

**ANALYZING THE PERSISTENT CONFLICTS IN INDUSTRIAL LABOUR RELATIONS IN NIGERIA\***

**Abstract**

*Conflict is contemporaneous with industrial relations. The demands of labour players are asymmetrically opposed to each other. The industrial conflicts are deep-rooted and persistent in Nigeria. What are the causes of this persistency in industrial conflicts in Nigeria? Could there be an end to these conflicts? Secondary research methodology is employed in this work. It was found that actions and inactions of the employer are the harbinger of the persistency of the conflicts. Re-evaluation of the work conditions in Nigeria in juxtaposition to ILO's standards is of the essence.*

**Keywords:** Persistent conflicts, Industrial labour relations, Analysis, Nigeria

**1. Introduction**

Industrial relations is associated with modern employment and organized workplace in modern society in the context of social contract. Industrial relations became more pronounced about the time of industrial revolution. Advent of industrial relations in Nigeria could be traced to the pre-colonial period when formal wage employment was introduced.<sup>1</sup> The resultant effect of formal employment with payment of wages led to development of organized labour in the form of trade unions. Industrial relations is essentially the relationship among the principal participants in the industry.<sup>2</sup> The persons that interface in industrial relations are the employers and employees. However there are vast employers and employees but this paper is streamlined in the context of persistent conflicts between the governments as an employer with her employees within the Nigerian industrial labour relations. Though the demands of employer and employee are asymmetrically opposed to each other that in no way justifies the persistency of conflicts in industrial labour relations in Nigeria that is deep-rooted.

**2. Essential Clarifications**

Industrial labour relations essentially involve industrial labour economics and personnel management. These consists of wages, working hours, leave duration with wages thereof and terms of employment, job security, discipline, promotion, management of internal crisis in an employer's establishment in relation to costs, etc. Industrial labour economics further deals with mathematical tabulations of input costs and effects: setting up of the organization (from planning through feasibility studies, establishment, recruitment, projected goals and achievements) in relation to the expected projected profit. The expected profit could be economic development translating to improved standards of living. Personnel management on the other hand deals with human capital resources development and management of employees in a workplace.<sup>3</sup> The input cost is always a variable cost.<sup>4</sup> Some of these costs are sometimes regulated by law.

As industrial relations are between employers and employees any conflict that is outside this parameter cannot qualify as an industrial labour dispute.<sup>5</sup> Industrial labour dispute is a dispute between one or more employers or organizations of employers and one or more workers or organization of workers where the dispute relates mainly or wholly to any one or more of the following, that is to say:

- (a) Terms and conditions of employment or the physical conditions in which any workers are required to work;
- (b) Engagement or non-engagement, or termination or suspension of employment, of one or more workers, allocation of work as between workers or group of workers.<sup>6</sup>

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<sup>1</sup> The Royal Niger Company was already established before the formal takeover of Nigeria after the Berlin Conference of 1884. The company already had employs that are paid wages.

<sup>2</sup> K C Nwogu, *Collective Bargaining in the Settlement of Trade Disputes in Nigeria: Implication for Industrial and Labour Relations*, Nolix Educational Publishers 2010 P.5

<sup>3</sup> See generally B E Kaufman, *The Origins & Evolution of the Field of Industrial Relations in the United States*, ILR Press, New York 1993

<sup>4</sup> This is capital expenditure excluding running cost sometimes referred to as overhead cost which includes rental values and depreciation. The profit made within the specified period is excluded.

<sup>5</sup> *Larkin v Long* (1915) AC 814

<sup>6</sup> C D Drake, *Labour Law*, 2<sup>nd</sup> Edition, Sweet & Maxwell, London 1973, p 311.

This definition notwithstanding, the extant laws covering this field offered some definitions of what a trade/ industrial dispute is.<sup>7</sup> We are inclined to adopt the definition offered by Trade Dispute Act: ‘Any dispute between employers and workers or between workers and workers, which is concerned with the employment or non-employment, or the terms of employment and physical conditions of work of any person’,<sup>8</sup> is referred to as trade or industrial dispute. The courts have held in a number of cases on what a trade or industrial dispute means. The holding of the courts is in tandem with the definitions offered in the extant laws.<sup>9</sup>

