Multinational enterprises in Africa and their role in conflict resolution in employment relations: Empirical perspectives from selected MNEs in Nigeria and South Africa

Olabiyi, JO & **Allen-ILE,** COK

Paper for the ILERA 9th Africa Regional Congress (under sub-Theme/Track 2 – Work, employment relations and labour law in Africa) to be held at Skukuza, Mpumalanga, South Africa. 26 – 29 September 2021

ABSTRACT

An organisation or country that aims to experience industrial tranquillity and collaboration among social partners in employment relations must put in place an outstanding and potent conflict resolution mechanism. As with all social or human interactions, conflicts in the workplace are inevitable, and almost predictable. The often visible result of poorly managed conflict is lockout by employers or strike by employees. This outcome can be avoided if there are appropriate conflict resolution mechanisms in place. Overall, conflict resolution mechanisms must be centred around negotiation and dialogue which are integral aspects of dealing with disharmony in employment relations.

This empirical study investigates the efficacy of mechanisms for conflict resolution in employment relations at a large multinational company in Nigeria and South Africa. The study also examines the effectiveness of the machinery for regulating the affairs of labour relations statutorily or voluntarily. Additionally, the study undertakes a comparative analysis of different mechanisms employed whenever conflicts arise in both employment relations environments that are in South Africa and Nigeria. This analysis gives more insight into how conflict resolution mechanisms work in South Africa as compared to Nigeria. Furthermore, the study explores the necessary tools and frameworks of legislative resolution instruments that lead to long-term reconciliation and peace and that reduce the rate of disputes in employment relations in South Africa and Nigeria.

A non-experimental descriptive research design that utilised a survey approach was adopted in the study. To help in the data collection, the study employed a mixed method that is, qualitative and quantitative data collection methods. In the quantitative method, a total of 400 questionnaires were distributed to respondents in the two organisations, 200 for participants for each organisation in Nigeria, and South Africa respectively via om-line means using the online goggle form. A total of 363 responses were returned for the quantitative data collection. Additionally, a total of 20 respondents participated in online interviews as part of the qualitative data collection. Thus, the final aggregate sample size for this research was 383 participants.

Results from the study indicated that the conflict resolution mechanisms functioned more successfully in South Africa compared to that of the counterpart organisation in Nigeria. The comparative aspect of the study further revealed that South Africa, possibly, has one of the most developed mechanisms for managing industrial conflicts in Africa as a whole. This was found to be because of how the South African government rigidly pitched a high labour legislative framework and requirement concerning labour conflict resolution. It is believed that this is intended to create a conducive and harmonious labour relations environment. It is surmised that introducing a similar legislative framework into Nigeria's labour relations environment may also foster a more harmonious relationship amongst the parties and social partners. The robustness of the South African labour relations framework does not, however, mean that it does not have its criticisms or shortcomings.

Finally, the study proposes and recommends that host environments of multinational enterprises in Africa must continuously review their conflict resolution frameworks so that it serves as a guide for the operations of multinational companies that come to their countries. In addition, the study highlights that such mechanisms must make provision for opportunities for employees to feel that they are heard through sincere processes of dialogue and effective communication channels between employers and employees. Further, the study recommends that accommodating and congruent conflict resolution strategies must be encouraged among members of staff which facilitate a non-violent, non-disruptive labour relations atmosphere.

Keywords: *Conflict Resolution Mechanisms, Employment Relations, Multinational Enterprises, Labour Legislative Framework.*

1. INTRODUCTION

Labour disputes are inherent in all labour relations systems (ILO,2001). They tend to occur when the collective bargaining process reaches a breaking point and, if not resolved, results in industrial actions, such as strikes or lock-out. The establishment of a system for the prevention and settlement of labour disputes is a cornerstone of sound labour relations policy (ILO, 2001). The nature of employment relations is such that the divergent interests and deferring objectives of the parties to the relationship frequently give rise to conflict (Venter, 2003: 383).

No country aspiring to develop its economy has succeeded without a stable mechanism for settling labour, employment, or labour relations matters. This is even more crucial in a country such as Nigeria that is in dire need of a constructive system of dispute resolution for effective and speedy settlement to strengthen workplace industrial democracy. No reasonable foreign investor or multinational company would like to invest in an economy where the relationship between the employer and employee is not cordial or peaceful or where mechanisms for speedily resolving labour and industrial relations matters, when they arise, are not put in place (Odion, 2010:6). The state with its ever-increasing interest in labour and welfare issues, cannot remain a silent and helpless spectator in the relationship. Therefore, the state takes the responsibility of coming up with legislative provisions meant to balance these conflicting interests in the arena of labour-management relations (Ahmed, 2014:29).

A multinational enterprise or company/corporation (MNE or MNC) is also sometimes referred to as a transnational corporation (TNC). These nomenclatures are used interchangeably in this paper. In the same vein, globalisation is used as a template within which multinational companies function. In this regard, foreign trade and foreign direct investments are the mechanisms through which multinational companies manifest themselves. Through globalisation these MNEs or MNCs deploy their technological, financial and infrastructural resources from one country to another. Put in the context of employment relations, multinational companies do not enter a country and operate in a void. They are invariably influenced by the employment relations environment prevailing in that host country. This influence can be in the form of labour legislation, for example, pertaining to the mechanisms for conflict resolution (Burton, Bloch & Mark, 1994; Richard, 2007; Tyler, 1993).

