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**LABOUR CONFLICTS IN THE NIGERIAN PUBLIC
SECTOR: CAUSES AND RESOLUTION STRATEGIES**

JIDE IBIETAN, Ph.D*

ABSTRACT

The aim of this paper is to highlight the nature, causes and resolution strategies / mechanisms for labour conflicts in the Nigeria public sector. It observed that when an organization has a dysfunctionally high level of conflict, managers are likely to dissipate valuable resources and time in order to achieve harmonious work relations and that conflict can also be functional when it acts as catalyst for the use of initiative and creativity which can facilitate qualitative change in the Public Sector. The paper comprises of: abstract; conceptual discourse; causes of labour conflicts; the meaning and strategies of conflict resolution; conflict resolution in the Nigeria public sector; conclusion and recommendations. Among the recommendations canvassed are: the dismantling of obstacles to the use of "mediation" as the first statutory method of resolving conflicts; further strengthening of the institutions responsible for conflict resolution; a call on government to imbibe the virtue of honouring valid agreements reached through consensual process of collective bargaining and to respect / uphold its own laws.

Key Words: Labour conflict, Conflict resolution, Conflict Management, Public Sector.

CONCEPTUAL DISCOURSE

Attempts at defining or explaining the concept of conflict have not been mitigated by the semantic problems created around it in organizational literature. Writers are inclined to using grievance, dispute and conflict interchangeably, and as referring to dissatisfaction or one form of problem or the other between workers represented by their unions and the management.

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In an attempt to clarify this dilemma, Onah (2002:92) averred that "grievance may be a symptom of an underlying problem that management should investigate and rectify". The author refers to this as the behavioural approach to conceptualizing grievance as aversed to the legalistic approach which insists on the "letter of the law". It is observable that labour legislations in Nigeria entrenched the use of the term "dispute" as referring to disagreement between employer and employee either as individual or group. Ojo (1998:122-123) submitted that "trade dispute which is used interchangeably with industrial dispute or conflict, constitutes an important aspect of industrial relations systems". He corroborated that "the term trade dispute has been defined in the Trade Disputes Act of 1976 as any dispute between employers and workers or between workers and workers, which is connected with the employment or non-employment, or the terms of employment and physical conditions of work of any person". He classified disputes like Onah (2002) into individual and collective disputes (that is disputes concerning the group-the union) and noted similarly that individual disputes often graduate into collective disputes.

Johnnie and Nwasike (2002:61, 63-65) emphasized that "conflict can be functional- bringing out the best in workers" in terms of "initiative and creativity". Through these, qualitative change occurs in an organization. They trichotomised conflict into Task (disagreement on what constitutes the task or how it should be ordered); Interpersonal conflict (caused by organizational weaknesses like structurally deficient communication flows resulting in problems), and Procedural (conflicts emanating from rules). The three types of conflict do occur in organisations, but it appears that the task and procedural conflicts have more bearing on collective bargaining.

Kornhauser, Dubin and Ross in Otobo (2000:268) define conflict as "...the total range of behaviour and attitudes that express opposition and divergent orientations between individual owners and managers on the one hand, and working people and their organization on the other". This definition captures conflict at the collective level representing motives and behavioural

orientation that are not only different but in opposition between the employer or its management representatives on one side and workers with union representatives on the other. What the definition did not say however is that the (basis of these) differences is underlined by economic motive.

Jones and George (2006:607) in their contribution posited that "when an organisation has a dysfunctionally high level of conflict, managers are likely to waste organizational resources to achieve their own ends..." They classified conflict into: Interpersonal; Intra-group and inter-group. It is evident from the works of Jones and George (2006) that as a result of the heavy toll that dysfunctional conflict asserts on the organization, owners and managers of organisations should be proactive in the measures they take to reduce incidences of destructive conflicts.

CAUSES OF LABOUR CONFLICTS

Some writers on organization treat this topic under Sources of Conflicts. Prominent among such writers is Ootob (2000:270-271) who identified the sources as internal and external and that both often influence each other. The internal sources of labour conflicts include style of management; nature of physical environment of the work place; orientation or social consciousness of workers; other conditions of services; efficacy or otherwise of the promotion system; cumbersomeness of grievance and disputes procedure.