### **3. An Overview of Industrial Labour Laws in Nigeria**

There are several laws touching on industrial labour issues in Nigeria. This work will not be exhaustive in dealing and or reviewing all laws touching on issues relating to industrial labour law in Nigeria. Industrial labour laws in Nigeria are structured in such a manner as to keep the worker in perpetual subjection or subjugation where when injury occurs in the workplace, the worker most often than not will be entitled to such a disheartening paltry sum as compensation. The scenario of accident resulting in death is even more worrisome. None of the labour laws has done so much as to provide a really extensive procedure for management of industrial labour disputes. In the Labour Act<sup>10</sup> there is no real provision for procedure of dealing with industrial dispute. Sections 80 to 85 of the Labour Act merely scratched the surface of what may be called industrial or labour dispute in Nigeria. The Act appears and in fact did not show by its very provisions any real concern with industrial disputes. The Factories Act<sup>11</sup> on the other hand deals specifically with factories and its regulations, but certainly comes within the ambits of labour law. Without labour factories cannot operate or exists at first instance. The Act did not concern itself with disputes and forms of its regulations thereof. It merely requires submission of application for registration of any premises to be used as a factory to the Director of Factories, at least 6 months before the commencement of actual construction of the building or structures intended to be used as a factory premises.<sup>12</sup> The irony of the provision is that most often the buildings being used as factories are constructed without the application for registration made and also used as factories without any formal registration.<sup>13</sup> Accidents and diseases are not eliminated but the provisions of the Act are meant to put them at barest minimum.

The Workmen Compensation Act<sup>14</sup> to us is a piece of legislation that is barely resorted to by workers in the event of injury or death. The Act provides for a very minimal compensation either as a result of injury or death resulting from accident in the work place or in the course of employment. The compensations provided are so small and since the Act did not bar or prevent any action at common law greater number of victims of industrial hazards<sup>15</sup> or their representatives prefer to pursue actions for compensation or damages at common law disregarding the clumsy wheel of justice administration in Nigeria. Important in-roads appear to have been made in the Trade Disputes Act for resolution of industrial disputes in Nigeria. One very important feature of the Act is the establishment of the National Industrial Court and vesting it with powers to interpret collective agreement.<sup>16</sup> The Act however provided for resolution of disputes by parties themselves, by conciliator, by arbitration and the court as earlier stated.<sup>17</sup>

In 2006, the National Industrial Court Act was enacted. This is an all-important in-roads in the way of industrial dispute resolution in Nigeria. The court has made certain pronouncements and entered landmark Judgments in industrial dispute cases in Nigeria. The strides of the National Industrial Court have not put a stop to industrial labour disputes in Nigeria but rather its exacerbation is the case. This is in no way related

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<sup>7</sup> Trade dispute and industrial dispute mean one and same thing. Both terms may be employed in this work interchangeably.

<sup>8</sup> S.48 Trade Disputes Act Cap T8 LFN 2004. There is also Trade Union (Amendment) Act 2005. Both have similar definitions of what trade or industrial dispute means.

<sup>9</sup> *Oloruntoba-Oju & Ors v Dopamu & Ors* 2002, LPELR 12325, *National Union of Electricity Employees & Anor. v BPC*, 2010, LPELR 1966 (SC), *Ekong & Anor. v Oside & 2 Ors.* (2005) 9 MWLR 929, 102, *Rubber Research Institute of Nigeria v Senior Staff Association of Universities Teaching Hospitals, Research Institutes.* 2019, LPELR 47553

<sup>10</sup> Labour Act Cap LI LFN 2004

<sup>11</sup> The Factories Act Cap F1 LFN 2004

<sup>12</sup> Ss 3 (3) & 28 (1) Factories Act. See also Schedule 2 to the Act

<sup>13</sup> We are not aware of any suit or judgment entered in court arising from accidents due to non-registration of a building used as a factory.

<sup>14</sup> Workmen Compensation Act, Cap W6: See Ss. 3(1), 4, 5, 6, 7(1), 9(1) of the Act.

<sup>15</sup> S. 4(a) of the Workmen Compensation Act provides for the quantum of compensation payable to the representatives of a dead workman who died in the course of employment.

<sup>16</sup> The National Industrial Court Act has since been enacted and the concern of this work as it relates thereto will be dealt with accordingly.

<sup>17</sup> For more on this you can see C C Obi-Ochiabutor, ‘Trade Disputes Resolution under Nigerian Labour Law’, *NJR* (2002 – 2010), Vol. 9 P.71 - 87

to the National Industrial Court or its judgments. The increase in industrial labour disputes is due to other factors.