The operations of multinational enterprises also affect the price, consumer, and market behaviour that influence the labour or employment relationship that exist in the host environment (Zhao, 1998). In influencing this employment relationship environment, multinational enterprises go further to influence the labour relations policy, and possibly the labour laws of the host country (Frenkel & Peetz, 1998; Stopford, 1998).

For example, what happens if a multinational enterprise refuses to observe the labour laws of the host nation, how will the government sanction it? Are there any procedures or regulations, pre-established by the host nation's legislative framework, for dealing with such transgressions? Often, governments do not have pre-existing mechanisms to regulate these issues. Therefore, labour standards need to be established. Labour 'standard' relates to how the government has established the nature and quality of the relationship that should be maintained by all the parties to the employment relationship in that environment. The focus of employment or labour standards is usually on how workers should be treated. This standard applies equally to both domestic and multinational enterprises (Allen-ILE & Olabiyi, 2020). Suppose the employment standard is too high and the multinational enterprise would rather that the employment standard is lower, for whatever reason. In what ways can a multinational enterprise attempt to subvert the employment standard of the government of the host nation? It is plausible that MNEs can employ a variety of tactics to circumvent this standard (Allen-ILE & Olabiyi, 2020).

In South Africa for example, the labour legislative regime is rigid and protective of worker rights. Some employers, including MNEs, have voiced their complaints against these standards. For example, sections 51, 161, and 167 of the Labour Relations Act (LRA) Number 66 of 1995, as amended, prescribe due statutory processes and mechanisms for the resolution of disputes which some employers may find extremely onerous and demanding. This has sometimes, rightly, or wrongly, being cited as one of the reasons for the reluctance of certain MNEs to invest in South Africa (Allen-ILE & Olabiyi, 2020).

Given the above labour standard, one of the avenues that may be open to an unscrupulous employer to attempt to circumvent the labour relations system could be around the dispute resolution mechanism currently in place. For instance, the process provides for parties to follow specific steps in resolving disputes between them. It is, also, clearly statutorily provided for by the LRA that before a union or workers can embark on industrial action, there are procedural requirements to be followed (Allen-ILE & Olabiyi, 2020). The union or workers must apply for a right to strike and for the strike to be recognised, it must be a protected strike. For the strike to be protected, the employer must agree or acknowledge and issue a certificate for them to embark upon such a strike. The challenge may be that an employer may deliberately refuse to approve such a strike because they have an ulterior motive and may want to advance the excuse that the strike was not a 'protected' one. The employee would therefore be empowered to dismiss those striking workers and employ new workers and by that act sidestep the labour relations process and the law (Allen-ILE & Olabiyi, 2020).

In contrast to the above, a country such as Nigeria does not have a framework such as that of South Africa. The framework that exists neither applies to nor provides coverage for public sector employees. The implication of this is that if an MNE extends

its operations into Nigeria directly or indirectly, it could exploit the fact that the workers are not covered by the labour relations policy in Nigeria. The two scenarios above set the stage for the analysis of the role of MNEs in influencing the labour relations policy and the law of a host nation (Allen-ILE & Olabiyi, 2020).

This study specifically focusses on the assessment and the effectiveness of conflict resolution mechanisms concerning employment relations at a multinational company between two host countries, Nigeria and South Africa. The focus was on mechanisms associated with the process of collective bargaining, application, and interpretation of the mechanisms that can be used to manage discords that arise between employers and groups of workers most often represented by trade unions.

2. OBJECTIVES OF THE STUDY

There is a need for a paradigm shift in the body of knowledge, as to whether the source or cause of industrial conflict needed to be known before the conflict can be properly managed even when there is a solid framework on the ground to ameliorate industrial conflict. For the purpose of this research, it was imperative to know why conflict resolution mechanisms work in one environment or country and not in another environment or country. Worldwide, many countries or organisations have not yet adopted nor implemented the best international practices of labour enactments that enhance the protection of worker's interest in the workplace. The nature of dispute resolution mechanisms that exist in many Africa employment relations environments exhibit ineffectiveness in terms of resolving industrial conflicts. The overbearing and domineering influence of government on the awards given by the court and other settlement institutions has undermined the integrity of conflict resolution mechanisms and show disregard for the institutions. It can be safely observed that a country such as Nigeria still has in place obsolete or outdated mechanisms for the promotion of industrial harmony among the actors in industrial relations. This has tended to produce unsuccessful results, evident in the incessant industrial actions in the different sectors of the society, which itself, could be an indication of the unhealthy state of labour relations.

2.1 General objective:

To examine how effectively conflict resolution mechanisms are utilised in resolving industrial conflicts within South Africa's as compared to Nigeria's employment relations environments.

2.2 Specific objectives:

The specific objectives of the study include the following:

a. To examine the extent to which the multinational corporations adapt to the labour relations climate of the host environments.

b. To compare the level of efficacy of the mechanisms built into the conflict resolution process of both parties – multi-national company and host countries.

