A CRITIQUE OF THE ROLE OF THE STATE IN INDUSTRIAL RELATIONS IN NIGERIA

By

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INTRODUCTION

The role of the state in modern capitalist economies can hardly be ignored. Whether through legislation, macro-economic policy or its role as an employer, the presence of the state is pervasive. Nigeria like many other developing countries has developed an Industrial Relations System in which the state plays an active role. As in other African Countries, the state through its most powerful apparatus-Government have accepted and are applying the policies based on the belief that the other parties in Industrial Relations System (workers and Employers) cannot be left entirely to regulate all aspect of the work system.

Since the government’s publication of the National Labour Policy (1975)-where it admitted to direct intervention and emphasized the pursuance of guided democracy in labour matters (i.e. its intention of limited intervention in certain areas of labour activity in order to ensure industrial harmony, it has been a continuous intervention in virtually every area of Industrial Relations. The question does arises, “to what extent should the state be involved in Industrial Relations?, most especially a developing economy.

THE ROLE OF THE STATE

The state had traditionally played various roles in different countries, most especially in providing the institutional framework for the bilateral relationship between workers/Trade Union and Employers/their representatives to encourage a bipartite relationship. However, many countries have a history of significant and crucial involvement of the state, and systems of collective bargaining which are highly centralized (e.g.Australia, West Germany and some Scandinavian countries); in some other countries like United Kingdom the state has traditionally played a minor and non decisive role in Industrial relations besides the provision of an institutional framework.

However, the deficiency of theory with regard to the state has produced an over-concentration in contemporary industrial relations discourse on elements in union policy and the problems facing unions such as losses of organization, difficulties with regard to the introduction of technologies at plant level, more competition on the
rapidly changing world markets, and the need to fight mass unemployment. Additional analyses provide general information and guided speculation on the future activities and policies of management and employers (Edwards et al 1986, Lipset 1986, Muller-Jentsch 1988).

The role ascribed to the state in industrial relations depends on the ideological bent of the state. In communist countries, no separate role is envisaged for employers and trade unions; they operate on the basis of party directive and the state plan. In capitalist countries the approach is to allow employers and unions reasonable latitude to determine their own affairs within the framework established by the state. The developing countries, as a result of their experience have had to intervene in industrial relations in the interest of the whole economy. However, as the state is the prime mover of the total social system, there is no argument as to whether it has a role to play or not (Ubeku, 1985). The role of the capitalist state is described in contemporary textbooks as having a variety of roles and functions: as legislator, employer, agency of conflict resolution, economic manager and regulator of industrial relations.

The general literatures on Industrial relations give scattered information on some of the historical roles and major general functions of the state. According to Yesufu (1985), “So far as industrial relations is concerned, state intervention entails all the action, direct or indirect, by which a government promotes, sustains or participates to influence or determine, the conditions of employment, and the relations between those directly involved in the employment contract – employers/managers on one hand, and employees/trade unions on the other”. The reason for state intervention under could be considered from the following perspectives – economic; historical and international imperatives; the state’s dominance as an employer of labour; and political / social. Otobo (2000) noted five areas most frequently subjected to state regulations, namely employment and manpower development; wages and salaries; union government and administration; collective bargaining; and industrial conflict. However, some of these roles and functions are considered below:

- Provision of **Institutional framework** – The general aim of the state is to provide the framework for the bilateral relationship of the other two actors in the system i.e. the relationship between the workers/trade unions and employers/their representatives. This is with the general aim of regulating conflictual relationships between management and labour at all levels (the
enterprise, the region and the whole economy) and to achieve a balance by adjustment to the legal environment.

- **Provision of Collective Bargaining System** – The state provides the general alternative or mechanism for settling the general terms of employment by non-political means. The general legal framework includes some substantive provisions for universal minimum standards of conditions of employment such as minimum wage, limitation or standardization of daily or weekly working hours, occupational safety and health provisions, anti-discrimination regulations, vacations, and protection against dismissal. All these could be achieved through an effective system of collective bargaining.

