



# Restricted Collective Bargaining and Wage-Related Industrial Unrest in the Public Service: The Nigerian Case

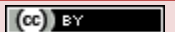
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## Abstract

Collective bargaining has been regarded as the best method for determining wages and other employment conditions of workers. Unfortunately, the collective bargaining machinery is not well-established and entrenched in the public service in Nigeria. As a result, it is rarely employed as an instrument of wage determination and other working conditions. The government prefers to use direct intervention through wage commissions, semi-judicial tribunals, and wage committees or even government proclamations and pronouncements for fixing wages and other conditions of employment for its employees in the public service instead of collective bargaining. This situation has largely been blamed for the incessant wage-related industrial unrest in the public service in Nigeria that manifests mainly in the form of strike actions. All the aforementioned methods do not give workers room to freely negotiate their employment conditions through their representatives. This explains why recommendations of wage commissions and government pronouncements over wages and other conditions of employment are usually greeted with protests and widespread agitations by workers in the public service. The paper therefore contends that the limited use of collective bargaining machinery for the determination of wages and other conditions of work of employees influences the frequent wage-related industrial unrest in the public service in Nigeria and unless the collective bargaining machinery is deeply entrenched and frequently used for wage determination and settling other employment conditions it would difficult to maintain industrial peace and harmony.

**Keywords:** Collective bargaining, Wage, Wage commission, Industrial unrest, Public service, Government.



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## Contents

1. Introduction .....	59
2. Conclusion.....	62
References .....	63

## 1. Introduction

Although, there is a great diversity among countries in the legal framework governing employment relations, it should be recognized that in many developing countries including Nigeria, the legal framework is still considered more restrictive especially in the Public Sector (Tajudeen and Kehinde, 2007). The experience of Nigeria in employment relations reveals a clear reluctance by successive governments to adhere to the Principle of Voluntarism. Instead, political process seems to have superseded free negotiation between employers and employees (Yesufu, 1984; Tajudeen and Kehinde, 2007). According to Fashoyin (1987), the Post-colonial government of late Sir Abubakar Tafawa Balewa adopted the Principle of Voluntarism as a guide in its industrial relations policy. Through this policy, the government sought to encourage the use of collective bargaining as a vehicle for settling wages and other conditions of employment in preference to an outright state intervention. The reason for adopting the Voluntarism Philosophy was based on the contention that the long term interest of government, employees, employers as well as trade unions rested on the process of mutual consultation and discussion, which was the foundation of industrial democracy (Fashoyin, 1987).

Collective bargaining took a new turn when the Military came to power in 1966. The Government initiated a series of decrees that virtually upheld the institution of Wage Tribunals as a means of settling industrial disputes thereby abrogating the principle of collective bargaining based on voluntarism. Scholars of industrial Relations (Ubeku, 1986; Aderogba, 2005) have adjudged the use of the collective bargaining machinery in determining wages of employees and other conditions of work the best means. Unfortunately, this machinery has been grossly underutilized as a means of determining wages and other conditions of work in the entire Public Service in Nigeria, a situation that obviously encourages industrial unrest that manifests itself mainly in the form of strike actions (Yesufu, 1984; Kester, 2006).

