



## A Critical Review of Collective Bargaining Indices of Industrial Relations in Nigeria

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**Abstract.** Collective Bargaining is a process in labour relations whereby negotiation between employers and employees center on terms and conditions of service in an employment. This paper employs the use of a hybrid method of study to examines how Collective Bargaining has helped in no small measures in absence of industrial democracy structure being the only form and indices which exist in our labour law structure. Further examine the concept of collective bargaining, it practice in Nigeria, its benefits and how it has created an indices for democratic governance in our labour relation as in most legal research, the paper adopted both doctrinal and non-doctrinal (203 questionnaire were distributed) method of legal research, it was contended that the paper concluded that collective bargaining should be an indices of industrial democracy in Nigeria labour relations, the paper concludes that the practice of industrial democracy will strengthened in the work place and its recommended that a separate legal frame work should be put in place amongst other things to ensure the practice of industrial democracy in Nigeria.

**Keywords:** Collective Bargaining, Industrial Relations, Indices of Industrial Relations, Industrial Democracy, Labour Relations

### 1. Introduction

The basic tenet of industrial relations is the frame work of collectives bargaining according to the Black's Law Dictionary, it defines the concept as a negotiation between an employer and the representatives of organized employees to determine the conditions of employment such as wages, hours, discipline and fringe benefits. Again, it is also, viewed as a contract between an employer and a union (which represents the employee as a group) to define conditions for work, benefits and dispute resolution (Omole, 1992) Collective bargaining attempt to promote friendship, partnership and joint heirs in the production process and growth of the enterprise (Abiala, 2012). It admits preference and superior advantage in dialogue over confrontation and peace over conflicts in the work

place. In current jurisprudential parlance collectives bargaining would qualify as alternative dispute resolution mechanism.

Industrial democracy is one of the most viable means of industrial relation however, this concept appeared not to be too helpful in Nigeria due to the following factors: The yellow day contract clause in most contract of employment, casualization policy of most industries, Government political involvement in labour relations and absence of clear-cut legal framework for this concept.

Industrial Democracy is a modern trend in industrial relations, it is a clarion call for workers Participation in corporate administration. (Emiola, 2008; Crouch, 1993) Industrial Democracy has it benefits which includes growth and development of corporate organization, workers' and employers' satisfaction, however it is apposite to note that we have two major concept of industrial democracy they are codetermination theory and work council forum. Work's council is a shop floor organization representing workers that functions as a local form-level of complement to trade union but is independent of these at least in some countries, works council members are elected by the company workforce for a term of four years (Addison, 2006).

The purpose of work council is an attempt to secure the economic and social interest in the company and their employees in particular. The difference between works council and trade union is trade union is a voluntary affiliation that exclusively represents the interest of their members, works council are onften constituted by statute (Anyim et al., 2011) The framework of work council is the level of government closeness to the people and it gives people a say in matters affecting their local democracy at work (Anyim et al. 2012).

Codetermination is an arrangement in which the management works together with the workers when making decisions relating to issues is their workplace

and over voting for presentation. In developed industrial democracy there are laws that requires workers to have a say in the voting of representatives in management of the work place (Awe and Ayeni, 2010) such as Germany, in corporate governance, codetermination is a practice where workers in industrial relations are harmonious with low and high level of decision making.

However, the two channels of codetermination in Germany are: the work council (“Betriebsrat”, establishment or shop floor level) and the supervising board (Autsichtsrat company level (Yusuf, 2009, Blai et al., 1970).

The thin line difference between the two concepts is that in work council, if changes affecting the workforce take place for instance the dismissal of employees, Redundancy. On the other codetermination is at the company level, it consists the participation of employees or their representatives in the supervising board (Akereke, 2010)

### 1.1 The Concept of Collective Bargaining

Collective bargaining is a whole range of dealings between employers and Employees. According to a learned author of blessed memory, he viewed the concept of collective bargaining as a characterized “principle of voluntarism” the concept of voluntary collective bargaining has been accepted by all side to the employment relationship (Uyieghara, 2001). In addendum to the above is the provision of the Nigeria constitution. “it provides that the state shall directs its policy towards ensuring that (b) condition of work are just and humane and that there are adequate facilities for leisure and for social, religious and cultural life (c) the earth, safety and welfare of all person in employment are safeguarded and not endangered or abused. On the one hand, and trades shop stewards and union, members on the other hand (Damachi, 1992). Over making, interpretations and administration of employment rules and intra-organizational bargaining that goes on within either side over the approach and response that they make on each other (Mankinde, 2013). Collective bargaining is a democratic mode of resolving industrial issues without strike action if the terms are agreed and ratified by the parties, it a social partnership which works out the frame work upon which industrial democracy can work in the enterprise (Marsden, 1995).

