Collective Bargaining and Its Metamorphosis in The Workplace In Nigeria

FRANCIS C. ANYIM Ph.D
FCIPM., FNIM., FABS, FCAI
Department of Industrial Relations and Personnel Management,
Faculty of Business Administration
University of Lagos

IKEMEFUNA, CYRIL OSELOKA
Department of Industrial Relations and Personnel Management,
Faculty of Business Administration
University of Lagos

OGUNYOMI, PAUL OLUSIJI
Department of Industrial Relations and Personnel Management,
Faculty of Business Administration
University of Lagos

Abstract

All industrial relations systems have one element in common. This is the possibility of disagreements and disputes among various contending interests and the presence of recognized procedures to resolve the disputes either through compromise and/or negotiation. By so doing, industrial harmony and peace necessary for industrial growth and development can be achieved. The intention of this paper is to highlight the changes collective bargaining is currently undergoing in Nigeria due to economical recession and also its impact on processes and behaviour of the actors. It concludes with suggestions on ways to enhance union – management relations.

Keywords: Collective agreement, Collective bargaining, Collective relations, Industrial relations, Recession and Win-Win approach.

Introduction

Industrial relations practice emerged following the Industrial Revolution of the 18th and 19th centuries in Britain. According to Fajana (2000), the term can be defined broadly as a discipline concerned with the systematic study of all aspects of the employment relationship. It deals with everything that affects the relationship between workers and employers, perhaps from the time the employee joins the work organization until he leaves the job. The term also deals with basic issues of power relationship and sharing between those in authority and those whom authority is exercised in the workplace. It involves the study, description and analysis of the organization of trade unions and their relationship with the management (employers) of an organization within the context of set rules, regulations, laws, and technology in a particular environment. In a nutshell, industrial relations deals with labour problems both in substantive and procedural terms. These include conditions of work, hours of work, remuneration, grievances, disputes, level of production and efficiency, security of employment, safety, health, welfare at work etc which are determined through the process of collective bargaining.
Collective bargaining developed as a means of introducing democratic principles into employer–employee relationship. It is a process of decision making and its overriding purpose is the negotiation of an agreed set of rules to govern employment relationship between the bargaining parties. It is “collective” because workers are involved in it as group represented by individuals chosen for that purpose. The process is “bargaining” because it involves give and take and the making of contract. The resultant contract is called collective agreement” which regulates the relationship between the parties involved.

In the opinion of Fajana (2000), the role of collective bargaining in resolving industrial conflicts has made industrial relations to be viewed by writers like Ubeku (1983) as simply the process of conflict resolution. This writer went further to visualize collective bargaining as the main issue in industrial relations or even the bedrock on which it rests. However, industrial relations goes beyond collective bargaining as issues like the study of groups, interpersonal and individual behaviour, and labour relations in non-unionised work environment amongst others are outside the purview of collective bargaining. Thus collective bargaining is just one subject area while industrial relations encompasses the study of all aspects of people at work.

In Nigeria, the serious economic crises which the country is currently facing has created decline in industrial production and output, employment opportunities have fallen rapidly and the rate of unemployment correspondingly rising. This trend no doubt has affected industrial relations institutions adversely and constitutes the main environmental factor affecting collective bargaining process and also the behavioural pattern of the actors. This paper is an attempt to examine the challenges facing the parties in collective relations and their response to the emerging trends.

Objectives:
(i) To highlight the inevitability of change and need for co-operation by industrial relations actors for mutual benefits of all stakeholders;
(ii) To draw the focus of the parties from industrial action as alternative to negotiated settlement;
(iii) To promote the use of win-win approach in collective bargaining towards achieving a beneficial outcome; and
(iv) To suggest ways of enhancing labour–management relations.

Related Literature
There is no statutory definition of the term “collective bargaining” in Nigeria but it is conceded that the right to bargaining collectively by workers and employers is a corollary of the right to freedom of association. Furthermore, International Labour Organization, ILO (1960) describes collective bargaining as negotiation of working conditions and terms of employment between employers, a group of employers or one or more employers’ organizations on one hand; and one or more representative of workers organizations on the other with a view of reaching agreement. Furthermore, it states that the functions of collective bargaining can only be realized if and only bargaining takes place effectively. However, ILO (1960) itemizes a list of prerequisites for effective bargaining; favourable political climate; freedom of association; power relationship; joint authorship of rules, stability of workers’ organization; recognition of trade union, willingness of the parties to give and take; avoidance of unfair labour practices on the part of both parties; ability of the parties to negotiate in good faith and reach agreement and willingness to observe the collective agreement that emerged.

