



EFFECTIVE COLLECTIVE AGREEMENT AS A PANACEA FOR INDUSTRIAL DEMOCRACY IN NIGERIA: A CRITICAL APPRAISAL

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ABSTRACT

The stability of labour relations within any democratic society depends substantially on the existence of effective mechanisms for dialogue, negotiation, and consensus-building between employers and employees. Collective bargaining and collective agreements have emerged globally as central pillars for the attainment of industrial democracy, social justice, and industrial harmony. In Nigeria, however, despite constitutional guarantees and statutory recognition of trade unionism and collective bargaining, industrial relations continue to experience persistent conflicts arising from weak enforcement mechanisms, governmental interference, economic instability, and the declining strength of organized labour. This article critically examines collective bargaining and collective agreements as indispensable instruments for the realization of industrial democracy in Nigeria. The paper analyses the conceptual foundations of collective bargaining, collective agreements, and industrial democracy, while also examining the statutory and institutional frameworks regulating labour relations in Nigeria. The article further evaluates judicial attitudes toward collective agreements, particularly the controversies surrounding their enforceability. Considerable attention is devoted to the challenges confronting collective bargaining in contemporary Nigeria, including anti-labour practices, globalization, casualization of labour, multiplicity of trade unions, political interference, and technological disruptions in employment relations. The article argues that effective collective agreements remain one of the most viable panaceas for industrial democracy because they promote workers' participation, industrial peace, workplace fairness, and economic productivity. The work concludes by recommending legislative reforms, institutional strengthening, judicial activism, and improved social dialogue as essential measures for enhancing the efficacy of collective bargaining in Nigeria.

KEYWORDS: *Collective Agreement; Industrial Democracy; Collective Bargaining; Trade Unionism; Labour-Management Relations Workers' Participation in Management; Labour Rights; Nigerian Labour Law.*

1.0 INTRODUCTION

The evolution of labour relations in modern societies reflects the continuous struggle to balance economic productivity with the protection of workers' rights and welfare. Historically, employment relationships were characterized by inequality of bargaining power between employers and employees. Employers, owing to their economic dominance and control over production, dictated the terms and conditions of employment, while workers had little or no meaningful input in determining workplace policies. This imbalance gave rise to organized labour movements and the eventual emergence of collective bargaining as a mechanism for protecting workers against



exploitation and arbitrary managerial authority.¹ In contemporary labour jurisprudence, collective bargaining has become an essential instrument for promoting industrial harmony, social justice, and democratic participation within the workplace. It is through collective bargaining that workers, acting collectively through trade unions, negotiate with employers on matters affecting their conditions of employment, wages, welfare, and job security.² The outcome of such negotiations is usually embodied in a collective agreement which regulates the rights and obligations of both parties.

The significance of collective agreements extends beyond the mere regulation of employment terms. They represent a practical manifestation of industrial democracy by enabling workers to participate actively in workplace governance and decision-making processes. Industrial democracy, in this regard, seeks to democratize managerial authority by ensuring that employees are not treated merely as instruments of production but as stakeholders whose voices deserve recognition in industrial administration.³ In Nigeria, collective bargaining occupies an important position within labour relations. The Nigerian Constitution guarantees freedom of association and recognizes the rights of workers to organize themselves into trade unions.⁴ Similarly, several statutes such as the Labour Act,⁵ Trade Unions Act,⁶ Trade Disputes Act,⁷ and National Industrial Court Act⁸ provide legal and institutional frameworks for collective labour relations.

Despite these legal frameworks, labour relations in Nigeria continue to face serious challenges. Industrial disputes between government and labour unions have become recurrent features of the Nigerian economy. Strikes by university lecturers, healthcare workers, judicial staff unions, and public sector employees have exposed the weaknesses of collective bargaining structures and the poor implementation of collective agreements.⁹ The enforceability of collective agreements has also generated significant judicial controversy in Nigeria. While Nigerian courts traditionally regarded collective agreements as “gentlemen’s agreements” lacking binding force unless incorporated into individual contracts of employment, recent labour jurisprudence, especially under the National Industrial Court, has demonstrated a more progressive approach aimed at strengthening industrial justice.¹⁰

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¹ O Kahn-Freund, *Labour and the Law* (Stevens & Sons 1977) 17.

² A Emiola, *Nigerian Labour Law* (7th edn, Emiola Publishers 2015) 233.

