

Collective Bargaining Process and Implementation of Agreements: An Appraisal of FG/ASUU Industrial Disputes

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Abstract

In recent times, industrial relation has been characterized by perennial disputes particularly between Federal Government and Academic Staff Union of Universities in Nigeria. Collective bargaining as a viable tool for industrial relations has not been appropriately used in good faith, therefore leading to several inconsistencies in fulfilling the agreements reached. This paper attempts to historically review the extent to which collective bargaining process has influenced the implementation of agreements reached in resolving industrial disputes particularly between the Federal Government of Nigeria and Academic Staff Union of Nigerian Universities. Using data from a review of the literature and content analysis, the paper revealed that promotion of capital accumulation at the expense of labour, lack of political will and insincerity on the part of the government, corruption and leaders of government being ignorant of the cost of running university system have hindered the implementation of the agreements reached. It, therefore, concludes that deficient collective bargaining and failure to implement the agreements have been a dominant factor in the industrial conflict. The paper recommends that policies aimed at governing the university system must be products of painstaking deliberations so that collective agreements are reached to guarantee workable solutions following acceptable international standards.

Keywords: Agreements, Collective bargaining, Implementation, Industrial dispute, Industrial relations

Introduction

Collective bargaining consists of negotiations between an employer and a group of employees to determine the conditions of employment. The result of collective bargaining procedures is a collective agreement. Employees are often represented in bargaining by a union or other labour organization (Iyaji, 2010).

The machinery of industrial relations in Nigeria has proved particularly handicapped in dealing with industrial disputes. The success or failure of a system of industrial relations can only be measured by its efficiency in resolving industrial disputes. The drastic reduction of labour input in the industry particularly in the public sector and cross border movement of required knowledge workers have greatly affected the bargaining power of employees in the developing countries (Dauda, 2002). Employers are implementing a range of innovative practices to meet the challenges posed by globalization. For instance, Human Resource Management (HRM) advocates unitarism, non-unionism, networking and individual bargaining as core tenets to

manage people in contemporary society. In the face of growing challenges confronting traditional personnel management, the question that is frequently asked is whether collectivism in industrial relations has reached the end of the road.

This paper aims to historically review the extent to which collective bargaining process has influenced the implementation of agreements reached in resolving industrial disputes particularly between the Federal Government of Nigeria and Academic Staff Union of Nigerian Universities. It will also discuss the attitude of the Nigerian Government towards the use of collective bargaining in addressing the perennial problems of universities as well as the reasons responsible for such attitude, the consequences and make possible recommendations.

Conceptual framework/ Review of related literature

Collective Bargaining Process

Collective bargaining is the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith to negotiate wages, hours, and terms and conditions of employment; it is also, the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party. However, such obligation does not compel either party to agree to a proposal or require the making of a concession (Dessler & Varkkey 2013). In other words, both management and labour are required by law to negotiate wages, hours, and terms and conditions of employment “in good faith.” Good faith bargaining according to Tyler (2005):

is the cornerstone of effective labour-management relations. It means that both parties communicate and negotiate, that they match proposals with counterproposals, and that both make reasonable effort to agree. It does not mean that one party compels another to agree to a proposal. Nor does it require that either party make any specific concessions (although as a practical matter, some may be necessary).

Also, Carrell and Heavrin (2011) deduced that bargaining is not in good faith when it has the following characteristics:

1. Surface bargaining: Going through the motions of bargaining without any real intention of completing an agreement.
2. Inadequate concessions: Unwillingness to compromise, even though no one is required to make a concession.

3. Inadequate proposals and demands.
4. Dilatory tactics: The law requires that the parties meet and “confer at reasonable times and intervals.” Refusal to meet with the union does not satisfy the positive duty imposed on the employer.
5. Imposing conditions: Attempts to impose conditions that are so onerous or unreasonable as to indicate bad faith.
6. Making unilateral changes in conditions: This is a strong indication that the employer is not bargaining with the required intent of reaching an agreement.
7. Bypassing the representative: The duty of management to bargain in good faith involves, at a minimum, the recognition that the union representative is the one with whom the employer must deal in conducting negotiations.
8. Withholding information: An employer must supply the union with information, upon request, to enable it to understand and intelligently discuss the issues raised in bargaining.
9. Ignoring bargaining items: Refusal to bargain on a mandatory item

In collective bargaining processes, the negotiating teams are crucial; both union and management are to send a negotiating team to the bargaining table, and both teams usually go into the bargaining sessions having “done their homework” (Sloane and Witney, 2007). Union representatives will canvass the opinions of union members on their desires and confer with representatives of related unions.

