



TRADE UNION AMENDMENT ACT 2005 AND THE ENTRENCHMENT OF INDUSTRIAL DEMOCRACY IN THE NIGERIA PUBLIC SERVICE: AN X-RAY OF THE POLITICAL UNDERCURRENT

UGHULU, EGHOIKHUNU STELLA AND NWOKIKE, EUNICE IJEAKU

(Received 3 June 2020, Revision Accepted 2 July 2020)

ABSTRACT

The Federal Government of Nigeria in 2005 amended some sections of the Trade Union Act referred to as "The Principal Act" 1996 to form the new Trade Union (Amendment) Act 2005. The main objective of the new Act was the entrenchment of democracy in Nigeria public service by giving workers the freedom to choose which union to belong and opportunity to form more central union organizations, thereby encouraging industrial democracy. It is on this note that this study examined the political underlying motive in enacting the new Act in relation to industrial democracy in Nigeria Public Service, the weaknesses and strength of the Act were examined. The study relied on the secondary method of data collection. The study concluded that the enactment of the Trade Union (Amendment) Act 2005 was politically motivated to give the government the much-needed space to implement certain policies and decisions that are comfortable for the government. The study then recommended that the government should embark on nation-wide consultation with stakeholders to develop valid amendments in Trade Union Acts for the betterment of all and not for the exploitation of the masses.

KEYWORDS: Trade Union Amendment Act, industrial democracy and Public service.

INTRODUCTION

Trade union is a group of employee that communicate with employers on matters that relate to the conditions of employment of members of the group. The industrial revolution led to the establishment of large scale enterprises which saw the coming together of large numbers of employees working together in a workplace, this resulted in management problem, thus the workers had to come together to form a group or union to have a united voice when relating to management in respect of working conditions of members of the group.

Trade union, therefore, relates to strife or struggle between employers and employees of organizations. While the employer is concerned mainly with maintaining an atmosphere that will make maximum production at the minimum cost possible, the employee, on the other hand, articulate their need and react to unfavourable working situations. The employers most times manipulate the means available to them to achieve the atmosphere they desire. To subdue the manipulation and intimidation of the employers, the employees have to form a union or group acting together to arrive at an

Ughulu, Egghoikhunu Stella, Department of Political Science and Public Administration
Igbinedion University, Okada, Edo State, Nigeria

Nwokike, Eunice Ijeaku, Department of Political Science and Public Administration Benson
Idahosa University, Benin City, Edo State, Nigeria.

agreement with the employers on terms governing their employment.

Trade union is defined in the Trade Unions Act Cap. 432, section 1(1) of Law of Federation of Nigeria as follows

“Any combination of worker or employer, whether temporary or permanent, the purpose of which is to regulate the terms and conditions of employment of workers, whether the combination in question would or would not, apart from this Act, be an unlawful combination by reason of any of its purposes being in restraint of trade, and whether its purposes do or do not include provision of benefits for its members.” (LFN, 1990)

To maintain peace and industrial harmony in the workplace the government have to intervene in the strife or struggle between the employer and employee in form of setting regulations and laws to govern the activities and behaviours of individuals in the workplace. These regulations are referred to as labour laws or trade union acts. The Nigeria government intervened in the relationship between the employer and employees by setting labour laws to regulate the activities of both parties in Nigeria public service. In doing this, several laws, decrees, acts and amendment have been enacted since independence, to foster the relationship in the workplace and create industrial harmony; the most recent being the Trade Unions Amendment Act 2005.

The major objective of the Trade Union Amendment Act 2005 is the provision of democratization and liberalization of the unions and labour and also to guarantee the freedom of association of workers in Nigeria (LRN, 2005).

It is on the above note that this study examines the Trade Union Amendment Act of 2005 and how the Act has secured industrial democracy in Nigeria public sector by examining the reasons and counter-reasons for the enactment of the Act. This study relies on the secondary method of data collection to arrive at its findings and conclusions. The study will be relevant to public administrators and policy makers, on how to relate to issues pertaining to Trade unionism in Nigeria; it will also benefit students and scholars in the field of public administration by broadening their knowledge in the area of trade unionism in Nigeria and the current trade union (Amendment) act 2005.

