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TRADE DISPUTES AND COLLECTIVE BARGAINING IN NIGERIA*

Abstract

The paper posits that the right of employees to strike and to bargain collectively through representatives of their own choice is a recognised right of all trade unions. In Nigeria, collective bargaining is backed by laws and company rules and regulations. The extent such laws and regulations protect the right of workers to bargain and strike and its attendant impact on national socio-economic development is the thrust of this work. Descriptive method is used to examine industrial action (strike) and collective bargaining and highlights the advantages and disadvantages of strike actions as a form of industrial action. Collective bargaining is considered as the best ways of protecting workers and it effectively reduced strike actions when applied appropriately. The paper noted that strikes are an important determinant of both parties' bargaining power. The paper cautions that strike should be seen as a last resort in getting management to comply with reached decisions.

Keywords: Collective bargaining, bargaining power, trade disputes, strikes, bargaining strategies, collective agreements

Introduction

One of the areas of great concern to the government, employers of labour, investors and trade unions in any industrial community is the maintenance of industrial peace and harmony for the sustainable growth and development of the economy and the nation. This is so because industrial disputes disrupt both the process of production and the free flow of goods and services. Work stoppages in some sectors of the economy cause great inconvenience to the community as well as pose actual danger to life and health of citizens. A very serious and

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dangerous development in the current labour/management relations in the country is the increasing use of the strike weapon by employees in both the public and private sectors of the economy on the slightest provocation or disagreement with employers of labour. In pseudo-capitalist nations like Nigeria, the interest of the investors and that of the employee are different. This explained the entrenched conflicts of interest in every industrial establishment today. The nature of capitalist environment was identified by Hyman as an inevitable source of conflict. This is because:

The interests of employees are largely opposed to those of employers, hence both parties seek to wield power and mobilize resources in order to ensure the predominance of their own interests. The strategies they adopt inevitably clash and conflict is the obvious outcome¹

The irreconcilable conflicts within our industrial relations environment between employers and workers are in the areas of income distribution, security of employment, power and control over decisions during work, pump price of fuel, subsidy removal and subtle and pervasive conflicts generated by the workers resistance against employers. In view of the institutionalized conflicts in any establishment, the machinery for successful resolution of the conflicts has also been established through collective bargaining by which the wages and other conditions of employment of workers are regulated by agreements between employers and their associations and workers' representatives and their trade unions.²

It should however be noted that the right of employees to strike and to bargain collectively with representatives of their own choice is a recognized right of all trade unions. This right is protected in different countries by laws and constitutes one of the major sections of any Collective Bargaining Agreement. However, employers failure to recognize the right of the union to bargain and their refusal to

1. Hyman, R, A Marxist, Introduction to Industrial Relations (1975) Macmillan, London, P. 186.

2. Chamberlain, N.W & Kuhn J.W, Collective Bargaining, McGraw Hill Co, New York (1965) P. 39.

implement collective bargaining agreement, to improve workers conditions and the unfair dismissal of workers are still the major sources of conflict in most organizations in Nigeria. The helplessness felt by unions led to many employers unsavoury actions which often lead to strikes, violence, sabotage, picketing, lockouts and blacklisting of union members as a whole and arrest of union activists. There was the compelling need to grant labour the right to self organisation, to bargain collectively through representative of their choice and to engage in lawful activities for self protection. Labour unions all over the world have jealously guarded not only the "freedom" to strike but also the "right" to go on strike.

The paper examines the nature of industrial crisis in Nigeria. It seeks to find out why there are many strikes in spite of the various government policies and Acts that were put in place to reduce, nip in the bud and, possibly eliminate strikes. Descriptive method is employed to explain why conflict is endemic and its incessant occurrence in Nigeria. The implications of strikes on national economy and organization as well as its linkage with collective bargaining were also examined with a view to finding a suitable ways of minimizing trade disputes for improved socio-economic development of the nation.

