



Employee Relations and Trade Unions in Africa

A Critical Approach

Edited by

Chima Mordi · Hakeem Adeniyi Ajonbadi
Olatunji David Adekoya

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*This book is dedicated to Prof. and Dr (Mrs) Mordi, Chief Justice K.D. and
Mrs Ungbuku, Tonbara, Nathaniel and Daniel.*
—Dr Chima Mordi

This book is dedicated to my late parents, family and friends.
—Dr Hakeem Adeniyi Ajonbadi

*This book is dedicated to my parents, girlfriend, mentors, family and friends
that have supported me on my academic journey thus far.*
—Dr Olatunji David Adekoya

Preface

Employment relations fundamentally examine the nature of the relationship between employees and their employers. Traditionally, studies of employment relations in Africa have been dominated by a concern about understanding the role of trade unions and how they collectively influence relationships within the workplace. A contemporary African outlook into the state of employment relations shows that there has been a shift in the excitement with trade unions. There is a need to consider the role of government actors and workers' experiences in both unionised and non-unionised organisations.

Furthermore, it is becoming crucial to consider employment relations and how international and national labour markets, including national and international employment actors and institutions, affect employment relations and the ways in which these relationships play out in different national contexts. It is important to note that employment relations in Africa is by no means homogeneous. Employment relations is widely taught in African universities, yet no book captures the variety of employment relationships in Africa. We believe that practitioners, students and managers alike will find it an essential tool that they will refer to again and again.

This book is useful for readers interested in comparative and international programmes across areas such as employment relations, industrial relations, human resource management, political economy, labour

politics, industrial and economic sociology, and regulation and social policy. This book addresses a cross-section of country studies, including Angola, Ghana, Kenya, Morocco, Nigeria, South Africa and Zimbabwe. The book covers the theoretical approaches, legal aspects of employment relations, essential policies, strategies and the changing social context to conflict resolution, mediation, employee engagement and workplace discipline.

Employee Relations and Trade Unions in Africa—A Critical Approach is an indispensable guide. The book gives a thorough foundation in the processes, context and practical application of employment relations and the skills needed to successfully manage people within the work milieu. While the book is essentially written for readers with no prior experience or knowledge of employment relations in Africa and ideas about the varying systems and contexts in Africa, it is a useful tool for experts in the field to keep up to date with contemporary issues around the subject.

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Olatunji David Adekoya

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Contents

- 1 Human Resource Management and Employee Relations in Angola: Challenges and Opportunities** 1
Maria Rita Silva
- 2 HRM Practices in Nigeria: Employee Relations and Trade Unions** 27
John Ebinum Opute
- 3 Union-State Relations in Zimbabwe: An Assessment of the Changing Relationship Between Trade Unions and the State** 49
Zedias Mutema
- 4 Employee Relations and Trade Unions in Ghana: A Changing Perspective** 71
Desmond Tutu Ayentimi and John Burgess
- 5 Employee Relations and Trade Unions in Kenya** 93
Asumwa Augustine Amboka

6	Understanding Employment Relationships and Trade Unions in South Africa	119
	<i>Oladele Seun, Muritala Awodun, Florence Chiwetu, and Adigun Oluwatimileyin</i>	
7	HRM Practices in South Africa: Diversity and Inclusion in Contemporary and Future Workplaces	143
	<i>Claude-Hélène Mayer</i>	
8	The Realities of Social Dialogue and Trade Unions in Morocco	159
	<i>Hakeem Adeniyi Ajonbadi, Chima Mordi, and Olatunji David Adekoya</i>	
9	The Legal Regulations of Employment Relations and Conflicts in Nigeria	175
	<i>Iroye Samuel Opeyemi, Tonbara Mordi, and Chima Mordi</i>	
	Index	193

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List of Tables

Table 1.1	Methodology, country, and industry	7
Table 1.2	Topics and findings	9
Table 2.1	Events/chronology of important industrial/employment relations initiatives and developments in Nigeria	43
Table 6.1	Summary of South Africa's trade unionism historical account	126
Table 6.2	Major trade unions in SA	129



1

Human Resource Management and Employee Relations in Angola: Challenges and Opportunities

Maria Rita Silva

Introduction: The Need for Organisational Research in Angola

Amidst calls for more organisational research in Africa (Mphahlele & Dachapalli, 2021; Visser, 2006), the extant literature mainly focuses on South Africa and Nigeria (Kolk & Lenfant, 2010), with scarce attention given to other countries, such as Angola (Silva et al., 2015). Investments in human capital represent essential strategies to promote socioeconomic development in Angola (International Monetary Fund [IMF], 2022). The main goal of the present chapter is to explore challenges and opportunities by systematically reviewing the human resources management (HRM) and employee relations (ER) research conducted in Angola. With that aim, this review has characterised this research, investigated its

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main findings, and proposed some directions for the future. The conclusions drawn in this review may be valuable for students and academics interested in the context and HRM practitioners, managers, organisations, and governmental agents operating in Angola.

HRM and Employee Relations

ER is conceived in the context of the social exchange of obligations and rights between employees and employers (Blau, 2006). As a result, a psychological contract of mutual expectations forms with the exchange of tangible and socioemotional outcomes, establishing formal and informal economic, social, and psychological connections between the employee and employer (Tsui & Wang, 2008). Positive ER is characterised by high-quality interactions and a sense of community within the organisation (Bulińska-Stangrecka & Bagieńska, 2021). Negative relations occur when employees are exposed to a negative workplace environment (Ehlers, 2017).

ER occurs at the individual level, in labour relationships between the employee and their direct supervisors, managers, or the organisation as a whole, and at the group level, in relations between employee groups and the organisation or groups of organisations (Ntimba et al., 2021). Group-level ER often includes representatives, such as trade unions and associations. This chapter focused mainly on the relations between the individual worker and the hierarchical organisational structures. Individual-level ER has been considered a primary driver of labour relations (Ehlers, 2017) and depends on the organisation's and its agents' capability to promote quality interactions with individual workers (Smith & Diedericks, 2016).

In an extensive review of ER, Kataria et al. (2020) identified six overarching themes: (1) the impact of HRM practices on how employees are treated in the workplace, focusing on factors such as the psychological contract, job satisfaction, work commitment, organisational justice, and workplace bullying; (2) high-performance systems, focused on flexible work policies, work-life balance, gender, and diversity; (3) HRM and performance, including organisational culture and climate, engagement, empowerment, learning, and development; (4) the impact of organisational change on partnerships and trade unions; (5) organisational

dynamics and changing roles of HRM, focusing on new employment practices, line managers' involvement, reward management, and employee retention; and finally, (6) HRM strategy, focusing on ER in small firms, flexibility, flexible recruitment and working practices, pension schemes, and health and safety.

According to Ostroff and Bowen (2016), HRM encompasses the content of organisational policies and systems related to the management of employees, the processes by which the contents are implemented, and the outcomes of those processes. HRM content, processes, and outcomes constitute the primary interfaces of organisational hierarchical structures and employees. Therefore, HRM has a determinant influence on ER, as it shapes selection, recruitment, promotions and reward experiences, access to training and development, and other aspects of labour relations. The effectiveness of the content, processes, and outcomes of HRM is influenced by the overall cultural values and practices and specific social context (e.g., Boehnlein & Baum, 2022). Therefore, to better understand HRM and ER in Angola, it might be useful to explore its socioeconomic and cultural characteristics.

Angola: Socioeconomic Characterisation

Angola is located on the west coast of Southern Africa. Following a history of Portuguese colonisation, the country reached independence in 1975, and after 27 years of civil war, it achieved peace in 2002. Since then, the MPLA has been the ruling party and was recently re-elected in August 2022 with approximately 51% of the votes.

As an emerging economy, Angola is characterised by low economic income and rapid growth, with liberalisation as the primary engine. Basic requirements drive development, institutions, infrastructure, macroeconomic stability, healthcare, and primary education (Hoskisson Eden et al., 2000). Decisions are sometimes defined by unwritten rules, created, communicated, and enforced outside official channels (Helmke & Levitsky, 2004), particularly in the more diversified informal domestic-oriented sectors, in contrast to the capitalist-based export-oriented sectors (Dibben & William, 2012).

Angola is the top oil producer in Africa, having overtaken Nigeria in August 2022 (Organisation of Petroleum Exporting Countries, 2022). Oil production contributes 34% of the country's gross domestic product (GDP) and 96% of total exports (IMF, 2022). Some suggest that the abundance of natural resources has weakened the development of other sectors, negatively affecting growth and diversification (IMF, 2022).

The country reached a staggering 15% GDP growth in 2005 (World Bank, 2022). However, its economy was severely affected by the 2008 crisis. Since then, aggravated by the COVID-19 pandemic, lower oil prices, lack of diversification, and national currency issues have slowed growth (IMF, 2022). Nevertheless, after a contraction of 5.5% in 2020, the country's GDP grew by 0.7% in 2021 and is expected to grow by approximately 3% in 2022 (African Development Bank, 2022).

Regarding social development, Angola ranks 148th out of 189 on the Human Development Index (United Nations Development Programme, 2020). Life expectancy is approximately 62 years, with a median age of 16 and high birth and infant mortality rates (Central Intelligence Agency, 2022). Approximately, 40% of the population lives below the poverty line, most without access to drinking water, sanitation, or healthcare (Vincente et al., 2016).

Managers and students identified corruption and difficulties in access to land as the main obstacles to business and development (Cruz, 2011). The World Bank's (2020) "Doing business report" places Angola 177th out of 190 countries. As a consequence, improving macroeconomic stability, governance, private sector credit, cross-border trade, infrastructure, and investing in human capital have been suggested as the main avenues for increased socioeconomic development (IMF, 2022).

Cross-Cultural Characterisation

Despite the relative lack of research on Angola, some cross-cultural studies have included the country. For example, Hofstede et al. (2010) found very high levels of power distance and indulgence and high levels of collectivism, femininity, and short-term orientation. According to the authors, as people in Angola tend to accept a hierarchical order and

centralisation, the ideal manager in Angola would likely be a benevolent autocrat. Even if they do not work often, there is an emotional need for rules to avoid uncertainty, and security is an important motivator. Generally, in the country, there are low levels of savings and a focus on short-term goals and results, having fun, and an optimistic outlook on life. People tend to work to live and to value incentives such as free time and work flexibility. Finally, according to the authors, the country is characterised by close long-term commitment and loyalty to in-groups; therefore, management decisions should consider group belonging.

According to Rodrigues (2007), in Angola, people are caught in an ongoing dynamic between family solidarity ties and emergent forms of social differentiation. Status depends on integration in a family network and the capacity to manage reciprocities and solidarity. However, the adoption of urban lifestyles, wealth, family, and political networks has contributed to unequal access to assets, services, and opportunities. Therefore, the emergence of new individualistic values is framed by the fight for survival and the desire for the ostentation of material possessions (Cruz, 2011).

Methodology

Considering the deficits in social and economic development in Angola (World Bank, 2020; United Nations Development Programme, 2020), there is a need to invest in human capital to promote development in the country (IMF, 2022). Therefore, this study aims to contribute to exploring challenges and opportunities by systematically reviewing the HRM and ER research conducted in Angola.

We conducted a systematic review in the bibliographic meta-database EBSCO discovery focusing on articles published in peer-reviewed journals. We included all articles up to 23 September 2022, without specifying a time range, in which the title, abstract, or keywords contained the following search terms: Angola AND employee relations, Angola AND human resources management or personnel management, Angola AND organisational behaviour, and Angola AND job satisfaction or work satisfaction or employee satisfaction.

Excluding duplicates, the search yielded 51 studies. By analysing the abstracts, we selected empirical articles that collected data from individuals, were conducted in or about Angola, and focused on ER or HRM. Thus, we excluded other types of publications, reviews, and topics (i.e., micro-credit, history, unrelated governmental policies, etc.). This resulted in the selection of the 28 studies included in this systematic review.

Methodological Characterisation of Research on HRM and ER in Angola

Taking into consideration the calls for more research in Africa (Mphahlele & Dachapalli, 2021) and Angola in particular (Silva et al., 2015), it may be interesting to explore the evolution of the number of publications found. There seems to be a relative growth in publications ranging from one article in 2009 to five in 2019, followed by a sharp decrease in 2020 ($N = 1$), perhaps due to the COVID-19 pandemic. Nevertheless, by September, three studies had been conducted in 2022. Even though these seem like modest numbers, overall, more research is currently being conducted in Angola than before 2009.

Of the 28 studies found, the majority were published in English ($N = 21$), four were published in Portuguese, two in Spanish, and one in both English and Portuguese. Five studies were published in the *International Journal of Human Resource Management*, two in *Human Resources for Health*, and the remaining in various other journals.

Regarding methodology, 13 studies were quantitative, all applying self-response questionnaires; in addition, two used secondary quantitative data, and one used vignettes. There were ten qualitative studies using or combining interviews ($N = 7$), focus groups, observation ($N = 4$), and secondary data ($N = 7$). Finally, there were five mixed-methods studies, all using self-response questionnaires and interviews, and some also utilised secondary data ($N = 3$).

To better characterise HRM and ER research in Angola, it might be relevant to explore the contexts in which it is being conducted. Table 1.1 presents the 28 studies included in this review organised by methodology, country, and industry.

Table 1.1 Methodology, country, and industry

Methodology	Country	Industry	References
Quantitative	Angola	Health	Cairrao et al., 2019
		Education	Veloso et al., 2017
		Diamond mining and hospitality	Francisco & Claro, 2014 and Duarte et al., 2019
		Different occupations	Silva et al., 2015 and Francisco & Peixoto, 2019
		Different occupations	Orlando et al., 2022 and Zoogah, 2016
Qualitative	Angola and African countries	Different occupations	Rego et al., 2020; Fonseca et al., 2017; and Mourao et al., 2022
	Angola and Portuguese-speaking countries	Different occupations	Eccher & Duarte, 2018
	Angola and European Countries	Health	Zdravkovic et al., 2020
	Across the world	Health	Oliveira & Artmann, 2009; Mendes et al., 2013; Marchi-Alves et al., 2013; and Macosso et al., 2022
	Angola	Health	Abelha et al., 2020; Villalba et al., 2019 and Peters, 2019
Mixed-methods	Angola and African countries	Education, agriculture and livestock, and NGO	Cunha et al., 2019
		Different industries	Kolk & Lenfant, 2010 and David & Luiz, 2015
	Angola	Different occupations	Vicente et al., 2016; and Macaia & Lapão, 2017
		Health	Chipuca, 2020; and Mateus-Mateu, 2018
Angola and African countries	Education and public administration	Cailhol et al., 2013	

As illustrated in Table 1.1, most studies focused solely on Angola (N = 18). Of those, most did not specify where the data were collected (N = 5); three were carried out in Luanda, Benguela, and Cabinda, respectively, and the remaining were carried out in Lobito, Kwanza, Sumbe, and Lunda Sul. Of the ten studies that included other countries, the majority included African countries (N = 5), some included Portugal and Brazil (N = 3), and the remainder included other European countries or countries in various regions of the world (N = 2). Most collected data were from individuals working in different industries (N = 11). Some focused on a single industry, such as public administration, hospitality, diamond mining, agriculture and livestock, or NGOs (N = 9). A large proportion focused on health practitioners and managers (N = 9), and a few focused on teachers and managers working in education (N = 3).

HRM and ER Research in Angola: Main Findings

As illustrated in Table 1.2, human resources development and retention was the most discussed topic. Of the six studies on the topic, five had been conducted in the health sector. A comparative study of five African countries found that when compared to the World Health Organization thresholds, Angola has a shortage of physicians and an excess of nurses, although most nurses are not adequately qualified (Cailhol et al., 2013). Further illustrating this, Mendes et al. (2013) reported a lack of infrastructure and qualified human resources when describing healthcare and nursing in the province of Luanda. For example, approximately 60% of births were carried out without assistance, and only approximately 1.9% of nurses had completed a higher education degree. According to the nurses, most had quit studying due to economic difficulties, lack of training, and the distance required to travel to education programmes. Further exasperating was the inconvenient commute, with most nurses alternating 24 hours of work and rest. The primary limitations included a lack of access to equipment and drugs, insufficient qualified human resources, and a shortage of patient transportation.

Table 1.2 Topics and findings

Topics	Findings
Development and retention	<p>Nursing education institutions face challenges related to a lack of infrastructure, trained HR, material resources, and bureaucracy; the valuation of nursing professionals would imply cultural and attitude changes (Marchi-Alves et al., 2013)</p> <p>The lack of human resources and effectiveness could be mitigated by HRH policies focused on improving health teaching and management, empowering leaders, and implementing management control and quality assurance systems (Macosso et al., 2022)</p> <p>Agricultural cooperatives in Angola may display insufficiencies in management due to the absence of collaborative culture and identity sustained in effective training processes (Villalba et al., 2019)</p> <p>Countries have been implementing HRH strategies to manage the lack of health HR (i.e., formalising pilot initiatives, increasing HR training, mitigating internal migrations), sometimes in collaboration with international organisations (Cailhol et al., 2013)</p> <p>Retirement, migration, and lack of public recruitment tenders lead to a lack of health HR. The situation is better in rural areas. Lack of proper incentives, retention, social support, and public funding contribute to the problem (Macaia & Lapão, 2017)</p> <p>Lack of human, material, and financial resources in health. Insufficient qualifications, excessive work hours, low remunerations, and nonvaluation of professionals tend to lead to unsatisfactory work environments and discouraged HR (Mendes et al., 2013)</p>
Diversity management	<p>In comparison with Portuguese, African students and managers expressed more positive attitudes towards older workers, while, at the same time, also discriminating more often against older workers in HRM scenarios (Rego et al., 2020)</p> <p>Women were less motivated to seek leadership positions and more likely to report experiences of being mistreated in the workplace. Women were considered at a disadvantage for leadership and research positions (Zdravkovic et al., 2020)</p> <p>Tribal identity was negatively related to tribal diversity and firm performance. HRM diversity policies mediated the relationship between tribal diversity and organisational performance (Zoogah, 2016)</p>

(continued)

Table 1.2 (continued)

Topics	Findings
Work attitudes behaviours	<p>Supervisor credibility and trust, open, and honest communication, development opportunities, fairness, and work-family balance (i.e., authentic climate) showed a positive relationship with job satisfaction. Satisfaction was positively related to commitment and performance and negatively to turnover intentions (Cairrao et al., 2019)</p> <p>Most teachers considered they were motivated, had adequate performance, and were satisfied with the work environment and relationship with school management, but were unsatisfied with salary, access to work resources, and the number of students per class (Chipuca, 2020)</p> <p>There was a relationship between job satisfaction, organisational commitment, and turnover intentions (Francisco & Claro, 2014)</p>
Scale validation	<p>Validation of the work design questionnaire (Gonçalves, 2015; Morgeson & Humphrey, 2006). Managers showed higher autonomy, information processing, variety of tasks, skills, and interactions outside of the organisation, and less physically demanding tasks (Francisco & Peixoto, 2019)</p> <p>Validation of the professional development short scale (Mourao et al., 2022)</p> <p>Validation of the job satisfaction scale of the European Common Assessment Framework (European Public Administration Network 2006; Veloso et al., 2017)</p>
Leadership and decision-making	<p>In Angola, leaders were shown to navigate several paradoxes, namely, organising (empowering vs centralising), belonging (welfarism vs paternalism), learning (qualifying vs controlling), and adapting (muddling through vs improvisation) (Cunha et al., 2019).</p> <p>South African multinationals devolved (delegated to line managers) more transactional functions than transformational ones. Increasingly, transactional functions are outsourced, and transformational items are devolved to subsidiaries, depending on skills and resources available, employment of more skilled HR professionals, and establishment of Centres of Excellence at headquarters. The impact of geographic distance was minimised, but the greater the cultural, economic, and administrative distance between headquarters and the subsidiary, the greater the devolution of functions (David & Luiz, 2015)</p>

(continued)

Table 1.2 (continued)

Topics	Findings
Performance appraisal	<p>The characterisation of the actual situation of the competency-based performance evaluation for superior technicians showed a lack of alignment between organisational strategy, HRM, and performance evaluation indicators (Mateus-Mateu, 2018)</p> <p>Lack of effectiveness in the implementation of teacher appraisal related to a lack of training and expertise and teachers perceiving the process as unfair and useless. Teachers perceived they were not accurately appraised and that the evaluation system and regulations had little effect on career development or rewards (Abelha et al., 2020)</p>
Quality assurance	<p>In both private and public services health services, the patients' leading causes of concern included: time-consuming, nonhumanised attendance, delays in providing information to family; in public services, also a lack of bathroom cleaning and small attendance rooms (Vicente et al., 2016)</p> <p>Low quality of healthcare services (one physician per 3356 individuals), poor working conditions, and low motivation. A call for formulation and implementation of policies for improvements and the suggestion that that would require involvement by relevant actors and additional research on other health professions (Oliveira & Artmann, 2009)</p>
Corporate social responsibility	<p>Perceptions of company engagement in social CSR practices explained employees' customer orientation. The relationship was partially mediated by job satisfaction (Duarte et al., 2019)</p> <p>Some CSR activities and reporting of multinational organisations may not be adapted to the context. Social and environmental conflict of underlying org. activity receives limited attention in CSR. Some organisations show awareness but outline power limitations and dilemmas inherent to their presence (Kolk & Lenfant, 2010)</p>

(continued)

Table 1.2 (continued)

Topics	Findings
Expatriates	Language proficiency, perceived level of safety, and cultural attraction to the country influenced the evaluation of specific expatriate locations, including Angola, and willingness to accept expatriate job offers (Eccher & Duarte, 2018) One-third of expatriates in Angola experienced clinical psychological distress. Younger age and being born in sub-Saharan Africa were associated with lower levels of expatriates' psychological well-being (Fonseca et al., 2017)
Entrepreneurship	Career expectations of entrepreneurs were driven by motivation and opportunity, especially for males; the need for achievement and willingness to stand out were the main drivers of expectations; they may prefer independence over employment status (Orlando et al., 2022)
Cultural values	The difference between cultural values and practices suggests that in Angola, people perceive higher than desired levels of assertiveness and power distance and lower than desired levels of humane orientation and uncertainty avoidance (Silva et al., 2015)
Dismissal and reassignment	Local workers who were dismissed or resigned from a postwar democratisation NGO asserted independent moralities about international development work. From their perception, the same institutions that aim to combat it on a global scale may leave intact unequal relations of power within organisations (Peters, 2019)

In the province of Cabinda, Macaia and Lapao (2017) found an imbalance in human resources distribution between urban and rural areas. Rural areas only had essential or medium-level human resources, foreigners secured many of the available services, and there were difficulties in developing and implementing retention strategies to retain doctors and nurses. Leadership empowerment and management information system efficiency were considered essential by health managers to address HR imbalances and promote service quality (Macosso et al., 2022).

Three studies discussed diversity management, workplace attitudes, and behaviours or presented scale validations (i.e., work design—Gonçalves, 2015; professional development—Mourao et al., 2022; job

satisfaction—Veloso et al., 2017). Research on diversity management suggests that women (Zdravkovic et al., 2020) and the elderly (Rego et al., 2020) may face some workplace discrimination in Angola and the need for HRM diversity policies to manage tribal diversity (Zoogah, 2016). The main workplace attitude explored was job satisfaction, which was shown to be positively related to trust, communication, fairness, work-life balance, and commitment and negatively related to turnover intentions (Cairrao et al., 2019; Francisco & Claro, 2014).

Two studies discussed leadership and decision-making, performance appraisal, quality assessment, CSR, and expatriates. Finally, one study examined entrepreneurship, cultural values, and dismissal or reassignment. This research is described in Table 1.2 and discussed in the following sections.

Opportunities and Challenges in HRM and ER

Planning, Implementing, and Evaluating Development and Retention Strategies

The main challenge identified was a relative lack of training and development strategies and retention of qualified human resources. This situation seemed especially permeant in the health sector, with generalised scarcity and severe imbalances in the distribution of qualified healthcare practitioners (Marchi-Alves et al., 2013; Macaia & Lapão, 2017). This may also apply to the education sector, with teachers complaining about the number of students per class (Chipuca, 2020). Furthermore, these sectors seem to face shortages of infrastructure, material, and financial resources (Chipuca, 2020; Mendes et al., 2013).

This challenge may present opportunities to improve training and development in the country. An integrated effort of medium and long-term planning, coupled with financial investments, would be helpful in formulating strategies to address the shortage of qualified human resources. To be effective and perceived as legitimate, the planning and implementation of those strategies should include not only the participation of national government and provincial administrative offices but also

the main stakeholders in the field. In the health sector, the planning and implementation process might involve managers in primary, secondary, and tertiary healthcare institutions, doctors, nurses at different levels, and other staff and patients (Macosso et al., 2022). In the education sector, it might include education managers at different levels, teachers, and other staff, students, and families (Abelha et al., 2020).

Similar to other countries in the region, these strategies might involve targeted vocational training for experienced staff already working in the field, combined with long-term investment in higher education for junior staff and future generations (Cailhol et al., 2013). It has been suggested that alternative education delivery methods and the expansion of tailored vocational training with strategies focused on unskilled workers, youth, and women might be necessary to develop a more adaptable labour market and reduce the skills mismatch (IMF, 2022). These efforts might benefit from involving middle and higher education institutions, as well as international developmental organisations (Cailhol et al., 2013). Finally, to retain qualified human resources, especially in rural areas, some authors suggest the need for regular public recruitment, considering retirement rates and policies to address the internal migration and fixation of staff and students, including convenient housing and commute (Macaia & Lapão, 2017; Mendes et al., 2013).

Another related challenge identified in this review concerned the implementation of evaluation systems, such as performance appraisal of employees and quality assurance of services. In Angola, public administration workers considered there to be a lack of alignment between strategy and performance evaluation indicators (Mateus-Mateu, 2018). Teachers found performance appraisal procedures unfair and useless due to the lack of expertise of evaluators, the lack of involvement of teachers in definition, the relevance of indicators, and the impact of the process on rewards and career development (Abelha et al., 2020). Regarding quality assessment, both patients and private and public healthcare providers evaluated the quality of the services as low, with calls for formulation and implementation of improvement policies with the involvement of relevant stakeholders (Vicente et al., 2016; Oliveira & Artmann, 2009). Several studies have suggested specific strategies for involving

stakeholders in evaluation processes in Angola (Abelha et al., 2020; Mateus-Mateu, 2018; Vicente et al., 2016; Oliveira & Artmann, 2009).

The evaluation systems present opportunities for development only if they go beyond mechanical enactments of bureaucratic processes. This is relevant across situations but perhaps even more so in understaffed, underbudgeted contexts, such as Angola, as described by the research analysed. Evaluation should contribute to improving services and providing a fair assessment of individuals' performance. To be perceived as fair, the definition, implementation, and evaluation of policies should include the participation of those involved. If so, implementing quality assurance systems in Angola, combined with the reinforced use of management tools and empowerment of leaders, may promote the effectiveness of the development and retention of qualified human resources and contribute to service effectiveness (Macosso et al., 2022).

Promoting Positive Leadership and Participation

Cunha et al. (2019) found that to be successful, leaders in Angola need to be ambidextrous. That is, they need to navigate several tensions and paradoxes in terms of how to best organise, adapt, and promote belonging and learning. One of those tensions is between empowering followers by involving them in decision-making and delegating tasks or centralising with a lack of participation in decision-making, excessive hierarchical levels, bureaucracy, rules, and internal policies. Based on the analysis of differences between cultural practices (i.e., how people think things are) and values (i.e., how people think things should be), Silva et al. (2015) suggested that workers in Angola might prefer lower levels of power distance in organisations, that is, less centralisation and autocratic leadership styles.

Other paradoxes identified by Cunha et al. (2019) included qualifying versus controlling, a tension between valuing followers and promoting motivation, or leading by fear and being averse to criticism. Welfarism versus paternalism refers to a tension between sensitivity to workers' well-being and respect for community and family life or imposing limits and boundaries. Finally, muddling through versus structured improvisation is

a tension between focusing on the short term or the need for structure and planning. Analysing similar dynamic tensions, findings by Silva et al. (2015) suggest that workers in Angola might prefer lower levels of assertiveness (i.e., less confrontation and aggressiveness) and a more humane orientation (i.e., being fair, altruistic, and kind to others) and uncertainty avoidance (i.e., consistency and norms and procedures to manage unpredictable events).

Regarding delegation and participation in decision-making, in a study of South African multinational organisations operating in Angola and other countries, David and Luiz (2015) showed that transactional tasks (i.e., repetitive administrative activities, such as documenting and maintaining employee records) tended to be delegated more to local line managers than transformational tasks (i.e., strategy definition activities). The delegation of transformational tasks was partly related to local skills and resources. This may also apply to levels of participation and delegation in local organisations.

The tensions described above are consistent with Hofstede et al. (2010) cultural description of the country as high on collectivism and power distance and may be related to the contradictory perspectives about leadership and participation in the region. These perspectives oppose an “Ubuntu” management perspective (Mbigi, 2002), with core values such as respect, group solidarity, and interdependence, honouring seniority, being flexible and accommodative, and treating workers with dignity and respect (Muchiri, 2011). The perspective of African leadership styles is autocratic, with large hierarchical bureaucratic and mechanistic structures, top-down communication (Beugré & Offdile, 2010), centralised power structures, high degrees of uncertainty, an emphasis on control rather than performance, and resistance to change (Wanasika et al., 2011). This tension may also partly explain why some entrepreneurs prefer independence over employment status (Orlando et al., 2022).

In summary, in Angola, there seems to be an ongoing conflict between autocratic and more participative leadership styles, in which issues of power relations, participation in decision-making, delegation, communication, and group belonging are underlined. The definition of culturally sensitive leadership styles may present both a challenge and an opportunity for the development of HRM and positive ER in Angola.

Promotion of Positive ER and Employee Well-Being

Organisations' prioritising the well-being of employees is relevant for developing healthy employer-employee relations (Holtzhausen & Fourie, 2009). It has been shown to stimulate employee motivation and loyalty and to promote employee engagement in achieving the best results for their organisation (Tansel & Gazioglu, 2014). Job satisfaction is one of the factors that contributes to positive mental health and well-being (Bulińska-Stangrecka & Bagieńska, 2021). This may be especially relevant, considering that one-third of expatriates in Angola were shown to experience psychological distress (Fonseca et al., 2017).

There was also evidence of low levels of job satisfaction among local workers in Angola. For example, in the province of Benguela, Chipuca (2020) found that teachers were motivated and satisfied with the work environment and the relationship with school management but unsatisfied with salary, access to work resources, and the number of students per class. A study with nurses also showed dissatisfaction with excessive work hours and low remuneration (Mendes et al., 2013).

Factors such as work hours and remuneration are part of a social exchange process (Blau, 2006) that represents an essential driver of the quality of the relationship between employee and organisation. These and other factors, such as work-life balance policies, leadership, and fairness, signal to the employee not only tangible rewards but also the respect and valuation the organisation affords them as members of the group (Tyler & Blader, 2003). This, in turn, may affect employee motivation and morale. In Angola, research shows that professionals' low organisational and social valuation may lead to unsatisfactory work environments and discourage workers (Mendes et al., 2013). However, some suggest that the valuation of specific professionals, such as nurses, may imply cultural and attitudinal changes (Marchi-Alves et al., 2013). It seems that the management of ER in Angola might present some challenges. Nevertheless, an increased prioritisation of employees' needs might also offer opportunities for promoting positive workplace attitudes and behaviours.

We have discussed the tension between autocratic and more participative styles of leadership. In terms of implications for ER, some studies in Africa suggest that autocratic managerial approaches have negative consequences for employees' work motivation, satisfaction, performance, and organisational effectiveness (Sartorius et al., 2011). In a study of Angolan medical supply repository workers, Cairrao et al. (2019) also found that job satisfaction was related to workers' perceptions of supervisor credibility, trust, and communication, as well as to organisational fairness and work-life balance policies. Additionally, they found that satisfaction was positively related to workers' commitment and perceived performance and negatively related to turnover intentions. A study of diamond mining employees in Angola corroborates these relationships between job satisfaction, organisational commitment, and turnover intentions (Francisco & Claro, 2014).