3. LITERATURE REVIEW AND THEORETICAL ANALYSIS

3.1 General idea of multinational enterprises

Operations of multinational companies is not performed without showing some elements of influence either within public policy or labour relations policy and laws that guide their operations in the host environments. It is opined that multinational companies are generally comfortable with and would have adapted to the mechanisms put in place for resolution of labour conflict within the environment they are coming from. But often-times, when multinational companies are confronted with the labour laws that are rigid and highly regulated within labour relations, they seek to circumvent the process of the mechanisms that regulate the affairs in terms of the employment relationship in so far as they perceive them to be detrimental to their profit motive. The actions of multinational companies are strongly supported by economic liberalism and the free market system in a globalized international society.

According to the economic realist view, individuals act in rational ways to maximise their self-interest and therefore, when individuals act rationally, markets are created, and they function best in a free-market system where there is little government interference. As a result, international wealth is maximised through the free exchange of goods and services (Mingst, 2014: 310). To many economic liberals, multinational companies are the vanguard of the liberal order (Mingst, 2014: 311). They are the embodiment par excellence of the liberal ideal of an interdependent world economy. They have taken the integration of national economies beyond trade and money to the internationalisation of production. For the first time in history, production, marketing, and investment are being organised on a global scale rather than in terms of isolated national economies (Gilpin, 1975: 39)

However, the projected outcome of this was not the assimilation of international firms into national cultures, but the creation of a "world customer". The idea of a global corporate village entailed the management and reconstitution of parochial attachments to one's nation. It involved not a denial of the naturalness of national attachments, but an internationalisation of the way a nation defines itself (James, 1983: 63).

A multinational company is usually a large corporation incorporated in one country which produces or sells goods or services in various countries (Doob, 2013). Multinational companies are large in size and the fact that their worldwide activities are centrally controlled by the head-quarter. Multinational corporations deal with or trade in goods and services by creating significant investments in a foreign country. They establish buying and selling licenses in foreign markets, engage in contract

manufacturing that allow a local manufacturer in a foreign country to produce their products, and Open manufacturing facilities or assembly operations in the host nations. MNCs may gain from their global presence in a variety of ways. MNCs can benefit from economy of scale by spreading R&D expenditures and advertising costs over their global sales, pooling global purchasing power over suppliers, and utilising their technological and managerial know-how globally with minimal additional costs, using their global presence to take advantage of under-priced labour services available in certain developing countries, and gaining access to special R&D capabilities residing in advanced foreign countries (Eun & Resnick 2017).

In view of the above, there remains the problem of moral and legal constraints upon the behaviour of multinational corporations since they are effectively "stateless" actors. This is one of several urgent global socio-economic problems that emerged during the late twentieth century (Gary, 2004). Potentially, the best framework for analysing society's governance limitations over modern MNEs is the concept of "stateless corporations" coined, at least, as early as 1990 in Business Week. The conception was theoretically clarified in 1992 by the view that an empirical strategy for defining a stateless corporation is with analytical tools at the intersection between demographic analysis and transportation research. According to Holstein (1990) and later Voorhees et al, (1992) this intersection is known as Logistics Management, and it describes the importance of rapidly increasing global mobility of resources. In the long history of analysis of multinational corporations, we are some quarter centuries into an era of stateless corporations - corporations that meet the realities of the needs of source materials on a worldwide basis and to produce and customise products for individual countries (Holstein, 1990: 98). One of the first multinational business organisations, the East India Company, was established in 1600 (Medard & Bruner, 2003). After the East India Company, came the Dutch East India Company, founded March 20, 1602, which would become the largest company in the world for nearly 200 years.

Universally, there is a national strength of large companies as the main body by way of foreign direct investment or by acquiring local enterprises, established subsidiaries or branches in many countries. It usually has a complete decision-making system and the highest decision-making at the headquarters. Each subsidiary or branch has its own decision-making body, according to their different features and operations to make decisions, but its decision must be subordinated to the highest decision-making centre. Multinational enterprise seeks markets worldwide and rational production layout, professional fixed-point production, fixed-point sales products, to achieve maximum profit. Due to strong economic and technical strength, with fast information transmission, as well as funding for rapid cross-border transfers, the multinational has stronger competitiveness in the world. Many large multinational companies have varying degrees of monopoly in some area, due to economic and technical strength or production advantages.

"Multinational enterprise" (MNE) is the term used by international economists and in the same breath is used to identify multinational corporation (MNC) as an enterprise that controls and manages production establishments such, as plants, located in, at least, two countries (Caves, 2007: 1). The multinational enterprise (MNE) engages in foreign direct investment (FDI) as the firm makes direct investments in thehost country plants for equity ownership and managerial control to avoid some transaction costs across countries (Caves, 2007:69).

A 'transnational corporation' differs from a traditional multinational corporation in that it does not identify itself with one national home. While traditional multinational corporations are national companies with foreign subsidiaries (Drucker, 1997: 167), so transnational corporations spread out their operations in many countries to sustain high levels of local responsiveness. An example of a transnational corporation is Nestlé, which employs senior executives from many countries and tries to make decisions from a global perspective rather than from one centralised headquarters (Schermerhorn, 2009). Another example is the Royal Dutch Shell Company, whose headquarters is in The Hague, Netherlands, but whose registered office and main executive body are head-quartered in London, United Kingdom.

