

**COMPARATIVE ANALYSIS OF COLLECTIVE BARGAINING PROCESSES
TO ATTAIN EMPLOYEE PARTICIPATION IN ORGANIZATIONS: THE
CASE OF PUBLIC AND PRIVATE ORGANIZATIONS IN MALAWI**

**MA (HUMAN RESOURCE MANAGEMENT AND INDUSTRIAL
RELATIONS) THESIS**

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UNIVERSITY OF MALAWI

DECEMBER, 2021



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By

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Submitted to the Faculty of Social Science in partial fulfillment of the requirements
for the award of the degree of Master of Arts in Human Resource Management and
Industrial Relations

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December, 2021

DECLARATION

I, Phillip Benito Neliyo hereby declare that this thesis is my own work which has hitherto not been submitted to any other institution for similar purposes. In cases where the work of other people has been used in this thesis, an acknowledgement has been duly made.

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Full Name

Signature

Date

CERTIFICATE OF APPROVAL

The undersigned duly certify that this thesis represents the students own work and effort and the submission is under my approval.

Signature: _____ Date: _____

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Supervisor

DEDICATION

This work is dedicated to (various family members) my first born son, friends, workmates, and members of our class who encouraged me to continue pursuing this thesis despite the tight work schedule. Special dedication should go to my wife who kept on reminding me *kuti kodi sukulu ija munaisiya?* (Have you stopped doing your school)? I salute you for being inspirational and encouraging in all this time of study.

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ABSTRACT

The study interrogates differences and similarities in the processes of conducting Collective Bargaining (CB) in public and private sector organizations. The study used quantitative method in its data collection because it wanted to generate realistic statements which describe how the processes of CB are followed in public and private organizations in Malawi. The data was collected through the structured questionnaire which used Likert scale questions in order to find out the degree in which the processes of CB are conducted. The data collected was analysed through the use of Statistical Package for Social Scientists (SPSS) as it was deemed ideal because of its flexibility in the interpretation of numerical data. In order to achieve the main objective of comparing the CB processes, the study analysed CB processes, the form of employee participation, determined the major issues in CB, analysed the factors hindering the CB processes and making a determination of whether these CB processes are effective in public and private sector organizations. The findings of the study revealed that both public and private sectors value CB as an important aspect in attaining full participation of employees in decision making. It further revealed that CB processes are more visible in private sectors as opposed to public sectors. The findings highlighted that there is lack of transparency in the way CB is conducted in the public sector in comparison to the private sector. From the findings, the study concludes that in both sectors Trade Unions (TUs) need to be strong and organized for them to start influencing management in the way they reach decisions involving substantive rights of the employees.

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ABBREVIATIONS AND ACRONYMS

AM	Administrative Managers
BIM	British Institute of Management
CB	Collective Bargaining
CCASU	Chancellor College Academic Staff Union
CEAR	Central and Eastern Africa Railways
COUM	Council of the University of Malawi
CSTU	Civil Service Trade Union
DWS	(Mapeto) David Whitehead and Sons
EA	Employer Associations
EA	Employment Act
ECAM	Employers Consultative Association of Malawi
EI	Employee Involvement
EP	Employee Participation
ER	Employer/Employee Representatives
ESCOM	Electricity Supply Commission of Malawi
EV	Employee Voice
HRM	Human Resource Managers
ILO	International Labour Organization
IRC	Industrial Relations Court
JCC	Joint Consultative Committee
LCC	Lilongwe City Council
LFS	Labour Force Survey
LRA	Labour Relations Act
LRS	Labour Research Service

MCTU	Malawi Congress of Trade Unions
MCP	Malawi Congress Party
MHC	Malawi Housing Corporation
MIE	Malawi Institute of Education
MLMP	Malawi Labour Market Profile
MLR	Ministry of Labour Report
MTL	Malawi Telecommunications Ltd
NBCCMI	National Council for Clothing and Manufacturing Industry
NER	Non-Unionized Employee Representatives
SA	South Africa
SPSS	Statistical Package for Social Scientists
SRLO	Southern Region Labour Office
TU	Trade Unions
TUA	Trade Unions Act
TUM	Teachers Union of Malawi
UI	Universal Industries
UK	United Kingdom
UNIMA	University of Malawi
USA	United States of America
UWTU	University Workers Trade Union

CHAPTER ONE

INTRODUCTION

1.1 Introduction

Collective bargaining, according to Anstey (1974) in Tamen (2013), is an indirect form of employee participation in decision making, and is the most common form of employee participation used worldwide. It is also described as a social process which turns disagreements into agreements in an orderly fashion, (Flanders, 1970). The International Labour Organization (ILO) through its convention no 98, (1949) describes CB as a voluntary negotiation between employers and workers organizations, with a view of regulating terms and conditions of employment by collective agreements.

CB is credited to the Webb Sisters (1891) who are said to be the first people to use the term as an economic institution acting as a labour cartel by controlling entry into trade. However, in the United Kingdom (UK) CB was vibrant as a labour law and was characterized by voluntarism, (Bogg, 2006). Trade unions were recognized as representatives in CB within the industry. However, things changed in 1979 when Mrs. Thatcher took over government, (Farham and Pimlott, 1995). Her conservative party viewed TU(s) as a catalyst of industrial action taking place in the UK.

Trade Union registration declined from 475 before Thatcher to 221 in 2000 according to Labour Force Survey (LFS), (2009). The decline of TU(s) signified the shift from collectivism to individualism where employers preferred to discuss with employees individually than collectively.

In France public enterprise agreements have been recognized by law since 1982 as a means of supplementing statutory provisions or specifying the manner in which they are to be given effect, ILO (2015). According to ILO working paper on CB in European nations WP 309 (2015), collective agreements in France may determine the conditions of employment, work and social benefits for other categories of personnel not covered by specific legislative council. Collective agreements in France are concluded at different levels according to the social dialogue Act of 2010. All trade unions with at least one seat on the advisory bodies relevant to the subject covered by the negotiation may participate in the negotiation. According to the Act, the principle is that an agreement will be valid if it signed by unions representing an electoral base of 50% of voters.

In the United States of America (USA) there was a major breakthrough of CB in 1930 following a depression which altered the climate of public opinion and promoted state interventions in support of union organization and CB, (Bean, 1994). This was followed by the enactment of the National Labour Relations Act, also known as Wagner Act in 1935. The Act protected employee rights to organize and bargain collectively by means of banning certain forms of management conduct as unfair labour practices. Prior to this Act, employees were compelled to sign what was known as 'yellow dog' contracts, whereby employees undertook to not join a union as a condition of employment, (Bean,

1994). According to Clawson and Clawson (2007), the American labour law guarantees workers the right to “self organize” by forming Trade Unions. However, in the last 30 years, there has been a decline in union movement and consequently the union membership density is as low as 12%, (Ahmad & Basheer, 2012).

In South Africa (SA) CB became more transformed after the apartheid regime in 1994 (Maree, 2013). The coming in of the Labour Relations Act (LRA) of 1996 brought full collective bargaining right to all public service as well as domestic and farm workers. This resulted in the formation of bargaining councils and the provision of trade unionism according to Erickson and Kuruvila (1998).

In Malawi, CB started during the colonial period since there were legislations which attempted to give workers some sort of participation in voicing their concerns. They include the Employment Act (EA) in 1954 and the Trade Unions Act (TUA) in 1958, (Dzimbiri, 2005). Most Malawian organizations embraced the concept of CB in relation to the achievement of employee participation (EP) in decision making after the enactment LRA in 1996. Such that by the year 2009, a total of 18 Trade Unions (TU's) signed collective bargaining agreements with their employers according to the Ministry of Labour Report (MRL), (2009).

According to Cole (2011), the success of CB hinges on following laid down processes. The proper processes are consultation, discussion, brainstorming, bargaining and settlement. These processes if followed produces a workable relationship founded on mutual respect in which tangible benefits are realized on agreed terms.

This study was undertaken to examine the processes involved in conducting CB in private and public sector organizations in Malawi. The major aim was to analyze CB processes to attain employee participation in major decision making in organizations and see whether there are differences and similarities in the way CB is conducted in these sectors.

This study therefore makes comparisons between private and public organizations about the processes followed to conduct CB as an indirect way of employee participation in decision making.

1.2 Problem Statement

Despite the new Malawi constitution of 1994 advocating for freedom of association and the right to fair labour practices and the enactment of the LRA in 1996, there have been a lot of industrial disputes recorded in Malawi. These disputes are a result of failure to have fruitful CB agreements reached between employers on one hand, and employees on the other hand. This has hitherto resulted in employees staging several industrial actions to force their views to be heard by management. For example, going through The Nation and Daily Times newspapers in the years' 2015 to 2018, 12 industrial disputes in the private sector and 47 in the public sector (Appendix 2) were reported. This indicates that organizations in both sectors continue to fail to utilize the process of CB by not engaging employees before effecting their decisions.