TRADE UNION IN NIGERIA

Trade union in Nigeria can be traced to the establishment of the Southern Nigerian Civil Service Union in 1912, it was later changed to Nigeria Civil Service Union (NCSU). (Unieghara, 1976). The railway workers Union and the Nigeria Union of Teachers were formed in 1931 after the railway workers broke away from the Nigeria Civil Service Union claiming that NCSU was too gentlemanly in its dealing with the government.

The trade Union Ordinance of 1938 was the first legislation on labour that was passed by the Nigeria government. It gave the various unions a legal authority to operate as unions. The passage of the Ordinance of 1938 led to the increases in the formation of unions. Many of these unions were formed within the public service (Ola & Tonwe, 2009).

The trade union ordinance of 1938 that gave legitimacy to the unions in public service was amended severally until it was replaced by the trade unions decree, No. 31 of 1973 as amended by decrees No. 22 of 1977 and No. 86 of 1979. These decrees brought the formation of the Nigerian Labour Congress (NLC) as the single central union, with 42 unions across the federation affiliated to the NLC.

In the period between 1979 and 1996, Nigeria witnessed several labour unrest, agitations, protests as a result of difficult economic conditions, social and political unrest as a result of the adoption of Structural adjustment programme and the annulment of the June 12 presidential election in Nigeria. To quell these problems, the government passed the Trade Union amendment Decree No. 4 of 1996.

The next major reform of trade union in Nigeria was the Trade Union (Amendment) Act 2005; with the main objective of Unions' and labour democratization and liberalization and also to guarantee the freedom of association of workers in Nigeria.

APPRAISAL OF THE TRADE UNION (AMENDMENT) ACT 2005

The Trade Union (Amendment) Act 2005 was enacted to amend some sections of the Trade Union Act referred to as “the principal Act 1996” (LRN, 1996). The main sections that were amended in “The Principal Act” 1996 were sections 12 (3), 16(1), 17(1), 24, 30, 33, 34 and 42.

Section 12(3) was amended to reflect voluntarism; where membership of a trade union shall be voluntary and that no employee shall be forced to join any trade union or be victimized in any way, if such employee refused to join a trade union or wishes to withdraw his/her membership of a trade union.

Section 16(1) amendment dealt on payment of dues; deductions were to be made from the wages of employees who are members of a trade union as contributions to the trade union such employee belong to. The section also stipulated that these contributions may vary from time to time but be specified in the constitution of the trade union.

Section 17 (1) amendment assert that the trade union shall pay a specific amount from the contributions of members of the union to the appropriate registered Federation of trade unions, this amount should be specified in the constitution of the registered federation of Trade unions.

Section 24 of "the Principal Act" was amended to reflect collective bargaining; and points out that all registered unions shall form an electoral college to elect members who will be the representatives of the union members in negotiating with the employers.

Section 30 of "The Principal Act" was amended reflecting ban on strikes and lockout by trade unions unless:

- a. That the trade union concerned, employee or the employer is not engaged in essential services provision.
- b. That the lockout or strike is a labour dispute and not personal, social or family dispute.
- c. That a vote has been conducted in compliance with the constitution of the trade union concerned in which a simple majority of members voted in support of lockout or strike.
- d. That the lockout or strike concerns the collective breach of contract of employment or collective agreement on the part of employees, trade union or employer and not because of a single individual (LRN, 2005).

Section 33 of "The Principal Act" which created the Nigeria labour congress as the single central labour organization was removed from the act. This was to eliminate the monopolistic nature of the Nigeria Labour Congress.

Section 34 of "The Principal Act" 1996 was amended by the addition of 3 more subsections to the existing subsection (1). These added sections stipulate ways whereby unions can come together to form a larger umbrella of unions as a federation of unions. Thus giving workers

the choice to choose which federating union they want to belong to.