Links between Collective Bargaining Strategies and National Strikes

Collective bargaining is generally recognized as a central feature of industrial relations system and normal means of regulating contracts of employment. It is a machinery for discussion and negotiation, whether formal or informal, between employer(s) and workers' representatives, aimed at reaching mutual agreement or understanding on the general employment relationship between the employer(s) and workers³. Section 91 of the Labour Act defines collective bargaining 'as the process of arriving at, or attempting to arrive at, a collective agreement'⁴. Thus, collective bargaining is a standard setting machinery, which constitutes an important source of regulation of

3. Fashoyin, Tayo, *Industrial Relations in Nigeria*, 1992, Longman, Lagos, Nigeria, P. 103.

4. Chapter L.1 *Laws of the Federation of Nigeria* 2004. In the same Act, a collective agreement is described as an agreement in writing regarding working conditions and terms of employment concluded between (a) an organisation of workers or an organisation representing workers or an association of such organizations of the one part; and (b) an organisation representing employers or an association of such organization of the other part.

wages, salaries and other employment conditions mutually agreed between labour and management and in conformity with public policy. It also establishes a set of rules guiding relations between the parties during the life of a collective agreement, as well as providing for an orderly method of settling grievances that are bound to occur from time to time. Two essential conditions for collective bargaining to occur include the freedom to associate and the recognition of trade unions by employers. This means that workers must be at liberty to associate and to join or form trade unions in order to be able to bargain collectively. There seems to be an established link between freedom of association and collective bargaining, since there would be no point in giving workers the right to organize if they could not bargain collectively. Collective bargaining is recognised and protected by the ILO and generally in international law. Thus, it can be asserted that there can be no collective bargaining without trade unions.

The ILO Convention 98 on the Right to Organise and Collective Bargaining which was adopted in 1949 is the main source of workers right to collective bargaining. Apart from Convention 98, there are numerous other Conventions and Recommendations which promotes collective bargaining between workers and their employers such as Convention No. 154 Collective Bargaining Convention 1981, Convention No. 135 Workers' Representative Convention 1971, and Convention No. 151 on the right of public employees to organise.

The ILO has consistently considered freedom of association and the right to collective bargaining to be among the core rights that are at the heart of ILO's mission. Outside these Conventions and Recommendations, the significance of the right to strike and collective bargaining has severally been acknowledged by the ILO Committee on Freedom of Association. Several years ago the Committee declared that:

The right to bargain freely with employees with respect to conditions of work constitutes an essential element in freedom of association, and trade unions should have the right, through collective

bargaining or other lawful means; to seek to improve the living and working conditions of those whom the trade unions represent and public authorities should refrain from any interference which would restrict this right or impede the lawful exercise thereof.

It is necessary to stress that strikes and collective bargaining work hand in glove. Therefore, the right to collective bargaining is intimately related to and dependent on the right to freedom of association and the right to strike. Strikes and collective bargaining help to redistribute the grossly unequal power between the parties. Workers exert economic pressure through industrial action in order to balance the unequal bargaining powers between an employer and an employee and this enhances social justice in the workplace. Collective bargaining will not be effective without a credible threat of industrial action. The right to strike is essential to the process of collective bargaining. It is what makes collective bargaining work. It is to the process of collective bargaining what an engine is to a motor vehicle.

The workers often resort to industrial action to force the employer to reach a mutually acceptable agreement about the terms and conditions of employment and in this sense, the economic purpose of strike action plays an important role in collective bargaining. Thus, industrial action or the likelihood of its occurrence is seen as one of the necessary conditions for collective bargaining to exist. The right to industrial action is, as it were, built into the bargaining process⁵.

While collective bargaining can take place without a strike occurring, the realization by management that union has the right to go on strike unless their demands are met gives union a bargaining advantage. While collective bargaining could be accomplished in a very friendly and cordial environment, the availability of the instrument or pressure (strike) is a very important weapon in forcing, sometimes unwilling hands of management to comply. "As long as a strike threatens greater loss to at least one of the parties if it disagrees, than if it agrees, with the

5. Myburg, J.F., "100 years of Strike Law" *Industrial Law Journal*, 2004 (25) P. 966.

other demands, there is reason for them to settle”⁶.

