

GOVERNMENT HAS FORCED ASUU TO CONTINUE STRIKE ACTION

Written by Administrator

Tuesday, 11 August 2009 12:37 -

It is a known fact that the Academic Staff Union of Universities (ASUU) has been on strike since 22 June 2009. During this period, appeals have been made by well-meaning Nigerians and organisations to both government and ASUU to reach an amicable resolution of the dispute in the interest of the nation. Members of the press may recall that after two and a half years of negotiation, government has been delaying the signing of the agreement for various reasons.

Nigerians may also recall the fact that the re-negotiation of the ASUU-FGN Agreement of 2001, which was due in 2004, did not commence until December, 2006. In spite of repeated efforts in writing, including a warning strike, the process took two years and having commenced, took another two years to conclude. ASUU remained patient throughout this period due to patriotism. When the negotiation teams finally reached an agreement, which was subsequently initialled, the Minister of Education invited the Union for a series of bogus signing ceremonies. On 12th May, 2009, it became clear to our union that government was unwilling to sign the agreement.

The series of events that led us to this quagmire is now history. However, ASUU considered the intervention by the President and Commander in Chief of the Armed Forces, on the 27th July as a welcome development.

Mr. President, stated that the monetary aspect of the agreement is not of concern to government, but that the Federal Government would not sign an agreement that will be binding on state governments. On this basis, he directed the Vice President to meet with ASUU with a view to finding a window out of this impasse.

The meeting between the Vice President and ASUU took place on 29th July, 2009.

At that meeting the Union drew the attention of government side to the following:

- The current framework of negotiation is already between the employer (representatives of Association of University Governing Councils) and employees (representatives of ASUU).
- This framework is clearly in conformity with Section 91 of the Labour Act (1971) which defines "Collective Bargaining" as: "an agreement in writing regarding working conditions and terms of employment concluded between...

(a) an organization of workers or an organization representing workers (or an association of such organizations) on the one part and

(b) an organization of employers or an organization representing employers (or an association of such organizations) on the other part."

The Cookey Commission (1981) noted that the existing Collective Bargaining arrangements did not give the Governing Councils the power to negotiate conditions of service with their employers and recommended a machinery for Collective Bargaining as follows:

"A Universities Joint Industrial Committee for all the Universities. There shall be a body to "coordinate the views and decide on the strategy of the universities, as employers, for the purpose of Collective Bargaining and the settlement of disputes." This body shall be called the Association of University Governing Council (UGC) and should be composed of the Pro-Chancellors of all the Universities and their advisers. The UGC shall also be responsible for determining the representations of the University Governing Councils and advisers (including the National Universities Commission). The selected representatives would conduct negotiation on behalf of the UGC with the mandate given to them by the Association. The selected representatives and their advisers should be constituted into the COMMITTEE OF UNIVERSITY GOVERNING COUNCILS." This is the framework used in the existing Agreements. It follows the ILO and the National Laws on Collective Bargaining.

Government has no power to unilaterally change the framework of Collective Bargaining. This

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can only be done through consultation between parties. This is as captured by ILO Recommendation 1960 on Consultation (Industrial and National Levels).

THE ISSUE OF THE STATES

THE AGREEMENT DOES NOT COMPEL THE STATES: IT DOES RECOMMEND BENCHMARKS FOR EACH UNIVERSITY TO MEET THE STANDARDS ENVISAGED FOR THE NIGERIAN UNIVERSITY SYSTEM IN THE SAME WAY THAT THE NUC UNDERTAKES THE ACCREDITATION OF COURSES IN ALL UNIVERSITIES IN NIGERIA REGARDLESS OF THEIR PROPRIETORSHIP.

The Terms of Reference of the Agreement cover the Nigerian University System. Specifically, they are:

- (1) To reverse the decay in the University System, in order to reposition it for greater responsibilities in national development;
- (2) To reverse the brain drain, not only by enhancing the remuneration of academic staff, but also by disengaging them from the encumbrances of a unified civil service wage structure.
- (3) To restore Nigerian Universities, through immediate, massive and sustained financial intervention; and,
- (4) To ensure genuine university autonomy and academic freedom.

The Team of Governing Council Negotiators-representatives set up by Government was composed of three (3) representatives of Federal and two (2) representatives of State Universities.