Multinational organisations' engagement in CRS was associated with higher levels of customer orientation and job satisfaction (Duarte et al., 2019). However, CRS activities and reporting were often considered not adapted to the local context or the social and environmental conflicts underlying organisations' activities (Kolk & Lenfant, 2010). In addition to these factors, power dynamics also seem important in the relationships between international organisations and local workers (Peters, 2019).

To develop positive ER, it is necessary to ensure organisational fairness, adequate management of conflicts, and the building of a climate of trust, which in turn tends to foster positive employee attitudes, such as job satisfaction and motivation, and behaviours towards achieving organisational outcomes (Sahoo & Sahoo, 2019). These aspects seem to present some challenges for organisations in Angola. Nevertheless, they may also constitute opportunities to promote both increases in the well-being of employees and the effectiveness of organisations.

Limitations and Directions for Future Research

This systematic review does not claim to be an exhaustive representation of all organisational research conducted in Angola; it merely aims to provide a representative sample of the organisational research on HRM and

ER in the country. The inclusion of bibliographic databases other than EBSCO discovery or cross-referencing of sources cited in the papers might have revealed other worthwhile studies. Nevertheless, we believe this review provided a broad characterisation of HRM and ER research in Angola.

If we consider that HRM encompasses content, processes, and outcomes (Ostroff & Bowen, 2016), it is possible to observe that most of the studies reviewed tended to focus more on HRM outcomes than on content and processes. The effectiveness of HRM's content, processes, and outcomes is influenced by the specific social context and overall cultural values and practices (Boehnlein & Baum, 2022). Therefore, more studies on the content of HRM policies in Angola and the processes by which these policies are implemented would be helpful to promote the development of human capital in Angola.

The main challenges and opportunities identified in the development and retention of human resources, leadership and participation, and ER and well-being. Regarding the development and retention of human resources, more studies about the actual processes of policy planning, implementation, and evaluation would be valuable, including research about intervention and policy application. Regarding leadership and participation, future research might investigate the tension between autocratic and more participative leadership styles, namely, how to develop culturally sensitive forms of participation. Additionally, research on how to improve the social exchange relationship between employers and employees, focusing on promoting positive workplace attitudes and behaviours, could improve the understanding of the relationship between ER and the well-being of workers in Angola.

Finally, it is important to note that some of the major topics identified in ER research (Kataria et al., 2020) were absent in this review. Namely, organisational factors such as culture and climate, flexible work policies including work-life balance, partnerships, trade unionism, and health and safety. Factors in the exchange relationships are established between employees and employers, such as the psychological contract, organisational justice, reward management, empowerment, or learning and development. More research on these topics might improve our understanding of how HRM affects ER in Angola.

Conclusions

The main goal of this systematic review was to explore the challenges and opportunities suggested by HRM and ER research conducted in Angola. Most of the research reviewed focused on the development and retention of human resources management, especially in the health sector. Other topics include diversity management, workplace attitudes and behaviours, scale validations, leadership and decision-making, performance appraisal, quality assessment, CSR, and expatriates.

The main challenges and opportunities found were, first, planning, implementing, and evaluating development and retention strategies, namely, how to improve the policies and processes, including the performance evaluation of employees and the quality assurance of services. Second, effective leadership and participation should be promoted, and strategies for leaders to navigate the tension between autocratic and participative styles in terms of power relations, participation in decision-making, delegation, communication, and group belonging should be found. Finally, employee well-being and ER should be promoted to improve workplace attitudes and behaviours. Understanding how to face these challenges and take advantage of the opportunities presented might contribute to developing human capital in Angola.

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2

HRM Practices in Nigeria: Employee Relations and Trade Unions

John Ebinum Opute

Introduction

Africa continues to remain a significant continent in terms of its global, political, and economic significance, but there is sparse literature reflecting this development. This book chapter thus contributes to this awareness, focusing on the emerging developments in trade union activities as well as the associated issues relating to employee engagement and participation. Nigeria continues to witness changes because of the continuing boom in population growth coupled with the steady increase in urbanisation having a recognisable effect. The economic and societal structures of the majority of developing economies, such as Nigeria, lack consistent development (Nwaogaidu, 2012, Nwagbara et al., 2013). Evidently, the state of Nigeria's socioeconomic development will attract a social partnership arrangement between trade unions and employers in the foreseeable

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future because of the lack of sophistication in work organisations, such as flexible working patterns and performance-based pay approaches.

From the perspective of negotiations and collective bargaining, these are matters that attract economic and well-being issues. Impliedly, these contextual matters serve as trajectories for the increased importance of trade union presence in many developing economies. Additionally, several authors (Beugre & Offodile, 2001; Jackson, 2004; Opute, 2019, 2020; Opute & Mahmoud, 2022) share the view that collectivism remains a crucial cultural disposition in Africa and that the related approach to employment relations is paternalism. As is commonly advanced and advocated, unity in strength through collectivism continues to be a weapon for collective bargaining in many developing economies.

Interestingly, Nigeria is a complex and diverse country with varied cultural challenges composed of differences in the socioeconomic and political leanings as respective states manifest. In essence, the book chapter makes an important contribution that should encourage additional research and publications on these HR (and related) functions. The book chapter understandably recognises this in the detail it provides with respect to the evolving roles of trade unions as well as the evolving participatory structures, allowing employees and employers to achieve mutually rewarding employee relations and embracing the right for collective representation of employees through trade unions—a fundamental democratic feature that is by no means universal in African nations.

Finally, this book chapter is intended to demonstrate the crucial role of trade unions and the imperative of employers to strategically position the HR function to identify the nature of the collective bargaining patterns that are emerging. In a competitive business environment, understanding this development is important because trade unions remain important structures for developing economies because of the cultural settings that encourage collectivism, and the socioeconomic challenges require a proactive nature that will serve as a panacea for company efficacy.

Methods

The book chapter centred the data collection on several workplace and industrial groupings examples, focusing on recent changes and ongoing and emerging developments underpinned by employee relations and labour matters as driven by trade unions. Furthermore, it considers the emerging collective bargaining patterns that are noticeable in private and multinational organisations in Nigeria. Additionally, secondary data (using professional networks) were collected to obtain and capture sample company handbooks, policies, collective agreements, and related voice and/or employee participatory schemes/documents with participating organisations predominantly in the Western axis of the nation, which is the business hub of the nation.

Furthermore, empirical data were gathered to buttress growth and increased understanding within the trade unions through studies of developments within some prominent sectoral groupings, annual reports of Nigeria Employers' Consultative Association (NECA), focused group interviews with zonal officers of the Nigeria Employers' Consultative Association (NECA), National Officers of the Nigeria Labour Congress (NLC) (who are familiar with developments with respect to trade unions and their respective trade groups), and some HR practitioners during the annual summits (2018 and 2019) of the HR Expo Africa, in Lagos, Nigeria—an annual HR conference (Opute, 2019).

In effect, the book chapter's methodology concentrated on a wide field study capturing the views of crucial stakeholders in the employment relations setting in Nigeria.

Background

An important pillar of democracy is the concept of an expression of freedom and the right to organise appropriate structures to engage in collective bargaining; in furtherance of this, the International Labour Congress (ILO) regards the freedom of association and the right to organise and bargain collectively as a fundamental human right (ILO, 1981). Trade

unions come across as organised associations of workers in a trade, group of trades, or profession with the core aim of galvanising its members to protect and advance the interest of its members in the workplace and are usually independent of employers. It is also important to note that trade unions could also have varied interpretations depending on the perception of workers as well as the legal framework provided by the country (ILO, 1998). According to Fashoyin (1992), trade unionism in Nigeria was propelled and promoted by the nationalist struggle for independence, and it was a development common to all colonies irrespective of the continent. In Nigeria, the first of the formal unions to develop was the civil service union founded in 1912 and was soon followed by the Nigerian Railway native staff union in 1919.

Many scholars (Olorunfemi, 1997; Fashoyin, 1992; and Fajana, 2000, 2007) attest to the fact that the Nigeria Civil Service Union dominated the trade union scene until 1929. The Nigerian Railway Workers' Union, Railway Technical Staff Union, and the Marine African Workers' Union later followed. The formation of the Nigerian Union of Teachers (NUT) in 1931 marked the initial effort to organise private sector workers (Olorunfemi, 1997). Obviously, the key purpose of the formation of these unions was to protect the interests of their members. However, in 1949, the Trade Union Congress of Nigeria (whose aim included the unity of trade unions in one organised body) was formed. Unfortunately, factionalism continued until 1950 when the first NLC, following various political and ideological leanings, split into four separate labour movements as follows:

- Nigerian Trade Union Congress (NTUC)
- United Labour Congress (ULC)
- Nigerian Workers Council (NWC)
- Labour Unity Front (LUF)

In 1975, the four groups resolved to form the NLC, which was not recognised by the government. It was suspected that the Congress did not enjoy the confidence of all factions in the labour movement. In addition, the government had already instituted an enquiry into the affairs of the

trade unions, an exercise that gave birth to a single central labour organisation, which was inaugurated in 1978.

The NLC was thus created as the only central labour organisation, while all 42 industrial unions were compulsorily affiliated with it (Fajana, 2000) with the central purpose/mission: To organise, unionise and educate all categories of Nigerian workers; defend and advance the political, economic, social and cultural rights of Nigerian workers; emancipate and unite Nigerian workers and people from all forms of exploitation and discrimination; achieve gender justice in the workplace and in NLC; strengthen and deepen the ties and connections between Nigerian workers and the mutual/natural allies in and outside Nigeria and; lead the struggle for the transformation of Nigeria into a just, humane and democratic society.

On the employers' front, the relationship with house/enterprise unions at their respective organisations was guided by applicable legislation of the Ministry of Labour and Productivity. Collective agreements were limited to employer/house unions. According to Olorunfemi (1997), in 1957, the honourable minister of labour explained that the government favoured the creation of a central employer body for consultations on labour matters. This led to the formation of the Nigeria Employers' Consultative Association (NECA).

At inception, NECA's mandate was to pioneer a collective voice for employers in the field of industrial relations policy and practice in Nigeria, taking into consideration the overall public interest. To date, NECA has remained the apex umbrella organisation of employers in the organised private sector of the Nigerian economy and has grown with a respectable membership of employers in the private sector of the economy and continues to contribute to the process of creation of national wealth through enterprise competitiveness and an enabling environment through industrial harmony. Admittedly, NECA's role is continuous support for the private sector, particularly in an evolving economy such as Nigeria (Olorunfemi, 1997; Opute, 2019).

The Evolution of Trade Unionism

Many HR professionals and commentators allude to the fact that the trade union ordinance of 1938 was quite permissive, resulting in many trade unions (more than 750). Union activities during this period were on an enterprise/plant-level basis. The majority were ineffective and unprepared for the challenges of in-house negotiations. They operated based on a paid secretary (usually an external individual who supposedly was experienced in trade union matters and led all in-house negotiations) but who was short-term focused, as the immediate task was increased emolument with limited or no partnership orientation and involvement with the organisation.

Nigeria witnessed several industrial unrests during the early 1970s. There was also the concern of persistent industrial unrest because of leadership ineptitude within the trade unions. These undesirable developments were a challenge to industrial relations, national security, and ultimately industrialisation, hence the decision of the military administration to introduce a National Labour Policy of 1975, culminating in the inauguration of a restructured and central Labour Congress in 1978 (Oyelere & Owoyemi, 2011; Adefolaju, 2013).

Some positives:

- a) *Curtailing undue dependence of financial support and leanings on foreign interests with the adverse effect of possible ideological conflicts among Nigerian trade unions:* The restructuring led to automatic check-off system. In this respect, union dues were collected from employees by employers (on behalf of the trade unions). This enhanced the financial standings of the trade unions and thus discouraged the unions from seeking financial assistance from various regions of the world.
- b) *Cessation of house unions (hitherto responsible for collective bargaining efforts) and substituted with national unions within the same industrial groups:* Employers embraced this development and adopted a united front in national negotiations. Hitherto, the unions targeted employers who were considered easy prey and thereafter used the outcome of

such collective bargaining as a basis for subsequent negotiations with other employers.

- c) *Engagement of qualified and experienced trade union leaders:* As a result of the centralisation of negotiations to the national level and coupled with the enhanced financial position of the trade unions, it was possible to engage the services of qualified professionals to manage the affairs of the trade unions, including collective bargaining efforts. This development also improved the working relationship between employers and unions, thus leading to an improved industrial relations environment.
- d) *Introduction of automatic check-off:* All employees (by default) were considered members of the affiliated trade union to the employer industrial grouping and, therefore, had union dues deducted at source (on behalf of the trade union). An employee can contract out of the trade union by signing a document to that effect, but such an action is rare. The automatic check-off system, therefore, was well embraced by the trade unions, as it was an assurance of dependable internally generated funds for the trade unions.
- e) *The automatic employer's recognition boosted bargaining power, and this also improved the organisation of trade unions in Nigeria:* The trade unions did not have to campaign for members as the automatic check-off system guaranteed membership. Employees also took more interest in trade union activities, as they considered their financial membership a reason to demand improved conditions of employment.

Some negatives:

- a) *Dual grouping of organisations with differing business or manufacturing lines, leading to multiple unions:* In some cases, a single organisation with differing manufacturing lines had to contend with different national trade unions. This was not the case in the past. Organisations with multiple manufacturing lines maintained a single collective agreement. There was only one in-house union irrespective of different manufacturing lines.
- b) *Restricted matching of employers' associations:* In some situations, companies had to contend with an industrial group with different product

lines. Resulting from the limitation of the industrial groups to 29, some companies were grouped into a sector considered closest to their manufacturing/operating activities. Such companies were disadvantaged in collective bargaining because of their different orientations. In some cases, they struggled with honouring the outcome of collective bargaining because of affordability.

- c) *Restricted opportunity of the house/enterprise unions and employers to handle industrial relations matters:* Since collective bargaining had become centralised (national and industry-wide to a large extent), organisations that had established mutual working relationships (with their in-house unions) were exposed to risking the benefit of the mutual relationship.
- d) *Restricted opportunity for employers to claim affordability as a tool for moderating outcomes of national collective bargaining:* In the previous in-house collective bargaining setting, it was easy for the employer to demonstrate affordability or otherwise in meeting employees' demand. This understanding is taken away by the centralisation of collective bargaining at the national level. In a severe period, the absence of such flexibility may lead to company closure and, therefore, could have multiplier economic consequences if not properly handled.

The Nigerian Labour Congress (NLC)

As it is the practice in regions of the world (where trade unions exist), the NLC's principal focus is the representation and protection of the interest of employees across the nation through collective bargaining processes. It also positions itself to address disputes within the industrial unions within its umbrella and takes the lead in providing education and counselling to members nationwide. With the democratisation of the unions, the Trade Union Congress (TUC) was given legal backing by the Nigerian government to operate in a similar fashion (as the NLC). Consequently, Nigeria has in place two labour confederations: the NLC, which principally represents junior/blue colour staff employees, and the Trade Union Congress (TUC), which principally is the umbrella body for senior staff.

From an operating perspective, the central national unions operate as follows:

National Unions (Trade Groups): The national unions of the respective trade groups (as an example—Steel and Engineering Workers’ Union of Nigeria) take on industry-wide collective bargaining for its affiliate unions. In essence, the role of the house unions in leading collective bargaining efforts is diminished and limited to such ‘residual items’ that are peculiar to their respective operations or of no national effect such as heat allowance, long service awards, canteen subsidy, uniforms, burial expenses, and the like.

State Council: The respective house unions in each state of the federation are supported with guidance and counselling by the state council, including resolving domestic matters with the local management and the house union as the need arises.

House/Branch/Enterprise Union: The procedural agreement is the document signed between the national unions of the trade unions and the national union of the employers’ association that establishes items set aside for national and local negotiations, respectively. Admittedly, the house union relinquished its role over the negotiations of items considered most appropriate for national negotiations and local negotiations accordingly. To retain the relevance of the house unions, the national unions set aside some items for negotiations/discussions/consultations at the local house union levels.

Therefore, in furtherance of encouraging and demonstrating the extension of the ‘democratic dividends’ of Nigeria—from political structures to societal democracy, the trade unions have been structured to match with associated business activities and thus requiring the national unions of the respective trade groups to lead the collective bargaining efforts at the national and house union levels as specified in the respective procedural agreements. This structure was given a legal stance with the act of government, referred to as the Trade Union (Amendment) Act, 2005 (Oyelere & Owoyemi, 2011; Adefolaju, 2013; Opute, 2019).

Managing the HRM Function: Trade Unions and Collective Bargaining

Trade Unions

The developments of trade unions and their central role in collective bargaining (without which their existence is hardly relevant in pluralist societies) pose an interesting challenge for the HR function beyond its traditional roles of employment, training, and development, rewarding and promotion, succession planning and management of exits to the emerging and challenging role of employee relations. This new scenario should attract the attention of management. It can be argued that there is substantial evidence to postulate that the patterns of employee relations that are emerging have been strongly influenced not only by the dynamics of globalisation but equally by different foreign investments and the microlevel of employee relations at company levels (Genty et al., 2013). Furthermore, ongoing socioeconomic challenges such as society and business challenge integration, centralisation and decentralisation of the bargaining system have attracted new scenarios and challenges for the HR function and, in particular, employee relations.

Collective Bargaining

Further examining the concept of collective bargaining attracts various considerations, the principal of which is the effect of the role of multinational organisations because of the critical roles they play in the Nigerian economy. Developed economies can demonstrate a considerable history of effective employee engagement and participation models, albeit with different scenarios and outcomes. For several developing and emerging economies (Nigeria inclusive), an important aspect is the linkage between the home country practices of the multinational organisation with their local subsidiaries on the one hand and the inevitability of local practices on the other hand (Flanders, 1968; Davis & Luiz, 2015; and Opute, 2019). Equally of immense importance is the integration of societal issues and business challenges. It is in this respect that various scholars (Brown

& Sissons, 1975; Wilkinson et al., 2010; Markey & Townsend, 2013) have echoed the place of various participatory mechanisms, such as direct communication, upward problem-solving, quality circles, and the like, but they all amount to the new attractive engagement language of ‘employee voice’, yet to catch the ‘fancy’ of the developing economy in application—as the trade unions hold the voice but the chapter remains focused on providing an empirical contribution to the dominant theme/contribution of collective bargaining at the workplace and as the mainstay of trade unions in Nigeria, albeit conscious of the strength of this tool and the attendant power of strike action, so that collective bargaining does not deteriorate to collective begging (Weiss, 2005). This leads to some fundamental issues related to collective bargaining as follows:

- Procedural agreement: The procedural agreement is the document that lays down the key articles of every collective bargaining item between the trade unions and employers. In effect, it can be regarded as the ‘primary/first agreement’ between the trade unions and employers and thus forms the basis of all negotiations/collective agreements between the unions and employers at both the national and local/house levels. Additionally, included in this document is the declaration of principles, grievance procedures, the constitution of the national joint industrial council (as applicable to each trade group), negotiating patterns, harmonisation principles, and the duration/life span of collective agreements—at both national and house levels. Advocates of a review of the procedural agreement are driven by the ‘Involvement Policy’ principle, which aims to address the relevance of each house union exercising greater influence at the company level on matters concerning in-house negotiations and consultations, but this ‘threatens’ the power of the national unions or at least curtails the items of national negotiations (Opute, 2019). It does not appear that a compromise is in the offering as it stands. However, if this approach is embraced, it could lead to increased items on the negotiating list for the house unions. Whilst this may appear attractive, it could weaken the unity of the national unions of the respective trade groups, as there could be multiple applications of items that are suitable or otherwise for different house unions.

- Duration of agreements: Another subject requiring attention is the duration of collective agreements and the reopener clause. Collective agreements have a life span at both national and house union levels, but in extenuating circumstances, either party can evoke the reopener clause based on the merit of the situation at hand. Employers who take a proactive stance could offer support and understanding to their unions to bring forward negotiations ahead of their expiration period, which portends cordial and mutually rewarding employee/employer relations. In a similar manner, the unions can compromise on the extent of annual financial increments so the company can ‘weather the storm’ if faced with a problematic operating year (Opute & Mahmoud, 2022).

Finally, there appear to be indications that collective bargaining may face different developments soon (if not already) because of various economic, political, cultural, and societal challenges, but the approach or approaches that might emerge will depend on the extent to which all stakeholders are willing to uphold a cooperative atmosphere.

Implications for Employee Relationship Practices

There are consequences and lessons to be adduced from the developments that have been discussed in this chapter with respect to employment relations. There are emerging patterns that are worth noting as follows:

- *Social dialogue*: Often referred to as the Joint Consultative Committee (JCC) prior to the emergence of active trade unions at plant levels, it was an important instrument for employee engagement at the house union level. Prior to the enactment of the trade unions act in 2005, the JCC was a strong instrument for achieving consensus across both junior and senior staff employees on matters that are not necessarily items for negotiations, but it stood as an instrument for consultation

and amicable resolution of matters across all staff categories. Most employers view social dialogue as strategically entwined with collective bargaining and, therefore, the latter becomes a necessary form of social dialogue (Opute & Mahmoud, 2022).

- *Group identity and increased involvement*: Most HR commentators hold the view that house unions have lost their collective identity. In some instances, there are individuals acting as ‘power brokers’ who may not necessarily hold offices in the house unions but are usually consulted for direction and guidance. The state councils have now assumed this position and, therefore, overshadowed the identity of the house unions from this perspective. Some house unions have worked out some form of ‘involvement relationship’ with their employers allowing for some form of symbiotic agreements (otherwise known as ‘sweetheart agreements’—coined by the Personnel Practitioners Group of NCEA). This allows both parties to align their interest in business efficacy and encourages the relevance of the house unions. The challenge is that any matter that is outside the established residual list for in-house negotiations/discussions may not receive the nod of the central union (Opute & Mahmoud, 2022).
- *Challenges of collective bargaining on wages and terms of employment*: In the earlier section of the chapter, the positive and negative effects of the Trade Union Amendment Act of 2005 were highlighted. Taking this discussion further, it is worth noting that most sectoral groups of the trade unions express the view that a new orientation will give the respective sectoral groups as well as the enterprise/house unions a further role on some items of national bargaining. They are of the opinion that collective bargaining may be encouraging the introduction of an internal labour market and consequently pointing employers to the adoption of strategic policies towards relevant/key skills. Those who have expressed some concern about this approach (particularly from the perspective of key terms of employment conditions) are that local companies may be subject to neighbourhood effects. Another hindrance is that local companies may become vulnerable to overenthusiastic trade unionists at the in-house level. In essence, it appears that industry-wide collective bargaining may remain the pattern for the

foreseeable future for employment relations (Opute, 2019; Opute & Mahmoud, 2022).

The Evolution and Challenges

The process and practice of collective bargaining is labelled with varying contours in most developing nations because of complex societal and economic matters, in most cases ahead of the political and economic advancements but also recognising the maturity of the players in the employment relations arena (Wood, 2010; Kaufman, 2014). While theoretical arguments and orientation differ on the future of collective bargaining, empirical approaches are required to sustain a more elaborate discussion (Lamarche, 2015) because the extent and complexity of the nature of the relationship shared between employers and employees will continue to attract attention in all economic activities in commerce and industry. Several scholars (Kaufman, 2004, Clarke et al., 2004, Edwards, 2010, Shao et al., 2011; and Lee et al., 2016) have expressed some deep concerns on the trajectory of industrial relations in a changing world.

In a similar assertion, Madimutsa and Pretorius (2017) have alluded to the fact that work and employment relations vary not only from stakeholders but also by competing contextual matters. Building on this assertion, Besamusca and Tjidsens (2015) have contributed to comparing the contents of collective bargaining in some selected African nations, but they ignore the need to elucidate the appropriateness of the contents of such agreements. However, Oribabor (1984), Olulu and Udeorah (2018), Ugbomhe and Osagie (2019), and Bayo (2019) discuss the importance of free collective bargaining, greater formalisation of process, and matching collective bargaining structures to the environment. This chapter complements the earlier work of Kocer and Hayter (2011) and Hayter et al. (2011), in which they highlighted some creative practices in collective bargaining from a cross-country perspective, except that the emerging patterns and developments from a single nation perspective and the accompanying reasons were not apparent. Nigeria provides an interesting example of a country where collective bargaining institutions have dramatically changed and continue to change, thus attracting various

commentaries that will enrich our understanding of collective bargaining—an important tool for trade unions (and I dare say the reason they exist) and consequently an interesting contribution to the HR function.

Conclusion

Emerging HRM Practices

An important tool for company efficacy is the cordial relationship between employers and employees. In many pluralist societies such as Nigeria, the HR function (through the management of the employment relations function) plays a strategic role in this respect. Trade unions will continue to protect their members (employees in the business) through representation with management with the overall goal of protecting their interest and achieving suitable terms and conditions of employment that will sustain the welfare and well-being of their members. One tool for attaining this goal is through any established structure of employee engagement in the business (Hayter et al., 2011). In Nigeria, trade unions have been established to lead this engagement at both the national and local levels through the instrument of collective bargaining, but this instrument appears to be in a flux for various reasons, much of it is because of the contextual issues facing the country—chief of these are challenging economic situation in the country and the leadership ineptitude of the country.

A significant number of HR practitioners are of the opinion that the leadership of trade unions (especially at the enterprise levels) and employers appear to have established apathy towards centralising collective bargaining. However, the view is also held that some flexibility is required for items constituting enterprise negotiations (Opute, 2019, Opute & Mahmoud, 2022). In effect, while the industry-wide collective bargaining model will most likely remain, discussions of some nonmonetary compensation or benefits or rewards can be listed at the enterprise unions, which ultimately provides the opportunity for all stakeholders (employer

and employees) to be more pragmatic, sensitive, and strategic so that a win–win situation can emerge.

Finally, every approach that supports social dialogue and involvement policies should be investigated and encouraged, as this appears to suggest the emerging sort of collective bargaining that can be sustained in Nigeria (Opute & Mahmoud, 2022).

Agenda for Future Studies

The development of HRM in Nigeria is increasingly faced with various contours and trajectories because of the increasing societal and economic challenges that are eminent in Nigeria (Opute & Mahmoud, 2022). Trade unions will continue to exert their influence because of the continued concern for economic inequality across the Global North and Global South (Xhafa, 2014). Nigeria is, therefore, not an exception. In essence, trade unions will continue to view economic inequality as a significant threat not only to political stability but also to democratic settings across the globe. Some of the consequences of economic inequality that need to be addressed are increasing job security, declining real wages, and increasing wage gaps in the labour market (Xhafa, 2014). On the other hand, some authors (Wang et al., 2020; Sanders et al., 2018) stress that the same set of inequalities may attract divergent employee outcomes in different societies. Accordingly, HR systems and practices are not to be viewed as the target of employees' perception (and expectations) but also as employers' perceptions, as the working together of these 'two unions' provides a better perception on how to manage the HR function. The latter will be a more inclusive agenda for the workplace of the future, as it incorporates employee and employer voices.

Appendix

See Table 2.1.

Table 2.1 Events/chronology of important industrial/employment relations initiatives and developments in Nigeria

Year	Event/development
1950	Formation of two central unions to form the first Nigeria Labour Congress
1957	Nigeria Employers' Consultative Association (NECA) came into existence
1963	The Morgan Commission was set up as a task force to regulate wages and labour conditions The Ministry of Labour was established (at both state and federal levels) for the purposes of intervention, reconciliation, and arbitration of all labour-related matters
1966	Nigeria witnessed the first military coup
1976	The trade dispute act was passed into law
1978	The military government as a demonstration of 'democratic advancement', the Trade Union Act was amended to permit the creation of 70 unions, made up of 42 industrial unions, 15 senior staff associations, 9 employers' associations, and 4 professional unions
1982	The University of Lagos established a department of Industrial Relations and Personnel Management at Faculty of Business Administration, University of Lagos This initiative highlighted the acceptance and positioning of industrial relations as an important discipline in the institutions of higher learning as well as industries in Nigeria
1996	The military government set up a committee of labour movement which worked to restructure industrial unions further. The focus of the exercise was limited to reducing the industrial unions from 42 to 29. This grouping resulted into the enlargement of previous sector/industry groups along the lines of similar or related business and manufacturing activities
2000	The military government unilaterally increased minimum wage at the state and federal levels. The private sector employees clamoured for appropriate increase in wages to maintain the differentials that hitherto existed in pay levels between the public and private sectors of the economy. This led to unplanned wage increases by employers. An action that was ordinarily taken to wade off anticipated labour unrest
2001	As at this date, Nigeria had ratified all eight core ILO labour conventions
2004	The government introduced the Pension Reform Act. The act was established to ensure that employers hold a scheme to care for employees after cessation/retirement from employment
2005	The National Assembly passed into law the Trade Unions (Amendment) Act, 2005

(continued)

Table 2.1 (continued)

Year	Event/development
2006	The national assembly passed the Labour Dispute and National Industrial Court Act 2006 into law. This act now provides the proper legal backing for the National Industrial Court as a superior court for settling labour matters. The Labour Dispute and National Industrial Court Act was passed into law to replace the Trade Dispute Act of 1976
2010	Third alteration act for the creation of National Industrial Court as superior court expanded to deal with any matter connected with the application of any international convention, treaty, or protocol that has ratified relation to labour, employment, workplace, or industrial relations
2014	Pension Act requiring employers to contribute to employees' pension remittances and uniquely requires employers to maintain group life insurance for all employees.
2019	National Minimum Wage Act has increased the minimum wage in Nigeria from N18,000 (45 euros) to N30,000 (75 euros) per month

Authors' compilation (2022)

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3

Union-State Relations in Zimbabwe: An Assessment of the Changing Relationship Between Trade Unions and the State

Zedias Mutema

Introduction

To understand state-union relations in Zimbabwe, this chapter briefly discusses trade unions' function, purpose, and objectives. The case of Zimbabwe shows that misunderstandings between the tripartite partners exist, resulting in negative state unions and a compromised industrial relations system (Kanyenze, 2022). To start with, it is important to explore our understanding of a trade union, what it does and who should form it and achieve what. It will also be argued that existing theoretical frameworks of trade union purposes are limited and do not adequately describe state-union relations in Zimbabwe.

Many studies explore relationships between political parties and trade unions, and in Africa, they formed a key part of industrial relations

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systems in both colonial and postcolonial periods (Beckman & Luckman, 2010; Madimutsa et al., 2021). Contestation, however, exists on who should ascribe trade union functions and the scope of those functions. The case of Zimbabwe is interesting in the sense that soon after independence in 1980, the government of Zimbabwe helped in forming the trade union federation, bringing together previous unions, which, during the colonial period, were divided on racial lines. This was in line with both the nation-building agenda and the economic development blueprint that was in use. Strategically, this was also to monitor the political power and organisational/mobilisation experience that unions had gained, which contributed to Zimbabwe's political independence.

Therefore, from the onset (formative years), the challenge existed in the sense that it is not the workers who came together to define and advance their own objectives, but the government formed the union on behalf of the workers. The government offered organisational, financial, and necessary logistical support to ensure that trade union elections were successful, and the brother of then Prime Minister Robert Mugabe, Albert, became the secretary general of the trade union federation, the Zimbabwe Congress of Trade Unions (ZCTU). This is an important point to locate contemporary state-union relations and industrial relations systems and helps us to understand why and how, three decades later, the same government formed another trade union federation, the Zimbabwe Federation of Trade Unions (ZFTU).

The work of Mutema (2015) demonstrates the centrality of trade union objectives in understanding contemporary state-union relations in Zimbabwe, where the labour movement broke away from ZANU PF and then formed a political party, the Movement for Democratic Change (MDC), a party that nearly won against ZANU PF. The same work puts into context the state's responses to the role played by unions and, equally, the labour movement's response to the state. This is supported by Kjellberg (2021) in relation to the shifting role of unions in social dialogue.

