Breaking Deadlock Negotiations

The engagement between the employer and trade union, with the latter acting as the representative body or bargaining agent of employees, is a legal process which falls under the practice of collective bargaining. The International Labour Convention No. 98 stipulates that workers have the right to bargain collectively with the employer to set wages, working hours and terms of employment. It is right that the government has a responsibility to safeguard and protect.

In the process of collective bargaining, the parties engage in discussions with the sole intention of reaching an amicable agreement. The process is built on the spirit of goodwill, reaching an understanding that is based on compromise, and not on the premise where an agreement is reached on the unilateral imposition by either party. The unilateral approach is more associated with governments, who resort to legislating the wages and salaries of public sector workers. This is often done under the guise that negotiations are deadlocked.

A deadlock in wage and salary negotiation is a stalemate where an employer and employees / labor unions) reach a standstill over compensation terms. This occurs when neither party is willing or able to compromise further on demands, causing discussions to be completely stalled. Past experiences in instances where government is involved as the employer suggests that there is a readiness on its part to wield a big stick policy approach towards resolving the matter. This is where the government takes the matter before Parliament for a decision to be made. Here the elected members of the Lower House, by a majority vote, imposes the will of the government. In the contemporary world, some would describe this as a bullying tactic. There are questions to be raised on whether the process used by government to break a deadlock in the negotiations process is right or wrong.

It goes beyond saying that to resort to a tactic that imposes one party's will over the ever, is a first step to breaking the bond of trust. It is customary to have a third party mediate in deadlocked negotiations with the private sector. Why isn't this explored within public sector wages and salaries negotiations? It is understandable that negotiations can be sometimes contentious. It is possible that deadlocked negotiations can be avoided, provided that the parties do not assume rigid and inflexible positions. A better outcome is likely when there is a willingness to focus on shared goals, using objective criterion and being prepared to make concessions.

A deadlock negotiation is normally not a preferred option. The law makes provision for a deadlock, which it describes as an irreconcilable standoff where decision-makers or voting factions are equally split, resulting in a standstill; thus, completely paralyzing the ability to act.

Trade unions have good grounds for strenuous objection to the legislative approach to settle any negotiation and in particular, that of wages and salaries. In the first place, it undermines the process of collective bargaining and weakens the unions' leverage in negotiating fair wages. The adopting of blanket legislation strips away the flexibility to adapt to changing inflation and sector-specific needs, ignores workers' demands, and limits their right to strike for better terms.

One fatality of the move to legislate any negotiation, as happens within the public sector wages and salaries negotiations, is the engagement of the democratic process. By removing the voice of the workers in bringing about an agreement and through the imposing of the unilateral will, this basically amounts to the denial of a fundamental human right.