Further the International Labour Organization prescribed a template with the aim that workers may organize, ensure non interference relation with their employers in the work place (Ichniowski, 2003). The

International Labour Organization has adopted conventions by providing framework for members states to enact laws that would foster such mechanism of course, that is the provision of section 12 of the 1999 constitution which form the basic mechanism for domesticating such conventions into Nigeria laws for example, Trade dispute Act (Law of the Federation 2004) Wages Board and Industrial Council Act 2004 which provides amongst others mechanism for amicable resolution of trade dispute via collective bargaining for the growth of the nation economy and to discourage chaos within the labour industry. This of course would enhance the promotion of voluntary collective bargaining. Collectives bargaining is an exercise of alternative dispute resolution aimed at ensuring peace building in the work place (Osawonyi et al., 2013).

Collective bargaining is a better mechanism employers and employees can adopt to agree on terms and condition of employment on the other industrial democracy is a concept where workers are allowed as co. owner of the work place which is distinct from dispute resolution mechanism as indicated in the concept of collective bargaining (Ruth, 2010; Yusuf 1982; Akpala 1999). The ILO convention article 2 of 1981 defined collective bargaining as follows:

The term collective bargaining extends to all negotiations which takes place between employers or group of employers’ organizations on the one hand and workers on the other hand with the sole purpose of ensuring the following, determining working conditions and terms of employment:

- Regulating relations between employers and employees.
- Regulating relationships between employers or their organizations and a workers’ organizations. It is a fact not controverted that from the above analysis that collective bargaining form the basic foundation upon which industrial democracy in Nigeria would thrive. Trade Union amendment Act provides that:

*For the purpose 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. This law is a welcome development, but it was the right time that industrial democracy would have been entrenched with the (Electoral College) in place.*

In reacting to the concept of collective bargaining as viable fundamental platform for industrial democracy the court held PER lord Denning:

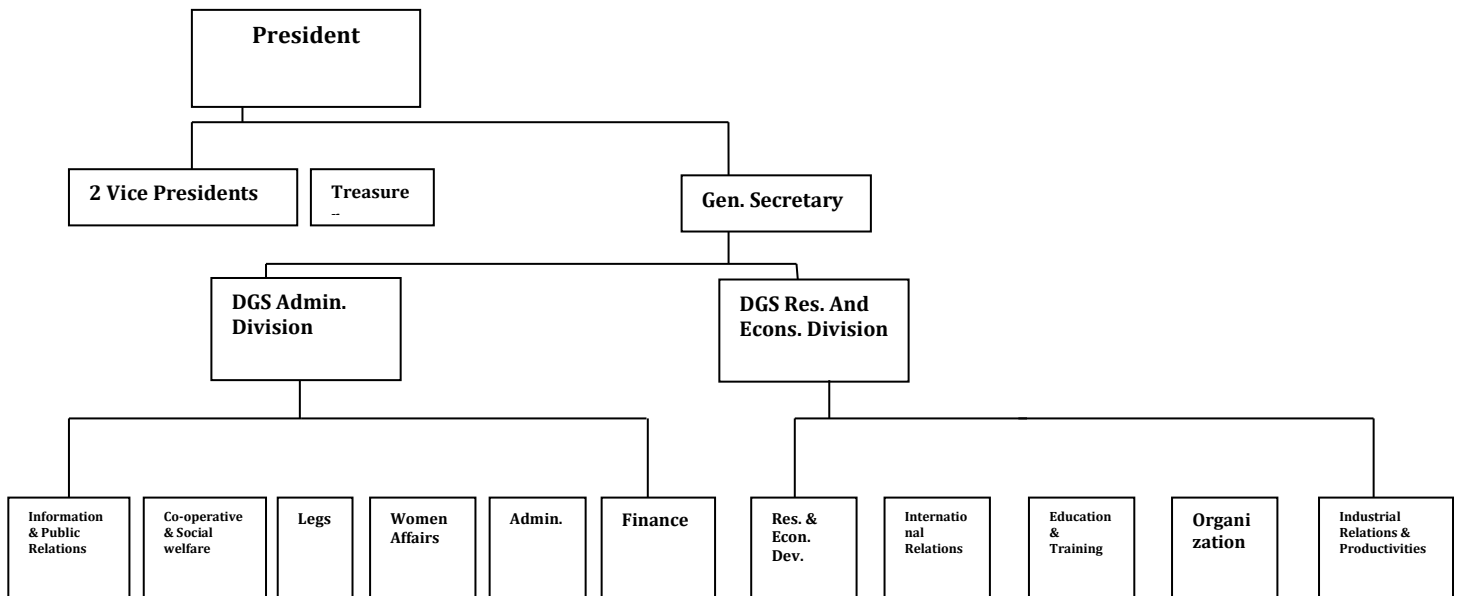
*Gathering all together, I would suggest that through all these instances there runs a simple tread. They rest on inequality of bargaining power by virtue of it the English law gives relief to one who, without independent advise enters into a contract on terms which are very fair or transfer property for a consideration which is grossly inadequate when his bargaining power is grievously impaired by reasons of his own needs or desires or by his own ignorance or infancy, coupled with undue influence or pressure brought to bear on him by or and the benefit of the other.*