The Challenge of Defining and Theorising Trade Unions

The work of Hyman (2001) demonstrates the challenge of establishing a universal purpose for trade unions. This has led to various perspectives, theories, typologies, and frameworks on unions. The classic definition of trade unions, as offered by Webb and Webb (1896, p. 1), sees unions as 'a continuous association of wage earners for the purpose of maintaining or improving the conditions of their working lives'. Whereas Dunlop (1993) perceives purely and essentially economic organisations that rely on collective bargaining in pursuit of their goals, Webbs identified three trade union methods, namely, 'mutual insurance', 'collective bargaining and legislative regulation' (Webb and Webb, 1896, p. 455). Webb and Webb (1896) strongly argued that collective bargaining was a powerful vehicle for strengthening workers, although it may not be compared to legal enactment, while Marx felt collective bargaining maintained the exploitation of workers by limiting their goals to that of an acceptable wage under a capitalist system (Fox, 1973, p. 219). However, such conceptions of trade union purpose are problematic, as they reflect the limitations of union doctrines that ignore the legal and political contexts within which unions operate.

Several other conceptions of unions have been developed, with others seeing them as 'an agency and medium of power' (Hyman, 1975) or more broadly in terms of functions or purposes (e.g., Martin, 1989) or institutions of violence (Hoxie, 1923), to name a few. There are also conceptions of unions based upon typologies (e.g., Bramble, 1995). These provide a mere classification of unions based on their internal characteristics. The problem with typologies is that they do not precisely explain what unions do. However, Webster (2007, p. 3) provides a typology for classifying unions based on four categories. The first is the 'traditional client model', where unions are a client/'conveyor belt' of the ruling party. The second is 'divorce', where unions break out of the alliance and form a party as part of the opposition. The third is the 'unhappy marriage' where trade unions are in an uneasy alliance with the ruling party. Fourth and final is 'abstinence', where unions withdraw from party

politics and a multiparty democracy is created. This model is more appropriate in seeking to explain the current range of state-union relations in Africa.

Understanding union objectives is central to the understanding of state-union relations. In the case of Zimbabwe, the acrimonious relations between the government and unions arise out of serious differences over union purposes. The differences in union purpose are not just applicable to Zimbabwe, but similarities are seen in other African countries. For this reason, the next section provides a brief critical discussion of the framework of state-union relations, particularly in Zimbabwe.

Framework on State-Union Relations and Their Applicability to Zimbabwe

In this section, I argue that the character and nature of the state and not any industrial relations framework better describes the nature of state-union relations in Zimbabwe. A distinction does not exist between the 'state', 'government', and ZANU PF/Party. For that reason, North American and European studies on the employment relations framework are of little value in explaining and/or describing state-union relations. An analysis of the following quotation sets the context:

Civil servants should always bear in mind that there is nothing government does that does not come from the party. No one should say I work for government and not for the party and if you hear any civil servant saying that in this area, please let me know. (Kumbirai Kangai, Senior ZANU PF Cabinet Minister, cited from *The Herald*, 14 January 1995)

This thinking is important because it informed perceptions of what a public service worker is as well as their rights to representation by trade unions, although elsewhere, for example, in Zambia, there are strong calls for reforming public service laws (Madimutsa & Pretorius, 2021, Koyi, Tembo & Sichisambwe, 2021). By law, public service workers are not allowed to join trade unions but are allowed to form associations. Associations have no legal standing, and the government is not obliged to

engage with them, but they could be consulted on what they think. They are, therefore, not entitled to industrial relations mechanisms such as collective bargaining, the right to strike and freedom of assembly, and many other rights.

Further evidence of the complication of the state is reflected in the following statement by Nkomo, the former deputy president of Zimbabwe:

I had once asked him (Prime Minister Mugabe) directly ‘What is the supreme organ in Zimbabwe? He had answered; the supreme body in Zimbabwe is the Central Committee of ZANU PF, my party’. (Nkomo, 2001, p. 3)

The interchangeability of concepts of ‘government’, ‘state’, and ‘political party’ is a product of the political management systems adopted soon after independence. All former British colonies broke away from the dual British model of a separate head of government and head of state in preference for an executive presidential system (Dzimbiri, 2005), resulting in the subservience of the legislature and the judiciary to the executive and the integration of other nonpolitical organisations, including trade unions, into the ruling party and state machinery (Nwabueze, 1974). The second problem is that it led to ‘clientelism’ (van de Walle, 2003, pp. 297–321), a form of unionism whose main function was to serve the political party and not so much the workers. We find that national institutions and processes have been politicised along party lines, resulting in their national character being severely undermined.

The state is no more because it has been, in practice, replaced by party politics. It is common for some ruling party members to consider themselves as part of government and use state structures for their own ends. The party’s decision-making structures are mistaken for an elected government making ‘people who are not members of government make decisions through processes that are not accessible to public accountability’ (Kaulemu, 2004). Before the coalition government between ZANU and MDC of 13 February 2009, there were five ministries whose purpose was to provide administrative services to ZANU PF and its women’s and youth sections. Since independence in 1980, the senior army, air force, and police leadership have served on ZANU PF’s party’s politburo

(Knight, 1993). One can argue that the nature of the evolution of the state from colonial to postcolonial weakens the application of independent employment relations structures, which then seriously impacts the role of industrial relations actors and, ultimately, state-union relations.

The Contemporary Context: 'Trade Unions as Civil Society' in Relation to the State

It would appear that the central and initial point in attempting to understand union-state relations in contemporary Zimbabwe is to consider the state and society in mutual relation and locate unions in the context of civil society organisations. It is, therefore, important to develop a conceptual perspective of what counts as civil society and then locate the African conception of civil society. This is not intended to be an exhaustive discussion about civil society but a brief analysis of how trade unions are considered part of African civil society.

Civil society is a difficult concept to define with precision because of its many different conceptions. Broadly speaking, civil society can be understood as referring to organisations that are nonmarket in nature. This conception is referred to as the 'associationalist approach' and includes trade unions, nongovernmental organisations, social movements, traditional informal organisations, and professional associations, including academics, doctors, and agronomists (Riddell and Bebbington, 1996). The concept of 'civil society' is viewed by Edwards (2004) and Lewis (2002) as referring to nonmarket organisations that agitate for the interests of different groups, including NGOs, social movements, membership organisations, trade unions, and professional associations. This conception emphasises what is popularly known as the 'associationalist' aspect of civil society, which, according to Edwards (2004), is healthy for democratic development. For that reason, it is imperative that civil society organisations' capacity be strengthened to enhance their efficiency and effectiveness. It is questionable whether these associations are truly representative of the majority poor, particularly in rural areas (Lewis, 2002). An often-neglected weakness of the associational view is the faint

line between civil society and the state (Mamdani, 1992). This is caused by the labour mobility of key people between these associations and the state apparatus, making it challenging to represent the poor except their own personal interests. The second conception of civil society relates to the 'apparatuses' within which public debate takes place and one in which dominant ideas about how society ought to be organised are both discussed and formed. This might be referred to as a 'public sphere' or 'deliberative' understanding of civil society. This is where trade unions are seen as strategic and instrumental and thus targeted by international donors mainly because they have easy access to the state, workers, and politicians compared to any other issue-based organisations. It is this perceived strategic position that is shaping union-state relations in Zimbabwe. The World Bank (2010) refers to civil society as the wide array of nongovernmental and not-for-profit organisations that have a presence in public life, expressing the interests and values of their members or others, based on ethical, cultural, political, scientific, religious, or philanthropic considerations—it refers to an array of organisations (NGOs), labour unions, indigenous groups, charitable organisations, faith-based organisations, professional associations, and foundations.

Clearly, trade unions are seen, in this conceptualisation, as part of civil society and, as such, have become a key part of funding institutions and donor agencies to spearhead programmes, projects, or objectives that are in line with funders' expectations. It is at this point and for that reason that they are set up against their governments. In this respect, unions are grouped together with those groups perceived to be aiming at regime change. Therefore, such conceptualisation of unions as part of civil society leads to the redefinition of not only their role and functions but also their relationship with the state. I will revisit this important point in the empirical chapters when I examine participants' perceptions on the subject. Therefore, conceptualising unions as part of civil society is a contested issue (Armstrong et al., 2010; Pinkney, 2009). For that reason, Riddell and Bebbington (1996, p. 23) argue, 'civil society is a notoriously slippery concept. It has entered donor terminology without careful definition ... In many respects; the term is used as a code for a set of ideas related to participation, good government, human rights, privatisation, and public sector reform'.

The primary objective of civil society organisations in Africa has been mainly to do with democracy (Webster, 2007), a concept that is even more contested both in terms of its meaning and substance. It is to do with promoting plurality of views and democratic elections and the proportion of human rights. For a state considered to be autocratic, such objectives mean that even before the donor money comes in to support civil society, it is already perceived to be about regime change. Whoever receives it becomes the target of the state. For that reason, the sphere of civil society is one that is heavily regulated by the state in Africa primarily because its sphere of activity and influence are limited by what the state ideologically perceives and defines as legitimate organising and political activity. Whether the state should be allowed to dictate the legitimacy or otherwise of civil society organisations is a contestable issue. Equally contestable is whether democracy truly leads to better conditions for unions and workers since democracy focuses on processes of governance, not the substance. In other words, democracy usually exists alongside serious inequalities within society (Robinson, 1996, p. 356), and this is never emphasised to workers, as democracy is presented as a solution to labour market issues. For this reason, Edwards (2004, p. VI) is critical about civil society in Africa, arguing that ‘civil society has been used to justify radically different ideological agendas, supported by deeply ambiguous evidence, and suffused with many questionable assumptions’. This sentiment is also echoed by Allen (1997, p. 329), who argued that civil society, in the context of Africa, represents the ‘diffuse, hard to define, empirically imprecise and ideologically laden’ concept.

Whatever controversy surrounds the involvement and participation of civil society and organisations that are associated with the concept, its advocates perceive it to be an effective and fair ‘vehicle’ for ferrying participation to the public and thus ensure ownership of both the process and outcome of such participation in matters that affect the public. From 2001 to the present day, neo-liberal advocates, including international financial institutions, have aggressively pushed for the participation of citizens through civil organisations (Raftopoulos, 2020) in the hope that it will bring about the elusive democracy and good governance perceived to be seriously lacking within African countries (World Bank, 2010, p. 237).

National Liberation Ideology as Counterhegemonic Discourse to Unions as Civil Society

What was and continues to be fascinating in the context of Zimbabwe and its industrial relations system is how the national liberation ideology is appealing and continues to be used as counterhegemonic discourse in response to unions and civil society (Mutema, 2015). The state's response to unions had been discussed in detail. Here, the focus is on the national liberation ideology and how it became the main defence perspective offered even at ILO conferences in Geneva when violation of union rights was discussed in the Committee of the Application of Standards. Elsewhere, the limitations of literature in engaging with the discourse of national liberation were highlighted by Buhlungu (2010). He lamented the lack of engagement with the phenomena as it applies to state-union relations. The general perception has been that the liberation movements in Africa are losing their popularity, and as such, engaging with the national liberation discourse would be out of touch with realities. The Zimbabwe case proves that position wrong. Since 2001, the national liberation ideology has been deployed effectively by the government. It has directly impacted industrial relations, particularly the tripartite negotiating forum (a consultation mechanism between the government, unions, and employer federations), whose purpose is to address economic challenges. Why are there always tensions between liberation movements and unions and civil society? Sachikonye (2018) discusses the crises in Zimbabwe and analyses the role of labour and the state, which explains the nature of the tensions.

Cooper (1983, 1996) discusses why acrimonious relations tend to exist between different societal groups when liberation movements enter government. He talks about the tensions of the change in the role from the liberation movement to the political party in power. In the context of contemporary Zimbabwe, those tensions are a result of the nature of political independence, whose concern was to create 'assertive and socially conservative' regimes whose desire is to access and use the coercive, patronage apparatus of the state (Cooper, 1996).

The patronage system has managed to permeate all aspects of life, such as politics, religion, institutions, and culture, and it is this patronage system that has facilitated the dominance of national liberation discourse to the extent that even in churches, there is talk supporting the liberation movement. An important point that needs to be understood is the violent nature associated with the national liberation discourse. One needs to examine the nature of political speeches against anyone that does not follow the ‘ideals of the struggle’ and that seems to justify violence against those who have a different viewpoint than that being propagated by the state (Mutema, 2015). Workers were expected to support the party and its nationalist agenda even where it was perceived to be against working-class interests.

For the period 2009–2015, the government’s perspective of the purpose of trade unions was that they had to support the government’s controversial land reform programme, and they had to campaign against US-imposed sanctions and sanctions passed by the European Union against Zimbabwe (Mutema, 2015).

The nationalist discourse was clearly used to define the status of different groups. This was used in resource allocation, for example, land distribution, farming support through farming seeds and equipment, and food handouts when confronted with drought. For that reason, it was and remains a powerful tool for dealing with opposition, and trade unions are defined as such. The challenge for trade unions has been that in President Mugabe, they were confronted with a political leader with huge respect and prestige on the African continent, and his credibility was created around the legitimacy of the liberation struggle. Thus, even within the ILO dispute settlement system where violations of trade union and human rights were discussed, Mugabe’s government had enormous credit based on the liberation resource, which made it easier to have allies on the government constituent of the ILO, and union issues easily became politicised. Despite the trade union rights and human rights violations that were proven by the ILO’s Commission of Enquiry, the African government members of the ILO voted and elected Zimbabwe to be the deputy chair in the ILO governing body for the period 2011–2014, reinforcing the perception that Zimbabwe was being unfairly targeted. The nationalist discourse was clearly played out, and the African countries

bought into it and countered the Western position regarding Zimbabwe. This demonstrates the extent to which state-union relations in Zimbabwe assumed political significance not only in Zimbabwe but also internationally. To understand industrial relations in Zimbabwe, one must examine how the nationalist discourse plays out (Raftopoulos, 2016), define the participation of individuals, groups, and organisations and locate trade unions within this context.

The violent nature of the national liberation discourse is clear (Vhutuza & Ngoshi, 2008). However, the unions who were challenging the undemocratic nature of the state tended to show what Raftopoulos (2006, p. 4) had observed in relation to opposition political parties, that is, trade unions 'reproduced and assimilated aspects of the undemocratic cultures' that they were opposed to, and this made them more vulnerable in their dealings with the state.

The Contested Role of the West and the Issue of Trade Union Involvement in Politics and Political Alliances

The role of Western countries in fuelling state-union relations in Zimbabwe was echoed by the Employer Confederation of Zimbabwe Industries (EMCOZ), the ZCTU, and Zimbabwe government officials. However, the perspectives offered to justify their perceptions were completely different. Zimbabwe government representatives argued that the West was funding, creating, and sponsoring anarchy not only in Zimbabwe but in Africa and those developing countries where liberation movements assumed state power. In the case of Zimbabwe, the government argued that the West opposed Zimbabwe's land reform programme through unions, civic society, and opposition political parties. This viewpoint was generally felt and expressed openly by government members of the International Labour Organisation, who, like Zimbabwe government officials, offered detailed accounts and examples of the so-called 'invisible hand' of Western governments in the affairs of former colonies, resulting in 'poised' employment relations. There was a consistent reference to how

Western countries, through the ILO, had facilitated former general secretaries of trade unions into political offices of many countries. The cases cited were Zambia through Frederick Chiluba, Malawi through Chafukwa Chihana and a project for Zimbabwe through Morgan Tsvangirai, and South Africa through Zwelinzima Vavi, and Swaziland, through Jan Sithole.

Unions, on the other hand, accepted that the West had a particular interest in Zimbabwe but that it was also clear there was a gross violation of trade union rights by the state, and unions had an obligation to take a stand regardless of who supported them.

The timing of demonstrations and/or strikes organised by the ZCTU, the main labour federation, also opened them up for criticism from the state and critiques, particularly from government members of the ILO, at the annual events organised by the ILO. Evidence of a pattern of strikes and demonstrations being conducted a week or a couple of days before or during major international events taking place in the West led to accusation of a joint strategy by unions and the West to place Zimbabwe on the discussion agenda of the international community where Britain and the USA had key roles to play. This view reinforces the notion that Zimbabwe's industrial relations systems, legislation, and problems were a product of the relationship that existed between Zimbabwe and European countries, some of which openly expressed their motivation and planned to fund the labour movement in the fight for democracy. It was also these dynamics that allegedly led to Zimbabwe being listed in a Special Paragraph of the ILO in 2008. This was followed by the establishment of a Commission of Enquiry into trade unions and human rights violations in 2009. The implications of being placed in a special paragraph by the ILO were as follows:

- (a) The trade union movement celebrated this as vindication of its claims and campaign that there were gross violations of union rights, including victimisation, beatings, torture, and arbitrary arrest and imprisonment of unionist.
- (b) The government felt that the Western countries, led by the USA and Britain, and through their alliances with the labour movement, had scored a victory that had to be reversed, as it was a step towards the

regime change agenda. The response was more state interference in trade union activities further violating ILO conventions 87 and 98, which have to do with the Freedom of Association and Protection of the Right to Organise and the Right to Organise and Collective Bargaining Convention, respectively. Any protests organised by unions were received by the state with more torture, arrest, victimisation, and brutality. The organisational capacity of unions was weakened, and this coincided with the persistent decline of the economy and the informalisation of the economy. An increasing number of people were out of employment, and the continued militarisation of state-owned enterprises presented more financial challenges to the main union federation (ZCTU), as union dues were not being remitted to unions. However, at the same time, the role of the counter union federation formed by the government for the workers (the ZFTU) was gaining more prominence, succeeding in securing salary increases by violently forcing employers to compromise, with the state being an interested party, facilitating its activities. The multiplicity of unions was encouraged and legislated in labour instruments with the government maintaining that if multiparty political systems were good for democracy, so was the multiplicity of unions and union federations. As such, the government was not weakening any union but was being consistent with ILO conventions around freedom of association and the right to choose.

- (c) The establishment of a commission of enquiry into union right violations coincided with the negative impact of the so-called targeted sanctions on the Zimbabwe government officials by the European Union. In addition, this also coincided with the passing of the Zimbabwe Democracy Act, which was passed in America to block any funding to Zimbabwe. This was all happening at the same time the trade union movement was receiving increased financial and moral support from the Western countries and international labour movements more importantly—Friedrich-Ebert-Stiftung (FES-Germany), Landsorganisasjonen (Norwegian Confederation of Trade Unions), Trade Union Congress (TUC-UK), the Federation of Netherlands Trade Councils (FNV), and Canadian Labour Congress (CLC). In addition, the number of protest letters and the language/

tone of these letters to President Mugabe for noncompliance with human and trade union rights increased, but they only served to harden and reinforce the view that Zimbabwe was under siege and had to aggressively defend its sovereignty and unions had to be kept in check.

The state began to target other unionists in the region that have supported the main union federation in Zimbabwe. International trade union officials from the Confederation of South African Trade Union (COSATU) and those from LO Norway were declared 'enemies of the state' and were deported from Zimbabwe for their supporting activities to the ZCTU. Zimbabwe's labour/industrial relations laws have generally been identified as very progressive and a model for many countries to follow. However, it is the security laws, not industrial relations legislation, that are applied selectively to target trade unions and international partners who were in solidarity. Those security laws are arguably in place for the security of the country, just as in any other country, making it difficult to sustain the argument that unions were being targeted. Such legislation included the Public Order and Security Act (POSA), the Access to Information and Protection of Privacy Act (AIPPA), and the Criminal Codification Act, to name a few, which undermined the independence and autonomy of trade unions. Effectively, all union-led or organised strikes and demonstrations became political, not labour market-based. It became common for the police and central intelligence personnel to demand seeing copies of minutes of union meetings when they assessed the likelihood of planned demonstrations and strikes.

The issue of political alliances and alleged union involvement in politics has proved a serious challenge for state union relations. This question has dominated discussions within the tripartite industrial relations partners in Zimbabwe as well as within the formal dispute mechanisms of the ILO. Broadly, is it possible for a trade union or its federation to effectively represent workers if such a union is aligned to a political party? Specifically, to the Zimbabwean context, to what extent was this an issue? The case for Zimbabwe has been both interesting and challenging because the main federation, the ZCTU, was politically linked and aligned to the MDC's Tsvangirai faction and human rights civil organisations. It was

campaigning and mobilising politically on its behalf (like the internal lobbying type) typology by Ludlam (2001). On the other hand, the government formed a trade union, and the ZFTU (although it had no affiliate unions) had been politically linked/aligned to ZANU PF and liberation war veterans and campaigned for ZANU PF (similar to the external lobbying-type) typology by Ludlam (2001).

For the unions, they feel perfectly entitled to align with any organisation that ensures employee rights are observed and that the ILO guidance and provisions clearly explain that unions' objectives are not limited to economic needs but to other spheres (ILC, 31st session, 1948, Record of Proceedings, p. 476). There needs to be proper policy guidance and/or policy reformulation on this issue because it was not only problematic for Zimbabwe but also an issue for some countries. If unions are to be involved in political activities, what does this mean, and how far does this go? In the case of Zimbabwe, unionists felt they had to be involved in the whole business of government, yet the state felt it was supposed to be involved in only the economic activities of its members. However, then what is political and economic because another issue of contest could not be resolved within the ILO. Therefore, if unions challenged the government land reform programme on the basis that it led to unemployment of its members, is that political involvement or economic involvement?

On the other hand, the government would say the unions should support the land reform, as it empowers its members to own land and property rights for which they can do much more than seek employment and its creation. By arguing that land reform led to the displacement of workers and their suffering, the view was then who was behind the unions' perspectives/arguments. This is where the interests of white farmers, led by Britain and America, would be alleged, hence the label of 'puppets of the West' and 'stooges of white regime'. On this issue, all African governments at ILO conferences sided with the Zimbabwe government as a champion of the people's rights and strong enough to challenge the colonial powers and do what other governments wanted to do but could not. For that reason, Mugabe was seen as a liberator and not a violator of trade union rights. To the extent that only the Western governments opposed the government on this, it only served to reinforce the regime change agenda and union's desire to 'return the country back to Britain'. It then

became a case of liberation movements and African governments finishing the unfinished business of economic independence. Unions were standing in their way, and for that reason, they had to be brutally treated. All these added to the re-emergence of the liberation movement ideology as a counternarrative to the human rights, democracy, and/or good governance that was being championed by unions and civil society, albeit supported by the West.

The issue of trade union involvement in political activities and alliances with political parties is not unique to Zimbabwe. Elsewhere, for example, in Kuwait (section 73 of the Labour Code) and Swaziland (section 33 of the Industrial Relations Act 1980), place a total ban on the involvement of trade unions in political activities. Unions can only perform consultation and service functions. This model has been argued for by the Zimbabwe government during 2000–2015, asserting that:

- (a) Similar legal restrictions were needed in Zimbabwe, to limit the political involvement of the ZCTU in the activities of the MDC. Government argued that not every member of the ZCTU was a member of the MDC. As such, the ZCTU was imposing a political party to its membership by getting involved in the political affairs of the MDC. It was felt that the ZCTU was imposing a political party on its membership in violation of conventions 87 and 98. The ILO was therefore supposed to take a stand against unions, not against the government of Zimbabwe.
- (b) While there were issues with state-owned enterprises not remitting union dues, the government felt legal restrictions on the political involvement of unions and unionists were now necessary to safeguard employee contributions, as there was a possibility that union dues could be used for political party purposes without the consent of each union member (ILO, 2009, 2017).

Politicisation of Workplaces

Between 2002 and 2015, workplace tension between the state and unions became evident. This was seen through the politicisation of workplaces, factories, plants, and offices. There were increased cases of political

intolerance. Employees and some employers wear political party 'regalia' such as T-shirts for either the ruling ZANU PF or the Movement for Democratic Party (which was formed from the trade union movement). Human resource management practices, policies, and procedures were often compromised for political purposes. It became common for job promotions to reflect political affiliations. In other words, you were more likely to be promoted in the private sector if you supported the labour-backed political party. Similarly, as a civil servant/public service worker, you were more likely to lose your job if seen to be affiliated to the labour-backed party. Many employers saw the government departments and parastatal bodies in the private sector and unions alike as not only 'politicised' but also 'militarised'. State-funded organisations started appointing retired army generals, retired senior police officers, and/or members of the Intelligence Organisation (a state security organ). By default, or design, the 'parastatals' then stopped remitting union dues to trade unions. It was argued that 'companies partly owned by the state' would not welcome the objective of a union federation that was perceived as having a regime change agenda. The government facilitated the formation of a trade union federation, the Zimbabwe Federation of Trade Unions (ZFTU). This federation of unions had no affiliate unions, and it started countering the activities of the Zimbabwe Congress of Trade Unions (ZCTU), the main trade union centre with 52 affiliate unions. The ZFTU started organising at company levels, harassing employers for being aligned to the ZCTU and demanding that employees receive salary increases. Therefore, industrial relations took a very interesting but confusing context where there will be two union federations registered and/or certified to represent the same workers. Whereas ZCTU organised union demonstrations, strikes, and/or meetings that were banned and considered political, the activities of the ZFTU were supported by the state visibly through the police, who would stand by and watch, while officials from the union harassed employers and business leaders considered 'saboteurs', that is, those who were accused of pricing commodities beyond the reach of many.

Conclusions and Lessons from State-Union Relations in Zimbabwe

The case of Zimbabwe demonstrates that even with a small number of members and a declining union density, Bhebe and Mahapa (2014), a union can have a significant impact and influence on both the industrial relations and political systems in a country. It also shows the importance of international partners and international trade unions in facilitating the working people's position when a government chooses not to comply with trade union rights. Furthermore, the Zimbabwe situation shows us how international funding, either in the form of civil society or trade union partners, can negatively impact the union's autonomy and independence. The priority of funders largely determined the objectives and strategies of unions. We have seen how workplace issues were either politicised or completely overlooked in favour of the funder's perspective of championing democracy, campaigning for constitutional reform, demonstrating, and lobbying to participate in election monitoring. These became the agenda of civil society, and these were taking place against a background of increased retrenchment or layoffs, workers earning well below the minimum poverty datum line, and workers going for months without receiving their salaries. At the same time, they were still compelled to report for work. When trade unions cannot sustain themselves from membership subscriptions, they become open to criticism that they are playing to donor-funding needs. What unions were generating from union activities was not sufficient to meet the monthly utilities (rentals, electricity, water charges, etc.), and questions were being raised about how they were managing to pay for these and pay the few full-time members and, more importantly, to pay for the huge legal costs in their running battles with the government/state.

We have also seen how liberation movements close democratic space, not only for trade unions but also for all groups and individuals with different views on what will be happening. The government response (Mtintema, 2018) of beating up trade unionists to conduct legitimate union business was also concerning and affected tripartite relationships and created a truly conducive industrial relations system. It was worrying

to see how the government was arguing that there were no recorded cases of the state murdering trade unionists and yet they were being mentioned in a special paragraph and subsequent commission of enquiry. To represent workers' interests, questions arise as to whether worker representatives should die as a price. There needs to be an environment that allows for a diversity of views and their accommodation into the industrial relations system. Government needs to engage partners in this, showing the leadership that is required to address employment relations matters.

Finally, the Zimbabwe situation demonstrates how difficult it is to have political alliances between trade unions and political parties (except the ruling party). Neither the government nor unions appear to have the capacity to see this success. What unions need to do is to become self-sufficient, find ways of rejuvenating and redefining trade unionism, recruit in the informal sector and ensure they are not used by interested parties, and ensure they do not become opportunists in a way that will disadvantage their operations. Unions must draw lessons from the past and move the worker agenda forward with autonomy and independence. Lessons need to be learned about the developments of what has happened between the state and unions to rebuild the labour movement (Sachikonye, 2018).

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4

Employee Relations and Trade Unions in Ghana: A Changing Perspective

Desmond Tutu Ayentimi and John Burgess

Introduction

Employee relations (ER) in Ghana appear to be ever-changing since the country's independence from British colonisation in 1957. In the early phase of Ghana's development path, ER was defined by colonial history and embedded in the formal sector of the economy, notably the public sector and large private sector enterprises. However, an informal and nonunionised sector has been central to the economy, especially with the growth of colonial capitalism. The expansion of microentrepreneurship and peasant proprietorship supported the growth of family workers and

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self-employment with the employment relationship basically deep-rooted in the master-servant employment relations model (Ayentimi et al., 2019c; Osei-Boateng & Torgbe, 2013). The informal economy represents a section of unregistered micro and small business ventures that are generally excluded from administrative rules and rights incorporated in commercial and labour regulations (Chatter & Turnovsky, 2018). The functioning of business activities within the informal sector is typically exempted from commercial licensing, labour laws and labour contracting (Galdino et al., 2018; Budlender, 2011). The inability to transfer even minimum employment standards into the informal economy has undermined inclusiveness and decent work standards in the labour market.

In the informal economy, employers engage workers on an 'at will basis', with employment being fully commodified (Ayentimi et al., 2022). There is also evidence of employee engagement 'at will' in the formal sector in the determination of contractual arrangements between workers and employers, despite these contractual arrangements being prohibited under Act 651 (2003) of the Labour Act (The National Labour Commission Report, 2011). In addition, while employment protection arrangements are stipulated in collective bargaining agreements in most enterprises, job security rules are absent in the informal sector. Through colonisation, the institutional legacies of the British are present, including limited collective rights; however, Ghana's labour relations post-independence reflect coordinated market economies (CMEs) arrangements characterised by strong employment protection provisions, especially in the public sector. Alongside this control and coordination, the dominance of the informal sector and weak regulatory enforcement arrangements have created a labour relations environment comparable to liberal market economies (LMEs) with greater employer flexibility and limited employment security (Ayentimi, 2018). Even in the labour relations environment in the formal sector, there are gaps in coverage and rights, as employers have freedom to terminate employment at will and employ labour through temporary contracts, despite prohibitions in the Labour Act. Overall, there is a segmented and patchy system of labour regulation with minimum conditions, protections and voice (union coverage) in the formal sector, but with gaps and exceptions, alongside no

protection, limited voice and security in the informal sector (Ayentimi et al., 2019a; TUC, 2012).

Despite the significance and growth of the informal economy, Ghana is emerging as a global destination for foreign direct investment (FDI) in key development sectors such as manufacturing, plantation agriculture, mining and oil. Multinational enterprises (MNEs) from advanced European economies that were the original colonisers (UK, France and Germany) of sub-Saharan Africa (SSA), together with the USA, hold the largest FDI stock in the sub-Saharan African region (World Investment Report, 2018). At the same time, in the past two decades, MNEs originating from emerging economies (China, India and Brazil) have been responsible for a growing share of FDI in Ghana. The shift from a public sector-dominant economy to a globalised market economy with economic liberalisation in the early 1980s across the region occasioned the upsurge of privatisation of state-owned enterprises, leading to the upsurge in direct foreign investment. The increasing presence of MNEs from advanced and emerging economies has resulted in the transmission of new business and managerial models and organisational forms into the economy (Ayentimi et al., 2018b). Ghana's dependence on foreign investment and MNEs to develop manufacturing, mining and services in the economy brought with it employment relations systems shaped by MNEs' HRM policies that both engaged with and opposed trade unions (Ayentimi et al., 2018c). Many foreign firms operate under conditions that apply to special economic zones (free economic zones) that offer limited or light regulatory conditions and support anti-union tendencies through the application of union avoidance strategies with the support of the state (Ayentimi et al., 2019a). On the one hand, MNEs from CMEs have supported employee voice and union recognition and engagement processes (Gall, 2010).