There have been several studies conducted on collective bargaining and employee participation across the globe. According to the LFS (1995), in UK, the focus towards collective bargaining has decreased significantly. This is because organizations have

shifted their focus from collective bargaining with employee representatives to individuals. Other studies such as the one conducted by Donaghey et al. (2011) in Maiden (2016), the focus was on employee participation in non-unionized organizations in Ireland. In SA, Maree (2011) conducted a survey (on the future of collective bargaining), to determine whether collective bargaining has a future in a democratic SA as opposed to the apartheid period. In Zambia and Zimbabwe, the survey conducted by the Labour Research Service (LRS) in 2010 focused on recognition and role of trade unions in collective bargaining and employee participation in decision making.

In Malawi, a recent study by Maiden (2016), focused on employee voice in a non-unionized environment. The study dwelt on determining whether there are policies and procedures where employees channel their grievances without the existence of trade unions.

From the studies stated above, the main focus were on challenges facing CB in other countries like the UK, future of CB in democratic SA, recognition of Tus and their role in CB and the voice of non-unionised members in an organization. The studies found that Trade Unions play an important part and are well recognized, non-union members have a platform to voice their concerns, Maiden (2016), but the question remains why are industrial disputes continuing? To answer this question, this study looked at the processes taken to have fruitful CB. This is where the study found a gap which needs to be filled. The study believes that this gap needs to be looked at, as it can add to existing scholarly knowledge on CB which can help to avert the increasing industrial action taking place in public and private sector organizations in Malawi.

1.3 Main research question

The main research question for the study was; Are there differences in CB processes in public and private sectors in Malawi?

1.4 Main objective of the study

The main objective of the study was to compare the CB processes in public and private sectors organizations to achieve employee participation in decision making.

1.4.1 Specific objectives

In order to achieve the main objective of the study, the following specific objectives were the drivers:

- 1 Analyse CB processes in both public and private sectors.
- 2 Analyse the forms of employee participation in CB in public and private sectors.
- 3 Determine issues that are subject to CB in public and private sectors.
- 4 Analyze the factors that affect CB processes in public and private sectors.
- 5 Determine the effectiveness of CB in private and public sectors in enhancing employee participation.

1.4.2 Specific research questions

The following specific questions were addressed in order to answer the main question

1. What are the CB processes in public and private sector organizations?
2. Which forms of employee participation exist in collective bargaining in public and private sectors?
3. What issues are subject to CB processes in both public and private sectors?
4. What are the factors affecting CB processes in public and private sectors?
5. How effective are CB processes in public and private sectors in promoting employee participation in labour related management decisions?

1.5 Justification of the study

Since Malawi enacted the LRA in 1996, many organizations allow employees to form TUs to represent them in discussing with Management on issues of concern to both parties. Through these TUs, Organizations sign collective agreements with employees. However, a study conducted by LRS (2010) suggests that CB remains under-developed in Malawi. The study observed that collective agreements signed between unions and employers relate to recognition and procedural matters rather than substantive issues. For example, the issue of employer participation in making decisions on critical matters concerning employee's conditions and welfare has not been explored. Furthermore, the study only considered the public sector, rather than the private sector and centred on issues covered by CB in the decision making and not the processes involved in CB. Similarly, in Zimbabwe and Zambia, the same study by LRS established that the public sector is facing challenges in the pursuit of CB and employee participation. It further revealed that governments put restrictions on the way trade unions operate and employee representation is not accorded the full rights of workers' organizations.

It is evident that both private and public sector organizations in Malawi continue to witness growing industrial disputes Appendix 2 (Industrial action cases reported by newspapers-2015-2018). This is the case despite Malawi having a law which encourages collective settlement of industrial disputes LRA (1996). The focus of the study is on private and public sector organizations. According to Tunde (2011) the practice of industrial relations as a discipline and that of CB in particular emanated from the private sector the world over. Thus the practices of CB in public sector are modelled after the private sector. Tunde (2011) further asserts that there is a marked difference in the manner CB is practised in private and public sector organizations. For this, the study focussed on these two sectors to see how they conduct their CB in order to establish the differences and similarities.

It is also important to conduct this study now in Malawi due to the continuing rise of industrial action as evidenced by the number of reported cases in newspapers (Appendix 2). By conducting this study, it is believed that if organizations follow the right processes in conducting CB, industrial disputes will be resolved with mutual relationship based on trust and respect with accrued benefits to both parties, (Cole, 2011). Secondly following the processes of CB can assist in averting or reducing the number of industrial disputes, (Cole, 2011).

1.6 Structure of the study

Chapter 2 of this study will review the literature for the purpose of this study. The literature is based on the topic of CB, its processes, the forms used in CB, the main issues which are frequently encountered in CB, the factors which affect the processes of CB and how CB can be effective. The chapter also reviewed some arguments against CB as viewed by some scholars. The chapter closes with the theoretical framework of the study. Chapter three describes the methodologies used in data collection and how that data has been analyzed. Chapter four presents and discusses the findings of the study. The last chapter (which is chapter five) provides the conclusions drawn from the findings of the study.

1.7 Conclusion

This chapter has presented the introduction and background of the study. It started by giving the meaning of CB and its origins. It then went on to look at various countries across the globe in terms of how CB has been conducted. The other area in this chapter was highlighting the major problem which is continued rise of industrial action despite having the enabling law guiding the conduct of CB since 1996 in Malawi. The rise of industrial action needs both employer and employees to work together in fostering mutual relationship based on trust. This chapter highlighted other studies done on Unionism, future of CB and noted that there is a gap which will if followed add to the already existing knowledge on CB. The need to follow CB processes is the gap which this study is tackling. The Chapter also looked at the main question, main objective as well as specific objective and questions of the study respectively. The study is important now as it has the potential of averting or minimizing the growth of industrial action in public and private organizations. Lastly, the chapter has also provided the structure of the thesis.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

This chapter reviews literature by various scholars on the importance of Collective Bargaining as a key element in achieving employee participation in decision making in an organization. It starts by looking at definitions of CB, the processes undergone to achieve meaningful CB. It proceeds to highlight forms used in employee participation, and considers main issues which are important in successful employee participation in decision making as well as its effectiveness. It also briefly discusses comparative industrial relation in public and private organizations globally. Furthermore, the chapter presents arguments against the principle of CB and ends with the major theories which explain the concept of CB.

2.2 Collective Bargaining and Employee Participation

2.2.1 Collective Bargaining

Collective Bargaining is an economic institution which acts as a labour cartel by controlling entry into the trade, Webb (1891) in Farnham and Pimlott (1995). However, other scholars have come up with other definitions. According to Farnham and Pimlott (1995), CB is a political process that helps trade unions to protect the dignity of its members. As for Dubin in Armstrong (2010) CB is a social invention that has institutionalized industrial conflict.

In the same Armstrong (2010), the Donovan Commission defines CB as a right which is the prerogative of every worker in a democratic society. In all the definitions, the employee's representative (TU) is mentioned as a central player for the success of CB.

Another definition that is relevant to the study is provided by Thomson (1984) in Cole (2011) who defines CB as a method of resolving conflicts which is characterized by its involvement of at-least two opposed parties of different interest in outcomes of decisions, but who voluntary come together to decide matters of concern. In the context of Industrial relations, (the study of the relationship employer and employee in a paid employment), Edwards (1995) also defines CB as the process whereby procedures are jointly agreed and wages and conditions of employment are settled through negotiations between employers, or associations of employers and workers' organization. The Donovan Commission supports the view that CB is a right of workers, (Armstrong, 2010). However, Salamon (2002) provides the most concrete definition as it touches on utilization of the processes of negotiation between the two parties (employer and employee). Furthermore, Salamon (2002) conceives CB as a method of determining terms and conditions of employment and regulating the employment relationship. By utilization, Salamon (2002) meant the processes involved in order to reach an agreement applied across a group of employees. The outcomes of such negotiations emphasize on collective action. They (outcomes) stress on rule making, settlement of employment conditions and reaching collective agreements.

2.2.2 Employee Voice

According to Boxall et al (2003) in Armstrong (2010) Employee Voice (EV) is a term increasingly used to cover a whole range of processes and structures which enable and sometimes empower employees directly and indirectly to contribute to the decision making in the firm. This is a general definition which encompasses both unionized and non-unionized employees. Another definition is provided by Dundon et al. (2004), which states that EV is an individual expression of dissatisfaction raised by line managers or through grievance procedure. This definition, however does not relate well to the present study due to its emphasis on individualism, rather than collectivism which is the core part of this study. This study therefore will align with McCabe et al. (1992) in Armstrong (2010) where EV is conceived as a process whereby employees take part in making decisions in an organization. This is the most fitting definition as it offers an expression of collective dissatisfaction raised by employees through CB processes. According to Armstrong (2010), EV has two core elements. The elements are Employee Participation (EP) and Employee Involvement (EI). In EP, employees participate in decision making through collective agreements following certain rules and regulations. In contrast, EI is described as having an input on decisions and actions that affect employee's jobs, (Armstrong, 2010). EP influences decision making while EI engages employees as well as supporting the commitment and understanding of employees. This study focuses specifically on EP as it is conducive to CB because it is an ideal way in ensuring participation in managerial processes.