Lastly, Multinational corporations may be subject to the laws and regulations of both their country of origin/domicile and the additional jurisdictions where they are engaged in business. In some cases, the jurisdiction can help to avoid burdensome laws, but regulatory statutes often target the "enterprise" with statutory language around "control" (Blumberg, 1990). Most host nations do not have stringent labour legislative policy that fully address issues and difficulties displayed by the multinational enterprise which allows them to circumvent the due process of labour laws in their host countries. Whilst it is hoped that MNEs would contribute to the economic growth of their host nations, the myriad of challenges they come with are beginning to erode some of the benefits associated with their presence in the host nations (Allen-ILE & Olabiyi, 2020).

3.2 Mechanisms/institutions for dispute/conflict resolution in Nigeria

In Nigeria today, industrial conflicts can be resolved in two ways: a) Voluntary Procedure: Process of internal machinery or b) Statutory procedures: (as contained in the Trade Disputes Act of 1976) that are external machinery. The statutory procedures for dispute settlement involve four stages, as directed by the labour minister sequel to the failure of voluntary procedures for dispute settlement. These stages are:

i. Mediation/Conciliation
ii. Arbitration
iii. Inquiry
iv. The National Industrial Court

The Trade Dispute Act by the provision of Section 4(1) allows the adoption of internal mechanisms in the resolution of trade (or labour) disputes. Thus, it requires the disputing parties to first attempt to settle their dispute by existing means. This internal machinery for dispute settlement ensures that grievances are settled through bilateral negotiation between the disputing parties. Although the internal dispute resolution procedure is established by collective agreements, there are instances where some employers unilaterally lay down a dispute resolution procedure that is binding in their organisation (Sijuwade & Arogundade, 2016: 1).

i, Mediation: Mediation is a dispute resolution procedure whereby a neutral and impartial third party brings the disputants together to settle the dispute using options to satisfy the interests of the disputants. Imperatively, the process can be extricated from negotiation in that the mediator takes an active role in preserving the process while the disputants take an active role in determining the outcome or settlement (Adeniji, Osinbajo, Abiodun & Oni-Ojo, 2014).

ii, Conciliation: this process entails a third party seeking to bring the disputants together to settle the conflict/dispute. To resolve a dispute/conflict the conciliator tries to facilitate communication between the parties within the seven days as stipulated by the law. The procedure may, like negotiation, not be governed by laid down procedural rules. Often conciliation will not necessarily focus on settlement; rather it may focus on the sharing of information and identification of issues and options for settlement (Elliott, 2015).

iii, Industrial Arbitration Panel**:** Ordinarily, arbitration is the use of an arbitrator to settle a dispute. An arbitrator is an independent person or body officially appointed to settle the dispute. That arbitration process is different from going to court and asking the court to enforce a legal claim against someone or some company, or against the state itself (Obi-Ochiabutor, 2010:76). The Industrial Arbitration Panel (IAP) was established by the trade dispute Act, and it has the power to adjudicate on industrial disputes between employers and employees, inter and intra union disputes upon referral by the Minister. This is a body which the Minister of Labour set up to arbitrate in trade disputes (Obi-Ochiabutor, 2010:76).

iv, Board of Inquiry: The Act provides in section 33 that where a trade dispute exists or is apprehended, the Minister may cause an inquiry to be made into the causes and circumstances of a dispute by a Board of Inquiry. The Board of Inquiry is required to investigate the matter and report its findings to the Minister. The Act however is silent on whether the Minister 116 can make a binding award based on the findings of the Board of Inquiry (Sijuwade & Arogundade, 2016: 3).

v, National Industrial Court: The Trade Dispute Decree No.7 of 1976 established the National Industrial Court (“NIC”) as the apex labour court for the resolution of trade disputes in Nigeria. initially consisting of a president and four other members and a

quorum of the president and two members. The initial jurisdiction of the court outlined in Decree No. 7 was limited to dealing with trade union disputes and the interpretation of collective bargaining agreements. From 1976 until 2006, the operations of the court were limited and its judgement barely respected. It operated on matters that emerged from arbitration or conciliatory labour disputes while it shared jurisdiction on most matters with the state and Federal High Court (Fagbemi, 2014).

3.3 Mechanisms/institutions for dispute/conflict resolution in South Africa

The Constitution of the Republic of South Africa ("the Constitution") (Act 108 of 1996), the Labour Relations Act (LRA) (Act 66 of 1995), the Basic Conditions of Employment Act (BCEA) (Act 75 of 1997), the Employment Equity Act (EEA) (Act 55 of 1998), and the Skills Development Act (SDA) (Act 97 of 1998) provide the context of the grievances and dispute settlement in employment relations (Saundry et al., 2008). Alongside their subsequent amendments, these pieces of legislation constitute a guide to the application of the labour laws in South Africa. The Labour Relation Act of 1995 provides for the determination of disputes of right through adjudication by the Labour Courts or arbitration either by the Commission for Conciliation, Mediation and Arbitration (CCMA), private dispute resolution institutions or Bargaining Councils. In all cases, disputes must be conciliated before they can proceed to arbitration or adjudication.

i, Commission for Conciliation, Mediation and Arbitration (CCMA): The Labour Relations Act, 66 of 1995 (LRA) establishes the CCMA as a statutory dispute resolution body which is an independent body, that does not belong to and is not controlled by any political party, trade union or business although it is funded by the state (CCMA, 2018). The primary function of the CCMA is to conciliate and arbitrate disputes in employment relations. More also, the CCMA is the mainstay of this framework, and provide a more flexible, cost-effective, and constructive mechanism for the resolution of a labour dispute in South Africa, which emphasises dialogue and joint problem solving, as opposed to the more adversarial approach of litigation (Venter, 2003: 383).

