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Abstract

Following the emergence of the virtual Organization resulting from the third and fourth phases of the Industrial revolution, the old Employment Relations paradigm has seized to function optimally. The objective of this paper was to explore an Employment Relations paradigm shift that will match the contemporary workforce, workplace and Organization. This paper explored the people management models that emerged in the phases of the industrialization process. Exploring extant literature, the effect of the third and fourth Industrial revolution with the corresponding digital production process that gave rise to the emergence of remote working, a remote workforce and a digital organization were unveiled. The challenges faced with the management of the digital workforce, including the implications of the birth of Remote Working on Employment Relations were analyzed. The paper posited that the workplace rules currently in vogue are modeled to work for physical workplace settings. The paper concluded and recommended that models of workplace rule making for Remote working will now need the instrumentality of high cost technologies, employees and Managers re-skilling as an Employment Relations paradigm shift that will make work home, and home work.

Keywords: Employment Relations, Paradigm Shift, Remote workforce, Digital Organization.

1.0 Introduction

The Employment Relations domain has experienced shifts that have occurred in the model of managing people in Organizations. These shifts were responses to emerging eras in the industrialization regimes of the production of goods and services. The first regime brought with it increasing hierarchically structured organizations and employees with low discretionary know-hows. The corresponding people management model that suited these employees then, is referred to as Personnel Management. The second and third industrialization era (globalization) came with it, global, flatter organizations and a global workforce. The corresponding people management model that suited these employee sets is referred to as Human Resource Management.



Contributing to the debate on a likely distinction between Personnel Management, Hope – Hailey (1998) advocates for the need for organizations to migrate from the Personnel Management model (which is associated with bureaucracy) to Human Resource Management (with its flexibility and responsiveness). Armstrong (1987) argued that Human Resource Management could be no more and no less than another name for personnel management. For Armstrong therefore, Human Resource Management is usually perceived, at least, as having the virtue of emphasizing the treating of people as a key resource, the management of which is the direct concern of top management as part of the strategic planning processes of the enterprise. For Hendry and Pettigrew (1990) however, Human Resource Management can be perceived as a perspective on personnel management and not personnel management itself.

Legge (1989) disagreed and contended that, despite the above arguments, three distinct attributes have been put forward to differentiate Human Resource Management from Personnel Management. For Legge therefore, while the Personnel Management function is targeted primarily at non-managers, the Human Resource Management function is more concerned with managerial staff; While personnel management is directed at just to influence line management, Human Resource Management is regarded as part of an integrated management activity; and while Personnel Management is unconcerned with organizational development, Human Resource Management is directed at senior management and therefore gets involved with organizational activities at the top level of management.

Then came the fourth Industrialization era. This era came with it a work and organization digitalization, and a corresponding remote workforce. The people management model that suits this new normal is referred to as E-Human Resource Management.

E-Human Resource Management uses the following tools to function:

- effective communication technology,
- teleconferencing,
- telework technology,
- video conferencing,
- wide spread internet broadband adoption,
- email,
- increasingly mobile modern workforce,
- remote work software.
- mobile work tools and
- virtual reality conferencing

The thrust of this paper is to examine how the introduction of a new employment Relations paradigm will make either the remote working or the introduction of the hybrid model (the use of a combination of the physical office setting and remote working models) home for the benefit of the protagonists of the remote and physical office working models.

The Emerging Reality

However, the theme of this paper relates to how employees will stay connected while on the job in the face of the emerging reality -remote working and indeed the rise of a remote workforce and the digital natives (Prensky, 2014).

Staying connected while on the job may come in the following ways:

THE NORMAL – The use of Trado- physical office setting model. This involves the use of office-based workers; in-office employees; Out-of-office workers; Office workers.



THE NEW NORMAL- The use of the remote working model (work from the employee's home and work from anywhere else outside the employer's workplace).

THE HYBRID MODEL – The use of a combination of the physical office setting and remote working models.

VMware (2022) contends that remote working takes different forms:

- Working from an employee's home
- Working from other co-working spaces
- Short term remote work or telecommuting (temporary or less frequent version of remote work for child birth or other health challenges)
- Working from an Organization's home office

Our concern here is remote workers who typically work from an off-site location most or all of the time. This refers to work that occurs at an employee's home or co-working spaces, including Cars, Parks, Churches, Mosques, Café etc. (Okikiola, 2019).

