Integrating Labour Relations Principles for Enhanced Tertiary Educational Development Strategies in Anglophone West-Africa: Lessons from Foreign Jurisdictions

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Abstract

Regional cooperation schemes have become veritable tools of self-realisation among neighbours bound together by linguistic kinship. This is imperatively so among the Anglophone countries in the West African sub-region who constitute a linguistic bloc along that corridor. This article incorporates elements from the theory of labour relations to develop a theory of enhanced tertiary educational development strategies. The article examines the concept of unfair dismissal and its prospects of visible limitations in job infrastructure in the Anglophone countries and this has impelled a search for more pliant labour principles that can more legitimately be said to underlie the legal control of managerial power and administrative discretion. While adopting the desk review methodology of primary and secondary sources of information, the article revealed that where labour relations principles are well articulated and integrated in tertiary education strategies in the Anglophone countries – taking a cue from the trajectory of evolution of those job-enhancing labour principles which obtain in foreign jurisdictions – this will pave way for surmounting labour market challenges against tertiary educational institutions of the Anglophone bloc. The study concluded by integrating the theory that an explicit borrowing of foreign jurisdictions techniques for enhanced tertiary education development strategies will by no means serve the purposes, also, of Anglophone West Africa. The significance of the study is in the fact that the research underscores the imperativeness of a regional bloc framework for the protection of employment through the provision of legal safeguards - in the tertiary institutions - against unreasonable and arbitrary cessation of employment through unfair dismissal.

Keywords: labour-principles, tertiary-education, development-strategies, Anglophone-West Africa.

Introduction

This study – of modest magnitudes – integrates a fascinating scenario that grapples with labour relations principles as alchemy of development, which when interfaced with development strategies in educational system in Anglophone West-Africa, may ultimately result in an alloy of immense enhancement of tertiary education. Labour relations principles and tertiary educational development are kindred issues which are not only mutual but also inclusive, and the lessons that a juxtaposition of both may draw from foreign jurisdictions may provide the framework for considering the current situation of tertiary education in Anglophone West-Africa. An engagement with the past is also thereby achieved, leading to a desirable impetus for the development of requisite strategies for an assured future in tertiary educational development along the linguistic corridor known as Anglophone West-Africa.

Methodology

The data relied upon in this article were obtained from primary and secondary sources such as national legislation and international legal instruments and books, journals, law-reviews and courts’ decisions.
Why Anglophone West-Africa?

Anglophone means English-speaking. In an online dictionary resource, the Cambridge English Dictionary (Retrieved from https://www.dictionary.cambridge.org/dictionary/English/anglophone 15/6/2017), the word ‘Anglophone’ is a noun which is defined as ‘a person who speaks English, especially in countries where other languages are also spoken. Also in the Merriam-Webster online dictionary (www.merriam-webster.com/dictionary/anglophone 15/6/2017), the word Anglophone is defined as ‘consisting of or belonging to an English-speaking population, especially in a country where two or more languages are spoken. An extrapolation of the gist of other languages spoken within a country can be extended to the West-African corridor such that the Anglophone countries within a regional bloc will be those countries which speak English, where other countries within the region speak other languages. Basically therefore, there are five Anglophone countries in West-Africa namely: Liberia, Nigeria, Sierra-Leone, Gambia and Ghana - a negligible number among the 18-member countries in the sub-region - and the common denominator among these five countries is the adoption of English as their official language. The rest of the states in the sub-region happen to be French-speaking states, and these states surround the Anglophone countries, a situation which creates serious linguistic problems for the nationals of the respective countries. “Anglophone West African states form the minority of the states in the sub-region and with the exception of Liberia, all the countries had the same colonial authorities – England” (Ogunlade, p. 9). It is oftentimes the case that countries are bound together by linguistic traits and communication affinity. Studies have shown that cultural and traditional bonds between nation states have enhanced and facilitated the widening and deepening of robust interactions between countries, resulting in increased labour and services mobility between them. According to Elahi, S and de Beer J, et. al., (2013, p. 58) “culture and mother tongue are international identities, and every language provides unique windows on the world and reflects embedded power relations and that language is the means by which culture develop and transmit accumulated data and tacit knowledge.” (Elahi, S and de Beer J. et. Al., (2013) Knowledge and Innovation in Africa: Scenarios for the Future. Cape-Town; Open A.I.R. Network, p. 58).

