ROLE OF THE LEGISLATURE IN LABOUR/MANAGEMENT RELATIONS: AN ASSESSMENT

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Abstract

The paper examined the importance of the legislature through which the government of any given state make laws in order to regulate the relationship between the employers and the employees in that state. This is because the government as a major player in the growth and development of the state would not want any dislocation in the public and economic activities of the state. Thus the paper dealt with the conceptual clarification of the concepts and discussed the roles of the legislature plays on behalf of the government in order to enhance conducive atmosphere between the employers and employees and concluded that the well being of the workers through the enhancement of workers conditions of service with the workers consulted no doubt will create a healthy workforce that would enhance the growth and development of both the workers and the state.

There is no doubt that Industrial relations constitute key factors in the economic growth and development of all countries, industrialized and developing. Without peaceful industrial relations, productivity, growth and political stability cannot be achieved. It is of course to be noted that, the dilemma of industrial relations face both developed industrial and developing countries. Therefore the need for peaceful industrial relations cannot be treated with levity for obvious reasons. This is because the state is a major employer as well as a ‘neutral’ observer. The state therefore makes available a multi-party mechanism for dialogue whenever the need arises over dispute that cannot be resolved in a bi-partite manner. This action as we all know is in conformity with ILO Recommendation 113, which stipulates that consultation and co-operation should aim at ensuring that the competent public authorities seek the views, advice and assistance of employers' and workers' organizations in an appropriate manner, in respect of matters such as:

- The preparation and implementation of laws and regulations affecting their interests;
- The establishment and functioning of national bodies, such as those responsible for the organization of employment, vocational training and retraining, labour protection, industrial health and safety, productivity, social security, welfare; and the elaboration and implementation of plans of economic and social development.

The state in this regard also has a legislative role to play in meeting its social dialogue imperatives. To this end, the State should institutes the National Labour Advisory Council as a tripartite structure for the formulation and review of industrial relations policies. It is also required that the bi-cameral National Assembly of some states ought to provide a forum for national debates of laws in industrial relations. Consequently, the National Assembly did take over a number of critical issues in the oil sector, such as: privatization of state-owned oil firms in some countries e.g. Nigeria; the plight of those workers who may be adversely affected by privatization; and other labour reform bills, some of which are currently being attended to by the legislators in Nigeria.

Although the National Assembly seems to be doing something for labour generally, it is expected that some of the contending issues would have been subjected to public hearings, traditional...
of most global democratic legislative institutions and processes. This has not been the case in some country like Nigeria. Because at the State and Local Government levels, very little or nothing can be done because labour issues are on the exclusive legislative list, indicating that only the Federal Government can commit the state on labour matters. Nevertheless, state governors and chairmen of local government councils do intervene in conflict situations. Given the cultural imperative of respecting elders and people in authority, conflicts that initially appeared intractable with the formal due process might just wither away at the intervention of a very influential personality, even though these people are not even envisaged in the formal disputes machinery.

This paper is an attempt to investigate or assess the role of the legislature in labour/management relations.

**Literature Review**

**Conceptual Clarification**

The term “industrial relations was coined out of the historical circumstances of the British Industrial Revolution of the 18th and 19th centuries. It came into common parlance long before its subject matter drew enough attention or acquired sufficient respectability to be treated as an academic or intellectual discipline (Yesufu, 1982). According to Fajana (2006) industrial relations is defined broadly as a discipline concerned with the systematic study of all aspects of the employment relationship. It deals with everything that affects the relationship between workers and employers; perhaps from the time the employee joins the work organization until he leaves his job. The American system approaches to the subject were strongly influenced by structural functionalist sociology (Ogunbameru, 2004). Dunlop (1958) based his model explicitly on Talcot Parson’s social system; it assumed an inherent bias towards order and stability.

According to Ogunbameru (2004) looking for a universal definition of industrial relations may be as stressful as looking for an ocean in the desert. This is because over the years, the concept has been subjected to different conceptual treatment. Differences in definition derived partly from the fact that despite a long history of academic investigation, no single disciplinary core has yet emerged in descriptions and explanations of industrial relations behavior. For instance, sociologists, historians, economists, lawyers amongst others continue to make contributions often with scant regard for each other.