Leibowitz (2004) sees collective bargaining as a process by which unions and employers determine many of the terms and conditions of employment governing their workplace and attempt to negotiate resolution of
disputes that may arise. In Nigeria, the status of collective agreements remain generally legally unenforceable but binding in honour only except there is an express provision to the contrary either in the agreement or in the provisions of statute or regulation or by order of the Minister of Labour and Productivity. Omojiade (1989) lays credence to the fact that as a general rule, collective agreements are not enforceable as this is in line with the English practice which Nigeria inherited that free and voluntary collective bargaining should be the cornerstone of its industrial relations. Ogunkorode (1983) sees collective bargaining as an instrument for promoting industrial peace and consequently, it favours industrial democracy. However, he frowns at the legislation that bans employees of certain establishments from joining trade unions. These establishments include the Military, the Customs, the Prisons, Central Bank and others termed “Essential Services”. In his opinion, the policy tantamounts to paternalistic approach to industrial relations management.

In the public sector, there is dilemma arising from conflict of interest by the state and this, perhaps accounts for the reluctance or lukewarm attitude of the public employer to effectively employ collective bargaining in adjusting conditions of service in the public sector. Adeogun (1987) seems to lay credence to this as the largest employer of labour set up machinery for determination of workers’ wishes in relation to their wages. In similar vein, Banjoko (2006) sees government as having arrogated to itself the role which both employers and employees ought to perform in industrial relations. Government as a state authority set up machineries to negotiate wages/salaries and other conditions in the public sector but unfolding events in recent time had shown that government had taken over the system of wage fixing in Nigeria. It does not allow collective bargaining to play its rightful role rather government resorted to establishing Wages Tribunals and Commissions for wage fixation and reviews. Consequently, collective bargaining has been relegated to the background in the public sector in Nigeria (Imafidon, 2006). Kester (2006) observes that Nigeria has no definite and effective wage determination policy hence the industrial relations system has been witnessing a spate of industrial unrest and tensions at every attempt to adjust wages and over the years issues relating to wages have dominated industrial disputes and work stoppages in the Nigerian economy. Fashoyin (1985) on same subject points out that in Nigeria, the General Order (G.O) which represents the public service rules in which many conditions of employment are regulated in a sense constituted the equivalent of collective bargaining in the public sector. The main exception which is crucial is that unlike collective bargaining, no machinery is available for employees individually or as a group to participate in the determination of their working conditions and as such strike is unthinkable since the process of collective bargaining is hardly used. By this line of thought, Fashoyin (1985) seems to align himself with the theory of the “Sovereignty of State” in collective bargaining as adduced by (Omole, 1982; Osigwe, 1985) respectively.

The Imperative Of Organizational Change:
Two adages underscores the nature of change as a phenomenon: “no condition is permanent” and “the only consistent thing in life is change”. Change can be simply defined as passing from one phase; form or state to another. At corporate level, change is seen everywhere. It affects every firm, impacts on every aspects of their operations and takes place every time or at any time.
For firms, change may be reactive or proactive, formal or informal and even internally or externally driven. Essentially, the goal of planned change is to reposition the organization for survival, remain competitive and to enhance both internal and external customers’ satisfaction. Planned change affects structure, technology, task, people, strategy, system, operation, location, product market etc. Planned change involves environmental scanning through the process of SWOT analysis (S) = Strength (W) Weakness (O) Opportunity (T) Threat. The process raises three critical questions:

(i) Where is our organization now?
Where do we want our organization to be?; and
How does the organization get there?

To address the foregoing questions would require an alignment between the employees and the change agenda of the organization and the process will involve the following:

(i) Attitudinal transformation aimed at getting the employees favourably disposed to change.
(ii) Eliciting co-operation and creating win-win attitude.

Ultimate success of the change process and other measures for its acceptance are:

(a) Getting the employees’ involved
(b) Creating effective communication channel.
(c) Getting employees to have a stake in the organization.
(d) Packaging the change initiative in a laudable manner to engender hope.
(e) Adducing and articulating genuine and compelling reason(s) for change
(f) Designing a change friendly environment; and
(g) Guaranteeing Psychological safety of the employees. Change involves learning and unlearning process i.e knowledge acquisition, skills and attitude reconditioning. However and due to the fact that human being prefer known to unknown, change faces resistance by individuals or by formal and informal groups aimed at either frustrating, sabotaging or delaying the change initiative(s).