The external sources of conflict include government's industrial and economic policies, nature of labour legislation; unpatriotic and unethical behaviour of the political class, national economic mismanagement, income distribution of wealth and power in the society and nature of the capitalist economy. It should be emphasized that some of these external factors may not directly prompt labour conflict, but they can underline workers expectation and the nature of their demands especially from public sector employer which could set the tone of labour relations.

Fashoyin (1999:188-190) identified the following as some of the causes of labour conflicts: organizational structure in

which an attempt is made by one party to change either structure of bargaining or the contents of negotiable or non-negotiable list; Inadequate decision-making, power manifesting in the limitations of negotiators in committing their constituencies to an agreement; Management policies in which the approach to bargaining with the union is negative; intra-organisational factors in form of internal union conflicts traceable to heterogeneous and diverse interests in the union. This factor manifest more in internal bickering, immaturity and leadership challenges on the union; Procedural factors involving tactics, strategies and methods utilized by negotiators to influence what are considered to be at stake in the negotiation; and unnecessary interpersonal differences and attitudinal hostility between management personnel and union leaders which often impinge on labour relations.

Other factors that can precipitate labour conflicts are differences arising from the interpretation of collective agreements, usually traceable to ambiguity or equivocation in language; violation of agreements usually by the management; and contingency issues which reflects the shortcomings or inadequacies of the collective agreements (Fashoyin, 1999:205-207). These issues are central to the substantive rules of collective bargaining; hence the severity of conflicts arising from them can be monumental.

In his contribution, Ojo (1998:124-125) outlined the following as causes of labour conflicts: wages and related issues; conditions of Service; Discipline, Interpretation or violation of agreement; Non-recognition of unions and anti-union activities; and other issues that could be outside the traditional confines of Collective bargaining such as union's demand for the removal of management staff that are perceived to be against the union, and demand for release of union leaders arrested by police or detained by government or its security agencies.

Jones and George (2006:609) identified "different evaluation or reward system" as being weighty enough to cause employee dissatisfaction and ultimately generate conflict. It is logical that when the criteria and methods of evaluating task

(appraisal methods) are not objective, they are underlined by selective perception, the corresponding reward system is faulty and it is a recipe for disharmony in work relations.

Porter, Bingham and Simmonds (2008:436) posited that communication failures can be a cause of conflict in employer-employee relations. They emphasized the need for continuous clarity in the communication process of an organization.

CONFLICT RESOLUTION: MEANING AND STRATEGIES

There is the tendency among writers and scholars in this area to confuse conflict management with conflict resolution. Some writers, however treat them as Synonyms, hence they are used interchangeably.

Obi (2007:214) averred that conflict resolution "entails series of measures initiated in a conflict situation to finally terminate the conflict". He corroborated based on the work of Best (2005) that conflict resolution "connotes a sense of finality where the parties to a conflict are mutually satisfied with the outcome of a settlement and the conflict is resolved in a true sense". Obi (2007:215) differentiates conflict resolution from conflict management by asserting that the latter "is seen as a process of reducing the negative and distractive capacity of conflict through a number of measures and by working with and through the parties involved in that conflict". Still relying on the conceptualization by Best (2005), he buttressed that conflict management covers the entire area of handling conflicts positively at different stages including conflict limitation, containment and litigation.

The above mentioned authors including Otite in Obi (2007) contend that conflict management is more of a long term arrangement involving institutionalized provisions and regulative procedures for dealing with conflicts whenever they occur. There is the realization that not only is conflict endemic, but that it is an inevitable part of organizational life, hence the need for its management. It can be extrapolated therefore, that conflict management is a building block for conflict resolution.

In their contribution, Fisher et.al (2000:7) posited that while conflict management “aims to limit and avoid future violence by promoting positive behavioural changes in the parties involved”, conflict resolution on the other hand “addresses the causes of conflict and seeks to build new and lasting relationships...” It thus appears that the objective of conflict resolution is to achieve and create a sense of finality to conflicts with intent to uphold industrial peace. The strategies and means to realizing this objective is the mission of conflict management.

Ajayi (2002:37) building on the works of Otite and Albert opined that conflict resolution “is essentially aimed at intervention to change or facilitate the course of a conflict”. He expatiated that “it provides opportunities for disputing parties to interact with others with the hope of resolving their problems or at least reducing the scope, intensity and effects of conflict”. He identified diplomacy, bargaining, negotiation and compromise as being primary to conflict management efforts, in view of their roles in emphasising “the need for communication between the parties involved in a conflict”.