The above reasoning of the learned lord captured the fact that a party is at “liberty to commit a contractual suicide” which means by collective bargaining a party can be cheated unknown to him which will not occur in industrial democracy structure. It is noted that beyond the facade exist a obvious inequality between the parties that there is handy a bargain (Adeogun, 2010). It is advocated in this paper that as much as there exist collective bargaining in the contract of employment, industrial democracy should also be spelt out despite the copious selfishness of the capitalist mafias who sit in board rooms only for employees’ exploitation and profits maximization. According to the Nigeria labour Act 2004, it examined the concept of collective bargaining as a process of arriving or attempting to arrive at a collective agreement.

It is submitted that industrial democracy should constitute as separate legal structure in Nigeria made possible by direct legislation, executive orders and judicial intervention (Onasaya, 1999). It is a submitted conclusion in this work that when these measures and provisions are made, the advantages from such interventions would enhance industrial democracy (Fasoyi, 1999). However, the practical effect of collective bargaining which is the only indices of industrial democracy is the tenet of collective agreement which are not enforceable and generally binding in honour of what purpose is this process, to further make the process of collectives bargaining and collective agreement a subject of ratification by minister of labour violate the rule of natural justice.

### 1.2 Organizational Structure Of Labour Management In Nigeria

History has it, that the Nigeria Labour Congress (NLC) was founded in 1978 with a merger of four different organizations. They are Trade Union Group (TUG) Labour Unity Front (LUF) United Labour Congress (ULC) and the Nigeria Workers Council (NWC). However other affiliated union were restructured into 42 industrial unions with a founding president, Wahab Goodluck (Alalade, 2006). After a colonial master fight with Nigeria militia group led by Pa. Michael Imoudu of Blessed memory in 1931 created a beginning for labour struggle in Nigeria (Uzualu, 2015). Below is the organogram of Nigeria Labour Congress (Clegg, 1960).



From the chart above, it is advocated in this paper that industrial democracy should form an organ to be supervised by the national executive council, the Nigeria labour law statutes and the provisions of Companies and Allied Matter Act 2020 should be amended to create a basic foundation for the practice of Industrial Democracy (Admad, 2015).

The various factors that occasioned problems in the work place are work rules, deduction from wages, hours work and holidays without payments, maternity protection, Arbitrary decisions of employers in executing the contract of employment (Tahir, 2022). It is however advocated that if workers are made partners not mere shareholders but representing themselves in direct administration, its corporate governance and management cadre of the incorporated companies (Sommer, 2022), it will prevent industrial actions that may necessitate collective bargaining this is the whole gamut of industrial democracy (Taiwo, 2001).

