

## Democratic Governance and the Future of Collective Bargaining in Nigeria

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Doi:10.5901/ajis.2014.v3n1p91

### Abstract

*The Introduction of democratic system of government no doubt can bring about positive changes in the basic institutions of the society, i.e. social economic and political. This paper examines the historical antecedents and impact of military rule on collective bargaining in Nigeria, and the potentially beneficial effects of democratic governance for collective bargaining between the labour unions, their employers, and the government. The paper observes that the military structure of authority has had significant impact on the philosophy and practice of industrial relations in the post military era in Nigeria. How can the negative effects of the military legacy of rigid structure of power and control be minimized or dealt with in a post-military culture of democratic governance? This paper argues that the institutionalization of the universal norms or culture of democratic governance, anchored on a system of the rule of law represent the only way to bring about harmonious relationships among the actors within the Nigerian industrial relations system. But the question is why has the realization of the global best practices in industrial relations become a problematic decimal in the Nigerian case, where labour unions must resort to industrial actions such as strikes or other forms of work stoppages before their employers adopt fire brigade methods at addressing industrial relations disputes?*

**Keywords:** Military-civil Relationships, Military Intervention, Collective Bargaining, Democracy, Arbitration, Co-determination, Industrial Relations.

### 1. Introduction

The future of collective bargaining in Nigeria will be determined to a lesser or greater extents by the degree to which the institutions (e.g. the economic and political institutions) of the society benefit from the democratization process which is gradually taking root in the country. In Nigeria. And of course since independence, the political and economic lives of the country have been dominated largely by military political adventurists, who usually acted under the guise of correcting civilian misrule. However, rather than correct the obvious misrule by the civilian rulers of the country, military regimes have often ended up as worse rulers than those they claim to correct (i.e. the politicians). Since Col. Yakubu Gowon (now a retired General) took over as Head of state in 1966, the military rulers orchestrated a process that had been characterized by unprecedented violation of human rights, bribery and corruption, suppression and harassment of labour movements and the press and general maladministration of the country.

Therefore, the anti-democratic tendency of military regimes had over the years done significant damage to the attainment of a harmonious relationship between labour and government. Hence, the establishment of a genuine and durable process of collective bargaining, as experienced by the organized labour in Nigeria, has not been encouraging as attested to by the frequency of strikes or industrial unrest in the country (Otobo: 1983). The adoption of military style of administration with respect to issues which require dialogue between parties in dispute is largely responsible for these frequent problems of labour unrest. Hence, it is against this background that the future of collective bargaining is examined with the following objectives in view: The first objective is the analysis of the historical antecedents of collective bargaining in Nigeria; the second objective is to assess the impact of military rule on collective bargaining in Nigeria; the third objective is to examine the relevance or otherwise of some of the labour laws and statutory mechanisms of today for collective bargaining, and the fourth objective is to examine the real and potential benefits of the democratic alternative being unfolded for the future of collective bargaining against the background of the current trend of globalization.

### 2. Conceptual Framework

The idea of collective bargaining sometimes assumes a process of negative interaction or relationship between two or

more parties whose sole objective is the resolution of issues of trade disputes by which the parties reach a settlement that is based on compromise negotiated during the bargaining process. Fashoyin (1992) defines collective bargaining as:

...A Machinery for discussion and negotiation, whether formal or informal, between employers(s) and workers' representatives, aimed at reaching an agreement or understanding on the general employment relationship between the employers and workers (Fashoyin, 1992: *Industrial Relations in Nigeria*).

Meanwhile, the Labour Act No. 1 of 1974 defines collective bargaining as the: "process of arriving at or attempting to arrive at, a collective agreement".<sup>1</sup> On the other hand, collective bargaining is defined by the *International Labour Organization* (I.L.O, based in Geneva, Switzerland) as "negotiations about working conditions and terms of employment between an employer or group of employers on the one hand and one or more representatives of workers' organization on the other agreement".

Several other definitions tend to follow the ones stated above especially in their agreement that collective bargaining relates to negotiations about working conditions, by workers and management/ or government, all in the attempt to reach an agreement, which are usually based on bipartism or tripartism ( Flanders, 1975; Ubeku, 1983; Damanchi, 1982; and Robin and Brown, 1975).