Cole (2005:230) added a dimension to the discussion on conflict resolution with an allusion to unitary, pluralist and radical perspectives. The unitary school of thought sees organisations as collaborating in the pursuit of common objectives. Such organisations run “a well integrated team” and conflict is avoided by managerial action. This would appear to be a hypothesis as it is doubtful if such organisations exist. The pluralist perspective construes organization “as a loose coalition of a range of different interest groups. Conflict is seen as ...an inherent and ineradicable characteristic of organizational affairs...” In this perspective, conflict is viewed as having its positive effects on the organization, and this thinking seems consistent with our discourse on the issues involved in collective bargaining and nature of conflicts in organisations and the public sector in particular.

The radical perspective captures organisations as being composed of opposing forces of a “class” nature in which “conflict is regarded as inevitable part of social changes in the

class structure, and power is seen as important but reflective of divisions in society". (Cole, 2004: 230). This typifies the Marxian view of work relations, and violence is likely to be attractive to workers in the collective bargaining process. Ostensibly, management may be inclined to use domination in resolving labour conflicts which is contrary to the tenets of Mary Parker Follett (in Shafritz and Hyde, 1992: 69) and good industrial relations.

There is convergence among a group of (foreign) authors on strategies for conflict resolution. Cole (2005:434-436) commenced his discourse with the internal machinery of conflict resolution starting from the departmental level to the management level. He added conciliation, mediation and arbitration (which are external) as techniques for conflict resolution. These latter techniques were observable in Cascio (2006:527) who added fact-finding as a strategy valued more in the public sector; Budd (2008:329-339); Spoelstra (2003:13) added lobbying as a means of conflict resolution; Pammer and Killian (2003:111-116); Pettinger (2000:159-162).

Ivancevich, Konopaske, and Matteson (2005:365-369); Buchanan and Huczynski (2004:805-807) and Robbins (2000:390) are similar in their approach to conflict resolution namely: domination, accommodation, problem solving, compromise, avoidance, collaboration and competition, collaboration refers to situations in which parties to a conflict desire to satisfy fully the concerns of all parties. Avoidance is the desire to withdraw from or suppress a conflict. Compromise is a situation in which each party to a conflict is willing to give up something, while accommodation represents the willingness of one party in a conflict to place the interests of the opponent above his or her own. It is plausible to accept the workability of collaboration and compromise as strategies for conflict resolution in the public sector, domination and avoidance will indisputably do a lot of damage to conflictive situations.

Akinmayowa (2005:180-181) added defusion, containment and confrontation to the above as strategies for conflict resolution. In utilizing defusion, attempts are made "to

deactivate the conflict and cool off the emotions and hostilities of the group involved". This is done by trying to "smooth thing over", however as added by the author, the major drawback of this approach is that conflict situations treated this way "could gather steam and escalate into a major crisis".

The containment strategy allows conflict "to surface but it is carefully contained by spelling out which issues are to be discussed and how they are to be resolved". In using this strategy, "the problems and procedures may be structured, and representatives from the conflicting parties may be allowed to negotiate and bargain with the structure established". This approach fits situations where "open discussions have failed and the conflicting groups are of equal power". The selective nature of this approach and the tendency for either party to end up as an "underdog ...when a problem has been seen to have been solved..." is a major disadvantage.

In the confrontation strategy, "all the issues are brought into the open, and the conflicting groups directly confront the issues and each other in an attempt to reach a mutually satisfactory solution." A minimum level of trust is required for this strategy to work. The author subdivided confrontation strategy into power and negotiation strategies where in power connotes the use of brute force, bribery and corruption (money and other forms of favours) and punishment (withholding friendship, love and money). Negotiation strategy approximates constructive approaches to conflict as canvassed in the collective bargaining process which is preferred as a conflict resolution mechanism.

In reinforcing the above argument, Baridam (2002:306) affirmed that "research in organization behaviour on problem solving and on bargaining behaviour provides a basis for inferring the relative efforts of confrontation as a method for conflict resolution". The author buttressed his discourse on conflict resolution with an allusion to "the presence of a super-ordinate goal may serve to reduce dysfunctional conflict". Based on the works of Blake, Shepard and Mouton (1964); Johnson and Lewicki (1969); Lawrence and Seiler (1965), he defined Super

ordinate goals as "those ends greatly desired by all those caught in dispute or conflict which cannot be attained by the resources and energies of each of the parties separately but which require the concerned efforts of all parties involved".