The problems of collective bargaining as an instrument of wage determination in Nigeria in terms of its restricted nature and the relatively large number of workers outside its coverage emanate from the developments in the national polity (Nigeria Labour Congress, 2008). Ubeku (1986), for instance argues that while the employers and the unions may establish their procedural and substantive rules through the collective bargaining process in Nigeria, that exercise must be subjected to the control of government. Kester and Ayantunji (2002) also opine that conditions of employment of civil servants in Nigeria are practically determined outside free negotiation. The bargaining concept as known in the Private Sector and the right to strike cannot be applied without modification. Omole (1987) also submits that if collective bargaining in the Private Sector could be regarded as a system of rule making and wage determination in Nigeria, it can hardly be considered the same in the Public Sector. More so, according to Nigeria Labour Congress (2008), a large number of unionized workers particularly in the Public Sector are not covered by formal and well structured bargaining machinery which often lead to ad hoc negotiations occasioned by industrial crisis. Most government Parastatals with few exceptions have no collective bargaining machinery, nor do unions negotiate with their managements. Yet, the legislation which established these Parastatals empowered their Board or Management to independently review the conditions of service. In the case of the civil service, the age-long negotiation machinery became dormant in the 1990's and was only resorted to during severe crisis (Nigeria Labour Congress, 2008; 2009). Ghosi (1989) also observes that in the Nigeria context, collective bargaining is a form of direct intervention. The Government has been directly appointing Wage Commissions for the determination of wages and salaries of public sector employees. At the same time, Commissions' awards restricted to the Public Sector usually result in high incidence of trade disputes in all sectors of the Nigeria economy. Consequently, Wage Commissions serve to weaken the collective bargaining system in Nigeria (Ghosi, 1989). It is necessary therefore to investigate the relationship between the limited use of collective bargaining in determining wages of employees and frequent industrial unrest in the Public Service in Nigeria.

### 1.1. Clarification of Concepts

Some important concepts used in this paper are hereby clarified so as to remove any ambiguities about their meaning within the context of the work. The concepts are as follows;

**Collective Bargaining:** This refers to the process of negotiation between representatives of workers and employers in respect of the terms and working condition of employees, such as wages, hours of work, grievance procedure and so forth. According to Singh (2013), "collective bargaining typically refers to the negotiation, administration and interpretation of a written agreement between two parties that covers a specific period of time. This agreement or contract lay out in specific terms the conditions of employment, puts some limits on employees and sets limits on management's authority". It is a process of accommodation between two institutions which have both common and conflicting interests. The process is 'collective' because representatives of employees and employers in groups rather than as individuals solve issues relating to terms and conditions of employment. The term 'bargaining' refers to evolving an agreement using methods like negotiations discussions, exchange of facts and ideas, rather than confrontation (Singh, 2013). The process of collective bargaining is bipartite in nature, which means that the negotiations are between the employers and employees, without a third parties intervention. Divergent view points are put forth by the parties concerned, and through negotiations, a settlement is reached with the objective of arriving at an agreement.

**Wage;** employers usually see wage as all costs incurred for the recruitment and use of labour in their enterprises. These include direct wages, fringe benefits, social security benefits paid to the employees and other costs incurred for occupational safety and health and human resource development. Employers are therefore concerned with the total cost of labour. Workers on their own see wages as the direct payment received for work done (Kessler, 1995; 2000). Duncan (1989) and Poole and Jenkins (1998) posit that workers are concerned with the immediate quantum of disposable income, although they recognize that fringe benefits associated with terms and conditions of employment and all other benefits in cash or kind are also part of wages. The types and quantum of fringe benefits vary with countries. It is determined through government intervention with legislation and collective bargaining between

employers and trade unions. It is therefore a result of tripartite consultation and agreement (Milkovitch and Newman, 1990).

According to Armstrong (1999), the main components of payment systems include; basic pay, productivity incentives, social security, fringe benefits such as medical benefits, paid leave and allowances. Some of the allowances include rent in lieu of quarters, basic amenities for electricity, water, transport, subsidies for education of children, and Domestic Assistants (Armstrong, 1999; Bratton, 1999).

Industrial unrest; is a generic term that covers all forms of industrial actions undertaken by workers and employers to express their dissatisfaction in the workplace (Anugwom, 2007). Although, strike is the most popular form of the manifestations of industrial unrest in any society, there are other forms, which do not attract much notice or public attention. Yet this latter category accounts for a significant proportion of labour - Management dispute (Fashoyin, 2005). These other forms through which industrial unrest manifests itself are mainly used by workers and their unions as pressure methods on the employers to win their demands (Fashoyin, 2005). The types of action in this category include, work-to-rule, over time ban, lock-in/out, and intimidation (Fashoyin, 2005).