Once trade unions anticipate that negotiation or dialogue lobbying is not getting on well, it soon gives the employer or management an ultimatum after which it will call out its members on strike. The management knowing the implications of a strike may make concession in order to stall the strike. In view of this, a strike is simply a “method of bargaining”, as this is a generally held opinion in trade union circles. On the contrary, some will say that when a strike takes place, it is an indication that collective bargaining has failed. Whether a strike represents an extension of collective bargaining or not, the decision to “walk out” or “take a strike” may be reached by either a union or management in order to secure the terms and conditions of employment each side desires. But this decision is inevitably preceded by an attempt by each party to satisfy itself that a strike will not represent final disaster rather than final persuasion⁷.

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 to a demand for improvement in terms of employment, or satisfactory working conditions. All strikes whether orthodox or political, fit into this description. Again, most strikes involve attempts by either the union or management to change the bargaining position of the other party. When properly used, a strike can force management to concede to the demand of the union. It can impose exorbitant costs and thereby induce them to reach agreement or compromise. Apart from the use of the strike by the workers to win substantive demands, a strike may be used to effect a change in the structure of bargaining, such as changing from enterprise bargaining to multi-employer bargaining, or vice versa.

A strike may also serve the purpose of changing the position of the third party. Such strikes may take the shape of political strikes, though they may have been embarked upon to achieve sectional interests. In May, 1981, for example, several unions went on a nation-wide strike to press

6. See *Crofter Hand Woven Harris Tweed Co. Ltd Vs Veitch* (1942) 1 ALL ER 142 PP.158 – 159.

7. Ootobo, Dafe, *Industrial Relations Theory and Controversies*, 2000, Malthouse Press, Lagos.

government to enact minimum wage legislation. Also, in April, 1988, sporadic strikes occurred across the country in protest against the removal of the petroleum subsidy. In mid 1994, a section of the trade union movement led by the oil workers spearheaded the removal of the illegal regime of General Sanni Abacha and, for about two months, the entire country was paralysed by strikes by two strategically placed petroleum workers' unions (NUPENG⁸ and PENGASSAN⁹). In the case of Academic Staff Union of Universities (ASSU), a 1992 agreement with the government was not honoured by the government. This led to a six months strike action in 1994, with a nine-month repeat in 1996 on the same set of issues. In the year 2000, the Nigerian Labour Congress (NLC) embarked on a nationwide strike to force the Federal Government to reduce the pump price of fuel to N22 which was hitherto increased from N20 to N30. Very recently, in January 2012 the NLC, Trade Union Congress (TUC) and Civil Society Organisations embarked on a nationwide strike for 8 consecutive days to force the government to revert the removal of fuel subsidy and price from N140 TO N97 per litre. Instances of these sorts of strikes are limitless. While some of these strikes focused on livelihood issues, others were political even though they had industrial relations implications.

In Nigeria, non-interventionism and voluntary collective bargaining prevailed as the main method of regulating labour relations. However, statutory intervention has taken place and principally designed to strengthen the process of collective bargaining and industrial relations or to serve as substitutes for non-existent or non-functioning collective bargaining system. Under the Nigerian labour laws, the most important step in the collective bargaining procedure is for the employer or the employers' association to recognise the trade union as a bargaining agent for the employees within the bargaining unit, in relation to terms and conditions of employment. Section 24 of the Trade Unions Act (as amended) provides that for the purposes of collective bargaining, all registered unions in the employment of an employer shall constitute an electoral college to elect members who will represent them in negotiations with the employer. Similarly, for the purpose of representation at tripartite bodies or any other body, the registered

8. National Union of Petroleum and Natural Gas Workers which comprises of junior staff in the Nigerian oil and gas industry.

9. Petroleum and Natural Gas Senior Staff Association comprises of Senior Staff in the Nigerian oil and gas industry.

Federations of Trade Unions shall constitute an electoral college taking into account the size of each registered Federation, for the purpose of electing members who will represent them. Where a trade union is recognised, the next step is for a recognition agreement to be drawn up to determine how the negotiations will be conducted, the composition of the machinery and other procedural matters. Once a trade union has been recognised and a recognition agreement is drawn up between the parties, bargaining can then proceed as provided by the law.