Making Home Work

Smith et al (2022) contend that remote working is the most dramatic transformation of the global workforce. For Smith et al therefore, tens of millions of office-based workers have been sent home to set up remote workplaces from kitchen, dining tables and home offices on a scale never seen before, and businesses around the world have adapted surprisingly well. Studies conducted by some Consulting Firms on the reasons why remote working will be sustained indicate that:

- Workers make home work because working from home eliminates commuting to the workplace and its associated hazards, including traditional office related stress, boredom, job burn-out and other health challenges.
- A study published in Science-Norway indicates that long before COVID-19, studies showed that office workers were getting sick more often, finding those energy-efficient physical office buildings as demons, at not just trapping heat but airborne pathogens as well.
- Workers make home work because non-commuting to work eliminates the cost of auto mobile gas and vehicle maintenance costs.

Studies conducted by some Consulting Firms on the reasons why remote working will be sustained indicate that:

Employers support the idea of making home work because, the absence of in-office workers lead to a reduction in production costs such as office maintenance related spending.

Employers increasingly support the making home work because it contributes to green office management (lowering carbon emissions to the planet).

The above position was supported by a survey conducted by Sure-Payroll (a U S based Consulting Firm in 2020) who found that 86% of people prefer to work alone to maximize their productivity, and their sentiments were proven by 2020's increase in productivity when most professionals were working remotely).

AT&T was reported to have saved \$30 million a year with its telework initiative within the same period.

At the other spectrum are arguments on why remote working should die:

Remote working is said to be a threat to corporate culture and innovation.



Paucity of remote working tools to employees occupying non-leadership positions will kill remote work success.

The population of the corporate world has a preponderance of digital immigrants than digital natives (Prensky, 2014).

A study confirmed that although Millennials disproportionately suffered financially from 2020's lockdowns, it was Gen Zers who endured diminished career prospects. That's because it's harder to learn a job when you only have a laptop for leadership. Internships may not provide the same value when they are fully remote.

Working remote leads workers to miss the group solidary and happy hour plans that engender team work spirit. The CEO of WE-WORK observed that remote workers miss the camaraderie and find their homes distracting and those who are uberly engaged with the company want to go to the office two-thirds of the time, at least.

Making Work Home

The Trado-physical work setting includes where we have office-based workers; in-office employees; out of office workers; and indeed office workers). Many employers are said to be mindful of the following benefits that being in the same physical space brings (Smith et al, 2022):

- Collaboration and innovation
- Knowledge sharing and
- Social cohesion.

Employers are looking at the practicalities of how to transition staff back to office-based working. The decision to convert permanently to remote working is said to go to the very root of the employment relationship, and the meaning of work and the workplace (Smith et al, 2022).

For Smith et al then, any future solution requires employers to navigate complex local legal considerations, traversing not only employment laws and human resources topics, but also tax, data privacy, and immigration laws.

The following challenges stand in the way of adopting remote working in most countries of the World:

- Modification of employment contract documents, policies and workplace rules.
- The construction of specific remote work policies covering some issues
- Governance framework for remote working
- Implementation strategy such as notices to be given to remote workers, consultation and negotiation framework (for unionized workplaces).
- Ethical policy such as diversity, equality, inclusion and harassment policies.
- Business protection, confidentiality, and data security issues
- How to manage rest breaks
- Training, contingencies and workplace safety plans
- Disciplinary issues: Will there be specific rules/expectations for remote workers e.g. prohibition on using work time for domestic, family or other commitments such as another business interest or childcare?
- Employee monitoring: Will employee working time, productivity and performance be monitored?
- Will the employer reimburse expenses or provide an allowance?
- Is the employer obliged to appoint a health and safety officer?



Employers at the moment are not seen to have produced blue prints that will completely take care of these variables standing in the way of total implementation of remote working.

To this end, two options are available to employers to make work home:

- The introduction of HR support function that will make the physical work place home.
- The introduction of the hybrid model (The use of a combination of the physical office setting and remote working models) for the benefit of the protagonists of the remote and physical office working models.