The conceptualization of collective bargaining in this paper is one which views it as a necessary mechanism, for the parties in industrial relations, for the resolution of trade disputes. This mechanism is expected to involve a process that encompasses the principles of voluntarism and collective agreement in dealing with industrial disputes. This process, where embraced is envisaged theoretically to bring about industrial peace and harmony through the institutionalization of collective bargaining as an enduring tool for disputes resolution.

### 3. Historical Antecedents of Collective Bargaining in Nigeria

A panoramic assessment of the political economy of Nigeria would show the characteristically capitalist-oriented economic system that is heavily dependent on foreign capital investments. Nigeria is also a country that is heavily prone to political instability given frequent military interventions. Also, the commanding heights of the economy: banks, insurance, oil and gas, energy, manufacturing etc. are dominated by foreign business interests.

On the home front, the social and political environments are dominated by divisive factors, such as tribalism/ethnicity, religious intolerance, cultural differences, bribery and corruption, and of course leadership failure. The historical antecedents of collective bargaining in Nigeria also show an industrial relations system that has been heavily influenced by colonial legislations and policies in industrial relations. These legislations were products of the British industrial relations systems.

Some of the earliest known legislations or statutory structures established by the British colonial rulers of Nigeria include:

1. *The Provincial Wage Committees* (1937).
2. *The Whitley councils* (introduced in 1948).

These legislations with respect to labour issues relate to the genesis of industrial relations in the public sector of Nigeria during the colonial era. According to Yesufu (1962), the establishment of the *Provincial Wage Committees* throughout Nigeria can be regarded as the earliest evidence of joint negotiation between labour and government. *The Provincial Wage Committees* could not achieve the desired results due to its structure and functions, and this failure manifested in the 1945 general strike by the Nigerian workers. The *Whitley Councils* which succeeded it were designed to address wage and related matters for senior, junior and technical workers. The *Whitley Councils* which existed from the local to the federal functioned as both negotiating and disputes settlement mechanisms. The failure of the *Whitley Councils* necessitated further interventions by the government especially in the 1970's when the oil boom expectedly led to the agitation for wage increases. According to Fashoyin (1992), the oil boom increased the growth rate of the GDP (Gross Domestic Product) to about 7% per annum, and also brought about the setting up of three wage (Review) commissions i.e. Adebo, Udoji and Williams respectively, all within five years. The immediate effect, according to Fashoyin, was that the least paid Nigerian workers received an unprecedented salary increase of about 108 percent

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<sup>1</sup> Generally, the labour laws in Nigeria are anti-labour in the sense that they tend to protect the vested interests of the employees. The labour (Amendments) Acts 2004 for instance seeks to weaken the financial basis of labour unions by seeking to make check-off dues voluntary.

within the period 1975-80. In the attempt by government to regulate collective bargaining, it enacted a number of legislations during the 1970's such as, The labour Act No. 21 of 1974; Trade Disputes Act No.7 of 1976; Trade Dispute (Amendment) Act No. 54 of 1977 and Trade Unions (Amendment) Act No. 22 of 1978, among others. However, the poor state of the economy and the inability of the government to control inflation had necessitated constant demand for wage increases by labour, coupled with incessant and insensitive manner of increasing petroleum prices. The multiplier effect of this policy recklessness is inflation and labour agitation which has now become cyclical, combative and sometimes violent.

#### 4. The Military Interregnum and the Failure of Voluntarism

The period of military rule can be described as a period when legitimate exercise of authority was lacking. Out of the over fifty years of independence as a sovereign state, the military seized and held power for about twenty-seven years. It was during this period that series of draconian labour laws were enacted and collective bargaining and the voluntaristic approaches to negotiations were severely limited and almost supplanted by state intervention through various prescriptive and proscriptive laws, decreed by various armed forces ruling juntas, between January 15, 1966 and May 29, 1999 (although there was a brief period of civil rule between October 1, 1979-December 31<sup>st</sup> 1984). State intervention, often takes the form of using the big stick in dealing with restive unions e.g. The *Academic Staff Union of Universities* (A.S.U.U), *National Association of Nigeria Students* (N.A.N.S) and other progressive unions. Even where the unions were not out rightly proscribed or banned, they may be intimidated into submission or their leadership incorporated to the side of government through a process of corruption or other forms of inducements. For instance, during the regime of General Ibrahim Badamosi Babangida, the government made available to the Nigeria Labour Congress (N.L.C) a generous 'offer' of N100 million to improve mass transit system for workers. By the time the workers needed the Congress leadership to lead the struggle for the de-annulment of June 12, 1993 presidential elections, obviously won by Chief M.K.O. Abiola, it was conspicuously found wanting. In the attempt to control the unions, government had devoted its time and resources to the re-organization of industrial unions. It is a known fact that the existence of a virile and proactive labour movement could wreck havoc to the foundations of authoritarian regimes. For instance, Adebisi (1999), states that:

*... Both Babangida and Abacha regimes took legislative and extra-legislative steps to actually emasculate the vocal unions in Nigeria under the excuse of maintaining law and order...*

Therefore, the iron laws of the military had done a lot of damage to the principle of voluntarism and collective bargaining in industrial relations. Meanwhile at the onset this new democratic experiment in 1999, people's expectations rose with respect to what they stand to gain in form of democratic dividends.<sup>2</sup>

#### 5. The Democratic Alternative: Real and Potential Benefits

One major advantage of a democratic system of government is that it offers the people the freedom to choose. This freedom, where available enables the parties to an industrial dispute the freedom and/ or opportunity to enter into a voluntary process of setting up the modalities for negotiation and the possibility of reaching an agreement. Where democracy thrives, the possibility of a peaceful industrial relations existing is high. For instance, the attempt by the Obasanjo Administration to abrogate an agreement on academic allowances between A.S.U.U. and the General Abubakar Abdulsalami regime failed because it ran counter to the new spirit of democracy in the country. However, since 1999 till date, the civilian regime of General Olusegun Obasanjo still finds it difficult to negotiate with labour unions or honour negotiated agreements. Rather, it has taken some necessary steps to weaken the labour unions through the introduction of a new labour bill which is basically anti- labour. This bill has been passed into law and designed to 'democratize' labour by making the payment of check-off dues voluntary, among other provisions. The federal government whether military or civilian has gained notoriety for failing to honour agreements voluntarily entered into with various labour unions over the years. For instance, over 60 federal and state universities are currently embroiled in a battle of wit over government's failure to honour ITS 2009 agreement it signed with the university teachers' union, the

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<sup>2</sup> *The general expectation of the Nigerian people is that a democratic government in Nigeria will bring development to the people more than the military could offer. Workers and employers will be able to negotiate voluntarily and peacefully. The imposition of solutions by executive fiat, as is commonly the practice under the military, had done great damage to industrial relations in Nigeria.*

ASUU. The major effect of the teachers' strike is that classrooms had been locked for two months and the two parties are still at daggers drawn at each other's with no end in sight.

In a democratic setting, collective agreement between labour and the government or other employers of labour can easily be supported by legislation to give it legal and solid backing.

Moreover, collective bargaining under a democratic dispensation as currently being experienced in Nigeria can boost morale and increase the confidence of workers in the principles of individual relations. The workers will have a sense of say or involvement and this feeling will reduce significantly the chances of conflict and/or industrial action. At the level of policy, deliberately action on policy formulation must be taken by government to alleviate poverty. There must be a shift from what is called the 'technocratic approach' to the "institutional approach" to alleviate poverty (Besley, 1997). Whereas the former 'emphasizes designing policies that target the poor as effectively as possibly', the latter, largely favoured by non-economists and NGO's, emphasizes 'the development of institutions and improvement of government performance as means of alleviating poverty'. This view is supported by Sen (1995:21) as follows:

*The political economy of targeting has to be concerned not just with the economic problems of selection, information, incentives but also with political support for, and feasibility of aiming public policy specifically at removing deprivation of particular group.*

The whole idea about collective bargaining relates to giving adequate reward for work done. Therefore, there must be a concerted effort on the part of government at redistributing wealth so that workers can fairly address their socio-economic status characterized by poverty.

## 6. The Future of Collective Bargaining in Nigeria

The future prospect of collective bargaining in Nigeria depends on a multiplicity of factors. Basically, two key factors are of outstanding importance. These are:

1. The extent of the institutionalization of the culture of democracy in the polity and,
2. The structure and resilience of the national economy. Otopo (1988:170-173), suggests that based on the structure of the Nigerian economy and the nature of the elites, certain predictions on the future of industrial relations can be made. He believes that the economy will continue to run on the policy of import substitution and that the fluctuation in the price of oil would extend the state of economic depression. Furthermore, he believes that political instability was foreseeable due mainly to schism within the ranks of the political elites. He also foresaw an increasing tendency on the part of military regime to be more authoritarian and intolerant. Although there is an unfolding aura of democracy, the political corruption of the military establishment and the fact that the Nigeria economy is tied to the apron of international economy through the World Bank and its agencies e.g. the International Monetary Fund (I.M.F) and the multinational corporations, with their critical investments in the oil industry, banking and manufacturing concerns. The current distress being experienced by the economy especially in the banking and manufacturing sectors could lead to widespread redundancies and retrenchment of workers.<sup>3</sup>