Scoville¹⁰ was of the view that most strikes in developing African countries are in this category. The timing of strikes is one of the effective strategies employed by unions. The Nigerian Union of Teachers (NUT) usually selects the beginning of the academic session or towards the end of the term to go on strike. In industries, unions go on strike at the peak of the demand for the organisation's products or at the season for the introduction of new models in the case of automobiles. Thus, for a strike or threat of same to be an effective bargaining tool, the timing must be right.

Closely related to the issue of timing is the structure of the union. A trade union made up of skilled employees (craft union) or professional union such as ASUU and Nigerian Medical Association (NMA) or a union of workers in the strategic and essential sectors of the economy such as NUPENG and PENGASSAN are more effective during strikes than one that is made up of unskilled (blue collar) employees. It is easier to achieve cohesiveness with this kind of employees than with the unskilled employees. This is because they conceive of themselves as professionals and behave accordingly. The cost of disagreement with their demand is relatively very high. They cannot be easily replaced and the demand for the harmonization of wages for their members throughout the industry is to be expected. It should also be noted that the success of a union in extracting its demands from the organisation is influenced by its ability to provide sympathetic action from other unions in other establishments. Trade unions work best on numbers. The greater the number of the people in a union or the greater

10. Scoville, J.G., "Industrial Conflict in Africa: A look at the 1980s", *Nigerian Journal of Industrial Relations*, vol. 2 P. 32.

the number of others unions who give their solidarity support, the more effective unions become¹¹. Still, the increasing low union density call for concerns and raises fundamental questions over the continued effectiveness of the union's bargaining power. Hence, weak unions should seek the sympathy of powerful unions which by reason of their strategic industry or numerical strength could help to bring enormous pressure on the employers.

Strike Trends in Nigeria

Trade Unions in Nigeria have had many strikes that involved work stoppages in the last two decades. **Table 1** shows the incidence and prevalence of strike actions in Nigeria and the number of man-days lost between 1980 – 2010. Irrespective of the impact of strikes on the society, a typical union leader believes that his aim is not to disrupt the economy or a show of power. They tend to believe that they are responding to the factors of circumstances largely beyond their control such as:

- The rise in the cost of living compels them to seek wage increases.
- Higher wages in other industries or other part of the country dictate the need for salary harmonization.
- Increased productivity necessitates the demand for reduced work hours and higher wages as a form of appreciation for the added contribution.
- The desire of members for higher wages and improved conditions of service made it possible for the members to vote for a strike; which strike he must have to call to safeguard his position, failing which, he could be accused of corruption and lacking in leadership qualities.

11. See Orifomowo, O., "An Appraisal of the Right to Strike Under Nigerian Labour Laws", *Journal of Contemporary Legal and Allied Issues*, Vol. 1, See also Nwachukwu, C.O., " Strikes and Collective Bargaining" Being a paper presented at the Department of Management, University of Nigeria, Enugu in 1988.

Strike Actions in Nigeria and Number of Man Days Lost Between 1980-2010

Year	Trade Disputes	Work Stoppages	Workers Involved	Man-Days Lost	Average duration of strikes per worker
1980	355	265	221,088	2,350,998	10.6
1981	258	234	323,700	2,218,223	6.9
1982	341	253	2,974,721	9,652,400	3.2
1983	184	131	629,177	404,822	0.64
1984	100	49	42,046	301,809	7.2
1985	77	40	19,907	118,693	6.0
1986	87	53	157,165	461,345	2.9
1987	65	38	57,097	142,506	2.5
1988	156	124	55,620	230,613	4.1
1989	144	80	157,342	579,968	3.7
1990	174	102	254,540	1,229,105	4.8
1991	204	117	460,471	2,257,382	4.9
1992	221	124	238,324	966,611	4.1
1993	160	90	880,224	6,192,167	7.0
1994	199	110	154,114	234,307,748	152.0
1995	46	26	193,944	2,269,037	11.7
1996	114	101	1,246,119	165,901,430	133.1
1997	97	89	1,128,575	141,762,722	125.6
1998	115	108	1,307,007	180,911,070	138.4
1999	52	27	173,858	3,158,087	18.2
2000	49	47	344,722	6,287,733	18.2
2001	51	37	259,290	4,722,910	18.2
2002	50	42	302,006	5,505,322	18.2
2003	49	42	NA	NA	NA
2004	52	19	517,331	3,300,000	6.4
2005/2010*					