2.2.3 Employee Participation

The British Institute of Management (BIM) (1977) in Cole (1999) defines EP as a practice in which employees take part in management decisions. This is based on the assumption of interests between employer and employee in furthering the long term prospects of the enterprise and those working in it. Employees need to be consulted and engaged in decisions making such as appointment of senior officials. This definition is further widened by Armstrong (2010) who defines Employee Participation as a process where employees play a greater part or role in the decision making process by being given the opportunity to influence management decisions and to contribute to the improvement of organizational performance. It gives workers some influence over organizational and workplace decisions, (William & Adam, 2006). This is where this study is more focused on. Employees should not just be informed of the decisions, but take part in every step of the decision making. However for participation to be effective, unions need to have strong representation since EP is typically enacted through indirect participation via employee representatives, (Bennett, 2007). Kochan et al. (1986) point out that, one of the strongest factors affecting the choice of approach to EP is the value held by Management towards employees and their TUs. Another way of making participation effective is proposed by Cox et al (2006) in Armstrong (2010) which recognizes mechanisms that form part of everyday working life in an organization. This is where we need the existence of proper processes of CB which are a core value in enhancing CB and EP.

2.3 Forms and Types of EP

According to Westhuizen (2010), employee participation refers to the totality of forms that is (personal) direct or indirect (through representatives) by which individuals, groups, collectively secure their interests to the decision making process. The importance of this definition is in its delineation of the two forms of employee participation in decision making, namely direct (employee themselves), and indirect (through representatives), (Tchapchet et al., 2014).

2.3.1 Direct Employee Participation

According to Kester (2007), in Tamen (2013), direct participation occurs when employees share in all decisions that are made at an enterprise level by them. Direct participation encourages employees to participate, speak for themselves about matters related to work. Direct participation is regarded as a process of job enrichment where the employee is offered the possibility of extending the depth and width of his work tasks, but without any control over organization planning or goal setting, (Salamon, 1994). The participation can be through being at the board level where problems and issues concerning employees are voiced in front of management and guide the board members to invest in employee benefit schemes.

Through Direct Participation employees are able to access all relevant information pertaining to their jobs, consultation about changes that may affect the employee, and personal involvement of employees in the decision-making process, (Cole, 2011). Direct Participation provides mechanisms which enable individuals to influence their day-to-day operations, Sako (1998) in Armstrong (2010). In summary, Direct Participation is concerned with face to face contact between managers and their

subordinates in the form of meetings, exchange of e-mails and questionnaires, (Du Toit et al (1992) in Maiden (2016).

2.3.2 Indirect Employee Participation

Indirect Participation is where employees share some decisions that are made in the workplace through their representatives Kester (2007) in Tamen (2013). In Indirect Participation employees take part in decision making through TU(s). CB is a form of Indirect Participation in which employees and employers reach collective agreements, (Colling & Terry, 2010). CB is the most common form of employee participation worldwide according to Anstey (1974) in Tamen (2013). With CB, TU(s) and ERs engage in joint regulation of workplace related issues which jointly solve the problems which arise, Bendix, (2010) in Maiden, (2016).

2.4 Processes of CB

According to Cole (2011), for CB to be effective and successful, there are processes to be followed. The first process involves consultation between employees and employers. This process forms part of a continuous relationship between employees and their management, (Cole, 2011). The aim is to achieve a mutual relationship founded on trust and respect in which tangible benefits are realized on agreed terms. This process requires preparation for negotiation by both management and employees, (De Cenzo & Robbins, 1996). The composition of the negotiating teams from both sides is formed. Both teams need to have adequate knowledge and skills of the problem. They should also have the mandate to determine whether there is a reason to negotiate. This method prevents fire-fighting approach (where negotiations start when there is trouble), (Colling & Terry, 2010). According to Torrington (2005), many organizations still

favor this traditional method of fire-fighting. The fire-fighting approach has resulted in many disagreements between employers and employees. The case of UWTU v COUM (2003) is a typical example of fire-fighting. In the case UWTU accused COUM of not consulting them before announcing the new wage structure. The presiding judge faulted COUM on their failure to consult and stressed that consultation is fundamental when it comes to issues which eventually affect legitimate expectations of employees such as wage increase.

He further stressed that “consultation means jointly explaining and discussing problems of concern to both management and employees. Such consultations seek mutually acceptable solutions and genuine exchange of information and views”.

The second process is the discussion phase where both parties meet and decide on the ground rules guiding the negotiations, (Colling & Terry, 2010). The issues under negotiations are presented on the table for discussion. As Cole (2011) wrote, the advantage of this process is that it creates an environment of mutual trust and understanding.

The third process is where both parties make proposals by making initial opening statements and offer possible solutions. This according to Colling and Terry (2010) is the brainstorming phase. This is the stage where both parties reach an agreement towards their negotiations, (De Cenzo & Robbins, 1996)

The fourth process is the bargaining process where parties unpack what they have. Colling and Terry (2010) observed that it becomes easy to bargain if both parties adopt a problem-solving approach. The process is also known as integrative bargaining. The

objective is to encourage both sides to adopt a lateral thinking and flexible attitude in order to facilitate concessions and improved ways of working. This can minimize the problem of constant cancelling or changing dates of meeting as well as seeking to divide loyalty of employees by management. This is tantamount to negotiations without good faith as observed by De Silva (1996). The employees are engaged rather than being involved as per CB requirements.

The last process of CB is the settlement phase. This is the process where agreements are ratified and administered, (De Cenzo & Robbins, 1996). Both parties to the negotiating table agree on the common decision regarding the problem. It calls for joint implementation of the agreement. This is also another area of challenge where employers tend to flout the agreements.

The processes stated above form the main objective and scope of CB, which is to agree on acceptable contract to both employers and employees, (De Cenzo & Robbins, 1996).

2.5 Issues subject to CB

Collective Bargaining is commonly classified into two issues. These are procedural and substantive. As Cole (2011) observed, procedural issues spell out the steps by which the industrial relations processes are carried out. These issues include machinery for consultation, negotiation on terms and conditions of employment and any other matters which arise between trade unions and employers. The right to negotiate and disciplinary matters as well as individual workers' grievances are also part of procedural issues. In addition, procedural issues go beyond initial union recognition since they are concerned with the exercise of managerial authority and the participation of employees and their

representatives in organizational decision making according to Armstrong (2010). They also relate to the principle that management should not implement any change until it has been agreed upon by both parties.

On the other hand, Cole (2011) defines substantive issues as those that involve any agreement on terms and conditions of employment and employee participation in decision making process. This also cover all kinds of payments such as wage rates, shift allowances, fringe benefits such as pension and sick pay. Substantive issues are regarded as the primary purpose of both TUs and CB according to Armstrong (2010).

A survey by Ministry of Labour in 2009 revealed that 30 organizations signed collective agreements on procedural and recognition while only 18 organizations signed collective agreements on substantive issues. Another survey by LRS in 2010 also revealed that collective agreements signed between employers and unions in Malawi relate to recognition and procedural matters rather than substantive issues. It concluded that CB remains under-developed in the country because many organizations view CB as a weak process of consultation.

2.6 Factors affecting CB

According to Flippo in Soni (2013), CB is a process in which representation of employees and representatives of employers meet and attempt to negotiate a contract or agreement and specify the nature of employee/employer relationship. It is a collective process where both representatives of employers and employees participate in negotiation. However, there are factors which affect this process.

According to Soni (2013), the first factor is weakness of unions which do not represent the majority of employees. The weakness of Unions can lead to unsuccessful CB. Also the rivalry of unions in the public sector can also hinder the successful negotiation of the parties. As recent as February 2021, it was reported in the Nation Newspaper about the division of union members as regards to industrial action pertaining to Covid-19 risk allowances. Some members within the Union hierarchy called off the industrial action while the President of Teachers Union of Malawi (TUM) maintained that the strike is still ongoing, (Nation Newspaper, February 26,2021). This shows that the Union leadership is weak hence the division.

Secondly, the interference of politicians in union activities is another factor affecting the process of CB, (Soni, 2013). This is so since some union members are also politicians and are affiliated to political parties. A clear example of this in Malawi is when the government enticed some members of Malawi Congress of Trade Unions (MCTU) to break away and form a parallel union known as Civil Service Trade Unions (CSTU) in 1994, (Dzimbiri, 2008).

The third factor noted by Soni (2013) is lack of definite procedure to determine which union is to be recognized to serve as a bargaining entity on behalf of the workers. Under the LRA of 1996 unions in Malawi are recognized for CB purposes where at-least 25% of employees of an employer are members of a particular trade union.

2.7 Effectiveness of CB

Soni (2013) stresses that for CB to be successful and effective, there are certain conditions which must be fulfilled. Some of the conditions which has been reviewed in this study are sufficient degree of union recognition, freedom of association and trust and good faith between the parties.

2.7.1 Sufficient Degree of Organization/ recognition (Unions)

Recognition is defined as a situation in which either through a formal written agreement or custom and practice, employer's engage in CB with union representatives, (Torrington et al, 2005). The recognition by EAs of the right of TU(s) to represent workers in such negotiations or consultations is of paramount importance. An employer fully recognizes a union for the purpose of CB when pay and conditions of employment are jointly agreed between EAs and TU(s). This entails that the unions should be well organized and strong. Thus once recognized, the union gains a raft of defined legal rights to exercise on behalf of its members, (Torrington et al, 2005). In Malawi, according to the LRA, the employer shall recognize TUs for the purpose of CB. This was stressed in the case of *UWTU vs COUM* where the Chairperson of Industrial Relations Court (IRC) ruled that once a union is legally constituted, the employer has to recognize it, (Muhome, 2012).

