RESEARCH NOTES

POLITICAL ECONOMY OF LABOUR REFORMS IN NIGERIA: Implications for Sustainable Development

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In this note, we examine the political and economic implications of labour reforms of the social-political and economic institutions embarked upon by Nigeria at the wake of the new world economic order which compelled all nations to focus more on the developmental needs of their citizens. To this end, the paper asked three fundamental questions: (i) what were the shortcomings of the previous Labour Act that necessitated the reforms? (ii) To what extent will the new Act solve these problems? (iii) What could be done to the new Act to enhance its sustainability? In answering these questions the paper observed that the need to ratify the International Labour Conventions served as the motivation for the reforms. The explicit issues include voluntary membership of trade unions; ban on strike on issues that are not related to contract of employment and on workers in the services of sectors that are considered essential; registration of multiple labour centers; and centralization of powers of registration to Labour Minister. The central challenge to Nigerian policy makers is, therefore, to reconcile an effective and representative industrial relations system with the requirements of poverty reduction, economic stability and growth.

I. Introduction

The Federal Government of Nigeria (FGN) kick-started its reforms agenda in 2005 with the National Economic Empowerment and Development Strategy (NEEDS) as a blueprint for development. This document was the product of the United Nations reaction to the Washington consensus, which strived to enforce property right, maintenance of macroeconomic stability, integration with world economy and creation of sound business environment. The issues on the Washington consensus were in consonance with the International Development Targets (IDT), which was the base for the Millennium Development Goals (MDGs). With

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eight objectives, eighteen targets and forty-eight monitoring variables, developing countries are yet to fine-tune their policies and the institutional framework to meet the aspirations of the MDGs.

The NEEDS, therefore, represents an induced attempt at reengineering the economy for efficiency and effectiveness in planning and maximization of social welfare gains. The high point of the NEEDS programme was to remove any form of impediment to attainment of the objectives of efficiency and effectiveness in management of the economy, which had characterized the previous failed 'State'. The goals are to restructure, right-size, professionalize and strengthen government institutions and labour to deliver effective services to the people, with the effect that they will eliminate waste and inefficiency, and free up resources for investment in the infrastructural development and other social services (see the NEEDS document).

A key aspect of institutional reforms is to, among other things; promote the rule of law and stricter enforcement of contract. Although the reforms agenda did not specifically talk about the reforms of labour, it could be implied that the need to ensure efficiency effectiveness in the delivery of services may have necessitated the reforms of labour as part of the addendum to the reforms agenda. This probably informed the reforms of labour and the law governing the Labour Union. This is because labour is considered a central issue to any process of economic reforms.

The implicit issues emanating from the NEEDS document are monetization of fringe benefits, contributory pension scheme, National Health Insurance Scheme (NHIS) and ratification of the International Labour Conventions. The explicit issues include voluntary membership of trade unions; ban on strikes, on the issues that are not related to contract of employment and on workers in the services of sectors that are considered essential; registration of multiple labour centers; and the centralization of powers of registration to the Labour Minister. In this paper, we examine the socio-economic and political implications of the reforms by asking the following fundamental questions:

1. What were the shortcomings of the previous Labour Act that necessitated the reforms?
2. To what extent will the new Act solve these problems?
3. What could be done to the new Act to enhance its sustainability?

The rest of this paper is organized into five sections. Section II discusses the need for the reforms, while Section III is an analysis of the political economy of the reforms. In Section IV, the chapter proposes measures to enhance the sustainability of the reforms agenda, while Section V, conclude and make recommendations.

II. The Need for the Reforms

No doubt, the economy has been dominated by a lot of waste and gross inefficiency, in the way the business of the government was being conducted. The reforms thus became imperative in view of the need to reduce wastage in terms of man-hour and finance, and free-up resources for development of the economy. The governments, in most developing countries have so treat-functions between the employer and the employee, because of the central role played by these two actors through their contributions to growth of output and employment. As a result, the government strives to ensure that workplace relationship is not jeopardized to cause work-stoppages and hence contribute to the growth of national output.

The government does this by serving as a regulatory institution through its agencies and enactment of relevant laws either through the Act or Parliament as the case may be; during the civilian regime or decrees, as was the case under the military [Damachi and Fashoyin, (1986)]. Over the years, this interventionist role has been viewed with mixed feelings. This is particularly so in Nigeria where the government role is twofold as employer as well as intermediary between employers and employees, on the one hand, and that of being the single largest employers of labour, on the other.