³ T M Yesufu, *The Dynamics of Industrial Relations: The Nigerian Experience* (University Press Plc 1984) 78.

⁴ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 40.

⁵ Cap L1 Laws of the Federation of Nigeria 2004.

⁶ Cap T14 Laws of the Federation of Nigeria 2004.

⁷ Cap T8 Laws of the Federation of Nigeria 2004

⁸ National Industrial Court Act 2006.

⁹ T Fashoyin, *Industrial Relations in Nigeria* (Longman Nigeria Plc 1992) 201.

¹⁰ *Nigeria Arab Bank Ltd v Shuaibu* (1991) 4 NWLR (Pt 186) 450 SC



This article therefore undertakes a critical examination of effective collective agreements as a panacea for industrial democracy in Nigeria. The work explores the conceptual foundations, legal framework, judicial authorities, challenges, prospects, and reform strategies relating to collective bargaining and collective agreements.

2.0 CONCEPTUAL CLARIFICATIONS

2.1 Collective Bargaining

Collective bargaining refers to the process through which employers and employees negotiate the terms and conditions governing employment relationships. It is essentially a process of dialogue, consultation, and negotiation aimed at reaching mutually acceptable agreements on labour matters.¹¹

The International Labour Organization (ILO) Convention No. 154 defines collective bargaining as:

All negotiations which take place between an employer, a group of employers or one or more employers' organizations on the one hand, and one or more workers' organizations on the other hand, for determining working conditions and terms of employment.¹²

Collective bargaining is founded on the recognition that individual workers are often economically disadvantaged when dealing with employers. Through collective representation, workers are able to negotiate from a stronger position and secure improved employment conditions.¹³ Collective bargaining performs several functions within industrial relations. First, it serves a protective function by safeguarding workers against exploitation and arbitrary managerial actions. Second, it performs an economic function through the negotiation of wages and benefits. Third, it performs a political function by redistributing power within the workplace. Finally, it performs a regulatory function by establishing workplace rules and grievance procedures.¹⁴

In *Union Bank of Nigeria Ltd v Edet*,¹⁵ the Court of Appeal recognized collective bargaining as an accepted mechanism for regulating labour relations and resolving industrial conflicts. Similarly, in *National Union of Hotels and Personal Services Workers v Owena Hotels Ltd*,¹⁶ the court acknowledged the importance of collective bargaining in maintaining industrial peace and protecting workers' interests. Collective bargaining may take several forms including:

¹¹ A N Nwazuko, *Introduction to Nigerian Labour Law* (MIJ Publishers 2001) 145.

¹² International Labour Organization Convention No 154 on Collective Bargaining 1981, art 2

¹³ Kahn-Freund (n 1) 25.

¹⁴ S Fajana, *Industrial Relations in Nigeria* (Labofin Publishers 2000) 102.

¹⁵ (1993) 4 NWLR (Pt 287) 288 CA.

¹⁶ (2001) 17 NWLR (Pt 741) 269 CA



(a) Single-Employer Bargaining

This occurs where a trade union negotiates directly with a single employer concerning the conditions of workers employed by that employer.

(b) Multi-Employer Bargaining

This involves negotiations between trade unions and groups of employers or employers' associations within a particular industry.

(c) Sectoral Bargaining

This refers to negotiations covering an entire industrial sector, such as the education, health, or oil and gas sector.

(d) Centralized Bargaining

This involves negotiations conducted at the national level usually involving government, labour unions, and employers' associations.

2.2 Collective Agreement

A collective agreement is the final product of collective bargaining. It contains the agreed terms regulating employment relationships between employers and workers.¹⁷

Section 91 of the Labour Act defines collective agreement as: "Any agreement in writing regarding working conditions and terms of employment concluded between an employer, a group of employers or organization of employers on the one hand and one or more trade unions representing workers on the other hand."¹⁸ Collective agreements usually contain provisions relating to:

- wages and salaries;
- working hours;
- leave entitlements;
- pensions and gratuities;
- disciplinary procedures;
- promotion policies;
- redundancy and retrenchment;
- grievance and dispute resolution mechanisms;
- occupational safety and welfare.

Collective agreements are important because they introduce certainty and predictability into labour relations. They also reduce workplace conflicts by clearly defining the obligations and expectations

¹⁷ Emiola (n 2) 241.