From the above averments, the ends desired by collective bargaining as an indispensable ingredient in work relations is the attainment of industrial peace with an emphasis on attenuating labour conflicts. The integrative implicit in the super ordinate goal approach underscores its relevance in collective bargaining and conflict resolution.

Johnnie and Nwasike (2002:76-77) hypothesized on the role of game theory in labour conflict resolution. Predicated on the writings of Kelly (1974), they noted "that game theory attempts to formulate rules of behaviour that optimize outcomes by considering the utilities and probabilities of the various outcomes to each player". The authors contend "that underlying game theory is the assumption that players behave rationally." This is not likely to be true in some labour conflict situations.

The applicability of game theory in conflict resolution is hinged on the authors' assumptions that groups in conflict are typically more "closed" than "open" revealing "only what they consider essential to strengthen their strategy and management also does not reveal how large an increase it is willing to pay until the final moments of negotiation. Labour, similarly, waits until the final moments to reveal how small an increase it is willing to accept." It must be noted that the elements of precariousness built into the application of game theory in conflict resolution are observable in some collective bargaining situations/processes, but it can be very destructive in outcome and effect.

CONFLICT RESOLUTION IN THE NIGERIAN PUBLIC SECTOR

Ojo (1998:126-133) identified the internal (voluntary) and external (Statutory) machineries of conflict resolution in the Nigerian public sector. He articulated the discourse in three distinct periodic phases: 1941-1967; 1968-1975; 1976 and beyond.

The 1941-1967 period saw the colonial principle of voluntarism underscoring public labour policy. The principle emphasised the freedom of the employer and unions to choose the means they prefer to settle disputes and grievances. The 1941 Trade Disputes (Arbitration and Inquiry) Ordinance allowed not only the use of internal machinery, but was rather too permissive in the use of the statutory machinery, which accorded parties to a dispute the freedom to choose from mediation, conciliation or arbitration as a means of settling conflicts.

Under this law, it was not compulsory for parties at conflict to appear before the statutory panels and when *government intervened* in disputes, it could not enforce solutions on the parties at the dispute. In addition to the foregoing, arbitration panels were raised on an ad-hoc basis to deal with disputes as they arose, in other words, there were no permanent statutory institutions to deal with conflicts. The consent of parties to a dispute had to be sought by government before cases were referred to arbitration. This laissez-faire approach to conflict resolution offered less relevance in collective bargaining in this phase.

The 1968-1975 period coincided with the outbreak of the Nigerian civil war, and it dawned on government that the permissiveness of the principle of voluntarism inherited from colonial rule combined with the uncertainties of war situation could be hijacked by workers and the union in particular to exact concessions from management and government. Ojo (1998:126) buttressed "...that neither government nor management would want a strike at that time". In order to avoid granting concessions to workers/union, government opted for a policy of intervention in labour relations.

The above scenario led to the promulgation of the Trade Disputes (Emergency Provisions) Act of 1968 which was amended by the Trade Disputes (Emergency Provisions) (Amendment) Act of 1969. These laws imposed a total ban on strikes and lockouts. It also directed that wage increases by employers must be subject to government approval. Fashoyin (1999:199) commented that the prohibition of strike on issues

requiring "compulsory arbitration, particularly in the public sector has proved ineffective" even in more democratic societies of Western Europe and North America.

The laws (1968 and 1969 Act) also established the Industrial Arbitration Tribunal whose decisions as approved by commissioner (now Minister) of Labour were final and binding. This era signalled compulsory arbitration procedure for conflict resolution. Thus, voluntarism caved in for the principle of intervention to emerge supposedly as a temporary measure – one year at first instance but "it was maintained until 1975" (Ojo, 1998:127). The author in reinforcing Fashoyin (1980) observed that the impact of these laws were felt for a brief period following their promulgation as it led to some degree of restraint, but failed almost completely to stop the occurrence of disputes and work stoppages.