These are disputes referred to the CCMA in terms of the Labour Relations Act and other labour statutes such as the Basic Conditions of Employment Act of 1997 (BCEA), Employment Equity Act of 1998 (EEA), the Skills Development Act of 1998 and the Unemployment Insurance Act of 2001 (UIF).

ii, National Economic Development and labour council (NEDLAC): The National Economic Development and Labour Council (NEDLAC) came into being on 18 February 1995, in a bid to add legitimacy and transparency to the socioeconomic decision-making process. It is essentially a social partnership between the traditional stakeholders to the tripartite relationship, namely government, business, and labour. A fourth partner has already been included, namely the community and its various

representative bodies. It is through the council that consensus is reached in a truly democratic fashion on matters of social and economic policy (Venter, 2003: 44).

iii Conciliation: The 2002 amendments of the LRA extended labour law protection to more vulnerable workers. The first step in the process of CCMA is that all disputes are to be referred to conciliation by employees within 30 days as to cases of unfair dismissal but in cases of unfair labour practices, this should be done within 90 days. "If the above periods have lapsed, the referring party must apply for condonation- he/ she is required to make application to the CCMA to condone the reason that he/she failed to refer the case timeously" (CCMA, 2018).

iv, Arbitration: Arbitration proceedings are more formal than conciliation. When conciliation fails, a party may request the CCMA to resolve the dispute by arbitration. If there is a request for arbitration, the CCMA will appoint a commissioner. The commissioner hearing the dispute or will decide the outcome, which in most cases is final within 14 days of the arbitration. This outcome is binding on the parties and may be made an order of the Labour Court (CCMA, 2018). The drafters of the LRA of 1995 made the conscious decision that there should be no right of appeal against arbitration awards issued by CCMA commissioners (Young, 2004). They did agree, however, that a party to arbitration proceedings who was dissatisfied with the outcome of these proceedings could approach the Labour Courts to review the award (CCMA, 2018).

v, Con-arb: The 2002 amendments of the LRA institutionalized the process of con-arb as another means of dispute resolution. The "con-arb" process is intended to be a "one sitting" process that has "two steps", that is, conciliation followed by arbitration if conciliation is not successful (CCMA, 2007). The con-arb is governed by the same rules as general conciliation and arbitration. Legal representation is not allowed in the conciliation stage of the con-arb process but may be permitted at the arbitration stage. Section 191(5A) makes provision for the Con-arb process, which is a speedier one-stop process of conciliation and arbitration for individual unfair labour practices and unfair dismissals. In effect, this process will allow for conciliation and arbitration to take place as a continuous process on the same day. The process is compulsory in matters relating to dismissals for any reason relating to probation; and any unfair labour practice relating to probation (CCMA, 2018).

vi, Bargaining Councils: Bargaining Councils are joint employer and union bargaining institutions whose functions and powers are set out in the LRA. One of the LRA's main objectives is to promote collective bargaining as a means of regulating relations between management and labour and as a means of settling disputes between them. A Bargaining Council has the responsibility to resolve disputes between parties that arise from the collective agreements concluded in the council and other statutory instruments (CCMA, 2007).

vii, Private Dispute Resolution Agencies: The Independent Mediation Service of South Africa (IMSSA) was the first private dispute resolution agency that specialised in labour disputes of importance. It was formed in 1984 and set out to provide mediation-arbitration services that were more expeditious, informal, and less adversarial than the courts (Bosch et al. 2004). In 2000 IMSSA closed, and Tokyo Dispute Settlement was formed to fill the gap in 2001.

viii, Labour Courts: The Labour Relation Act of 1995 established the Labour Court as a superior court of law and equity. It has power and status about issues that fall within its jurisdiction in all provinces, which equal to those of a provincial division of the Supreme Court in South Africa (Venter, 2003: 394). The Labour Court can hear contractual or BCEA or EEA disputes without going through conciliation first. It can interdict strikes and lockouts without prior conciliation. (Cheadle, (2006).

ix, Labour Appeal Court: The court is a final appeal court in respect of labour disputes that has the same powers and status as those of the Appellate Division of the Supreme Court. Not many cases will be referred to this Labour Court. The LRA created the Labour Courts to deal with complex labour issues. The Labour Courts have found it difficult to attract sufficient judges of high calibre in the field of labour law in South Africa. This has resulted in the over-reliance on acting judges, some of whom have little experience in labour law (Roskam, 2006; Cheadle, 2006; & Benjamin, 2006)

3.4 A theoretical excursion – back to the basics of Dunlop's (1958) Industrial Relations system

Given the boundary crossing nature of multinational enterprises, this study was underpinned by the time-tested Industrial Relations System (*IRS*) theory of Dunlop. Dunlop (1958: 7), (and later reiterated by Otobo, 2002) conceptualised labour relations as a system comprised of certain actors, certain contexts, and ideology which binds the industrial relations system together, and a body of rules created to govern actors at the workplace. The concept of the system derives from the structural/functionalist perspectives of the social system (society). This also connotes the macro-sociological, order or social system view of society (Haferkamp, Neil, & Smelser, 1992). This theory is deemed, by this research, to be one of the most relevant for examining the interplay between dispute resolution mechanisms and the role of MNEs in influencing employment relation because of the 'matrix nature of the correlations amongst the variables involved (i.e., multi-country analysis, fluid nature of MNEs and multiple levels of dispute resolution mechanisms). As espoused by Dunlop:

- ✓ ***Certain Actors:*** The actors that make up the labour relations system are hierarchy of managers and their representatives in supervision; A hierarchy of workers (non-managerial) and their spokesmen; Specialised governmental agencies and specialised private agencies created by the first two actors, concerned with workers, enterprises, and their relationships.

