

Collective Bargaining In Nigeria: Issues, Challenges and Hopes

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Abstract

The issues and conditions of employment has remained contentious and challenging to most industrial organizations especially in Africa. Compromise reached on matters under discussion between employer and workers in most cases does not promote industrial harmony within the organization. Mutual agreement between employers of labour, union leaders and their members is usually swept under the carpet. Coercion rather than persuasion is seen as instrument to bring about a settlement. The paper therefore present issues involved in collective bargaining in an industrial setting and challenges arising from non-implementation of terms of agreement. The hope for collective bargaining in industrial organizations could be brought about by matching structure of bargaining to the environment contexts as well as Organizational characteristics of the union and their workers. Regular and effective communication between trade unions and management is recommended among others things to prevent industrial and labour disputes.

Keywords: Collective bargaining, industrial organisations, hope, effective communication, organisational characteristics, challenges, issues.

Introduction

As an effective tool of establishing harmonious labour relations, the meaning, purpose and relevance of collective bargaining has been subject of extensive discussion since 1984 when the first comprehensive international instrument in collective bargaining came into life. The process of collective bargaining regulates industrial relations. Flanders (1970) defined it as a social process that “continually turns disagreements into agreements in an orderly fashion”. Agreed rules and decisions on matters of mutual interest to employer and union as well as the methods of regulating the conditions and terms of employment are by negotiation and discussions. It is a form of workers participation because bargaining allows ‘employees via their union to influence the wages and conditions and terms of employment. Collective bargaining is a mechanism of creating working conditions, wages and other aspects of employments by way of negotiation between employers and the representatives of employees organized collectively (Abercrombic et al 1980, cited in Nwadiro (2011) it is taken to be a weapon employed by workers to enable them participate in industries, extension of the rights of citizenship into the economic sphere and the resolution of conflict in organizations. Collective agreement is the result of this process. It is the fundamental principle on which the trade union system rests. It does not require either side to agree to proposal to make concession but does create procedural guidelines on good faith bargaining (Abel, 2014). As one of the process of industrial relations, collective bargaining performs a number of functions in work place. It could be seen as a way of industrial jurisprudence as well as a form of industrial democracy. It brings about industrial harmony at the workplace based on mutual agreement between employees of labour union leaders and their members. It gives rise to better understanding which in turn facilitates the process of communication. It is a mechanism for resolving conflict at workplace between management and labour as the as assessment of conditions and terms of employment (Ayim, Elegbede, & Gbamujo-Sherif, 2011).

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Based on the processes and functions collective bargaining is supposed to be very effective yardstick for resolving conflicts in organizations. Evidence available, however, indicates that this has not always been the position. This according to Nwadiaro (2011), is that:

In some cases, the crises which lead to collective agreement in labour relation between employees (union) and employees representatives are not always successfully recommend.

What can be deduced from the above observation is that disagreements, walkout, work-to-rule scenario, deadlock and negligence of agreement reached would take place instead of settlement of dispute. Government has attitudinal indifference towards collective bargaining. For example, in Nigeria it seem that government at times speak from both sides of her mouth in her effort to embracing collective bargaining in Nigeria. A case in point is Federal Government disagreement over the negligence of agreement reached through collective bargaining process with Academic Staff Union of Universities (ASSU) in 2009 finding a lasting solution to the Union's demands. However, part of the agreement reached has been met by the federal government in the recent past, but other substantive issues particularly infrastructural development and financial 'autonomy are still issues of disagreement. In 2017, the federal government set up team to renegotiate 2009 federal government – ASSU agreement. Collective bargaining has no final form. It adapts itself to the changing economic, legal and social environments. It has varied largely from organization to organization and between and within unions. For example, in USA, a number of industrial unions have successfully bargained for higher bonus and provident fund benefit while many unions in the construction industry have sidelined or undermined these goals. However, bargaining in some organizations is characterized by comparatively frequent strikes, lock-outs, work-to-rule, whereas there are long records of uninterrupted industrial peace in other organizations. In Nigeria for instance, Auchu Polytechnic in Edo State, Nigeria enjoyed uninterrupted industrial peace for 8years reign of former Rector – Dr. (Mrs) P. O. Idogho.

The Concept of Collective Bargaining

The concept of collective bargaining is derived from a combination of two words: Collective and Bargaining. Collective refers to “group action through representative. From management perspective, the concept denotes the management's delegates at the bargaining table while from the angle of workers; it connotes a local firm membership which represent the Union. Bargaining as a term is synonymous with negotiation. There is element of flexibility in the place of fixed position.

The term according to Rose (2008) was originated by Webb to describe the process of agreeing terms and conditions of employment via representatives of employers (and possibly their association) and employee representatives (probably their unions). Collective bargaining in the view of Rose (2008) is the process whereby representatives of employee and employers determine and regulate decisions concerning both substantive and procedural issues within the employment relationship. The result of this process is collective agreement. Collective agreement is enshrined in Article 2 of the Right to organize and Collective Bargaining Convention of 1948. In terms of the Act, collective agreement mean, any agreement in writing for the settlement of dispute relating to terms of employment and physical conditions of work concluded between: (a) an employer a group of employers or organizations representing workers or the duly appointed representative of anybody or workers. Webb & Webb (1965) used the term to describe negotiation on conditions of service and terms of employment between employers and employees or between employers' association and trade unions. Flowing from this definition, collective bargaining covers all arrangements in which workers do not enter into negotiation with their employers by themselves but such negotiation is carried out collectively through their representatives; Extensive issues such as job grading and classification, wages, hours of work, promotions, increments, retirement, annual leave, etc are covered by the process of collective bargaining. Negotiable issues that is capable of resulting in industrial disputes fall within the domain of collective bargaining. Sociopolitical matters like the election tribunal are also by extension part of collective bargaining.