The HR Employee Support Function

At the commencement of the employment relationship with an employer, the workplace becomes the place where employees spend the majority of their waking time. It is the expectation of all employees to be in a positive, welcoming and productive environment. It is also the expectation of employees to have a workplace or environment where they would be well-informed, well cared for, and valued as part of the team. Where an employer puts in place these mechanisms that would make the workplace enticing, exciting, inviting and interesting, then the performance and productivity delivery from employees are assured. These conditions may create passion in employees such that the workplace may be missed when they are off on vacation and other forms of absences from work. These will lead to positive employee experience; engagement; commitment; and employees' citizenship behavior.

The Human Resource employee support function of an Organization provides the structure to fulfill the expectation of all employees whose desire is to be in a positive, welcoming and productive environment. These will make work home.

The key components of the HR employee support function are:

- Recreational facilities provision at the workplace such as Gyms, inter-work group sporting competitions, happy hour events.
- Employees' Queries Resolution,
- Workplace Accommodation/Relocation Management,
- Effective Newcomer Orientation/Onboarding scheme
- Dual Careers Administration.
- Activity Tracking/Time Management,
- Career orientation Review and
- Employee Mentoring advisory

The Hybrid Model

The use of a combination of the physical office setting and remote working models is referred to as the hybrid model. In this model, employers' decisions are informed by the provisions of their employment contractual documents, the new meaning of work (which includes remote workers and in-office workers), and the workplace (which includes the physical office setting and the remote work setting).

This model incorporates the following best remote work practices for their remote work population:

Clear guidelines and policies: A culture of trust is often grounded in a healthy understanding of expectations: Is a person expected to be "in the office" (or accessible for communication online) by a certain time or for a certain number of hours a day?



Team building for the remote work population: A virtual team is still a team. Managers, in particular, have a responsibility to build collaborative, communicative teams that are invested in each other's success.

Top-notch technologies: Companies with high-performing remote teams invest in the technologies their people rely on to do their jobs. These include remote desktops and mobile devices, high-speed broadband, reliable and easy-to-use applications, and other business-specific needs.

The hybrid model also puts in place the following practices that will resolve the challenges faced by in-office working:

 Practices that will make the workplace inviting, miss-able, retention oriented thereby engendering positive employee experience, engagement, commitment, and employees' citizenship behavior.

Charting a New Paradigm for Employment Relations

For any Business Organization to survive in the 21st century, it must remain competitive. Hammer and champ (1993) contends that globalization and technology resulted in what has been labeled market chaos and hyper competition, leading to the quest by organizations for shift of focus from Taylorism suited for the organizations of the 1970's to employment flexibility of the 21st century. Hammer and champ (1993) further contributed to the need for a paradigm shift from the old order of employment relationship to the employment flexibility model, stating that, the competitive crisis in business brought about by the economic shocks of the 1970's (including the birth of the Corona Virus of 2019) led to the lunch of efforts at changing forms of work organization, Human Resources Practices and more generally, business strategies.

As a reaction to the challenges posed by the said market chaos and hyper competition, Hamel & Prahalad (1994) contended that strategies are put in place for the reformation of corporate structures and processes with implications for Human Resource Practices and the organization of work. The new business model is therefore aimed at replacing the traditional bureaucratic Human Resource Practices and Scientific Management Systems of work with dynamic, flexible practices and systems that reward and empower employees.

In the context of Human Resource Management, Ozaki (1999) highlighted four types of employment relationship flexibility: employment flexibility, wage flexibility, functional flexibility, and procedural flexibility. Our concern here is Procedural Flexibility, and one of which is Remote Working as a Business model. The purpose of this presentation is to expose the likely implications of the introduction of Remote Working as a Business model (type of procedural flexibility) and its implications on Employment Relations.

Procedure flexibility - is the ability to introduce changes, such as new technology and forms of work organization. This flexibility is needed to respond to changing market opportunities and embrace emerging forms of technology and work organization. It also includes strategies to reengineer corporations and focus on core competences (Hammer & champ, 1993).