Source: Federal Ministry of Employment, Labour and Productivity & Shabi, O.R and Animashaun, O.O (2009) p.184.

Note: Computation of average duration of strike per worker done by the author based on available statistics.

Bargaining Power

Bargaining power is the ability of one party in a negotiation to secure agreement on his/her own terms or at a point closest to his/her preferred position. It is however the monopoly of either party, once any of the factors determining it changes, the power and hence the outcome of bargaining may change, at any point in time. Most progressive scholars hold the view that the right to strike is the most potent instrument at the disposal of trade unions, for without this power to affect the course of events; a person or a group lacks the responsibility to reach decisions. Without the power to strike, unions will lack the foundation for voluntary negotiation or agreements, free collective bargaining in a free enterprise in the public interest, so is the right to strike, which makes the free labour agreement possible. Without it organised labour is powerless to deal with management at arm's length. As Lord Wright pointed out "Where the rights of labour are concerned, the right of the employers are conditioned by the right of the workers to give or withhold their services.

As noted by Sykes:

The strike is itself a part of the bargaining process. It tests the economic bargaining power of each side and forces each to face squarely the need it has for the other's contribution. As the strike progresses, the worker's savings disappear, the union treasury dwindles, and management faces mounting losses. Demands are tempered, offers are extended, and compromises previously unthinkable become acceptable. The very economic pressure of the strike is the catalyst which makes agreement possible. Even when no strike occurs, it plays its part in the bargaining process, for the very prospect of the hardship which the strike will bring provides a prod to compromise. Collective bargaining is a process of reaching

*agreement, and strikes are an integral and frequently necessary part of that process*¹².

The right of the workmen to strike is an essential element in the principle of collective bargaining. It is, in other words, an essential element not only of the union's bargaining power, it is for the bargaining process itself, it is also a necessary sanction for enforcing agreed rules. Fashoyin submits that the right to strike is the ultimate weapon used by workers during collective bargaining. As he posited:

*Conceptually, the right to strike can be seen as an essential characteristic of collective bargaining. This is so because the ability of the union to bring direct economic pressure on the employer depends largely on the availability or use of the strike weapon...the presence or threat of a strike induces the parties to engage in continuous dialogue for a search for an agreement. That is to say when workers are certain that they can strike or employers are conscious of its occurrence, the seriousness of the dispute is intensified and, correspondingly, the bargaining power of the employees is increased.*¹³

In any bargaining situation, there will be for example, a wage scale above which an employer would not accept. In the same way, there is a wage level below which union would not accept. If a wage level is set too high by union leaders, employers would seek labour saving technology, failing which, they would prefer that there be a strike. For union, there is a level of salary scale with which it would go on strike rather than accept. Within these two extremes is the bargaining zone. The diagram below shows in a typical bargaining session the tolerance limits that determine the bargaining zone. AB is the zone often referred

12.