¹⁸ Labour Act, Cap L1 Laws of the Federation of Nigeria 2004, s 91.



of both employers and employees.¹⁹ In *Nigeria Arab Bank Ltd v Shuaibu*,²⁰ the Supreme Court held that collective agreements generally operate as gentlemen's agreements unless incorporated into individual contracts of employment. However, modern labour jurisprudence increasingly recognizes collective agreements as instruments of social justice deserving broader enforceability.²¹

2.3 Industrial Democracy

Industrial democracy refers to the participation of workers in managerial and organizational decision-making processes affecting their employment and welfare.²² Industrial democracy is based on the principle that workers should not merely obey managerial directives but should participate actively in shaping workplace policies. The concept emerged largely as a response to authoritarian workplace management systems associated with early capitalism and industrialization.²³ It seeks to ensure fairness, equity, and shared responsibility within employment relations. Industrial democracy manifests through:

- trade union representation;
- collective bargaining;
- workers' participation in management;
- joint consultative committees;
- grievance procedures;
- social dialogue mechanisms.

According to Yesufu, industrial democracy “represents the democratization of industrial authority through workers' participation in decisions affecting production and employment relations.”²⁴ Effective collective agreements therefore serve as practical instruments for achieving industrial democracy because they institutionalize consultation and negotiation.

3.0 THEORETICAL FOUNDATIONS OF COLLECTIVE BARGAINING AND INDUSTRIAL DEMOCRACY

The concept of collective bargaining is supported by several labour law theories.

3.1 Pluralist Theory

Pluralist theorists view the workplace as comprising different interest groups including employers and employees.²⁵ Conflict is considered inevitable because both groups pursue different economic

¹⁹ Fajana (n 14) 117.

²⁰ (1991) 4 NWLR (Pt 186) 450 SC.

²¹ *Aero Contractors Co of Nigeria Ltd v National Association of Aircraft Pilots and Engineers* [2014] 42 NLLR (Pt 133) 664 NIC

²² Yesufu (n 3) 81.

²³ F Alan, *Beyond Contract: Work, Power and Trust Relations* (Faber & Faber 1974) 39.

²⁴ Yesufu (n 3) 84.

²⁵ A Flanders, *Management and Unions* (Faber & Faber 1970) 56.



interests. Collective bargaining therefore serves as a mechanism for balancing competing interests and maintaining industrial peace.

3.2 Marxist Theory

Marxist scholars perceive collective bargaining as part of the broader struggle between labour and capital.²⁶ According to this theory, employers seek profit maximization while workers seek improved welfare. Collective bargaining becomes a tool for resisting capitalist exploitation.

3.3 Human Relations Theory

This theory emphasizes cooperation, communication, and workers' participation as essential for organizational efficiency.²⁷ Collective bargaining is viewed as a mechanism for promoting employee satisfaction and productivity.

3.4 Systems Theory

John Dunlop's systems theory regards industrial relations as a system comprising employers, employees, government agencies, and institutional rules.²⁸ Collective bargaining forms part of the rule-making process within the industrial relations system.

4.0 LEGAL AND STATUTORY FRAMEWORK FOR COLLECTIVE BARGAINING AND COLLECTIVE AGREEMENTS IN NIGERIA

4.1 Constitutional Framework

The constitutional foundation for collective bargaining in Nigeria is rooted in section 40 of the Constitution of the Federal Republic of Nigeria 1999 (as amended), which guarantees freedom of association.²⁹

Section 40 provides:

“Every person shall be entitled to assemble freely and associate with other persons, and in particular he may form or belong to any political party, trade union or any other association for the protection of his interests.”

Furthermore, section 17(3) of the Constitution obligates the State to direct its policies toward ensuring just and humane conditions of work.³⁰ Although Chapter II of the Constitution is generally non-justiciable, these provisions provide important policy foundations for labour protection and industrial democracy.

²⁶ K Marx, *Capital* (Progress Publishers 1887) 341

²⁷ E Mayo, *The Human Problems of an Industrial Civilization* (Macmillan 1933) 92.

²⁸ J Dunlop, *Industrial Relations Systems* (Harvard University Press 1958) 13.

²⁹ Constitution of the Federal Republic of Nigeria 1999, s 40.

³⁰ Constitution of the Federal Republic of Nigeria 1999, s 17(3).