In the sphere of industrial relations, collective bargaining refers to the process in which procedures are collectively agreed and conditions of employment and wages are settled by means of negotiation between association of employee or employers and works in organization. Even though these agreements are not legally bonding; they do have some elements of force. (www.mbaknol.com)

William (2009) posits that collective bargaining is a

Method adopted for resolution of industrial problems between the representative of employer and the freely designated representatives of the employees acting collectively with a minimum of government dictation.

What can be observed from the above definition is that collective bargaining is a process; employee dignity is recognized and enhanced based on their participation in the formation of their conditions and terms of employment. It extends to cover democratic values and ideas which are judiciously used for organizational effectiveness. It is a political relationship whereby trade union shares industrial sovereignty or power over employees who are the governed. Management and union hold jointly the sovereignty in the process of bargaining. In fact, it is a power relationship which takes the form of a measure of power-sharing between trade union and management. However, in contemporary Nigeria, it has been observed that the balanced of power has shifted apparently in the direction of management (Ogunbameru, 2011). The basis of collective bargaining is both political and economic. Both sides of the negotiation are interested in the sharing of power between them as well as the distribution of income. In its strongest term and in reality, the process of collective bargaining cannot be called workers participation in management. Collective bargaining is based on the crude concept of exercising power for the benefit of one party whilst workers participation in management on the other hand brings both the parties together and develops appropriate mutual understanding and brings about a mature responsible relationship.

Bargaining Power

Power means ability of one individual to influence others and affect behaviours. It refers to the individual capacity to influence the behaviour of another individual (says B) so that he can act in agreement with A's directive. When this takes place, behaviour is changed unilaterally. Bargaining power is therefore defined as the ability to influence the other side to take a decision that it would not have made. Fox and Flanders cited in Ogunbameru (2011) noted that "power is the crucial variable which determines the outcome of collective bargaining". Hawkins (1976) posited that "what constitute a fundamental test of bargaining power is "whether the cost to one side in accepting a proposal from the other is higher than the cost of not accepting it". In essence, bargaining power is dynamic and not static. Bargaining power exists in any situation that involved differences that need reconciliation. In fact, the extent to which either side decides to test their power relation (coercion or persuasion) depends on a number of variables and these include: the astuteness of the negotiations, the degree of dependence on each other, the extent to which are available, the existence of rules of behavior and the amount of trust and confidence in the relationship

Atkinson (1989) averred that: What creates bargaining power can be in term subjective assessment by the individuals involved in the bargaining process. Each side can guess the bargaining preferences and bargaining power of the other side and there are a number of elements creating bargaining power.

A major factor in negotiation is the degree of inter-dependence that exists. This depends on three major approaches; either both sides recognize their mutual interdependence in the current circumstances. That is, both sides can appreciate their strengths and weaknesses or Management relies basically on some or all groups of employees due to the fact that alternative skills are not available in the market place and technological alternatives not available, that is, representatives of workers are in strong position because their constituents skills and knowledge are not found elsewhere or employees relies fundamentally on management with alternative employment because management has overwhelming power to bargain.

Two basic forms of collective bargaining were identified by chamberlain and Kuhn (1996). These include the following;

- Conjunctive bargaining: It arises from the absolute requirement that some agreements or many agreements may be reached so that the operation on which both are dependent may continue. This gives birth to a "working relationship in which each party agrees, explicitly or implicitly, to provide certain requisite services to recognize certain seats of authority, and to accept certain responsibilities in respect of each other".
- Cooperative bargaining is where there is recognition that both parties cooperate with each other and that each party can attain its objectives more effectively the support of the other is won effectively.

Types of Agreement

Two types of industrial relations agreements are as follows:

1. Procedure agreements and
2. Substantive agreements

1. Procedure Agreements: These constitute formal written procedures which act as a voluntary code of conduct for the management on the one hand and employers and employees representative on the other hand. By this agreement, both parties agree to avoid the arbitrary use of their powers. Procedure agreements recognize the sanctity of collective bargaining. It regulates the procedure that the parties want to follow in settling their disputes or other aspects of their collective relationship. The following kinds of issue encompassed procedure agreements:

Representational arrangements, definition of subjects for substantive bargaining, development of a grievance procedure, definition of the rules for dealing with the declaration of redundancies, regulation of membership, arrangements for the collective of union subscriptions, development of procedures for handling disputes between the parties and reconciliation of one or more trade unions for the aim of collective bargaining.