This chapter explores the different contextual factors/issues to highlight the changing nature of ER and trade unionism in Ghana. The chapter further aims to emphasise how diverse contextual aspects interact and contribute to the issue of ER fragmentation. The historical context and the interaction of the formal versus informal economy, small business sector, labour commodification and MNEs have clear and direct relevance to the existing fragmentation of ER in Ghana. The current

fragmentation of the ER atmosphere undermines trade unions' ability to attract members, be active in improving employment conditions and play a key stakeholder role in developing employment relations and workforce policy in Ghana. The chapter highlights several implications for the advancement of human resource management (HRM) and trade union revitalisation in Ghana. This chapter contributes to our understanding and knowledge of ER configuration and how different contextual aspects interact and contribute to ER fragmentation, which remains under-researched within the current employment relations and trade union literature. Second, by highlighting the direct consequence of the existing fragmentation of ER in Ghana, we offer a new perspective to re-examine emerging strategies for trade union revitalisation.

The Historical Antecedents of the IR Landscape in Ghana

The historical antecedents of the industrial relations (IR) landscape and labour unions in Ghana can be difficult to articulate due to their intertwined nature and connectedness with national politics triggered by a volatile political history that covered the processes of colonialisation, decolonisation and coups d'état. The direct participation of labour unions in Ghana's national politics was crucial during the era of British colonial administration in which trade unions and labour regulations were incorporated into the public sector. The struggle for better working conditions was combined with calls for Ghana's independence. The first industrial strike was organised by mine workers in 1919, which later resulted in a series of successful collective industrial actions by workers and the subsequent formation of labour unions in the 1920s (Schillinger, 2005; Orr, 1966). The formal recognition and incorporation of trade unions in the colonial era meant that they were an embodied and important institution in the subsequent liberation and independence struggle (Obeng-Fosu, 2007). The contribution of the Trade Union Congress (TUC), the umbrella body of labour unions in Ghana's independence struggle, was noteworthy, which accordingly resulted in the appointment of TUC

leaders into ambassadorial and ministerial positions by the Convention People's Party (CPP) government (Arthiabah & Mbiah, 1995). This gesture by the CPP government led by Dr Kwame Nkrumah was a sign of appreciation for the labour unions' support in the liberation struggle. Implicitly or explicitly, the gesture by the CPP government grounded labour unions into national politics through their identification with the CPP. The embeddedness of national politics within labour union activities immediately after independence was likened to the Unitarist IR perspective where the state embodies the interest of all in the society. This was evident in the government involvement in the selection of labour union leadership in addition to the adoption of government control over labour union activities (Gockel & Vormawor, 2004). It can be argued that there were material incentives consistently provided to labour unions to induce them to become embedded into state-controlled institutions (Kraus, 1979).

After Ghana's independence in March 1957, the country's IR system was modelled on the Israeli IR system (Arthiabah & Mbiah, 1995). The IR arrangement in Israel was characterised by a centralised bargaining process with a high level of unionisation combined with a significant level of political influence and government engagement with trade unions (Haberfeld, 1995). Trade unions exerted influence beyond workforce issues. The general federation of labour, generally known as 'Histadrut', was the main institution in Israel that coordinated social and welfare functions such as medical insurance and education for workers and their children. The Histadrut system was set up by the Socialist Party in 1920, and by the 1980s, the union mobilised approximately 90% of wage earners and 80% of the total workforce in the country (Haberfeld, 1995). The TUC of Ghana was modelled on the Israeli labour union system of corporatism. The TUC became actively involved in economic and social activities in Ghana's development trajectory (Obeng-Fosu, 2007). For example, between 1960 and 1970, the TUC supported government in the delivery of affordable housing, the establishment of skills training centres and the sale and supply of consumables to union members (Arthiabah & Mbiah, 1995). The corporatist nature of the TUC at the time bestowed on it a considerable level of economic and social legitimacy, and as a consequence, the TUC turned out to be instrumental in

shaping national economic and social policy dialogue (Ayentimi et al., 2019b; Otoo, 2013). The TUC further benefited from its social and economic legitimacy by championing the enactment of labour and IR legislation during the government of the CPP (Arthiabah & Mbiah, 1995; Obeng-Fosu, 2007). Thus, employers were commonly required by law to manage employee-employer relationships through collective bargaining agreements, as legislation left little space for employers to circumvent labour unions. The corporatist nationalist ideology led to corresponding incentives such as subsidies held out to labour unions, which subsequently created industrial harmony where unions no longer identified themselves to be involved in militant struggle against the government—the largest employer at the time (Kraus, 1979).

The IR atmosphere in Ghana witnessed a dramatic U-turn immediately after 1966, whereby the Second Republican government, led by the Progress Party (PP), dissolved the TUC through the Parliament of Ghana under a certificate of urgency (Gockel & Vormawor, 2004). Immediately after the dissolution of the TUC, the PP government was overthrown in 1972 and replaced by the government of the National Redemption Council (NRC). The NRC government led by Col. I. Acheampong repealed the Industrial Relations (Amendment) Act 1971, Act 383, allowing the revival of the TUC. This authoritarian gesture of the NRC government demanded a reciprocal gesture by the TUC in supporting the mandate and actions of the NRC, which later emerged as the Supreme Military Council. The Supreme Military Council enjoyed significant political, economic and social legitimacy to govern due to the legitimisation and support offered by the TUC (Gockel & Vormawor, 2004). The TUC subsequently became entrenched in national politics and went ahead to support the Social Democratic Front (SDF) Party to win three parliamentary seats in the National Legislative Assembly (Parliament) during the 1979 general elections. The industrial relations atmosphere in Ghana again underwent another dramatic reversal occasioned by a coup in 1981, which led to the overthrow of a civilian government (Gockel & Vormawor, 2004). The TUC was forced by the new government to shift its political allegiance as several union leaders were victimised and other union leaders quickly associated themselves with the Provisional National Defense Council (PNDC). However, again, the TUC was entrenched

with the administration of the PNDC, and the regime included union leaders in its administration (Gockel & Vormawor, 2004). The solidarity of the TUC with the PDNC government subsequently led to the restoration of the TUC in 1983, followed by the election of union executives to the government.

The intermittent coups encompassed both oppression and persecution of labour unions, their re-emergence with different political allegiance and their legitimacy shifting between exclusion and inclusion. The influence of coups d'état further occasioned the involvement of labour unions in national politics. In addition, the support provided by the TUC to the Socialist Democratic Front (SDF) in the 1979 general elections (Gockel & Vormawor, 2004) destabilised the union movement as union leadership acted corruptly and undermined trust, resulting in a hostile industrial relations environment for unions in subsequent governments. The TUC was tainted with political instability and with failed political partnerships and corruption. The perceived political entanglement of labour unions' leadership with political parties and corruption remains a systemic challenge for unions in developing an independent voice for workers in Ghana.

The Industrial Relations Archetype in Ghana

ER is configured by the nature of the industrial relations framework established within the legal system of a country. The influence of labour unions and the bargaining power of employees are not universal and vary from country to country due to differences in the structure of the industrial relations system and other national institutional considerations. According to Ollo-López et al. (2011), in countries in which indirect and collective employee involvement is regulated through legal provisions, employees are most likely to have a voice in the decision-making process. However, employee voice and involvement are likely to be constrained in countries where there are no or limited legal regulations that support collective action through trade unions or forms of employee voice, including industrial strikes. Employers in Ghana are generally required to manage through collective bargaining agreements, although single employer

collective bargaining or enterprise-level bargaining is widespread (Debrah, 2013). The spread of union density in Ghana is patchy and varies across the different industries and sectors. This is linked to the density of formal employment within sectors.

While union concentration in the construction (6.6%) and trade/commerce (11.1%) sectors is relatively low, in the mining (64.8%) and utilities (75%) sectors, it is high (Otoo et al., 2009). The high-level rate of union concentration in the utilities and mining sectors is ascribed to government ownership and involvement in these sectors, unlike the trade and commerce and construction sectors. It is only in recent times that government interest and participation in the mining sector are declining, which is expected to impact the level of labour union concentration in the sector. The main actors that constitute the employment relations architecture in Ghana are (i) the government, (ii) IR and employment tribunals established by the state, (iii) labour unions and (iv) employers' associations (Fig. 4.1).

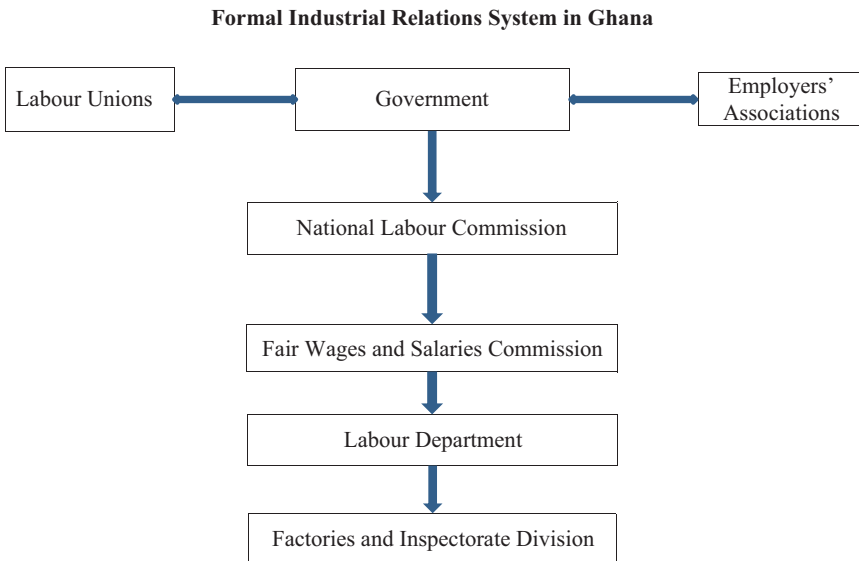


Fig. 4.1 Industrial relations structure in Ghana. Source: Adopted from Ayentimi, 2018

The Issue of Employment Relations Fragmentation in Ghana

From both the Global South and Global North perspectives, ER is evolving alongside declining union membership, and many observers persistently raise the question: what will likely be the future of labour unions in a fragmented ER environment? Over the last few decades, employment has been commodified through short-term, on-call, agency and temporary work assignments with ambiguous employment status, making trade union recruitment difficult. Beyond the commodification of labour, the historical context and the interaction of the formal versus informal economy, small business sector and MNEs have clear and direct relevance to the existing fragmentation of ER in Ghana. In this section, we outline several key considerations underpinning Ghana's ER disintegration.

First, failed and changing political allegiances among union leadership have undermined the confidence in trade unions to effectively represent members (Otoo, 2013). As a consequence, union collective identity has diminished, and small and divided unions have emerged. Many trade unions remain small, dispersed and largely ineffective in improving employment conditions and playing a key stakeholder role in developing employment relations and workforce policy. In the past, labour unions were organised under one umbrella body with recognised social and economic legitimacy (Arthiabah & Mbiah, 1995), but current developments dating back to the early 1990s have undermined unions' harmony and their recognised legitimacy. The formation of the Ghana Federation of Labour (GFL) has supported the breaking away of unions and the formation of smaller enterprise-level unions. While the TUC continues to build membership around the public formal sector, the GFL has support from private sector organisations. Over the years, intense competition between the TUC and the GFL has further nurtured the mushrooming of stand-alone unions without affiliation to the TUC and the GFL. Many of these unions do not have collective bargaining certificates and, therefore, have no legal authorisation to negotiate for employment conditions. For example, out of the over thirty-three registered and recognised labour

unions, only nine have collective bargaining certificates. The absence of a centralised union organisation is a critical aspect undermining labour unions' social and economic legitimacy. It further obstructs union coordination to achieve national recognition in employment and policy dialogue. The mushrooming of unions in Ghana may be fuelled to some extent by political and historical reasons or workers' determination to ameliorate ineffective unions, which has become a recurring phenomenon that not only undermines the consolidation of labour unions (Ayentimi et al., 2018a; Gockel & Vormawor, 2004) but also creates opportunities for employers to exploit labour union rivalries (International Labour Organisation, 2010). The increasing disintegration has not only crippled existing unions but also nurtured suspicion and resistance of unions among workers. The uncertainties and differentiation of organised interest among workers, particularly among union leadership, will continue to intensify union degeneration in Ghana.

Second, within the formal sector of the economy, 'deunionisation' and 'decollectivism' are typical employer practices aimed at undermining union power by reducing union influence during collective bargaining or derecognising union membership (Amaeshi et al., 2014). Decollectivist strategies engaged in by employers range from unsophisticated (simplistic) to highly sophisticated strategies and, in some instances, the use of crude or unethical techniques and approaches such as intimidation and victimisation of labour activists (Ayentimi et al., 2019c). Interestingly, the increasing trend in the use of temporary workers and third-party contracts exclusively fragments and hinders the mobilisation of labour unions in Ghana. Employers' engagement in outsourcing workers from private employment agencies and casualisation has nurtured more radical and sophisticated alternatives to deunionisation and decollectivism. The nature of labour casualisation in Ghana involves hiring the same workers repeatedly without a written contract or through what is termed a rolling short-term contract with a stated interruption period of engagements (Ayentimi et al., 2019c). For example, it has now become very common in the banking, construction and maritime sectors for employees to be contracted on a temporary basis, while others have been sourced from private employment agencies. The casualisation of labour undermines union membership, as such workers are not classified as employees, and

their engagements are short-term, so there is difficulty in identifying and recruiting them. There is an absence of appropriate regulations on agency work in Ghana. The only regulation surrounding agency employment within labour Act 651 (2003) is limited to the formation of private employment agencies.

Third, outside of the formal sector, the traditional domain for union activism, there is a large informal and nonunionised sector that has been central to the Ghanaian economy, especially in locations dependent on agriculture and small family businesses. The growing informal sector supports unreported economic activities and is outside of administrative rules and employment legislation (Obeng-Odoom & Ameyaw, 2014). Osei-Boateng and Ampratwum (2011) provide a historical account of the emergence of the informal sector by highlighting evidence of it during the period of colonial capitalism. Over the years, the informal sector has grown at a faster rate than the formal sector in both urban and rural Ghana, contrary to the expectation that economic liberalisation and modernisation would contribute to the relative decline of the informal sector as a consequence of new jobs in services and manufacturing being formalised. The informal sector remains the most important employment sector, contributing approximately 86.1% of total employment within the Ghanaian economy. From an employment relations perspective, the informal sector is characterised by informal and unregulated working conditions and generally limits labour market inclusiveness due to the absence of minimum work standards (Ayentimi et al., 2018b).

In addition, there is a shift away from central and industry bargaining towards decentralised and enterprise-based bargaining. Historically, trade unions have engendered and provided alternative platforms for employees to exercise their commitment to advance their own employment conditions and have advocated for changes in public policy (Phelan, 2011). Collective bargaining has been acknowledged as one of the most effective tools in supporting such efforts in that bargaining demands and outcomes can be influenced by laws regulating the workplace and the broader labour market (Berg et al., 2013). Collective bargaining is crafted along two dimensions—enterprise-level bargaining and sector-level bargaining (Jimeno & Thomas, 2013). While enterprise-level bargaining is underpinned by the power relations between employers and employees at the

individual firm level, sector-level bargaining covers the entire sector or a branch of the sector involving several firms. Sector-level bargaining is independent of the power relations between employees and employers at the firm-specific level (Schulden et al., 2015). The spread and strength of sector-level bargaining is driven by the existence of strong and encompassing bargaining actors that guarantee a certain bargaining coverage through their own organisational strength and the existence of supporting policies and regulations on the part of the state (Schulden et al., 2015, p. 362). Theoretically, within the context of sector-level bargaining, unions are likely to have a strong, shared interest in ensuring growth prospects and employment stability, whereas in firm-specific level bargaining, unions may lack the organisational strength to guarantee a certain bargaining coverage (Debrah, 2000). Ghana's Labour Act (Act 651), 2003, acknowledges enterprise-level bargaining, which means that bargaining is carried out between local union representatives and management at the firm-specific level. Enterprise-level bargaining has become one of the pressing and challenging legislative attacks on trade unions. Enterprise-level bargaining limits firms from bargaining with trade unions at the industry or sector level, where unions are likely to have organisational strength and resources to guarantee a certain bargaining coverage. Employers can influence local union leaders at the enterprise level in ways that are not possible in sector-level bargaining. Indeed, firm-specific level bargaining is more susceptible to deunionisation and decollectivism strategies such as intimidation, threat of job insecurity, nonrenewal of employment contracts and delay in promotion, bribery and job promotions targeted at local union leaders to induce them (Ayentimi et al., 2019c). This reality nurtured by enterprise-level bargaining is more evident in foreign-owned subsidiaries and some locally owned firms operating in various sectors of the Ghanaian economy.

Finally, an emerging trend in work associated with the development and penetration of the internet and mobile phone technology globally has been the emergence of new forms of working and commodification of labour through online work engagements. This form of work, labelled gig work, typically has short-term and on-call engagements intermediated by a digital platform that assigns work. Gig workers are categorised as independent contractors who are typically engaged on short-term

assignments (Ayentimi et al., 2022). Gig workers may typically take on multiple assignments at a time—which can take the form of an ongoing project-based contract or a temporary position—part-time or hourly to earn enough income to make a living. There are consequences of the gig economy for the future of work on employment relationships. Given that gig workers are categorised as independent contractors, this arrangement eliminates the regulatory relationship between employees and employers (Graham et al., 2017). There is ambiguity around the employment status of gig workers and the identification of the employer since the gig platforms intermediate between the buyers and sellers of labour and services. In a labour market environment that is already characterised by weak institutional structures and limited capacity to enforce minimum labour standards, it will be extremely challenging to extend regulatory oversight to gig workers, resulting in the absence of regulation and worker protection (Aloisi, 2016). When gig work is extended across national borders where job mobility becomes entrenched and work can be carried out anywhere, it becomes uncertain which sovereign state has regulatory jurisdiction over gig workers since gig platforms are typically located in advanced economies, although local gig platforms are emerging (Ayentimi et al., 2022). With gig work, trade union organisation is problematic since the engagements are short term and irregular and it is difficult to identify gig workers.

The current fragmentation of ER undermines trade unions' ability to attract members, be active in improving employment conditions and play a key stakeholder role in developing employment relations and workforce policy in Ghana. Overall, trade unions are under pressure from external developments, including employer labour use strategies, the expansion of the informal sector, the growing interest in MNE operations under special free economic zones and the development of the online economy that supports labour commodification. In addition, ineffective and partial labour regulations and trade union division continue to contribute to declining union membership.

Labour Union Revitalisation Agenda in Ghana: How Can It Be Achieved?

In highlighting the direct consequence of the existing fragmentation of ER, there are several possible scenarios for enhancing trade union revitalisation in Ghana. First, we advocate for the building of community-labour coalitions. Labour unions must build more progressive community coalitions as part of the resistance to deunionisation and decollectivism by employers (Ng, 2015; Upchurch & Mathers, 2011). Building community-labour coalitions provides a strong shield for unions to participate in employment policy dialogue without being targeted by employers (Ng, 2015). Building alliances with civil society organisations may potentially provide unions the opportunity to mobilise the critical mass for employment legislation campaigns. Unions can build up community alliances with progressive feminists and labour activists to use their platforms to challenge workplace employment discrimination practices—equal pay systems and gender discrimination. The commitment of progressive civil society activists and organisations can support unions to have a strong voice in broadening social change (Kahraman, 2018). In several countries, active civil society activists and feminists have created community-based alliances to address employment discrimination and barriers to equal employment opportunities. The success of community-labour alliances is strongly grounded in the ‘power of numbers’ in mobilising political bargaining (Ng, 2015; O’Brien et al., 2004). However, the fundamental challenge for labour unions in Ghana has been how to rebuild their influence, capacity and credibility in this period of democratisation and economic liberalisation. The capabilities of unions in Ghana to build complementary power resources through community alliances provide invaluable opportunities to rejuvenate and deepen their social and economic legitimacy and build up social capital for their revitalisation. Labour unions’ influence and their extent of engagement in employment policy dialogue are underpinned by their credibility and capacity to mobilise.

Social partnership represents a relationship between employers and trade unions that produces shared gains or mutual benefits (Klindt,

2017). Social partnership is contrary to traditional adversarial bargaining and can be built at the firm level or industry level. A social partnership framework built on corporatist bargaining arrangements between employers and employees can serve trade unions' interest in addition to supporting labour market reintegration and welfare programmes. Social partnership arrangements are more favourable in trade union revitalisation when such social partnerships are embedded within a far-reaching social agenda such as equal pay systems, equal employment opportunity regulations and decent work (Fichter & Greer, 2004). Indeed, such broader social agenda setting can potentially strengthen union influence and national legitimacy to further their revitalisation agenda rather than engaging in only union-specific concerns. The principles of social partnership between unions and employers can be extended to include skill development through retraining of workers through established unions' funds or collective agreements' training funds (Klindt, 2017). This dimension of social partnership advocates for trade unions and employers to embrace employees' skills development as a shared responsibility rather than a social partnership that focuses narrowly on working time and wages.

Trade unions must engage in providing labour market services, for example, funding upskilling and reskilling training programmes for their members and providing access to skilled labour. This approach of building social partnerships can support local firms to remain competitive and, in turn, promote decent wages and better working conditions and avoid the political narrative of austerity measures that oppose job security (Klindt, 2017). Given that trade unions have a favourable overview of the labour market (membership register and the type of skills available across the nation-state), they can coordinate training programmes and facilitate local networks with employers to develop the skills sets of local industries. This calls for labour unions in Ghana to reflect on the corporatist nature of trade unions, particularly their involvement in economic and social activities in Ghana's development in the 1970s, which bestowed on them a considerable level of economic and social legitimacy in shaping national economic and social policy dialogue at the time. However, the main challenge is how to achieve harmonisation in the current labour union environment to chart a new path of corporatism.

As FDI increases in Ghana, there is the potential for further formal sector jobs and for MNEs to implement HR programmes that recognise trade unions and develop decent work standards. Over the last few years, civil society organisations have played a critical role in monitoring and drawing public and policy makers' attention to MNEs' corporate behaviours within their global value chain operations (Hatte & Koenig, 2020), with a particular focus on MNEs with operations in developing and poor countries with limited capacity for regulatory oversight. The pressure of NGO and consumer alliances in sectors such as clothing, footwear and textiles and of ethical investment funds can result in MNE subsidiaries incorporating collective workplace arrangements that include trade union recognition. According to Muchlinski (2001, p. 32), 'the improved vigilance of several local and international civil society organisations, with their skilful use of the Internet and mass media, is making ignorance of, and indifference to, the suffering of workers and others who come into contact with unscrupulous MNEs less easy to sustain'. In fact, civil society organisations/NGOs with significant influence in the international and national business space will continue to demand accountability as they put pressure on MNEs and their subsidiaries to act responsibly in their operations (Vachani et al., 2009). Moving forward, this expectation of MNEs' accountability may need to be extended to their value chain partners as an avenue to widen the scope of MNEs' social responsibility. The Organisation for Economic Co-operation and Development (OECD) guideline for MNEs provides a workable and feasible template to promote responsible management by MNEs. However, the challenge for Ghana is not only centred on the development of similar standards and protocols to monitor MNEs but also on the lack of enforcement of such protocols.

There is also capacity in the informal sectors of the economy. There is an international tradition of grassroots organisations supported by local and international trade unions in sectors such as banana plantations and palm oil plantations (Akorsu & Britwun, 2017; International Trade Union Confederation, 2013). Informalisation of the sector is not a barrier to representation or organisation. Locally based coalitions can organise workers and collectively improve wages and conditions, especially if they are linked to local conditions and organised in local workplaces. The

effectiveness of these activities can be supported by the ILO and International Trade Union Confederation and by external pressure through responsible investment funds and consumer pressure for responsible and decent employment conditions, including employee representation, such as that found in the apparel and garment industry (Tarafder & Burgess, 2022).

There is opportunity to build on the apparatus of the gig economy to create online coalitions of workers to form new voice and collective mechanisms. The gig economy also contains the potential to reach out to the informal sector and introduce voice and collective mechanisms via online platforms that incorporate decent work standards across their global operations (Ayentimi et al., 2022). There remains an important question in relation to the kind and nature of efforts workers require to nurture a mutual ‘class consciousness’ within the labour movement. Perhaps the establishment and mobilisation of gig workers into a union may be a starting point. In the words of Graham et al. (2017, p. 155), ‘this could be an organisation with more ambitious aims than the current “Freelancers Union” (that aims to assist workers in navigating through current unstable networks of work rather than attempting to change them) and wider geographic reach than the vast majority of existing trade unions’. It is also important to acknowledge the fact that the absence of physical co-presence for gig workers may pose difficulties for their organisation (Johnston & Land-Kazlauskas, 2018). There is potential in gig workforce mobilisation (sharing complaints and work opportunities, coordination and giving feedback) using social media platforms—Twitter, WhatsApp, Facebook and so on (Vandaele, 2018). For example, social media platforms could be used to support mass messaging to avoid specific employers (e.g., employers labelled irresponsible in their operations) and encourage workers’ temporary mass actions (Graham et al., 2017). Nonetheless, in a developing country’s context, characterised by uncontrolled and unregulated digital work platforms, physical co-presence and proximity may certainly be desirable for a mass and effective form of gig workers’ solidarity.

Conclusion

Against the background of ER fragmentation and long-established challenges of labour unions in Ghana, the absence of social and economic legitimacy has affected their power to successfully participate in shaping national policy dialogue and the ER atmosphere to protect the collective interest of Ghanaian workers. There is a clear trend towards declining unionisation and away from the traditional corporatist framework that underpinned the development of Ghana's industrial relations system in the 1970s. While trade union growth has been organised around formal sector economic activities, the continuous growth of the informal sector's share of economic activities potentially threatens their revitalisation. Young workers' apathy and, in some cases, antagonism towards unions in Ghana have created an enabling environment for employers to engage in deunionisation and decollectivism and further undermine union growth.

Trade unions need to restructure and consolidate under one umbrella and overcome their disintegration, loss of political engagement and history of political partisanship. There is potential for partnerships with national and international NGOs, international trade unions and community organisations that promote social justice and decent work conditions. While the emergence of the gig economy potentially weakens and threatens formal work, it also offers the potential to incorporate decent work conditions and voice mechanisms into the informal sector of the economy. The capabilities of trade union leaders to assimilate with regional and international trade unions and build social capital could help enhance their participation and involvement in the employment relations discourse at the global level as MNEs continue to integrate their operations globally. Unions must also strive for alternative routes with the potential to stimulate their revitalisation agenda if they remain relevant within the social and economic discourse in the nation-state.

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5

Employee Relations and Trade Unions in Kenya

Asumwa Augustine Amboka

Introduction

The employer-employee relationship is one of the key issues that every organisation must take into account. According to Hong and Ji (2022), connections between employers and employees are based on underlying but rarely expressed philosophies. These include the unitary and pluralist points of view, the idea of social collaboration, and the degree to which employers should take a group or individual approach. As Wang and Seifert (2021) argued, when employees have faith in their employers, good things might happen within the organisations, including increased output, efficiency, employee morale, customer satisfaction and overall organisational performance.

Some business owners and managers lack the interpersonal skills necessary for the effective operation of their businesses. According to Hong and Ji (2022), rewards justify the effort required on both sides of the business. High-retention rates, low absenteeism, improved customer service, and higher-quality products will all grow as these interactions

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build the workplace's morale and sense of purpose. The world of today is changing quickly to obtain a competitive advantage. Both internal and external environments are actually required to remain competitive (Roche, 2019). Assuming that neither would gain from a hostile environment or from perpetual conflict, management and trade unions must learn to coexist, frequently on a give-and-take basis.

Without trade unions, management typically operates quite well. Some employees may not notice any difference at all, but others may not perform as effectively. According to Hong and Ji (2022), if a line manager or team leader handles a problem in contact with a specific employee, a group of employees, an employee representative, or a shop steward, informal employee relations procedures are taking place. The administration of the pay-work agreement and the development of connections between management and workers are desired.

Employee relations philosophies and the employee relations policies that result from them are then taken into consideration against the backdrop of these notions. Although they may not be explicitly stated, employee relations rules serve as the foundation for managing both formal and informal employee relationships, including those involving unions. Industrial relations will involve collective bargaining and obtaining collective agreements if trade unions are recognised and have negotiating privileges. Regardless of the policies and agreements in place, conflicts in the workplace are still possible; as a result, the chapter's following section discusses strategies for resolving conflicts.

Employee relations and trade unions as human resource concepts have been embraced across many countries, including Kenya. In Kenya, employee relationship management practices differ from organisation to organisation. Trade unions in Kenya, particularly those representing lecturers, employees, government officials, physicians, and nurses, have been campaigning for greater pay, job security, and better working conditions for their members, among other things. Even though there are industrial laws and statutes regulating the management of employment relationships, the way the relationships are managed in organisations is dependent on the leadership or management styles embraced by organisations. Employee relationships in Kenya do not occur in a vacuum since there

exist a range of trade unions within which employees bargain collectively to varying degrees and impinge upon the relationship.

Kenyan trade unionism originated in the early 1930s. The Kenya Federation of Labor (KFL) was formed as a result of the advent of trade unions in Kenya. Central Organization of Trade Unions (COTU) has led the fight to preserve workers' rights in collaboration with its partner trade unions. The Constitution of Kenya (COK) of 2010, which allows for industrial action under Article 41 of the Bill of Rights, has given trade unionism a new life. Since the Constitution was promulgated on August 27, 2010, 14 trade unions have been registered, increasing the total number to 79. Studying the concepts of employee relations and trade unions in the Kenyan context would provide a clear picture of the situation from both theoretical and practical perspectives, which is the aim of this chapter.

To understand the concepts of employee relations and trade unions, the next section explains these concepts. Thereafter, the chapter highlights employment relations and the psychological contract, where employment relations philosophies and policies have been discussed. In the other following sections, trade unions, collective bargaining and collective agreements, substantive agreements, procedural agreements, single-union deals, new-style agreements and partnership agreements have been elaborated. This was followed by an in-depth analysis of employee relations and trade unions in Kenya with regard to the history of employee relations and trade unions in Kenya, the development and growth of modern trade unions, legal and institutional frameworks supporting trade unions in Kenya and trade union membership and management in Kenya. The chapter further draws some conclusions and finally recommendations made on the subject of employee relations and trade unions.

Concept of Employee Relations

Employee relations are described by Zhang et al. (2008) as a term that has just recently started to be used frequently to denote a specific field of subject matter. Employee relations focus on creating a healthy

psychological contract and managing the employment connection in general. The sum of economic, social, and political interactions in workplaces where workers perform manual and mental labor in exchange for employability, rewards, and the institutions set up for the purpose of governing work constitutes this interdisciplinary field.

It also includes processes of regulation and control over workplace relations, the organisation of tasks, and relations between employers and their representatives and employees and their representatives (Howell, 2021). Employee relations specifically address employment terms and conditions, workplace problems, giving workers a voice, and communicating with workers. Hagglund (2018) reaffirmed that in cases where trade unions are recognised, employees are dealt with directly or through collective agreements.

Industrial relations, which primarily concern the interactions between management and officials from trade unions, span a narrower range of employment relationships than employee relations. Conflict resolution, employee empowerment, employee pay, and employee voice are some of the often-employed employee relations techniques. They help to make decent work a reality at the workplace by improving working conditions, safety and health, employee retention, employment conditions, employee performance, and overall organisational performance, according to Kelly (2019), who claims that these practices are essential for good governance and economic progress.

Employee and Industrial Relations

The definitions of employee relations and labor relations are up for discussion, and there are several points of view. Others contend that the concepts and phenomena described are essentially interchangeable, while some claim that there are distinguishable differences between them, differences of a substantive nature sufficient to justify the use and maintenance of each term. Howell (2021) addresses this in their justification for using the term “employee” rather than “industrial.” They begin by saying that there is no clear-cut difference between the two, with the only

difference being that each has the propensity to confine the discussion to a certain area.

Industrial relations, according to Waddington (2019), inevitably came to be associated with trade unions, collective bargaining, and industrial action; there was also a tendency to view the world of work as synonymous with the manufacturing and extractive industries, which were predominantly occupied by men who worked full-time as manual laborers and are now in decline in almost all developed economies. By using the term “employee relations,” they can adopt a wider perspective, take into account the now-dominant service sector, which employs more than 70% of the labor force in many developed countries, as well as changes in the labour force’s make-up, such as an increase in the number of working women and part-time, temporary, and fixed-term contracts; they can also take into account nonunion as well as union scenarios and relations.