For the purpose of this presentation, Employment Relations entails the gamut of relationships resulting from the coming together of the employment contract, employment parties and employment regulation.

Figure I is a tentative display of Remote Working as a Predictor and Employment Relations as a Criterion:



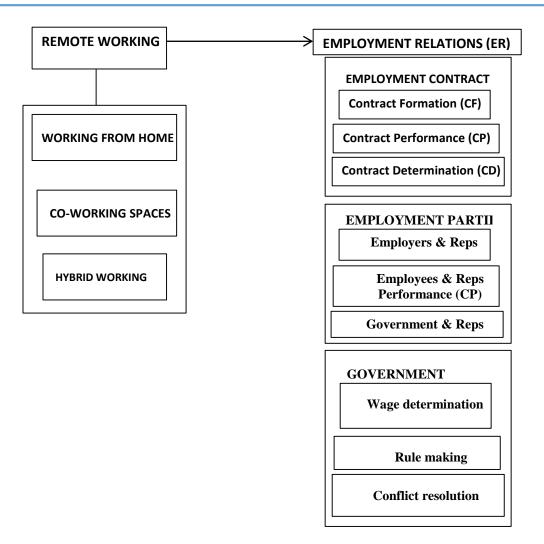


Figure 1.1: Conceptual Framework of Remote working and Employment Relations Source: Adopted from Biriowu, 2018.

Employment Relations refer to the formation of the workplace employment contract; the performance of the contract; the determination of the contract; specification of the parties in the contract; and the ways by which the parties are involved in the regulation of the contract (Biriowu, 2018). The transition from physical Office working model to the Remote working model would normally lead to the formation and fashioning out of terms and conditions of employment for the management of this paradigm shift. As their words import, "Union-Management relationship should be based on the making and administering of rules which regulate employment relationships (Dunlop, 1958; Flanders, 1965). This serves as the basis for the employment contract.

Charting a New Paradigm for Employment Contract

The employment contract could be understood on the basis of its formation, performance and termination.

The formation of the contract:

In legal parlance, a contract is said to be an agreement between two or more persons, which creates an obligation to do or not to do a thing, and the agreement must be enforceable at law. This contract which is seen as a master/servant relationship, empowers the employer (the



master) to decide what thing is to be done; the way it should be done; the means by which it should be done, the time and place it should be done.

Prior the birth of Remote working, the intent of the parties in the employment contract is for one of the parties to present him/herself at the physical workplace. The implication of the introduction of Remote working therefore will entail a re-visitation of the pre-remote employment contract model, to cover, those Organizations who are either totally remote or hybrid. Once the formation of the contract has been perfected, the duties and obligations of the parties are brought to bear on the parties. This, in legal terms, is referred to as the performance of the contract.

The performance of the employment contract:

In the performance of the employment contract, Drake (1985) points out that, the Courts, over the years, developed duties, rights and obligations for the parties, and remedies for damages suffered by the parties in the employment relationship. Remedies (claims for damages) are available at common law where one of the parties proves a breach of its rights and duties by the other party. At common law, therefore, labor (a worker) is entitled to claim damages only where he is able to prove a breach of the common law duty which an employer owes him. An employer is also entitled to claim damages only where he can prove a breach labor owes him. These duties, obligations and rights are described in legal parlance as common law duties. For Drake (1985) therefore, these duties and obligations are apportioned to both employers and employees.

The duty to take reasonable precautions to secure the physical safety of workers may be regarded as the most important of all the duties of the employer at common law, of similar relevance are the other duties implied at common law. However, and for the purpose of this paper, the duty to take reasonable precautions to secure the physical safety of workers have implications to the birth of Remote working, in the face of its key attributes of non-delegability, Reasonability and Non- extension to employees' properties. A recent case of injury reported by a Remote Worker in South Korea who had a fractured leg while at home working was held by the Court as qualified to be paid damages.

The Remote working implications of this duty of care is on how to re-define what constitutes "out of and in the course of employment" to qualify for damage claims.

The termination of the Employment Contract:

The termination of contract of employment could be explained in relation to the law of contract. That is, where a party to the contract commits a breach to the contract, the innocent party could either accept or waive that breach. This conception which applies in England however, relates to the law which provides that a congenial reason be provided before an employee is removed (Uvieghara 2001).