Work-to-rule aims at the restriction of output through deliberate reduction in the pace of work. In Nigeria, for instance, Work-to-rule (popularly referred to as 'go slow') actions have featured prominently in labour-management relations for a long time, although they became a regular instrument of union bargaining strategy following the no-strike provision of the wartime legislation (Yesufu, 1984; Ubeku, 1986; Fashoyin, 2005).

The overtime ban is a union strategy, which seeks to impose additional costs on the employer if more production is needed. Overtime ban is an effective means of securing the employer's concession. Where, however, the union embarks on overtime ban, this has a disruptive effect on efficiency (Fashoyin, 2005). In Nigeria, for instance, this strategy is used in the banking industry where normal work usually continues for several hours after the close of banking services to the public (Yesufu, 1984; Fashoyin, 2005).

The lock-in/out is an action in which employees physically 'take over' the company premises, either by locking-in or locking-out the management staff, thus denying them access to or exit from the premises (Fashoyin, 2005). Unlike the first two forms, this action is often an indication of extremely unhealthy labour relations, which sometimes suggests excessive use of union power. In many cases, union leaderships do not sanction this strategy (Fashoyin, 2005).

Intimidation aims at putting the employer in a bad light by doing things, which are embarrassing or antithetical to normal work behaviour. This form of industrial action is a more recent phenomenon and now commonly used in public – oriented organizations (Ubeku, 1986; Fashoyin, 2005). This form of industrial action is used to induce the employer to negotiate. In quite a number of cases, the foregoing forms of industrial action have been used to induce the employer to negotiate. In quite a number of cases too, the foregoing forms of industrial action have also been as effective as the strike (Ubeku, 1986; Fashoyin, 2005).

Strike action is the most common form of industrial unrest in Nigeria and remains the most used instrument by organized labour in Nigeria for pushing through their demands from employers (Yesufu, 1984). Strike indicates a breakdown of cordial relationship between labour and management and is usually the one aspect of industrial relations that invites the most negative commentary. Yet the strike, distasteful as it is, performs various useful functions for the two sides of industry (Ubeku, 1986). When a union calls out its members on strike, it is in the belief that the strike will exert pressure on the employer (and sometimes indirectly on government) to take a desired action, such as conceding a demand for improvement in terms of employment, or ameliorating an unsatisfactory working condition. All strikes, whether orthodox or political, fit into this description (Yesufu, 1984; Fashoyin, 2005). In many cases, non-strike actions serve as the first phase of an action package that ultimately ends up in a strike.

There are also cases where workers have been locked out of the company premises by management. Lockout is actually the employers' counterpart of the strike. The company gates are locked, thereby preventing workers from entering company premises (Fashoyin, 2005). Lockouts are not common occurrence in labour- management relations in Nigeria. In fact, it appears that most lockouts that occur are preceded by strike action or other forms of industrial action. Oftentimes, when workers embark on an action and the management or the third party intervention has failed to resolve it, they might find it expedient to lock out the workers, either to reduce overhead costs or to safeguard lives and properties. For this reason, it is not usually easy to separate the two phenomena in labour – management relations (Fashoyin, 2005).

Yesufu (1984) observes that industrial unrest can also manifest in the form of covert or unorganized action. In his own words "the signs of un-organized discontent that result from each individual taking whatever step he can in pursuit of his own happiness are; a high rate of labour turnover, absenteeism, and general inefficiency and unwillingness to work".

Public Service; refers to service provided by government to people living within its jurisdiction, either directly (through the public sector) or by financing provision of services. In other words, service provided or supported by government or its agencies (Wikipedia, 2014). Service performed for the benefit of the public, especially by a non-governmental organization. Public service also refers to the business of supplying an essential commodity, such as water or electricity, or a service, such as communication, to the public.