2. Substantive Agreements: Formal written agreements which contain the terms under which employee are to be employed for the time being. The substantive term regulates the Working conditions and wage of other employment relationship. The period to which such agreement exists for a limited period of at most two (2) years. Details of the following are always found in a typical substantive agreement: changes in working hours, staffing needs, pension arrangements, revision of salaries/wages of pay, holiday entitlements arrangement, productivity improvements starting from changing in working practices, bonus/incentive arrangements and sick pay entitlements arrangement. Lemay (2002), Okpanachi (2003), Bamiduro (2008), in their submission, see collective bargaining as the yardstick that hindering fundamental bond purpose on behalf of employees of protecting the employees as opposed to an individual employee representing him or herself. Collective bargaining, as far as they are concerned, lays less emphases on individualism but encourages collectivism between employees and their employers.

Professor Neil Chamberlain averred that collective bargaining can be looked upon from three view points: the marketing concept, government concept and the industrial relations concept.

The marketing concept view collective bargaining as a construct for the sale of labour. The concept is a market or exchange relationship and is warranted on the bases that it gives intrepid assurance of voice on the part of the organized worker in the affair of sales.

The Government concept see collective bargaining as a constitutional arrangement in industry. The concept emphasizes political relationship. The union shares sovereignty with management over the workers and as their relationship uses that power in the interest.

The Industrial relations concept sees collective bargaining as a structure or an apparatus of industrial governance. It emphasizes functional relationship. The union beweds the firm officials in arriving at decisions on issues in which both have lively interest. Collective bargaining takes place in three different circumstances, namely: when an old contract is about to become invalid or it is entreated. Correct it by altering it. When the union is the first recognized and negotiates for the first time and when it si necessary to modify grievances or to find solution to disagreements concerning the interpretation of a contract.

Historical Perspective of Collective Bargaining in Nigeria

The center of the British voluntarist employment relations is collective bargaining. It is also seen as effective instrument of protecting interest of workers as well as the most effective instrument of preventing and settling industrial disputes (Webbs,1902, cited in Olusoji, Owoyemi & Onakala, 2014). Unfortunately, it is a nudiustertian prodigy in Nigeria. Before the coming up of collective bargaining, the most common method of bargaining was the organization-based pattern- negotiation between management and house unions. What followed recently was the industrial-based bargaining pattern-negotiations between industrial associations of employers and the industrial trade unions (Oribabor, 1984). Before the announcement of the two Nigerian Trade Disputes (emergency provisions) Degree, No. 21 and 83 of 1968 and 1969 respectively, the system of collective bargaining in Nigeria was not controlled by law in spite of the fact that as far back as 1938. The Trade Union Ordinance of 1938 gave legal teeth to trade unionism (Egbo, 1968). From 1938 to the mid 1960's, Fashoyin (1980) post that the Nigerian system of collective bargaining was neatly depicted by a reliance on the principles of the British Voluntarist employment relations practice. There was escalation in the number of trade unions because of the legal recognition given to trade unionism in 1938 (Egbo, 1968). 14 trade union were registered with about 4,629 member in 1940 just two years after the enactment of the ordinance. The numbers of trade unions rise to 732 with over 70,000 members by 1971 (Fashoyin, 1987).

The creation of a voluntary system for the peaceful adjustment of industrial conflicts was another key feature of the British voluntarism employment relations practice introduced to Nigeria (Flanders, 1974).

Yusuf (1982) observed that as far back as 1941, the Trade Disputes (Arbitration and Inquiry Ordinance of 1941) made provision for the conciliation and arbitration services, although it was devoid of stipulation for irresistible urge on the parties to adopt any particular procedure to the bargaining relation (Yesufu, 1982).

Otobo (1987) suggest that bargain was done with available power of emulation, arbitration, lockouts, persuasion, strikes or other advisory procedures. Unluckily, the result of such bargaining was not legally held by the parties. There was no formally recognized single body of the employers and thus the employers forechoose to fall back to individually and autonomy while bargaining with employees as the Nigeria Employers' Consultation Association (NECA) was created in 1957 (Fashoyin, 1980). The employers had their way because the house unions were inexperienced, inefficient, uneducated and not potent, feeble. As a result, they were not forced to join an association because the employers were able to influence the unions to their benefit (Becham & Tega, 1969). Special commissions or administrative agencies were formed mainly to handle the employment related issues of 1948. The 1955 government official policy on collective bargaining and the Whitley councils and the joint industrial councils were such bodies (Yesufu, 1967).

Fashoyin (1980) posits that the inclusion of military into Nigerian politics made the interfering of government in Nigeria employment/industrial relation practice more common. The military was very distrustful of the trade union leaders due to the fact that the unions can be transformed into an antagonistic group to canvass for representative democracy and the politicians too can easily influence the trade union leaders as application in colonial era. The process of collective bargaining was not given much favourable circumstance to prosper or grow vigorously as there was steady molestation of trade union leaders and the most outspoken and skilled labour leaders were excoriated or anathematized for life (Yesufu, 1982). Most of the bargaining were carried out between the in-house and their employers.

Unluckily, for cultural reasons, the workers did not fight or confront their employers as according to Fashoyin (1980) is against the culture of most ethnic groups in Nigeria to contend in physical conflict or confront someone who is providing one with his/her bread.

