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2012

NIGEIRA'S LABOUR AND INDUSTRIAL RELATIONS POLICY: FROM VOLUNTARISM TO INTERVENTIONISM - SOME REFLECTIONS

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A legacy common to the Developing World is the introduction of changes in the institutions and norms of the local people. Colonialism brought fundamental changes and the application of norms that were external to the society or alien in its origins. It resulted, for example, in the creation of surrogate native governments, the domination and weakening of traditional authorities through the system of treaties, courts and civil service. It led to the resocialisation of the entire population to the acceptance of the authority of these institutions as well as the authority of the colonial and native bureaucrats. More significantly, the colonial legal legacy weakened the indigenous authority and radically altered the normative content of key legal areas of the local communities.
The process that led to the imposition of law in Nigeria was not very different. Nigeria inherited its legal system from England in the wake of British colonialism. However, it is not the aim here to recount the historical evolution of Nigeria. Rather, the objective is to trace the legal developments with a view to providing the legal basis for Nigeria's labour and industrial relations policy which has shifted from the principle of voluntarism to the principle of interventionism, which has had a profound impact on workers' rights.

NIGERIA'S LABOUR AND INDUSTRIAL RELATIONS POLICY

Nigeria's labour relations policy has shifted from the principle of voluntarism to the principle of interventionism, which has had a profound impact on workers' rights. This section examines the labour policy under the principles of voluntarism and interventionism.

THE POLICY OF VOLUNTARISM

As a former British colonial territory, Nigeria's industrial relations system is one of British colonial legacies. It was fashioned in line with the British industrial relations system whose "main feature is the voluntary machinery which has grown over a wide area of employment for industry -- wide collective bargaining between employers' associations and trade unions over terms and conditions of employment." Therefore, it was this basic characteristic of the British industrial relations system (i.e. the doctrine of voluntarism or *laissez-faire*) that was entrenched in Nigeria's industrial relations. The policy was built on the fact that the government felt it was better to leave both employers...
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and employees free to determine and regulate their relations as best as they could.” Okotie-Eboh, Minister of Labour, stated this policy thus:

"We have followed in Nigeria the voluntary principles which are so important an element in industrial relations in the United Kingdom... Compulsory methods might occasionally produce a better economic or political result, but labour-management must, I think, find greater possibilities of mutual harmony where results have been voluntarily arrived at by free discussion between the two parties. We in Nigeria, at any rate, are pinning our faith on voluntary methods..."

Under “voluntarism” or laissez-faire doctrine, employers and unions have reasonable latitude to determine their own affairs within a framework established by the state.” As Fashoyin has pointed out, this doctrine emphasizes the freedom of labour and management to determine as much as possible the conditions under which workers will work, as well as other issues of labour relations.” It is often based on the theory that those closest to industry are in the best position to solve any problems arising from labour and management relations: in short it is a theory of industrial self-governance.” Furthermore, the principle of voluntary collective bargaining was pursued in the belief that it was better suited for the sustenance of industrial peace and harmony than the interventionist approach.” The legal framework for the settlement of trade disputes, as contained in the Trade Disputes (Arbitration and Inquiry) Act 1941, reflected this philosophy.” The Ministry of Employment described the policy thus:

"The notion...was that the law allowed workers to associate in trade unions, and employers in employers’ associations, and left the two sides to sort out their own salvation without any further interference from the law. The law may be ready to assist the parties to reach an agreement with various ‘props’ like facilities for conciliation or arbitration; or again if either party oversteps the boundary of what is proper, the law may have to intervene to ensure fair play. But ideally, the law would prefer not to intervene at all. The law, as it were, marked out the battlefield but took no

16 Ibid.
17 Ibid
19 Ibid.
The voluntary policy continued until the coup d'état (which took place on 15 January 1966) together with the ensuing political instability, which culminated in a civil war in 1967, brought about a change in policy."