According to Wright (2018), the broader account of employee relations acknowledges the shift from collectivism to individualism in how employees connect to their employers. The principles of shared control and rule-making are historical in nature. Employers, particularly in the private sector, are in charge to a great extent. Union membership in the United Kingdom has fallen from a peak of approximately 12 million to approximately 7 million now, owing mostly to structural factors such as the collapse of large manufacturing enterprises and the expansion of service sectors, as well as the rising number of part-time employees. Between 1980 and 2000, collective bargaining coverage shrank from three-quarters to less than one-third of the workforce. There has been a significant decline in union activities.

Employment Relationship in Organisations

Employers and employees collaborate to form organisations. This is the employment relationship, which may be formalised in what Wright (2018) saw as its cornerstone, the employment contract. In law, an employee is someone who works for an employer, while the employer makes the final business decision. The Employment Rights Act (1996) in the United Kingdom defines an “employee” as a person who works under

a contract of employment, with the implicit assumption that “the employer” is the other party to the contract. Procedure agreements and work regulations can explicitly define the employment relationship. However, the employment relationship is also an informal process that occurs whenever an employer interacts with an employee and conversely.

According to Shahrom (2021), the job relationship is centred on a “zone of acceptance” where employees consent to let management influence their work. This could refer to the variety of duties that staff members are willing to carry out under management’s guidance, but it could also refer to the importance that different sorts of work should be given, as well as the readiness to adjust working hours in accordance with management’s needs. In the organisation, there are various levels where the employment connection exists (management to employees generally and managers to individual employees and their representatives or groups of people).

One key aspect to understand regarding the employment relationship is that, until collective bargaining has set the contractual terms, the employer has the ability to dictate them. Wright (2018) indicated that individuals have limited leeway to change the terms of the contract imposed on them by employers unless they are in high demand and can bargain with them. Employers who seek to manage cooperative and high-performing workers and employees who want to protect their rights to self-determination and “a fair day’s pay for a fair day’s labor” invariably have conflicts of interest. In accordance with labour process theory, Forth (2021) asserted that interactions between employers representing capital and workers representing labor are often one of structured hostility.) Revisionist labor process theorists, “in the employment relationship, there will always be (real and prospective) conflict, but there will also be shared interests.”

Employment Relations and the Psychological Contract

The psychological contract is tied to the notion of the work relationship. Schein (1988) is largely responsible for the concept of a psychological contract, and he suggested that there exists an implicit contractual relationship between employers and workers, which is abstracted from a collection of assumptions made by both employers and employees about the nature of their relationship. These assumptions may not be legally valid, but they comprise a set of reciprocal interactions and serve as the foundation for a set of expectations that may have significant moral significance.

The psychological contract, as defined by Guest et al. (1996), may offer some indication of the answers to two key work relationship concerns that individuals pose: “What can I fairly anticipate from the organisation?” and “What should I properly expect to contribute in return?” However, neither partner is likely to completely comprehend the psychological contract and hence the job relationship. The aspects of the employment relationship covered by the psychological contract will be included from the employee’s point of view:

- how they are treated in terms of fairness, equity, and consistency;
- security of employment
- scope to demonstrate competence
- career expectations and the opportunity to develop skills;
- involvement and influence;
- trust in the management of the organisation to keep their promises.

From the perspective of the employer, the psychological contract addresses components of the job relationship such as competence, effort, compliance, dedication, and loyalty. The psychological contract underpins the job relationship by expressing certain assumptions and expectations about what managers and employees have to give and are ready to provide. The beginning of an employment relationship is an employee’s commitment to supply expertise and effort to the employer in exchange

for a payment or compensation from the employer (the pay–work bargain).

The connection is initially based on a formal contract. This might be a written contract, but the lack of one does not imply that there is no contractual connection. Employers and workers continue to have some legal rights and duties. The employer's responsibilities include the obligation to pay compensation or wages, maintain a safe workplace, behave in good faith towards the employee, and not act in a way that undermines the trust and confidence of the employment relationship. Obedience, competence, honesty, and loyalty are among the responsibilities of the employee.

Employment Relations Philosophies

Employer-employee relationships are built on underlying but seldom stated principles. These include the unitary, pluralist, and scientific perspectives, the idea of social partnership, and employers' confidence in a collective or individual approach based on the latter two. The scientific viewpoint refers to the interdependence approach of employer and employee coexisting in a work environment where both benefit, one side benefits while the other suffers, and finally, one side benefits while the other suffers.

The Unitary View

The unitary viewpoint is commonly held by management, which sees its duty as leading and regulating the workforce to accomplish economic and development goals. For that purpose, management considers itself to be the rule-making authority. Management frequently views the company as a unified system with a single source of power—itsself—and a single focus of devotion—the organisation. It extols the virtues of collaboration, in which everyone works together to achieve a shared goal, everyone does their part to the best of their abilities, and everyone cheerfully accepts their place and functions under the supervision of the chosen supervisor or manager.

These are good attitudes, but they may often lead to what McClelland (1963) called an orgy of “avuncular pontification” on the part of industrial executives. The unitary point of view, which is basically autocratic and authoritarian, has been articulated in agreements as “management’s right to manage.” The unitary approach has influenced HRM philosophy, with its focus on commitment and mutuality.

The Pluralist View

According to Fox (1966), a pluralist view is that an industrial organisation is a plural society with numerous linked but independent interests and aims that must be kept in some type of balance. Instead of a single source of authority and devotion reflecting corporate unity, managers must embrace the presence of competing sources of leadership and attachment. It must acknowledge that, in Drucker’s (1951) words, a commercial company has three personalities: it is an economic, a political, and a social organisation. In the first instance, it generates and distributes income. In the second instance, it represents a governing system with a complicated web of political ties. The third persona emerges from the institution’s community, which emerges from face-to-face interactions among diverse groups of employees based on similar interests, feelings, beliefs, and values. Pluralism traditionally considers workers to be represented by a “nongoverning opposition.”

The Scientific View

This viewpoint divides industrial interactions into three types based on how organisms exist and rely on each other in a specific biological environment: mutualistic symbiotic industrial relations, parasitic symbiotic industrial relations, and commensalism symbiotic industrial relations. Colling and Terry (2019) argued that the relationship that occurs between a bee and a flower is an excellent example of a mutualistic symbiotic interaction in which the bee collects nectar from the flower and utilises it to manufacture honey, while the flower is enabled to reproduce through

cross-pollination. At work, it is, therefore, anticipated that the employee would contribute both physical and mental labor to the manufacturing process, with the company remunerating the employee accordingly.

Salamon (2020) posited that the interaction that occurs between the jigger in human feet, where the jigger continues to develop massively overweight by drawing nutrients from food through the bloodstream in the feet and the human being is compelled to pain/suffrage, explains the parasitic symbiotic relationships between these two organisms, where one benefits and the other does not. There are ghost workers or malingerers at work who are on the employer's payroll but provide no benefit to the production process (Waddington, 2019). Finally, plants that grow on each other best illustrate the symbiotic commensalism interaction.

Both plants have no detrimental effects on each other; however, one only receives little support without damaging the other. Similarly, there are employees who accomplish the bare minimum of what their job contract requires of them but do not perform to their full capacity. In other words, neither side benefits nor has a negative influence on the other. This scientific approach to industrial relations advocates for mutualistic symbiotic industrial relations at work, in which both the employer and the employee reach their full potential in the production process.

Employee Relations Policies

Labour relations policies define the organisation's thinking on the kind of interactions that are desired between employees and management as well as how the pay-work bargains and maintains a pleasant, productive, cooperative, and trustworthy environment of labor relations (Zhang et al., 2008). The areas that can be covered are as follows:

- The employment relationship: the extent to which terms and conditions of employment should be governed by collective agreements or based on individual contracts of employment (in other words, collectivism versus individualism).
- Trade union recognition: whether trade unions should be recognised or derecognised, which union or unions the organisation would prefer

to deal with, and whether it is desirable to recognise only one union for collective bargaining and/or employee representational purposes.

- Collective bargaining: if unions are recognised with negotiating rights, the scope of areas to be covered by collective bargaining.
- Managing workplace conflict: how grievances should be settled and disputes resolved.
- Participation and involvement: the extent to which the organisation is prepared to give employees a voice on matters that concern them.
- Partnership: the extent to which a partnership approach is thought to be desirable.
- Harmonisation of terms and conditions of employment for staff and manual workers.
- Working arrangements: the degree to which management has the prerogative to determine working arrangements without reference to employees or, if they are recognised, trade unions.

Employee relations policies provide the basis for managing employee relations with or without trade unions and can affect informal employee relationships.

Employee Relations and Trade Unions

The ways in which employee relations are managed will depend on whether trade unions are recognised. To a large extent, day-to-day management is carried out informally.

Trade Unions

Labor unions can be established with full bargaining and representative rights, or they can be recognised with simply representational rights, that is, the right to represent employees in complaints, disciplinary cases, and redundancies. According to Wilkinson et al. (2019), members of trade unions may also participate in joint consultations and serve as health and safety or development and learning representatives. Ideally, management

and trade unions learn to coexist, frequently on a give-and-take basis, with the assumption that neither would gain from a hostile environment or continual antagonism.

It is assumed in this ideal situation that mutual benefit results from, first, acting in accordance with the spirit as well as the letter of agreed-upon joint regulatory procedures reached in collective agreements and, second, believing that disagreements can be resolved without resorting to industrial action with goodwill on both sides (Ackers & Wilkinson, 2020). In fact, both sides are more likely to take a more realistic pluralist stance, acknowledging the likelihood of differences of opinion, even disagreements, emerging because employers' and workers' interests and opinions can never be identical. Things were different in the 1960s and 1970s. Hostility and conflict were common in specific industries, such as the automobile and shipbuilding industries.

In the interests of peace and profit, newspaper owners tended to let their unions trample all over them. The world has changed. As Shreshtha (2012) indicated, trade union power has dwindled in both the corporate and governmental sectors. Private sector executives have a tendency to take the initiative. They may be happy to coexist with trade unions, but they place a lower importance on industrial relations. They may believe that continuing to work with a union is simpler since it provides a valuable, well-established route for communication as well as the resolution of grievances and disciplinary and safety problems. In the absence of a union, management must devise alternatives, which can be costly and difficult to implement.

Collective Bargaining and Collective Agreement

Collective bargaining is a collaborative regulatory process that involves employers and unions negotiating and discussing agreements on issues of mutual interest, such as the employment relationship and terms and conditions of work. According to Colling and Terry (2019), collective bargaining produces formal outcomes such as substantive agreements, procedural agreements, new-style agreements, partnership agreements, and employee relations processes. As previously said, managing with

unions entails collective bargaining—the negotiation and discussion of agreements on areas of mutual relevance to employers and unions, encompassing the employer-employee relationship and employment-related terms, conditions, and policies.

Collective bargaining is a combined regulating procedure that addresses both the regulation of management in its dealings with workers and the control of working conditions. Flanders (1970) defined it as a social process that “continuously resolves conflicts into agreements in an orderly method.” Collective bargaining may also be viewed as a political connection in which trade unions share industrial sovereignty or authority over those who are ruled, the employees, as Forth (2021) emphasised. In the collective bargaining process, management and the union share sovereignty.

Overall, collective bargaining is a power relationship between management and trade unions that takes the shape of a measure of power sharing (although recently, the balance of power has shifted markedly in the direction of management, at least in the private sector). Bargaining power is the capacity to persuade the opposing party to make a choice or take action that it would otherwise be hesitant to take. Each party is active in appraising the other side’s negotiation preferences and bargaining power. According to Wang and Seifert (2021), “power is the critical variable that influences the result of collective action.”

According to Hong and Ji (2022), the basic measure of negotiating power is “if the cost to one side of accepting a proposal from the other is greater than the cost of not accepting it.” Collective bargaining is classified by Zhang et al. (2008) into two types: conjunctive bargaining, in which both parties seek agreement, and cooperative bargaining, in which it is understood that each side is dependent on the other and may achieve its goals more successfully if it has the support of the other. Roche (2019) distinguished distributive bargaining as a “complicated set of acts crucial to the realisation of one party’s interests when they are fundamentally opposed to those of the other side.”

Furthermore, integrative bargaining is described as a “system of activities that are not fundamentally in conflict with those of the other party and may thus be integrated to some extent.” These activities seek to define “a shared concern, a goal.” Collective bargaining produces formal

outcomes such as substantive agreements, procedural agreements, new style agreements, partnership agreements, and labor relations processes (Howell, 2021).

Substantive Agreements

Substantive contracts define agreed-upon employment terms and conditions, such as salary, allowances, and overtime restrictions, working hours, vacations, and flexibility arrangements, and the attainment of single status or harmonisation. A single status implies that there are no distinctions in fundamental working conditions. According to Hagglund (2018), the adoption of a consistent approach to pay and conditions for all employees, such as placing all employees in the same grade and pay structure, is referred to as harmonisation.

Procedural Agreements

Procedural agreements specify the techniques to be employed, as well as the procedures or regulations to be followed, in collective bargaining and the resolution of industrial disputes. Their goal is to govern the behavior of the agreement's parties, but they are not legally enforceable, and the extent to which they are observed is determined by both parties' goodwill and the balance of power between them. Kelly (2019) claims that procedural agreements, such as substantive agreements, are seldom violated, and if they are, it is never lightly violated.

Howell (2021) pointed out that the underlying expectation of collective bargaining is that both parties will honour agreements established freely between them. Such agreements' scope and content might vary greatly. Several organisations have confined their recognition to the granting of representative rights solely, while others have adopted a totally different approach in reaching single-union agreements, which were dubbed the "new realism" when they first appeared in the 1980s.

Single-Union Deals

According to Waddington (2019), flexible working practices, the harmonisation of terms and conditions between manual and nonmanual employees, the organisation's commitment to involvement and information disclosure, dispute resolution through methods such as arbitration, a commitment to production continuity, and a "no-strike" provision are all covered by single-union agreements, which typically agree on a single union representing all employees.

New-Style Agreements

In the 1990s, so-called new-style agreements arose. These require that negotiation and conflict resolution methods be based on the mutually agreed-upon "rights" of the parties as specified in the recognition agreement. Wright (2018) alludes that they usually featured provisions for single-union recognition, single status, labor flexibility, a business council, and a no-strike clause stating that problems should be handled without resorting to industrial action.

Partnership Agreements

These agreements are founded on the previously described idea of social partnership. Both sides (management and the trade union) agree to engage for mutual benefit to create a more cooperative and hence less antagonistic industrial relations atmosphere. According to Shahrom (2021), management may give job security in exchange for increased production, and the union may agree to more flexible working hours. The claimed advantages of partnership agreements are that management and unions collaborate in an atmosphere of collaboration and mutuality, which is clearly preferable to an antagonistic relationship. Change is implemented by conversation and consent rather than through compulsion or power.

The balance of advantage in partnership agreements frequently looks to favor staff. Furthermore, an analysis of evidence from the 2019 Workshop Employee Relations Survey (Roche, 2019) revealed that partnership practice is still relatively undeveloped and that it is only weakly related to trust between management and employee representatives, as well as to employees' trust in management. Indirect forms of engagement are often more associated with trust than representational forms.

However, data collected by Roche (2019) from a large representative sample of employees in Ireland revealed that collaboration is related to certain reciprocal advantages. Employees benefited from improvements to fundamental characteristics of their work, such as autonomy, but they did not gain security or greater income, and they did not appear to be more eager to embrace change. Employers received increased dedication, a stronger employee relations atmosphere, and better supervisor/employee interactions. Unions increased power and membership.

Employee Relations and Trade Unions in Kenya

A trade union is defined by the Labour Relations Act as “a group of employees whose primary goal is to govern relations between employees and employers, including any employers’ organisation.” Akhaukwa et al. (2018) reported that Kenya’s economic, social, and political objectives were established in 1965 Sessional Paper No. 10 on “African Socialism and its Application to Planning in Kenya.” Kenya changed its development objective in 2007a by creating a blueprint, “The Vision 2030,” with the goal of transforming Kenya into a “Globally Competitive and Prosperous Country.” Kenya passed a new constitution in 2010 to strengthen its commitment to its development strategy, introducing national and devolved structures aimed at improving equitable economic growth. As a result, Kenya’s GDP increased by 5.4% in 2014 and 5.6% in 2015.

History of Employee Relations and Trade Unions in Kenya

Kenyan trade unionism originated in the early 1930s. According to Nyaencha (2014), the colonial authority enacted a Trade Unions Ordinance in 1937 and its revision in 1940, resulting in a rush for the creation of workers' unions in Kenya. From three trade unions immediately following the ordinance's passage in 1937 to six in 1940, the number more than doubled. Kenyans were actively participating in labor unions in 1947, motivated by the escalating trend of worker rights violations. This infringement resulted in a historic strike in the port of Mombasa in 1947, resulting in job losses and extensive property destruction.

The government subsequently established a panel to investigate the causes of the strike. Following an extensive investigation, the government determined that there was an urgent and essential need for a means to contact the workers. The Kenya Federation of Labor (KFL) was formed as a result of the advent of trade unions in Kenya. Tom Mboya, the general secretary of the KFL, led the campaign for the preservation of workers' rights beginning in 1952. By 1963, the number of trade unions had grown to 52, representing approximately 155,000 workers. KFL was superseded by the Central Organization of Trade Unions (COTU (K)) in 1965 as a result of a presidential committee's recommendation to develop a centralised body for all Kenyan trade unions.

Since then, COTU (K) has led the fight to preserve workers' rights in collaboration with its partner trade unions. Indeed, under the capable leadership of Bro Francis Atwoli, the secretary general of COTU, workers' welfare has been successfully pushed for since 2001. Trade unions in Kenya, particularly those representing lecturers, employees, government officials, physicians, and nurses, have been campaigning for greater pay, job security, and better working conditions for their members, among other things.

The Kenyan Constitution (COK), 2010, which allows for industrial action under Article 41 of the Bill of Rights, has given trade unionism a new life. Since the Constitution was promulgated on August 27, 2010,

14 trade unions have been registered, increasing the total number to 79 (Nyaencha, 2014).

Development and Growth of Modern Trade Unions

The contemporary industrial relations system began in the late 1890s, when Europeans arrived in Kenya and imposed a new economic and political regime that brought about significant changes in Kenyans' lives. Certain policy and legal repercussions resulted from the decision to encourage European settlement in the East African Protectorate. Odhong et al. (2014) added that the colonists placed hegemonic constraints on Kenyans and enforced their processes and customs in all aspects of life. Indigenous peoples were compelled to labor on white settlers' farms for pittances. Many objections were raised by employees but were concealed. Africans who participated in the First and Second World Wars returned to raise awareness about labor rights.

African workers demanded the formation of trade unions in the late 1950s. In the 1950s, the first trade unions were formed. Workers' leaders such as Tom Mboya and Fred Kubai united Africans into strong coalitions. Kenya's trade union movement originated in the early 1900s, when settlers developed plantations. According to Nyaencha (2014), the Kenyan trade union movement arose in response to the tough working circumstances of Africans who believed they were being treated unfairly. Kenya's first trade union, Ordinance No. 35, was established in 1949. Nyaencha (2014) outlined the elements that contributed to the current state of trade unionism in Kenya. These included the following:

- a) The strong opposition of the elite settler employees
- b) The small number of wage earners and their lack of technical know-how in trade union organisation
- c) The authoritarian nature of the colonial political systems
- d) Restrictive labor laws
- e) The high rate of illiteracy among wage earners

According to Nyaencha (2014), pivotal events in Kenyan trade unionism significantly altered industrial relations. They include (i) the two world wars in which Kenyans fought and were thus exposed to what was happening in other parts of the world in terms of industrial relations rights; (ii) war veterans returning home to press the colonial government to improve employment practices, including trade union registration; and (iii) independence in 1963, which led to improvements in labor relations, including a reduction in discriminatory practices against Africans and an increase in educational opportunity, (iv) a widened political space, and increases in labor mobility and opportunities for employment.

The Industrial Relations Charter (IRC) was one of the measures put in place just before 1963 to maintain stable labor relations in Kenya. The clampdown on freedom of association during the Kenyatta and Moi eras reduced trade unions and political freedoms. The adoption of the new Constitution in 2010 was a rebirth for freedoms of association and expression, as well as the inclusion of labor relations rights in the Bill of Rights in Part IV of the Constitution. In addition, Article 27 of the COK prohibits discrimination and advocates for inclusion in the administration of public affairs, which may have an influence on private labor relations.

Legal and Institutional Frameworks Supporting Trade Unions in Kenya

Kenya's industrial relations are founded on a rather complex institutional and legislative framework that is centred on a tripartite structure. The structure brings together the government, labor (represented by trade unions), and business (represented by employers' organisations). The legal framework is based on applicable ILO Conventions that the nation has ratified, the country's Constitution, and local labor legislation.

The Industrial Relations Charter of 1957, on the other hand, defines the parameters for trade union formation and recruiting, including instructions on the types of employees who, by nature of their employment, qualified to join a trade union (revised in 1984). Kenya has five distinct sets of labor laws that control labor relations. These include the

Labor Relations Act (2007b), the Labor Institutions Act (2007), the Work Injury Benefits Act (2007), and the Occupational Safety and Health Act (2007c). (2007). The Employment and Labor Relations Court Act, 2011, the National Social Security Fund Act, No. 45 of 2013, and the National Hospital Insurance Fund Act, 1998, are also acts that promote good industrial relations (Revised edition, 2012).

The existing legislative framework is a favorable reaction to evolving labor market conditions, notably the changing labor force composition and employment structure. These facts prompted the crucial need for expanded social safety nets for the rising share of employees who have insufficient or no social protection. Finding an appropriate balance between a socially responsive legal framework and unavoidable flexibility in a highly competitive global marketplace is a fundamental problem for tripartite partners. Furthermore, the aim of several of the legal framework's provisions remains a cause of concern among labor market participants.

Trade Union Membership and Management in Kenya

Kenya has two trade union federations: COTU (K) and TUC-Ke. There are approximately 50 registered trade unions, the majority (44) of which are affiliated with COTU (K), while a few, including the Kenya National Union of Teachers (KNUT), Union of Kenya Civil Servants (UKCS), Universities Academic Staff Union (UASU), and Kenya Universities Staff Union (KUSU), are affiliated with the newly formed Trade Union Congress of Kenya (TUC-Ke). Agriculture, Whole Sale and Retail, and Public Service are the industries with the most trade unions. Only four of these unions in the public sector are not associated with COTU (K).

The Central Organization of Trade Unions of Kenya (COTU) is an essential resource for individual trade unions, whether they are affiliate members or not. COTU frequently lends their support willingly. COTU (K) has an average membership of approximately 2.5 million people from various industries. Some areas, such as agriculture, are dominated by women and youth, while others, such as engineering, are dominated by

men. The age and gender of workers in the sector were decided by the nature of the sector/work (manual or complicated).

Some of these unions are linked with international organisations such as Industrial, Uni Global, IUF, ITF, PSI, TGWU, Wiego, Mamacash, Uni Africa, and BWI. Trade unions claimed to have included ideas of worker control and democracy in their constitutions. These ideals are promoted through workshops and seminars on sensitisation, as well as democratic involvement in union elections. The survey discovered that trade unions had departments of education and training; organising and recruitment; industrial relations and legal matters; accounting and finance; administration; and youth and gender, among others, to provide appropriate services to their members. These departments are essential in providing important services.

Unions provide services such as organising and recruiting, grievance management and conflict resolution, training and education, financial services and sacco services, CBA negotiation, and legal services, among others. According to the survey, the biggest issues faced by Kenyan trade unions include the Salaries and Remuneration Commission (SRC) interfering with negotiating procedures, as well as delays and backlogs in the industrial and labor relations court. Financial and human resources are scarce; employees who are anti-trade unionism and continue to out-source, contract, and recruit workers on a casual basis; high-recruitment expenses and the viability of union activity; rising levels of retrenchment lowering membership. High-training expenses and a government that does not enforce labor laws.

Despite this, several unions alleged police harassment of organising teams in response to provocation by particular employers. The procedure of registering a trade union takes six months and is outlined in sections 12, 13, and 14 of Kenya's Labor Relations Act, 2007. The process of registering a trade union begins when two people apply for a certificate to encourage the foundation of a trade union, in which the prospective trade union's name and any required information are supplied.

A certificate must state that the promoter is authorised to engage in legitimate activities related to the formation of a trade union. A trade union's registration application must be submitted to the registrar of trade unions within six months of the certificate's issuance date. A trade

union registration certificate may be revoked if the registrar has the cause to think that the certificate was obtained by fraud, deception, or error or if any individual has engaged in unlawful activities in violation of the Labor Relations Act, 2007.

Conclusions

Trade union activities, among other things, play an important role in advocating for continuing improvements in job security and employee terms and conditions. According to Akhaukwa et al. (2018), collective bargaining, employee welfare, a code of discipline, a code of regulations, trade union involvement, trade union protection of employee rights, trade union and conflict management, resolution tactics, and so on are all key activities of trade unions. Most governments and employees equate trade union activities with worker strikes, slowdowns, or work stoppages, particularly in developing countries; nonetheless, trade unions defend workers against exploitative and abusive working conditions. Unionisation may be seen in Kenya's manufacturing, trading, transportation, large-scale agricultural, and teaching/education sectors.

The major goals of trade unions are to increase the welfare of their members by obtaining higher wages, improving their working conditions, and improving job tenure. Given these appealing goals, one would expect the majority of employees to be union members. However, only an average of or slightly more than 50% of formal, manufacturing, and production workers have joined trade unions. Employers in Kenya see trade unionism as an intrusion into the normal operation of organisations, notwithstanding the good contribution it may make to industrial peace, harmony, and growth. Employers frequently claim that labor unions simply talk about workers' rights while ignoring their responsibility.

Union actions are mostly to blame for enterprise firms'/organisations' low productivity and poor performance. Employers view trade union activities as organisations solely concerned with securing benefits for their members, such as financial gains like wage increases, bonuses, various allowances, insurance benefits, overtime payment, and nonfinancial

benefits such as job security, comfortable work environments, and recreational facilities, as well as decreasing employer fear through collective bargaining. Unions, on the other hand, engage in tasks other than collective bargaining, such as raising worker productivity or efficiency, improving worker discipline, improving workplace peace, regulations, and harmony, and engaging in decision making with management.

Recommendations

From the review, employment relations and trade unions are characterised by a range of prospective and variant forms of attachments that influence employee commitment to organisational values and acknowledge more crucial agendas. Furthermore, there exist dissenting perspectives on this relationship, each of which has implications for the way in which the issues of conflict and/or cooperation between labor and capital are perceived. Accordingly, the following recommendations are proposed:

- Looking forwards to the realisation of the three pillars of Kenya's Vision 2030 demands that all institutions restructure to perform and develop frameworks for the implementation of performance measures at the various levels of management for the organisation. Consequently, through employee relations and trade units, such institutions would put controls on four key areas: cost, time, quality, and information. Employees need to be included in the formulation of employment policies. Organisational structure realignment, streamlining internal communication, increasing staff training, enhancing IT competence, reviewing remuneration structures and policies, and incorporating proper leadership styles would enhance the implementation of such policies to impact employee performance.
- For effective performance contracts, consistency and creativity need to be embraced in employee relations and trade unions. The fundamental principle of employee relations is the collective management style, where emphasis is management by outcome rather than management by processes. Processes such as work-plan consultations, organisational communications, and management style should be streamlined to

consider employee welfare for the purpose of enhancing how employee relations and trade unions operate.

- The concerned employee and trade unions should focus their efforts to help make decent working conditions a reality by improving working conditions, safety and health, employee retention, employment conditions, employee performance, and overall organisational performance. These practices are essential for good governance and economic progress.
- The concerned institution should embrace system transformation through the adoption of improved technology for collective employee engagements and representations in employee relations matters to make it more reliable to employees and employers. This will increase employee and employer involvement in employee relations and trade unions, which will lead to better working conditions and organisational performance.
- Modern-day organisations should establish proper policies and agreements that focus on improving the performance of individuals within each department. This will enable organisations to increase human resource departmental performance and improve performance generally.
- The concerned institution should also use a professional staffing practice to employ qualified staff, as this will improve general performance. This will also enable the human resource department to increase quality labor for quality service.
- The regulatory agencies, as well as government ministries in Kenya, should increase the conducive environment for employee relations and trade unions to enable the realisation of sustainable economic growth by introducing inter-administrative comparison circles at every administrative level, integrating the action plans of the departments through performance systems. These would be relevant since the purpose of employee relations is to contribute to the success of the employee relations organisations and trade unions through a set of carefully crafted and internally consistent human resource management policies and practices.

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6

Understanding Employment Relationships and Trade Unions in South Africa

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Introduction

The world of work has undergone unprecedented changes over the years and is still changing rapidly (Li et al., 2022). Recent events such as the increase in flexible work, the rise of atypical and nonstandard work, the growth of the informal sector, the rise in unemployment, and job decline in the manufacturing industry (Manga Mokofe, 2021), coupled with changes in labour legislation, have altered the trajectory and nature of employment relationships in many nations across the globe, including South Africa (SA) (Deale, 2022). According to research, job losses

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outnumber jobs created in SA, where unemployment and poverty are also rising (Womack, 2021). From a historical perspective, trade unions have played significant roles in fighting for and protecting the rights of employees. They have also been featured in the political reforms that have taken place in SA (Manamela, 2015). In SA, standard employment has been the normative basis for laws and regulations safeguarding workers against long hours and hazardous working conditions, ensuring their ability to join unions and engage in collective bargaining, and securing welfare benefits such as social insurance and pensions (Omomowo, 2010; Womack, 2021). However, the efficacy of trade unions in SA is currently being challenged, and membership has also been declining (Cloete, 2021; Deale, 2022; Ofusori, 2022). While this is not just an SA phenomenon (Lazar & Sanchez, 2019; Msila, 2018), it is noteworthy that the history of SA cannot be told without highlighting the indelible contributions of trade unions. Given the turbulent history of trade unions, specifically in SA (Ajam, 2022; Ofusori, 2022), it is expedient to explore their roles in the SA labour market in current times, particularly given the changes in the nature of work.

Nonstandard employment prevails in SA, and the informal sector has experienced tremendous growth in recent decades (Ajam, 2022). The SA labour market is changing with the growth of flexible work driven by technology, globalization, and, recently, the outbreak of COVID-19 (Ajam, 2022; Msila, 2018). Essentially, Cloete (2021) noted that these new types of work are not within the auspices of traditional trade unionism, exposing new generation workers to unfair treatment in their workplace with no form of representation. Visser (2019) argued that the current realities in the workplace call to question the efficacy of trade unions, especially in SA (Nombembe, 2022). Ntimba (2019) noted the proliferation of poor employment relationships in many parts of SA. Unfair employer–employee relations manifest in mental bullying, nepotism, and discrimination on the grounds of age, gender, religion, union affiliation and culture, racism, and victimization (Ntimba, 2019). This connects to SA's ranking in labour–employer relations in 2013/2014 and 2017/2018. The ratings showed that SA occupied the last position in both years (147th of 147th in 2014 and 137th of 137th in 2018) in terms of labour–employer relations (Schwab, 2015, 2018). Notably,

while the traditional approach of trade unions has proven effective in the past, especially considering their indelible role in achieving a postapartheid SA (Omomowo, 2010), such an approach is no longer tenable (Deale, 2022). Based on this, this chapter covers theoretical perspectives on trade unionism, situating trade unionism in the SA context, a historical account of trade unionism and employment relationships in SA, and the responsibilities of trade unions in SA, and concludes by highlighting the future of trade unions in SA in relation to their roles in employment relationships.