Another impediment to the process of collective bargaining was the mode of recruitment. Ubeku (1984) pointed out that majority of Nigerian personnel managers are expected to negotiate on behalf of the management with the workers they had hired. It is clear without any fear of controversies that workers are not interested in confronting their kinsmen for cultural reasons. This make the economic/industrial democracy unpredictable in the work environments in United Kingdom as was and still in Nigeria. The reason could be the larger society where there is various military intervention which failed introduced political democracy (Yesufu, 1982 cited in Olusoji, Owoyemi and Onakala, 2014)

The Unitary and Pluralistic Perspective of Collective Bargaining

In unitarism, the organization is viewed as an integral and harmonious system, viewed as one happy family (www.mbaknol.com) where management and other members of the workforce are all sharing a common proposal, emphasizing mutual cooperation (Nankrihub, 2007 cited in Essay U.K., 2003) and they have a common interest, values and objectives.

The unitary view is autocratic and authoritarian and has partly been expressed intcL' agreement as "management right to manage". In this sense, management sees its function as that of controlling and directing the workers for purpose of attaining economic and growth objectives. The management viei of the organization as a unitary system characterized by one source of authority and one focus of loyal in the organization. Unitary perspective recognizes team work, line manager taking ownership of their team/staffing responsibility, reward system should be designed as to facilitate to secure loyalty and commitment, staffing policy should unify effort, motivate and inspire workers. Where industrial democracy works at its fullest, employees feel and think of what the organization is about, employees are committed to their job by showing involvement with the corporate goals. Working practices should be flexible. Workers participation in workplace decision is enabled. Workers must feel that the skills and expertise of supervisions supports their undertakings and emphasis is on sound relationship and good terms and conditions of employment. These sentiments are admirable but they may give rise to what McClelland (1960) termed as an orzy of "avuncular pontification" on the side of the leaders of organisation.

Unitarism has a paternalistic approach approval as it requires all workers to be loyal. It is predominantly managerial in its emphasis and application.

In this perspective, trade unions are seen as unnecessary because the loyalty between workers and managements are regarded mutually exclusive where there cannot be two sides of organization conflict is regarded as disruptive and the pathological outcome of agitators, communication breakdown and interpersonal friction. Thus, trade unions should be denied a presence within the industry because they are seen as “an intruder” (The Approaches and Themes of Industrial Relations, 2019 cited in Tirintetaake, 2017).

However, in some circumstances, trade union may “force” managements accept presence for the aim of pay determination and employment terms and conditions. According to this perspective under no circumstance must union have a role to play in the authority exercise and decision-making with the industry, as this would represent a violation of management prerogative (Rose, 2004 cited in essay, U. K., 2013). It should not be encouraged for the fact that the workplace is integrated and harmonious entity that exists fracumin purpose (Chand, 2017)

Conflict is seen as the expression of works dissatisfaction and differences with management are regarded as an unreasonableness activity. Conflict according to this perspective is seen as “bad” for the organization and should be suppressed via cohesive means (Rose, 2014) cited in Essay U. K. (2014). The unity perspective can be used to identify the industrial relations climate within particular type of organizations.

Pluralistic perspective: Fox (1973) described pluralistic view n terms of seeing industrial organization as a plural society where there are many related but varied and interwoven interests and objectives which must be taken care of to arrive at equilibrium. In other words, society is viewed as post capitalist rival. That means a relatively under spread distribution of authority and power within the society, a separation of ownership from management and a separation , acceptance institutionalization of a political and industrial conflict (Ogundele, Alaka, Oginni & Ogunyomi, 2013). This school of thought accepts the existence of rural services of leadership and attainment. It aggress with the philosophy of Drucker (1967) view of business entrepreneur as having a triple personality. It is economic at once (it produces and distributes income), a political institute (it involves a system of government where superior has authority over their subordinates but they also involved in a complex pattern of political relationship and social institution which evolves from below out of face-to-face interaction based on shared sentiments, values, beliefs, interest among various groups of employees.

The perspective assumes that the organization is made up of people who organize themselves into a variety of distinct sectional groups, each with its own interest, objectives and leadership (Sallamon, 2000). Thus, the organization is multi-structural and competitive in terms of authority, loyalty and leadership within the group. As a result, there is a complex of tension and competing claims which is handled in the interest of maintaining a profitable collaborative structure.

According to Pluraristic view, workers are represented by “an organization does not seek to governed” (Clegg, 1979). In pluralism according to Cave (1994) cited in Ogunbamero (2011) it involves a balance of power between two organized interests and confidence exist in the relationship for each side to respect the other legitimate and occasionally, separate interests, and for both sides to retrain from pushing their interest separately to the extent where it became difficult if not impossible to keep the show on the road. For instance, Trade unions have been able to use the ideology of pluralism to integrate the working class into the capitalist society because they are the major groups that represent the interest of workers in the work place. This is due to the fact that conflict between workers and management has been established and controlled which in turn has given birth to industrial stability as the relationship between labour and capital has changed from combative and hostile to the level of cooperation as either try to achieve a result for its own survival.

Both sales according to Dahrendof (1959) cited in (Haralambos and Holborn, 2000) are expected to gain from opportunity of pluralism. This would lead to a more balance of power between both workers and management and therefore industrial democracy is born. Divergent interest and trade unions is recognized and conflicts is functional (Ogini & Faseyiku, 2012). Pluralism is thus politics of interest groups with each putting pressure for its own advantage. Politics therefore becomes that of barraging and compromise as no one group is seen as being dominant (Haralambos & Holborn, 2000). Trade unions and professional associations are such interest groups involved in barraging and compromise. The pluralistic concept is the tradition of bargaining and compromise at organizational or at plant level.