5.0 JUDICIAL AUTHORITIES ON COLLECTIVE AGREEMENTS

The Nigerian judiciary has played a significant role in shaping labour jurisprudence concerning collective agreements. In *Nigeria Arab Bank Ltd v Shuaibu*,³¹ the Supreme Court held that collective agreements are not ordinarily enforceable unless incorporated into contracts of employment. Similarly, in *Texaco Nigeria Plc v Kehinde*,³² the court reiterated that collective agreements become enforceable only when expressly adopted into employment contracts. However, the National Industrial Court has increasingly departed from rigid common law positions.

In *Aero Contractors Co. of Nigeria Ltd v National Association of Aircraft Pilots and Engineers*,³³ the National Industrial Court emphasized the need to protect collectively negotiated agreements in the interest of industrial harmony. Similarly, in *Mr Valentine Ayika v Republic Bank Ltd*,³⁴ the court adopted a purposive interpretation aimed at promoting fairness in labour relations. The judicial trend reflects the growing influence of international labour standards and social justice principles in Nigerian labour jurisprudence.

6.0 COLLECTIVE AGREEMENT AS A PANACEA FOR INDUSTRIAL DEMOCRACY

Effective collective agreements contribute immensely toward industrial democracy in several ways.

6.1 Encouragement of Workers' Participation

Collective bargaining gives workers an institutionalized voice in workplace governance.

6.2 Promotion of Industrial Peace

Collective agreements reduce industrial unrest by creating predictable dispute resolution mechanisms.

6.3 Protection Against Exploitation

Workers are protected against arbitrary dismissals, unfair wages, and discriminatory practices.

6.4 Economic Stability and Productivity

Industrial harmony contributes to productivity, investment confidence, and economic development.

6.5 Institutionalization of Social Dialogue

Collective bargaining promotes communication and trust between labour and management.

7.0 CHALLENGES CONFRONTING COLLECTIVE BARGAINING AND COLLECTIVE AGREEMENTS IN NIGERIA

The challenges confronting collective bargaining in Nigeria remain enormous.

³¹ (1991) 4 NWLR (Pt 186) 450 SC.

³² (2001) 6 NWLR (Pt 708) 224 SC.

³³ [2014] 42 NLLR (Pt 133) 664 NIC.

³⁴ [2021] NICN/LA/234/2018.



7.1 Weak Enforcement Mechanisms

Many employers refuse to implement negotiated agreements without legal consequences.

7.2 Casualization of Labour

The rise of casual employment has weakened unionization and collective bargaining power.

7.3 Globalization

Global competition pressures employers to minimize labour costs.

7.4 Political Interference

Government interference undermines independent labour negotiations.

7.5 Multiplicity of Trade Unions

Inter-union rivalry weakens labour solidarity.

7.6 Economic Instability

Inflation and unemployment weaken workers' bargaining positions.

7.7 Technological Disruptions

Automation and digital labour platforms are reshaping traditional labour relations.

8.0 PROSPECTS OF COLLECTIVE BARGAINING IN NIGERIA

Despite prevailing challenges, collective bargaining possesses enormous future prospects. The expansion of labour rights jurisprudence by the National Industrial Court, increasing globalization of labour standards, rising workers' awareness, and technological innovations all provide opportunities for strengthening industrial democracy. The growing influence of international labour law and corporate social responsibility principles is also encouraging more responsible labour practices.

9.0 RECOMMENDATIONS

1. Collective agreements should be statutorily enforceable without requiring incorporation into individual contracts.
2. The National Assembly should reform labour laws to reflect modern labour realities.
3. Government should respect the autonomy of trade unions.
4. Labour unions should strengthen internal governance and negotiation capacity.
5. Employers should adopt good faith bargaining practices.
6. Alternative dispute resolution mechanisms should be strengthened.
7. Nigeria should fully domesticate relevant ILO Conventions.

10.0 CONCLUSION

Collective bargaining and collective agreements remain indispensable pillars of industrial democracy. They provide mechanisms for workers' participation, social justice, workplace



fairness, and industrial harmony. Although several structural and institutional challenges continue to undermine their effectiveness in Nigeria, the prospects for strengthening collective bargaining remain promising. An effective collective agreement system is therefore not merely a labour relations mechanism but a democratic instrument for balancing power within the workplace and promoting sustainable economic development. Consequently, all stakeholders must collaborate toward strengthening labour institutions, enforcing collective agreements, and promoting genuine industrial democracy in Nigeria.