### **1.3 Collective Bargaining And Practice Of Industrial Democracy In Nigeria**

In practice collective bargaining enjoys a major root in private sector economy than public sector. In spite of the public policy affirming the efficacy of the institution towards industrial democracy in national economy.

In 1990 General Ibrahim Babangida while delivering his budget speech said

One of the machineries for ensuring industrial harmony while working towards an equitable society, is the collective bargaining process in both the public and private sectors under the condition of a deregulated economy as a first step in this direction, government intends to sponsor six collective bargaining with equal numbers of participants from public sector employer, private sector employer and trade unions.

The above public policy speech provided an umbrella for the practice of industrial democracy, but the various actors did not utilize this platform to create a structure for industrial democracy (Aidelunuoghene, 2014). However, it is evident that the machineries for collective bargaining to form root in the private sector and indeed the national joint industrial negotiating council became a veritable institution for wage fixing in the sector. It means therefore that for Collective bargaining to become indices of industrial democracy it should goes beyond the above to ensure that employees are co-owners who can participant in profit sharing on percentage with the employers (Akuh, 2016).

### **1.4 The Benefits of Collective Bargaining and Industrial Democracy.**

- Workers' participation in board room deliberations will prevent strike actions both in public and private sectors economy.
- Worker participation in management will create an atmosphere of value appreciation by worker of management problems because they co-owners of the enterprise.
- Collective bargaining gives workers in Electoral College to express their view and this foster industrial harmony
- Collective bargaining, as a system of rulemaking and to some extent, wages determination committee in the private sector, we cannot say the same thing where the public sector is concerned (Agara, 2014). It is safe to conclude that incessant setting up of wage commission arose from the weakness of the whitely councils and absence of the collective bargaining in the public sector.

### **1.5 Collective Bargaining Indices Of Industrial Democracy.**

Industrial Democracy has been defined erstwhile in this work as workers participation in decision making in the work place and enjoyment of the benefits therein. The concept of collective bargaining is as old as our labour laws in Nigeria as virtually all labour statutes have this provision. However, the concept of industrial democracy is novel in industrial practice. it has not been fully tried even in the advance industrial states of Western Europe and North America and has been noted (Nwokocha, 2015).

One of the proponents of labour directorship has categorically established the basis of the claims on behalf of workers to a right to membership of company's board of directors. The first hurdle is woven around CAPITAL in a free-market economy and right of the investor to manage his investment for his own BENEFIT (Osad and Osas, 2013). The second to principle of law of contract upon which employment is based and which holds each party to such contract to his bargaining terms of a contract, hardly ever include a right of the employee to equal participation in the formation of policy, as the employee's role in service for which he in compensated is wages or wage work

The cardinal points in this assertion of the learned author on industrial democracy are as follows:

- The Employer gets capital for business
- Intends to enjoy benefits alone
- Contract of employment

These are the pillars that have negated the practice of industrial democracy in Nigeria. However, with adequate provision of laws creating legal structure for the practice, the private sector has no excuse to ensure implementation of this concept.

### 1.6 Good Governance In Labour Relations And Industrial Democracy

In contemporary Nigeria legal literatures, the terms good governance and good government are used interchangeably to mean one and the same. The leaned jurist further asserted that there is no gain saying it, and indeed history support it that good governance, to persons such as Locke, Aristotle and Montesquieu could only be endangered by democracy the basis of this believe as it relates to work place democracy is that when the enterprise environment becomes people oriented in management and profit sharing then the issue of good governance will naturally find its way to the enterprise.

It is apposite to note that democracy itself is a way and system of governance based on sustained popular consent, normally is an organized setting and including the following essential elements freedom of choice, accountability of the leadership to the followership decentralization of powers and authority.

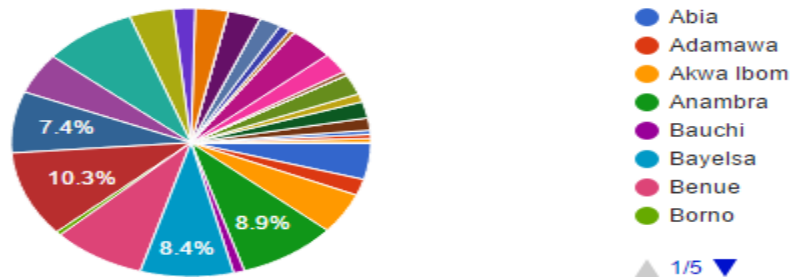
### 2.2 Data Analysis

The data derived or generated through the use of an online survey questionnaire is hereby analysed below:

Research Question One:

**What State do you reside in Nigeria?**

203 responses



**Figure 1:** Respondents identifying the various states live in Nigeria

The Interpretation of this thoughts of the learned writer form the concept of industrial democracy as being introduced as an indices of collective bargaining which is another democratic process.