Perspectives on Trade Unionism

Early scholars such as Webb (1891) and Salamon (1998) proposed definitions of trade unionism. Webb considered trade unionism “as a continuous association of wage earners for the purpose of maintaining or improving the conditions of their working lives.” This definition tends to limit the role of trade unions to employment relationships. This is similar to a more recent definition by Chamberlain et al. (2014). They defined trade unions as organizations whose “primary mandate is improving and supporting the well-being of workers and defending rights within the workplace” (p. 3). Salamon (1998), on the other hand, provided a more elaborate definition that expands the role of trade unions beyond the workplace. According to Salamon (1998), a trade union is “any organization, whose membership consists of employees, which seeks to organize and represent their interests both in the workplace and society, and, in particular, seeks to regulate their employment relationship through the direct process of collective bargaining with management.” Manamela (2015) and Matebese and Govender (2022) agree with Salamon, noting that union roles transcend the workplace to include protecting and advancing the political, economic, social, and political interests for the benefit of its members.

Labour Relations Act (LRA), which currently regulates the trade unions in SA (Toit, 2010), also defines a trade union as “an association of employees whose principal purpose is to regulate relations between employees and employers, including any employers’ organization.” Explicit in this definition is that regulating the relations between

employers and employees is the principal purpose of a trade union. Some scholars argue that the scope of “regulate relations” is not specified, and some inferences have been made that these relations may transcend the workplace; thus far it has a bearing (direct or indirect) on employment relationship (Manamela, 2015).

According to SA scholars, the tenets of *Ubuntu* serve as the foundation for creating trade unions (Manamela, 2015). *Ubuntu* is an old African expression that translates to *humanity towards others*. The term also conveys *I am what I am because of who we are all together*. According to this notion, workers join trade unions through which they band together to form a collective unit (trade union) that defends their shared interests. This encourages workers to act cooperatively (Manamela, 2015). For clarification, we align with the perspective that the role of trade unions covers the workplace and wider society.

The main theories of trade unionism have their roots in two schools of thought: the Marxist and the transformation schools of thought (Fashoyin, 1998). Supporters of Marxism (e.g., Atzeni, 2010; Frege et al., 2011; Gall, 2012; Hyman, 1979) argue that trade unions are vehicles for driving change in the workplace and the wider society. Marxists consider the employee and employer relationship adversarial, such that compromises between management and employees are perceived as capitulation (Hyman, 1979). From the perspective of transformational unionists (e.g., Erickson & Kuruvilla, 1998; Lansbury, 2016; O’Brien, 2000), trade unions are drivers of consistent and incremental change (Manamela, 2015). The transformation unionist views sharply contrast with the Marxist views on trade unionism. For Karl Marx, trade union starts from agitation at the economic level, which develops to the political level and becomes a revolutionary movement. Whereas transformation unionists canvass for a compromise (a win–win situation) with the management, provided the compromise would benefit the union’s objectives in the future.

Regalia and Regini (2018) and Li et al. (2022) recognized the importance of trade unions in industrial relations and public policy. Trade unions’ functional strength mostly stems from their degree of internal coherence and representativity, understanding of critical macroeconomic

and microeconomic concerns, and their capacity to adopt a proactive strategic role as partners in national development (Fashoyin, 1998).

Historical Account of Trade Unionism in SA

Employment relations and trade unionism in SA have a long and sordid history going as far as the 1980s (Tshabalala, 2016; Venter et al., 2014). While brevity might be challenging, we attempt to classify the history and development of trade unions in SA into five phases based on significant milestones. For the first phase, the early industrialization between 1870 and 1923 marked the beginning of trade unionism. This followed the discovery of gold and diamonds, leading to the need for skilled workers (Manamela, 2015). As a result, immigrant workers from the United Kingdom brought that philosophy of unionism and were the first to organize a trade union in SA (Vettori, 2005). At this point, only white workers were favoured, excluding the interests of Afrikaans-speaking and black workers (Manamela, 2015). The 1911 Mines and Works Act was passed during this period, which prohibited nonwhites from performing specific jobs and further stipulated that black employees' access to the diamond fields and gold mines was prohibited by a pass system (Tshabalala, 2016; Vettori, 2005). The Rand Rebellion, also known as the Red Revolt, occurred in 1922 and involved 25,000 white mineworkers going on strike (Manamela, 2015). The government recognized the strength of the workforce via this strike and others and concluded it essential to set up a statutory mechanism for collective bargaining (Venter et al., 2014). The Industrial Conciliation Act of 1924 was written as a result, and it was the first law to regulate trade unions in SA (Tshabalala, 2016).

The second phase was the Industrial Conciliation Act and the events that occurred between 1924 and 1948 (Manamela, 2015; Venter, 2014). By mandating collective bargaining between employers' groups and unions on bargaining bodies known as industrial councils and by providing conciliation methods if and when conflicts arose, the Pact government at the time established the industrial conciliation act to avert industrial unrest (Manamela, 2015). This act also effectively excluded

black people from union membership for 55 years (Uys & Holtzhausen, 2016). Industrial Conciliation Act No. 36 of 1937 was enacted in response to the act's shortcomings with the primary goal of establishing industrial peace between white workers and their employers based on self-government (Uys, 2011). The mechanism of negotiations between employers and workers, such as arbitration, conciliation, and mediation, was the act's basis (Tshabalala, 2016). Meanwhile, Black African employees were to be formally recognized in 1947 under the Industrial Conciliation (Natives) Bill but in institutions distinct from the prevailing industrial councils. However, due to the subsequent political shifts, the bill was never passed (Manamela, 2015).

The third phase marked the apartheid era, which lasted from 1948 to 1973 (Uys & Holtzhausen, 2016). This era was marked by the National Party's (NP) ascension. The party created repressive policies that fostered the apartheid agenda and promoted separate development and racial divisions in industrial relations 1973 (Uys & Holtzhausen, 2016). Various acts were enacted during this period, including the Suppression of Communism Act (1950), Group Areas Act (1950), Influx Control Act (1950), and Public Safety Act (1953), all of which were antithetical to black workers' trade unionism (Manamela, 2015; Tshabalala, 2016). Notably, the number of black workers' trade unions dropped from 200 (158,000 members) in 1945 to 60 (64,000 members) in 1961 (Vettori, 2005). In 1953, the Botha Commission was appointed to address civil unrest, which led to the enactment of the Bantu Labour (Settlement of Disputes) Act 48 of 1953 and the Industrial Conciliation Act 28 of 1956. Again, the government rejected most of the recommendations of the Botha Commission, particularly those relating to freedom of association and trade union rights (Tshabalala, 2016; Uys, 2011).

The fourth era marked the emergence of new union movements driven by renewed violent protests by black militants in the 1970s against NP rule (Vettori, 2005). As a result, the Black Labour Relations Regulation Act of 1973 was passed by the government to establish Liaison Committees consisting of equal representation by management and black employees. The period 1973–1977 was marked by the prevalence of a dualistic system that empowered employers to set up committees that gave black workers little or no bargaining power (Venter et al., 2014). The government decided to form the Wiehahn Commission in 1977 to investigate

current labour regulations in response to the agitations of such discrepancies. This was the turning point for SA labour relations (Manamela, 2015). The most significant proposal made by the commission was to include black employees in the definition of what constitutes an employee. Therefore, the right to organize came before the ability to vote by more than ten years (Chamberlain et al., 2014; Venter, 2014).

Black employees' access to trade union rights resulted in a sharp increase in the number and size of unions representing this category of workers (Chamberlain et al., 2014). By the middle of the 1980s, the majority of the independent unions had united into two federations, the Council of Unions of South Africa (CUSA) and the Federation of South African Trade Unions (FOSATU), establishing a strong presence in many South African workplaces (Uys, 2011) (Table 6.1).

The Congress of South African Trade Unions (COSATU), a superfederation, was established in 1985 due to extensive unity negotiations (Manamela, 2015). The struggle against apartheid was at its height in the 1980s, and in 1986, as the apartheid government fought desperately to hold onto power, a state of emergency was declared (Vettori, 2005). Limitations were placed on many political and labour organizations, including the union federation COSATU (Vettori, 2005). Strikes, boycotts, rising criminality in the townships, the expense of upholding apartheid, and paying police operations all contributed to the downfall of an already failing political system (Venter, 2014). Thus, the start of a new decade underscored the necessity for profound sociopolitical change (Venter et al., 2014).

The fifth phase was characterized by a new dispensation—a breath of fresh air—democracy. The release of Nelson Mandela and the lifting of restrictions on previously banned political parties paved the way for a new dispensation that culminated in the first democratic elections of 1994 (Venter et al., 2014). Although periodic strike actions continued, the relationship between unions and employers became more established (Tshabalala, 2016). Many people refer to the change from apartheid to democracy as a miracle (Uys, 2011). Unions also entered a new period during the initial stage of the new SA, which was less heavily centred on the liberation struggle (Uys, 2011). They could begin initiating and creating policies within the government's goal without concentrating on battling the government (Venter, 2014).

Table 6.1 Summary of South Africa's trade unionism historical account

Phase	Year	Prominent act	Notable event
Early industrialization	1870–1923	1911 the Mines and Works Act	1922 Rand Rebellion
The Industrial Conciliation Act	1924–1948	The Industrial Conciliation Act No. 11 1924; the Industrial Conciliation Act No. 36 of 1937	Exclusion of black people effectively from union membership for 55 years
The apartheid era	1948–1973	Suppression of Communism Act (1950); Group Areas Act (1950); Influx Control Act (1950); Public Safety Act (1953); Bantu Labour (Settlement of Disputes) Act 48 of 1953; Industrial Conciliation Act 28 of 1956	Ascension of National Party: Decline in black workers' trade unions from 200 (158,000 members) in 1945 to 60 (64,000 members) in 1961; Appointment of Botha Commission
The emergence of the "new" union movements	1973–1990	Black Labour Relations Regulation Act 1973	Wiehahn Commissioning in 1977; establishment of FOSATU, CUSA, AND COSATU
Moving towards democracy	(1990 onwards)	"Labour relations Act 1995; Basic Conditions of Employment Act 75 of 1997; Employment Equity Act 55 of 1998; Occupational Health and Safety Act 85 of 1993; Skills Development Act 97 of 1998"	Release of Nelson Mandela; Lifting of restrictions on earlier banned political parties

Source: Authors' compilation (2022)

Situating Trade Unionism in the South African Context

Trade unions' contributions to political reforms in SA have been documented in the literature (Manamela, 2015; Tshabalala, 2016). Notably is their role in bringing down apartheid rule in SA (Omomowo, 2010; Uys, 2011; Uys & Holtzhausen, 2016). Labour relations in SA are a tripartite involving the state, the employers and the employees, and trade unions have been the voice of the employees when interacting with employers and the state (Tshabalala, 2016). Historical accounts show that the ancient SA economy was founded under apartheid (Manamela, 2015). Amidst the struggle to end apartheid, trade unions emerged as a critical force that brought about the collapse of the apartheid, authoritarian, one-party, and dictatorship rule (Omomowo, 2010; Toit, 2010; Vettori, 2005). As a result, scholars have opined that employment relations in SA have a rich history interwoven within the country's sociopolitical and economic environment (Manamela, 2015; Matebese & Govender, 2022; Toit, 2010), within which unions played a very influential role. Over time, these unions and their federations have, through their conduct and political alliance with the incumbent government, continued to shape postapartheid, democratic SA (Ofusori, 2022; Toit, 2010). Insinuations are that trade unions will continue to be formidable in regions such as SA (Manga Mokofe, 2021; Neuman, 2014). Notably, they have left indelible marks in protecting workers' rights and employment conditions (Ofusori, 2022).

However, similar to the experience of Western economies such as the European Union and other regions (Regalia & Regini, 2018), SA has also experienced a decline in trade union membership (Manamela, 2015; Matebese & Govender, 2022; Omomowo, 2010). Complacency on the part of trade unions, globalization, an increase in atypical employment (Omomowo, 2010), government policy (Vettori, 2005), unemployment, hostility towards trade unions, an increase in the informal sector (Matebese & Govender, 2022), and the generational gap between older workers and the postapartheid generation have all been cited as major causes of the membership decline. According to Omomowo (2010), SA

has moved from conventional employment arrangements to informal ones such as self-employment, temporary employment, freelancing, and subcontracting. Other factors, including leaner staffing, outsourcing, technology utilization, and workforce upskilling, have also impacted (Manamela, 2015).

For Msila (2018), the factors affecting trade union density in SA are *cyclical* (rising unemployment), *structural* (labour force structure, industry structure, incapacity of trade unions), and *institutional* (probative laws and trade union/employer conflict). The consequences are trade unions' loss of absolute membership in workplaces where they once thrived (Cloete, 2021; Msila, 2018). For example, between 1990 and 1995, SA experienced an 8% increase in total trade union membership (Uys, 2011). However, in terms of membership as a percentage of the workforce, there was a decline from 23% to 19% within the same period (Uys, 2011). According to information from the Department of Labour, in 2003, 3.5 million workers were stated to be members of approximately 2000 registered unions, of which 465 were employed informally (Tshabalala, 2016).

In 2013, there were 191 registered trade unions, which recently increased to 225 registered trade unions (Bizcommunity, 2022). These unions represent approximately three million workers from three prominent trade union federations with affiliates operating in the different sectors of the economy, namely, the National Council of Trade Unions (NACTU), COSATU, and the Federation of Unions of South Africa (FEDUSA). These unions are represented at the National Economic, Development and Labour Council (NEDLAC) (Ofusori, 2022) (Table 6.2).

Between Q1 of 2014 and Q1 of 2015, trade unions in SA lost approximately 84,000 members (Uys & Holtzhausen, 2016). SA's trade union density was reported to be approximately 27.4% at the end of 2015, down from a low base of 29.3% in 2013 (StatsSA, 2015). Recent statistics put the union density at 23% (StatsSA, 2022), which indicates that approximately 77% of employees in SA have no affiliation with any trade union (Ajam, 2022; Deale, 2022). This gives employers the leeway to craft their employment terms and conditions. In most cases, these conditions are not favourable to employees (Cloete, 2021). The data from the

Table 6.2 Major trade unions in SA

S/n	Unions	Year of establishment	Number of affiliates	Major affiliates
1.	The Congress of South African Trade Unions (COSATU)	1985	19	"National Union of Metalworkers of South Africa (NUMSA), South African Democratic Teachers' Union (SADTU); National Union of Mineworkers (NUM), and National Education, Health, and Allied Workers Union (NEHAWU)"
2.	National Council of Trade Unions (NACTU)	1986	19	"Metal and Electrical Workers Union of South Africa (MEWUSA) and Building Construction and Allied Workers Union (BCAWU)"
3.	Federation of Unions of South Africa (FEDUSA)	1997	19	"United Association of South Africa (UASA), Health and Other Service Personnel Trade Union of South Africa (HOSPERSA), Independent Municipal and Allied Trade Union (IMATU) and Motor Industry Staff Association (MISA)"
4.	CONSAWU (Confederation of South African Workers' Unions)	2001	-	"National Union of Public Service and Allied Workers (NUPSAW) and Professional Educator's Union (PEU), and SOLIDARITY"

Source: Compiled by authors (2022)

Global Competitiveness Index report of 2018 reinforce this position. Their statistics show that out of 137 countries, SA has been rated 137th in cooperation in labour–employer relations, 132nd in wage determination flexibility, and 125th in recruitment and layoffs (Schwab, 2018).

These ratings do not portray employee relations in SA positively. Nor does it speak favourably to its quest for labour peace and stability in the labour market. The report shows that SA has most recently come out as the worst-performing country with regard to the employment relationship that pertains to labour and employers (Ntimba, 2019). Nonetheless, relative to developed and many developing countries, trade unionism appears to be stronger in SA, and membership appears to be higher (Cloete, 2021).

Prevailing Perspectives on Trade Unions and Employment Relationships in South Africa

There are recent discussions about the role trade unions play in the employment relationship in SA, especially in the current dispensation (Cloete, 2021; Deale, 2022). Trade union density and bargaining coverage are the most common metrics for assessing trade unions' power and role in employment relations (Matebese & Govender, 2022; Regalia & Regini, 2018). In both regards, trade unions in SA seem to be experiencing a decline for various reasons. First, there seems to be an increasing loss of trust in the purpose of trade unions (Cloete, 2021; Maake et al., 2021; Nombembe, 2022). The term "business trade unionism" seems to be taking centre stage, drawing from the increasing perception that trade unions are more focused on enriching themselves than championing the cause of their members (Deale, 2022). There are concerns about trade unions not making the interest of their members the centre of their gravity (Nombembe, 2022). Prevailing notions are that union leaders merely recite the slogan of worker control when they want to sound relevant, but in practice, the members do not have worker control (Cloete, 2021). Along this trajectory, the neutrality, effectiveness, and functionality of trade unions have also been called to question based on the perspective that it is unlikely to stay effective and functional while being cosy with the government, which happens to be the biggest employer of labour in the country (Bizcommunity, 2022).

There is also a widespread notion that trade unions have become even more bureaucratic in operations (Nombembe, 2022) such that their officials are no longer accountable to their members, and this, among other reasons, has contributed significantly to the decline in SA union membership as well as their influence in workplaces (Cloete, 2021; Deale, 2022). According to Bizcommunity (2022), the trade union movement had lost the support of international funders who had helped during the fight for democracy. This made it more difficult for the unions to select and develop qualified officials, and many had already left the movement for jobs in the private sector that paid more (Cloete, 2021). Currently, SA workers are either not keen on joining a trade union or are content to accept their position as is, regardless of the poor working environment (Manga Mokofe, 2021). The ongoing rivalry and competition among trade unions for members in the same pool (Nombembe, 2022) have further aggravated the situation of things. Little effort is channelled towards onboarding unorganized or younger workers. Rather, much effort is dedicated to “fishing in the same pond” (Bizcommunity, 2022; Cloete, 2021).

Major Acts Regulating Employment Relationships and Trade Unionism in South Africa

In SA, trade unionism is governed by the LRA of 1995. The statutory labour relations system in SA underwent a significant upheaval with the publication of the LRA (Vettori, 2005). The Act addresses the new administration’s goals to rebuild and democratize society and the economy in the area of labour relations. The labour rights enshrined in sections 27 of the interim constitution and 23 of the final constitution were considered by those who wrote the LRA. The LRA safeguards the freedom of association, the ability to join and create unions, and the freedom to strike, picket, and take other forms of protest action for socioeconomic causes. The third section of the LRA also specifies that the interpretation of the act must align with the constitution (Venter, 2014).

The SA government has considerably modified the LRA and other labour regulations since 1994. The formation of the Reconstruction and Development Programme (RDP) and the promulgation of the new legislation were both greatly influenced by COSATU, which was a major factor in the ANC's election to power (Venter et al., 2014). The Basic Conditions of Employment Act (BCEA) establishes basic employment standards for workers, the Employment Equity Act (EEA) prohibits all forms of discrimination in the workplace, and the Skills Development Act (SDA) tackles the talent shortage in SA. These are additional reforms to the LRA that have impacted trade unions' ability to serve as advocates for workers in one way or another since some redress historical inequalities (Manamela, 2015).

Social security laws, which include the Occupational Health and Safety Act (OHSA), the Unemployment Insurance Act (UIA), which governs the payment of unemployment benefits, and the Compensation for Occupational Injuries and Diseases Act (COIDA), which provides compensation for losses incurred as a result of occupational injuries and diseases, are also pertinent (Manamela, 2015; Venter et al., 2014). These laws set up social insurance programmes to help workers when particular hazards arise (Manamela, 2015).

The SA government also passed the Employment Services Act and implemented it in 2015 (Tshabalala, 2016). This Act targeted increasing employment opportunities and improving labour market accessibility and prospects for job seekers, particularly disadvantaged job seekers. This can be accomplished, for instance, by offering public employment services and setting up programmes to encourage the employment of both young employees and other vulnerable individuals (Manamela, 2015). The International Labour Organization's Decent Work Country Programme, which strives to improve workers' lives by boosting job creation and extending social security, has also received support from SA (Manamela, 2015). Role players such as trade unions have, in part, played a part in ensuring that all these are achieved (Uys & Holtzhausen, 2016). The next section covers the core and extended responsibilities of trade unions in SA in relation to employment relationships.

Core Responsibilities of Trade Unions in South Africa

The contributions of trade unions in SA have been remarkable over the years, covering job regulation supported by the Basic Conditions of Employment Act (BCEA) 75 of 1997, employment equity supported by the employment equity act (EEA) 55 of 1998, skill development supported by Skills Development Act (SDA) 97 of 1998, job security supported by LRA 66 of 1995, and health and safety supported by Occupational Health and Safety Act (OHSA) 85 of 1993 (Manamela, 2015).

Leveraging the Basic Conditions of Employment Act 75 of 1997, trade unions in SA have contributed to *job regulation* by attempting to protect and enhance the rights and interests of their members in employment relationships (Tshabalala, 2016). To curb some of the management's desire to retain the liberty of power and decision-making, trade unions intervened to enforce a joint regulation based on the BCEA provisions. BCEA was enacted to promote social justice and advance economic development (Venter, 2014). Since the 1980s, trade unions in SA have adopted various strategies and justifications to back campaigns for fair salaries and employee benefits (Venter et al., 2014). For instance, COSATU began a campaign for a living wage in 1987 and demanded that salaries be tied to price increases. As a result, the Minister of Labour promulgated a sectoral determination establishing terms of employment and minimum salaries for domestic workers in 2002 after consulting with numerous stakeholders (Manamela, 2015).

Trade unions in SA have also contributed to the job security of employees (Manamela, 2015). Due to the ongoing disparity in employment relationships, a single employee cannot negotiate with the employer on an equal basis (Cloete, 2021). Members are, therefore, shielded from layoffs, unfair terminations, and unilateral employer action when modifying the terms and conditions of work due to the collective voice and power of the trade union (Ajam, 2022). If workers are harmed, union shop stewards and union representatives frequently fight employers. The Labour Relations Act, 66 of 1995's requirements, is enforced by trade unions

(Manamela, 2015). In SA, companies typically negotiate disciplinary codes and grievance procedures with a workplace trade union that serves as a representation. However, once this is done, the code is final and cannot be challenged by members of that bargaining unit (Toit, 2010). However, these codes' procedures typically adhere to the legal conditions for a dismissal (Mzangwa, 2015). The Code of Good Practice: Dismissal states that employees are entitled to the assistance of trade union representation in dismissal cases based on misconduct and incompetence. Additionally, the union should be consulted before taking any disciplinary action against a trade union representative, officeholder, or official (Manamela, 2015).

Trade unions have leveraged the EEA's provisions to fight for equity in SA, where employment fairness is a crucial component of the country's socioeconomic transition efforts (Manamela, 2015). The EEA prohibits unfair discrimination in the following ways:

No person may unfairly discriminate, directly or indirectly, against an employee in any employment policy or practice, on one or more grounds including race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language, birth or on any other arbitrary ground. The protection in this regard is offered to employees and is confined to conduct occurring within the scope of an "employment policy" or "practice."

Contracts made with unions expressly forbid employers from treating workers unfairly on the grounds listed in section 6 of the EEA (Venter et al., 2014). The EEA mandates that each designated employer "must establish and implement an employment equality strategy which will make acceptable progress towards employment equity in that employer's workforce" to adopt affirmative action. Such an employer is required to confer with employees or their representatives, a representative trade union, regarding the creation and implementation of an employment equality strategy (Venter, 2014). The Commission for Employment Equity, which was established in accordance with the EEA, is another commission that offers advice to the Minister of Labour on various employment equity-related issues. Two candidates chosen by NEDLAC

voting members who represent organized labour are among the representatives on the commission (Manamela, 2015).

The OHSA is the relevant law in effect in SA for workers generally, and where employers and trade unions have negotiated health and safety agreements, these agreements typically include the OHSA's provisions (Manamela, 2015). Some agreements mandate that employers let union representatives and officeholders participate in inquiries into workplace incidents involving employees (Tshabalala, 2016). These contracts frequently give employees more protection than required by law and common law. In the past, trade unions in SA have demanded that employers offer workers proper protection (Msila, 2018).

For example, by monitoring compliance with development laws such as SDA, trade unions help ensure that workers are being developed by their companies and the government. The SDA created the Skills Authority, which includes five voting members selected by the minister to represent organized labour and proposed by the NEDLAC (Manamela, 2015). The Skills Authority's responsibility is to counsel the minister on issues pertaining to skill development. The Act also creates organizations known as sectoral education and training authorities (SETAs), which consist of representatives from organized labour, organized business, and pertinent government agencies (Tshabalala, 2016). The oversight of skill development in the industry in which SETAs operate is one of their duties (Chamberlain et al., 2014; Manamela, 2015). Additionally, each SETA is required to oversee education and training in its industry and authorize workplace skill adoptions by employers (Chamberlain et al., 2014).

Extended Social Responsibilities of Trade Unions in South Africa

Over time, the role of trade union movements has varied. SA unions have, however, been positioned at the core of national socioeconomic change (Manamela, 2015). Trade unions have been strongly motivated to improve the lives of workers in SA due to SA's adoption of the ILO's

decent work nation plan, involvement in the New Partnership for Africa's Development (NEPAD), and status as a member state of the UN (Manamela, 2015). In contrast to the sociopolitical movement, which was prevalent in the 1980s, the trade union movement in SA has shifted to a more socioeconomically centred movement (Matebese & Govender, 2022) covering aspects of politics (Tshabalala, 2016), economy, environment, social protection (Ferreira, 2005), HIV/AIDS (Manamela, 2015), job creation (Leibbrandt et al., 2011), poverty alleviation (Toit, 2010; Visser, 2019), education and training, and legal and financial assistance (Manamela, 2015).

Although the pursuit of these social responsibilities by trade unions is not currently well grounded in SA (Manamela, 2015), there is evidence showing that trade unions have played important roles in improving the economy by participating in national economic policy-making structures (Ofusori, 2022). Notably, trade unions in SA have been involved in politics by ensuring that the states support workers' lives in the workplace, community, and society. Their role has also been evident in combating the spread of HIV/AIDS (Leibbrandt et al., 2011). SA faces a major health challenge from HIV/AIDS, and the development of SA is threatened by a large proportion of the working population being infected with HIV/AIDS (Manamela, 2015).

In SA, trade unions launched initiatives to fight HIV/AIDS, including the SA Clothing and Textile Workers Union (SACTWU). The Treatment Action Campaign (TAC) also has COSATU as a significant partner. To advocate for treatment, COSATU passed a resolution in 1998. Since then, it has pushed for widespread public access to antiretroviral medications (Manamela, 2015).

Since the 1990s, SA trade unions have become involved with environmental issues, and union federations such as COSATU have helped to develop and criticize national environmental policy (Manamela, 2015). Trade unions, as contemporary institutions, play a significant role in reducing poverty (Manamela, 2015). The most direct way trade unions help to end poverty is through collective bargaining for salary increases tied to productivity (Chamberlain et al., 2014; Fashoyin, 1998; Mbandlwa, 2020). Trade unions contribute to the fight against poverty by advocating for fair employment and better living conditions for their

members (Msila, 2018). SA trade unions have participated in national development initiatives to combat poverty through capacity-building programmes (Tshabalala, 2016). Through the NEDLAC forum, trade unions in SA play this function. Trade unions also fight poverty by guaranteeing good employment for all, including women and young people (Ajam, 2022). Trade unions participate in further initiatives to combat poverty, such as providing food and clothing to those in need, for example, the Helping Hand Trust (Chamberlain et al., 2014; Leibbrandt et al., 2011).

Trade unions in SA have also played significant roles in education and training (Mbandlwa, 2020). For instance, the National Union of Mineworkers (NUM) established the Mining Development Agency (MDA) in 1987 to ensure that skilled labourers in the mining, energy, and construction industries, as well as those who have been laid off, have access to training and development opportunities (Manamela, 2015). The organization also assists union members in their social and academic growth. Trade unions such as SACTWU have started job campaigns, such as the “buy local campaign,” to help create jobs (Toit, 2010). In an effort to combat job losses, the union is also active with the Proudly SA and Label of Origin campaigns (Tshabalala, 2016). Additionally, the union, Solidarity, aids members who have lost their jobs in their job search (Womack, 2021). In this regard, business and labour in SA founded the Millennium Labour Council, which studied the nation’s unemployment rate, among other things (Manamela, 2015; Venter et al., 2014).

Additionally, labour unions offering bursaries to members and their dependents include Solidarity, NUM, and SACTWU. However, children of poor widows and pensioners are given preference (Manamela, 2015). The Elijah Barayi Memorial Training Centre, which is used as a training facility for NUM leadership and its members, is another training facility owned and operated by NUM and has a division dedicated to education called Edupeg, which assists underprivileged elementary schools with their reading and numeracy needs (Msila, 2018). The NEHAWU Savings and Credit Cooperative (SACCO), a financial institution, offers members financial services and enhances their economic and social well-being (Venter, 2014). Trade unions in SA were

instrumental in changing the Pension Fund Act, which gave employees the ability to nominate employee representatives as trustees on pension and provident fund boards under terms of social protection (Mzangwa, 2015; Omomowo, 2010). Others have done so through bargaining councils to which they are parties, while certain trade unions have started their funds for the benefit of members (Vettori, 2005).

The Future of Trade Unions in Employment Relationships

As it stands, a cloud of uncertainty hangs over the future of trade unions and their ability to continue to play their role in employment relationships in SA (Ajam, 2022). Now is the time to change the broken model of labour relations. The psychology of a revolutionary militant union movement with its associated war-like rhetoric is manifestly unfit for purpose in a modern economy (Deale, 2022). According to Visser (2019), trade unions face four likely futures. First, if the current trends should continue, unions will continue to experience declines leading to marginalization. The second is dualization resulting from trade unions' attempt to defend their positions as job insecurity increases while institutional protection decreases. In this case, trade unions will be forced to deploy their depleting resources to protect the interests of members with whom they share a stronger bond at the expense of other members. The third possible outcome is replacement resulting from the deployment of other forms of social actions and protections by the state, employers, NGOs, or intermediary agencies. The fourth outcome is revitalization based on policies and coalitions that strengthen trade unions as relevant actors in shaping the "new unstable workforce" in the digital economy.

For SA, there is an urgent call for revitalization (Nombembe, 2022); no doubt trade unions are quintessential to a stable economic environment, but considering the changes in the world of work, unions have to be proactive and evolve such that they embrace technology and devise strategies to organize representation for the new generation workers such as remote working and workers in the informal sector.

Agenda for Further Studies

There are still areas to explore in understanding employment relations and trade unionism, especially in South Africa. The question still remains: How can trade unions be transformed to fit into the “new normal”? Digitization presents new opportunities and poses some challenges to trade unions in SA and their efficacy, yet there is still no clear-cut path to guide the transformation of trade unionism. Notably, how can the traditional operations of trade unions be transformed to capture the changing nature of standard employment in South Africa? In addition, we explored on the surface the extended roles of trade unions in South Africa, capturing their social responsibilities. Meanwhile, we recognize that these areas have not been fully explored in depth in the literature. It is thus unclear to what extent trade unions have fulfilled these social mandates.

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7

HRM Practices in South Africa: Diversity and Inclusion in Contemporary and Future Workplaces

Claude-Hélène Mayer

It is human nature to create things, not to sit in an office from nine to five.
—Richard David Precht, Philosopher and Publicist

Introduction

Human resource management (HRM) has undergone dramatic changes in recent years, not only with regard to managing global challenges in terms of COVID-19 within organisations (Newman et al., 2021) but also with regard to new organisational processes and structures, such as remote and hybrid working experiences (Cooke et al., 2020), new structures of work and internationalisation, and employee management and retention (Mayer & Wilke, 2022).