Collective Bargaining and Economic Recession

In the face of the current economic recession in Nigeria, industrial relations institutions especially collective bargaining is going through dramatic changes which seems to modify collective bargaining processes and actors’ behaviour in the collective relations. Evidently, the actors in industrial relations have been compelled by circumstances to face the emerging challenges realistically. The response to the challenges manifest themselves in form of sacrifices, such as reducing compensation package; lowering of expectations; both parties mutually working out and implementing innovative cost – cutting programmes; the union organizing press conferences and lobbies to support the employers’ effort in getting raw materials and spare parts as well as creating stringent work rules which can breed tension and sometimes conflict-prone. The by-product of these measures caused by recession have contributed immensely in redefining some aspects of labour relations with a marked effect on joint union – management co-operation at the shop-floor or grassroot level.

In addition to economic trends, bargaining is also influenced by law and the procedural agreements reached between parties. The recession to a great extent seems to have changed industrial relations scene especially structure and scope of collective bargaining; promotion of co-operation; emphasis shifting to job security rather than job satisfaction; frequent use of internal grievance procedure rather than statutory machinery amongst others. Fashoyin (1980) acknowledges that the economic recession appears to be revising the approach towards centrifugal relationship by returning to erstwhile enterprise bargaining on many issues. However, he added that the unfolding shift may not necessarily be an indication of permanent loss of interest in multi-employer bargaining, but could be seen as employers’ preference to find solutions to their industrial problems on individual basis as this was more likely to produce quicker and more amicable result. On same issue, Imoisili (1986) observes that bargaining at the plant level in the area of common understanding has yielded abundant fruits. For instance, many employers have resorted to using redeployment and short-time work to keep everybody busy. Some companies have increased the quality of products sold to their staff to augment the reduced take-home pay while some others even purchase essential commodities for sales to their staff at controlled prices. Cordova et al (1984) agree with other authors that the unions in time of crises prefer to move the level of bargaining up to whole branches of the economy so as to find protection in class
solidarity, while employers press for a decentralization of bargaining in order to profit from the reduction of union power at workplace. Co-operation as the most effective way of keeping enterprise alive has pushed the parties to play down the adversarial aspects of negotiation. Economic pressures imposed new attitude: employers were forced to accept certain forms of communication and participation while unions tended to forego some of their most militant aspect as protect organization (Cordova et al, 1984). In a nutshell, recession induced employers to show surprise willingness to share vital information and problems with unions. It made industrial relations to go beyond “bread and butter” issues, firms’ survival but a healthy and laudable movement towards workers’ participation.

Avoiding Alternative to Negotiated Agreement (Atna)
The significance of collective bargaining rests on workers having the right to contract with their employers as to wages/salaries and working conditions and employers recognizing the right. From democratic point of view, collective bargaining essentially allows employers’ share some administrative or management decision-making with trade unions. The alternative to collective bargaining is undemocratic as negotiation left entirely alone for employers can produce imposed terms and conditions of employment by employer.

On the side of state or government as chief regulator of the economy, sovereign and largest employer of labour, it fixes all terms and conditions of employment for its employees and sets minimum standards for both employers’/employees’ in the public and private sector of the economy. The state achieves this objective through the use of salaries/wages commission for wage fixation and reviews. In similar vein, employees could embark on industrial action or work stoppage as an alternative to negotiated agreement (ATNA) without exhausting all avenues for peaceful dialogue.

By every measure, none of the foregoing ATNA by parties could be conducive to industrial peace nor promote healthy labour-management relations. The use of industrial action has both costs and benefits to all the parties but to a large extent, it has a great bearing on the smooth and orderly development of the economy and maintenance of law and order in the society. It sometimes arouses public resentment because it may hurt the public more than the parties involved in the dispute. The problems emanating from industrial action include loss of production or output; disruption in essential services (oil, power, banking); capacity under-utilization; scarcity and high costs of essential items: unemployment and manpower contraction amongst others. For instance, a strike-prone country is not likely to attract foreign investors as this index is an important consideration for foreign industrialists and multinational corporations. For the foregoing reasons, it is therefore imperative for parties to work towards harmonious labour - management relationship and shun the use of alternative to negotiated agreement (ATNA) which is crisis-prone and inimical to healthy growth of the organization.