Pluralist perspective has been criticized because it suggests that the electorate is sufficiently represented if its views are reflected in government activities. Officials within the trade unions are likely to convert the union machinery for personal exaltation while trading away the union. (Adetolaju, 2103). Pluralism come out with what Dahl & Rose as cited in Haralambos & Holborn (2000), call non – decision making that is, the option that some are able to prevent certain issues being decided upon. It is clear and accepted that workers must not support decisions that could change the structure of inequality. The pluralist is too narrow to provide a all-encompassing basic conceptual structure for the analysis of industrial relations. It gives importance to power structures and institutions. Unminding other spheres of the environment; it places too much emphasis on the meaning and importance of collective bargaining and gives inadequate importance or influence to deeper social and psychological control on individual behavior.

Marxist perspective

The perspective reveals the nature of the capitalist society and its system of production, distribution and exchange. That in capitalist societies, the state always pitch tent with the employers in an attempt to safeguard the interest of those who own other factors of production apart from labour. It believes that workplace relations are against the history. This perspective recognizes inequality in power and in the employment relationship and the whole wider society caused by capitalism exploitation and alienation.

Conditions Favourable for Effective Collective Bargaining

Within the organization, there are some conditions which are favourable for the birth and development of collective bargaining. They are as follows:

Employers should appreciate the importance of trade union for bargaining process; What must be bargained on must have subject matter; The parties on the process must have adequate degree of freedom to associate and organize employers into independent trade union; The parties must posse necessary skill and knowledge to manage the intricacies of the bargaining process; The parties for bargaining should not be more than two. For example, bargaining to occupy management and trade union leaders should bear this in mind; Negotiation should be in good faith and the parties should accept the agreements entered into as having a binding force on each other. However, Niland (1979) has posited that collective bargaining in its pure form, consists five necessary conditions:

- Dispute negotiation between management and unions. Third party intervention is allowed only on a voluntary basis, as agreed by the parties.
- There is substantial uncertainty at the commencement of negotiation as to the final result.
- Both parties have a philosophical commitment to direct negotiations and approach the process in good faith.
- Where disagreements over terms of settlements continues, the parties themselves are responsible for resolving conflicts, at least until the public welfare is threatened.
- The parties negotiate from reasonably even bases of power, observes as the ability to assess the terms and condition of work. “Ideal type” of collective bargaining rests on the above conditions. In reality, few situations exist where there condition have been met. (Niland, 1979).

Features of Collective Bargaining

It is industrial democracy at workplace; It has to do with workers’ commitment to organizational goals; Collective bargaining is fluid, mobile and flexible, not static; It involves series of checks and balances; Collective bargaining is hindered by sentiments. Both parties are tensed up in the process of negotiation; Collective bargaining is a two-way process. It is demonstrated by two parties rather than one party. Both parties are given opportunity to express themselves to enable all matter resolved amicably; It is an interdisciplinary approach to issue4gotiators must be intelligent, and vast in different disciplines to enable them articulate facts before them and use them as a weapon against their opponents during bargaining; It is a continuous process; Collective bargaining is very complex; It is a group action where employees and their union leaders meet with representatives of management to negotiate and r agreements on issues at hand; and Communication is a veritable tool in bargaining.

The Case of Collective Bargaining

The idea of collective bargaining arose along with trade unions in the nineteenth century and continues to be an issue of great importance to workers because what takes place in the workplace affect their status, wealth and health of workers general, the case for collective bargaining rests on a number of argument each of which falls into the class of either moral, economic or political spheres.

The right to collective bargaining has recognition in international human rights conventions. Article 23 of the Universal Declaration of Human Rights identifies the ability to recognize trade union as a fundamental human right (United Nations General Assembly, 1948).

The declaration recognizes the collective bargaining as an essential right of workers (International Labour Organisation, 1998). Hence, International Labour Organisation [ILO] (1960) cited in Ekwoaba, Ideh & Ojikutu (2015) averred that collective bargaining is negotiation of working conditions and terms of employment between workers, a group of workers or one or more employers' organizations on one hand, and one or more representatives of workers' organizations on the other hand with a view of reaching agreement on working conditions and terms of employment and or regulatory relations between employers and employees, and or regulatory relations between employers or their organizations and a workers' organization or worker's organizations. The stand of ILO is that collective bargaining is the core value that is connected to the freedom of association and the right to strike.

The Supreme Court of Canada broadly reviewed the rationale for regarding collective bargaining as a human right in June 2007. The court observed that:

The right to bargain collectively with an employer enhances the human dignity, liberty and autonomy of workers by giving them the opportunity to influence the establishment of workplace rules and thereby gain some control over a major aspect of their lives. Namely their work.. collective bargaining is not simply an instrument for pursuing external ends... rather (It) is intrinsically valuable on an experience in self-government..., collective bargaining permits workers to achieve a form of workplace democracy and to ensure the rule of law in the workplace. Workers gain a voice to influence the establishment of rules that control a major aspect of their lives (Supreme Court of Canada, 2007).