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Many HRM practices in the Western world have recently integrated changes such as flexible work times and arrangements (Williams et al., 2021) and working from home adjustments (Alfes et al., 2019). However, employees also had to be guided by HR managers on how to deal with virtual and global work teams (Adamovic, 2018; Mockaitis et al., 2018) and digitalisation processes (Meijerink et al., 2018). Researchers have focused on HRM issues, such as work engagement and other critical issues (Mahadevan & Schmitz, 2020), during these new times (Syed, 2020). Over the past years, HRM discourse has often highlighted the importance of power and power-related issues in organisational contexts (e.g., Syed, 2007), often related to topics of diversity, majority-minority discussions (Golnaraghi & Dye, 2016), and intersectionalities (Davis, 2008) such as age, gender, culture, language and their interrelated influence within organisations and with regard to the workforce and employees (Acker, 2012). HRM requires a reflective approach in regard to diversity and intersectionality issues to create an in-depth understanding of organisational processes, identity creation, and discrimination on micro-, meso-, and macro-organisational levels (Mahadevan & Mayer, 2017a,b). Reflective approaches, which must be revised critically in times of increasing E-HR and international HRM (Francis et al., 2014), are also needed to change organisational practice (Bouten-Pinto, 2016).

In the South African context, recent research on organisations and HRM has focused particularly on the transformation of systems towards better diversity management, equity and inclusion, identity development, and the focus on critically assessing intersectionalities. Almost three decades after the end of Apartheid, concepts are needed to unify a divided organisational society and work towards the broader goal of implementing effective, functional organisations (Mayer & Louw, 2013). Organisations in South Africa are often challenged by the split between global competition, Western HRM concepts, and local struggles to create an effectively diverse, hybrid, and conflict-free workforce (Mayer & Louw, 2013; Mayer et al., 2018). This has led to high levels of stress, interracial conflict, and competition in South African workplaces (Mayer & Oosthuizen, 2020), along with inadequately equipped workplaces (Venugopal et al., 2016), as well as high demands for transformation and

change, causing a stressful work environment (Chetty et al., 2016) that South African HR managers need to take care of.

Another strongly important aspect of HRM is the Fourth Industrial Revolution (4IR), Industry 4.0 and the New Work movement. The 4IR is defined and characterised by strong changes in socioeconomic, cultural and political arenas, the increase in technology in the workplace and the intensification of human–machine interaction (Philbeck & Davis, 2019). New work as a concept includes all new forms of work and the paradigm shifts that go with it (Bergmann, 2019). These shifts include the transformation towards new values, mindsets, and responsibilities in terms of self-regulation and aim at building an individual-strengthening culture.

The aim of this chapter is to present an overview of selected HRM practices in South Africa with special regard to equality, inclusion, and diversity in contemporary and future workplaces. Empirical data are presented, and conclusions and recommendations are given.

South African Diversity

South Africa is a highly complex society and is characterised by the dynamic of transforming from an Apartheid society into a dynamic multicultural, multilingual society aiming for the integration of members of all sociocultural groups (Mayer, 2005; Scheider, 2018; Sleeter, 2018), new work concepts, and new technology within the workplaces (Antonelli, 2014).

In the past, during Apartheid, individuals in South Africa were classified according to race, such as white, black and coloured, a system based primarily on the physical features of an individual (O'Malley, 2021). Since the end of Apartheid, society has been transforming into a hybrid and heterogeneous society in which individuals of all previously constructed race groups are included in workplaces. In 1994, two more categories were defined as previously disadvantaged, namely, “Indian” and “Asian”, both of which are now included in workplaces (Van Schalkwyk et al., 2021). South Africa's diversity management in society and the workplace, however, not only builds on racial categorisations but also takes cultural, ethnic and language differences into consideration

(Government of South Africa, 2022). This diversity, which has been established in society and workplaces since the end of Apartheid, not only created the “rainbow nation” of South Africa but also contributed to the tension within the society (Wiggill & van der Walldt, 2020). Affirmative action (AA) policies have been defined to manage and regulate the transition into a diverse ethnic society and transformed cultural workplaces (Zhuwao et al., 2019).

The South African Human Resource Management Context

HRM in engineering companies has played a vital role in managing cultural diversity and inclusion (Sackey & Bester, 2016) through programmes of Affirmative Action and Black Economic Empowerment (BEE) since 1994. Within South African work contexts, organisations are crucial in transforming society through intensified cooperation on structural and organisational levels and between HRM, politics, societal structures, and sociocultural and individual development (Cloete et al., 2015). In South African HRM practice, BEE and Broad-based Black Economic Empowerment (BBBEE) programmes have been implemented in the workplace to transform towards more diverse workplaces in terms of the cultural belonging and background of employees. Through these programmes in particular, black employees have been increasingly integrated into workplaces and positions of power (Broad Based Black Economic Empowerment Act 53, 2003). The BBBEE Act ensures that individuals classified in specific groups that were previously disadvantaged—Africans, coloured, and Indians—gain preferential treatment in regard to job recruitment. However, through the Act, it is also ensured that individuals such as young people, women, people living with disabilities and people in rural areas gain preferential treatment (BBBEE Commission, 2017). Through the new legislation reflected in the BEE and BBBEE programmes, improvements and major shifts in policy, legislation, and regulations are seen (Shai et al., 2019).

HRM within South African organisations addresses various challenges due to the influences of the country's history, as well as its present conduct: conflict experiences within organisational contexts are high, organisational identity creation is ongoing, and value sets of organisational processes and economic visions are constantly being renegotiated (Mayer & Louw, 2009). The increasing diversity within the organisation is one of the major topics within South African HRM, aiming to strengthen organisational minority-majority relations and build a workforce that reflects the percentages of the sociocultural groups living in South Africa.

Since the end of Apartheid in 1994, organisations within South Africa have come a long way and have focused on transforming the workforce towards diversity by implementing employment equity (EE) processes and affirmative action concepts. Therefore, employment equity is defined as a fair and nonbiased manner to promote equal opportunities by eliminating discriminatory practices (Bendix, 2010). Based on the concepts of employment equity, South Africa has implemented affirmative action practices (AA), which can be described as programmes designed to overcome discriminatory practices and create a proportional sociocultural, intersectional representation of the employees within the organisation. EE and AA are related concepts that have been implemented with regard to the active transformation of diversity, equality, and human rights (Ebrahim, 2018). Several researchers have noted that South African human resources are changing constantly, but the change is still only minimal (Breetzke & Hedding, 2016).

Within the South African context, the societal demographic profile in organisations is, however, still not on a level where it meets the expectations of employees and organisations (Hills, 2015; Lee, 2016), and HR management is asked to help coordinate issues around the distribution of resources from members of privileged groups, loss of standards, punitive taxation, racism, and discrimination (Leonard & Grobler, 2006). However, according to Fernandez (2016), these implementations of HRM—to fight problematic practices—are still unsatisfactory. This is the result of the experience of reverse racism, lack of training, and victimisation on the job that is experienced on different levels within South African work contexts.

Research Methodology

This chapter presents findings from a case study (Yin, 2018) that was qualitative in nature and applied a hermeneutical research paradigm (Hassan & Ghauri, 2014; Clarke & Hogget, 2009). The study included the conduct and analysis of 16 semi-structured interviews on the topic of HRM, diversity, and the Fourth Industrial Revolution in the South African subsidiary of a German engineering organisation. The sample was recruited through purposeful sampling strategies (Shaheen & Pradhan, 2019) and was composed of board members, managers, and the HR manager. The languages spoken as the first language by the participants were English and Afrikaans, and they classified themselves as white (14 individuals), coloured (1 individual), and unclassified (1 individual). Their ages ranged from 32 to 60 years, and while one manager was female, all the others were male. All participants came from different sociocultural backgrounds and grew up partly in rural and urban South African areas. They vary in education (from a highest degree of a matric to university master's degrees). As in many engineering organisations, managerial positions are often (still) dominated by male employees, as in this organisation, which might be seen as a limitation and/or a bias in terms of the diversity of participants. However, it reflects the organisational culture and is similar to other engineering organisations in South Africa that are often led by male white employees, while the workers within the organisation are often black and thereby from previously disadvantaged cultural groups.

Interviews of 60–75 minutes were conducted that included a total of 21 interview questions, such as “What do you experience the work in your organisation?”, “What are common HRM practices?”, and “How do you deal with the transformation towards Industry 4.0?” The interview questions were probed by further elaboration and explanation when necessary (Pietersen, 2007). Data were recorded and transcribed in the interim. Data were analysed through thematic analysis (Creswell, 2013), and Clarke and Hoggett's (2009) five-step process of data analysis was used, including (1) a holistic data assessment, (2) generation of themes, (3) coding of data, (4) meaningful categorisation, and (5) exploration of application of meaning of parts of the data.

Findings are reported in a qualitative reporting style, adhering to qualitative quality criteria, such as rigour, transferability, and credibility (Creswell, 2013; Lincoln & Guba, 1985). The study was approved by the ethics committee of the University of Johannesburg, and ethical considerations were adhered to. All participants provided written consent and were informed about the study and its aims. They were further informed about confidentiality issues and the option to withdraw from the study at any point in time.

Findings and Discussion

The findings with regard to HRM practices show that participants in the organisation speak on the one hand about changes in HRM in South Africa with regard to diversity and inclusion and on the other hand about managing organisations in the context of Industry 4.0 and the new challenges in the world of work. The findings reflect the theoretical discourses on diversity management in post-Apartheid South Africa, as well as the reflections on HRM in terms of concepts of new work, the Fourth Industrial Revolution (4IR), and Industry 4.0 (I4.0) (e.g., Philbeck & Davis, 2019). The findings also reflect currently prevalent transformation processes (Newman et al., 2021). As highlighted in Mayer and Wilke (2022), transformation processes regarding diversity and new work are also emphasised in the South African organisation presented.

HRM of Diversity and Inclusion Within the Organisation

Several managers commented on diversity management within organisations and how this applies to their organisations. They thereby point out that changes with regard to managing diversity and inclusion have been applied. Diversity management has also been a topic in the literature (Golnaraghi & Dye, 2016), as it has been in the study within this organisation.

P4, for example, highlights that “the organisation has undergone several structural changes with regard to diversity management during the past years”. HRM had to implement structural and organisational changes based on governmental decisions, such as BEE. P3 mentions that

BEE is a government requirement; companies did for government and I think BEE is a contentious subject.

On the one hand, HRM deals with diversity on a cultural level (using racial criteria as categorisations of employment); on the other hand, it deals with employment specialisation processes that are needed within the workforce. Currently, this seems to be a challenge within South African society since it still lacks specialised employees with previously disadvantaged backgrounds. P16, for example, highlights:

You’ve got to basically appoint specialists, people who maybe go overseas for training. You’d have these people who were basically, say, the key account people. They can actually get involved in all this, they can be diverse, but they have to do their jobs.

In terms of what the employee highlights here is that the organisation needs diversity, but not only with regard to cultural and racial diversity in terms of BEE but also with regard to a *specialised professional diversity* that is needed within the organisation to reach organisational goals.

The findings show that in South Africa, diversity management in the context of HRM includes BEE management, AA policies (BBEE Commission, 2017; Wiggill & van der Waldt, 2020), and transformed cultural workplaces (Zhuwao et al., 2019). An orientation towards the future within the organisation needs to adjust to the requirements of cultural diversity and other work-related policies (Shai et al., 2019) to be sustainable. The findings of this study support these assumptions of previous research. They further reflect previous cross-cultural studies, such as the one from Hofstede (1997), in which South Africa scores relatively low in attitudes towards time, which indicates a rather lower orientation towards the future and a rather strong focus towards the present moment.

Managing HR and the New Work

All of the employees reflected upon the importance of HRM and on how to deal with the *new work challenges*. Several of the employees feel that HRM has to address the new challenges and requirements that Industry 4.0 brings about for the organisation and the employees. Therefore, P3, for example, highlights:

Incorporating and digitalising previous revolutions and streamlining using AI, getting, ah, I would say refining processes, getting more out for less information ... and ... a lot of complex issues coming in where you have to make decisions now.

For this employee, the new work requires decision-making on higher levels to respond to the demands of the new workplaces. P3 further emphasises that HRM should adjust to the new technologies, bringing them more into the workplaces and simultaneously refining the processes with regard to the employees and their work foci and decision-making along the following lines (P7):

In your design facilities you can definitely upgrade, but if you want to truly push, push the envelope, satellite office or independent work office.

P7 sees HR's role in making decisions for the employees and their skill development while keeping an eye on the development of the labour market and the skills that are needed. P10 emphasises that in organisational processes, there is still much manual labour involved that cannot be replaced through automation:

If I look at the products, I think there is still a lot of manual labour required to manufacture it. Which may or may not be optimised? I do not know. However, what I can see currently is that it is very labour-intensive. In addition, in order to reduce that, I think we're very far from getting automated.

This statement points out that HRM has to deal primarily with employees and their workforce and that there are only a few aspects where automation can take place. Then, HRM needs to manage the space between the employee and the automated systems. However, for the time being, this organisation does not seem to move too fast into the new work scenario.

Finally, the findings show that HR needs a market analysis with regard to new work and how it is best addressed through HRM in South Africa. However, P15 points out that it needs a special context- and culture-specific analysis of the market for the products so that it is known to the organisation what in particular is needed. P15 points out:

Before we train the people here, you need to understand what is needed, and working for my third, fourth, fourth multinational inside Africa, experience has shown me that they know everything. They do the system.

This shows that the employee believes that there is an inherent understanding of the situation and the context and that this knowledge must be utilised to bring forward culture-specific solutions.

New work is an important topic in HRM, and the increase in specialised knowledge needed in the workplace is high (Philbeck & Davis, 2019). Employees in South Africa need diversity management skills and the ability to adjust to restructuring processes and new ways to manage technology, as described in the literature and findings. Other issues, which often occur in the HRM literature, such as aspects of power (e.g., Syed, 2007) or global cooperation (Adamovic, 2018; Mockaitis et al., 2018), have hardly been mentioned in the findings.

Conclusions, Implications, and Recommendations

The aim of this chapter was to present an overview of selected facets of HRM practices in South Africa with special regard to equality, inclusion, and diversity in contemporary and future workplaces. In the context of HRM in South Africa, changes have occurred during the past years with

special regard to diversity management and inclusion, as well as with regard to changes towards new work. On the one hand, diversity, and especially BEE, has increased and been implemented; on the other hand, HRM practices have originated from a mind- and skill set towards fostering Industry 4.0 and a new work mindset that is also represented in a diverse workforce that encompasses a wide range of specialised knowledge.

In conclusion, the topics that are predominant in HRM with regard to diversity, equity, and inclusion are as follows:

- Change management
- Professional diversity and specialisation of professional skills and knowledge
- Expertise analysis, employee training, and recognition of context-specific knowledge

With regard to the changes in the workplace in terms of new work and Industry 4.0, the following aspects are presented in the findings:

- Managing new work challenges
- Making future-oriented decisions
- Expertise analysis, employee training, and recognition of context-specific knowledge

The findings have implications for HRM in South Africa and for international cooperation with South Africa. HRM management in South Africa finds itself in a transformation process in regard to managing diversity, equality, and inclusion issues within the workplace. HR managers need to be trained in how to address these highly sensitive issues of diversity and inclusion and the new work scenarios within South African labour legislation. Surely, these topics have to address the context of South African history and the present society within its political, economic, and social contexts. Furthermore, it is important to note that HRM concepts usually cannot just be transferred from other countries and cultures into the South African context. Therefore, culture- and context-specific HRM concepts from the US or Europe do not necessarily fit into the South African HRM context due to the specific challenges of the South African societal and management contexts.

Therefore, South African HRM researchers have argued for the intensification of research on diversity management across various organisational contexts to come up with culture-specific models and theories on managing the new work, taking the specific HRM implications of South Africa—as a highly transformative society that is based in the Global South—into consideration. For future researchers, it is recommended that HRM topics within South Africa need to be explored from various cultural perspectives and different organisational stances. In the future, HRM concepts originating in the US or Europe need to be tested and culturally adjusted, and indigenous models and theories of HRM need to be developed to fit South African organisational contexts.

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8

The Realities of Social Dialogue and Trade Unions in Morocco

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Introduction

Since the inception of the “labour problem”, the relationship between trade unions and democracy has been of utmost importance, as demonstrated by the idea of “industrial democracy” (Webb & Webb, 1897; Baccaro et al., 2019). Early trade unions adopted the “technique” of

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collective bargaining to improve working conditions in response to child labour, poor salaries, lengthy workdays, and harmful working conditions (Hayter, 2018; Fay & Ghadimi, 2020). It was believed that “rebalancing the institutions of capitalism to bring about more stability, efficiency, justice, and human values to the employment relationship” (Kaufman, 2010, p. 76) would be accomplished by gradually and incrementally organising production relations through procedures such as collective bargaining. More specifically, high levels of conflict between the major players (employers, unions, and government) in industrial relations, aka “labour relations” or “employee relations”, have historically been present throughout Africa (Plagerson et al., 2019; Madimutsa, 2022). These conflicts are due to the choices made by the parties involved in labour relations, affecting various facets of employment, including wages, working hours, job descriptions, and others (Madimutsa, 2022).

Furthermore, in Europe, organised social dialogue is still regarded as a crucial component of twenty-first-century democracy (Van Gyes et al., 2015; Ndlovu-Gatsheni, 2021). Historically, this component has been strengthened through a compromise between capital and labour (De Prins et al., 2020). According to the International Labour Organisation (ILO), social dialogue refers to “all types of negotiation, consultation and exchange of information between or among representatives of governments, employers and workers on issues of common interest relating to economic and social policy” (ILO, 2020, p. 3). The adoption of social dialogue is thought to accelerate social and economic growth, enhancing work terms and conditions, among other things. This is due to social partners’ ability to bargain, confer, and exchange knowledge with one another about social and economic concerns that impact them (ILO, 2020). Nevertheless, social dialogue has recently been under pressure due to the difficult socioeconomic climate and other growing contextual factors in the world of work and labour. As a result, international organisations (such as the ILO and European Union) have been required to revitalise deteriorating social dialogue situations around the world (De Prins et al., 2020; Keune & Pedaci, 2020).

Labour relations are just as important in developing nations as they are in developed nations. However, much of the literature on labour/industrial relations has been domiciled in Western economies, while it is

gradually emerging in the Global South, particularly Africa (Ayentimi & Burgess, 2019; Kaine & Josserand, 2019). Over the last four decades, social dialogue has become more important as a tool for managing labour relations in Africa (Madimutsa, 2022). In addition to the emerging discourse in certain popular African nations (e.g., Nigeria and South Africa), the labour relation discourse is also gradually emerging in Morocco. Therefore, this chapter aims to examine the realities of social dialogue in Morocco and the role of trade unions in social dialogue. Therefore, we review the political, legal, social, and economic background of Morocco and how these factors influence social dialogue in the country.

The chapter is structured as follows. First, we conceptualise social dialogue and the role of trade unions. Next, we highlight key features of Morocco, including its political, legal, economic, and social background. Thereafter, we discuss some of the experiences of social dialogue and trade unionism in Morocco.

Conceptualising Social Dialogue and the Role of Social Partners

Social dialogue is a process of exchanging ideas and perspectives that could ultimately lead to harmonious workplace interactions (Lado & Vaughan-Whitehead, 2003; De Prins, 2022). It could be either tripartite or bipartite. In its tripartite form, dialogue entails collaboration between governmental, business (employers), and labour (employees) organisations in the formulation and implementation of labour, social, or economic policies (Ajonbadi, 2019; Canalda Criado, 2022). Visser (2001), who distinguished social dialogue from collective bargaining, offered a specific description. Despite not being the same as bargaining, he asserts that social dialogue “provides a framework for more effective bargaining by helping to differentiate negotiating over ‘the status of the world’ from bargaining over the division of costs and benefits” (p. 184). According to the ILO, the social dialogue triangle comprises (1) the exchange of information, (2) consultation, and (3) negotiation.

The most fundamental aspect of social dialogue is the exchange of information (Keller, 2018). Although it suggests that there will be no meaningful discussion or action on the relevant topics, it is a crucial first step in the direction of more substantial social dialogue (Ishikawa, 2003; Sánchez-Mosquera, 2022). Through consultation, the social partners can exchange information as well as have a more in-depth discussion regarding the concerned issues. Whereas negotiation refers to negotiations between parties having divergent or opposing interests with the goal of coming to a compromise (Joint Ethical Trading Initiatives, 2018). Ultimately, negotiation takes place in two forms. On the one hand, *collective bargaining* entails negotiations between an employer, a group of employers, or the representatives of employers, and workers' representatives to settle matters pertaining to pay and working conditions (Ishikawa, 2003). On the other hand, negotiation through *policy concertation* is defined as "the codetermination of public policy by governments, employers' organisations and trade union confederations" (Compston, 2002, p. 4).

Social dialogue has its roots in concerns surrounding the workplace, particularly those related to workers' rights and conditions connected to production. These have been the main topics of conversation between employers and employees, with the government acting as a facilitator, mediator, regulator, and law enforcement (Ishikawa, 2003). Every actor (or social partner) of social dialogue has a role to play in the process. For instance, social dialogue is crucial for workers and their organisations. The two fundamental rights and principles at work are the ability to associate freely and the effective acknowledgement of the right to collective bargaining, both of which are necessary for a democratic society. Through the extension of democracy and human dignity into the workplace, social dialogue is a useful tool for defending and advancing the interests of employees (ILO, n.d.). Workers and their organisations are able to improve their working conditions and wages through social dialogue and collective bargaining. In many cases, they have also been successful in extending the scope of collective bargaining to cover issues relating to worker protection, such as workplace safety and health and social security programmes, workers' education and training, and even the participation of workers in the management of businesses (ILO, n.d.). Additionally, employers' associations are crucial in assisting society in creating the

conditions necessary to attain employment and living standard goals because they represent the requirements of businesses in a way that no other organisation or even members of their own membership could (ILO, *n.d.*).

The government's role in social dialogue is more of a protagonist and promoter. It is in charge of fostering a stable political and social environment that permits independent employers' and workers' organisations to function freely and without fear of retaliation (ILO, 2020). By guiding policy choices, coordinating development activities, and solidifying participatory governance, robust and collaborative institutions are crucial to the success of development institutions (Khambule & Gerwel-Proches, 2019). Successful social dialogue is more likely to occur when the government (national, state, and local) believes in the tripartite consultation process and encourages social partners to participate actively in policy-making processes (Ishikawa, 2003; Copeland, 2021).

Furthermore, the primary means for workers to engage in social dialogue are trade union organisations, which operate at local, national, regional, and international levels. As such, they are essential tools for improving working people's quality of life and fostering equitable and sustainable development of society as a whole (ILO, *n.d.*). Typically, trade unions aid employees in assisting and serving their members, collectively bargaining for better wages and conditions for all workers, and fighting to enhance the quality of public services, political campaigns, and industrial action (Pernicka & Glassner, 2014).

Against this backdrop, understanding how social dialogue takes place in Morocco remains important in the contribution to the general literature on labour relations and social dialogue in Africa. Moreover, social dialogue is context-specific, given the distinct economic, legal, and socio-cultural factors across nations.

Morocco: A Synopsis of Its Political, Economic, Legal, and Sociocultural Landscape

Morocco (Rabat—Capital) is a country in North Africa that lies directly across the Strait of Gibraltar from Spain. It is the only nation in Africa with coastlines that are exposed to both the Atlantic and Mediterranean

Seas (CIA, 2022). Morocco has experienced significant migration, and it has long been home to metropolitan areas that were first populated by immigrants from outside the region (Natter, 2021). The area was subsequently the westernmost province of the Roman Empire and was governed by Carthage from an early period (Britannica, 2022).

Morocco's political system is a monarchy with a strong institutional foundation that is firmly ingrained in the social fabric of the country (Buehler, 2015). The depth of its legitimacy—which is essential to the monarchy's survival—might be correlated with this rootedness in turn (Daadaoui, 2017). The monarchy has been particularly adept at fusing institutionalised representations of royal legitimacy with political influence, coercion, and patronage since gaining independence from France in 1956. To advance a type of “authoritarian pluralism”, the monarchy turned to state-controlled changes (Leveau, 2000). The political system of Morocco is supposedly multiparty with a vibrant civil society that has successfully changed social policy in the past in the areas of family law and integrating Amazigh [Berber] culture. However, in reality, the monarchy has consistently had effective control over and co-optation of the numerous parties and forces operating within the system (Daadaoui, 2017).

In terms of its economic outlook and prospects, Morocco is working to create a broad, open, market-oriented economy by taking advantage of its close proximity to Europe and its affordable labour costs. The following are important economic sectors: agriculture, tourism, aerospace, automobile, phosphates, textiles, garments, and subcomponents (CIA, 2022). Prior to implementing austerity measures and pro-market reforms under the International Monetary Fund's (IMF) watch, Morocco was a deeply indebted nation in the 1980s. Since ascending to the throne in 1999, King Mohammed VI has presided over a stable economy characterised by steady growth, low inflation, and gradually declining unemployment, while weak harvests and economic troubles in Europe caused an economic downturn. Morocco signed bilateral free trade agreements with the US and the EU in 2006 and 2008, respectively, in an effort to increase exports (CIA, 2022). As of 2021, Morocco's gross domestic product (GDP) grew at 7.2%, with an inflation rate of 1.2% due to its success in agricultural outputs and exports (African Development Bank, 2022). Morocco's population stands at over 37 million people, a human

capital index (HCI) of 0.5%, an unemployment rate of 11.5% and an estimated poverty rate of 2.4% (World Bank, 2022). The analysis of foreign direct investment (FDI) received in Morocco revealed the dominance of four key industries: telecommunications, real estate, tourism, and industry (Hakimi & Hamdi, 2016). The tourism industry has seen a rise in foreign direct investment, given the significant influx of tourists rising from 4.9 million in 2000 to 13.11 million in 2019 (World Bank, 2021a).

On the legal front, Islamic (sharia) law and French civil law combine to form a mixed-law system, with the constitutional court reviewing legislative actions. The division of powers was introduced due to the 2011 constitutional amendments, which also enhanced the authority granted to the head of government (i.e., prime minister). He has the authority to propose and remove cabinet members as well as oversee public service and coordinate government activities (BTI, 2022). Civil rights and equality are guaranteed under the constitution. It forbids torture and other forms of inflicting cruel, inhumane, or humiliating punishment or treatment. The right to a fair trial is guaranteed by law, yet access to counsel is occasionally denied to defendants, and lawyers have acknowledged challenges in obtaining and presenting evidence during trials (BTI, 2022). Moreover, calls for legal reforms have not gone unnoticed in Morocco's legal system. Moroccan women, in particular, have pushed for changes to the "Mudawwanah", or code of personal status and family law, to address injustices in inheritance, divorce, and other issues that have historically favoured men (Britannica, 2022).

In the parliament's upper house, there are representatives for labour unions. While it comprises a total of 28 groups, the Moroccan Workers Union (UMT), the Democratic Confederation of Labor (CDT), the General Union of Moroccan Workers (UGTM), and the National Labor Union of Morocco (UNTM) are the four that are most representative (BTI, 2022). However, it appears that unions' ability to mobilise has weakened. In both rural and urban areas, according to Morocco's Higher Planning Commission, 96.6% of the working population is not a member of a union or other professional group. They appear to have lost some of their attractiveness due to a lack of internal democracy and their membership in political parties (BTI, 2022).

Morocco's sociocultural landscape is delineated by distinct features, including its popularity as a collectivist society (Chetioui et al., 2021). The majority of people in Morocco are Arabs and Imazighen. Two-thirds of Moroccans speak Arabic, which is also one of the country's official languages. Modern Standard Arabic is also taught in educational institutions. Tamazight, the Amazigh language, was recognised as an official language in 2011 (Britannica, 2022). Islam is the recognised official religion of Morocco, and the vast majority of its citizens are Mālikī rite Sunni Muslims. There is hardly any indigenous Christian population in the nation, and the number of Jews has decreased significantly (Britannica, 2022).

People typically have a more permissive attitude towards hierarchy and status differentials in high power distance countries, such as Morocco, with a score of 70 (Hofstede Insights, 2022). In other words, it is not viewed negatively when one is treated differently from another. In one study, Hennekam and Tahssain-Gay (2015) discovered that Moroccan managers believed diversity was enforced from the top and not embraced by everyone. However, it appears that this aspect of Moroccan culture is tied to its religious traditions. Given how significant Islam is, it would seem that some concerns of diversity, such as the rights of the LGBT community, could not be publicly debated. In addition, Morocco is still a male-dominated country, even if discrimination on the basis of gender and disability is illegal. In fact, with a rate of 25% compared to 75% for men, women's labour force participation can be viewed as low (World Bank, 2021b). In addition, women frequently work in unskilled jobs and are not allowed to hold positions of authority (Charrad & Stephan, 2020).

Against this backdrop, this chapter therefore investigates the realities of social dialogue in Morocco and the role of trade unions in social dialogue by evaluating the political, legal, social, and economic context of Morocco.

Social Dialogue and Trade Union in Morocco

The first Moroccan labour code was published in 2003. It appears that a compromise was reached whereby the unions agreed to the formal labour market's increased flexibility in return for the protection of their ability to organise (Hassi, 2016). Prior to the 2011 Arab Uprising—a wave of pro-democracy uprisings that engulfed several Islamic/Arab countries—Morocco's class power dynamics were altered by the various outcomes of its previous social struggles. Following National Liberation, the ruling social coalition marginalised Moroccan labour, preventing it from having a significant impact on the regime's policies. The UMT's leadership was motivated by the party's waning influence to increasingly compromise with the monarchy despite the lack of concessions and to adopt a conservative stance as social unrest spiked in the 1970s. Trade unionism in Morocco continued to erode and divide due to the neoliberal approach, an issue well acknowledged in public discourse (Feltrin, 2019; Benjelloun, 2021).

In Morocco, the state only indirectly restrained internal union democracy by (shrinking) restrictions on the space for political opposition and (persistent) acceptance of union repression in the private sector. Due to the low union density, the state provides more support and funding for the unions than do their actual members (Feltrin, 2019). Feltrin (2020) notes that these problems sparked a variety of divisive bottom-up movements that escaped the leadership of the UMT, including a rupture that gave rise to a more militant confederation, the *Confédération Démocratique du Travail* (CDT). In the 1990s, the administration changed its approach to managing labour conflicts from one based on draconian levels of repression to one based on including unions in constructive social dialogue. This inclusion, nevertheless, widened the gap between the unions and the working class, which remained mostly excluded (Feltrin, 2020).

According to the European Commission (2015) report, in terms of the division between unionisation in the public and private sectors, the public sector is more significant. Public sector organisations dominate trade unionisation. In Morocco, trade unions are governed by a precise legislative framework. It operates with a system of the most represented trade unions and offers recurring “worker place elections”, in which

independents who are not members of a union win the majority of seats. The freedom of association is protected by Articles 397–402 of the labour code. It is stated that there can be no interference between employer and employee groups and that unions can be formed at any time. Despite not being ratified, the principles of C87 are covered by the labour code, but in many businesses, the right to freedom of association is not treated with respect (European Commission, 2015).

The Legal Framework Guiding Social Dialogue in Morocco

Despite the political influences, which have been previously mentioned, there are legal foundations for these procedures. In fact, political influences are what primarily shape Moroccan social dialogue realities. Several human rights concepts that adhere to international law are enshrined in the 2011 constitution (Constitute, 2022). According to the preamble, “the Kingdom of Morocco, an active member within the international organisations, is committed to subscribe to the principles, rights, and obligations enunciated in their respective charters and conventions; it affirms its attachment to Human Rights such as they are universally recognised” and to “the supremacy of international conventions”. Article 7 on political parties also enshrines the freedom of speech and association: “Their constitution and the exercise of their activities is free ... There might not be just one side”. According to Article 8 of the constitution, “union organisations of wage-earners, professional associations [chambers] and the professional organisations of employers contribute to the defence and promotion of the socioeconomic rights and interests of the categories they represent. Their constitution and the exercise of their activities are free”.

