

LABOUR & EMPLOYMENT LAW

A Practitioner's Guide

TRADE UNIONS AS 'BUSINESS PARTNERS': HR & INDUSTRIAL RELATIONS MANAGERS' GUIDE





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1.0 INTRODUCTION

Industrial peace and harmonious industrial relations, especially in a unionized organisation, is a sine qua non to sustainable productivity and increased profitability. Employer-employee relationship involves two parties with diametrically opposed interests. While the employer (represented by the management) expects to secure labour at the lowest possible price, the workers (represented by trade unions) expect real wages to be increased steadily including better terms and conditions of employment and job security. Nigerian industrial climate has not been free from incessant industrial actions and its attendant disruptive consequences.

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Disruptive labour disputes and industrial actions are taking its tolls on productivity and profitability, and as such every organisation must evolve sustainable strategies to create a culture of industrial harmony and an environment where the management and the trade unions see themselves as strategic partners in driving the organisation's corporate goals. This work examines the modus operandi of trade unions in Nigeria, the common sources of friction between management and trade unions, and best practices in managing industrial relations. It also offers useful tips to HR and Industrial Relations Managers.

2.0 MODUS OPERANDI OF TRADE UNIONS

2.1 A trade union is a registered association or a group of people in the same trade who have come together, by virtue of their trade, to protect and promote their common interests. Section 1 (1) of the Trade Unions Act¹ defines a trade union as any combination of workers or employers, whether temporary or permanent, the purpose of which is to regulate the terms and conditions of employment. The members are bound by a common goal which is the desire to secure a better terms and conditions of employment.

The right of workers to organise and bargain collectively is recognised by Section 40 of the 1999 Constitution of the Federal Republic of Nigeria, and the ILO Convention on the Freedom of Association and Protection of the Right to

¹ CAP. T14 LFN 2004.



Organise. This right is, however, not absolute under the Nigerian law. The Trade Unions Act prescribes some limitations and exemptions to the right to join a trade union. Section 11 of the Act excludes certain categories of employees from forming or belonging to a trade union. These categories of employees include members of the Nigerian Army, Navy, Air Force, the Nigeria Police Force, the Customs and Excise Department, the Immigration Service, etc. Section 3 (3) of the Trade Unions Act also provides that no staff recognised as a projection of management within the management structure of any organisation shall be a member or hold office in a trade union where such membership or holding of office in the trade union may lead to a conflict of loyalty. Regrettably, the importance of this important provision is often lost in the leadership of many trade unions in Nigeria.

2.2 Trade unions customarily adopt the following modus operandi in the pursuit of their common goal:

- Collective Bargaining
 - Threats of industrial action
 - Issuance of ultimatums
 - Work to rule
 - Picketing
 - Strike action
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3.0 TRANSFORMING TRADE UNIONS FROM 'LEADER OF OPPOSITION' TO 'BUSINESS PARTNERS': THE EMPLOYERS' WINNING STRATEGIES

Managing industrial relations can be very stressful, especially for the new comers. Industrial relations management is an art and sometimes a game of wits. Using the right approach, organisations may actually successfully 'transform' their trade unions from the traditional 'enemy within' standpoint to a 'business partner'. Below are some useful tips and strategies in this regard.

3.1. MUTUAL RESPECT AND COURTESIES

Mutual respect and courtesies between management and trade union leaders is very crucial in managing industrial relations. Disrespect to trade union leaders by management and lack of simple courtesies is capable of undermining harmonious industrial relations in an organisation. The first rule is that management must see trade unions as the collective bargaining agent of their employees and a critical partner in achieving industrial harmony and the organisation's corporate goals. Recognising this fact, every unionized corporate organisation must have an industrial relations policy or system which recognises trade union engagement and effective communications as part of its corporate strategies. As insignificant as it may seem, experience has shown that many serious industrial relations



crisis including prolonged strike actions occur not because of poor working conditions, but due to the perceived insensitivity and disrespect on the part of the management. This explains why during many strike actions, trade union officers and their members carry placards with inscriptions such as “The HR Director must go”, “Sack the MD now”, or “we no longer want expatriates as MD” etc. Many atimes, the strike actions are “ego fight” directed against a particular individual in the organisation and not necessarily the company itself. Many strike actions are unions’ reactions to the perceived arrogance or disrespect on the part of the management. Human Resources and industrial relations managers have roles to play in this regard, and below are the basic rules of thumb:

- Prompt written acknowledgement of letters written by unions even when you don’t have any concrete response yet.
 - Always thank them for previous understanding or cooperation shown by them, if any.
 - Recognise them as the lawful collective bargaining agents of your employees.
 - Prepare for collective bargaining early, especially in those years where Collective Bargaining Agreements are to be negotiated or renegotiated.
 - Management should recognise the fact that no sustainable productivity and profitability can be attained in the atmosphere of industrial crisis.
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- Embrace consultation always.