In light of the above, the reforms had to address the issues of right-sizing reduction in the business of government through privatization and commercialization of public enterprises and the need to create an enabling environment for development and growth of the private sector. In this connection, all in-kind (fringe) benefits for public officers, such as subsidized housing, transportation and utilities including other welfare policies are monetized. Expectedly, the policy has reduced, drastically, the number of jobs in the public sector without a corresponding growth in the private sector. The government has again demonstrated its direct powers over the unions through the labour statutes entitled, An Act to Amend the Trade Union Act (2005), as amended and for matters connected therewith: This is one of such interventionist roles which has generated a lot of discussion in the economy. The discussions centered on the fol1owing high points, apart from those points mentioned earlier:

1. Voluntary membership of Trade Union;
2. No strike clause as prerequisite;
3. Multiple labour centers; and discretionary powers of Minister to register trade unions.

The voluntary membership of trade unions as contained in the Amended Act is an attempt to make it illegal for any trade union to enforce membership. In the present circumstance, a worker can be a member by virtue of his employment in a particular organization, industry, or by virtue of his professional. If a worker is in employment by virtue of being n employee of an organization, the new Act makes

it voluntary to be unionized. If the worker decides not to be in the union, his rights are not trampled upon, because whatever applies to the unionized workers within the same organization also +accrues to non-unionized workers. This is particularly applicable to labour in the public services and other quasi-public organizations.

The ban on strike clause is not a new law as it has always been part of the Labour Act which is being applied as and when found convenient by the Government, (e.g., the ASUU/ FGN face-off). No trade union or person is allowed to go on strike except on certain conditions which relate only to contract of employment (Section 30). The amendment bars people engaged in the provision of essential services from going on strike. The Act further says that, "any person, trade union or employer who contravenes the provision of this section, shall be guilty of an offence and upon conviction, shall be liable to a fine of #10,000 or six months imprisonment or both". Section 42 of the Act makes it unlawful for "any one" or more person to subject any other persons to any kind of constraint or restriction of his personal freedom in the course of persuasion.

The reforms agenda makes provision for multiple labour centers. By this Amendment, more central labour organizations can be registered. This, according to an official of the Trade Union Congress (TUC) in Nigeria, is the outcome of twenty-six (26) years of struggle, which implies that it is a welcome amendment. The merit of this amendment is that it will enhance compliance to the International Labour Organization (ILO) convention on freedom of choice of association and democratization of labour and provide a level-playing ground for all actors in the labour movement. This position may have been premised on the fact that a central labour organization is at variance with the principle of democratic governance. By this amendment, Section 33 of the TUA 1978, No. 22 ceases to be in force along with other provisions which galvanized it.

III. Economy of Labour Reforms and Trade Union Agitation

To what extent will the reform solve the problem of trade unions agitation for political and socio-economic emancipation? To answer this question, it is expedient to discuss the economics of the issues raised by the reforms. The first major issue concerns the voluntary membership of trade unions which abrogates the TUA, Sections 15-17, 1989. This is a clear decimation of 'trade unionism with 'the central objective of reducing the bargaining strength of labour and, by extension, 'reducing the power to secure the necessary finances from the check-off dues for the management of union activities.

The second is the issue of ban on strikes in sectors that are considered to be of national importance. This instrument appears potent in Nigeria where trade unions do not accumulate strike-funds to take care of the income-lost during the period of strikes in which the rifle is enforced. Its selective usage makes it inherently weak

to achieve its objectives and because its wage-effect is usually one of the conditions for returning to work. In the same vein, the new amendment imposes ban on workers in the sectors which provide essential services from going on strike. The merit of this amendment lays in the fact that continuity of service-provision is guaranteed for enhancement of citizenship welfare, apart from the fact that it's minimal output loss is minimized. Though this is a good development, it however, represents a gross violation of the workers' right of seeking redress.

The strike action within the context of employer-and-employee relationship is the ultimate form of civilized protest by workers on issues relating to the terms of employment or non-employment. All over the world, collective bargaining has been rated as the most civilized mean of settling trade union disputes [International Labour Organisation, (1989)]. A number of instruments have been legally prescribed for seeking redress but these cannot achieve the desired objectives, more often than not, labour employs strike to hasten the process of redress. No doubt, strike has its negative economic consequences [Barry & John (1986)], which ranges from loss of output occasioned by man-day loss to loss of financial resources both at the micro and macro levels.The Central Bank of Nigeria's (CBN's) statistics shows that in 2002 alone, about 87 per cent of the trade disputes declared led to work stoppages involving about 302,006 workers. The total man-day loss to the work stoppage included the six-month strike embarked upon by ASUU. Cumulatively, between 1970 and 2003, there were more than 5,714 trade disputes; 3,894 of these disputes resulted in strike involving about 9,843,933 workers and 70,273,500 man-day loss. If this is quantified in US $1.00 per man-day lost, the amount is colossal.