- (1) Chief Gamaliel Onosode, Immediate Past Pro-Chancellor, University of Ibadan.
- (2) Prof. Musa Abdullahi, Immediate Past Pro-Chancellor, UNIJOS (Now Deceased)
- (3) Prof. Greg Iwu, Immediate Past Pro-Chancellor, Nnamdi Azikiwe University, Awka.
- (4) Barrister Emeka Nwakpa, Former Pro-Chancellor, Abia State University, Uturu
- (5) Ambassador Muh. Adamu Jumba, Immediate Past Pro-Chancellor, Bayero University, Kano
- (6) Rev. Father T.E. Uwaifo, Immediate Past Pro-Chancellor, Ambrose Alli University, Ekpoma.

No provision in the Agreement requires the Federal Government to compel state governments to abide by it. Rather, the Agreement sets minimum benchmarks necessary for universities if they are to meet basic national and international standards.

EVIDENCE:

(A) Appendix I: "in the light of the preceding observations, the Renegotiation Committee agreed to recommend to the Federal and State Governments the funding requirements of the university system for 2009-11 Table II as the beginning of the process of repositioning the Nigerian University System for playing its vital role in meeting the challenges of the 21st Century (P.33). (Draft Agreement January, 2009),

The body of the Agreement is as follows:

(B) Chapter 4:1

The Funding of Federal and State Universities

It was agreed to recommend that:

d. "All regular Federal Universities shall require the sum of one trillion, five hundred and eighteen billion, three hundred and thirty-one million, five hundred and forty-five thousand, three hundred and four naira (N1,518,331,545,304) only for the period 2009-2011 as follows:

Year	Amount (N)
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2009	472,031,575,909
2010	497,531,778,701
2011	548,768,190,681
Total	1,518,331,545,304

e. Each State University shall require three million, six hundred and eighty thousand and eighteen naira (N3,680,018) per student for the period 2009-2011 as follows:

Year	Amount (N)
2009	1,144,075
2010	1,205,880
2011	1,330,063
Total (Approximated)	3,680,000

These amounts include Recurrent and Capital Grants, and are based mainly on the disaggregated returns from the universities.

(C) Section 4.2: Sources of Funding: Federal and State Government

The goal of this negotiation is to put Nigeria in a strong position to become a knowledge-based society that will be able to compete and survive in the 21st Century.

To achieve this, the entire education system requires massive funding at all levels. While non-budgetary sources have a role to play, and there must be continuous efforts to identify and use them prudently, the major source of funding education for national development is through budgetary allocation from State and Federal Governments. With this in view, the Re-negotiation Committee agreed to recommend to the relevant authorities that:

- (a) A minimum of 26% of the annual budget of the State and Federal Governments be allocated to education.
- (b) At least 50% of the budgeted 26% shall be allocated to the universities; and
- (c) The representation of the Federal Ministry of Education to the Revenue Mobilization and Fiscal Commission to put education on the "First Charge" be vigorously pursued.

(D) In 3.0, Conditions of Service: No section compels state universities. It only says that "Academics deserve unique conditions that would motivate them, like intellectuals in other parts of the world... to attain greater efficiency and effectiveness in service delivery with regard to teaching, research and community service.", and, on the basis of this, adopted the African Average and recommended it. All Nigerian Universities already operate a separate salary structure for academic staff. The Negotiating Team simply recommends what a university would rationally pay if it wants to meet the desired goals of the university system. It is a rational guide for decision-making.

(E) THERE IS NO BASIS IN PREVIOUS EXPERIENCE TO CONCLUDE THAT STATES ARE TO BE COMPELLED

- At no time has ASUU ever forced the Agreement on any state.
- At no time has any State Governor complained that ASUU forced the Agreement on it.
- The Agreement has always been presented to State Governments to adopt them as they deemed appropriate. State Governments are free to adopt them, to their satisfaction. It is a recommendation about what it is prudent to do if they want their universities to meet the minimum standards set by NUC for the system.

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(F) WHAT IS THE REAL POSITION?

- The NUC operates uniform academic standards in all universities.
- The NUC accredits the degrees and other academic awards in the universities.
- Lecturers in the public universities system move from one university to another as lecturers or external examiners -- irrespective of their ownership – state or federal.
- JAMB conducts admissions into the University System – with one set of requirements.