Adopting Win-Win Approach in Collective Bargaining
The concept of win-win focuses on agreeing to solution mutually satisfying to all parties. Through win-win relationship people could collaborate or co-operate with each other in getting what they want or promote individual’s interest. In practical term, the concept involves sharing problem together without recourse to threat to avoid loss to either party. Win-win promotes mutual understanding and strengthens interdependence. For instance, we need the support of others to succeed or “I succeed if I help you to succeed”.

© 2011 British Journals ISSN 2048-125X
In collective bargaining and labour relations process, win-win with emphasis on co-operation and accommodation is very necessary to minimize confrontation, disagreement/conflict and for the organization to prosper. Aside from “win-win” approach, there are other types of human interaction:

(i) **Win-Lose**: This is a competitive paradigm. One wins and the other poses e.g. a football match.

(ii) **Lose–Win**: This involves compromising one’s own needs) to other person with the sole aim of allowing peace to prevail or for one to get a credit.

(iii) **Win-win or No Deal**: Parties find it difficult to arrive at mutually beneficial solution. In other words, they agree to disagree agreeably i.e no deal. However, with the passage of time, posture of the parties could gradually shift and change for better.

The win-win approach has four steps:

(i) Parties should see the problem from others point of view (empathy).

(ii) The key issues and persons involved must be identified.

(iii) The result(s) that would make a full acceptable solution must be determined.

(iv) Parties must identify new options or strategies to achieve the envisaged result(s).

It must be borne in mind that win-win process is not a game that must produce a winner but a process that produces only winners or makes all parties winner.

Conflict situation in an organization is inevitable but in a win-win relationship, conflict can be managed constructively through:

(a) Co-operation and collective focus.

(b) Supportive communication.

(c) Being issues focused.

(d) Working together in open and conducive climate.

(e) Through compromise by making sacrifice of equal proportion. Interestingly, the changes the current economic recession has inflicted on collective bargaining institution in Nigeria industrial relations system is obviously supportive of the win-win principle. For deepened relationship in union-management relationship, there is need for parties to “give as well as take”. By so doing, all the stakeholders or parties will be winner from the outcome of the transaction.

**The Way Forward For Union-Management Relations**

Given the relative scarce resources and the biting effect of the current economic recession, the underlisted suggestions could assist in enhancing labour – management relations:

(i) The union should inculcate in its members work ethics extolling the dignity of labour i.e-fair day’s work for a fair day’s pay.

(ii) Parties should give pride of place to the rules and regulations of the organization and ensure that they are religiously upheld and implemented.

(iii) Parties should have belief in high productivity as survival strategy and individual and high performing team rewarded commensurately.

(iv) There is need for re-orientation of employees on disciplinary issues and belt-tightening measures in a bid to mitigate the effect of tie economic melt-down.

(v) Parties should understand that both employer and employees have stake and are working towards a common objective in the organization.

(vi) There must be effective use of communication and information dissemination within the length and breadth of the organization to avoid grape vine, suspicion, rumour mongering, tension, uncertainty etc that could breed industrial discontent or unrest.

© 2011 British Journals ISSN 2048-125X
(vii) The union must reduce to barest minimum intra and inter conflicts which could weaken the internal democracy of the union and lead to factionalization. Management may have problem in determining which faction to deal with.

(viii) Parties must exhibit care and personal diligence in the use of company properties including funds and equipment bearing in mind the need for cost effectiveness in view of the recession.

(ix) Parties must see each other as partners in progress by promoting the slogan “co-operation is better than confrontation” and “negotiation/consultation better than strike, lockout or riot”.

(x) Parties should keep in mind the need to abstain from hard line posture of “take it or leave it” but to adopt the spirit of “give and take” during negotiation in order to promote emotional intelligence, tact and diplomacy in their day to day relationship.

(xi) Parties should shun all social/human vices that could dent the image of the organization and be inimical to cordial relationship e.g. corruption, fraudulent acts, favouratism etc.

Conclusion
In a declining economy, changes arising from the recession may pose great challenge to both management and union. The changes in some respects present opportunities which the parties must strategise to grab and make necessary adaptations. In some occasion, changes could create unpalatable situations, however, parties must devise means to combat the problems in the spirit of the win-win approach which in turn can propel the organization to greatness and present opportunities for the mutual benefits of all stakeholder.

Conclusively, there is the dire need for parties to embrace change as a corporate culture and also to continuously remain in tune with modern trends. That is likely to be the way and the way out to tackle the challenges created by recession in union management relations.

References