2.7.2 Freedom of Association

Freedom of Association is a fundamental human right of all employees and the wider community. The ILO gives the right to speak freely and the right to join any association of one's choice. For unions to operate there is a need to have freedom of association of its members. In the United States of America (USA), former President Ronald Reagan

in commenting on condition of unions and CB said “*where free unions and collective bargaining is forbidden, freedom is lost*”,(De Silva, 1996). This statement emphasizes the need for employees to have freedom of choice to join unions and voice their concerns through recognized union representation. It also gives credence to CB as a tool used by unions to agree on terms and conditions with their employers. The Malawi constitution in section 32, also underscores the importance of freedom of association. Freedom of Association gives authority to both parties, (EAs and TUs) to freely participate and negotiate in a democratic manner on issues of importance to the employer-employee relations. CB, which arises from employer and employee associations, is a legally recognized form of collective agreements, (Sikwese, 2010).

2.7.3 Trust and Good Faith

According to De Cenzo and Robbins (1996) Good faith bargaining requires sides, (employer and employee) to work willingly towards a mutual settlement. Their efforts should be viewed as having a positive influence on the process towards the ultimate goal of reaching an agreement. The failure to conduct CB in good faith and trust among parties can result in never reaching an agreed consensus, (De Silva, 1996). Good faith and trust requires a strong organization of workers and employers because there would be some parity in the bargaining strength between the two parties. There have been cases where negotiations have collapsed because one party has lost trust with the other party. A good example is what was reported in the *Daily Times*, (February 17:2015) where the Judiciary striking staff called off collective discussion over wage increase, accusing government of deliberately frustrating employees by using delaying tactics in order to derail the discussions.

2.7.4 Comparative Collective bargaining in Public and Private Sectors

Collective bargaining according to the International Labour Organization ILO (1960) is viewed as a negotiation about working conditions and terms of employment between an employer, a group of employers on one hand and one or more representatives of workers (employees) on the the other hand with a view of reaching an agreement. According to Tunde (2011) one can either be employed in the public or private sector organizations.

The public sector comprises of government as an employer at federal, state and local lever, (Tunde, 2011). The public sector also includes the Universities as well as state owned companies also known as parastatals. This sector according to Tunde (2011) constitutes the largest employer of Labour worldwide. In Nigeria modern trade unionism and CB originated from the private sector. However, as Damachi and Fashoyin (1986) in Tunde (2011) observed trade unionism in the public sector is weaker as compared to the private sector. In this sector Labour relations are marginally practised unlike the private sector. This is attributed to government arrogance as well as union factionalism, multiplicity on unions and union squables.

In the private sector CB is used to conclude collective agreements, settle disputes or reach a common understanding. Parties are able to draw procedural agreemments which determine what matters to negotiate at central level through representatives of both parties, (Tunde, 2011). Tunde (2011) concludes that there is a marked difference in the manner bargaining is practised in public and private sectors. It is a fact that in Nigeria trade unionism started in the public sector but it is more pronounced in the private sector.

2.7.5 Arguments against Collective Bargaining

Although CB is viewed as a social process that continually turns disagreements into agreements in an orderly fashion, (Flanders, 1970), it also have its own controversies. It is argued that CB is losing its recognition as a purpose of collective agreements in the UK, (Bogg, 2006). According to the Employee Relations Survey of 2006, there has been a decline in collective bargaining coverage due to large dilution of union membership density. The decline is attributed to new entrants to the labour market not joining unions and those already in unions walking away from the unions. This is making more employees directly engaging employers on individual basis. Through individualism (high value of individual freedom that emphasizes the moral value of an individual) employees are allowed to engage corporate management and negotiate on their own on wages, salaries and benefits, (Chestnut, 2012). According to Kambilinya (2005) in Malawi, union membership is declining. As in 2011, there was only 12% membership of unions among those employed in the formal sector Corporate Social Responsibility (CSR) (2011).

Collective Bargaining is also a source of industrial action, (Shetty, 2013). The argument is that it is not possible to have CB without having a right to taking industrial action. Despite having the freedom to join any association of one choice, people are also provided with the right to organize and take part in industrial action whenever there are disagreements. In South Africa, the first industrial action over wages was staged due to government failure to fulfil its agreement with Congress of South Africa Trade Unions (COSATU) on multi-year wage agreement of 1996, (Maere, 2011). In Malawi, the constitution provides the right for every employee to go on industrial action. According to Marxist theory Employees do not need to exercise their right to industrial action by

closing organizations and withdrawing their capital Salamon (2006). Instead of advocating for compromise and collective agreement, society should change its mindset to recognize that those who own capital should be allowed to make decisions.

Further Shetty (2013) argues that CB is based on power and conflict as it does most for people who need it least. The stronger workers (union members) tend to protect the income of their skills while the weakest workers (non-union members) have limited ability to gain the benefits of CB. Since CB emphasizes on cooperation and team-work, there are many free-riders who don't fully work to their full potential knowing that others will pick up their slack and shield them, (Drew, 2013). Drew (2013) further argues that CB has made individual workers feel less confident about suggesting innovations, and may be less inclined to increase contributions knowing that their individual efforts might not be recognized and rewarded.

2.8 Theoretical Framework

Theories are made to explain, predict and understand phenomena, and in many cases to challenge and extend the existing theories, (Swanson, 2013). Collective Bargaining and Employee Participation can be expressed in three theories. The three theories are Unitary, Marxist and Pluralistic. In order to understand better the theory which explains and suits the study, we set on a discussion to understand the three theories and come up with the best theory suiting the study

2.8.1 Unitary Theory

This theory views a workplace as an integrated and harmonious whole, existing for common objectives, values, interests and a single centre of loyalty and authority according to Burchill (1997) in Dzimbiri (2008). It views the organization as a harmonious place where decisions are centrally coordinated. This theory believes that all members of the organization share common values, beliefs, myths and culture, (Salamon, 2000). This theory holds that TU(s) are disruptive and unnecessary to the proper management of the organization. The major weakness of this theory is that it does not encourage workers to freely participate in decision making. It is therefore not ideal theory in this study which encourages the existence of TUs and Freedom of Association.

2.8.2 Marxist Theory

This theory is based on the ideas of Karl Max and concentrates on the nature of society surrounding the organization, (Salamon, 1994). It argues that conflict is a source of social change and without such changes society would stagnate. It further suggests that class conflicts arise primarily from disparity in the distribution of economic power within the society (ibid). It further explains that employment relations are highly exploitative as it favors those who have capital than those who sell labour Dzimbiri (2008). This breeds power struggle between the two parties as such conflicts will always arise in an organization. The growth of TU(s) is viewed as an inevitable employee response to capitalism Salamon (1994). This theory does not encourage the existence of TU(s) as such it is not in tandem with the study which encourages coexistence between employees and employer through their representatives.

2.8.3 Pluralistic Theory

Unlike the two theories above, (unitary and maxit) the pluralistic theory states that organizations are a place where people are bound to have different views. Employees come from different backgrounds; as such it is not possible to have one voice.

It allows conflicts since they are inevitable in a society and modern organizations, Dublin, (1954) in Armstrong (2008). According to Dzimbiri (2008) the theory contends that the workplace is a microcosm of society replete with diversity in social groups, social interests, values and beliefs that generate conflicts. However, it stresses that these conflicts need to be managed properly as they can be disruptive if left uncontrolled. This can be ideal in the use of collective agreements in managing conflicts. This theory views TU(s) as the legitimate representative of employee interest at workplaces and gives the right to challenge manager's decisions Dzimbiri (2008). The theory supports greater stability and adaptability of Industrial Relations through CB rather than shackling and outlawing TU(s), (Farnham & Pimlot, 1995). In this theory CB is recognized as the institutional means of resolving conflicts between employees and employers. It gives room for negotiations between the two parties over issues of improving their relations and productivity of the organization. This theory suits the study as it has all the ingredients for CB and EP. The study has adopted this theory as it responds well to the main ingredients of the study which is allowing CB to take place at an organization. It also allows the existence of TU(s) which are the benchmark for CB and EP.

2.9 Conclusion

The chapter has reviewed several writers who have written on different aspects about collective bargaining, employee participation in various countries all over the world. The concept of collective bargaining and employee participation, the forms under which collective bargaining operates has also been reviewed. Further, it has also reviewed the major issues advanced by various writers which concern the successful implementation of CB. The chapter also focused on the role of trade unions at making CB an integral part of decision making as it represents employees. Last but not least the chapter has looked at comparing public and private sector organizations as well looking at some controversies associated with CB. Finally, the study embraces the pluralistic theory to explain the concepts of CB and the environment in which it operates.

CHAPTER THREE

METHODOLOGY

3.1 Introduction

This chapter describes the methodologies used to gather information which helped in providing answers to the questions of the study. It puts together various aspects such as research design, research population, sample, methods of collecting data and how the data collected was analysed. The chapter also looks at the ethics considered and the limitations of the study.