The 1976 period and beyond witnessed government's desire to monitor the role of workers and employers in order to step up and sustain economic activities after the civil war. The Trade Disputes Act of 1976 was promulgated to modify the 1968 and 1969 Act. Conflict resolution in the public sector (in this period) derived from the Trade Disputes Act of 1976 and Trade Disputes (Essential Services) Act of 1976. The internal machinery popularly referred to as the grievance procedure provides for several stages of resolving conflicts between union members and management, starting from the shop steward level with the supervisor through the departmental level to middle management and to the top management level (in case conflicts could not be resolved at the lower levels with the union).

Ebiloma (2001:82-83) in contributing to this discourse affirmed that "...conflict resolutions are guided by the provisions of the Trade Disputes Act of 1976, as amended in 1977" and corroborated that "it is possible to identify sixteen (16) important features of the Act..." as outlined below:

Copies of Agreement: Three copies of the negotiated agreement must be deposited with the Minister of Labour and Productivity.

- If the agreement provides for a particular mode of settlement other than the one provided for in the Act, the Minister must insist that the parties comply with that mode.
- If not, the two must subject themselves to a mediator to seek amicable settlement.
- In the event of failure of the mediator to resolve the problem, the minister shall appoint a conciliator if he is satisfied that the provisions of the Act have been substantially complied with, otherwise he shall insist in writing, that the prescribed procedure be followed.
- If the solution is still not found to the problem, the Minister shall refer the matter to the Industrial Arbitration Panel (I.A.P) which is expected to discuss the issue within 42 days. If this fails, the minister shall grant extension as he deems fit.
- If the Industrial Arbitration Panel makes award to any party, this is not immediately communicated to the party concerned until the Minister has gone through the award to decide whether or not to remit the case to the Industrial Arbitration Panel for reconsideration before communicating it to the party concerned.
- If the Minister is satisfied with the award by Industrial Arbitration Panel, he shall communicate it to the parties who have 21 days to accept or reject it.
- If the Minister does not receive any objection from the parties within 21 days, he will confirm the award.
- However, if either or both parties object to or reject (the award), the case will be referred to the National Industrial Court (NIC).
- At any time a dispute is in the N.I.C or the I.A.P. has made an award in respect of a dispute, the Act bans strikes or lockouts.
- According to the Act, the decision of the court in this matter is final and binding on the parties thereof. There shall be no appeal to any other body or person except when constitutional issues are involved.

- The Act, as amended by the Trade Unions Disputes (Amendment) Decree No 54 of 1977, provides that the Minister or any party to the award may make an application to the court for a decision on the interpretation of the award by I.A.P which has become binding on the parties.
- In the same way, the Minister or any party to the agreement may make an application to the court for the interpretation of collective agreement.
- Upon receipt of such application, the court shall then decide the matter after hearing the Minister's brief or, as the case may be the parties to the agreement or with their prior consent, without hearing from them. Such decision by the court shall be final and conducive with respect to the interpretation of the terms or provisions of the agreement.
- The Act makes it clear that the parties to a dispute before the court are:
 - (a) Organisation of workers (Unions) and
 - (b) Employer or an Organisation of Employers such as the Nigeria Employers Consultative Association (NECA).

The Act further provides that an individual has no *locus standi* before the court, even though the dispute may arise out of the treatment meted out to an individual worker, such as wrongful dismissal of a worker.

Ebiloma (2001:84) added that despite the laudable features of these legislations, the federal government did not put appropriate institutions and structures capable of negotiating directly with workers' unions. Besides, the procedural implications of the laws portend danger for the practice of collective bargaining in the public sector. The duration of forty-two days within which the IAP has to dispose of cases is rather too long, the cumbersome nature of the processes does not help in the conduct of effective industrial relations system. Fashoyin (1999:197) reinforced that in the public sector, cases referred to arbitration could span longer than forty-two days as "a large

RECOMMENDATIONS

This paper strongly recommends the dismantling of all obstacles to the use of “mediation” as the first statutory method of resolving conflicts. A review of some underlining provisions (the cost of mediation to be borne by disputants for instance) must urgently be done.

Further deepening of democratic culture / practices is required to strengthen and sustain the conflict resolution mechanism and process.

Additionally, democratic institutions such as the judiciary, watchdog organizations and others of similar mandate must be assertive in action to ensure justice and fairness in industrial relations system generally.

Government must imbibe the virtue of honouring valid agreements reached with the unions and should learn to respect and uphold its own laws.

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