The angle of colonialism

Anglophone West-Africa is a product of marauding motives by the British, forged in the crucibles of political ambitions, culminating in colonial rules - in the countries of the Anglophone – since the 19th C. and throughout the colonies upon which they visited their vicissitudes, with the telling result, that today, an almost complete reliance is placed on English law and British institutional models by these colonial extensions. Elahi and de Beer posited that “Colonialism transformed the physical, political, cultural and psychological landscapes of Africa. It undermined and destroyed traditions, fractured societies and fomented distrust. A hallmark particularly of British colonial practices, fundamentally impacted virtually all hitherto existing systems of land control, the form of function of urban areas, the organisation of work practices, and the very means of existence for most African people” (p. 37). Having therefore found themselves in this uninvited but imposed situation, it behoves countries of the bloc, to make the best of the situation.

What role does language play in the colonialism scenario?

Language serves more than its traditional role of a medium of expression. It serves as a means of identifying a people and constitutes a great unifying bond among them, while influencing contiguity and consanguinity of nation-states. Colonialism influenced African spoken languages by introducing a number of Indo-European languages as the official languages of the colonised countries. In some African countries, colonisation meant that all official matters were handled in the colonial language that colonised people were educated in colonial languages and local languages were suppressed.

2.3 Origin of English language in British West-Africa

British West Africa was the collective name for British colonies in West Africa during the colonial period and its historical jurisdictions were the Gambia, and the British Gold Coast (modern Ghana);
as well as Western Nigeria, Eastern Nigeria and Northern Nigeria. Its present make up includes Ghana, Sierra Leone, Gambia, Western Nigeria, Eastern Nigeria and Northern Nigeria. Each of these countries and areas are a post-colonial period. British West Africa’s development was closely based on modernisation and autonomous educational systems were the first step of modernising indigenous culture. Significant was British West African colonial school curricular. Local elites developed, with new values and philosophies, who changed the overall cultural development.

European colonisation and partition of Africa into states took place during the 19th century and the early part of the 20th century. After the decolonisation of Africa, the legacy of colonial languages remained in the newly independent government institutions. In many countries, English or French remained the language, despite not being the language that most people in the countries spoke.

Tertiary education
Tertiary education is formal education at a college or university etc; higher education (Longman Contemporary English Dictionary). Tertiary education, more commonly referred to as secondary education, refers to academic pursuit undertaken after high school and is noun for education of people above school age, including college, university and vocational courses (The Collins English Dictionary online, (13/7/2017). Tertiary education, Retrieved from http://www.google.com.ng). Tertiary education refers to any type of education pursued beyond the high school level. It is more commonly referred to as post-secondary education, an academic pursuit undertaken after high school, which can be found at vocational schools, community colleges, technical schools, colleges and universities.

Essential nature of tertiary education
Tertiary education can be a powerful engine for building a stronger society, ending extreme poverty and boosting shared prosperity. It can serve the community by contributing knowledge and advanced skills as well as basic competencies and research through its so-called “third mission.” While acknowledging the rapid growth in tertiary education around the world, the institution recognised and identified the many challenges faced by tertiary education as including the problem of expanding and promoting equitable access, improving learning achievement, fostering educational quality for relevance, strengthening knowledge generation and technology transfer, and encouraging desired values, behaviours, and attitudes. Good quality institutions, diversified options and relevant equitable and efficient tertiary education and research are key to ending extreme poverty and advancing economic growth. Also, in the glossary of the Organisation for Economic Cooperation and Development – OECD – statistics, tertiary, type-A programmes (ISCED5A) are defined as “largely theory-based and are designed to provide sufficient qualifications for entry to advanced research programmes and professions with high skill requirements, such as medicine, dentistry or architecture (www.stats.oecd.org/glossary/detail.asp?ID=5440).