THE POLICY OF INTERVENTIONISM

The inherited voluntary British model of industrial relations continued in Nigeria until 1968 when a remarkable shift in government’s labour relations policy occurred: the philosophy of government changed from laissez-faire role to an interventionist policy and the government directly involved itself in labour relations." The year 1968 was thus a watershed in the history of government labour policy." It marked the end of the voluntarism policy with the promulgation of the Trade Disputes (Emergency Provisions) Decree 1968 which introduced the machinery for the settlement of trade disputes by establishing the Industrial Arbitration Tribunal (IAT) on an ad hoc basis. However, at the time it was seen as a measure necessitated by war."

The interventionist policy became more manifest in 1969 when strikes and lockouts were banned and arbitration was made compulsory under the Trade Disputes (Emergency Provisions) (Amendment) Decree 1969. The Decree also made the IAT a permanent body." In 1976 the two Decrees were repealed and replaced by the Trade Disputes Decree 1976 and the Trade Disputes (Essential Services) Decree 1976. The Trade Disputes Decree 1976 renamed the IAT to Industrial Arbitration Panel (IAP) and also established the National Industrial Court as the apex institution for the settlement of trade disputes." The new direction in labour policy, which started in 1968, was articulated in 1975 by the Mohammed/Obasanjo government's national labour policy described as that of "limited intervention and guided democracy." The policy was said to be:
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"predicated on the continued guarantee of freedom of association, the promotion of strong, stable and responsible workers' and employers' organisations, the establishment and development of a suitable institutional framework for the effective prevention and expeditious settlement of labour disputes, the promotion of labour/management co-operation and of consultation at appropriate levels between workers, employers and government, and the vigorous enforcement of the provisions of labour legislation relating to minimum conditions of employment, social security, safety, health and welfare at work."30

This policy stresses the undisputed right of the government to intervene in both union management affairs and labour-management relations." However, the problem, as Fashoyiirr" pointed out, lies with the imprecise nature of the phrase "limited intervention and guided democracy." This is not surprising because each successive government, apart from the brief interlude of the civilian government of Alhaji Shehu Shagari (1973 to 1983), has been a military administration which does not appreciate the doctrine of separation of powers and democratic principles. Government labour policy is therefore one of intervention."

Over the years, the successive governments have been fully intervening in industrial relations." This interventionist role can be seen further in the fact that there have been several labour decrees promulgated by successive military governments, most of which are weighted heavily against labour." One major feature of the interventionist approach is the absolute power assumed by the government to either restructure or merge the trade unions in the country. For example, there were compulsory restructuring and mergers between 1977/1978 and 1996 done on the excuse of making the trade unions strong and viable." In 1996 the military government

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30 Ibid.
33 Prolonged military rule in Nigeria led to the enactment of numerous trade union laws which undermined trade union rights, tended to co-opt the unions while also creating situations of fear, uncertainty and direct interference in the trade unions. See S. Okodudu and B.K. Girigiri, "The State and Labour Militancy in Nigeria" (1998) 3 Pan-African Social Science Review, p. 34.
of General Sani Abacha rolled out Decrees Nos. 4 and 26 of 1996 restructuring the labour movement from 42 industrial unions to 29 industrial unions. The 29 industrial unions were compulsorily affiliated to the Nigerian Labour Congress. However, apart from showing legislative zeal if not exuberance, these decrees reveal the meddlesomeness and interventionism of the military government in labour relations. The decrees prescribe and circumscribe trades union and workers’ rights in every way to ensure the military government's hegemony over them. The decrees have presumptively in some cases sought to outlaw some conflict and grievance manifestations, such as the right to strike without compliance with certain precedent procedures.

Furthermore, the decrees involved the dissolution of unions or their proscription or suspension. It also involved the indefinite detention, under quite inhuman conditions, of union leaders. Indeed, it was under such methods that the National Union of Petroleum and Natural Gas Workers (NUPENG), the Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN) and the Nigerian Labour Congress (NLC) were proscribed. NUPENG Chairman Agame and his General Secretary, Chief Frank Kokori, were clamped into prison for four years and were only released when General Abacha died in 1998. Furthermore, interventionism under the military dispensation saw the jurisdiction of all civil courts ousted regarding any action taken in respect of labour matters. There can be little doubt that these actions demonstrate a truly interventionist policy on the part of the government. According to Obasi, this proclivity towards proscribing one labour union or another was no doubt a major shift from limited intervention and guided democracy toward an unlimited interventionist policy.