3.2 Research Design

Although the study is qualitative in nature, it used quantitative method in gathering data. This method was used in order to generate numerical representation for the purpose of describing and explaining the phenomena that this observation reflects Wikipedia (2005). According to Cohen (1980) in Maheshwari (2014) quantitative research method employs empirical statements or descriptive statement about what is the case in the real world. It was felt necessary to use this method because it quantifies opinions, attitudes and behaviours, (Cresswell, 1994). It also presents the extensiveness of attitude held by various people. Another reason why quantitative method was used over qualitative method is the researcher wanted to provide clarity, insight and understanding about CB in the social world rather than deepening the understanding about CB as is the case with qualitative research method as observed by Neuman (2014).

The study used structured (likert scale) questionnaire which is reliable in measuring attitudes, opinions, perceptions and behaviours in order to understand the extent of CB in public and private sector organizations in Malawi.

3.3 Population and Sampling Technique

The research population in this study came from the eighteen trade unions that signed collective agreements with their employees as per Mini Labour Report of 2009. From these, the researcher used the non-probability method known as the judgmental or purposive sampling technique in choosing ten organizations (five each from private and public sectors). This method allows the researcher to use his discretion according to his/her familiarity with the issue at hand, (Maheshwari, 2017). Therefore, the sampled organizations were chosen solely on the basis of the researcher's knowledge on their history on industrial relations. Despite that this method has weaknesses pertaining to its reliability the researcher felt that it is a better method as compared to other non-probability methods due to its reliability in bringing more accurate results. Therefore, the researcher using the purposive sampling method chose Mapeto David Whitehead and Sons Limited (DWS), Universal Industries (UL), Central and East Africa Railways (CEAR), Satemwa Tea Estates and Malawi Telecommunications Limited (MTL) from the private sector. From the public sector, the chosen organizations were Electricity Supply Commission of Malawi (ESCOM), University of Malawi (UNIMA), Malawi Housing Corporation (MHC), Malawi Institute of Education (MIE) and Zomba Magistrate Court (Judiciary). Each organization was presented with six questionnaires making a total of 60 respondents (30 each from private and public). The questionnaires were given to Administrative Managers (AM) and Human Resource Managers. These Officers purposively selected respondents in their organizations as guided by the

researcher on the type of respondents required for the study. Below is the population sample and the actual respondents.

Table 1: Showing Sampled population

	Sampled population	Actual Respondents	%
Public Sector	30	26	87%
Private Sector	30	25	83%
Total	60	51	85%

From the table above the private sector has 26 respondents which represents 87% while the public sector has 25 respondents which equates to 83%. This gives an average of 85% of respondents. Despite the slight difference, the tables reveal that in both public and private sectors the response is high. This suggests that in both sectors, the number of respondents is adequate.

The sampled respondents were drawn from Trade Union membership and Administrators. The Union membership were categorised into leaders (executive), senior members, Middle members and Junior or Non-members. The aim was to allow the study to have different views and responses from a cross section of employees as well as employers. The table below shows the categories of the respondents.

Table 2: Showing the summary of the positions of respondents in the associations and unions in organizations

	Position in the association or Union					Total
	Executive Members	Senior Members	Middle Members	Junior Members	Administrators	
Public	6	6	2	6	5	25
Private	7	5	4	6	4	26
Total	13	11	6	12	9	51

In table 2 above, the public sector has 6 respondents holding executive membership, 6 senior members, 2 middle members, 6 Junior or non-members and 5 Administrators. Likewise, the private sector has 7 respondents holding executive membership, 5 who are senior members, 4 middle members 6 junior or non-members and 4 administrators.

3.4 Data Collection Methods

The study collected data through the use of structured questionnaires from sampled respondents. These questionnaires were distributed to sixty members of the sampled organizations through the office of the HR. In most organizations the response was very encouraging as almost all questionnaires were answered. In some organizations, some questionnaires were returned. However, the average number of questionnaires received was 84% (86% from the private sector and 83% from the public sector). The remaining 16% was not collected as some respondents were so busy to attend to questionnaires. The data collection was done from April to July 2018.

In addition to the primary data collected through the administering of the questionnaire, other secondary data was also gathered through newspaper articles on issues of CB. The other information was collected from library books. Further to this, the researcher

also observed some of the trends and actions of various stakeholders in the way CB is conducted in the organization he works for.

3.5 Reliability of the tools used in the study

The pilot questionnaires were administered to some members of Chancellor College who are members of UWTU and Chancellor College Academic Staff Union (CCASU) in March 2018. The pilot questionnaires were reworked to accommodate the changes and some suggestions which were advanced. Those who took part in the pilot questionnaire were not part of the actual respondents in the main study. This exercise, according to Odiya (2009) in Maiden (2016), helps to free the data collection materials from misrepresentation and unreliability.

3.6 Data Analysis

The quantitative data collected was analyzed by using the Statistical Package for Social Scientists (SPSS). The data was entered in the computer and coded accordingly. The graphs were generated and variables were put in scales of 0 to 100. This meant from 0 to 49 was low, 50 to 74 was moderate while 75 to 100 was high. The analyzed data was collected through questionnaires which helped to draw out key differences and similarities in collective bargaining processes in public and private sector organization.

3.7 Ethical Consideration

The research was conducted professionally by being honest, diligent and portraying appropriate behavior during the entire period of the study. The responses have been treated confidentially by not sharing them to any other person. This being an academic research, the researcher obtained an introductory letter from the department of Political

and Administrative Studies (PAS) of Chancellor College. This letter was shown to the sampled respondents. The identities of the respondents will not be revealed at any point after the research. Those not willing to participate in the research were not forced.

3.8 Limitations

The research was conducted in the Southern and Eastern regions due to limited funding. It was supposed to cover other regions to have balanced presentation of the findings. However, this was mitigated by the fact that most respondents came from the Head Office of the organizations hence making the study having a national representation though it was not all organizations under study. The other limitation was that some questionnaires were not returned as the researcher had hoped to get back all the questionnaires. However, the percentage of those not returned is minimal to have any meaningful influence of the outcome of the research.

3.9 Conclusion

This chapter looked at the methodologies used in coming out with the results of the study. The study adopted the quantitative method in order to understand the extent of the problem numerically. It wanted to understand the opinions, attitudes and perception of various people in the conduct of CB hence the use of structured questionnaire which had likert scale questions. The study population was drawn from the eighteen organizations which have CB agreements between employers and employees. From the eighteen organizations, ten were purposively chosen by the researcher hence the sample size of 60 (30 each from private and public sectors) were identified through Human and Administrative managers from the sampled organizations. The study used the structured questionnaire (likert scale) to collect its data. This was deliberately chosen as it in tandem

with the purposive sampling in which opinions and perception are obtained. In order to have a reliable research, a pilot survey was done and modified before the actual research was conducted.

The study analysed the data collected through the use of SPSS, a social science package which is numerical and reliable. The study was voluntary; those participating did so without any harassment or intimidation. The researcher obtained an introductory letter from the PAS department authorising him to carry out the research. The research covered the Southern and Eastern regions only due to logistical problems to the researcher.

CHAPTER FOUR

RESULTS AND DISCUSSIONS

4.1 Introduction

This chapter presents and discusses the findings of the study. The findings are on the processes of CB, the forms of employee participation, the main issues which are important in CB, the factors which affect CB and the effectiveness of CB in organizations. From the presentations and discussions, a summary of the study was drawn.

4.2 Processes of CB

The study wanted to find out the processes used in CB in public and private sectors as one of its objectives. To achieve this several questions were asked pertaining to this.

4.2.1 Perception on the Importance of CB an organization

The researcher wanted to find out how respondents perceive the importance of CB in achieving employee participation. The question was put to see if they agree that CB is important. The table below summarizes respondents' perception of CB in both sectors.

Table 3: Showing the perceived importance of CB in an organization

		Is CB important in an organization		Total
		Strongly Agree	Agree	
Public	Count	14	11	25
	%	56%	44%	100%
Private	Count	16	10	26
	%	61%	39%	100%
Total Respondents	Count	30	21	51
	%	58.8%	41.2%	100%

Table 3 above shows that 56% of respondents in the public sector strongly agree that CB is important. This is against 61% in the private sector who strongly agree that CB is important in an organization. Those who just agreed were 44% in public sector and 39% in private sector. The findings imply that in both public and private sectors, all respondents are in agreement that CB is an important element in enhancing employee participation. According to the table, the findings show that in both sectors CB is perceived as an important aspect in employer employee relationship. This perception fits what Armstrong (2010) says in defining CB as a process where employees play a greater part or role in decision making. This is possible because employees are given the opportunity to influence management decisions and contribute to the organizations performance. This perception above though moderate suggests that CB enables workers to have some influence over organizations workplace decisions as highlighted by William and Adam (2006). However, there is a need for unions and employer representatives to work towards making CB a requirement in conducting their business to boost employees' confidence towards CB.

4.2.2 Who are involved in CB?

The study was interested to also find out the key players in CB in both sectors. This was deemed to be one of the important elements in the successful implementation of CB in organizations. Below are the summarized results of people involved in CB.