## 2. Presentation and Analysis of Data

The data obtained and collated through the questionnaire in this study is therefore analysed as follows;

### 2.1 Sample Size and Techniques

Concerning the sampling techniques, the study adopts a simple random sampling techniques in identifying or selecting the respondents to respond or gives an inform answer to the questionnaire. The reason for adopting a simple random technique is concerning the fact that a simple random sampling method is adjudged to be the best in identifying respondents from a heterogeneous society just like Nigeria (Aidonojie et al 2022; Aidonojie and Odojor, 2020, Aidonojie et al 2021; Aidonojie et al, 2022; Aidonojie et al, 2022; Majekudumi et at, 2022; Aidonojie, 2023).

Furthermore, a simple random sampling techniques is said to devoid of biased result and considered a hassle-free method of selecting respondents (Aidonojie et al, 2022; Oladele et al 2022; Majekudumi et al, 2022, Aidonojie 2022; Simon and Aidnojie, 2023). However, concerning the sample size, 203 respondents were selected or identified to respond to the questions identified in this study.

S/N	States in Nigeria	Responses of Respondents	Percent
1	Abia	9	4.4%
2	Adamawa	4	2%
3	Akwa Ibom	10	4.9%
4	Anambra	18	8.9%
5	Bauchi	2	1%
6	Bayelsa	17	8.4%
7	Benue	17	8.4%
8	Borno	1	0.5%
9	Cross River	21	10.3%
10	Delta	15	7.4%
11	Ebonyi	10	4.9%
12	Edo	17	8.4%
13	Ekiti	8	3.9%
14	Enugu	4	2%
15	(FCT) Abuja	6	3%
16	Gombe	Nil	Nil
17	Imo	6	3%
18	Jigawa	Nil	Nil
19	Kaduna	4	2%
20	Kano	2	1%
21	Katsina	1	0.5%
22	Kebbi	Nil	Nil
23	Kogi	8	3.9%
24	Kwara	5	2.5%
25	Lagos	1	0.5%
26	Nassarawa	Nil	Nil
27	Niger	Nil	Nil
28	Ogun	5	2.5%
29	Ondo	2	1%
30	Osun	4	2%
31	Oyo	3	1.5%
32	Plateau	1	0.5%
33	Rivers	1	0.5%
34	Sokoto	1	0.5%
35	Taraba	Nil	Nil
36	Yobe	Nil	Nil
37	Zamfara	Nil	Nil

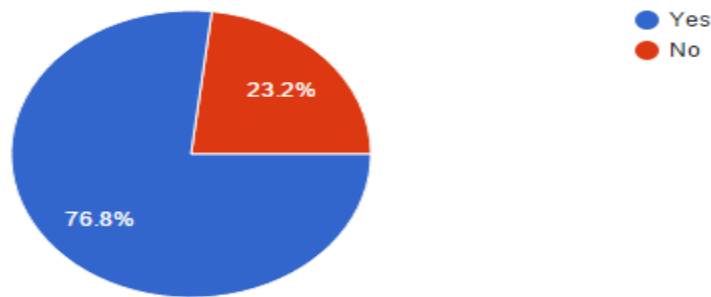
**Table 1:** respondents identifying the various states live in Nigeria

Figure 1 and Table 1 are respondents' identification of the various state they live in the Federal Republic of Nigeria.