The cost of strike to the participants affects the parties' bargaining position and the resulted economy-wide costs. Such costs may have compelled an amendment to remedy the loss in the national output by criminalizing strike, as offenders are liable to imprisonment. This is a flagrant disrespect for ILO conventions on collective bargaining and the right to organize, which includes the right to go on strike. This not only tramples on the bargaining powers of the workers but, it also imposes limitation on the capacity of workers to withdraw services as a way of inducing the employers to accede to the demands of labour. The amendment further re-affirms that only those issues that are connected with terms of employment are legal. By implication, other national policies which are perceived by labour to be welfare-disenchanting policies do not concern labour and should not be seen as issues of industrial relations. This may have been premised on the fact that labour is neither a political party nor a pressure group. Therefore, it should not constitute itself into an opposition. These premises are not only inherently weak but are also not acceptable in civilized countries, especially where human rights activism is taken as opposition to the ruling class and where civil society organization is absent or ineffective.

Evidently, the frequency of the use of strike signals is an unhealthy industrial or labour relation. This is a manifestation of the failure of employer-and-employee relations, on the one hand, and the failure of the state and its apparatus as a third party in the industrial dispute resolution, on the other hand. Indeed, strike actions have become so incessant that public holidays have become subsumed under labour unrest-motivated work stoppage days with the loss of man-day taking toll on the economy that is just groaning to pick up. The incessant strike actions should not be a surprise since it is in all occasions that employers of labour and, in particular, the government is usually disconnected with critical issues in the labour logjam.

At different occasions, the employers of labour have ignored the rule of collective bargaining with flagrant disobedience of court orders.

One important face of the reforms is the fact that the new law appears to recognize those strikes that are connected only to disputes arising from the failure of collective bargaining processes and the fundamental breach of contract of employment on the part of employers, employees or trade unions. By implications, other public policy-induced strike actions which are public/worker welfare-oriented are considered criminal. Section 34: (i), (b) and (e) give the Central Labour Organization the power to disseminate information and advice on economic and social matter as well as render any other assistance.

The issue of increase in pump prices of petroleum products, for example, which in itself is incessant, is both an economic and social issue, especially if viewed from the perspective of the negative effect of price increase on the workers, which the NLC represents. Trade unions, in whatever form they find themselves, are out for welfare utility maximization. In this connection, any public policy, which reduces the welfare of workers, as is the case with increase in the pump prices of petroleum products, is a distaste to labour. Evidently, this position transcends contract of employment, and can be placed in the realm of politics and economics.

The burden and impact of any public policy is distributable on both the public and private sector actors or generally on the citizenry, most of whom are not in the paid employment. For the period of the strike, the labour suffers loss of income due to no-work no-pay rule, while the general public suffers loss of freedom of choice, occasioned by work stoppages. Apparently, both the public and labour will share the burden and the impact according to the relative elasticity of the demand for strike.

Against this background of universal losses, strike as an instrument of collective bargaining is fast losing its relevance and as a result, labour will need to go back to the drawing-board and re-strategize.

The third issue is on the recognition of more than one labour centers. This is also not new to labour management relations in Nigeria. If history is anything to go by, we could recall that before 1977, there were five central labour organizations with about 592 affiliate members.

TABLE 1

Central Labour Organizations in Nigeria before 1976

Centre		Affiliates
Nigerian Federation of Labour.	…..	3
Federation of Workers Council.	…..	28
Nigerian Workers Council.	…..	112
Nigerian Trade Union Congress.	…..	209
United Labour Congress.	…..	240
Total		592

Sources: Labour and Politics in Nigeria, (1981)

One striking feature of the distribution of the centers is their regional character, for instance, the Nigerian Trade Union Congress (NTUC) consisted of unions based in the Southeast, while the United Labour Congress (ULC) consisted of Southwest-based unions, and the Federation of Workers consisted of unions Council was based in the North. The Nigerian Workers Council comprising of 112 affiliate unions was based in the Lagos-Ibadan axis. This regional picture certainly had implications for the industrial relations system of that period-(ethnic biased) collective bargaining was likely to reflect regional bias.

The picture was marginally changed by 1977, because then there were more than 1,000 unions in Nigeria, representing not less than one million workers in both the public and the organized private sector. Among the nine hundred and ten (910) unions whose membership was known, only about 3 per cent had over five thousand (5,000) members each, about 39 per cent had up to five hundred (500) members each, while the majority, about 58 per cent, had not more than 250 members each [Cohen (1981)]. This structure reflects the pattern of organizations which were based on the company unions and plant level association and in some cases, with more than two unions in a firm [Fashoyin, 1984].

