour must Be acceptable to the Labour Minister! There is also the point that the processes of mediation, conciliation and arbitration are rather too long and frustrating. One gets the impression that it is a deliberate play to but time and take the steam out of agitating workers there-by containing the 'disruptive' tendency of disputes. There are also instances when one of the parties to the dispute refuse to abide by the terms of award and agreements and this is done with impunity. This is especially true of employers particularly government itself. The observable trend in Nigeria has been for government not to honour the terms of award by arbitration bodies, especially those not favourable to it. This gives the impression that such bodies are not really meant to offer much succour to workers who seek refuge in them.

During this period, there was the Trade Union Act of 1973 that makes provisions regarding the formation, registration and organization of trade unions in the country. Though the provisions of the Act allow for the

formation and recognition of a union with 50 members but on the contrary the power of recognition and registration rest solely on the "Trade Union Registrar" in the Federal Ministry of Labour, Productivity and Employment. For instance the Senior Staff Association of Nigerian Universities has being denied registration for the past few years despite the fact that it boast of members more than 50 in each of the Nigerian Universities. The Acts also prohibits employees of certain establishments tagged essential services from forming and joining a trade union. It is not enough to say that such workers are engaged in essential services, more so when they are not given special treatment compared to workers in other sectors. Another restrictive provision of the Act (section 15(i) is the one which stipulates that unless its rules so specifically allows, the funds of a trade union cannot be used for political purposes. The question that readily comes to mind is why should workers be told what to do with their own money? If there is a consensus as to what to what to do with their fund, why should they be prevented from utilizing the fund in that direction? After all the government itself is not free of corruption and misappropriation of public funds in Nigeria.

On its on part the Labour Act of 1974 and its amendments are supposed to protect workers against abuses, presumably by employers. The Act deals with contract of employment, terms and conditions of employment, wages and recruitments. However, this Act does not guarantee the right of individual to gainful employment, and neither does it guarantee the security of the tenure of such employment if you are lucky to get me. Although the Labour Act makes provision for protection of wages, the criteria for arriving at a 'fair wage' and what constitutes a fair wage are not stated. The Federal Military Government further extended control from minimum wage to maximum rate of pay. Therefore, section 5 of the repeated Trade Dispute (Emergency Provisions) (Amendment) Act No. 53 of 1969 provide that no employer shall grant a general or percentage without the approval of the federal military government.

This provision is no doubt an intervention in the institution of collective bargaining by government. The simple explanation of government is that it owed to the general populace the responsibility to control inflation. When this act was repealed in January 1976 by the then military government led by Muritala Obasanjo, Practitioners had thought that it was great reprieve for collective bargaining but this was short live barely eighteen months later, General Obasanjo's military government enacted the Trade Disputes (Amendment) Act No. 54 of 1977 and the repealed section 5 of the 1967 act came alive again to section 13 of the current act.

A productivity, prices and incomes board was established by Act No. 30 of 1977. section 2 of the act defines its functions as including inter alia;

- Advising the government of the Federal Republic of Nigeria on national measures policy, circulating growth dividends available for general wage increase and informing the Governments of the Federation of current and incipient trends in wages and advising on guidelines within which increases in wages should be confined. Section 4 of the Act empowers the board to prepare guideline on any question relating to the wages or other forms of income or to prices. Section 5 makes it a Criminal offences to contravene any of the sections of guidelines laid down by the board in pursuance of its powers in section 4, the offence is punishable by a fine of N5000.00 or imprisonment of for two year or both.

Rather than allowing a bilateral negotiation in the determination of each wages, the successive Nigerian government prefer the use of semi-judicial communication and tribunals for wages determination especially for workers in the public sector. These ideas were highlighted in the Morgan Commission report as follows:

- "It seems very odd that despite the establishment of the whitely councils since 1948, for negotiation between Government and employees, practically every major demand by workers for wage increase or rewards since the second world war has been settled not through this collective industrial machinery, but by special committees, commission or arbitrations."

Between 1919 and 2000, Nigeria has witness about twenty wages communication (Table 1). And every attempt will always result into one industrial action of the other.

Observedly, there seems to be a change called limited and guided interventionism to new and nine involving policy guidelines that gave the Nigerian government more assertive role(s) in the system. Between 1976 and 1996 (20 years rolling), the Government seems to be in "total control" of the Nigerian Industrial relations scene. Following this period the government more than any other actor was dictating the pace of the industrial relations system. Kester and Ayantunji (2002) asserts that the adoption of emergency legislations (mostly anti-labour) in an effort to migrate the effects of the economic recession has made successive Nigerian Governments to exert more control over employment relations especially n the public sector of the economy. This the over-riding