Thus, collective bargaining is the fundamental instrument that workers' representatives and their employers use to not only consider the demands of the employees but also to resolve conflict for the achievement of organizational goals and objectives. (Anyim, Elegbede and Gbamujo-Sheriff, 2011)

It therefore follows that the importance of collective bargaining cannot be over emphasized in every industrial relation system. For instance, Eze (2005) stated the following:

It can help to reduce the wave of strike in Nigeria; It is the most effective mechanism for increasing improvements in the working conditions of employees in organization; Collective bargaining helps to checkmate arbitrariness of management and government and through collective bargaining, the primary purpose for which workers join union is meant; and It can help workers to gain insights into the problems and aspirations of the workers by implication, the economic and technical problems of management are known to workers

There is social, economic and political transformation via increased motivation, job security, productivity and involvement in labour activities; It promotes individual democracy in the workplace. There is therefore the need for collective bargaining to raise workers awareness, build and strengthen confidence for unions and to encourage participation of workers and trade union in formulation and implementation of policy especially those that affect them; Industrial conflicts can be speedily resolved; Collective bargaining can reduce the negative aspects of globalization; and Given the need that collective bargaining promotes uniformity of incomes, retirement age, etc among those engaged in similar jobs, it will help to promote socio-economic balance among workers. Industrial jurisprudence collective bargaining creates a system of industrial jurisprudence. It is a technique introducing civil rights into industry that is of requiring that management be conducted by rule rather than by arbitrary decisions. It creates rules which differ and restrict the traditional authority exercised by management and their workers, placigs part of the authority unlimited control by union and management . (www.mbaknol.com)

The averment of Eze (2005) is in agreement with Otobo (2005) who stated that collective bargaining as a concept was used by Sydney and Beatrice Webb to cover negotiations between workers group and management as opposed to individual bargaining. It is in line with this theory that Chamberlain and Kuhn (1965) admitted that collective bargaining performs three main functions – as a mechanism of contracting for sale of labour (marketing concept), as a form of industrial government (governmental theory) and a method of management (industrial management concept).

They further opined that collective bargaining is a means of purchasing labour in the labour market with the aid of employment contract, having rule making process that governs trade unions and management relationship particularly in the spheres of reaching decision on matters of interest to all focal partners. Collective bargaining may be a source of competitive advantage when used in the resolution of any form of industrial conflict in organizations.

Ekwoaba, Ideh & Ojikutu (2008) states that an organization with well-developed industrial relations system that recognizes unions for collective bargaining as a company policy are always able to manage their employees effectively and this maintain a reasonable level of stable link with the employees. There is free flow of communication among all actors in workplace and this give rise to better performance from them and attainment of moral goals of the organization is enhanced. Long-term social change. In its broader sense, collective bargaining is not restricted solely to economic relations between management and workers. Selig Pernman (1936) has defined it as all techniques whereby an inferior class or group carries on a never slacking pressure for a bigger share in social sovereignty as well as for more welfare, security and liberty for its individual members. Collective bargaining as a technique of the rise of a new class is quite difficult from the class struggle of the Martians. It is nominalist instead of realist. It is pragmatic and concrete instead of idealist and abstract. It is much less concerned into algebraic formular summarizing up back economic trends then with the problems of building discipline in organisation and of training leadership. It derives its emotional impetus not from the desire to displace or “abolish” the “old ruling class” but from the wish to bring one’s own class abstract of the superior class” to gain equal rights as a class and equal consideration for the member of the class.

Collective bargaining manifests itself equally in legislation, court litigation, politics, education, government administration and propaganda. When collective bargaining is as a social change, it encompasses more than the direct clash between management and trade unions. It refers to the rise in politics and social power attained by employees and their organization. Hence, in a marked sense, collective bargaining is not an abstract class struggle, but it is rather down-to-earth ad tangible. The inferior class is not interested in abolishing the old ruling class but, merely to become equal with it. Its purpose is to acquire large measure of political and economic control over important matters in the field of its most drastic interest and to be respected in other spheres of decision-making.

Factors Affecting Collective Bargaining

The nature of the state affect collective bargaining: The nature of the state determines the role government can play in any state because government as an institution of the state is an apparatus of the ruling elites. The interest of ruling class is always protected by the government. It therefore follows that the use of collective bargaining in organization is affected by this role. The government possesses the power to dominate decisions honouring or dishonouring of any agreement depend on the interest government has for it. The government may decide to honour any agreement if it deems it necessary and may decide to disregard it if it s not n her favour. Although, government seem to appear neutral, the bargaining process may be characterized by obstacles flowing from the government in form of income guidelines, we determination, arbitrarily increase in the prices of essential commodities, promulgation of decrees and draconic laws, etc. The government watches what goes in the bargaining. Process and determine what is employed because government is under the control of the state.