The implications for collective bargaining are: One, a principal implication is that bargaining will have to be done at the level of individual company union. Therefore, this makes it inherently difficult for the administration of a centrally formulated labour policy. This explains why in 1978,42 industrial unions with about

35 million workers, 15 management associations, and 4 professional groups were merged to the Nigerian Labour Congress alongside with Employers Consultative Association.This merger is understandable if the principle of coercion, which was needed for a unitary government of the military regime, was put into consideration. At that time, the evolution of industrial unions and employers associations had both facilitated the merging preference for an industry-wide bargaining arrangement in the private sector and the government parastatals through the medium of national Joint Industrial Council (JIC). The theoretical implication of the above, therefore, is that implementation of an effective labour policy depends in part on the structure of the economy and the social and political medium or matrix within which the policy will operate.

The fourth issue concerns those reforms that are not strictly targeting labour but have to do with the public institutional reforms with respect to size and quality of labour, growing the real sector with the central objectives of:

1. Right-sizing;
2. Professionalization of the civil service;
3. Strengthening government institution; and
4. Monetization of fringe benefits.

The growth of real sector of the economy as proposed by the reforms document could catalyze employment of labour in the sector and enhance the income level in the economy, in general. Up till 1999, the growth in the real sector has been in trickles. Not only has the aggregate growth rate been low but, sectoral distribution of growth has been uneven. A number of sectors which recorded growth rates in 2001 had slumped in 2002 and 2003 - reflecting a pattern of instability. This characteristic of sectoral growth performance may not create an enabling environment for employment of labour. The reforms are, therefore, expected to address these problems of growth in the real sector. The direction of policy thrust should be the sustenance of a high, but broad-based non-oil GDP growth rate, consistent with poverty reduction and employment generation, among others. But critical to growth performance is the improvement in state of public infrastructure with a view to reducing cost of production and achieving a more conducive environment. If the two leading non-oil sectors - Agriculture and Manufacturing-could grow as expected at the rate of 7 per cent and 6 per cent respectively over the reforms period (2004-2007), it is expected that such a growth would stimulate employment of labour.

The issue of right-sizing will cause a temporary setback for labour while the programme lasts, while it has been asserted that the size of government and its working force is overbloated. This is so because the government expenditures have been on the increase since the government is involved in many production and service delivery activities, in which it cannot do well. It was not also doing better in

those activities which are its primary responsibility role. This has manifested in a weakened public service with an over-expanded public expenditure profile, occasioned by high incidence of ghost workers and mushrooming of institutions. The attendant effect of this is manifested in inefficient and wasteful parastatals with accumulated arrears of salaries and pensions. These barrages of problems, no doubt, call for justifiable institutional reforms. These reforms portend a better chance for labour. First, they could ensure that workers' population is known with some degree of certainty, which could facilitate a sound statistical base for effective planning of workers' emoluments. Second, reforms could ensure that workers' final disengagement allowances are guaranteed through the contributory pension scheme.

IV. Enhancing the Sustainability of Reforms

What could be done to enhance sustainability of the reforms? Labour regulation describes a framework for individual and collective bargaining and establishes statutory workers and employers' rights. The latter are legal requirements regarding the characteristics of individual labour contracts which cannot be modified by voluntary agreements between the workers and employers. Examples of these requirements include the minimum wage, mandatory contribution towards pension scheme and job security as well as workplace protection (production of strikes). If statutory rights are centrally defined without proper participation by those who will be affected by them, there will be conflicts between the system of statutory rights and the results of voluntary negotiations.

It is customary in economics and especially in the government to measure progress by statistical aggregate and technical prowess [Obasanjo (2003)], and by doing so, overlook the basic objectives of survival, well-being arid contentment, which altogether constitute the bane of citizenship. For instance, the national income does not reveal the beneficiaries nor does the composition of that income share those values or those things that human beings consider important for their survival - freedom of choice, security against crime and physical violence, better nutrition and health care, access to education and information, and above all, a better working condition. Equally, the utmost importance is the need to participate in the economic and political activities of their communities.

The reforms agenda and in particular the labour reforms will require the pursuance of these people -centre goals for effectiveness and sustenance of the reform agenda. A number of issues raised above revolve around people, and in fact, around labour. The reform of Trade Union Laws takes labour as just ingredients in the baking of the national cake. It does not consider labour as an embodiment of the finality of the concept called Nigeria. The reforms appear to have limited concern of labour to issues related to conditions of employment or non-employment of labour. With relative poverty staring on every income-earning class and any public policy that

could accentuate the extent of poverty on the land should concern all the stakeholders, including workers. Any programme of human development should not pursue wealth and growth at the expense of human well-being.