**Table 1: Nigeria wages commission and their areas of coverage (1919-2000)**

Name of wage commission	Year	Area of coverage
Batt committee	1919	Terms of European civil servants
Rice committee	1919	Revised African salaries
Hunt committee	1934	Reviewed wages of unskilled workers and determined reasonable standard of living for a labourer
Bridges committee	1941	Responds to the war time shortages, reviewed the wages of Africans and recommended compensatory increases (COLA) introduced geographical wage structure according to rate of inflation and cost of living
Harragan commission	1945*	Reviewed the salaries of established government staff as (against temporary and daily paid hands)
Tudor davies commission	1946	Appointed in the wake of the 1945 general strike
Miller committee	1947	Reviewed upwards the wage rates of daily paid labourers, established the principle of payments on a geographical basis.
Cowan enquiry	1948	Investigated and reported on methods of negotiation between government employees in state-owned industrial establishments. It introduced Whitley councils : a junior Whitley Council A for clerical and other office employees and junior Whitley Council B for industrial or manual workers.
Gorsuch commission	1954	Attempted to reconcile the salaries and fringe benefits of federal and regional civil servants to effect the policy self-governance
Mbanefo cCommission	1958	Established by the Federal, Eastern and Northern governments, reviewed and increased wages of their employees.
Morgan commission	1959	Set up by the Western Regional governments, reviewed and awarded wage increases.
Morgan cCommission	1963	Set up by the Federal government in the wake of another general strike, established the first rational minimum wage for the private sector. On the basis of a living wage, set a minimum wage for the public sector in each of the four zones into which it divided the country.
Adebo commission	1970	Reviewed terms of service for public employees, attempt to bridge the gap between the public and the private sector's pay
Udoji commission	1974	Overhauled the pay structure in the public service. Streamlined the pay of the parastatals with rates in the main civil service and introduced the unified 17 grade level system set up machineries for negotiations in both the private and public sectors.
Onosode commission	1980	Examined the pay structure and other terms of employment in the parastatals. Recommend earning rates that were substantially different from those in the civil service.
Cookey commission	1981	Reviewed the pay rise structure of employees of the University, established a separate University Scale (USS)
Adamolekun commission	1981	Looked into the pay structure of employees of Polytechnics and Colleges of Education. Report unpublished.
Damachi committee	1990	Study wages and salaries levels in relation to cost of living and the relative standards of other social groups in the country with a view to recommending options for adjusting minimum wage. Proceedings deadlocked
Committee on the review of national minimum wage and salaries allowances of the public service.	2000	Reviewed present wages, salaries and allowance in public service. Recommended a new national minimum wage with desirability of introducing regional disparities formula to be used as basis for future wage adjustment in the public service.

Source: Kester (2002)

influence of the government is felt everywhere. The seventy of economic instability over the years has an obvious repercussion on employment relations in the country. For instance, in 1976/77, the Federal Military government led by General Olusegun Obasanjuo decided to proscribed the four central labour movements and over one thousand crafts unions existing in the country then. Eleven labour leaders were banned for participating in industrial relations for lute. A sole administrator in person of Mr. Michael Abiodun was appointed for the labour. However, by 1978, the labour movement was restructured into 42 industrial unions and one central body called the Nigerian Labour Congress (NLC). By 1988, another sole administrator was (Mr. Michael Ogunkoya) was again appointed by the General Babangida military administration. To Bingel (1997) the Nigerian government seems to have been able to do this with impurity due to the loopholes created by opportunistic leadership of the labour movements. Adewumi (1997) comment about the period asserts that:

- Apart from some brief period of radical posturing especially during the colonial period and the period immediately after independence, it would appear that the unions have become subordinated to employers' and state interest and consequently

rendered almost irrelevant in the industrial relations system..... The capitulation of labour leadership has made it much easier for government and employers to carry out anti-workers policies without the slightest opposition... It follows, therefore that given the realities of industrial relations practice in Nigerian and other countries that operate a similar political economy, both employer and governments have greatly circumscribed the capacity trade unions.....

By 1996, the military government of General Abacha, rolled out Degrees 4 and 26 of 1996. The labour movement was restructured from 42 industrial unions to 29 industrial unions. Also two role administrator were appointed to lead the labour movement in succession. First Ason Bur and later Ahmed Gusau. Oyebode contributing to the debate of legal framework for labour relations in Nigeria; opines that:

- The success of state intervention by way of establishment of a central labour organization in 1978 was seem to have land the foundation for today's blatant meddlesome ness by the military government in trade union affairs, ..... and dictate those qualified to hold offices therein.

He went further to say that aside from the question of auto-determination in the establishment of unions, the Nigerian worker is confronted with a maze of legislations pertaining to the conditions of his employment. Among them are the following: the labour Act, the factories Act and the workmen's compensation Acts. Therefore, showing that employment issues like determination and protection of wages, contracts of employment, terms and conditions of employment, health, safety and in Nigeria not by negotiation of collective agreements out by provisions of statutes. There are also other policy instruments such as incomes policy guidelines, wage freeze, embargo in employment. Oyebo commenting further on the impact of the Nigerian government especially the military in labour legislation pointed out that "one of the more deleterious consequences of the forcible take-over of political power by praetorian guards in Nigerian is the incapacitation of the trade unions: for industrial unions, the 1978 restructuring appeared to have led to a number of unintended problems especially the issue of overlaps in the jurisdiction of the unions and the incidence of job interests which are not properly recognized (Fajana, 1997).

### CONCLUSION

This study has focused on the role of government in industrial relations. Industrial relations policies are embodied in legislations official pronouncements and direct action of government. In the case of Nigerian, an under-developed capitalist country, these policies are best understood in terms of labour control strategies. Although, government policies on industrial relations are anchored on what is called guided democracy and limited interventions, the evidence on the ground negate this. Rather what obtains is unguided authoritarianism and reckless intervention in the industrial relations scene. Yet whether one views the agencies of the state as benevolent neutrals in industrial relations or as coercive representatives of vested class interests, it is clear that, Nigerian Industrial relations Policy through the law courts and the states' own industrial relations institutions have played an important role or part in regulating relations between employers and employees and between employers and trade unions since the history of trade union movement in Nigeria. The states' machinery for providing conciliation and arbitration facilities has in recent time both considerably extended and modified with the arbitration process now operating in all states instead of over centralization of the court in Lagos.

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