Section 42 of "The Principal Act" 1996 was amended to state that no worker should be subjected to any kind of constraint or deprived of his/her freedom by being persuaded to join a strike. It also stated that no trade union shall force any non-member of the union to participate in any strike being embarked upon by the union. The new Act also states that the Trade union's strikes should not disrupt the peaceful flow of public activities.

UNDERLING POLITICAL MOTIVES IN ENACTING THE NEW ACT CONCERNING INDUSTRIAL DEMOCRACY IN THE NIGERIA PUBLIC SERVICE

The enactment of the Trade Union (Amendment) Act 2005 encourages the increase in the number of a central labour organization by allowing the formation and registration of other unions to form federations of trade unions. Before the enactment of the new Act, the Nigeria public service had only one central labour organization which is the Nigeria Labour Congress (NLC). With the new Act, we now have an additional central labour organization known as the Trade Union Congress (TUC). The encouragement of the increase in the number of federating trade unions is an entrenchment of infusion of industrial democracy in the Nigeria public service since it will give the workers the freedom and opportunity to choose the trade union they want to belong. This conforms to the main objective of the act which is the provision of democratization and liberalization of the unions and labour in Nigeria public service. On the contrary, the increase in the number of federating trade unions might result in the springing up of mushroom trade unions that might be too weak to make any meaningful impact. This will lead to labour unrest. The proliferation of central labour organizations means the federal ministry of labour will have many organizations to contend with in times of dispute and thus increase government spending. The Federal Government's perspective for enacting the new Act was the fact that the past labour laws were enacted by military regimes, making the laws not attune with the tenets of democracy. The government also argued that The Act was in line with the Nigeria constitution which provides for the fundamental human rights of individuals of which freedom of association belongs.

The government argued that since members of the central labour organizations were

government's employees, the labour organizations had to be controlled to abide by the laws of the government and not become a strong opposition party like the Nigeria Labour Congress by vehemently opposing some policies and decisions of government.

On the other hand, members of the sole central labour organization argued that the government enacted the Trade Union (Amendment) Act 2005 to weaken the stronghold of the central labour organization and create disunity among workers.

The new Act gives workers the opportunity and freedom to choose to belong to any trade union they desire or decide not to join any. This stipulation might result to distrust and industrial disharmony, where leaders of trade unions in organizations might ask the non-members to make their separate demands on the management and prevent non-members from partaking in the benefits of the trade union negotiations with management.

Conclusion

Though the main objective of the Trade Union Amendment Act 2005 as stipulated by the government is democratization and liberalization of the unions and for maintaining the fundamental human rights of individuals which include freedom of association, it is perceived to create industrial disharmony by weakening the stronghold of workers as a union. It entrenched industrial democracy in the Nigeria public service by giving workers freedom of association, it is also an attempt by the government to manipulate and control the masses by creating 'divide and rule' policy to weaken the organized circle of workers and create conflicting interest among workers.

The study concludes that the enactment of the Trade Union (Amendment) Act 2005 was politically motivated to give the government the much-needed space to go ahead and implement certain policies and decisions that are unfavourable to the masses but comfortable for the government. The act seeks to entrench industrial democracy but in reality, it provides the government with the enabling environment to carry-out its unfavourable programmes and policies without strong opposition.

Given the above analysis, this study recommends that the government should embark on nation-wide consultation with stakeholders to develop valid amendments in Trade Union Acts for the betterment of all and not for the exploitation of the masses.

REFERENCES

- Ola, R. F. and Tonwe, D. A., 2009. Nigerian Public Administration. Lagos, Amfitop, p. 133
- The Law of the Federal Republic of Nigeria, LFN 1990 Chapter 432. Trade Dispute Act. Lagos: Government Press
- The Law of the Federal Republic of Nigeria, LFN 1996. The Trade Union Act, Cap 437. Now referred as "The Principal Act". Sections 1-54. Lagos: Government Press
- The Trade Union (Amendment) Act 2005 Sections 1-11. Lagos: Government Press
- Unieghara, E. E., 1976. Trade union Law in Nigeria, Benin City: Ethiope Publishing House, p. 59