- ✓ ***Certain Contexts:*** This refers to the atmosphere in which these actors in labour relations operate, that is the larger environment that shapes the conduct of, and the rules established by workers, employers, and the state.
- ✓ ***Certain Ideology:*** This connotes a set of ideas and beliefs commonly held by the actors that helps to bind or integrate the system as an entity. According to Otobo (2000:28) citing Dunlop, "each of the actors in an industrial relations system may be said to have its ideology. Dunlop insists rather strongly that all these ideologies must be sufficiently compatible or consistent to permit a common set of ideas which recognise an acceptable role for each actor". Dunlop assumes that the ideology of the IRs system must be one or the same among the actors.
- ✓ ***Certain Body of Rules and Regulations****:* The actors in given contexts establish rules for the workplace and work community. Actors establish rules that govern their interactions. Dunlop referred to this as the "web of rules" that governs the parties. He further mentioned that this web of rules consists of procedures for establishing rules, the substantive rules, and the procedures for deciding their application to a situation. The establishment of these procedures and rules - the procedures are themselves rules - is the centre of attention in an industrial relations system. The establishment and administration of these rules is the major concern or output of the industrial relations sub-system of industrial society. Over time the rules may be expected to be altered because of changes in the contexts and the statuses of the actors. In a dynamic society the rules, including their administration, are under review and change.

Analyses of Dunlop's theory has gone through numerous iterations which is not a focus in this study, except to acknowledge that the theory was deemed helpful in contextualizing the role of a system of industrial relations in appraising dispute or conflict resolution mechanisms (CRM) in employment relations. One of the questions that may need to be answered at some stage, but not necessarily in this study, is: what are the factors militating against adherence or conformity to the body of rules as envisaged by Dunlop? This study has only chosen to look at the role of MNEs in adherence to these "body of rules" as represented by their role in the conflict resolution process.

4. METHODOLOGY

This study employed a non-experimental descriptive research design that utilized the survey approach. The study has been carefully designed to collect primary data on the phenomenon under investigation, which is how conflict resolution mechanisms are being employed within two multinational companies in Nigeria and South Africa. This was achieved with a mixed method - quantitative and qualitative data collection methods. The quantitative means of data collection has been used for general rank-

and-file employees and HR practitioners by utilising an online questionnaire of about (400) copies at a multinational company in Nigeria and South Africa to solicit information about conflict resolution mechanisms. Also, a qualitative means of data collection has been carried-out through an online interview for the top leadership staff in both multinational organisations that include (10) senior top HR/organisational executives in each country, which equal to (20) top executive managers for the qualitative data.
During the quantitative method of data collection correspondence was sought from the two multinational companies in South Africa and Nigeria concerning the process of data collection in their countries before the questionnaires were distributed. This was done via email and telephone to agree on how the respondent attends to the question on the google form.

Subsequently, a total number of two hundred copies (200) questionnaires were administered through electronic means by general rank and file employees of the multinational company in South Africa. Out of the two hundred questionnaires sent out for administration; one hundred and eighty–six (186) questionnaires responses were validly completed and returned. In the same vein, the same questionnaires were sent out electronically via email to the respondents within a multinational company in Nigeria, two hundred copies of questionnaires were also distributed for administration by the respondents electronically in a goggle form through respondent's email, among the (200) two hundred questionnaires sent out for administration; a total of one hundred and seventy-seven (177) responses were genuinely filled and returned. The final aggregate number of the questionnaires completed and returned from South Africa and Nigeria respondents through electronic google form survey amount to three hundred and sixty-three (363) responses. Besides, the qualitative means of data collection was carried out through the identification of (20) twenty senior managerial staff, (10) ten top managers from each country Nigeria and South Africa wwho were then interviewed in more depth on the subject matter. The combination of both qualitative and quantitative approach has adequately produced a comprehensive result in the research. The data were analyzed by way of inferential statistics on the SPSS.

5. RESULTS AND FINDINGS

5.1 Analysis of the Levene's Test of Equality of Variance

Levene's test of equality of variance was conducted for this study to test the equality of the items that were used to measure how conflict resolution mechanisms were employed to resolve disputes between, employees and management at a multinational company. The result in the F value from the table above is the ratio of two sample variances, and if the F value is not equal to 1, it is assumed that there is a difference in the population variance. If the p-value is less than 0.05, it is concluded that there is

a significant difference in variances observed from the two samples, and it can be said that equal variance is not assumed.