Research Question Two:

**Do you agree that the concept of collective bargaining is a good governing concept to aid employer and employee relationship in Nigeria industry?**

203 responses



**Figure 2:** Respondents' identifying if collective bargaining is good concept in the Nigeria industry

	Response	Percent
Valid Yes	156	76.8%
Valid No	47	23.2%
Total	203	100%

**Table 2:** Valid responses of respondents' identifying if collective bargaining is good concept in the Nigeria industry

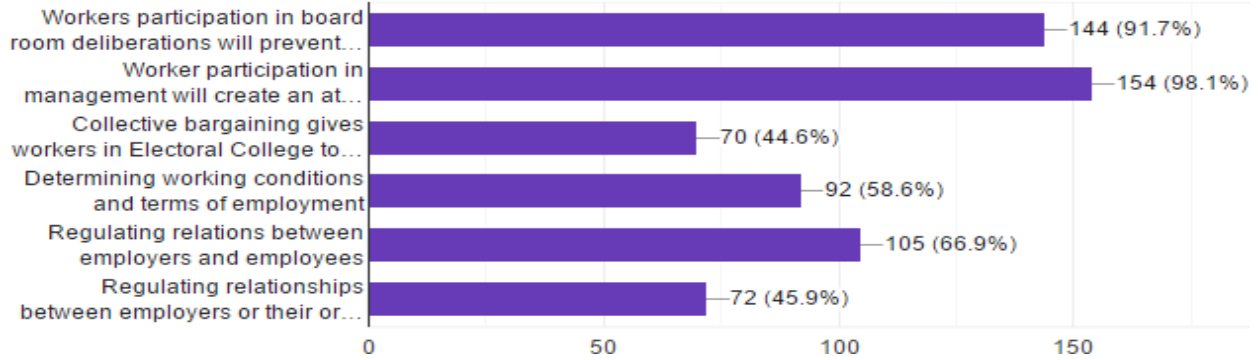
Figure 2 and Table 2 are respondent identifying if the concept of collective bargaining is a good concept that can enhance employees and employers' industrial relation in Nigeria.

Research Question Three:

**Which of the following serves as the benefit of collective bargaining to the Nigeria industrial relation?**

**You can tick more than one option**

157 responses



**Figure 3:** is a respondents' cluster of identification of the relevance concerning collectives in industrial relation

Relevance of collective bargaining	Cluster of Response	Percentage
Workers participation in board room deliberations will prevent strike actions both in public and private sectors economy.	144	91.7%
Worker participation in management will create an atmosphere of value appreciation by worker of management problems because they co-owners of the enterprise.	154	98.1%
Collective bargaining gives workers in Electoral College to express their view and foster industrial harmony	70	44.6%
Determining working conditions and terms of employment	92	58.6%
Regulating relations between employers and employees	105	66.9%
Regulating relationships between employers or their organizations and a workers organizations	72	45.9%

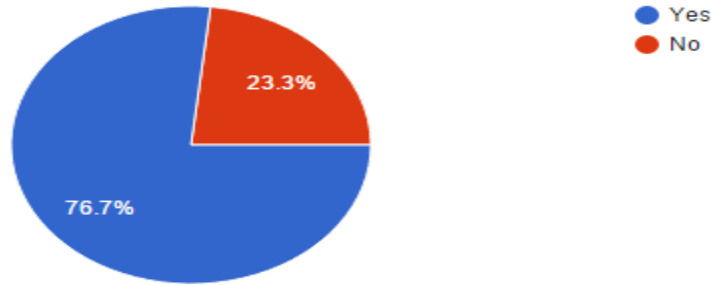
**Table 3:** Valid Cluster respondents' identification of the relevance concerning collectives in industrial relation in Nigeriaaa

Figure 3 and Table 3 are cluster of identification of the relevance of the concept of collective bargaining in the Nigeria industrial relation.

Research Question Four:

**Do you agree that there are challenges concerning collective bargaining in Nigeria industrial relation?**

202 responses



**Figure 4:** Respondents identify if there are challenges with regard to collective bargaining in Nigeria industrial relation

	Response	Percent
Valid Yes	155	76.7%
Valid No	47	23.3%
Total	202	100%

**Table 4:** Valid Respondents' identification of the challenges with regard to collective bargaining in Nigeria industrial relation