- **Limiting or avoiding Industrial conflicts** – In all developed world the state tried to avoid or limit collective industrial conflicts. Where the general right to strike had been legally guaranteed, actions are also taken to curb both official and unofficial strikes, and sometimes lockouts, in order to protect the general public from real or imagined harmful or even disastrous consequences. In some countries (United Kingdom and the United states) governments are responsible for institutions and mechanisms of third-party conflict resolution in the private and public sector. Procedural rules for mediation, conciliation and even voluntary or compulsory arbitration processes are externally provided by the state. In some other countries dispute settlement procedures internally organized by the parties are strongly encouraged and supported by the state.

- **Interpretation of Conflict of right and Interest** – clear distinction is made between individual and collective conflict of interest (i.e. about the interpretation of an existing collective agreement) which are in most cases to be solved by peaceful, legal means including labour courts decisions, and not private grievance procedures. On the other hand the conflict of interest (i.e. about the terms of a new contract) involves different methods of conflict resolution including industrial action. In some countries the state provides strict and legally enforced obligations to keep the peace during a period governed by collective contract.

- **Participate in Public Sector labour relations** – various public agencies are actively involved in public sector labour relations, because the state and other public authorities are direct employer of a large percentage of the labour
force. Thus public authorities can exert a significance amount of influence not only on a particular sector, but also on the development of the overall industrial relations system.

The general observations made above, according to Keller (1991), indicate significant cross-national differences in quantitative and qualitative terms of past and current governmental interference. In the long run a clear trend in all advanced capitalist countries may be observed towards more frequent and more systematic active government intervention in the industrial relations system. The long-term development includes the active legislative encouragement of collective bargaining in an early period and, at a more recent stage, more or less active labour market policies and macro-economic strategies designed to stabilize growth or to fight unemployment.

**Nigeria System of Industrial and Labour Relations Policy**

The Nigerian industrial relation system was originally based on the Anglo-Saxon model with its emphasis on voluntarism, gradually acquired elements, which have now put it in a different model. In the context of the political and economic tradition of the Western countries as inherited by Nigeria, the role of the state in industrial relations has continue to generate much acrimonious if, all too often, sterile debate. In that tradition, the prevailing philosophy at the time of the industrial revolution in the 18th and early 19th centuries was that of laissez-faire, which upheld the sacredness of the liberty of the individual (Yesufu 1985). It was believed that the interaction of the forces of demand and supply would set wages and prevailing working conditions at economically and socially acceptable levels for both workers and employers. But, unfortunately it was applied when the state policy was one of acute industrial misery, as it soon become obvious that the bargaining position, of labour was, in fact, so much weaker than the position of the employer that his liberty of contract, held so sacred by the laissez-faire philosophy, seldom materialized (Hutchinson 1957). Nigeria had passed through some fairly well-defined phases up to the late 20’s, the main labour problem was how to create and maintain, from among the peasantry, an adequate fund and supply of free labour to meet the demand of government administration, the mining industry, railway and road construction and commerce. Then the long-term objective was to evolve a free and stable labour market. The government prevailing industrial relations policy reflected the situation. All employers, whether government or private, were enjoined to pay wages regularly.
and directly to the workers, and not through intermediaries. The government neither recognized the unions nor suppressed them, and as it deemed fit, received and dealt with petitions relating to their grievances.

Consequently as more unions were formed (late 20s to the 30s), beside the appointment of Lord Passfield (Sydney Webb) as Colonial Secretary in the first British Labour Government, who initiated moves to compel the Nigerian, as well as other colonial governments, to think and initiate long-term labour and industrial relations policies, legislation and practice, on the lines of those prevailing in the United Kingdom, the only main outcome of the pressure on the Colonial office was the enactment of the trade Unions Ordinance in 1938 which came into existence in 1939. 1938 saw the beginning of what was to be a spate of labour legislation right through the years of the second world war, culminating in the enactment of the Labour code which includes: the trade Unions Ordinance 1938; the Workmen’s compensation Ordinance, 1941; the Trade Dispute (Arbitration and Inquiry) Ordinance, 1941; the Wage Fixing and Registration Ordinance, 1943; and the Labour Code Ordinance, 1945. However, by the end of the second world war, the British principles of freedom of association and industrial organization, collective bargaining and industrial democracy, already accepted in principle, became the cornerstones of Nigeria’s industrial relation policy, which continued through to independence and well after, until 1966 when the military regime was installed (Yesufu, 1985).