Success of collective bargaining must be honoured by the parties involved by the government. The government plays the piper and must dictate the tune. A case in point is the implementation of increases n :he price o petroleum products in 1999 from ₦28,000 that it was in 1986 to ₦30 million naira. Thus represented 15,000% increase between 1986 — 2000. Immediately after the government announced national minimum wage for state and federal government workers, The Nigeria Labour Congress (NLC) leadership embarked on industrial action. Compromised was reached between Federal Government and NLC that led to reduction in the pump price of various petroleum products. (On June 3, 2000, an agreement was signed between the federal government and the NLC and the strike was called off. Surprisingly, in February 2001, the Obasanjo government reneged on the agreement. The price of petroleum products were increased and implemented on 1st of January, 2002. Kerosene price was increased from ₦7.00 to ₦24.00; Diesel was moved from ₦21 to ₦26 while fuel price was increased from ₦22 to ₦26 per litre. Nigeria Labour Congress (NLC) went on strike, demanding a reverse of the price increases. The federal government took the action of NCL to Abuja High Court and later government won the case implying that the strike was illegal. The court order was obeyed by the NLC and consequently called off the strike on the 17th of January 2002.

In June 2004, the Obasanjo regime came up with its big hammer when it noted that the NLC (the umbrella trade union body) was growing powerful. He decentralized and scrapped the fuel subsidies in Nigeria because he felt that NLC did not want to be democratic and it was overstepping their powers in trying to overthrow government. Obasanjo subsequently sent a Bill to the National Assembly for an act to amend the Trade Union Act — the amendment of cap 437, LNF, 1996 No. 4 1996 NO 1.

After passing the necessary reading section 17, 30, 34 and 42 were amended. A new subsection 4 was inserted while section 16A and substituted sections 16A and 24, and deleted section 33 while the existing section 34 to 54 of the Principal Act were renumbered as section 33 to 53 respectively.

Olusegun Obasanjo assented the act referred to as Trade Union (Amendment) act 2005 on 30th March 2005. The outcome of the new Act was the birth of two things among others: The expanded registration of federal trade unions, voluntary rather than mandatory contribution of check-off dues to trade unions. This gave rise to the formation of parallel trade union to the Nigeria Labour Congress (NLC) such as Trade Union Congress (TUC), etc.

What one can deduce from the foregoing discussion is that the state is employing coercive power to make collective bargaining ineffective. This implies that government has to avoid commitment to collective bargaining and is not an effective mechanism for resolving conflict in organizations.

The Ibrahim Babangida regime (1985-1992) brought NLC under its control as part of its hegemonic agenda (Lakemfa, 1997 cited in sNwadiro, 2011). This was achieved through the adoption of a static corporation strategy in the combination of cooperation, regression and buying off. Abacha administration was not totally different from Ibrahim Babangid' regime in labour matters. Abacha's administration dissolved National Executive Council of NLC and appointed a sole administration. The government also dissolved the National union of Petroleum and Natural Gas workers (NUPENG) and Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN). The dissolution was an example of the travails of congress, its leadership, affiliates and state councils under military regime. Labour leaders were unlawfully detained or incarcerated. Union meetings, seminars and other activities of congress and its components were invaded and disrupted by security forces. All manners of legislative to check the activities of unions were invoked with full force by the military. A decree came into effect that proscribed a section of the movement from holding leadership position in congress. (Nwadiaro, 2011)

Abdulsalam Abubakar's regime amended Decree No2. 1996 and No. 1 of 1999. Decree 9, 10 and 24 were replaced with the main aim of democratizing trade unionism in Nigeria. Granted the fact that some of the post 1993 legislative restriction has been removed, the Workers' movement in Nigeria is yet to enjoy the degree of freedom of association it possessed after Nigeria independence in 1980

Adeogu (1975) observed that government attitude in the aspect of collective bargaining did not cut ice. According to him:

It seems very odd that despite the establishment of Whitley Councils since 1948 negotiation between the government and its own employees, practically every major demand by workers to wage increase or review since the second world war has been settled, not through this collective industrial machinery but by arbitration.

However, the attitudinal indifference of government towards collective bargaining, is manifest but easily discerned by many in field of industrial relation. In this regard, Ornlolayole (1981 as cited in Damachi (1989) has this to say:

We do not believe government practices ardently what it preaches vigorously. Government preaches the doctrine of collective bargaining which it says is the cornerstone of industrial relation in this country. It does not appear to us that government practices it or strongly and stringently as it advises the private sector to do. Otherwise, why is it that there are more collective agreements reported by the Ministry of Labour in reports of issue resolved by 13 employers associate than those registered by the public sector? The Ministry can tell us how many agreements have been reported by the total public sector within the last five years

The indifference of government towards collective agreement reached with ASSU in 2009 was demonstrated by current regime of Muhammadu Buhari's decision to review the agreement is seen by many as consistently inconsistencies in governments.

The agreement was reached after two years of negotiation between the ASSU and the federal government. The agreement reached at the negotiation included conditions of service for university lecturers, funding of universities, university autonomy and academic freedom and issues that require legislations to implement. (www.premiumtimes.ng.com). Unfortunately and sadly, the Buhari regime sets up team to renegotiate 2009 federal government/ASSU agreement (Musari, 2009). according to national chairman of ASSU, Prof. Abiodun Ogunyemi "ASSU will negotiate with the government team based on the principle of collective bargaining, if what they offer does not satisfy the demands of the university lecturers. (Ogunyemi, 2017)

In the public sector, for instance, the government has arrogated to itself the role which both employers and employees suppose to perform in industrial relations (Bajoko, 2006). As a state authority, government set up machinery i.e. councils to negotiate for salary increase and other conditions of service. in the public sector.