Development strategies
Stewart (2008) in her legal treatise declared the broad objective of development as the improvement of chances of many millions of people to access the resources needed to provide themselves with a decent life. She was of the opinion that the concept of development emerged as an area of theory and practice in the mid-twentieth century when many former colonies became independent states in the immediate aftermath of the World War II and the onset of the cold war. From the ‘humble’ beginnings of the concept, Leigh (2016) placed the increasing attention received by the concept from the mid-twentieth century against the background of the advance of science and technology and the growth of the world economy. Development has been defined as “an evolutionary process in which human capacity increased in terms of initiating new structures, coping with problems, adapting to continuous change and striving purposefully and creatively to attain new goals (www.tandfonline.com/doi/pdf/10.1080/15693430600688831(19/5/15) cited in Peet, etc. Pisan (2006) in his masterpiece treatise put it more poignantly and in context that a thorny issue for development theorists was the widening gap between developed and developing countries - so-called First and
Third Worlds – that had opened up in the colonial period. The two pertinent theories of development – modernisation theory and dependency theory – both viewed and canvassed reliance on their suggested models from the prism of their ideological leanings. The former theory considers development to mean free enterprise and the market economy as positive faces of progress; while the latter adopts a quite opposite approach by conceptualising the linkages between the developed and developing world as a set of externally imposed, exploitative, dependent, economic relationships incompatible with development. The deep ideological divide between the socialist and Western capitalist worlds had a profound effect on the way in which development policy was promulgated.

Development strategies in Anglophone countries
The development strategies of the Anglophone countries have been in tandem with the general approach adopted by colonised countries in Africa. The economies of the countries under consideration are far from healthy as this a common phenomenon of most countries in the sub region, the poorest region of the world (Ogunlade). The preoccupation of these countries was to break away from the dependency which was described by Reomer (-----) as market dependency, technological dependency, managerial and entrepreneurial dependence and foreign capital dependence. These countries have tried several strategies but due to local and international problems the dependency syndrome remains unabated.

Problems of development
Several constraints conspire to prevent these countries from achieving their developmental goals. Apart from poor economic base which make them vulnerable to external shocks, there are other problems that confronted them and prominent among these are shortage of manpower in key areas, financial indiscipline and poor administrative set-up, which affect development adversely.

Education as catalyst of development
At the attainment of independence - especially taking cognisance of the role played by the educated and enlightened patriots who acted as catalyst factors to the attainment of independence - most African governments were fully aware that education can be deployed as an instrument of development for overcoming the dependency syndrome they found themselves in (Ogunlade). This resulted in increased commitment to their investment in the education sector. Apart from the available statistics which show that higher education has received some attention by the various governments’ authorities, increased attention has also manifested in the constant review in these countries education systems whereby respective countries fundamentally overhauled the educational infrastructure inherited from their colonial masters and there has been an increase in the number of institutions at all levels of the system, to cater for the ever-increasing applicants for tertiary education informed by the boon in population in these countries. From a handful tertiary institutions of about 30 universities within these countries, there are at present over 152, both public and private. In Ghana, the universities and other higher education institutions have increased by about over 3,200% from the initial 2 at independence to about 64 currently (www.4icu.org/gh/ghanian-universities.htm) and in Sierra-Leone there are about 4 universities, and in the Gambia, the story is same. In Gambia, the country had no university before 1999 and students intending on higher education were compelled to go overseas with very few
returning to Gambia. The Gambia is in the middle of their 10-year higher education strategy to build its human resources and strengthen tertiary infrastructure. The aim is to produce the high level intellectual and technical skills essential to drive socio-economic and technological development. Gambia universities and its higher education system is being given a boost through a recently created Ministry of Higher Education and the Gambian government has been building educational infrastructure since taking power. (www.africauniversities.org/gambia-2/).