This practice is absent in Nigeria. The Courts of England prohibit the removal of workers at the whims and caprices of employers. In Nigeria, the Courts uphold the legal maxim, "that no one imposes a willing servant on an unwilling master" and vice versa. In cases of dismissal however, Nigerian Courts would demand congenial reason to enable them determine the wrongfulness or otherwise of cases bothering on dismissal.

The implications of the birth of Remote Working on proving congenial reason to determine the wrongfulness or otherwise for termination of employment when such occurs without the physical presence of the employers Representatives or co-workers becomes a task that has to be re-visited.



In Human Resource Management parlance, the word termination is widely used to describe all forms of personnel separations in industrial organizations (such as termination, resignation, redundancy and dismissal).

For Uvieghara (2001), there are various ways by which a contract of employment can be brought to an end. These are by notice, by agreement, by frustration, by performance and through constructive termination. A contract of employment may be brought to an end by notice where either party gives appropriate notice on an intention to terminate the contract. Appropriate notice may be determined by provisions in the employee's conditions of service handbook; by statute and practice. A contract of employment may also be brought to an end by agreement where duration of contract is spelt out in that agreement. Through frustration (supervening events such as Civil War, illness, death etc.), a contract of employment could be brought to an end. By performance, parties to an employment contract may bring it to an end when a definite period is fixed for the performance of the contract. It is another matter if a dispute arises on whether the parties actually performed.

In summary therefore, the termination of the employment contract may take the following forms:

Payment in lieu of notice- Here the party has waived his right to notice and has accepted payment in lieu of notice.

Expiration of time – where a contract was for a fixed time the passage of time brings the contract to an end.

Death of either party- The death of an employee brings the relationship to an end. The liquidation of a company ends the relationship.

Happening of a specified event – The happening of a specified event in the contract can end the relationship.

Dismissal – This is at the instance of the employer.

Termination – This is at the instance of the employer. Due notice must be given or payment in lieu.

Resignation – This is at the instance of the employee. Due notice must be given or payment in lieu

Redundancy – This is done at the instance of the employer due to low activity in a company. The employer shall inform the Trade Union or Workers' representative of the reasons for and extent of anticipated redundancy. The principle of last in first out shall be adopted subject to relative merit, including skill, ability and reliability and the employer shall use best endeavors to negotiate redundancy payments to any discharged workers as provided for by the section 20 of the Nigerian Labour Act.

Charting a New Paradigm for Employment Parties

The relationship between employers and employees comprises three groups of actors or parties. These actors are the workers or employees and their associations; the employers and their associations; and the Government (and its agencies).

The Workers or Employees:

A worker or an employee has been identified as anybody that offers his/her labor services to an individual or organization in return for a definite remuneration (Oyesola, 2010). The worker sees his relationship with his employer as that of an engagement to secure the best possible conditions and living standards for himself. Okene (2012) points out, the Courts have



formulated three types of tests in order to determine whether a person is a servant (employee or worker) or not.

These tests are referred to as the control test; organization or integration test; and multiple or economic reality test. The control test emphasizes the right of control exercised by the employer over the worker. That is, a control on when and how a job is to be done. Due to some observed difficulties associated with the control test, the organization or integration test was developed to take care of likely injuries to third party employees which the control test excluded. Following the complex nature of the employment relationship, the Courts over the years found the control and integration tests to be inadequate in determining this relationship. The multiple test which takes care of the nature of the job, the skill types and sets, are now used to determine the employment relationship.

Following the birth of Remote Working, the right of control exercised by the employer over the worker, that is, a control on when and how a job is to be done is flexible and at the discretion of the employee, which is likely to be abused. The Courts are to re-visit the testing model that will re-affirm to model of control for the use of the employer whose right it is to run the Organization.

The Employer:

Oyesola (2010) sees an employer as the individual or organization that hires men to work for him or it. Characteristically, his focus is all about having the right to manage, the ability to plan for the future, so that the organization can continue to be a success, to make profit for its shareholders, and to keep its employees 'motivated'. The Nigerian Trade Disputes Act (S.90 (3) defines an employer to be any person who has entered into a contract of employment to employ any other person as a worker either for himself or for the service of any other person and includes the agent, manager or factor of the first mentioned person or his personal representative".

