

# **SUSTAINABLE TRADE RELATIONS AND THE ISSUE OF COLLECTIVE BARGAINING AND COLLECTIVE AGREEMENT: AN X-RAY OF THE NIGERIAN LABOUR SPHERE?**

**TARMS ISRAEL KAGBALA, B. A. (HONS), M.A, ED, LL.B, BL; FLINT, SIGAH &  
TEMA LUCKY**

Federal Polytechnic Ekowe, Bayelsa State, Nigeria.

Email: [Tarmskagbala@gmail.com](mailto:Tarmskagbala@gmail.com). Phone: +2347062849829, +2347053106164

## **ABSTRACT**

Collective bargaining is the process of negotiation on several issues relating to the regulation of the terms and conditions of employment between employers and employee with the sole aim of reaching a collective agreement. Collective agreement regulates the terms and conditions of employees in their work place, their duties and the duties of the employer. It is usually the result of a process of collective bargaining between an employer or a number of employers and a trade union representing workers. This paper seeks to interrogate whether or not there is collective bargaining in Nigeria? Whether or not collective bargain can be seen both in the public and private sectors in Nigeria? Again, what can be done to improve collective bargaining in both public and private sectors in Nigeria? And lastly, cursory consideration of collective agreement and the government's commitment, adherence and implementation of such collective agreements.

**Keywords:** Collective bargaining, collective agreement, trade unionism.

## INTRODUCTION

In any unionized establishment, collective agreement emanates from collective bargaining and collective bargaining is enabled by existing management-union relationship. Therefore, there cannot be collective agreement without collective bargaining. Cordial relationship between management and union will be threatened at the expense of industrial peace if the former or latter breaches the collective agreement they reached at the end of collective bargaining.

## COLLECTIVE BARGAINING AND COLLECTIVE AGREEMENT IN PERSPECTIVE

Before delving into the considering of the crux and crucible of the subject matter which is whether there is the existence of collective bargaining and collective agreement in the practice of trade unionism in Nigeria? It is pertinent to first of all consider whether the two phrases **collective bargaining and collective agreement** form a confluence in meaning or there is a departure in their meaning.

According to Wiki answer, collective bargaining is a process of negotiating between employer/trade union of employers and trade union of employee. While collective agreement is a written result of collective bargaining<sup>1</sup>.

In delineating the terms or phrases one from the other, Wikipedia stated thus:

*Collective bargaining is a process of negotiation between employees and a group of employers aimed at agreements to regulate working salaries. The interests of the employees are commonly presented by representatives of a trade union to which the employees belong. The collective agreements reached by these negotiations usually set out wage scale, working hours, training, health and safety overtime, grievance mechanism, and rights to participate in workplace or company affairs<sup>2</sup>.*

**Section 91 of the Labour Act<sup>3</sup>** defines collective bargaining as the process of arriving or attempting to arrive at a collective agreement. It is important to note that the same Act describes collective agreement as an agreement in writing regarding working conditions and terms of employment concluded between (a) an organization of workers or an organization representing workers or an association of such organizations of the one part and (b) an organization representing employers or an association of such organization of the other part.

Therefore, in lieu of the above positions, it is only imperative to conclude that collective agreement is the child and product of collective bargaining.

The collective bargaining involves a process of consultation and negotiation of terms and conditions of employment between employers and workers, usually through their

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<sup>1</sup> <http://www.Answers.com>

<sup>2</sup> BLS information Glossary. U S Bureau of Labour Statistics Divisions of information Services. Accessed 18-7-2016.

<sup>3</sup> Laws of the federation of Nigeria 2004

representatives. It involves a situation where the workers union or representatives meet with the employer or representatives of the employer in an atmosphere of mutual cooperation and respect to deliberate and reach an agreement on the demands of workers concerning certain improvements in terms and conditions of employment.

Two essential conditions for collective bargain to occur include the freedom to associate and the recognition of trade unions by employers. This means that workers must be at liberty to associate and to join or form trade unions in order to be able to bargain collectively. There seems to be an established link between freedom of association and collective bargaining since there would be no point in giving workers the right to recognize if they could bargain collectively. Collective bargaining is recognized and protected by the ILO and generally in international law.

### **COLLECTIVE BARGAINING IN NIGERIA**

The concept of collective bargaining in Nigeria can be traced to our colonial heritage. Nigeria's industrial relations system is one of such British colonial legacies; it was fashioned in line with the British industrial relations. A system whose main feature is the voluntary machinery which has grown over a wide area of employment from industry-wide collective bargaining and discussions between employer's association and trade unions over terms and conditions of employment<sup>4</sup>.

In Nigeria's public sector, collective bargaining takes place at the national level if the issues involved pertain to the whole nation, but if they concern a particular state only, the bargaining takes the procedure adopted in the private sector<sup>5</sup>. More so, issues affecting the whole country, that is, those which involve both the federal and state governments are discussed between representatives of the federal and state governments and those of the Nigeria Labour Congress (NLC) or agency. Decisions reached at such negotiations are usually implemented by the parties involved.

It must be noted that collective bargaining requires patience by the parties bargaining because it is usually long and tortuous and results are normally unpredictable.

Although it has been noted by E. E Uvieghara, that there are no available data to show the extent to which collective bargaining is practiced, there can however be no doubt that there has always been more collective bargaining in private than in the public sector<sup>6</sup>.

### **COLLECTIVE BARGAINING IN NIGERIA PUBLIC AND PRIVATE SECTOR**

Commenting on the presence of collective bargaining in the public sector in Nigeria, Uvieghare continued, "the phenomenon of the appointment, on almost regular basis, of commissions to review and recommend wages and other conditions of employment of public servants is a clear manifestation of the absence of collective bargaining in the public sector.