The indispensable role of teachers in the university
The role of the teacher in the university is not only inevitable but also indispensable. Hegenauer and Volet (2014) in their research publication created the order of significance and imperatives of extending the teacher-student relationships as witnessed in primary and secondary levels of an education system, to higher education, namely, reduction in student drop-out rates with its attendant high human and financial cost, the prospects of positive interaction and relationships may impact on teachers’ positive emotions and, excellence in teaching and learning will be achieved. One significant way of harvesting the best offering from the lecturer for the achievement of excellence in the university system is the reduction in the precarious nature of teachers’ employment contract in the universities. In succinct terms, there is the imperative need to insist on tenured employment for university teachers in general globally, and particularly in the Anglophone universities essentially, if the vision that informed the founding of these institutions will be attained.

Labour-relations principles in focus – the phenomenon of job security
The labour-relations principles identified for amplification in this study, is one that seemingly guarantees job security in tertiary institutions; which in this context, is essentially a movement from contractual to statutory status. Adeogun (1986) opined as follows: “where individuals with contractual capacity have into a contract of service, the state, through its regime of legislation, can regulate that contract in terms of its substance and termination” (as cited in Nwazuoke, A.N., 2000, p. 1). Much earlier, it had been argued that states could impose “imperative norms for the protection of the worker, norms which the parties to the contract cannot validly set aside to the detriment of the economically weaker party (Kahn-Freund, 1967 as cited in Nwazuoke, 2000). Contracts of employment in the academic cadre in higher educational institutions – the status of academics in colleges or universities - is the focus of this study, the category of employees described by Anderman (1993) as “rare individuals with bargaining power comparable to that of the employer,” but for whom the gradual derogation of labour relations by the employers being currently witnessed in the academia portends serious ill for educational system in the Anglophone bloc in the sub region. The global tendency moves towards the attainment of job security in the workplace – an ideal described by Deakins and Morris (1995) as those rules which work as a restraint on firms from dismissing workers for arbitrary reasons. The learned authors were of the opinion that employment security is meaningful through the existence of regulatory interventions which protect workers against the employer’s high-handedness.

Oppression in the tertiary institutions: Lessons from foreign jurisdictions
What initially appeared as the insulation of the academia from whimsical application of employment terms exemplified in arbitrary determination of contracts of employment is now gradually taking roots and finding expressions in citadels of higher education all around the world. The bullying of academics follows a pattern of horrendous, Orwellian elimination rituals, often hidden from the public. Despite the anti-bullying policies (often token), bullying is rife across campuses, and the victims (targets) often pay a heavy price. (http://bulliedacademics.blogspot.com.ng/2007/03/unfair-and-wrongful-dismissal-uk.html). Recent statistics reveal an increase in cases of unfair dismissal brought before tribunals in the UK. Of the 86,000 cases cognisable before the tribunal for various employment issues, 46%, that is, some 39, 560 cases involved claims for unfair dismissal.
Diversities of tenured employment in the universities
In the UK and Ireland, a permanent lecturer holds and open-ended, tenure-track or tenured position at a university or similar institutions and is often an academic at an earlier carrier stage who teaches, conducts research and leads research groups. In these countries, most lecturers typically hold permanent contracts at their academic institutions. Permanent lectureships are tenure-tracked or tenured positions that are equivalent to an assistant or associate professorship in North America. After a number of years, a lecturer may be promoted based on his or her research record to become a senior lecturer. As a proportion of UK academic staff, the proportion of permanent lectureships has fallen considerably. This is one reason why permanent lectureships are usually secured only after several years of post-doctoral experience. Data from the Higher Education Statistics Agency shows that in 2013-14, 36 per cent of full and part-time academic staff were on fixed-term contracts, down from 45% a decade earlier. Since the Conservatives’ 1988 Education Reform Act, the ironclad tenure that used to exist in the UK has given way to a less secure form of tenure. For instance, in 2012, at the Queen Mary University, Lecturers on permanent contracts were fired and the institution now has a stated policy of firing and replacing ‘under-performing’ teaching staff members.