3.2 INTERPERSONAL RELATIONSHIP AND EMOTIONAL INTELLIGENCE

I always tell HR and Industrial Relations managers that about 80% of what is required of them to succeed in managing industrial relations is interpersonal relationship skills, informal networking skills and emotional intelligence. Trade union leaders are human. I will like to share an experience in this regard. A few years ago, I was part of a company's management team to an industrial relations retreat scheduled to hold outside Nigeria. The union's Branch Chairman and his local executive officers including a national executive officer was part of the union's team. When we boarded the flight, I discovered that it was only myself, the company's HR Director and the Industrial Relations manager that were seated in the Business Class cabin. Every other member of the team including the union's Branch Chairman and the national executive officer were seated at the economy class. Meanwhile, the flight had been delayed for about an hour, and while waiting at the departure lounge, we had spent some time having some very useful discussions with the Branch Chairman and the national executive officer that accompanied the union's team. Immediately the flight took off, I informed the Industrial Relations manager that we had bungled a golden opportunity to resolve some of the pressing trade disputes between the parties. I told him that we could have concluded 75% of the negotiation of the next CBA in the



business class cabin during that 5-hour flight! The union leaders did not complain about the treatment but I knew they didn't like it. We did not achieve much during the retreat.

Interpersonal relationships, mutual courtesies, and emotional intelligence are critical requirements for every HR and industrial relations manager. Very successful HR and industrial relations managers have one thing in common which is strong interpersonal relationship skills and emotional intelligence. HR and IR managers with high emotional intelligence are more likely to stay calm under pressure, understand team members and resolve conflict effectively. Relationship management is a core component of emotional intelligence. A smart HR and IR manager cultivates the following habits:

- Consultation and not confrontation
 - Never forgets to invite the in-house union branch executives, and one or two national executive officers to every social events organised by the company. He also makes sure that they are recognised during such events.
 - Regular consultations including occasional breakfast and lunch meetings with the in-house union's branch chairman and secretary.
 - Keeps record of the birthdays of every officer of the in-house union's branch executives and sends them birthday greetings.
 - Grants requests of in-house union's executives to attend the union's meetings, conferences and other official engagements of the union.
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3.3 EFFECTIVE COMMUNICATION

Effective communication is essential to a sound and harmonious labour relations. Lack of effective communications between the management and trade unions often undermines harmonious industrial relations.

Communication in industrial relations entails that employers and unions take each other into account while pursuing a desired outcome. An effective communication system engenders an environment where the management and the trade union see themselves as partners in progress. Effective communication makes grievances easier to manage and resolve. Unions should be consulted before circulars are released on potentially contentious issues such as declaration of redundancy, pay cuts, mergers and acquisitions, cancellation of benefits etc. Identified problems should be promptly communicated to the unions with a view to arriving at solutions together. This approach deepens mutual trusts between the parties. The HR and Industrial Relations manager should also promptly communicate feedbacks to the management. A breakdown in communication between the parties may trigger avoidable crisis. It is sometimes a good idea for the management to take the union leaders into confidence before taking some sensitive decisions. Unions show understanding and often cooperate with the management on contentious issues when taken into confidence by the management.



3.4 START COLLECTIVE BARGAINING EARLY

Management should kick start collective bargaining process early enough especially during those years when the Collective Bargaining Agreement is to be negotiated or renegotiated. The prospects of an harmonious industrial relations is undermined when the management is dragged to the collective bargaining table by the union. When management engages the union as early as possible, it demonstrates good faith, respect and a genuine desire to foster enduring harmonious industrial relations.

3.5 RESPECT FOR COLLECTIVE BARGAINING AGREEMENTS

A Collective Bargaining Agreement (CBA) is a written agreement concluded by an employer and a trade union relating to terms and conditions of employment. A CBA is a product of collective bargaining. It is a good industrial relations practice for employers to respect terms and conditions of employment agreed in a CBA. One of the commonest causes of Industrial relations crisis in Nigeria is breach of CBA by employers. If a term of a CBA becomes difficult to implement due to some unforeseen circumstances, the right thing for the management to do is to promptly inform the trade union of this development and invite it back to the table to discuss a review of the CBA and not for the management to unilaterally resile from the agreement. If the unforeseen circumstances alleged by the



management are genuine and verifiable, the trade union leaders are known to show empathy and understanding, and this helps the parties to come up with a mutually acceptable solution to the challenge. Effective communication between the parties reduces conflicts, and promotes mutual trusts and confidence. It engenders a sense of belonging, thereby improving harmonious industrial relations. With timely exchange of information between the management and trade unions, misinformation, rumours and agitations would be reduced at the workplace.

3.6 TRAINING AND CAPACITY DEVELOPMENT FOR TRADE UNION LEADERS

A smart organisation creates a budget for industrial relations management. A major component of this budget should be appropriated for training and capacity development of the in-house union's branch executives. Experience over the years has shown that an informed trade union leadership is an invaluable catalyst for an harmonious industrial relations. Modern industrial relations practice has transited from the traditional 'table banging' approach to a knowledge based engagement.

It is in the interest of the management that the in-house trade union executives are functionally knowledgeable so as to understand the global picture of the company's business and its challenges. Training and capacity development of the



in-house trade union executives helps them to appreciate and embrace consultation and mediation as critical tools of modern industrial relations practice. Trade union leaders should be made to undertake courses in management, leadership and industrial conflict resolution. Capacity development for trade union leaders can be very rewarding in industrial relations. These critical capacity development interventions also tend to make trade union leaders think like entrepreneurs rather than activists. It also enables them to appreciate the prerogatives of the management in the running of the affairs of the company.

4.0 CONCLUSION

Harmonious industrial relations is critical to sustainable productivity especially in a unionized workplace. HR and IR managers must recognise the sensitivity of labour relations and adopt strategies that deliver the much needed industrial harmony in the organisation.