Collective bargaining experts emphasize the need to weigh the union’s demands carefully. The mistake, most often, is that government/management enters the negotiations without understanding the financial impact of their proposals.

The process of collective bargaining recognizes bargaining items. This implies that labour law has set out categories of specific items that are subject to bargaining: these are mandatory, voluntary, and illegal items. Mandatory bargaining items include wages, hours, rest periods, layoffs, transfers, benefits, and severance pay. Voluntary (or permissible) bargaining items are neither mandatory nor illegal; they become part of negotiations only through the joint agreement of both management and union. Neither party can compel the other to negotiate over voluntary items. You cannot hold up signing a contract because the other party refuses to bargain on a voluntary item. Benefits for retirees might be an example. Illegal bargaining items, however, are

forbidden by law. A clause agreeing to hire union members exclusively would be illegal in a right-to-work state, for example.

Bargaining Stages

According to Dessler and Varkkey (2013), actual bargaining typically goes through several stages. First, each side presents its demands. At this stage, both parties are usually quite far apart on some issues. Second, there is a reduction in demands. Here, each side trades off some of its demands to gain others. Third, the subcommittee studies; the parties form joint subcommittees to try to work out reasonable alternatives. Fourth, the parties reach an informal settlement, and each group goes back to its sponsors. Union representatives check informally with their superiors and the union members; management/government representatives check with top management/government. Finally, once everything is in order, the parties fine-tune and sign a formal agreement.

Theoretical Framework

This paper is presented from the sociological standpoint of conflict theory. Conflict theory has its roots in the works of Engel and most significantly Karl Marx. Marx's sociological perspective which was hinged on social conflict began with the assumption of class distinction and conflict as features of society. Accordingly, he saw the history of all hitherto existing societies as that of class conflict (Dahrendorf, 1976). Other notable conflict theorists who came after Karl Marx built on the notion that change is ubiquitous; conflict is also ubiquitous; some elements in society function towards its disintegration; society is based on coercion of some of its members by others; relationship to authority determines the class and class conflict in society and conflict in society is dissociated rather than superimposed (Okeibunor & Anugwom, 2003). Similarly, Coser (1957) adopted a conflict frame of reference and sees interaction as largely conflict-oriented.

The relevance of this theory to this study is that the industrial relations atmosphere and particularly as it affects collective bargaining processes and implementation of agreements from the conflict perspective shows that there exists antagonism between the employers and employees due, largely, to what Marx, Dahrendorf and Coser described as the desire to outdo one another by each of the parties. According to Marx, while the bourgeoisie (in this case, those who have been ruling Nigeria) are out to cut cost through the payment of pittance to workers, reduced or poor funding, the infrastructural deficit in the institutions, interference in the running

of institutions among others, the workers or the proletariats are interested in wage maximization, improved facilities, better working conditions and adequate funding of the institutions. With this, conflict ensues and this further explains why Nigeria's industrial relations are characterized by antagonism right from the pre-colonial era through the post-colonial days. This explains why governments in Nigeria do not consult with the workers through the machinery of collective bargaining when it comes to wage determination, funding and improved working conditions. Thus, using the assumptions of the conflict theorists and the evidence which abounds in Nigeria, the government in Nigeria can be seen as an instrument of class domination and the domination is made worse by the situation of autocratic leadership as will be seen in lack of sincerity in fulfilling various agreements reached through collective bargaining with the Academic Staff Union of Universities, particularly from 2009 till date.

Methodology

The paper essentially utilized data from a review of the literature. Thus, related literature from research reports, government documents and memorandum from Federal Ministry of Education, Federal Ministry of Labour and Productivity, National Universities Commission (2009-2019), institutional publications, Academic Staff Union of Universities (ASUU) bulletins (2019) for 31 years, magazines and journals were used. Because of the above, content analysis was adopted for the information gathered.