## **1.2. Collective Bargaining and Wage-Related Industrial Unrest in the Public Service in Nigeria: A Theoretical Review**

The structure of collective bargaining refers to a system of negotiations in industrial relations, which includes negotiating wages, or remuneration of labour (Aiyede, 2002). Ordinarily, there are two patterns of interaction between the parties in industrial relations. These are the tripartite and bipartite patterns. Tripartite interaction involves three parties, namely, government, employer and labour. Government may interact as state authority or as employer. In the tripartite interaction, the government negotiates or consults with employers and workers' representatives on important industrial relations policies and other macroeconomic policies that touch on fundamental issues of development (Adesina, 1995; Aiyede, 2002). Bipartite interaction involves two parties in



industrial relations and the major issues discussed and negotiated usually centre on wages and salaries, and working conditions. The interaction may be between government and employers, government and labour, or between labour and employers. When government negotiates with labour in this role, it acts in its capacity as an employer (Adesina, 1995; Aiyede, 2002).

In Nigeria, Whitley Councils were the first collective bargaining institutions set up for the public service in 1948 by the government to provide avenues for workers participation in determining the terms and conditions of service in the Public Sector (Aiyede, 2002). Whitley council was an all embracing machinery of a national scope covering federal, state, and (sometimes) local government employees. Thus, it constituted a centralized form of collective bargaining (Yesufu, 1984; Otopo, 1992). According to Fashoyin (2005) Whitley system failed in many government establishments after barely a year of its existence for some reasons. First, instead of serving as bargaining machinery, they were used as consultative bodies. Second, there were problems of representation on both sides, indecision, redtapsism and lack of government support. Third, they were rendered useless because decisions on wages and conditions of employment were generally made by semi judicial Wage Commissions, particularly for public sector employees.

Yesufu (1984) and Omole (1991) report that it was not until 1963, when the government faced several pressures from trade unions for review of wages and working conditions that a modification of the structure and scope of collective bargaining was attempted in Nigeria. This was through the Morgan Commission of 1963-1964 set up by the federal government. The commission sought to remove the shortcomings of the Whitley councils and noted that collective bargaining between government and employees, through Whitley councils, has hardly been effective. According to Aiyede (2002), and Aminu (2008), institutions to support collective bargaining such as the National Wages Advisory Council earlier recommended by the Morgan Commission were eventually established in 1965. These institutions faced the same fate as the earlier Whitley councils and were moribund during the national crisis and civil war of 1966-1970.

Agitation by workers for improvements in their working conditions increased immediately after the civil war, the Federal Government set up the Adebo commission (1970-1971) which upheld the position of the Morgan commission that collective bargaining was the most desirable means of determining wages and conditions of work. Accordingly, it revived the Whitley council system, providing for skilled and unskilled workers. It also made case for the use of collective bargaining for both the public and private sectors of the economy on the ground that it will keep wages in proper national balance both in comparison between sectors, and in relation to available real resources (Sokundi, 1992; Adesina, 1995; Aiyede, 2002). Sokundi (1992) opines that the commission recommended that Wage Boards and Industrial Councils be provided as machinery for the determination of wages and conditions of service for sections of the labour force that are outside the purview of collective agreements and areas where wages are unreasonably low. According to Fashoyin (1987), following the approval of the Adebo commission's report, the Federal Military Government issued the Wages Board and Industrial Council Decree No.1 of 1973 to repeal the Wages Ordinance of 1957. This provided the legal bases for the Industrial Wages Board and National Wages Board that were established for the private and public sectors respectively.

In 1974, the Udoji Commission recommended a unified civil service structure and called for a revival of the bipartite machineries for negotiation in the Public Sector through the creation of Public Service Negotiating Councils (Ubeku, 1986; Olugboye, 1996). The Udoji Commission did not leave the adjustment of wages to these councils, but went ahead to award increments. The Civil Service was thrown into confusion as several complaints were leveled against the new grades and salary scales announced in the Government White Paper on the Udoji report. According to Fashoyin (1980), the establishment of Productivity, Prices and Incomes Board (PPIB) that had earlier been recommended and emphasized by the Adebo and Udoji Commissions respectively would have been supportive of collective bargaining, but was made Moribund when the military government imposed a wage freeze in 1976, the same year the board was inaugurated.

Fashoyin (1980) and Aderogba (2005) maintain that as for the bipartite negotiating councils, the government did not make recourse to them in wage determination, thereby giving the impression that it believed that collective bargaining was unfit for setting wages and conditions of service in the public sector. Making salary structure and wage levels uniform across the public sector also foreclosed collective bargaining at the level of the various governments and parastatals with the exception of the centre (Aiyede, 2002).

