

Threats to the Collective Bargaining Process

It has been long established that collective bargaining is a tool that is used in the practice of industrial relations. It involves the process of negotiation between a group of employees who are generally represented by a trade union and their employer. It is considered to be a productive relationship between the union and the employers' organization. Collective bargaining is known to be concerned with addressing issues such as wages and salaries, hours of work, working conditions, and the grievance-procedures. Whilst this is so, there is a body of opinion that trade unions tend to use this mechanism primarily for the purpose of addressing the issue of increases in wages and salaries.

With the advent of liberalization, globalization, privatization and new public sector management, there is some concern that these have necessitated a shift in the application of the collective bargaining mechanism. As a consequence of changes in the labour market and to the global practices in industrial relations, there have been some fundamental changes, some of which have been effected through the introduction of state sponsored legislation, that have been informed by international policies and practices. For trade unions, the challenge remains one of maintaining the status quo, which has emerged out of the International Labour Convention No.154. This Convention recognized that collective bargaining could only function effectively if it was conducted in good faith by both parties. The point is to be underscored that good faith cannot be imposed by law, and hence it could only be achieved as a result of the voluntary and persistent efforts of both parties.

With the perceived weakening of trade unions, the contention runs rife that there is the inability of labour organizations to pressure governments and private sector employers to acknowledge and respect the collective bargaining process. It is documented that in Europe in this 21st century, workers are seeing the erosion of hard-won collective bargaining rights, as these are being removed by the legislation which is being enacted. It may be argued that in the case of governments, some have acted liberally by following the process, but when and where necessary, have wielded the political power which rest with them. This has been reflected time and time again when a government has sought to legislate public sector wages and salaries. As has been the case in the recent history of the

United Kingdom, public sector trade unions have recorded that collective bargaining agreements on pay or on other terms and conditions of employment, seem to be a thing of the past. In other jurisdictions, it would also appear that a similar fate has or is being experienced.

Maybe the problem lies in the misunderstanding of what collective bargaining is all about. It is important to know that the process of collective bargaining contains an element of negotiation, and hence is distinct from the processes of consultation. Hence it may be ill advised to proceed on a matter based on the grounds that the consultative process was engaged. For example, serving notice of the intention of mass redundancy of workers does not mean that the collective bargaining mechanism has been engaged on the issue. Such a move represents an act of impunity for trade unions, as they are left to feel that there have been stripped of their collective bargaining rights. An action such as this, conveys the message that the new terms are being imposed without the agreement of the trade union or the workers, who it would seem have no choice but to accept.

The problem for trade unions is compounded by the fact that collective bargaining agreements are not legally binding. What then are the alternatives left to labour unions? Is it that they are left with the options of exercising a form of industrial protest or reverting to placing the matter before the law courts? If as it appears that the collective bargaining process is being circumvented, this would tend to suggest that the goal of achieving a harmonious industrial climate which supports the national efforts directed towards economic and social development, can be seriously compromised; as the obstacles to such a development can be significantly reduced.