It is no gain-saying that the alarming rate of public infrastructure decay and other agency interventions in the process of production and consumption has collectively increased the cost of freedom of choice. In this connection, for the sustenance of the reforms agenda, a programme of public infrastructure rebirth should be put in place. Such rebirth should focus on good maintenance programmes to enhance the quality of service delivery. It is widely accepted that labour standards have to be tailored to the level of development of each country. What has not been sufficiently explored are the proper mechanism and criteria to set such standards. Of the two direct channels of government influence on labour, workers' organization and legal mandates, the majority of developing countries have changed a mix of generous statutory rights and controls over the system of workers' representation. Progress towards a modern and effective system of industrial relations require closing the gap between statutory rights and the minimum working conditions that could result from voluntary negotiation between freely elected representatives of workers and employers.

The right to unionize is a basic statutory right of the workers, which should also be something voluntary. If unionization is indeed a free choice workers will unionize provided the benefits for doing so offset the cost. The choice is that of the worker and not of legislation. Naturally, one will expect workers to gain from collective bargaining because employers have a higher stake in the group than in the individual. From the legal point of view, there are four principal instruments which can influence union's bargaining power. These are:

1. Union recognition procedures (the right to represent workers in collective barging and the obligations of employers to negotiate with unions);
2. Statutory extension practices (which make and extend collective agreements to the third parties);
3. Union security (which makes affiliation or payment of dues compulsory); and
4. Regulations concerning industrial disputes (for example, the right to go on strike and lockout, and the right to replace striking workers).

These legal instruments affect the competitive or monopolistic character of unions, which, in .combination with the organization of the industry, ultimately determines the impact of unions in the economy. This is particularly so with one central labour organization. Therefore, the reforms, which allow for and recognizes multiple labour centers are most likely going to solve the problem.

If workers choose to unionize and can choose their leaders democratically, union leaders will work to maintain and expend support for workers. The multiple labour centers would work effectively if industries were oligopolistic in structure

because unions are more likely to organize at the plant level and negotiate common working conditions. Where union membership is mandatory or the right to represent workers is granted to majority of unions, as is the case with NLC, union activities will reflect attempts to maintain support for the authorities, and collective bargaining will represent the interests of the larger majority.

The Adam Oshiomole-led NLC is, however, one with a difference. This is because the leadership has made it inherently difficult to be hijacked by the government. Medium and small groupings will be forced to abide by agreements that are acceptable in their larger group. This will keep the medium and small groups at a competitive disadvantage and will stall their creation and extension. Argentina is a shining example of this. Nigeria has a long history of refusal to respect collective bargaining outcomes. The avalanches of disobeyed court orders lend credence to this. The present democratic regime attempts to be better but not without some dark spots. The rule of law has been acclaimed a sine qua non to a successful democracy; it is therefore, imperative that in order to sustain the democratic government, employers of labour and labour alike, should respect the rule of law.

V. Conclusion

Labour reforms in Nigeria are being pursued in the context of broad market-oriented reforms; the combination of which is expected to bring about dynamism in economic growth and employment creation through efficiency. It is, however, noteworthy that the reforms are being carried out amidst poverty pressure and threat of national discord. The central challenge to Nigerian policy makers is, therefore, to reconcile an effective and representative industrial relations system with requirements of poverty reduction, economic stability and growth. Apart from the mounting pressure from the International Labour Organization calling for the democratization of trade unions, two additional factors have added a sense of urgency to this challenge. First, the civil right movement sees the workers' right as a way to advance human rights. Second, in Nigeria there is a widespread perception that workers have not shared sufficiently in the dividends of democracy; and many hold the view that the incessant increase in the cost of living, the general decay of public infrastructure and the usual campaign that government alone cannot guarantee citizens' welfare are a denial of the right to life.

This study opines that a regulatory system should ideally exist to facilitate voluntary agreement between employers and employees, and it must recognize that any attempt to force alternative outcomes would have an enforcement cost. There are two important areas where the current labour reforms inhibits constructive discourse between employers and employees, dispute resolution mechanism and citizenship welfare issues without intervention. Employers and workers have more accurate estimates of the potential costs and benefit its prolonged disputes; and ra-

tional behavior typically leads them to take no industrial action, in spite of the freedom to take such an action.

It is noteworthy that the implementation of an effective labour policy depends in part on the economy and the social and political matrix within which the policy will take place.

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