In Article 12, “Civil society associations and nongovernmental organisations are constituted and exercise their activities in all freedom” and contribute within the framework of participative democracy. Article 25 states that “the freedoms of thought, of opinion and of expression under all their forms are guaranteed ... The freedoms of creation, of publication and of presentation in literary and artistic matters and of scientific and technical research are guaranteed”. Article 27 equally guarantees “the

right of access to information held by the public administration”, and Article 28 states that “the freedom of the press is guaranteed and may not be limited by any form of prior censure ... all have the right to express and to disseminate freely information, ideas and opinion”. The constitution in Article 29 equally guarantees “the freedom of reunion, of assembly, of peaceful demonstration, of association and of trade union and political membership”. The constitution also links the practice of all these rights with the adoption of organic and ordinary laws.

Union Representation in Morocco

Workers' Trade Union

With the emergence of French labour unions, the first foundation of the union movement emerged under the French protectorate. On March 20, 1955, the “Moroccan Labour Union” was established with the help of the national movement. Following independence, there was more diversity with over 30 trade unions and sectoral professional unions due to a number of circumstances, including an overlap between political and trade union activities. Nevertheless, despite this “exaggerated multiplicity”, only four unions have a significant representation in Morocco as a result of Article 425 of the Labour Code, which grants these unions the authority to represent workers there. The chosen delegates are allocated as follows:

- Independent (not members of trade unions): 17,399 delegates, representing 49.79%
- Moroccan Labour Union: 6175 delegates, representing 17.67%
- The Democratic Labour Confederation: 3240 delegates representing 9.27%
- General Workers Union of Morocco: 2644 delegates representing 7.57%
- The National Workers Union of Morocco: 2572 delegates, representing 7.36%

- The Democratic Labor Federation: 1339 delegates, representing 3.83%, lost their position as the most representative union, and the other unions represented 4.51%.

Source: South Med Social Dialogue (2016)

Employers' Organisations

Employers are represented by a variety of professional groups and organisations, primarily: General Confederation of Moroccan Enterprises is an independent professional organisation that was founded on October 20, 1947, following the French protectorate era. When the “group of Moroccan industrialists” joined, it became the first Moroccan employer association, and the confederation gradually gained the status of the government’s economic partner, representing employers at the house of councillors as its candidates who won the eight seats of employers and in the various institutions for national and local social dialogue, businesses represented by its 31 federations.

Another is the Federation of the Moroccan Chambers of Commerce, Industry, and Services (FCMCIS), a group of commissions run by professionals whose operations are under the supervision of the appropriate ministries. The members of the house of councillors are chosen through elections based on categories; they may be independent or affiliated with political parties. Although it does not take part in the national tripartite social dialogue, it does take part in the tripartite discussion institutions governed by the labour code (South Med Social Dialogue, 2016).

Conclusion

This chapter examined the realities of social dialogue in Morocco and the role of trade unions in social dialogue. Therefore, by reviewing the political, legal, social, and economic background of Morocco, the chapter concludes that social dialogue is important for driving effective labour relations in Morocco. The reality is that Moroccan labour relations do

not lead to the rapid changes in social dialogue issues that are needed. It is the responsibility of unions and employers to facilitate social dialogue processes, educating and acquainting their managers and members with the value of negotiation in the management of collective relations. More importantly, given the significant role of political affiliations in collective bargaining, agreements, and negotiations, for social dialogue to work, the state cannot be passive in ensuring that labour laws reflect contemporary international practices even when localised to fit in with the country's distinct demographics. As previously highlighted, despite the state's efforts to ensure fairness in the treatment of employees, notable areas need to be addressed in its laws (i.e., the Labour Code).

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9

The Legal Regulations of Employment Relations and Conflicts in Nigeria

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Introduction

The contract of employment is a typical contract that is the force of law and is governed by general principles of the law of contract, which is known as “consensus ad item”, which means “the meeting of minds”. A contract of employment can be established either by a “simple contract”

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or by a “formal contract”. A contract of employment relates to a relationship that exists between two or more persons for the performance of services, while one person is employed by the other. A contract relates to a relationship that exists between two or more persons in any transaction, generally. Traditionally, a contract of employment implies the power of the employer to control the work of the employee in contrast to a contract with an independent contractor. In *Chadwick v. pioneer private telephone Ltd.* [1941] 1 All ER 522 523D, contract of employment was defined as “contract of services which implies an obligation to serve and it comprises some degree of control by the master”.

Although there is no comprehensive definition for this concept, it will suffice to simply define a contract of employment as a contract entered into by two parties whereby one party submits himself to the service of the other for some considerations, in most cases salary and wages. It is an agreement entered into whether oral or written, express or implied, whereby one person agrees to employ another as a worker and that other person agrees to serve the employer as a worker. It is a contract of service and not for service; what differentiates them is the fact that in a contract of service, a man (employee) places his labour at the disposal of another, resulting in a relationship between the two parties. However, a contract for services involves a situation where a man who operates an independent business agrees to do labour or carry out a task or tasks for another person. In earlier times, the contract of employment was called a relationship of “master and servant”. For a contract of employment to be distinguished from a contract for service, the parties involved must avail themselves of the statutory rights under it. That is, it must be shown that a relationship between employer and employee or master and servant exists between them. Thus, there must be terms agreed upon by both parties for this to be the sole principle that will guide their acts and conduct during the subsistence of employment.

An employment relationship is typically a relationship between two different people viewing their positions from two different dimensions, and when this happens and there is no proper guide or regulation, there are bound to be serious conflicts, and most often than not when such conflicts are not properly managed, the relationship occasions a breakdown to either or both parties rather than provoking a blessing, that is, a good working relationship.

Thus, the essence of this chapter is to be able to enlighten both the employer and the employee on their expectations and duties in regard to the employment relationship, as this will serve as a guide and control their individual actions when in the relationship. The chapter also focuses on providing possible legal remedies for either of the parties whenever a conflict arises in the process of working together. The chapter X-rays the legal framework of employment relationships in Nigeria with a special focus on their vital provisions for the welfare of the employee and the sustainability of the business.

Understanding Employment Relationship

According to Emudainohwo (2020), an employment relationship is one that is based on the agreement of the parties, that is, employer and employee, and such is referred to as the contract of employment. It is expected that such a relationship is properly constituted and legally binding when it provides for duties, obligations and rights. Such agreement must be well stated to the understanding of the parties, and it must also provide for consideration in terms of remuneration (ILO, 2006). An employment agreement must definitely provide for the administration of such a relationship, especially in terms of directional power or authority and the expectation on the path of the employee to obey lawful instructions pertaining to the business (Collins et al., 2012).

The existence of a binding relationship between the employer and the employee arises out of contract, as essential elements for the formation of a contract of employment or service between an employer and employee upon which their rights and obligations depend are generally the same as conditions in ordinary or simple contract. This legal relationship, therefore, presupposes the voluntary consent of the parties to its creation expressed through the process of hiring within limitations imposed only by the general law of contract or statutory regulation. The terms are often not negotiable by the individual employee except in some cases where remuneration is negotiable, depending on the professional skills required by the employer. As such, the rights and duties of the master and servant are essentially the products of free bargaining between the parties, as they have liberty to decide the terms and conditions of service.

Meaning of Basic Concepts

Employer is a person or business that employs one or more people, especially for wages or salary: a fair employer as a person or thing that makes use of or occupies someone or something (Usman Bappi, 2017).

Employee is one who works for someone else or a company in exchange for wages or some other agreement for compensation. An employee is a person who is paid to work for an organization or for another person. As a person who is hired to work for another or for a business, firm and so on, in return for payment (Usman Bappi, 2017).

Conflicts may be defined as the incompatibility of interests, goals, values, needs, expectations and/or social cosmologies (or ideologies). According to Coser (1956), conflict is a struggle between opponents over values and claims to scarce status, power and resources.

Sources of Employment Law in Nigeria

- i. The Nigerian 1999 Constitution as Amended
- ii. The Labour Act, Chapter L1 of the Laws of the Federation of Nigeria 2004
- iii. Other State and Federal Legislations such as:
 - a) Employees Compensation Act, 2010
 - b) Factories Act, Chapter F1-LFN 2004
 - c) National Health Insurance Scheme Act, Chapter N42, LFN 2004
 - d) National Housing Fund Act, Chapter N45, LFN 2004
 - e) Trade Disputes Act, Chapter T8, LFN 2004
 - f) Trade Unions Act, Chapter T14 LFN 2004 as amended by the Trade Union (Amendment) Act, 2005
 - g) Nigeria Data Protection Regulation 2019 as provided by the National Information Technology Development Agency
- iv. Court Decisions
- v. International Treaties and Conventions

Creation of Employment Relationship

Oral contractual relationship: This is an agreement entered into only by words of mouth between the parties without any written document. This kind of relationship can only be established in times of adversity by calling witnesses. Therefore, in this situation, the party with few or no witness will be at the losing end.

Written contractual relationship: Section 7 of the Labour Act provides for subjecting all contracts of employment into writing, although generally employment relationships could be created orally or in writing, but for the sake of proper and ease of proof, contractual relationships should be subjected to writing as provided by the law.

Relationship by implication of law: This applies in a situation where there is no express relationship agreement between the parties but the law will read the existence of a relationship into the conduct of the parties.

Categories of employee: The Labour Law in Nigeria provided for only two categories of employees: employees performing labour and clerical work and employees performing administrative, technical, executive and professional tasks, which are referred to as “non-workers”. Take note that the second category known as the “non-workers” have the terms of their employment subject primarily to their individual contract of employment.

Employee Rights

Under Nigerian law, particularly the Labour Act, there are some inalienable rights of the employees that are provided for, and these are highlighted as follows:

1. Right to have a written contract.
2. Right to salary and wages, which must be monetary.
3. Right against illegal deductions except loss or injury caused by the employee to the employer and such deductions must be reasonable.
4. Right to join trade unions and labour associations.

5. Right to rest, sick leave and holiday: Working more than six hours deserves a rest of at least one hour. One day off must be granted for seven days of work. Employees are entitled to 12 days of sick leave. Having worked up to 12 months, the worker is entitled to be given a holiday of at least 6 days with full pay, and such a holiday must not include public holidays.
6. Right to maternity (paternity) leave: Female employees are entitled to 12 weeks of maternity leave. However, note that recent development now provides for right to paternity leave though not expressly provided by the law; for example, Lagos now grants ten days of paternity leave to male workers whose wives delivered babies.
7. Right against transfer of employment from one employer to another without due consent of the employee.
8. Right to adequate notice for termination: If termination of employment occurs, reasonable notice must be given as follows: having worked for three months or less, a minimum of one day notice must be given; having worked for three months but less than two years, a minimum notice of one week must be given; having worked for two years but less than five years, a minimum notice of two weeks must be given; and having worked for five years and above, a minimum notice of one month notice must be given. It is worth noting that such a notice of termination must be put in writing. Note that where the contract of employment provides for the type and terms of notice to be issued for termination, it will be valid and legal except where it falls short of the provision of the law.

Duties of Employer and Employee

A perfect understanding of the employment relationship will be achieved by X-raying the duties of both the employer and the employee, which are discussed in this chapter. The employer's duties will be examined under three main headings: the general duties of the employer, employer's duties under the Factories Act and employer's duties under the Labour Act.

A. Employer Duties

General Duties of the Employer

Duty to provide work: Since the reason for the establishment of the employment relationship is to get the employee to work for the employer, it is reasonably expected that such services to be rendered with full description should be stated in clear terms to the employee. Generally, most contracts of employment will always state the particular work that the employee is expected to do while under the instruction of the employer. It is worthy of note that whether or not job specification is given to an employee, once he or she is engaged, the employer must ensure that such employee is paid for services rendered.

Duty to pay wages: The Contract of employment must provide for the entitlement of the employee which may be in terms of wages or salary. Since the employee is in his/her service, it is the employer's responsibility to pay for the services rendered by the employee under his/her control. Under the Nigeria law, such payment must be expressly provided under the contract of employment. However, where the contract of employment does not expressly provide for payment to the employee, the law will automatically assume that such provision to make payment to the employee exists. This is because it is the position of Common Law that contract of such nature will be read to mean that the employee must be paid for the services rendered. This was the position in the case of *Higgins v Hopkins* (1848) 3 Exch. 163, 166, see Park B, where it was stated that a presumption of law will arise for the right of the employee to be paid when he has worked for the employer. Note that under Section 43(1)(a) of the Trade Dispute Act, every employee is entitled to be paid his/her remuneration except in a given situation such as during a strike, where such payment can be withheld legally. Notwithstanding the above provision, in a lock-out situation by the employer, the employees are entitled to be paid their wages or salary for the period of the lock out. See Section 43(1)(b) of the Trade Dispute Act.

It is worth noting that the Nigeria law under Section 3(3) of the National Minimum Wage Act, 2019, provides for the payment of minimum wages for employees, and thus, it is illegal to pay any employee less than the stipulated minimum wages, but there are certain exceptions to this provision.

Exemption for Payment of Minimum Wage

Section 4(1) of the National Minimum Wage Act, 2019, provides for exemptions as follows: The provisions of Section 3(1) of the National Minimum Wage Act do not apply to

1. an establishment in which fewer than 50 workers are employed;
2. an establishment in which workers are employed on a casual basis;
3. an enterprise where workers are rewarded on piece-rate or commission basis;
4. holders in periodic engagement, such as farming; and
5. worker engaged in a ship or aircraft regulated by shipping or aviation law.

Duty of recognition of trade union and collection of check-off dues:

The law allows employees to fraternize with people of the same working skills in the form of organized unions, so the employer must give recognition to the labour/trade union with which his employees associate and must ensure that the said unions are aided in collecting check-off dues for their operations from his employees. According to Emuobo Emudainohwo (2021), this position has been given a full back-up by judicial authority as projected in the case of *Management of Tuyil Nigeria Limited v National Union of Chemical, Footwear, Rubber, Leather and Non-metallic Product Employee*, Unreported Suit No: NIC/9/2003, judgement delivered by Justice B.A. Adejumo (presided) on 23 January 2008. The decision of the court expressly stated that the employer has a duty to grant recognized union access to eligible members of the trade union in its employment. It was also specifically stated in that judicial decision that by virtue of Section 16A of the Trade Union Act, for an employee to become a member of a trade union is the yardstick, test or standard to determine the deduction of employees check-off dues and the employer is believed to have no reason for the denial. The duty to deduct check-off dues is mandatory, and no employer is permitted to choose whether or not to deduct.

Duty to keep record of attendance: This is the expectation of the law that an employee must be at his/her duty post at all material times and must be seen to be punctual to work. To ensure this, it is expected that

the employer should keep a record of the employee's presence at work. Such duty is not in any way transferable to the employee, and this position has been legalized by the court decision in the case of *Vincenti Engineering Ltd. v Civil Service Technical Workers Union*, Unreported Suit No: NIC/23/78, judgement delivered by Justice P.A. Atilade (presided) on 16 November 1978. When such a record is kept, the attendance of the workers at work will not be in dispute, which will enable the employer to make reasonable decisions and take action against absenteeism, lateness and lack of a situational work attitude.

Duty with regard to care of employee at workplace: The employee is expected to be protected against imminent risk in the workplace, and this calls for the reason an employer is mandated to safeguard the life of the work by ensuring that the workplace is free from all forms of danger to the employer. Under common law, an employer is expected to take reasonable care in ensuring that workers are not exposed to the risk of injury at work. Where an employee suffers injury at work due to the negligence of the employer in taking reasonable care, the employer will be mandated to pay for such impropriety that caused the injury to the employer. It is noteworthy that under Section 12 of the Labour Act, 2004, if in the cause of office operation, a worker's negligent activity resulted in injury to another worker, the liability will still be taken by the employer. Therefore, to alleviate the burden of unexpected injury during office operation, it is expected that the employer must insure himself with respect to vicarious liability for injuries caused by his employees to coworkers.

Duty to register employee on pension scheme: The Pension Reform Act, 2004, ("Pension Act") LFN provides for contributory pension scheme for employees in the public and private sectors of the Nigerian economy. The Pension Act in Section 1 provides for the establishment in Nigeria of a Contributory Pension Scheme (the Scheme) for payment of retirement benefits of employees to whom the Scheme applies. The section goes on to explain that the provisions of the Pension Act shall apply to all employees in the public service of the federation and the private sector, and in the case of the private sector, employees who are in employment in an organization in which there are five or more employees. One of the main objectives of the scheme is to ensure that persons who have

worked in either the public or private sector receive their retirement benefits as and when due.

Duty to register the employee on National Housing Fund: By virtue of the provision of the National Housing Fund Act, Cap 45, Laws of the Federation of Nigeria, 2004, as amended by the National Housing Fund (Establishment) Act, 2018, it is mandatory that the employer must deduct 2.5% of the employees' basic salary as contribution to the National Housing Fund on behalf of the employee and the same must be remitted as and when due and remit; the said deduction must be remitted to the Federal Mortgage Bank within one month of such deduction (see Section 8(1–3) of the Act).

Duty to register the employee on the National Health Scheme: The employer is under the obligation to register the employees on the National Health Insurance Scheme. This position is provided by the National Health Insurance Authority Act, 2022, which repealed the National Health Insurance Scheme Act, Cap 42, Laws of the Federation of Nigeria, 2004. Section 14(2) of health makes it compulsory for all employers both in the public and private sectors, which have five staff members and above to register their employees on the Housing Scheme. Under the 2004 law, employers are required to deduct 5% of employees' basic salary (employers are to contribute 10% of employees' basic salary) as a contribution to the National Health Insurance Scheme. However, it is noteworthy that the new law was silent about the amount to be contributed but rather left it at the purview of the council as provided for under Sections 30–32 of the Act. The scheme gives all employees the opportunity to access affordable health care.

Duty to make remittance for employee compensation: Under the Employee's Compensation Act, 2010, which repealed the Workmen's Compensation Act Cap. W6 LFN, 2004, it is mandatory for employers of labour in Nigeria to make contributions towards the care of injured workers in the cause of their employment. Part VI Section 33(1) of the Act provides that every employer shall, within the first two years of the commencement of this Act, make a minimum monthly contribution of 1.0% of the total monthly payroll into the fund.

Duty to make remittance for industrial training: Section 6(1) of the Industrial Training Fund Act Cap 19, Laws of the Federation of Nigeria,

2004, as amended provides for a mandatory contribution of employers to the government for the training purpose of the employees. Such an employer must have 25 employees or more and must contribute 1% of the amount of his annual payroll.

Employers duties under the Factory Act: The duties of employers as stated under the Factories Act (2004) include the following:

- (i) Sections 7–12 and 40–48 safeguard the health of the employee.
- (ii) Sections 14–19 provide for the fencing of flywheels and dangerous parts of equipment.
- (iii) Section 21 provides for the duty to protect employees from contracts with dangerous liquids.
- (iv) Sections 21–34 provide for the duty to install and use only steam boilers and steam receivers that meet the prescribed requirements.
- (v) Section 23 provides for not putting new machinery into use in a factory without prior compliance with the preconditions.
- (vi) Sections 24–26 provide for the duty to provide and maintain proper conditions, such equipment and appliances as hoists, lifts, pipes, lifting tackles and chains used for lifting workers.
- (vii) Sections 29–30 provide for the duty to take measures to safeguard employers and other persons from fumes, exposure to dangerous fumes, explosives or inflammable dust, gas vapour and substance.
- (viii) Sections 35–36 provide for the duty to install equipment that alerts employees of fire and extinguishing the same.

Employers duties under the Labour Act: The duties expected of an employer to the employee under the Labour Law are summarized as follows:

- (i) Duty to deliver terms of employment to the worker within three months of the period of employment. See Section 7.
- (ii) Duty to pay employee during sickness: The employee should be paid his wages for up to 12 working days in any one calendar year during absence from work caused by temporary illness. See Section 16.

- (iii) The duty to provide work is stipulated by Section 17(1); this duty is subject to the four conditions stipulated by the subsection.
- (iv) Duty to grant annual holiday with pay to employees. See Section 18.
- (v) Duty to reduce contract of apprenticeship to writing and such writing must be attested to be valid: An employer who contravenes this provision would be liable to a fine of not more than N200 or imprisonment not exceeding six months or both Labour Act (2004) Section 50(1).
- (vi) Duty to keep record of young persons engaged: Every employer of young persons in an industrial undertaking must keep a register of all young persons in his employment with particulars. See Section 62.
- (vii) Duty to conduct medical examination: The Act provides for the conduct of medical examination on every employee engaged by the employer. Such an employee who enters into a contract of employment shall be medically examined by a registered medical practitioner at the expense of the employer, but an exemption can be granted from this requirement by an order made by the state authority (meaning the governor or administrator of a state) where the contract is for employment in agricultural undertakings not employing more than a limited number of workers, or where the employment is in the vicinity of the workers' homes in agricultural work or non-agricultural work which the state authority is satisfied and is not of a dangerous character. See Section 8.

B. Employee Duties

The duties of the employee include but are not limited to the following:

Duty to obey employer's instruction: The employee is under strict obligation to comply with all legal instructions of the employer in the cause of his service, and whenever this obligation is compromised, the contract becomes automatically repudiated. This position has its weight leaned on the common law position as decided in the case of *Linford v Stephen* (1819). Note that an employee is not under any obligation to obey the order, which will expose him to the danger of health risk or loss of life.

Duty to be faithful: Faithfulness of service by the employee is paramount, as that will enhance a good working relationship and an action of the employee to the contrary could warrant a termination of that relationship. An employee must be loyal, trustworthy and committed to the work, and this is regarded as acting in “good faith”, “fidelity”. It is thus worth noting that such a display of loyalty does not mean a disservice to the nation by covering the criminal activities or action of the employer.

Duty of compliance with safety measures: An employee is expected to keep to all safety precautions in the workplace, according to ILO (2008), which will help to prevent diseases and accidents. To ensure this, the employer must ensure that employees are given sufficient information on safety steps taken by the employer. The employer must ensure that the duties of an employee concerning safety in the workplace are well set out and clearly understood by the employee. When this is done, the burden of action becomes shifted to the employee who now has the duty to take care of their safety and others who may be injured by their acts, follow safety instructions, use safety equipment correctly, report any situation that can lead to hazard and report any injury or accident in the workplace.

Termination of Employment

Both the employer and the employee have the right to bring employment to an end, but this must be within the framework of their contract. It is expected that a contract of employment should make provisions for the employment relationship, termination inclusive. The general law in Nigeria is that you cannot force a willing employee on an unwilling employer and vice versa. Therefore, whenever any party is no longer willing to work with the other, it is expected that such a relationship must be dissolved.

With regard to termination, you must take cognizance of the fact that in Nigeria, there is the position of law with regard to employment with statutory flavour and employment without statutory flavour. Employment with statutory flavour applies to those in the service of the government (federal, state and local government); they are known as civil servants or public servants. The employment of this group of people cannot just be

terminated without the due process of law. On the other hand, those employed under the private sector are those whose employment does not enjoy statutory flavour and can only enjoy their employment at the will of their employer. The terms of their employment are within the purview of their contract of employment.

Termination Without Reason

Based on judicial decisions in Nigeria, an employer can terminate the employment of his employee at any given time without giving any reason. By the established principles, an employer has the right to terminate an employment without stating any reason in thus far as all laid down procedures are followed in terminating the employment. It is only expected that whenever the employer intends to lay off the employee, the procedures as laid down by the working handbook must be followed but where such is negated the employee as a right to bring an action in court against the employer for wrongful termination of employment.

Take note that issuance of notice is expected before termination, but noncompliance with this will not in any way reverse the termination when payment is made in lieu of such notice. Either the employer or the employee can end the relationship by giving payment in lieu of notice.

Relief for Wrongful Termination

An aggrieved employee in the private sector who believes that his/her employment has been wrongfully terminated cannot in any way seek to be reinstated, which will be against the law and unethical. Such relief is only available for an employee who had employment with statutory flavour. An aggrieved employee from the private sector who had his/her employment terminated can only be entitled to claim damages, which might be salary, other entitlements or both.

Employment and Arising Conflict

In any given environment, there is the probability of arising conflicts that might be in different forms and arising from different factors. Conflict in a business place is surely inevitable. A conflict usually occurs when two or more people communicate (Huan & Yazdanifard, 2012). Therefore, at any point when conflict arises in a workplace, it is the responsibility of both the employee and the employer to ensure that it is nibbed promptly to prevent its negative effect on the business. Conflict may arise in the work environment in the following ways:

1. ***Between workers:*** These are scuffles, whether major or minor, that may arise among the workers themselves. Many factors may be responsible for these issues, such as attitude towards work, poor responses, disrespect for seniors and insubordination.
2. ***Between employer and employee:*** This may happen when the employee has grievances against the employer and vice versa. Such occasioning factors may include but are not limited to discriminatory treatment, insensitivity on the part of both the employer and employee, poor welfare package, non-availability of working equipment, lack of provision for training and development and so on.
3. ***Company and third parties:*** Conflicts can arise between the company (whether employee or employer) and the third party, which can be the customer, supplier or contractor. As extraneous as this factor may be, if not promptly attended to, it can cause grievous harm to the image of the company.

Settlement of Conflicts

When conflict arises in the workplace, there are different strategies that could be employed to address such conflict, most particularly when the personnel of the human resources department of the organization are well trained and equipped.

The concern of this chapter is more of looking at the procedures that could be adopted in times of conflict in the organization, and three major procedures are acceptable under the Nigerian law, which are examined as follows:

Internal policy: Every functional and effective organization is expected to have its own policy book or handbook that provides for the rules and regulations, offences and procedures of dealing with different matters. Under the Nigeria Employment Law, the company's handbook is very important and material evidence for dealing with conflict in the workplace. Most often, the court will always demand the company's handbook to use its provision to give justice to the aggrieved party. Thus, when the company's handbook is in place, the employee could always take advantage of its provision in dealing with their grievances at work.

Alternative dispute resolution: ADR as it is simply referred to implies different ways or methods of resolving disputes among disgruntled parties. ADR enables parties to settle their disagreements before the use of formal legal processes. ADR processes include mediation, negotiation, conciliation and arbitration. An aggrieved worker could take advantage of any of these processes for the settlement of their problems. It is worth noting that some of the Nigerian courts have now introduced ADR processes into the system, thus trying to project possible settlement of grievances outside the walls of the court.

Litigation: This is the process of instituting an action in the court of law for the purpose of obtaining justice. This process will require the aggrieved party to obtain the aid of a legal practitioner who can prepare the claims and present the matter in the court.

Conclusion

This chapter examined the nature of the employment relationship in Nigeria, the remedies available to the employee and expectations of the law concerning the employer in the cause of the relationship and the ways conflicts can be adequately resolved. In as much as conflict will always arise in any relationship, an employment relationship may potentially present conflicts; hence, this chapter concludes by providing for how

such conflicts can be resolved, and the two major ways examined are either through proper litigation as provided by the legal framework or a decision to opt for Alternative Dispute Resolution, which may either be provided for in the contract of employment or otherwise be embraced when the need arises.

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Index

A

Alternative dispute resolution
(ADR), 190
Apartheid, 124, 144
Associationalist, 54
Authoritarian, 101
Authoritarian pluralism, 164
Autocratic, 101
Automation, 152
Avuncular pontification, 101

B

Bargaining power, 33
Bipartite, 161

C

Capitalism, 160
Capitalist, 51
Centralisation, 36

Civil rights, 165
Civil society, 54
Clientelism, 53
Collective agreements,
94, 102
Collective bargaining, 51, 72,
120, 160
Collectivism, 4, 28, 97
Collectivist society, 166
Colonial capitalism, 81
Commensalism symbiotic
industrial relations, 101
Competitive advantage, 94
Conditions of work, 104
Conjunctive bargaining, 105
Contract of employment, 175
Contractual, 98
Contractual arrangements, 72
Cooperative bargaining, 105
COVID-19, 120, 143
Cultural diversity, 146

D

Decentralisation, 36
 Democracy, 35, 56, 162
 Distributive bargaining, 105
 Diversity and inclusion, 149
 Diversity management, 13, 144

E

Economic independence, 64
 Economic inequality, 42
 Emerging economies, 3, 73
 Employee duties, 186
 Employee empowerment, 96
 Employee pay, 96
 Employee performance, 96
 Employee voice, 96
 Employer duties, 180
 Employer-employee relationship, 93
 Employment conditions, 96
 Employment discrimination, 84
 Employment equity, 134
 Employment relations, 78
 Employment relationship, 99, 160
 Employment Rights Act, 97
 Enterprise-level bargaining, 82
 Equal employment, 84
 Equal pay, 84
 European Commission, 167
 European Union, 61
 Expression of freedom, 29

F

Flexible work, 144
 Foreign direct investment (FDI), 73
 Formal contract, 100

Fourth Industrial Revolution
 (4IR), 145
 Fundamental rights, 162

G

Gender discrimination, 84
 Gig economy, 88
 Gig work, 83
 Global Competitiveness Index, 129
 Globalization, 120

H

Hermeneutical research
 paradigm, 148
 High power distance, 166
 Human capital, 1
 Human resource management
 (HRM), 101
 practices, 152
 Hybrid working, 143

I

ILO, *see* International Labour
 Organisation
 Independent contractors, 83
 Individualism, 97
 Industrial disputes, 106
 Industrialization, 123
 Industrial laws, 94
 Industrial relations (IR), 31, 49,
 74, 94, 122
 Informal sector, 119
 Institutional, 95
 Integrative bargaining, 105

International cooperation, 153
 International Labour Organisation
 (ILO), 58, 87, 111, 160
 Intersectionality, 144

L

Labour Act, 179
 Labour Code, 169
 Labour commodification, 73
 Labour market, 72
 Labour movement, 50, 60
 Labour problem, 159
 Labour regulations, 132
 Labour relations, 2, 72, 102
 Labour Relations Act, 108
 Labour unions, 77
 Legal framework, 168–169, 177
 Legal system, 77
 Legislative framework, 111
 Litigation, 190

M

Mandela, Nelson, 125
 Marxist, 122
 Monarchy, 164
 Mutualistic symbiotic industrial
 relations, 101

N

National Health Insurance
 Scheme, 184
 National Housing Fund, 184
 Nationalist, 30, 58
 National Minimum Wage Act, 182

Negotiating power, 105
 Neo-liberal, 56
 New normal, 139
 NGOs, 86
 Nigeria, 27
 Nigerian Labour Congress (NLC), 30
 Nigerian law, 179
 North Africa, 163

O

Organisation for Economic
 Co-operation and
 Development (OECD), 86
 Organized labour, 135

P

Parasitic symbiotic industrial
 relations, 101
 Participatory governance, 163
 Paternalism, 15
 Pluralist, 41, 93
 Policy concertation, 162
 Policy planning, 19
 Political allegiances, 79
 Political alliances, 62, 67, 127
 Political instability, 77
 Political reforms, 127
 Political systems, 66, 164
 Politicisation, 64
 Postapartheid, 121
 Power distance, 4
 Procedural agreements, 37, 104
 Property rights, 63
 Psychological contract, 96, 99
 Public policy, 122

Public sector, 71
Public service, 52

R

Racial diversity, 150
Reciprocal interactions, 99
Remote working, 138
Representative rights, 103
Resource allocation, 58
Royal legitimacy, 164

S

Scientific, 101–102
Sharia, 165
Skilled labour, 85
Social dialogue, 38
Social exchange, 2
Social partners, 160
Social partnership, 100
Social responsibilities, 86, 136
State power, 59
State-union relations, 49
Statutory regulation, 177
Statutory rights, 176
Substantive contracts, 106
Systematic review, 5

T

Technology, 120
Termination of employment, 187–188
Thematic, 148
Trade unionism, 95
Trade union power, 104
Trade unions, 28, 74
Tripartite, 111, 161

U

Ubuntu, 16, 122
Unionism, 121
Union movements, 110, 124
Unitary, 93
Unregulated digital work, 87
Unskilled workers, 14

W

Welfarism, 15
Well-being, 17, 28, 137
Worker protection, 83
Working arrangements, 103
Working conditions, 160
Working from home, 144
Workplace discrimination, 13
World Health Organization, 8