The birth of Remote work is likely to alter the primary focus of employer on his right to manage and his ability to plan for the future, so that the organization can continue to be a success, to make profit for its shareholders, and to keep its employees 'motivated'.

The Government (and their Agencies):

The problem of labor immiseration led to concern shown by some persons who clamored for the role of Government in the management of employment relations. This pressure and social conscience according to Akerele (1982) compelled governments to intervene in the employment relations system so as to mitigate the harsh effects of labor exploitation by regulating such things as hours of work and the employment of children.

The birth of Remote Working will compel Government to review the Labour Legislations that were modeled to protect employees from work conditions associated with the physical workplace. The Labour Act that empowers Authorized Labour Officers to enter and inspect premises where workers perform their jobs may not permit them to enter private homes of Remote Workers.

Remote Working and Employment Regulation

Oyesola (2010) sees employment relations to revolve around a system of rules which deals with certain regulated institutionalized relationships in a workplace. This definition stresses the relationship between the employers and workers based upon a system of rules of which collective bargaining is considered the most important. For Oyesola therefore, the rules are of two types. The procedural rules that specifies the status of parties and employment relations



process, including the wage determination process predominated by Collective Bargaining; grievance handling procedure; and conduct at meetings, and representations. There are also substantive rules which regulates the rights, privileges and obligations of the employees and employers, including pay and other working conditions; participation of employees in decision-making.

The workplace rules currently in vogue are modelled to work for physical workplace settings. Models of workplace rule making for Remote working will now need the instrumentality of the following high cost technologies:

- effective communication technology,
- teleconferencing,
- telework technology,
- video conferencing,
- wide spread internet broadband adoption,
- email.
- increasingly mobile modern workforce,
- remote work software.
- mobile work tools and
- virtual reality conferencing

This will also require the re-skilling of employees and their Managers on how to use these technologies.

Conclusion

This presentation explored the emerging people management models in the industrialization phases that dictated how people are to be managed in the process of the production of goods and services.

That, a digital production process gave rise to the emergence of remote working, a remote workforce and a digital organization.

And that the Management of the digital workforce came up with the following challenges:

- Drain in output: That is, without clear guidelines and policies, employees were said to have lost their motivation and reduce productivity.
- Issues of Mistrust and Micromanagement: The Management of the remote workforce led to lack of trust, or the virtual equivalent of looking over someone's shoulder to make sure they are doing their work) which increased anxiety and decreased morale.
- Paucity of technology: Inadequate tools and technologies became hindrances to workers output in the production process. This in turn affected productivity and morale killer for virtual teams. Poor broadband connections, unreliable applications, outdated hardware—all of these led to frustration and greatly diminish workers' outputs.

To this end, a hybrid model of working is advocated which involves the use of a combination of the physical office setting and remote working models.

On the alternative, the HR employee Support function is to be structured to make work home.

This presentation then focused on the implications of the birth of Remote Working on Employment Relations which includes:

• A re-visitation of the pre-remote employment contract model, to cover, those Organizations that are either totally remote or hybrid.

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- The Remote working implications of the employers' duty of care and a re-definition of what constitutes "out of and in the course of employment" to qualify for damage claims.
- On how to provide congenial reason that will determine the wrongfulness or otherwise for termination of employment when such occurs without the physical presence of the employers Representatives or co-workers.
- The Courts are to re-visit the testing model that will re-affirm the model of control for the use of the employer whose right it is to run the Organization.
- The alteration of the primary focus of the employer on his right to manage and his ability to plan for the future, so that the organization can continue to be a success; to make profit for its shareholders; and to keep its employees 'motivated'.
- The birth of Remote Working will compel Government to review the Labour Legislations that were modelled to protect employees from work conditions associated with the physical workplace.
- The workplace rules currently in vogue are modeled to work for physical workplace settings. Models of workplace rule making for Remote working will now need the instrumentality of high cost technologies and employees and Managers re-skilling.

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