Table 4: People involved in CB

		Who are Involved in Collective Bargaining				Total
		Management /Employers	Employees	Management and Employees representatives	Management and Individual Employees	
Public	Count	1	3	20	1	25
	%	4%	12%	80%	4%	100%
Private	Count	2	1	22	1	26
	%	8%	4%	85%	4%	100%
Total Respondents	Count	3	4	42	2	51
	%	6%	8%	82%	4%	100%

In table 4 above, the respondents were in four categories, they were Management, Employees, Management and Employee representatives and Management and Individuals. According to the Labour Force Survey of 2009, some organizations prefer individualism (direct with employee) as opposed to collectivism (through employee representatives) in the bargaining processes. However, the findings reveal that in both sectors, the key players in CB are Management and Employee representatives (trade unions). The findings indicate that the public sector had 80% of respondents mentioning that Management and Employee representatives are key players of CB. Similarly, 85% of respondents in private sector share the same view as in public sector. In both sectors the findings show that organizations are in favour of conducting CB through

representatives (collectivism). This is a clear indication that CB works effectively where employees are well represented through their TUs. This is a positive development as most organizations in Malawi also use employer and employee representatives in conducting CB. For example, during the time of administering questionnaires, the researcher found a sit-in at Universal Industries where Management and Employer representatives were locked in a discussion. During the same period, there was another sit-in happening in the University of Malawi and UWTU representatives were in discussion with COUM representatives over a dispute of non fulfilment of agreed salary increments.

4.2.3 Identification of people involved in CB

Having established that Management and Employee representatives are the key players in CB, the next question was to find out how these people are identified to be part of the CB process in both sectors.

Table 5: Identification of people involved in CB

		How people involved in CB are identified				Total
		Through their unions or associations	Randomly selected	Through their positions	Through their influence in decision making	
Public	Count	14	5	5	1	25
	%	56%	20%	20%	4%	100%
Private	Count	18	2	2	4	26
	%	69%	8%	8%	15%	100%
Total Respondents	Count	32	7	7	5	51
	%	62%	14%	14%	10%	100%

The finding of the study reveals that in both public and private sectors, people are identified through their unions and associations. In public sector, 14 out of 25 (56%) respondents said that unions and associations in which employers and employees are represented is the main source where people are identified to take part in CB. The private sector registered a slightly higher figure as compared to the public sector. There were 18 respondents out of 26 (69%) who said that people are identified through their unions and associations they belong to. The results reveal that the private sector recognizes the role of trade unions and employer associations more than the public sector. The researcher therefore observed that in both public and private sectors the use of trade unions is the common tool of finding people to be involved in taking part in CB. This is attributed to the fact that unions usually have a larger representation of workers in both sectors. The decisions agreed between unions and employers are more binding. Through the use of representatives (TUs) workers are bound together to present their grievances or ideas with a single voice that is far more powerful than that of a worker speaking on his own behalf, (Ebhomam, 2015).

4.2.4 Existence of policies guiding CB processes and their effectiveness

In order for CB to be successful, there are policies which guide how it should be conducted. These policies will either make the processes to be effective or not. In figures 1 and 2 below, the researcher looks at whether there are policies put in place which supports the CB processes and how effective are these policies in influencing CB in public and private sectors.

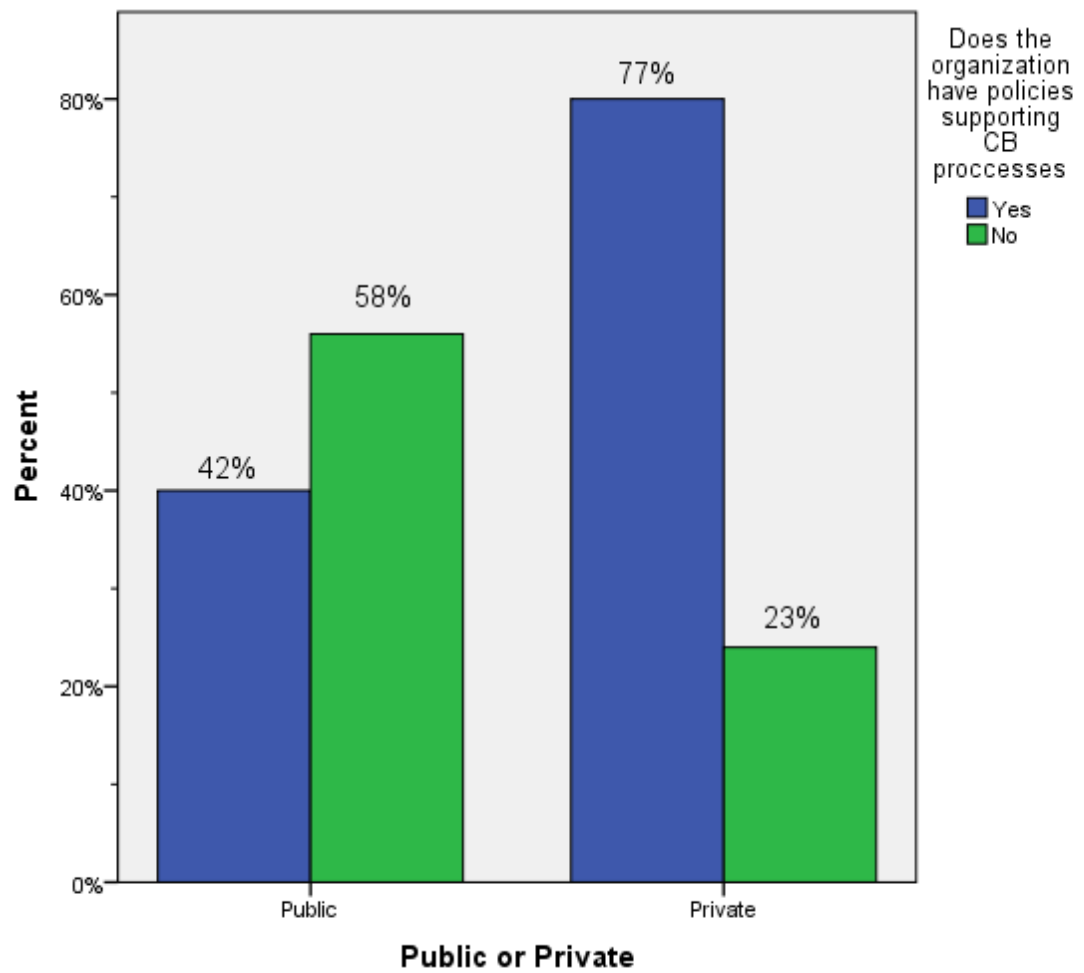


Figure 1: A Graph showing whether Organizations have Policies supporting CB processes