Also worth noting is the provisions of Section 9 of the Act. It provides:

S. 9(1): Subject to the provisions of the Constitution of the Federal Republic of Nigeria 1990 and subsection (2) of this section, no appeal shall lie from the decisions of the court to the Court of Appeal or any other court except as may be prescribed by this Act or any other Act of the National Assembly.

(2) An Appeal from the decisions of court of shall lie only as of right to the Court of Appeal only on question of fundamental rights as contained in Chapter IV of the Constitution of Federal Republic of Nigerian 1999.

This is a clear limitation of the right of appeal from the decisions of the National Industrial Court. There has not been any law altering the limitation provision for appeal. Even where leave was sought to appeal against the decision of National Industrial Court it was refused in clear terms.<sup>18</sup> The National Industrial Court though limits and relates itself to court but that court was created solely for industrial and labour issues. The provisions of the Act and 'working' of the court are clearly for resolution of industrial and labour disputes and are therefore within the province of industrial and labour laws.

#### **4. Causes of Industrial Conflicts**

Every human endeavour has some form of regulations either in the form of guiding actions or imposition of limitations to curb excesses. So freedom to conduct trade is not absolute or unconditional.<sup>19</sup> The entire essence is to maintain industrial harmony. Despite these laws, rules and regulations and plethora of case laws industrial disputes have continued to wax stronger and taking different dimensions in Nigeria. What actually are the causes of industrial disputes in Nigeria? It is certain that industrial disputes arise from conflicts of claims. The posture to maintain a particular claim by contending parties over an issue results in industrial disputes. Labour dispute has been defined as a controversy between an employer and its employee concerning the terms and conditions of employment, or representation of those who negotiate or seek to negotiate the terms or conditions of employment.<sup>20</sup>

We shall here still classify causes of industrial disputes into two categories: industrial labour economics, and personnel or human resources management. While the first relates to wages and allowances, bonuses, conditions of work; the later deals with management of the labour economics: (discipline in the work place, treatment of workers, political factors, victimization of workers, etc.) The interface of industrial labour economics and management of labour economics and human resources in the work place results in some form of industrial disputes. The political interference and policy inconsistencies are all embedded in human resources management. So much as trade unionism exists the political interference and influence thereof often results in industrial disputes.<sup>21</sup>

It may not be far-fetched that the limitation imposed by the National Industrial Court Act by its Section 9 (1) and (2) on right of appeal is part of the harbinger of industrial dispute. The players in industrial dispute would not in all honesty approach a court where it is obvious that either party's right of appeal is short-out completely by law. The right of appeal which is limited to issues bordering on fundamental rights is not really the main issues industrial labour disputes are concerned with. With this background information the parties to industrial dispute would want to maintain their respective positions until negotiations are resumed and possibly the matter resolved by arbitration or through collective bargaining other than by approaching the National Industrial Court where its fate may be locked forever without remedy.

These factors and many others as identified by different scholars are the harbingers of industrial disputes in different jurisdictions. These factors as identified could they be the reasons for deep-rooted persistent industrial and labour disputes in Nigeria?

<sup>18</sup> See *Ekunola v CBN* (2008) 10 NWLR Pt.27 P. 341, *Ogboru v Uduaghan* 2011 17 NWLR Pt. 1277, p 727

<sup>19</sup> E E Uvieghara, *Labour Law in Nigeria*, Malthouse, Lagos 2001. P. 445

<sup>20</sup> B A Garner (ed), *Black's Law Dictionary* 7<sup>th</sup> P 876

<sup>21</sup> See generally O Evans & I O Ogunrinola, 'Causes and Effects of Industrial Crisis in Nigeria: Some Empirical Clarifications', *Labour Law Review*, 2007, 1(4), 75 – 93. Assessed at [eprint.covenantuniversity.com.edu](http://eprint.covenantuniversity.com.edu) on 11/1/2021

## 5. Causes of Deep-Rooted Persistent Industrial and Labour Disputes in Nigeria

Trade dispute as earlier said arises from two main categories: industrial labour economics, and management of industrial labour economics and human resources. The factors that have made industrial disputes persistent in Nigeria are rooted in these two categories.