Cordova (1980) defined industrial relations as the process of interest accommodation by which conditions of work are fixed; relations are regulated and power is shared in the field of labour. Yesufu (1982) on his part saw industrial relations as the whole web of human interactions at work which is predicated upon and arises out of the employment contract. Both definitions recognize that industrial relations is concerned with the systems, rules and procedures used by unions and employers to determine the reward for effort and other conditions of employment, to protect the interests of the employed and their employers and to regulate the ways in which employers treat their employees.

In the opinion of Fajana (2006), the whole idea of industrial relations emerged because the conflict involving the inability of the employers and employees to have a proper dialogue concerning the terms and conditions of employment. The ensuring conflict is inevitable but there are generally mechanisms to ensure that it is channeled or accommodated. These mechanisms are individual resolution, unilateral determination by employers, state, trade unions or workers or joint modes of regulation by the actions of the parties.

In the course of everyday interaction, each of the parties, whether in the broader tripartite set up in industrial relations system itself, or bipartite nature of enterprise industrial relations has its own objectives which tend to guide its role. The objectives of the parties are sometimes congruent and at other times incongruent with one another. In spite of the strong desire or compelling necessity to work harmoniously, there is nevertheless latent antagonism or conflict among the parties. For instance, a
worker may seek more favourable terms and conditions of work; a trade union may want to secure
maximum benefits for its members; employers may seem always poised to achieve minimum costs
and maximum profits while government and its regulatory agencies on the other hand may adopt
socio-economic objectives and policies to which the other two parties may consider undesirable or
find unpalatable (Anyim, 2009).

Industrial relations in terms of scope and content also embrace issues which are national in
character (fuel scarcity, bad roads, power failure, inflationary trends, armed robbery, terrorism etc).
Aside from the decisive influence which industrial relations have on supply of goods and services, it
touches upon human values in the work environment. Bearing in mind that the industrial relations
actors are transmitters of various events some of which lie outside the realm of industrial relations, it
is therefore not surprising that the following variables which are both national and international in
character: war and peace, population explosion, technology, foreign trade, product market, social
structure to mention just few affect industrial relations. However, it is generally believed that an
industrial relations system is derived from a particular political, economic and legal context within
which it exists. These contextual influences play prominent role in shaping the direction of industrial
relations (Anyim, 2010). From the foregoing, industrial relations is therefore a complex of
relationships in which many individuals, organizations and other variables or elements, have a role to
play and the role of any one party or organization is affected by the role of the other.

Akpala, (1982).in Armstrong (2008) argued that the substance of industrial relations is: The
intertwining activities of trade unions, employers and the state. This conceptualization is in line with
Lavine’s (1985) definition of industrial relations as the respective roles of management, labour and
government in the process which relates workers to employers, workers to workers and workers to
work.

Industrial relations is therefore the regulation of employment relations in any employment
situation by the employer (management or their organizations, the workers organizations and the third
party, private or/and government acting as an umpire or a controller, the purpose of which is joint
decision making for establishing job rules and job values and for the co-ordination of manpower
resources for the attainment of the organizational objectives of the enterprise and the trade union as
well as the state.

Industrial relations is therefore meant to concentrate on the interrelationship between actors in
the workplace. This interaction may involve only two actors (for instance, employers or managers and
workers). It may also involve their collectivities (for instance, between a worker and his union, or
between a branch of a union and its national body or between management and the state). It must
however be understood that industrial relations vary across plant, enterprise, industry, regional and
national boundaries. Akpala (1992) in describing industrial relations as a process of defining power
and authority relations among management, labour organization and government agents. He argued
that it is for controlling and channeling workers’ protest and for establishing job values, procedural
and substantive or rule of job values. He therefore conceived industrial relations system as mainly
rule-making arrangement and processes for job determination.

Industrial relations is seen to vary from one situation to another in the plant, enterprise,
industry and national levels. The factors often mentioned as affecting the character of industrial
relations include among other things historical background, economic and legal systems, technology
and cultural factors, management philosophy as well as political climate. Industrial relations has to do
with the relationship between workers or employees, the labour unions and the management
(employer).
Management

The term management defies any common acceptable definition, this is because most of the literature are class and mode bound. To this end, the term management can be said as the whole system of administration or the organization or the persons or body of persons wielding the administrative authority in the organization Tyagi (2004) While Onwuchewa (1993) as cited by Egbo and Okeke (2009) saw management as comprising of the basic functions of planning, organization, leadership and controlling. However, the term management is used to refer to the responsibilities of running and overseeing the day to day activities of the organization that conduce the attainment of both short and long term objectives of the organization.