With Nigeria's return to a democratically elected government on 29 May 1999 under the leadership of President Olusegun Obasanjo it was hoped that the story of

38 Ibid.
41 Ibid. See for example section 18 Trade Disputes Act 2004.
43 Ibid.
44 Ibid.
45 Ibid.
46 Ibid.
49 This date marked the inauguration of Nigeria's fourth exercise in democracy. Nigerians celebrate each of their exposures to democracy since independence with the appellation "republic". The Obasanjo regime (1999 to 2007) was the Fourth Republic. The First existed from 1960 to 1966 and the Second from 1979 to 1983. An anticipated Third Republic became still-born when General Ibrahim Babangida (1985-1993) annulled a presidential election that would have ushered in the republic. Each of the previous Republics preceding the Obasanjo regime ended on a military intervention.
excessive government interventionism and repression in the sphere of labour rights would change. Indeed, much euphoria marked the return to civil rule in Nigeria in May 1999 of a kind that had not been seen since the end of the civil war (1967-1970), as the event signified an opportunity, after over twenty years of repressive military rule and interventionism, for the country to resume its experiment with democracy from where that journey had stopped before soldiers seized power on New Year’s Eve 1984. However, that appears not to be the case. In fact, the Obasanjo-led Nigerian government between 1999 and 2007 embarked on a programme of massive interventionism largely repressive of labour rights and freedoms. Indeed, as Okafor has pointed out, the Obasanjo regime in its quest to repress labour rights “has made use of public appeals, obtained court rulings, and often ordered - or at least largely tolerated — the harassment, assaults, detentions, and killings perpetrated by the Nigerian Police Force on labour activists…”

Furthermore, in line with its interventionist policies, the Obasanjo regime also pushed through legislation that sought to significantly weaken the capacity of labour activists to protest against his government’s unpopular policies. This move resulted in the enactment of the Trade Union (Amendment) Act 2005 which, together with other existing laws made by former military leaders, placed serious restrictions on workers’ rights. Indeed, the pattern of interventionism and labour rights curtailment and repression fits seamlessly into a broader picture of semi-autocratic rule and the generally poor human rights performance under the Obasanjo regime which lasted from 1999-2007.

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50 For example, Abdulsalami Abubakar, the general transferring power, compared the return to civil rule to the country’s receipt of independence from Britain in 1960, whereas Olusegun Obasanjo, the retired general receiving power, viewed it as “the beginning of a genuine renaissance in Nigeria.” See Normitsu Onishi, Nigeria Military Turns Power to Elected Leader, N.Y. Times, May 30, 1999, at 1, 6.
51 President Obasanjo intoned in his maiden address that, “Today. We are taking a decisive step in the path of democracy. We will leave no stone unturned to ensure sustenance of democracy, because it is good for us, it is good for Africa, and it is good for the world.” Ibid, at 1.
The interventionist approach has not changed in any significant manner under the current civilian administration of President Shehu Musa Yar'Adua who took over the reins of power on 29 May 2007. If anything, the pattern of state interventionism in labour relations seems to have continued. This approach has continued under President Goodluck Ebele Jonathan, who took over power following the demise of Yar'Adua in 2010.

Overall, although the government's policies on labour relations are anchored on what it called "limited intervention guided democracy," the evidence suggests otherwise. Rather, as has been seen, government's policies and the dynamics of labour relations demonstrate that what obtains is unguided authoritarianism and reckless intervention in labour relations. Through its policies and laws the government has seriously infringed the rights of Nigerian workers. It is thus clear that the government interventionist policy indicated a systematic approach that was largely repressive of labour rights, and in particular pointed to the state's high-handedness as far as workers are concerned.

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