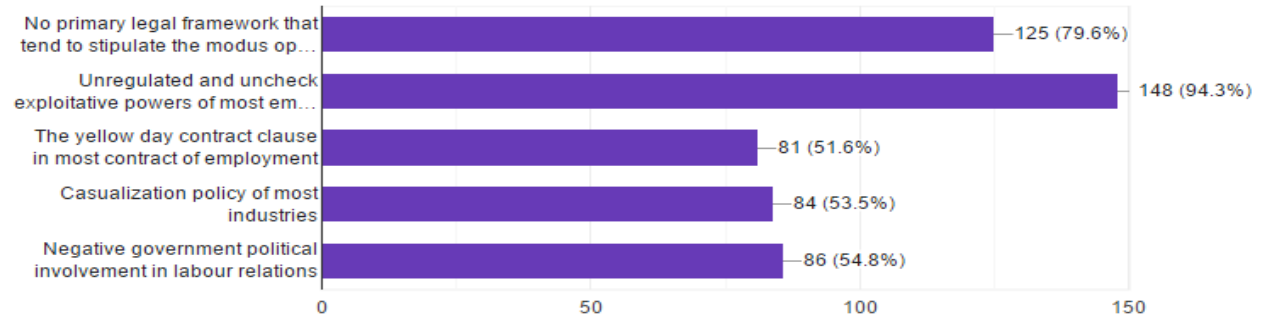
Figure 4 and Table 4 are respondent identification of whether there are challenges concerning collective bargaining between an employee and an employer in Nigeria industrial relation

Research Question Five:

**Which of the following serves as challenges concerning adopting collective bargaining in the Nigeria industrial relation?**

You can tick more than one option

157 responses



**Figure 5:** Respondent identifying the challenges concerning collective bargaining in Nigeria industrial relation

Challenges concerning collective bargaining	Cluster of Responses	Percentage
No primary legal framework that tend to stipulate the modus operandi concerning collective bargaining	125	79.6%
Unregulated and unchecked exploitative powers of most employers in Nigeria	148	94.3%
The yellow day contract clause in most contract of employment	81	51.6%
Casualization policy of most industries	84	53.5%
Negative government political involvement in labour relations	86	54.8%

**Table 5:** Valid cluster of respondents identifying challenges concerning collective bargaining in Nigeria industrial relation

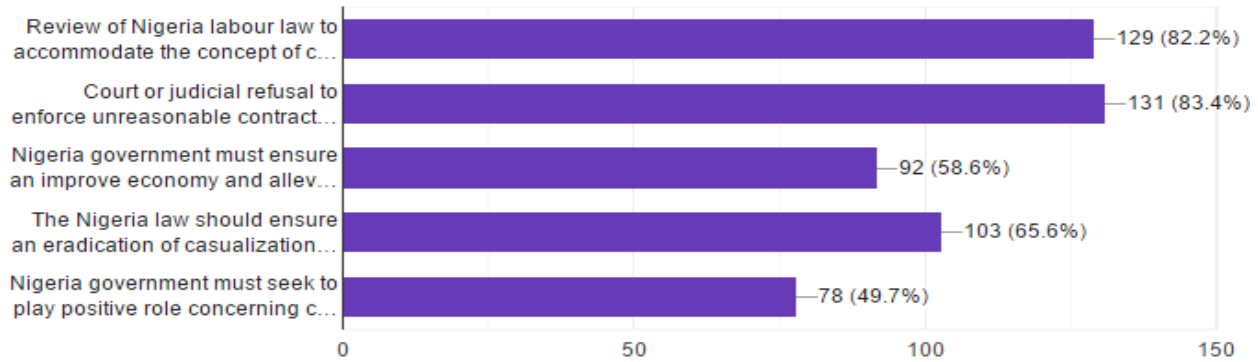
Figure 5 and Table 5 represent a cluster of respondents' valid responses in identifying the challenges concerning collective bargaining in Nigeria industrial relation.

Research Question Six:

**Which of the following could aid in curtailing the challenges concerning collective in Nigeria industrial relation?**

**You can tick more than one option**

157 responses



**Figure 6:** Respondent identifying some possible remedies concerning the challenges of collective bargaining in Nigeria industry

Remedies concerning industrial collective bargaining	Cluster of Responses	Percentage
Review of Nigeria labour law to accommodate the concept of collective bargaining	129	82.2%
Court or judicial refusal to enforce unreasonable contract of agreement	131	83.4%
Nigeria government must ensure an improve economy and alleviate the peoples poverty	92	58.6%
The Nigeria law should ensure an eradication of casualization policy of most industries	103	65.6%
Nigeria government must seek to play positive role concerning collective bargaining in industrial relation in Nigeria	78	49.7%

**Table 5:** Valid cluster of respondents identifying some possible remedies concerning the challenges of collective bargaining in Nigeria industry

Figure 5 and Table 5 represent a cluster of respondents' valid responses in identifying some of the possible remedies concerning the challenges of collective bargaining concerning Nigeria industrial relation.