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<sup>4</sup> Clogg, H The system of Industrial Relations in Great Britain (oxford Basil Blackwall, !976 )p 20

<sup>5</sup> Webb Sydney&Webb Beatrice industrial Democracy London. Long man s.G ree and co 1919.

<sup>6</sup> E E Uvieghare Labour law in Nigeria, Malthouse law books 2001

Also, although there has been a decline in the appointment of wages commissions in recent years, the introduction, since 1968 of what is, in effect compulsory arbitration of trade disputes would appear to have had a negative effect on collective bargaining not only in the public, but also in private sectors<sup>7</sup>.

However, the law has always provided a framework to encourage, promote and assist meaningful collective bargaining. It is generally accepted that trade union, especially trade union of employers, are a vital, if not an indispensable machinery. Hence the statutory law has always made provisions to ensure the existence of vigorous trade unions.

In 1973, statutory provisions were made for the first time, for compulsory recognition of registered trade unions by employers, obviously, for the purpose of collective bargaining.

Again, the first statute on the settlement of trade disputes enacted in 1941 gave maximum support to collective bargaining. Nevertheless, it must be noted that the government pays lip services to the collective bargaining machinery. Government at all levels has continued to set aside collective bargaining and to give wage awards to score political points in spite of its commitment to ILO convention to freely bargain with workers. The government in the course of regulating wages and employment terms and conditions revert to the use of wages commission. Thus, wage determination is by fiat. Therefore this can be said to be a unilateral system of collective bargaining.<sup>8</sup> This is because wage commissions offer little opportunity for workers' contribution in the determination of terms and condition of employment and can hardly be viewed as bilateral or tripartite.

But it is important to note that between 1948 and 2009 a total of fourteen wage commissions has been set up. But it was only in 1981 under the Shagari civilian administration that a tripartite wage bargaining took place following the general strike of May 1981 organized by the NLC occasioned by the demand of the NLC for wage review. This led to the minimum wage of one hundred and twenty five naira. Damachi led tripartite wage committee inaugurated by the Babangida regime on January 30, 1990, which was manipulated by president Babangida who determined the minimum wage of two hundred and fifty naira. The constitutional government of Obasanjo, like its military predecessor the Abubakar regime also avoided any tripartite collective bargaining in the fixing of the 1999 national minimum wage of seven thousand five hundred naira and just in 2011 the fixing of the eighteen thousand minimum wage which was passed into law was not based on collective bargaining. The government merely consulted with officials of the NLC without carrying on board the private sector and state governments who were to implement the wage awards at the state and local government levels. This exclusion generated serious conflicts at those levels as state governments expressed inability to pay and consequently conceded to various shades of agreements.

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<sup>7</sup> Ibid

<sup>8</sup> Elegbede Tunde&mariam A Gbajumo Sheriff Collective Bargaining Dynamics in the Nigerian Public and Private Sector. Austrilian Journal of Business and management Research Vol1 No5 (603-701)

Accordingly, Banjoko see government as having arrogated to itself the role which both the employer and the employees ought to perform in industrial relations. Even though government set up councils or commissions to negotiate for salary increase and other conditions of employment in the public sector, events in recent years have shown that government had taken over the system of wage fixing in Nigeria. Instead of allowing collective bargaining to prevail, government resorted to establishing wage tribunals as a means of fixing and reviewing wages, consequently, collective bargaining has been relegated to the background in Nigeria.<sup>9</sup>

Also commenting in the same footing, Kester observed that Nigeria has no definite and effective wage determination policy hence the industrial relation system has been witnessing a spate of industrial unrest and tension at every attempt to adjust wages and over the years, issues relating to wages have dominated industrial dispute and work stoppage in the Nigeria economy.<sup>10</sup>

Considering the thoughts of Akintunde Emiola on this subject matter, it seems clear that he is of the opinion that while collective bargaining is recognized at law, effective practice is unobtainable at the moment, for he said:

*But the true statement of the law is that, whatever the status of the trade union the right to settle the terms of his employment is still recognized; for apart from maintaining an apparatus for what may be called industrial peace-keeping, the law has left the parties alone to reach agreement on their own terms.<sup>11</sup>*

He went further to add, that there are no statutory provisions which regulate the collective bargaining process and ensure the observance of agreements reached by the negotiating parties. The law has scrupulously abstained, primarily because it has been the policy of the government since 1938 when the first trade union ordinance was enacted that free and voluntary collective bargaining should be the corner stone of our industrial relations and later stated, quoting Adeogun “the resort to commissions for the adjustment of salaries and wages, has in his view had its own effect on the success of collective bargaining”.

Therefore, it is submitted that while in law and principle, there is the recognition of collective bargaining in Nigeria Trade Unionism but there is an aberration in its true practice.

## **Conclusion**

This write up set out to examine whether there is collective bargaining in practice of trade unionism in Nigeria, taking the Nigerian public sector as a case study. It is a truism that collective bargaining is known to and recognized by the parties but government has arrogated to itself the task of wage fixation rather than allowing collective bargaining to perform its

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<sup>9</sup> Banjoko A S(2006) Managing Corporate reward system Punmark Nig. Ltd

<sup>10</sup> Kester K.O (2006) A perspective on wage determination and Bargaining in Nigeria. Ibadan: John Archers Publishers

<sup>11</sup> Akintunde Emiola: Nigerian Labour Law (2000) Emiola Publishers Ltd.

vital function. The collective bargaining system in Nigeria is very weak and poorly structured.

It is therefore recommended that the use of wage commissions be jettisoned and collective bargaining should be given prominence in determination of employment conditions in the public sector.