The Agreement is directed towards making it a reality that there continues to be one university system. While the Federal Government cannot and shall not intend to compel the Federal Government to implement the provision of the Agreements in respect of universities, the state universities would be guided by the Agreement if they are to operate within the goals of achieving the same standards for Nigeria's university system. The Agreement with ASUU is a recommended minimum for both Federal and State Universities. Each Governing Council is a participant in the negotiation through the committee of Pro-Chancellors, whose representatives form the Negotiating Team. Each Council is free to exceed that minimum if it has the capacity to do so. Each state is to be guided by this minimum. There is no compulsion in the Agreement. No section of the Nigerian Constitution is breached by the Agreement in any way.

REFUSAL TO SIGN WOULD AMOUNT TO THE UNILATERAL ABROGATION OF THE 2001 AGREEMENT

Section 7.7 of the 2001 Agreement, the validity of which is not in question, states:

"It was agreed that a comprehensive review of the Agreement, including allowances, shall be undertaken every three years." (P.30).

By refusing to sign the 2008 Agreement, which is a product of the renegotiation of the 2001 Agreement, the Federal Government would be unilaterally abrogating the valid 2001 Agreement, and this is in violation of the Principles of Collective Bargaining.

1. As a result of the deliberations at the said meeting, the Vice President specifically directed that
 - (a) The FGN/ASUU Renegotiation Team be mandated to resume negotiations on/by Monday, August 3rd, 2009 and that since the Chairperson, Deacon Gamaliel Onosode was not available another member of the Government Team be asked to chair the meeting pending the return of Mr. Onosode.
 - (b) The Government Team be adequately briefed by the Minister of Education, on the new window that dialogue had opened towards resolving the impasse. In particular, the Vice President directed the Minister of Education to come up with a document that will guide the Government Team on the positions of Government on those aspects of the Agreement about which Government has reservations.
 - (c) The resumed negotiations shall respect the principles of Collective Bargaining; at the end an Agreement will be signed.
 - (d) The two teams be given two weeks within which to conclude the exercise.
 - (e) Given the fact that ASUU may not be able to summon a National Executive Council meeting to review the strike action that week, especially as its members are not only coming from all parts of the country but are also not as privileged as the members of the Government Team, it was expected that the leadership of ASUU will summon such a meeting the following week.

It is sad to note that although we were invited to resume the renegotiations on Monday 3rd as directed, we have spent the first week without achieving anything because the Vice President's

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directives were not implemented. First, when we arrived for the meeting on Monday, the Acting Chairman, Professor Greg Iwu was only interested in knowing whether ASUU had suspended the strike or not, and he was informed that a NEC meeting had been summoned for this week to review the situation. When he was asked to present Government's position, on the Draft Agreement, it became clear that he had not been briefed and he subsequently adjourned the meeting to the following day: A DAY WASTED.

Second, we were informed that upon his arrival on Tuesday 4th, Deacon Onosode would not only be briefed adequately by the Minister, but would also be armed with the list of the contentious issues as directed by the Vice President. However, when we resumed, Mr. Onosode insisted that he did not have any new information to warrant his changing his position of July 10th, 2009 as communicated to ASUU awarding a 40% increase in salaries and completion of negotiations with individual university councils. He also stated that he was not aware of any meeting with the Vice President. At this point, he was given the letter of invitation. This he claimed he did not receive.

At this point, the NUC Executive Secretary, Prof. Julius Okojie informed the committee that there was an invitation from the Vice President to the Minister to see him that morning but they were unable to meet with him because of Vice President's engagements. The meeting then agreed to adjourn to Thursday to enable the Government Team and the Minister of Education the time to meet with the Vice President.

Third, even though we accepted to adjourn again to Thursday 5th July, 2001 to allow the whole of Wednesday 4th for the Government Team to consult and be adequately briefed by its principal, when we resumed on Thursday, it was the same story: Government Team leader's position had not changed as he had not received any new instruction from Government to warrant changing his earlier position of 10th July, 2009 and he subsequently adjourned the meeting again to Monday, August 10th, 2009: A whole week was thus wasted.

It is sad to note that one week after receiving instructions from the Vice President, the Minister of Education could not produce a list of the 'contentious issues' that would guide the resumed renegotiation exercise.

Gentlemen of the Press, what we witnessed in this first week of meetings is a concerted effort by the Minister of Education albeit assisted by the Executive Secretaries of National Universities Commission (NUC) and Education Tax Fund (ETF), who were at the meeting of 30th July, to close this window opened by the Vice President's intervention and frustrate our collective efforts to amicably resolve issues in favour of the good people of our dear country, Nigeria.