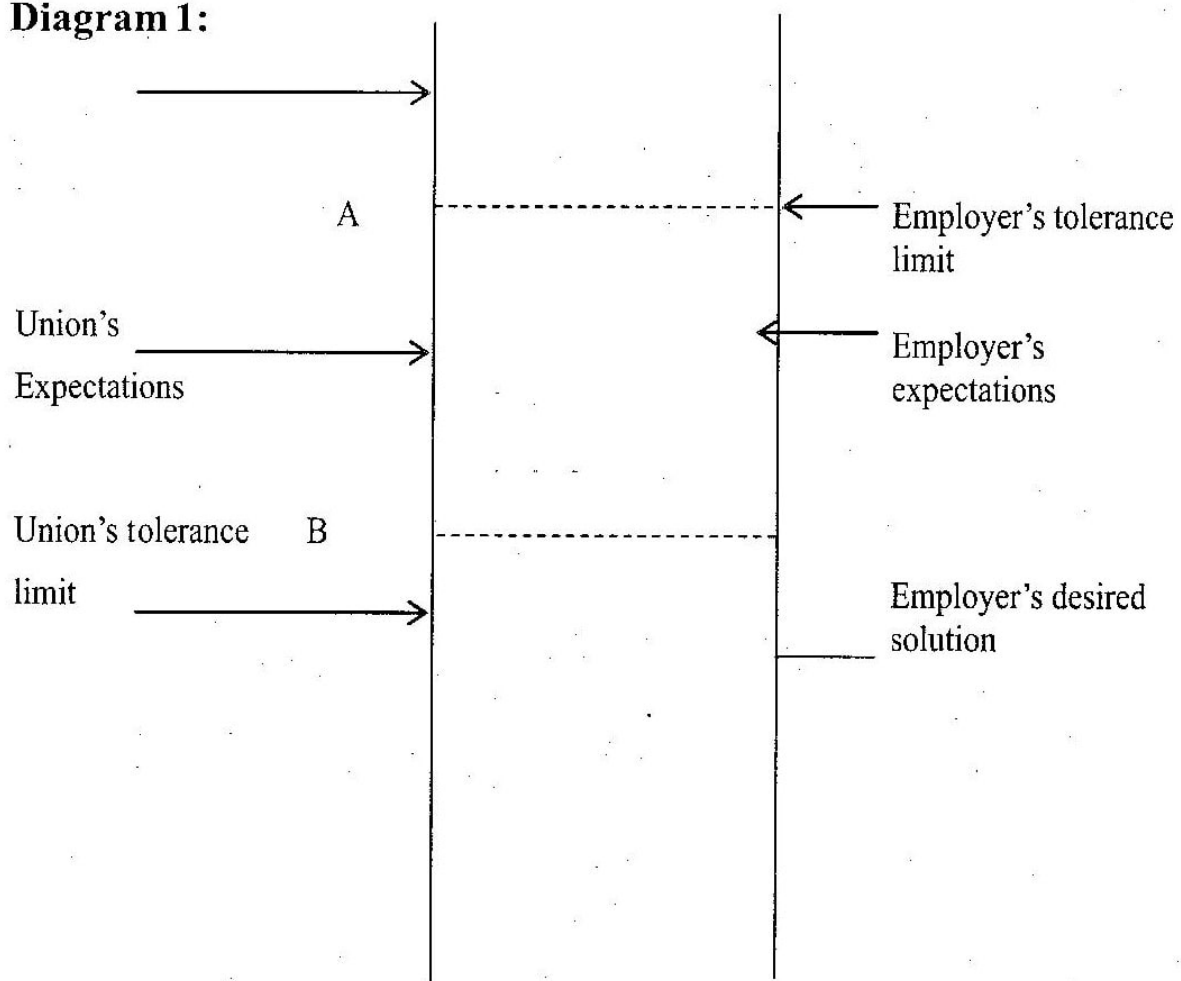
13.

to as the range of indeterminateness, it is impossible for a settlement to take place outside this zone. The trade union will probably accept any settlement within this zone rather than undertake a strike. In the same vein, the employer also would be prepared to accept any wage within the zone rather than be subjected to a strike. Whether the bargaining is closer to A or B will depend on who has the bargaining power and negotiating ability. Before any of them makes the final concession, in the process of bluff and bluster, there will be overt conflicts and evaluation of the cost of agreement or disagreement. The bargaining power the union has is enhanced by the union leaders' skills in the techniques of persuasion and coercion.