Overview of the Federal Government and Academic Staff Union of Universities (ASUU) Industrial Disputes in Nigeria

ASUU was formed in 1978, a successor to the National Association of University Teachers formed in 1965 which covered academic staff in all the federal and state universities in the country (ASUU, 1978). The Union was active in struggles against the military regime during the 1980s. In 1988, the union organized a National strike to obtain fair wages and university autonomy. As a result, the ASUU was proscribed on 7th August 1988 and all its property seized. It was allowed to resume in 1990, but after another strike, it was banned again on 23rd of August 1992 (Nwala, 1994). In 1994 and 1996 (during the regime of Late Sani Abacha), the ASUU carried out an industrial action throughout the federation over good working conditions; it lasted for more than one year and led to the dismissal of staff. Also, in 1999, when Obasanjo came into power as a civilian President, ASUU went on a nationwide strike which lasted for five months before it was called off. In 2001, ASUU went on strike which lasted for three months. Also, in

2002, ASUU embarked on six months' strike action over bad working conditions (Doubleglist, 2013). Similarly, in 2009, ASUU embarked on six months strike demanding a raised salary structure and better working conditions. It is interesting to note that in 2009, the lack of commitment on the part of the Nigerian government to collectively bargain with labour was demonstrated in the ASUU/FGN face-off. It would be recalled that the Onosode-led Federal Government team entered into a bargaining process with ASUU, but when it got to the signing of the agreement, the government backed out. This led to the closure of universities for about four months. It took the effort and pressure of well-meaning Nigerians before the Nigerian Government returned to the negotiation table to re-negotiate and subsequently signed an agreement with ASUU. No wonder, it is still very difficult for the government to implement the agreement till date.

In 2010, the academic staff union of universities embarked on five months strike over non-implementation of the 2009 FG-ASUU agreement. On June 2013, ASUU also embarked on nationwide strike which lasted up to eight months on the ground that the 2009 FG-ASUU agreement and revitalization of universities with 1.3 trillion naira over six years had not been fulfilled as earlier promised (ASUU, 2013). However, considering the history of Nigeria industrial relations, particularly between the Federal Government and Academic Staff Union of Universities, one may conclude that failure to implement agreement has been a dominant factor in the industrial conflict.

It should be noted that the main reason for the adoption of the unilateral approach is to advance capital accumulation at the expense of labour. Iyaji (2010), opined that those in government are there among other reasons to accumulate capital that would be used to start a private business when they retire from public service. They spend less on education, on salaries and other emoluments and award huge contracts for projects that are not executed or that are poorly executed (Obasi, 2004).

ASUU is saying that government must invest in the revitalisation of federal universities. The amount spent on universities is too paltry when compared to what other countries like South Africa spend for the same purpose. Government has reneged all the agreements which it signed with ASUU in the past and ASUU is simply saying that the government must honour the agreements which it voluntarily entered on revitalization and funding of university education.

Ever since the beginning of the renegotiation of the ASUU-FGN 2009 agreement in 2017, the government side has shown an uncanny prowess for duplicity in an attempt to dodge its responsibilities. Government has shown no serious commitment whatsoever to invest in education. Three years after its inauguration, the Babalakin committee has not completed the singular task of renegotiating the 2009 ASUU-FGN agreement due to dirty antics from the side of the government.

Reasons adduced for not implementing agreements between FGN and ASUU include among others, the paucity of funds; blame game by successive governments; administrative bottlenecks; increase in government expenditure. However, for ASUU, lack of political will, insincerity on the part of government, corruption in the government at all levels and leaders of government being ignorant of the cost of running a university system have been the bane in implementing already reached agreement (ASUU, 2013). Collective bargaining is a fundamental right according to the ILO (1949) manual and it is a means through which employers and their organizations, trade unions can come to a collective agreement about fair wages and working conditions. Due to the interventionist tendencies of government in Nigeria industrial relations where issues are dictated by political interest and considerations, the beauty of collective bargaining as a means of economic, social, ecological, demographic and technological stabilization is not yet appreciated (Iyaji, 2010).

Conclusion and Recommendation

From the foregoing, it is evident that collective bargaining has not been put into good use. It has not been properly utilised to resolve the industrial disputes between the Federal Government and the Academic Staff Union of Universities. The serial infidelity in implementation of agreements has become a huge burden. Unilateral tinkering with a unanimous agreement between FG and ASUU has predominantly characterized FG-ASUU relationship, bedevilling the Nigerian university system with unending strikes. It reflects a critical industrial relations problem as witnessed in the incessant strike actions by the Academic Staff Union of Universities as a consequence of government's failure to collectively bargain and honour agreements reached through negotiation.

Therefore, policies aimed at governing the university system must be products of painstaking deliberations so that collective agreements are reached to guarantee workable as well as flexible solutions following acceptable international standards. Also, the machinery set up for collective

bargaining, such as Babalakin's committee should be made to work. The paper recommends that all critical issues in the university system should be addressed in an atmosphere of mutual respect between the stakeholders and that agreements reached between FGN and ASUU should be immediately implemented.

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