Independent Samples Test

		Levene's Test for Equality of Variances		t-test for Equality of Means						
									95% Confidence Interval of the Difference	
		F	Sig.	T	Df	Sig. (2-tailed)	Mean Difference	Std. Error Difference	Lower	Upper
CRM	Equal variances assumed	.586	.450	-5.219	30	.000	1.52562	.29233	-2.12263	-.92862
	Equal variances not assumed			-5.219	29.948	.000	1.52562	.29233	-2.12268	-.92857

P-Value(sig2-tailed) = 0 (.000 < .05, the p-value is less than .05, so the variance is not assumed to be equal, meaning that there is a significant difference between the implementation of the CRM process in the two groups)

The above analysis determined that while both MNEs in the two countries adapted quite well to the conflict resolution mechanisms of their host nations, the MNE in Nigeria appeared to exhibit more 'laxity', or took more 'liberty', with the processes or mechanisms than the one in South Africa. Thus, both MNEs generally adapted to the labour relations environment of the host nations.

T-Test

Group Statistics

	Group	N	Mean	Std. Deviation	Std. Error Mean
CRM	Nigeria	16	2.3825	.84386	.21097
	South Africa	16	3.9081	.80942	.20236

To determine if there is a significant difference between the mean of the two groups (or organisations) in Nigeria and South Africa, a comparative study was conducted using the mean of the two countries to compare. From the above T-Test table group statistics which was computed from the CRM general items, the Nigerian organisation has a mean of 2.3825 in the efficacy of mechanisms for conflict resolution in employment relations while the South Africa organisation has a mean of 3.9081. This shows that within their individual environmental milieus or contexts, the South Africa organisation demonstrated better implementation of the conflict resolution mechanisms than the Nigeria organisation with a significant difference of 1.52562. This shows that the South Africa company followed the prescribed or acceptable procedures in the execution of mechanism for the resolution of conflicts than its Nigerian counterpart.

6. RECOMMENDATIONS AND CONCLUSION

Whilst the findings from this study can cautiously and reasonably be generalized to the populations studied, it is worth recommending that expanded scope of future studies may shed further light especially if several more MNEs are considered in such studies. Additional recommendations include, for Nigeria, that in both environments, it would be of academic or research interest to particularly examine the perceptions of organised labour on the subject matter.

Additional recommendations include, for Nigeria, that:

a) The voluntary and statutory dispute resolution mechanisms be made more robust and to allow for consistency in application and periodic frequent review in order to keep pace with international labour standards

b) Labour standards would need to be strengthened to ensure that all parties, especially employers (or MNEs) 'play by the book'.

c) Consider establishing or setting up truly independent, specialised dispute resolution institutions such as the NEDLAC and CCMA of South Africa.

And for South Africa, it is recommended that:

a) The various reviews of the different labour legislation, whilst still striving to meet and uphold international labour standards, should seek to incorporate meaningful flexibility measures that would build confidence of employers as well, especially MNEs intending to bring in foreign direct investments (FDI). The current popular perception of the stringency of the employment relations regime may be deterring potential FDIs.

In conclusion, the analysis of the survey data shows that there was apparently more influence of the conflict resolution process by the multinational company in Nigeria than there was by the MNE in South Africa. This could possibly be explained by factors external to or beyond the scope of the present study, such as undue latitude given to MNEs and possible volatility in the Nigerian environment. It can also be due to internal factors highlighted in this research such as the unfettered powers granted to the Minister to direct, and possibly influence, the conflict resolution process. Conversely, as had earlier been observed and highlighted, the exacting nature of South African labour legislative provisions may serve to 'force' compliance by MNEs in that environment. Thus, the mechanisms built into the conflict resolution processes in South Africa can be regarded as engendering an efficacious employment relations environment especially as it relates to the protection of the workforce, a lesson that may be useful for the authorities in Nigeria. It can be safely concluded on the basis of the findings from this research, that MNEs do indeed play a role in conflict resolution in the employment relations process. It is, thus, the responsibility of host nations to ensure, by upholding the highest labour standards, that the roles played by MNEs is not deleterious to her employment relations environment.

REFERENCES

Adeniji, A. A., Osibanjo, A. O., Abiodun, A. J., & Oni-Ojo, E. E. (2014). Corporate image: A strategy for enhancing customer loyalty and profitability. *Journal of South African Business Research*.

Ahmed, A. (2014) Emerging Trends in Labour Law and Industrial Relations in Nigeria. *International Journal of Humanities and Social Science Vol,4, No.11(1).*

Allen-ILE, C. O. K. & Olabiyi, J. O. (2020). A preliminary comparative perspective on the role of multinational enterprises in influencing labour relations of their host nation. *Advances in Social Sciences Research Journal, 6(12)298-318.*

Benjamin: (2006). "The impact of the decisions of the labour courts on the operation of the CCMA," *Development Policy Research Unit, Draft Paper*, November 2006.

Blumberg, P. (1990). "The corporate entity in an era of multinational corporations". *Del. Journal of Corp. Law, 15, 283.*

Burton, D. F., Jr., Bloch, E., Mark S. (1994) *Multinational Challenges*. Case study: *The Relationship between the Structure/Strategy of Multinational Corporations and Patterns of Knowledge Sharing within them* (PDF). Oxford University Press.