Furthermore, the higher the wage increase or fringe benefits sought by the union, the more likely the employer or government is willing to face a long strike. In the same way, the more willing the union will be ready to face a long strike, the greater the potential gain. If for example, the federal and governments of State owned universities feel that the cost of further increases in the salaries and allowances of members is too high, the government may be willing to face a long strike. On the other hand, the Academic Staff Union of Universities (ASSU) desire to embark on a long strike indicates the potential gain or importance attached to the demand. A good instance here is the nine months ASUU strike in 1996 which was the longest strike ever declared by the union and 2013 strike over the non implementation of 2009 agreement. If the cost of the disagreement to the government with the ASUU is high relative to the cost of agreement, the unions bargaining power is enhanced. It must therefore be pointed out that for a good settlement to be reached that could endure; it must be on terms which for both union and employers represent a cost agreement equal to, or less than, a cost of disagreement. Bargaining power could shift as it is dynamic and is influenced by the relative capabilities of the union and employer, and the economic, political and social circumstances as they impact on the cost of agreement or disagreement. The union uses strike action by withdrawing its labour services whereas employer uses lockout, by holding employment until its terms are accepted. The employer could employ strikebreakers in the union's rank and file so as to increase the effectiveness of its tactics and minimize the effectiveness of the tactics of the union.

The bargaining power enjoyed by a union is heavily influenced by the union's and its members abilities to withdraw their labour, usually (though not always) through a strike. Workers are more likely to win higher wages and other gains, the more they are willing and able to sustain a strike. Moreover, strikes, once undertaken, are more likely to succeed, the greater the costs of the strike to the employer. Thus, the employer's bargaining power is heavily influenced by their ability to withstand a strike.

Diagram 1:



Source: Adapted from Stagner, Rose and Rosen, Hjalmar (1965) *Psychology of Union Management Relations*, Belmont, California, Wadworth Publishing Company, p. 96.

State Response to National Strikes

Strikes may be the most overt and the most significant aspect of

industrial disputes, but they are unfortunately only a part of the phenomenon of conflict. It has been argued that the examination of conflict should be expanded to include the total range of behaviour and attitude that express opposition and divergent orientations between individual¹⁴ owners and managers on one hand and working people and their organization on the other. On this premise, we will examine what the law says. But before doing so, it would be necessary to state that one of the conditions that must exist for collective bargaining to take place, according to Convention 87 of ILO, is "the right of workers to organize, to protect and promote their interest. This is because strike is a form of protest. Additionally, it is a fundamental rule of labour law that a worker who gives proper notice is entitled to withdraw his labour. The provisions of the Trade Disputes Act restricting or banning strikes and lockouts have not affected the Common Law right of a citizen to change his job. The point of controversy has been when workers collectively but temporarily withdraw their labour or indicate their intention to do so. Judicial and academic views are diverse and conflicting.

Lord Simon stated in **Crofter Hand Woven Harris Tweed Co. Ltd V Veitch**¹⁵ that:

Where the rights of labour are concerned, the rights of the employer are conditioned by the rights of the men to give or withhold their services. The right of the workmen to strike is an essential element in the principle of collective bargaining.

In his review of the Industrial Relations Act in its bill form, Foster canvassed the view that "one of the basic underlying principles of the bill is that an employee is free to withdraw his labour, subject only to the requirements of his individual contract of employment. It is therefore, vital for him to know when strike action will be a breach of

14. Deutsch, M., "Co-operation and Trust: Some Theoretical Notes" in M.R Jones (ed) Symposium on Motivation, Lincoln, University of Nebraska Press.

15. Supra.

his contract”¹⁶. In view of this judicial and academic views, it seems to have been conceded that there are circumstances when a strike or a strike notice will be legitimate and acknowledged in law. Foster is of the view that “the contractual legality of a strike will depend upon the effect of the notice given. The strike will be lawful only if the notice operates as a notice of termination or suspension, otherwise it will not”¹⁷

The right to strike is accorded tacit recognition under the Trade Unions Act (as amended) which requires that the Constitution of every registered union shall include a provision that “no member of the trade union shall take part in a strike unless the majority of members have in a secret ballot voted in favour of the strike”. It should however be noted that as a deterrence to embarking on strike actions, “No work, No pay” principle may be invoked. This is because it is universally recognized that employees can not be paid for services not rendered. The payment of wages or salaries during periods of strikes is covered by Section 32A of Trade Disputes Act which states as follows:

...where any worker takes part in a strike, he shall not be entitled to any wages or other remuneration for the period of the strike and any such period shall not count for the purpose of reckoning the period by continuous employment and all rights dependent on continuity of employment shall be prejudicially affected accordingly...