Aderogba (2005) and Kester (2006) submit that collective bargaining plays a number of roles in fostering good labour-management relations. One of such roles is its standard setting function. Together with the law, it constitutes the main source of regulations governing wages, conditions of work, mutual relations and industrial relations generally. It provides a means of determining, by voluntary negotiations between the parties concerned, the wages and conditions of work that would be applicable to the employees covered by the collective agreements. The Federal Government of Nigeria seems to be unaware of this, because it believes it can do whatsoever it likes, arbitrarily, in matters of collective bargaining. It is therefore a general opinion among Scholars of Industrial Relations that the problems associated with wage determination in the public service that frequently result in industrial unrest is because of the restrictive use of collective bargaining machinery in wage determination (Yesufu, 1984; Ubeku, 1986; Adesina, 1995).

The principle of sovereignty makes the government in Nigeria the sole determinant of wages and other conditions of service at least in the public sector. This is why government sets up Wage Tribunals towards wages or increase in wages of workers. This method of industrial relations, means that government dictates wages and conditions of service, whether it is accepted by workers and their unions or not (Yusif, 2008). Again, this is indeed contrary to the principle of collective bargaining, which is recommended by the International Labour Organization as the only democratic path for civilized Industrial Relations System (Kester, 2006). While the principle of voluntary collective bargaining is not given a chance to operate as a result of excessive state intervention in Industrial Relations System, the strategy of state intervention does not allow peace in the system. Therefore, a confused shift in government policy emerged. This is what is called the principle of limited intervention, which is a combination of

some elements of principle of voluntary collective bargaining and that of state intervention (Yesufu, 1984; Ubeku, 1986; Yusif, 2008).

The theoretical thrust of this paper is the Marxian theory which is associated with the great German Philosopher Karl Marx. Marx (1844/1964) asserts that capitalism entails the need for companies to be profitable. If they are not, capital could not be invested in them and they would not survive. To be profitable, they have to be based on the extraction of surplus value (the difference between the value of the work done and the wages paid) and the exploitation of workers.

Marx (1844/1964) maintains that only labour produces wealth. Thus, wealth in capitalist society is produced by the labour power of the workers. However, much of this wealth is appropriated in the form of profits by the capitalists who own and control the means of production. The wages of workers are well below the value of the wealth they produce. There is therefore a contradiction between the forces of production, in particular the labour power of the workers which produces the wealth, and the relations of production which involves the appropriation of much of that wealth by the capitalists who form the ruling class. Marx (1844/1964) further postulates that work which entails the production of goods and services holds the key to human happiness and fulfillment, as work is the most important and the primary social activity. As such, it can provide the means to either fulfill people's potential or to distort and pervert their nature and their relationship with others. Like their products, workers are reduced to the level of a commodity. A monetary value is placed on their work and costs of labour are assessed in the same way as the cost of machinery and raw materials. Like the commodities they manufacture, workers are at the mercy of market forces of the law of demand and supply (Marx, 1844/1964).

The Marxian theory adequately captures the situation in Nigeria. The situation in Nigeria is that the political and the administrative elite, who form the ruling class and are also in the minority, have cornered the common wealth, leaving majority of the people most of who belong to the working class impoverished. In Nigeria, the difference in pay between managers and ordinary workers is one of highest in the world. This difference has also been increasing over the years (Nigeria Labour Congress, 2008; 2009). At the same time, owners and managers of banks, top government officials and members of the political class have seen their pay and wealth swell astronomically while workers have had to survive on starvation wages. This has frequently led to workers demanding higher wages, a situation that generates industrial unrest. This is because workers must fight back so as to get at least minimal increases in their wages (Nigeria Labour Congress, 2008; 2009). Government never feels comfortable negotiating with workers for fear that workers would insist on getting all that they are entitled to, and as a result government uses direct intervention mainly through wage commissions to determine wages and other employment conditions of employees in the public service. The recommendations of wage commissions are rarely satisfactory to workers because they hardly make any inputs into the deliberations of wage commissions and even when they do, their inputs are usually not binding on the commission. This situation frequently generates industrial unrest in the public service.