Caves, R. E. (2007). *Multinational enterprise and economic analysis*. UK: Cambridge University Press

CCMA (2007). CCMA Commentary and Input on *"Understanding the Efficiency and Effectiveness of the Dispute Resolution System in South Africa*". Comments on an earlier draft of this paper, submitted by the CCMA, June 2007.

Cheadle, H. (2006*). "Regulated Flexibility and Small Business:* Revisiting the LRA and the BEA. Working Paper 06/109. Development Policy Research Unit, Uni versity of Cape Town.

Elliott, R. (2015). Authenticity perceptions in the Chinese marketplace. *Journal of Business Research*, *68*(1), 27-33.

Doob, Christopher, M. (2013*). Social Inequality and Social Stratification in US Society*. Pearson Education Inc

Drucker, P. F. (1997*). The Global Economy and the Nation State*. Council on Foreign Relations. p. 167

Dunlop, J.T. (1958). *Industrial Relations Systems*. New York: Holt (a title now owned by Cengage Learning).

Elliott, R. (2015). Authenticity perceptions in the Chinese marketplace. *Journal of Business Research*, *68*(1), 27-33.

Eun, C. S. & Resnick, B. G. (2017*). International Financial Management*, (8th Edition). New York: McGraw-Hill Higher Education.

Fagbemi, S (2014). "Jurisdiction of the National Industrial Court of Nigeria: Critical Analysis". *Journal of Law, Policy and Globalisation. 28.*

Frenkel, S. & Paetz, D. (1998). *"Globalisation and industrial relations in East Asia: A three-country comparison". Industrial Relations, Vol. 37*, No. 3, pp. 282-310.

Gilpin, Robert (1975). *US power and the multinational corporation: The political economy of foreign direct investment*. New York: Basic Books

Gary, I. (2004). The global record. *Foreign Policy in Focus (Washington, DC & Silver City, NM: Interhemispheric Resource Centre/Institute for Policy Studies/ SEEN*, 35-42.

Haferkamp, Hans, & Neil Smelser, (1992) *Social Change and Modernity.* Berkeley: University of California Press, http://ark.cdlib.org/ark:/13030/ft6000078s/

Holstein, William J. (1990) "The Stateless Corporation", *Business Week News Magazine* (May 14) p. 98.

ILO (2001). "The Labour Legislation Guidelines," *Substantive provisions of labour legislation:Settlementofcollectivelabourdisputes.* InternationalLabourOrganisation.Availableonlineathttp://www.ilo.org/public/english/dialogue/ifpdial/llg/index.htm (date accessed 20 November 2006).

James, Paul (1983). "Australia in the Corporate Image: A New Nationalism*". Arena (63).*

Medard, G. & Bruner, H. (2003*). An Atlas of the Multinational Corporation*. New York: The New Press. ISBN 1-56584-727-X". Archived from the original on 2003-12-22.

Mingst, K. A. (2014*). Essentials of international relations.* W. W. Norton & Company. p. 310. ISBN 978-0-393-92195-3.

Obi-Ochiabutor, C. (2010). Using alternative dispute resolution (ADR) in the criminal justice system: Comparative perspectives. *Bassey Andah Journal*, *6*, 215.

Odion, C. (2010*). 1999 Constitution and the National Industrial Court.* Retrieved from http://www.theNigerianvoice.com/news/4106811/1999.constitution_and_the_national_1

Onimode, B. (1978). “Imperialism and multi-national corporations: A case study of Nigeria” *Journal of Black Studies, 9, (2)*, 207 – 232.

Oni mode, B. (1981*). Imperialism and Nigerian Development.* Zed Books.

Otobo, D. (2000). *Industrial Relations: Theories and Controversies.* Lagos: Malthouse Press Limited. Salama Press.

Richard (2007). Multinationals, enforcement covenants and fair share. *Interfax*, *35*, 537.

Roskam A. (2006*)."An Exploratory Look into Labour Market Regulation.* Working Paper. Development Policy Research Unit, University of Cape Town

Saundry, R., Antcliff, V. & Jones, C. (2008*). Accompaniment and representation in workplace discipline and grievance*. Research Paper Ref: 06/08, on behalf of Acas Research and Evaluation Section. The University of Central Lancashire. London: Acas Research Publications.

Schermerhorn, J. R. (2009*) Exploring Management (4th edition*) Wiley Global Education

Sijuwade, A. & Arogundade, O. (2016). *Corporate & Commercial Group Advocaat Law Practice*

Stopford, John (1998). "Multinational Corporations." *Foreign Policy, (*Winter).

Tyler, Gus (1993). "The Nation-State vs. the Global Economy." *Challenge* (March-April 1993).

Venter, R. (2003*) Labour Relations in South Africa*: Second Edition (revised)

University Press Southern Africa 2003.

Voorhees, R., D.; Seim, E., L. & Coppett, J. I. (1992) "Global Logistics and Stateless Corporations", *Transportation Practitioners Journal 59,* 2 (Winter): pp. 144-51.

Young, L.K. (2004*).* "CCMA arbitration awards: An update,"*Contemporary Labour Law*, 14:2.

Zhao, Laixun (1998). "Labour-Management Bargaining and Transfer Pricing in

Multinational Corporations." *Canadian Journal of Economics, October 1998. https://www.referenceforbusiness.com/management/MarNo/Multinational Corporations.html#ixzz5hFRgiEHK Retrieved: 26 April 2021*