**3. Discussion of Findings**

With regard, to the data obtained as presented above concerning this study, 206 respondents as presented in figure 1 and table 1 identified that they are residing within Nigeria. To this end, figure 1 and table 1 is to the extent that the respondents have knowledge with regard to the question they were being asked in this study. In figure 2 and table 2, 76.8% of the respondent identified that collective bargaining is a good governing concept to aid employer and employee relationship in Nigeria industry. However, in ascertaining the benefit the concept collective bargaining tend provide concerning employer and employees relationship in Nigeria industry, in figure 3 and table 3, the respondents identified some of the benefit as follows:

91.7% of the respondents identified that workers participation in board room deliberations will prevent strike actions both in public and private sectors economy

98.1% stated worker participation in management will create an atmosphere of value appreciation by worker of management problems because they co-owners of the enterprise

44.6% stated that collective bargaining gives workers in Electoral College to express their view and foster industrial harmony

58.6% identified determining working conditions and terms of employment

66.9% stated there is need to regulate the relationship between employers and employees

45.9% identified that regulating the relationships between employers or their organizations and a worker's organizations

However, in figure 4 and table 4 76.7% of the respondents identified that there are challenges concerning collective bargaining in Nigeria industrial relation. In this regard, in figure 5 and table 5, the respondents were able to identify some of the challenges concerning the concept of collective bargaining as follows:

76.9% of the respondents stated that there is no primary legal framework that tend to stipulate the modus operandi concerning collectives bargaining

94.3% stated unregulated and unchecked exploitative powers of most employers in Nigeria

51.6% stated the yellow day contract clause in most contract of employment

53.5% of the respondents identified casualization policy of most industries

54.8% stated negative government political involvement in labour relations

Concerning the above challenges being identified, in figure 6 and table 6 the respondents identified some possible challenges that could aid in savaging some of these challenges concerning the concept of collective bargaining in Nigeria industrial relation as follows:

82.2% of the respondents stated review of Nigeria labour law to accommodate the concept of collective bargaining

83.4% identified court or judicial refusal to enforce unreasonable contract of agreement

58.6% stated Nigeria government must ensure an improve economy and alleviate the peoples' poverty

65.6% stated that the Nigeria law should ensure an eradication of casualization policy of most industries

Also, 49.7% identified that the Nigeria government must seek to play positive role concerning collective bargaining in industrial relation in Nigeria

#### 4. Conclusion

Arising from the above analysis, it is conclusive to state that collective bargaining is a vital indice of the Nigeria labour relation and couple with the introduction of a legal frame work of industrial democracy, the weaken employer and employees' relationship will be strengthened, production will grow, industrial harmony will be encouraged, and workers welfare will be enhanced there creating good governance, eliminating yellow dog contract and casualization of labour in Nigeria.

#### 5. Recommendations

It is recommended that the various labours laws in Nigeria should be amended to entrench the concept of industrial democracy as a separate structure to complement collective bargaining as a viable index in the Nigeria labour relation.

On the issue of raising capital for investment, corporate bodies should be formed on the principles of joint financing between employer and at secondary point and the employees so as to give room to automatic nature of collective agreement

The Contract of Employment should be designed in a way that Employees are not prevented from forming trade association and the tenets of Collective Bargaining and Industrial democracy should be set in from the of set of the contract.

The provision in the trade dispute Act 2005 that gives minister of labour the power to ratify and approve collective agreements should be expunged not to make the process a mere gentle man agreement.

Worker councils, Co-determination theory, and worker Joint Consultative forum should be created with equal number of various actors in the industry sitting in board deliberation.

It is further recommended that yellow dog contract and its twin workers oppressive concept be prohibited with stiffer penalty within our labour relation to give room to workers in this most casual labour the benefit of collective bargaining.

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