a. *Government Approach to Settlement of Labour Disputes*

The government has always resorted to palliative and not holistic approach to settlement of industrial and labour disputes. This approach is meant to shift the issue in dispute to a later date. Labour on the other hand prefers long term measures with periodic reviews. The government views industrial disputes as perennial and that will be always be. The onset of any industrial dispute is an indication that another will arise immediately or soon thereafter. The non-holistic approach of the government is her inability to forecast into the future and deal with all expected or impending issues in one lump<sup>22</sup> or blatant neglect of expert advice or lack of commonweal to deal with labour issues or a combination of these factors.

b. *Violation of Agreements or Delay or Refusal to implement them*

Every industrial dispute almost always leads to one form of agreement or the other or judgment entered in favour of either party. There may be collective agreement or memorandum of understanding duly drawn and executed. Despite the time and resources expended in reaching these agreements government most often neglects or delays in its implementation and sometimes violates them. In a situation where the government is the aggressor the organized labour may want to continue with its stance and claim without compromising. The question may be asked whether collective agreements are binding on the parties. Generally they are binding in honour. However in *Osoh & Ors. V Unity Bank*,<sup>23</sup> the court had this to say, "The provisions of Section 47(1) (*Trade Disputes Act*)<sup>24</sup> however require collective agreements to be in writing so as to formalize the agreements. ... where they have created legal relations giving rise to contractual obligations between the parties, they are enforceable by the immediate collective parties. The court also stated that being in writing it raises the presumption of being legally enforceable provided the agreements have created contractual obligations arising out of legal relations as between the parties. Despite the fact that the Trade Disputes Act vests in National Industrial Court with power to interpret collective agreements our courts have been conservative in dealing with this issue placing more reliance on Common law cases than our laws on the subject matter. If court is vested with power to interpret collective agreements what more power is required for its enforcement?<sup>25</sup> The government disregard of these agreements will keep industrial disputes ever afloat and continually lubricates its wheels.

c. *Imposition of Policies without Consultations*

In 2020, the Academic Staff Union of Universities went on strike arising from government insistence to implement Integrated Payroll and Personnel Information System in addition to other issues. Though meetings were held but parties could not reach consensus. It is within the province of the government to make policies but parties that will be affected by such policies ought to be consulted for the smooth administration and implementation of the policies. Today, Integrated Payroll and Personnel Information System (IPPIS) with the attendant problems has been imposed on staff of the Nigerian federal universities, which is peculiar and quite different from other institutions in Nigeria.

d. *Political Inclinations of Trade Unions*

Trade Unions ought not to be partisan in her affairs and administration thereby supporting any political party or government in power. This is often difficult as the affiliations tend to play an all important role in what the trade union may be able to get from that party or government on demand. These inclinations tend to be as a result ideological connections.

e. *Corruption*

Corruption has really eaten deep into every facet of Nigerian society and the trade unions are not an exception to this. From the three arms of governance to trade unions to ivory towers the story is the same. The embodiment of corruption in our trade unions cannot be overemphasized. The effectiveness of trade unions and her ability to pursue her demands has been radically watered down by corruption.

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<sup>22</sup> One or two important features are almost always apparent in industrial disputes in Nigeria: wages and conditions of service. The government deals with these issues as it relates to a particular labour or trade union. Her approach has not been all inclusive. The effect is that end of one strike marks the beginning of another.

<sup>23</sup> 2013 LPELR 19968 (SC) at Pp. 34-35

<sup>24</sup> Emphasis mine.

<sup>25</sup> See *Rector, Kwara State Polytechnic & 3Ors v Mr. Ola Adefila & 2 Ors.* (2007) 15 NWLR Pt 1056 P. 42

## **6. Conclusion**

The government as the major employer of labour should redefine her approach to industrial disputes and stop being the aggressor it has always been in all industrial and labour disputes. There ought to be a holistic approach to industrial and labour issues other than palliative measures. Palliative measures ought to be employed only in emergency situations. Labour dispute has never been an emergency. It is always a gradual build-up that results in industrial disputes if not attended to. The provision of the National Industrial Court Act limiting right of appeal only to issues bordering on fundamental rights as it relates to labour should be amended to include “where the court grants leave to appeal”. The inclusion of such a provision will definitely water down extreme claims and uncompromising stance of trade unions in Nigeria. It is still within the ambit of the government to re-evaluate the working standards in Nigeria in juxtaposition with International Labour Organization and where it falls short of it to upgrade same. Re-evaluation and proper forecast of futuristic industrial issues will open doors not for reinvigoration of industrial and labour disputes but provide platforms that will not permit another crisis to arise in the same environment in the near future.