In Australia, the term, lecturer, is used formally to refer to a specific academic rank which are similar to those in the UK, with the rank of associate professor roughly equivalent to reader in UK universities.

In India, after passing the competitive examination of National Eligibility Test conducted by the Universities Grants Commission, one can appear for interviews for the post of a lecturer. The position is equivalent to assistant professor in the US system. As such, most lecturers’ position can be considered tenure-tracked.

Oppression in the tertiary institutions: The Anglophone experience
The phenomenon of unfair dismissal is also gradually creeping into the higher education citadels in Anglophone West Africa, with the more telling and debilitating effect of the absence of forums where such could be redressed, unlike what obtains in the UK and other first world jurisdictions and where there exist a cache of employment protection legislation which an aggrieved academic could call in aid. In those jurisdictions, the law against unfair dismissal have assumed a harmonised status both in the ingredients which may be proved by both the employer and the employee. The former in justifying a dismissal and taking it out of the purview of unfairness and the latter in establishing unfairness in the dismissal by bringing the case within the precincts of the law of unfair dismissal when an aggrieved party makes a potential claim for unfair dismissal. There has also been seen, an improvement in the handling of unfair dismissal cases in this foreign jurisdictions through the ‘relaxation’ of the rules guiding the concept of “fairness” in a claim for unfair dismissal. For instance, “the conduct and manner in which an employer dismisses an employee is of paramount importance. This is because a dismissal can and will amount to an unfair dismissal in the eyes of a Tribunal if the manner in which the dismissal was handled is unfair. For example, if an employee is not consulted and/or given a fair chance to improve, the dismissal may be found to be unfair.” And when an employment is found to have been unfairly dismissed, certain statutory remedies of reinstatement, re-engagement and compensation are made as appropriate.

With this conference holding in Ghana, the situation that obtains in other Anglophone countries – apart from the host country Ghana – will pass off as foreign jurisdictions, and that, together with the proverbial African saying that ‘charity begins at home’ will justify the decision of the author to begin the comparative expositions from Nigeria. This study seeks to probe whether circumstances and...
situations of unfair dismissal from employment exist in Nigeria - and in other Anglophone countries - that sufficiently requires legislative intervention for its prevention and therefore ensure the promulgation of employment protection legislation for the hapless workers against unfair dismissal in Nigeria? Remarkably, most of the available literatures on the subject of unfair dismissals usually identify the imperative of classifying the instant subject matter among matters that require employment protection legislation and an assessment yardstick of the social responsibility of a corporate body. (Leigh)