Legislature

The legislature according to Eregha and Isitoah (1999) is that arm of government saddled with the task of making laws for any state. This chamber act as a check on the executive arm of government and to a great extent reflect the voice of the electorate as to governance. Added to the above is the fact that the legislature perform the following functions in any given state, they make laws for the good governance of the state through the enactment of laws, they are vested with the power of authorizing the raising and spending of public fund by the executive arm of government e.g budget control of the executive arm of government and approval of executive actions as well as the window for the ventilation of grievances etc. The above no doubt is because the legislature is essentially a place for talk or discussion. It is in this sense a deliberate institution on public matters. It can be said as a forum where people’s opinion on private and public issues are raised and deliberated upon.

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Country after country the legislative agenda underscore the important role of the state in industrial relations. Of particular importance is that several governments are embracing policies that give public sector workers participation the determination of the terms of conditions of employment. Thus, the legislative and institutional changes that are taking place across the world today are beginning to project the state as the facilitator of the industrial relations system and helping the parties in industry to regulate their affairs within the overall national labour policy.

The role of the legislature of any state in industrial relations has always been a subject of intense debate, both in academic circles and among practitioners alike. In the post-independence period, not only in Africa but throughout the developing world, governments tended to define the role of labour as primarily a vehicle for stimulating productivity and nation-building in which sectoral interests of trade unions should be subsidiary to national interest. Based on this conception government became the most important player in industrial relations, controlling and dictating policies and conditions which the social partners were obliged to adopt and follow. In other words, other stakeholders were considerably subordinated.

This perspective has been responsible for the control or restrictive tendency of public policy up to the advent of structural economic reforms and liberalization. Thus, the labour legislation of the period before the reforms gave considerable power to government factionaries in regulating labour-management relations, such as the settlement of trade disputes, registration (and deregistration) of trade unions, including enormous power to revoke the certificate of unions. As a result of this development, revolutionary legislative reforms are taking place in several countries in the world today, changes which are already altering the nature of labour relations. In South Africa, for example, the package of labour legislation that has been introduced since 1994, including the path-breaking Labour Relations Act, 1995 and the Basic Conditions of Employment Act, 1997 are of monumental importance for labour and management relations. The Labour Relations Act, for example, outlines a new approach in which bargaining rights are extended to all workers, strengthening of the organizational rights of trade unions, encouraging the parties to use collective bargaining means to
find solutions to their problems and modernising the system of dispute resolution for effective, speedy settlement and strengthening workplace governance through bargaining and workplace forum.

In Malawi, the country has embarked on major reforms since August 1993, this is because, the new government published a Policy Statement on Labour through the legislature encouraging the formation of trade unions and the right to collective bargaining. A number of legislative reforms have followed, with the enactment in 1996 of the Labour Relations Act and the Employment Act of the following year. Like the South African labour act, the Malawian legislative agenda calls for a totally new but progressive approach to labour relations. Both countries have anchored their legislative framework on the principles of Conventions 87 and 98. This may not be unconnected with the government attempt in making fundamental transformation to a market based economy and democratic system. This transformation no doubt has led to the establishment of democratic institutions, particularly in the area of industrial relations, including the review of labour legislation in which the role of the state is redefined.

There is no doubt that the state through the legislature always has at least an indirect effect on all labour relations. As the source of legislation, the legislature exerts an inevitable influence on the emergence and development of a labour relations system. Laws can hinder or foster, directly or indirectly, the establishment of organizations representing workers and employers. The Legislature through law do set a minimum level of worker protection and lays down “the rules of the game”. It can provide lesser or greater protection for a worker who refuses to perform work he or she reasonably considers to be too hazardous, or for one who acts as a health and safety representative.

The extent to which the state through the laws made by the legislature has built up a well-functioning court or other dispute resolution system may also have an influence on the course of labour relations. The ease with which workers, employers and their respective organizations may enforce their legal rights can be as important as the rights themselves. Thus the decision by a government to set up special tribunals or administrative bodies to deal with labour disputes and/or disagreements over individual employment problems can be an expression of the priority given to such issues in that society by the legislature. In many countries, the state through the legislature has a direct role to play in labour relations. Generally speaking, the role of the legislature in industrialized countries has tended to promote orderly industrial relations by providing the necessary legislative framework, including minimum levels of worker protection and offering parties information, advice and dispute settlement services.