The industrial relations policy then was based on the democratic principle, which eschews government force, and upon the belief that those directly concerned in the productive process are best placed to find the answers to their own problems. The emphasis of the policy was to encourage both sides of the industry to regulate their own relations and to settle the conditions of work through mutually agreed collective bargaining machinery and joint consultative committees.

The element of the policy was very clear, in that, industrial democracy meant employers and trade unions will be free to negotiate and determine the wages and conditions of employment. Wages, the central problem of industrial relations, were free, subject to negotiations between employers and trade unions, to vary between industries, employers, occupations and geographical areas in which such wages were earned.

Another major Legislation was the Factories Ordinance of 1955, followed by the Wages Boards Ordinance 1957 which, along with other provisions, replaced the
Wage Fixing and Registration Ordinance of 1943. At the time of attaining independence in 1960, Nigeria had seven basic labour laws of general application enacted between 1938 and 1957, viz; the Trade Unions Act 1938; the Workmen’s Compensation Act 1941; the Trade Disputes (Arbitration and Inquiry) Act 1941; the Labour Code Act 1945; the Factories Act 1955; the Wages Act 1957; and the National Provident Fund Act (1957).

However, it was noted that with the establishment of the military regime in 1966, followed by the civil war from 1967 to 1970, these principles of industrial democracy received several shocks. Government felt compelled to ban strikes and lockouts and, as a means of controlling inflation, decide to limit the freedom of employers and workers to negotiate increase in wages.

**Context of State Involvement: The Critique**

Contemporary textbook described the ‘modern state’ as having a variety of roles or functions: as legislator, employer, agency of conflict resolution, economic manager and regulator of industrial relations. These roles are then typically illustrated by reference to the considerable literatures on the content and impact of labour law and on the institutions of public sector industrial relations. There seems to be no theoretical perspective on the capitalist character of the state and its consequent role in maintaining the economic and political conditions necessary for capital accumulation (see the classic work of Jessop, 1982 and Miliband, 1969).

No matter the point at which a state may lie in the scale of intervention between laissez-faire and the complete state control, the functions and methods and instruments of intervention in industrial relations are generally the same for all countries. The state’s dual role as an employer and regulator that makes the laws to regulate the bipartite relationship between employers and employees/trade unions as well as their activities (whether private or public) can and does bring about conflict.

From the concept of pluralism, every party/interest group would continually seek to fight and protect the interest/welfare of their members. According to the Pluralist mode, all groups in society, whether economic, socio-cultural, or political, organize to meet and protect the interests of their members. In respect of industrial relations, most private employers and investors, even when they recognize the notion for social responsibility, hardly see their operations in term of ‘national interest’, rather they see opportunities, markets, sources of finance and raw materials, and other
resources and constraints that facilitate or hinder their operations within the given environment, while their activities at the same time serving to shape the environment itself. They tend to be concerned with relevant laws and agreements reached with workers and their trade unions (where union exist), this is because they see substantive issues as cost, as well as any activities to increase such as represented by the union activities. (Otobo, 2000:331).

The state as a participant in the industrial relations will, like other parties, have some sectional or private interest to protect. Most especially under the guise of the phrase "national interest", hence, the contestation of some government policies are bound to occur when specific laws/policies are reeled out. Nowadays even military regimes (with their ouster clause – which to prevent lawful challenges) find that they have to explain and defend some of the laws/policies and thus adduce reasons for their actions, which may still be contested by the citizens, other parties in Industrial relations, international community etc. Even the workers, who could be regarded as the weakest of all the parties in industrial relations in the power struggle, had always fight back with its unions, most especially using the concerted withdrawal of service-Strike.