Many of Marx critics have argued that history has failed to substantiate Marx's views on the direction of change. Thus, they claim that class conflict, far from growing in intensity, has become institutionalized in advanced capitalist societies. Rather than moving towards a polarization of classes, they argue that the class structure of capitalist societies has become increasingly complex and differentiated. In particular, a steadily growing middle class has emerged between the ruling class and working class people (Haralambos and Holborn, 2004). In spite of these criticisms the Marxian theory still provides the best insight into the subject of this investigation.

### **1.3. The Way Out**

All the major actors in the country's Industrial Relations System especially the Government should see Collective bargaining as the only means of achieving industrial peace and harmony and also raising the productivity of workers. This is because collective bargaining has the advantage that it settles issues through dialogue and consensus rather than through conflict and confrontation. Collective bargaining usually represents the choices or compromises of the parties themselves.

Government needs to decidedly encourage collective bargaining by re-examining its current imposition of compulsory arbitration and limiting its use to exceptional cases that defy meaningful collective bargaining exercise. Moreover, government should always endeavour to respect agreements collectively reached with its employees. If it thinks that it is necessary to get involved in any negotiation, then it should be prepared to honour any agreement reached in such a negotiation. This ensures that collective bargaining remains an effective and viable method of determining wages and other employment conditions of workers in the public service.

Furthermore, the imposition of income guidelines also interferes with the collective bargaining process and therefore should be removed. Although, it may be argued that this reduces inflationary trends in the economy, yet its removal is necessary because imposition interferes with union's autonomy and dictates what is to be bargained for before the actual negotiation. It is an established fact that if the worker is restricted, he may work out other means to take what he thinks is due to him such as pilfering, corruption, absenteeism, stealing and so on.

Collective bargaining should always be encouraged because it is a form of participation. Both parties participate in deciding what portion of the 'cake' is to be shared by the parties entitled to a share. At the end of the agreed term labour again insists on participating in deciding what share of the fruits of their labour should be apportioned to them. Collective bargaining is a form of participation because it also involves a sharing of rule making power between employers and unions, and this has eroded areas that in earlier times were regarded as management prerogatives, for instance, transfer, promotion, redundancy, discipline, modernization, and production norms.

## **2. Conclusion**

Collective bargaining has been adjudged the best method of fixing wages of workers and other working conditions. This is because it gives employers and representatives of workers the opportunity to sit down on a round table and iron out the employment contract of workers. If there are grey areas in the contract, they are also peacefully resolved without resorting to confrontation. When there is collective bargaining, the parties involved also realize at

some points in the course of the negotiation that sacrifices and shifting of grounds would be necessary so as to have successful bargaining process. The agreements reached at the end of a successful bargaining become sacrosanct because all the parties are expected to abide by them, and the agreements would also specify when the next negotiations will be held. Like this it becomes possible to maintain industrial peace to a very large extent and industrial unrest is reduced to the barest minimum.

Unfortunately, the above scenario is not what is obtainable in the public service in Nigeria where the government is the only employer of labour. Instead of collective bargaining, government prefers to use wage commissions, government pronouncements and direct interventions in determining wages of workers and other conditions of employment. These are actually deliberate actions on the part of government to continue to shortchange workers. Government knows that when there is negotiation workers will demand what is rightly due to them. Even when government agrees to negotiate as a result of pressure from workers, it hardly honours the agreement and this is the situation that often leads to industrial unrest in the public service. But of course, this is in line with the repressive character of the Nigerian state with very rigid class structures that reinforced at every point in time.

Well-established and deeply entrenched collective bargaining machinery will obviously reduce the frequency of wage-related industrial unrest in the public service in Nigeria. This is because it gives both the government and its employees (represented by their unions) the opportunity to resolve contentious and thorny issues pertaining to wages and other employment conditions without confrontations thereby avoiding industrial unrest.

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