This could take the form of mere toleration of labour relations institutions and the actors in them; it could move beyond to actively encourage such institutions. In a few countries, the legislature is a more active participant in the industrial relations system, which includes national level tripartite negotiations. For example, in Belgium and more recently in Ireland and Nigeria for instance, government representatives have been sitting down alongside those from employer and trade union circles to hammer out a national level agreement or pact on a wide range of labour and social issues. Tripartite machinery to fix minimum wages has long been a feature of labour relations in Argentina and Mexico and Nigeria. For example, The interest of the state through the legislature in doing so derives from its desires to move the national economy in a certain direction and to maintain social peace for the duration of the pact; such bipartite or tripartite arrangements create what has been called a “social dialogue”, which has positively impacted on the labour/management relations in some developed states like Australia, Austria, Belgium, Ireland and the Netherlands, for instance.

In some countries, the very idea of the state through the legislature becoming involved as a negotiator in private sector bargaining is unthinkable, as in Germany or the United States. In such systems, the state function in industrial relations as empowered through the legislature is generally restricted to providing assistance to the parties in reaching an agreement, such as in offering voluntary
mediation services. Whether active or passive, however, the state is a constant partner in any labour relations system. In addition, where the state is itself the employer, or an enterprise is publicly owned, it is of course directly involved in labour relations with the employees and their representatives. In this context, the state is motivated by its role as provider of public services and/or as an economic actor.

There is no doubt that, most governments try to shape their industrial relations system with a view to bringing them more in line with national needs, aspirations and objectives. Furthermore, the role of government through the legislature provides a useful perspective for the analysis of changes in the pattern of industrial relations. Unlike in some countries where the conduct of industrial relations was/is initially left for private regulations by the direct parties concerned. There is no gain saying the fact that, government involvement or participation in industrial relations raises a number of questions which undoubtedly helps in shedding more light on legislature’s role as an actor:

i. Why do governments get involved in industrial relations?
ii. What are its objectives or concerns in industrial relations? and
iii. What methods or strategies are adopted in attaining these objectives?

Government involvement in industrial relations has three main purposes. Government is the sovereign and custodian of the coercive power, chief regulator of the national economy and the largest employer of labour with the principal responsibility of setting minimum standards to guide other employers or lays framework for the conduct of industrial relations. The task of the government therefore exceeds that of the other parties as ineffective handling of conflicts can paralyze other productive resources in the system. According to Arewah (1980): “Albert Tevoedjre has rightly pointed out that learning from the experience of industrially advanced countries, African governments have accepted and are playing the policy that workers and employers cannot be left entirely on their own to regulate all aspects of the work situation, since instability to economic activities directly affects the welfare of the whole nation.”

Conclusion

It is a truism that government is the largest employer of labour in most states of the world. It has the responsibility to make laws to regulate labour and employer relations. The legislature makes the law in conformity with the constitution to ensure industrial harmony. In other words, government has the role of maintaining industrial harmony in any given state, guaranteeing citizens including workers welfare as the prime purpose of governance and the capitalist inclination of the private establishments must be balanced and this is the essence of government participation in industrial relations.

The demand or quest for improved conditions of service on the part of labour is a constitutional right, which governmental institutions such as the legislature or judiciary should enforce. This is because labour/ workers are the primary instruments that fix a nation’s economy. Their welfare health and ability to fix the economy must be enhanced by government.

Recommendations
1. Government should always respect the laws made by the legislature while dealing with workers since government is also an employer of labour.
2. Government through the legislature should provide a smooth level playing ground between labour and employers to discuss and iron out their differences.
3. Government through the legislature should be an unbiased umpire in labour/management relations in the country.
4. Government through the legislature should be able to guarantee workers welfare in order to promote industrial harmony in the country ie. Workers welfare should be uppermost in the scheme of things.
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5. The legislature should be free of executive control or influence in the course of carrying out its functions between the unions of workers and their employers. Government inclusive, since the government is equally an employer of labour in any given state.

References