It was argued that the active role for the state was necessary because among other things, the growing inter-dependence of modern industry means that the strike weapon in certain circumstances can inflict disproportionate harm on the rest of the society. Moreover, the organized system of collective bargaining does not appear to have got grips with a number of economic and social issues. Hence, it is in the light of this unsettled industrial relations atmosphere that the government had decided to be an active participant (Kindleberger, 1958). It was further noted that the intervention of the state to regulate the economy, overcome bottlenecks and stimulate technological and economic change-intervention which are primary oriented to the needs of the national economy are a major factor in the intensifications of the role of the state in countries entering upon industrialisation,.may be expected to be greater than before, Similarly, Albert Tevoedjre (1969) remarked that, learning from the experience of the industrialized countries, African governments have accepted and are applying the policy that workers and employers cannot be left entirely on their own to regulate all aspects of the work situation since instability of economic activities directly or indirectly affects the welfare of the whole nation.
From the foregoing it might be difficult for one to assert the neutrality of the state from the expected role and function in the tripartite arrangement opined by Dunlop in his concept of industrial relation system (Dunlop, 1958). A government that is dedicated to the protection of private property and minimizing disruptions to production and seeking the elimination of threats to investments and investors, and ensures a buoyant economy cannot afford to be neutral in industrial matters. There is no economic growth and buoyant economy without profit making private companies. Trade Unions, striking workers, protesting students, all those seeking improvements in their terms of employment commonly constitute a threat of a sort before the eyes of most state functionaries. In addition, where many members of the ruling group and elite system are investors and own companies, hostiles labour legislation is to be expected, and harassment of workers and other vocal groups in society by the whole range of law enforcement agencies routine. (Otobo, 2000). Further on the relation to strikes, the emphasis of state repression has shifted historically from attacking strikers towards the protection of strike breakers, with prime responsibility for this role switching from troops to police early in the twentieth century (Geary 1985)

Consequently, as there is the biasness of the state in the economic system, this in turn will affect its regulatory role of the industrial relation system. There is every tendency for the state to seek to protect the private set-up, whose main aim is profit making. The state hides under the guise of creating favourable climate for the investors to come and invest in order to create a buoyant economy and jobs. But the truth of the matter is that the state tends to always give priority to the likely benefits in terms of revenue that will accrue to its covers. The state earns revenue in two ways i.e. from the profits of the private companies/employers of labour and from labour/workers via taxes. Its biasness is further seen in the concession it gives to the employer via less tax, reduction of custom duties, as well a ceiling of minimum wage on the workers plus other limitation to hinder them from asking too much from the investor in order not to scare them away. Hence, the activities of the organs of the state are geared toward the protection of the private investors rather than promoting the interest of the employees.

Even as employer of labour, in Nigeria, the single largest employer of labour (all the state organs and instrument has workers in their establishment), where it ought to set the pace and standard, they tend to create more of confusion and disillusion with
the kind of compensation policies it adopt in the public sector (which ought to set the pace for other sectors). It thus attracts contestations from the Trade Unions and employers association it ought to deal with.

However, the neutral role expected of the state is its regulatory functions i.e. mediating between the two other parties in the industrial relations system (workers and employers of labour), this according to Otobo 2000,’is not that convincing to portray the mediating role of the state in conflict situations as anything but neutral. The institutions and processes of mediation, conciliation and arbitration are in reality manipulable and contestable, especially as the state often sets the limit within which they operate’. A cursory look at the major methods and instruments of the state intervention further reveals the biasness of the state in the industrial relation system. The Yesufu's five major classification is adopted in this study- viz: leadership; legislative and regulatory; investigatory and advisory; education and training; and adjudicatory each of which is described below.

i) **Leadership:** The responsibilities of the state in economic development and improvement in the standard of living of the people, its position as the major single largest of labour and as guardian of the social conscience, placed the state in a peculiar position to provide leadership in industrial relations as in all other fields of economic and social endeavour. This role is expected in the manifestation of policies and by setting the examples though the remuneration and compensation policies. But in most cases, in Nigeria, they have further created room for conflict with anti-people or anti-workers policies. Even where they show good intention in policies formulation with good rationale, the implementations had always brought about dogged fight from the workers and employers alike.