Moreover, wage disputes that had characterized military rule in the past continue to be critical factors in any collective bargaining process today. Hence the trying times for labour are not yet be over even as the post military era of democratic rule is approaching the end of its fifth year. The election of General Olusegun Obasanjo, a tested former military head of state could turn the economy around only if he could come to terms with the democratic realities of an elected leader and not as a military head of state that he was between 1976 and 1979, when he handed over to an elected civilian regime, under the leadership of Alhaji Shehu Shagari. The success of this new democratic experiment depends on the ability of Obasanjo Administration to perform and also reprofessionalise the military and make it subservient to civil authority. Similarly, the democratic reorientation of the populace is a *sine qua non* for the institutionalization of a durable mechanism for collective bargaining. The fashioning out of a new deal for labour through

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<sup>3</sup> Mass lay-off of workers constitutes a major fall-out of World Bank/IMF economic reform policies. The Nigerian government, headed by former President General Olusegun Obasanjo shopped for about \$70 million to pay the gratuities and other entitlements of the more than 30,000 public sector workers that have been earmarked for retrenchment. Recent, the current government led by Dr. Goodluck Jonathan set up a committee headed by a former Inspector-General of Police, Mr Raphael Orosanya which recommended the crapping of about 250 parastatals, agencies and departments with the obvious consequence of mass lay-offs.

the establishment of a progressive economic policy by government could help institutionalize an enduring collective bargaining procedure in industrial relations. The practice of co-determination in the then West Germany where workers and management jointly determine the affairs of their business organizations could be introduced here in Nigeria to address the problems of collective bargaining. As a matter of fact, self-management by the workers was the practice in state-run business enterprises in the former Yugoslavia.<sup>4</sup>

However, when one considers the issue of the vulnerability of the economy and the unstable polity, one tends to consider the idea of socializing the ownership of the means of production, even in the face of increasing privatization, deregulation and globalization of the economies of the world. These policies, as presently operated in Nigeria, have increased poverty among the vast majority, rather than the contrary. Privatization has benefited only the rich, especially those with ill-gotten wealth and the gap between the rich and the poor continues to widen embarrassingly.

## 7. Conclusion

Although one cannot lose sight of the colonial origin of our industrial relations system, the prolongation of military rule has greatly influenced the industrial relations system of Nigeria. Voluntarism and method of settlement of trade disputes by negotiation had been replaced gradually in most cases by state intervention. This intervention always had the character of legislation and the 'resolution' of trade disputes by executive fiat or use of force.

The paper examined the historical antecedents of collective bargaining in Nigeria with a view to having a better analytical basis for understanding the impact of military rule on collective bargaining as instrument of industrial relations or disputes settlement. The summary here is that the efficacy of collective bargaining as an instrument of disputes resolution in the future will depend on the success of the democratic experiment presently going on in Nigeria, currently in its fifth year. However, the government of Nigeria needs among other things to go beyond creating a conducive atmosphere for industrial relations. It must empower the economically weak masses through a genuine and deliberate policy of poverty alleviation. This will then create industrial peace and harmony. This, when fully implemented, will reduce poverty among the low income groups. However, it is currently being implemented in a haphazard manner, thereby putting the goal of poverty alleviation well beyond the reach of the masses. The new democratic dispensation marshaled by the transition to democracy by the military in 1999, is gradually establishing the foundations for the institutionalization of democratic norms and values and it is expected that the new and free atmosphere of interaction between labour, employers and government will enhance industrial democracy and all its attendant benefits: boosting morale and workers' productivity, economic growth and political stability.

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<sup>4</sup> Former West Germany and Yugoslavia presented classic examples where workers and management collectively determined the conditions of work and it brought about harmony in the industrial relations of these countries. Also, under the Soviet Union, the management of the industrial organizations was in the hands of the workers through the soviets (i.e. workers' management committees). Hence, union restiveness was highly minimized with improvement in performance and labour management relations. The norms of democracy as institutionalized in the political realm must be incorporated into the Nigerian industrial relations system in order to ensure industrial peace and harmony, thereby achieving the goal of high productivity amongst the workforce.

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