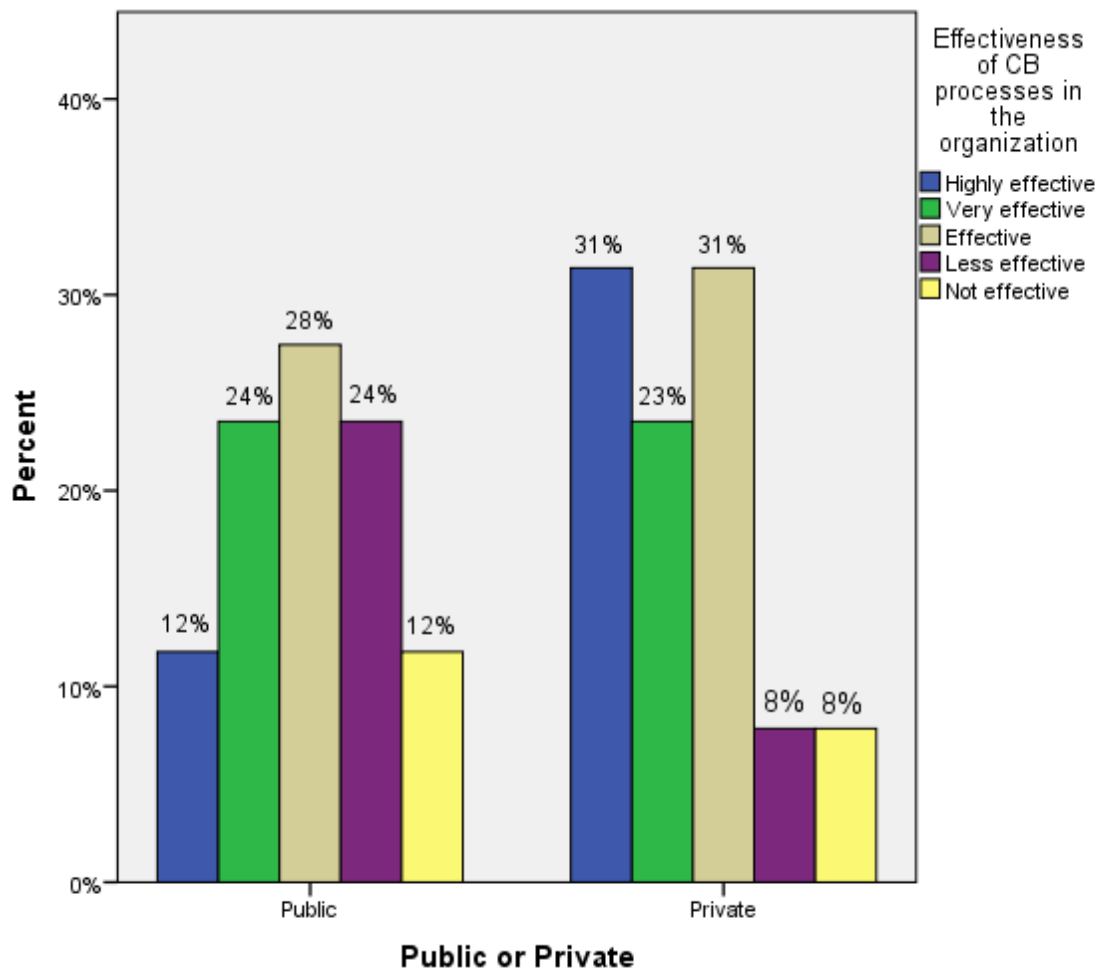


Figure 2: A Graph Showing the Perceived Effectiveness of CB processes

From the graphs above, figure 1 reveal that in the private sector, 77% of respondents said that there are policies which are followed in conducting CB. This is in contrast to the public sector where only 42% of respondents say that there are policies which support the processes of CB. The lower %age recorded on following processes in Public sector organization shows that CB is conducted without following proper procedures. This might be alluded to lack of policy guidelines on the same. It should be emphasised that following processes is beneficial to both parties in building mutual trust and understanding as seen in Cole (2011). The results signify that there is a marked difference between public and private sector on how they conduct their CB as echoed by Tunde (2011).

In Figure 2 which presents the effectiveness of policies, the researcher observed that despite the private sector having the higher percentage of the policies guiding CB (77%), these policies are not highly effective to influence CB. It was found that 31% and 28% of respondents feel that the policies are effective in private and public sector respectively. This can only mean that while the policies are there in the private sector but are not being put into proper use for them to be effective. This can also mean that employers undermine the procedures. This has resulted in disagreements in some cases to the point of industrial action being staged by employees. This is what the researcher witnessed at Universal Industries where employers raised the wages of employees by 6% despite the refusal of the same by unions leaders (This was the reason for a sit-in as the researcher went there to administer the questionnaire in April 2018). The results clearly show that in both sectors the policies whether they exist or not, they are not effective. So where there are policies, the processes are less effective. This is not good to both parties and sectors because for CB to be effective there is a need to put in place mechanisms that form part of everyday working life in an organization as seen in Cox et al (2006) in Armstrong (2010).

4.2.5 Benefits of following CB processes

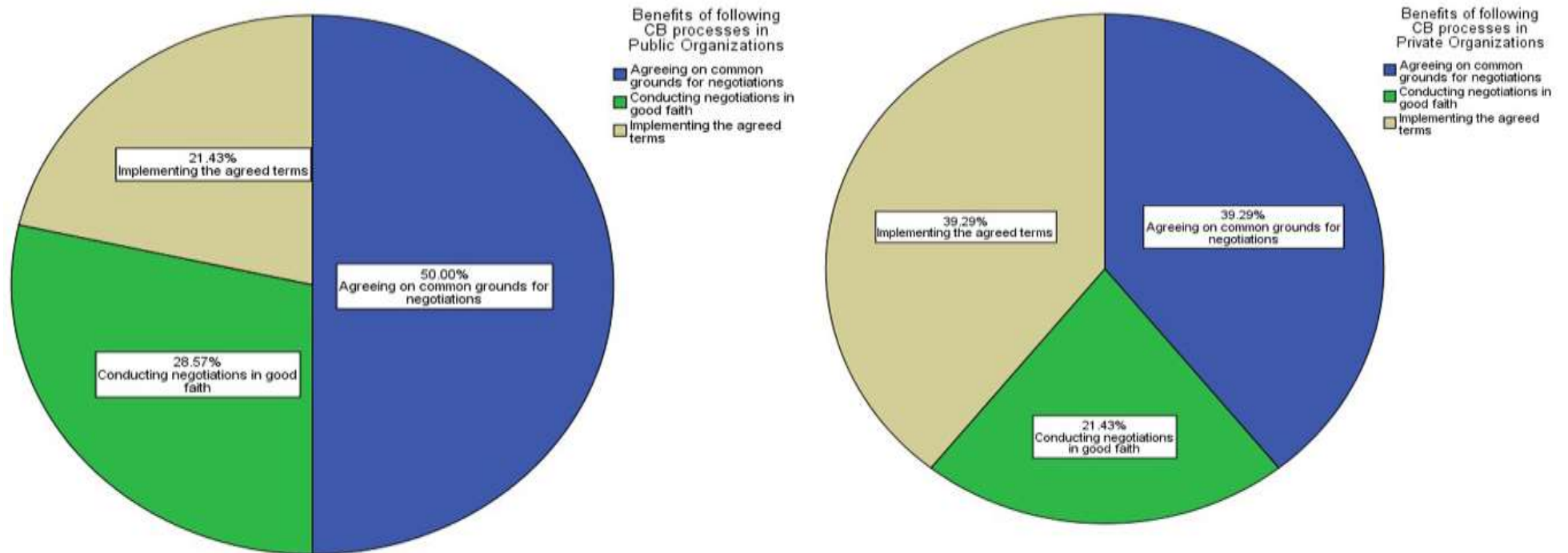


Figure 3: A Pie-Chart Showing benefits of following CB processes

From figure 3 above, in the private sector, the findings indicate that 39.3% of respondents believe that CB processes are essential in helping both parties to agree on common ground for negotiations as well as implementing the agreed terms. However, this percentage is low. This means that the benefits are not significant for employees to enjoy the fruits of CB. This is the case as observed on the effectiveness of CB processes where despite having the policies laid down they are not being followed. This makes bargaining to be a problem as parties skip the consultation process. It can also mean that the agreed terms can not be implemented by both parties resulting in the occurrence of disagreements. The findings in the private sector on the benefits of CB processes differ from that of the public sector. Figure 3 shows that the public sector has 50% of respondents who feel that having procedures can help in agreeing on common ground for negotiations. This is quite surprising as the public sector has a less percentage of respondents indicating that there are procedures in conducting CB. This suggests that although CB is conducted without following procedures in the public sector, it has helped both parties agreeing on common ground of solving a problem.

4.2.5 Implementation of CB processes

Table 6: Showing the implementation of CB processes

		How CB processes are implemented		Total
		By engaging employees from the beginning	By endorsing already made decisions by management	
Public	Count	15	9	24
	%	62%	38%	100%
Private	Count	24	1	25
	%	96%	4%	100%
Total Respondents	Count	39	10	49
	%	79%	21%	100%

On how CB processes are implemented in private and public sectors, the findings reveal that 24 out of 25 respondents (96%) from the private sector has the view that employees are engaged in decision making from the beginning rather than employees endorsing already made decisions by management. The results indicate that in the private sector, management value their employees in as far as CB is concerned. However, the public sector has a moderate percentage as compared to private sector on the engagement of employees from the beginning. The findings show that only 15 out of 24 respondents (62%) from the public sector engage employees from the beginning. Despite the difference, it is observed that both sectors engage employees from the onset of the decision making. According to Cole (2011) employees need to take part in management decision making from the onset as this is what employee participation is all about.

4.3 Forms of employee participation in CB

CB has two forms in which employees participate in decision making. The forms are direct and indirect participation. The researcher therefore was interested to find out about how employees participate in CB amongst the two forms. This was done by looking at the way of participation, time when employees are involved in CB and how Management informs employees of their decision.