ii) **Legislative and Regulatory:** The role of the state is carried out mainly through the enactment and enforcement of labour and industrial relations legislation which ensures minimum basic and acceptable standards of employment, condition of work, welfare and security, and the institutional framework for the conduct of industrial relations. However, it seems the state do suddenly awake to its roles in this regard when there is need to achieve any burning desire at any given time i.e. only legislate to favour the state or in retrospect to redress a perceive trend in the system. Even when its organs/agencies takes initiative in trying to assess the extent and
operation of the various laws and regulation, and advises government on
the need for modifications, repeals, or change in the methods of
enforcement, it has always suffer setbacks via the bureaucracy of the
state. Even the international labour conventions and standards as they
apply or could apply to Nigeria, with a view to advising on ratification and
the necessary local legislation are mostly done on paper or in principle not
in practice.

iii) **Investigatory and Adversory**: These functions of the state are generally
undertaken by the Federal Ministry of Labour derives from the ministry role
in the enforcement of he various labour laws and policies. The ministry has
its various branch and local offices with labour officers and inspectors,
factory inspectors, compliance officers. They are constantly touring
employment establishments in order to ensure conformity with labour and
industrial relations legislation, investigating breaches and grievances, and
generally advising employers on improvements in working conditions and
on management/employee relations. However, with happenings in the
system it gives much to be desired about the effectiveness of the agency
in carrying out these roles. It will not be out of place to say that the ministry
seems to be ill equipped in this regard.

iv) **Education and Training**: It is widely believed that a thorough education
will help solve most of the industrial relations problems in the developing
countries. It will not only mitigate, but could also be a complete solution to
many of the problems, with both the leadership as well as the rank-and-file
of the labour movement. There is no substitute to the education on
industrial democracy; more still need to be done in this regard.

v) **Adjudicatory**: However enlightened an industrial relations system may
be, there are constant labour grievances, misunderstandings and disputes
which need to be settled. The state accordingly provides machinery for
intervention and settlement in such cases, particularly in regard to
collective disputes, through the appointment of conciliators, arbitrators,
and the establishment of industrial relation courts. Though the industrial
court and Arbitration panel works independent of the Federal ministry of
Labour, the ministry still retain important responsibilities in this regard. Not
only do they oversee the court, they also advise on the findings as may be
necessary. Also before cases go to arbitration or to industrial court, it is usual to refer the cases for conciliation. The Ministry has wide and important roles, which tend to increase in range and complexity with political advancement, economic development, industrialization, and growth in the wage earning population, as well as with the increasing organization and sophistication on the part of the workers and employers. However, the effectiveness and timing in the settlement of grievances or adjudicating on the cases does not give much to celebrate. The bureaucracy involved and slow dispensations of justices are not helping matters. Despite the above, government do exercise some greater measure of influence over them and does ignore some of the rulings or decision from the Courts. Also the state does not seem to place much attention to its human resource development and utilization. Even the bright and strong resources are treated with contempt. The Ministry officials in particular are often treated with an air of contempt.

CONCLUSION

The role of the state in industrial relations system is noble and unique. To carry out development plans in the interest of the society, it has become necessary for government to participate actively in the system and thus ensure that the employers and union are associated with the development of the country. Research on the role of state in industrial relations in the developing countries has been quite extensive. In the post–independence period, research has focused less on abstentions and voluntarism policies and more on explanations and consequences of increased interventionist policies. In general, government intervention became a common place after independence (Fashoyin 1991).

Quite a large number of developing countries, Nigeria inclusive have assumed leadership both in political and economic spheres. The involvement of the state in industrial relations had gone beyond the limit of legislation and procedures. As much as the state cannot leave the running of the economy entirely to the private sector, though there is the claim of running a private driven economy; and sees the workers unions as potential alternative to the ruling party, it has always developed several strategies to deal with the presumed threat of the trade unions. There is a dire need to go beyond mere interventions and setting of rules, procedure and policies, which often bring about contentions and Hamper existing income
relationship. Interaction in the system where the state and the employers continue to dominate and thus attracting a great deal of attention and sees workers union as consumption institutions concerned with bread and butter issues as well as the sectoral interest of their members. Rather the workers union should also be seen as a vehicle for stimulating productivity and economic growth/development in an atmosphere of relative peace; the state should endeavour to play the expected roles of creating a production framework in which sectoral interests are subordinated to national interest of increased productivity with an atmosphere of independent collective bargaining, thereby developing a more equitable or balance tripartite relationship.

REFERENCES