Nevertheless, employees are known to have insisted that they be paid for the time they were on strike. Employers may however choose to pay or not to pay. Both employers and employees attempt to protect themselves against any strike. Some unions often have a reserve fund from which they pay members some allowance to reduce the effect of the strike on them and their families. The ability of a union to engage in a protracted strike is enhanced where funds are available for it to pay its

16. Foster, “Strikes and Employment” (1971) 34 M.L.R 274.

17. Ibid.

members as the strike lasts.

Most often, employers attempt to cushion the effect or impact of the strike by purchasing or embarking on strike insurance or forming employers' association. Under the first arrangement, employers are insured against any quantifiable losses that could be sustained during the strike such as fines or damages imposed on them as a result of their inability to meet contractual obligations. In the latter's case, the employer in a particular industry create a pool of fund. Any member, whose employees go on strike, is authorized to draw an agreed sum of money from the pool throughout the duration of the strike. This, therefore, prevents the member from hastily entering into a costly contract of settlement. Both employers and union members have protested against the activities of the others to minimize the impact of strikes on the other. This countervailing power appears to augur well for the society. After all, neither the union nor the employers has the right to engage in acts that will jeopardize the public health, safety or interest of the general public. It should be noted that the Nigerian government at all levels remain undaunted in ensuring that the organised labour is tamed and as such, relevant aspects of the Nigerian Labour Law has been amended to suit the State's interests. The amendments, largely occasioned by governments' implementation of their adopted neo-liberal policies such as deregulation, commercialization and privatization, have no doubt affected the collective bargaining environments in Nigeria.

Strikes and the National Economy

Section 37 (1) of the Trade Disputes Act, defines a strike as:

... the cessation of work by a body of persons employed acting in a combination or a concerted refusal or a refusal under a common understanding of any number of persons employed to continue to work for an employer in consequence of a dispute, done as a means of compelling their employer or any person or body of persons employed,

or to aid other workers in compelling their employer or any person or body of persons employed to accept or not to accept terms of employment and physical conditions of work.

In this definition, "cessation of work" includes deliberately working at less than usual speed or with less than usual efficiency and "refusal to continue to work" includes a refusal to work at usual speed or with usual efficiency. Hence, strike is defined as a temporary stoppage of work pursuant to a grievance or demand. The actual occurrence of a strike depends on several factors, including prevailing economic circumstances. This also goes to show that few strikes occur spontaneously especially as there is no way of guaranteeing that a strike action, instead of other forms of industrial action, would be decided upon by workers involved. All strikes come about through workers' deliberate decisions. Management, to a large extent, does play major role in the strikes because some managements deliberately provoke strike action by imposing on workers, certain practices or decisions that clearly violate collective agreements¹⁸. It suffices to mention that strikes represent the exercise of fundamental rights of the individual striker to withdraw his labour power. These individual rights are harnessed by trade unions to embark on a collective action. The union strength in an industry largely rests on the power of the strike. This is a very potent tool and can be very powerful if the workers on strike represent irreplaceable labour, or if the production loss incurred by the employer during the strike is very significant. The strike, if successful, improves the economic well being of the members of the trade union. The strike also makes the management to take union seriously in negotiations. As such, successful strikes enhance the bargaining position for the next negotiation and may account for the deployment of such strategy in the future¹⁹.

Management can be pressured into accepting the terms of negotiation offered by union and may not be able to stand its ground in the face of an impending strike. Unions (ASUU, NUPENG, PENGASSAN, NLC,

18. Shabi, O.R and Animashaun, O.O, Fundamentals of Industrial Relations: Issues and Theories, 2009, Lagos, Global Consult Publishers, P. 178-179.

19. Ibid, PP. 186-187.