None of these three people found it appropriate to guide or even inform the Government Team on the outcome of the dialogue we had with the Vice President even though they all attended that meeting.

In spite of all these, the Union, out of respect for the office of Mr. Vice President, convened a National Executive Council (NEC) meeting for Saturday 8th August, 2009 as promised to take information and objectively review the situation.

At this meeting, NEC noted that this is not the first time the Presidency intervened to get ASUU to suspend a strike action, promising to address issues in dispute and such promises being scuttled by the bureaucrats. NEC recalled that when Mr. President took oath of office on 29 May, 2007, the union was on strike and His Excellency called ASUU to a meeting on 21st June 2007. At his meeting, the newly elected President of Nigeria appealed to the union to suspend its strike and allow him an opportunity to address the issues. Part of the promises made by Mr.

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President, which were documented in a letter dated 26 June 2007 by the then Permanent Secretary, Ministry of Education, Dr. Aboki Zhawa, include:

- (i) On the University of Ilorin 49 lecturers sacked in violation of the non-victimisation clause, contained in the 30 June 2001 Agreement, this will be resolved in the process of an out-of-court settlement;
- (ii) The Government Negotiating Team shall be empowered to negotiate with ASUU within the principle of collective bargaining with a view to addressing the problem of ROT and BRAIN DRAIN in the University system and to establish internationally competitive standard
- (iii) Recognising the peculiarity of the work of academic staff and the acute need of the University system, academic staff ought not to be embedded in the civil service framework as in the case of PENSIONS and CONSOLIDATION. This matter will be revisited within the framework of the on-going re-negotiation.

The bureaucrats ensured that these promises by Mr. President were not fulfilled. For instance, the Minister of Education later pronounced that Mr. President's decision on the UNILORIN 49 was that the matter be decided by the Supreme Court

The Union is also aware that these agents of government are trying to weaken the Union's resolve to continue the struggle for a better university system for Nigeria, by initiating, promoting and sponsoring the formation of an Association of Professors. As with all their other mechanisms, this one too, is bound to fail, as it did when General Abacha tried it in 1996. Indeed, many members of the Union have been reporting to us the attempts to coerce them into joining this association and the Union is set to address this issue.

We have people who originated from the academic environment but who have been transformed into hatchet men for the ruling class by the bureaucrats. They are economic hit-men – conduit pipes, conveyor belts that are now hiding under the bureaucrats to wreak havoc on the society. They are found at the level of Directors, Permanent Secretaries, Executive Secretaries and sometimes, Ministers.

Ordinarily, ASUU NEC would have suspended the industrial action. But because one week has been wasted out of the two weeks granted by Mr. Vice President, the union is not sure that the intervention of Mr. Vice President will yield any positive result. Also, the June 2007 intervention of Mr. President was scuttled by the bureaucrats and ASUU-NEC is not sure that Mr. Vice President's intervention at the instance of Mr. President will not suffer the same fate. As the saying goes: ONCE BITTEN. TWICE SHY.

It is, therefore, with heavy heart that ASUU-NEC resolved that the industrial action will only be reviewed if and when the instructions of Mr. Vice President are fully implemented.

NEC,

- (i) having received a report from the ASUU Negotiating Team on the state of negotiation between it and the Federal Government Team, and,
- (ii) having reaffirmed the mandate of the Negotiating Team, resolved that:
- (iii) the Negotiation which started since November, 2006 be concluded and an agreement be signed with the Federal Government, in keeping with the principles of Collective Bargaining, and that
- (iv) the on-going strike action embarked upon by the Union be continued until the negotiation is concluded and an agreement signed to the satisfaction of NEC.

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ASUU-NEC is further convinced that this can be achieved within the remaining one week so as to pave way for industrial harmony.

This is the first time in recent times that we have been called upon to defend the very existence of unionizing and unionism. An axe has been laid on the roots of the principle of Collective Bargaining, the survival of which distinguishes the modern society from its primordial predecessors of feudal system, where we have perpetual lords and serfs from birth to death. We cannot sentence ourselves to perpetual slavery.

We regret the hardship the activities of the beaurocrats have brought on our dear students, their parents and sponsors and indeed on the Nigerian nation. However, we cannot abdicate our responsibility to defend and ensure the emergence of an internationally and nationally acceptable university system, that is affordable by majority of Nigerians and that produces quality university graduates and leaders.

Professor Ukachukwu Awuzie, fnia
President
On behalf of ASUU-NEC