However, government has taken over the responsibility of wage fixing in Nigeria going by events in recent years. Imafidon (2006) correlated the current position of government in wage fixing when he advanced the argument that collective bargaining has been relegated to the background in Nigeria because government resorted to creating wage tribunal as a mechanism of fixing and reviewing wage. In support of Imafidon (2006), Chidi (2010), Ayim, Elegbede, Gbamujo-Sheriff (2011) opine that the use of ad-hoc commission in addressing workers' demand such as wage determination and other term and conditions of employment is unilateral and undemocratic as it violates good industrial democratic principles. Nigeria determination of minimum wages has always been carried out without any effective tripartite collective bargaining, the latest being the new minimum wage Nigerians are expecting from current regime of Muhammadu Buhari. This development only make it antithetical to democratic value, but has also undermine the importance of collective bargaining in Nigeria public sector.

The implication of government action is that there are industrial disputes and work stoppage in the Nigerian economy at every effort to address or adjust wages over the years because wage determination policy in Nigeria is not effective and definite (Kester, 2006).

The issue of bargaining itself is another problem facing collective bargaining. In Nigeria, many of the substantive issues which are within the domain of the NPSNL are decreed either by executive or legislative acts or via political body like commission periodically created by government as employer of labour. Civil service rules regulate discipline, promotion, transfer of staff. Management position is represented by both method of job regulation devoid of collective bargaining. The role of NPSNL Nigeria is totally and completely irrelevant because of the influence and role of other government agencies. These development according to Ayim, Elegbede, & Gbamujo-Sheriff, (2011) have undermined the relevance of collective bargaining in the public sector.

In the light of the above, government intervenes in collective bargaining. The government does not act as a watchdog for the enforceability of any agreement reached. Most negotiations are entered into by an agent of the government on its behalf as well as the employees of the government. The major reason is not to prevent a situation of making government a judge in its own case which will go against the principle of public policy. But in most cases, the reverse is the case. The agent acting on the order of the government cannot contract on her behalf and the government is not willing to be bound by such agreement. The government is right to play a regulatory and mediatory role in collective agreement. Non strike clause is imputed in the agreement but government is not willing to implement the agreed terms in order to avoid the strike situation. Government inefficiency and insensitivity resulted in an increase of industrial dispute in Nigeria. According to Vanguard (2001):

... It is true that some of the collective agreements have reopener clauses. For as many of that have re-opener clauses, are couched in terms which allow them to have re-opener clauses, the union will be bound by it, those that do not have re-opener clauses cannot be bound by what government has don because government is not the employer of workers in private sectors (Vanguard, 2001,). There is also fear of official intimidation/ victimization by government employers. Employers adopts divide and rule strategy to mange workers

Conclusion

Collective bargaining is an essential variable in management of employee relations. It enables rules of conduct to be drawn and agreed by the parties. The collective agreement reached by these parties usually comes up with wage scales, training, health and safety, overtime, working hours, grievance mechanism and rights to participate in company affairs or workplace. Collective bargaining is ineffective in impacting positively freedom within the workplace due to inherent problems of non implementation of agreements reached. Government has arrogated to itself the task of wage fixation rather than employing the mechanisms of collective bargaining to perform this fundamental function has been advanced as one of the reasons for this trend. The collective bargaining system in Nigeria for instance is poorly structured and weak.

It has been argued that the instrument of collective bargaining has the potential of articulating a fair representation of workers in issues genuine to their cause. Notwithstanding the above advantages, the incidents of collective agreements and enforceability, if adequately handled, would definitely give rise to industrial' democracy within the industrial system, and consequently promotes nation building. In Nigeria collective bargaining continues to evolve but moving like a snail because of state legislature.

Recommendations

1. Tripartite committee of government comprising, Nigeria Employee consultative Assembly (NECA) and Nigeria Labour Congress (NLC) should be set up to consistently recommend the review of the existing labour laws, practice of industrial relation and national minimum wage.
2. National wage commission should be reconstructed to include government, NECA and NLC in the determination of wages/salaries in both the public and private sectors.
3. Capacity building programmes on collective bargaining should be conducted by the ministry of labour and productivity in collaboration with the office of Head of service of the federation to reduce lack of requisite skills for collective bargaining.
4. Annual conferences should be organized on collective bargaining as a way of identify, and formulating responses to industrial relations challenges
5. There should be review of all legislations which subject collective agreements freely entered into by managements and unions that will be approved by the Minister of Labour.
6. In the private sector, collective bargaining should exist in all industries involving the real industrial unions, employers associations and corresponding senior staff. However, there shall be one industry, one union, and one collective bargaining instrument.
7. Public service negotiating council in the public sector should be strengthened and ensure that bargaining machinery in other sectors of the public sector where they are needed, must be established.
8. Free unions and collective bargaining should be initiated and sustained for the purpose of promoting freedom at workplace.
9. Government must aid collective bargaining by way of re-examining its present imposition of compulsory arbitration and restricting its use to exceptional cases which negate meaningful collective bargaining exercise.
10. There should be regular and effective communication between trade union and managements.

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