The University of Ilorin (UNILORIN) 49 Lecturers sacked by the Federal Government of Nigeria.
The case of the 49 sacked lecturers started within the domain of University of Ilorin in January, 2001. Those involved are members of Academic Staff Union of Universities – ASUU – Unilorin branch activists who were battling the then Vice-Chancellor and the institution’s authority over delay in the payment of salaries and other sundry welfare issues. The institution considered the lecturers’ action as confrontational and decided to clamp down on them. While the face-off was still on, the national ASUU commenced a national strike in April 2001 to protest the poor infrastructure, poor funding, lack of university autonomy and poor conditions of service for academic staff among other conditions agitated for. The authorities in Nigeria responded by opening attendance registers in the Universities, including Unilorin. ASUU directed its members to shun the register and in the end was able to get the Federal Government to negotiate with it for the calling off of the nation-wide strike action. An agreement was signed by both parties and it was further agreed that a “no victimisation clause” inserted by ASUU will be implemented by the Federal Government of Nigeria. However, the University of Nigeria, (UNN), Nsukka and University of Ilorin (Unilorin) terminated the appointments of some lecturers perceived to have played prominent roles in ensuring the success of the strike by ASUU. After much public outcries, UNN reinstated its sacked lecturers, but Unilorin declined to reverse itself on the sack of the lecturers. In all, 103 lecturers were given the sack with the breakdown namely: 15 Professors, 2 Associate Professors (Readers), 15 Senior Lecturers, 40 Doctors and 12 Medical School Lecturers out of which 11 were Consultants. A committee, headed by Professor Bayo Banjo – former VC of University of Ibadan - was set up to look into the crisis. The committee absolved the lecturers of any blame and recommended the reinstatement of all sacked lecturers in the university. Unilorin recalled all but 49 of the 103 sacked lecturer, which were seen as a minute fraction of the 700-strong teaching staff of the university. Some of the affected lecturers could not immediately get alternative when they were forcibly evicted from their staff quarters. The sacked workers had no choice than to approach the court. 5 of the sacked lecturers, on behalf of the others sued the university authorities. The court ruled that the termination was “illegal and unconstitutional.” The university appealed the judgement to the Court of Appeal sitting in Ilorin and a majority judgement gave judgement against the lecturers saying that the National Industrial Court is the proper forum that the matter should have been taken, being a trade dispute matter. The Court of Appeal judgment was challenged by the lecturers at the Supreme Court and on December 11, 2009, the Supreme Court delivered judgement and ordered immediate reinstatement of the lecturers and the payment of all their entitlements from February 2001, the date of their illegal disengagement.
And just recently, on July 6, 2017 an online newspaper, Daily Post online reported that another crisis is brewing in the same Unilorin on account of the university’s management decision to sack the chairman and secretary respectively, of the local ASUU for their whistle-blowing on corruption in the university.
The imperatives of employment protection legislation against unfair dismissal in universities in Anglophone West Africa

Anderman (1993) opined that statutory protection against unfair dismissal debuted in the UK in 1971 as part of an array of legislative employment protection legislation in that country. Given the historical antecedents of the Anglophone countries in West Africa, with the UK, it is suggested very strongly that the utility of the law be extended to the former colonies. This will be in line with the best practices of harmonisation of laws relating to labour relations whereby the process of creating common standards is assured within the Anglophone linguistic bloc. This will result in each member of the bloc exercising primary responsibility for the regulation and integration of salutary law of unfair dismissals in its domestic laws.

Conclusion

In this paper, we have identified the unifying factor of the Anglophone countries along linguistic affinity, a fact accentuated by their common colonial heritage of the British. It has been suggested therefore that this ‘common’ trait of language uniformity could be exploited to noble ends. Since there already exist some common grounds in language, why will the ‘siblings’ in West Africa not expand and extend the frontiers of this commonality into the area of more collaboration through uniformity or harmonisation of their labour relation laws of unfair dismissals. This treatise has exposed the potentially harmful prospects of unfair dismissals generally against the workforce of respective countries, and especially in the citadels of higher education of these countries, using Nigeria as a case study. The initial fears of a ravaging spread of this malaise have been voiced, and no doubt Leonardo da Vinci, was influenced by the developments around him when he wrote that “Nothing strengthens authority as much as silence.” And Edmund Burke, decrying the feeling of helplessness on the part of the victims of this atrocity, also said: “All that is necessary for evil to succeed is that good men [or good women] do nothing.” It is hereby recommended that more collaborative efforts aimed at warding off common enemies could be based on the Anglophone platform and further steps taken by each country to first instate statutory protection for its employees protection both in the public and private sector for the consideration of the harmonisation of these laws. It is only then that positive steps be taken by each country of the Anglophone bloc will result in free movement of labour services within those countries.

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