4.3.1 Forms of employee participation

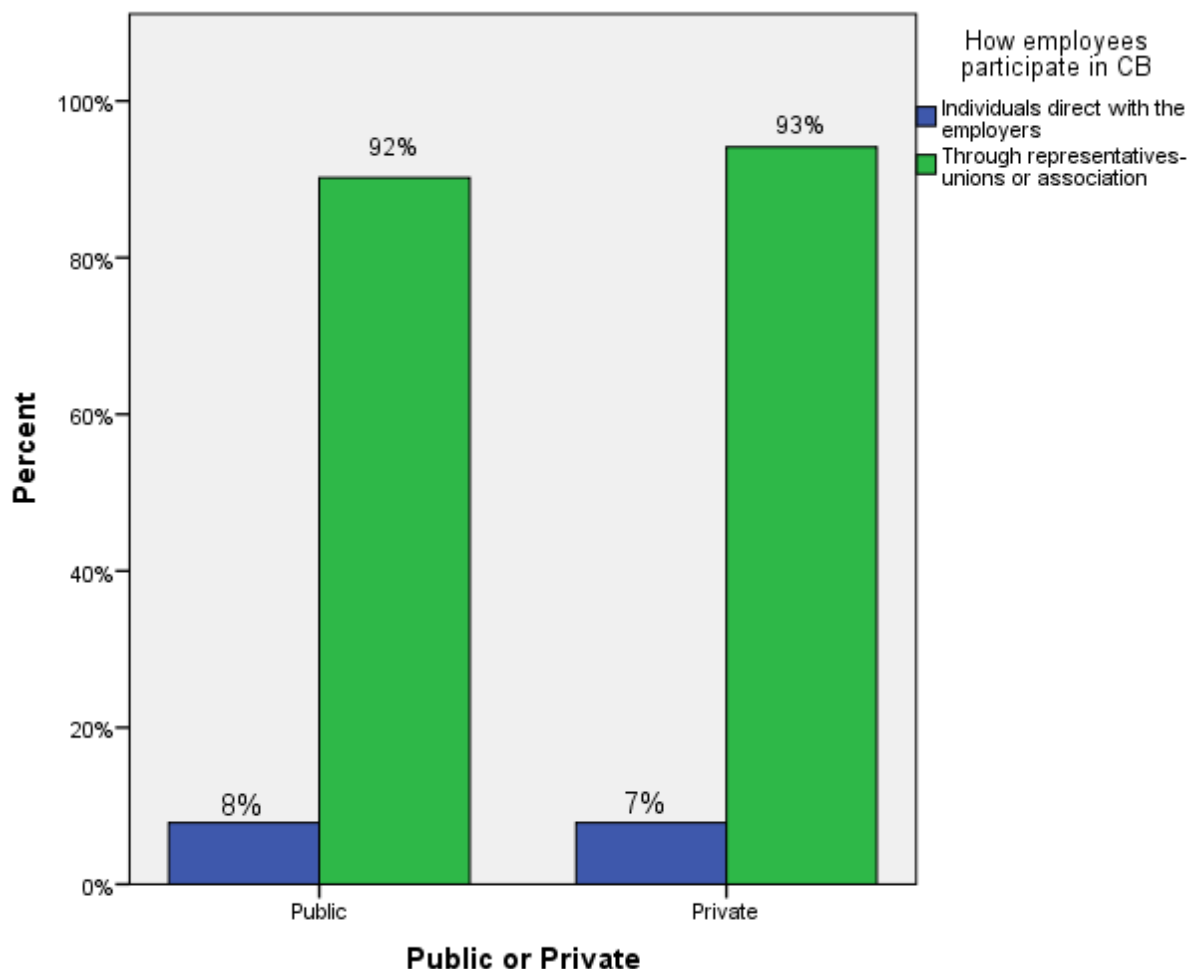


Figure 4: A graph Showing Forms of employee participation

From the graph, the findings reveal that 92% of the 25 respondents from the public sector indicated that employees participate in CB through their representatives (Trade unions and Associations). Participation through representatives is what is known as

Indirect Participation. The findings therefore mean that in public sector, collectivism is the way CB is conducted. In private sector 90% of the 26 respondents also share the same view that employees participate in CB through their representatives. The results clearly show that trade unions are of great importance when it comes to CB in both public and private sectors. Indirect Participation according to Kester (2007) in Tamen (2013) is an intergral part of CB as it helps employers and employees reach collective agreements. The preference of collectivism in both sectors requires TUs to be strong so that they are able to represent their affiliates properly. It also calls for unity among the affiliates. Indirect Participation is used worldwide though CB Anstey (1974) in Tamen (2013)

4.3.2 Time employees are engaged

Since it was established that employees participate in CB through their representatives, the next question was; are these representatives engaged before the decision has been arrived at or they are informed before the decision had been made.

Table 7: Showing when Employees are engaged in CB

			Organizations' time employees participate in CB		Total
			When Management has already made a decision	Before Management has made a decision	
	Public	Count	11	13	24
		%	46%	54%	100%
	Private	Count	3	23	26
		%	11%	89%	100%
Total Respondents		Count	14	36	50
		%	28%	72%	100%

The findings in Table 7 above reveal that 89% of the 26 respondents in the private sector say that employees are informed before the decision is made while 52% of the 24 respondents in the public sector also agree that employees' representatives are informed before a decision is made. The findings mean that Management is aware of the existence of employee representatives in both sectors. The findings also imply that Trade Unions are recognized as being the mouthpiece of employees in both public and private sectors. This also means that Management consults employees through their representatives (TUs) to reach solutions amicable for both parties. Cole (2011) emphasises that consultation is part of a continuous relationship between employees and management. It enhances mutual relationship founded on trust and respect. However, there is a small difference in the way employee representatives are recognised and consulted in the private and public sectors as shown by the 89% (higher) and 52% (moderate) respectively.

4.3.3 Are Employees informed before a decision is made?

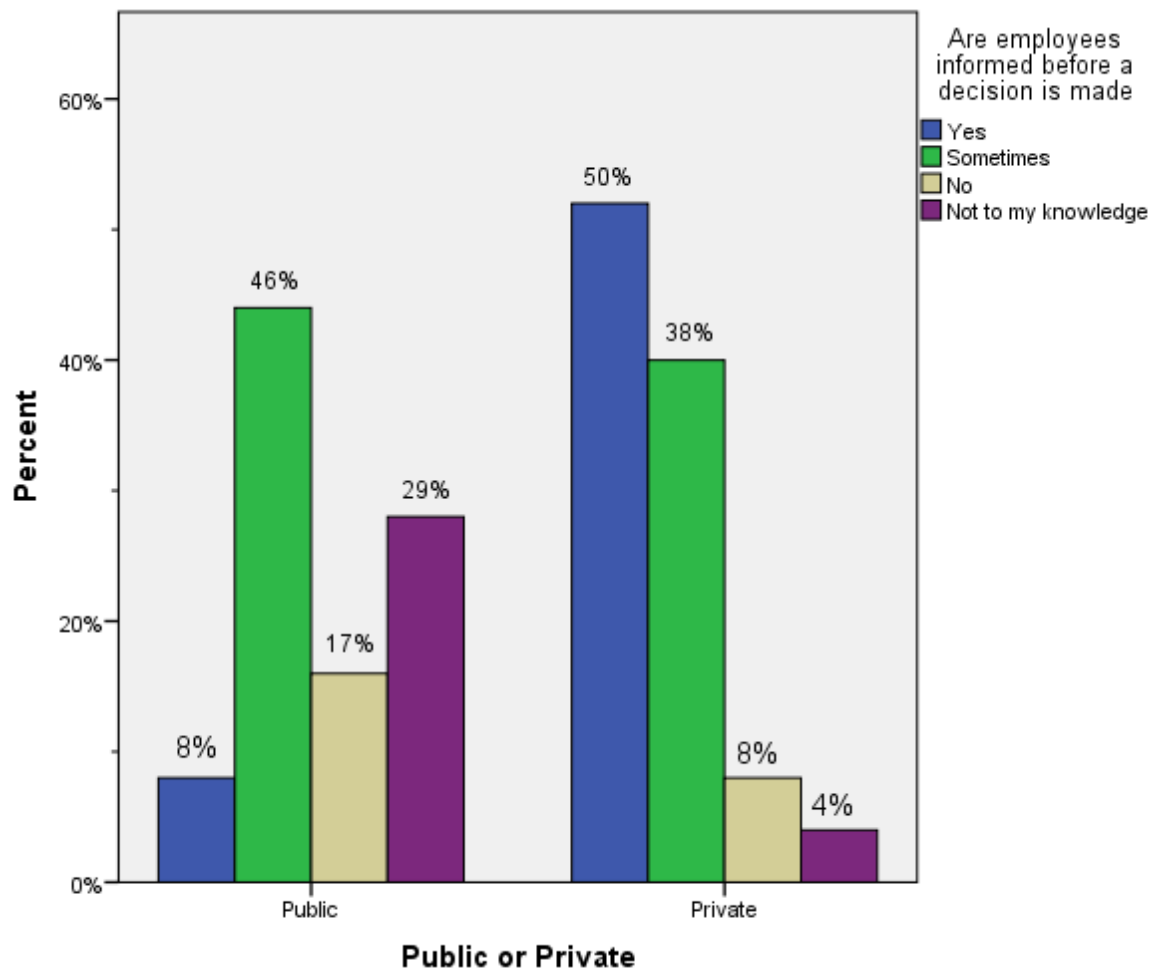


Figure 5: A graph showing whether employees are informed before decision is made

The graph above indicates that in the public sector 8% of respondents have knowledge of employees being informed about Management decision before hand. Many people (46%) indicated that sometimes they are informed after decision is made. This means that Management engage employees in CB while the decision has already being made. This approach is known as fire-fighting where employees are informed when they see trouble emerging through their decision as highlighted by Torrington (2005). This explains why there are constant bickering and quarrels in the public sector. On the other hand, the graph indicates that 50% of respondents in the private sector feel that

employees are informed about the decision before it has been announced. This at-least implies that TUs are recognised in the way CB is conducted in the private sector as compared to the public sector. As we saw in Colling and Terry (2010) the practice of giving prior notice to employees before a decision is made can avert and reduce industrial action as problems are eliminated before coming up with a final and binding decision

4.4 Issues subject to Collective Bargaining

The main issues in Collective Bargaining are classified into two categories. The categories are procedural and substantial issues, (Cole, 2011). These main issues are broken into several elements which in turn signify that they are either procedural or substantial. But before going into the main issues the researcher first wanted to know if there are signed collective agreements between management and employees through their trade unions.

4.4.1 Existence of signed Collective agreements between Management and Employees

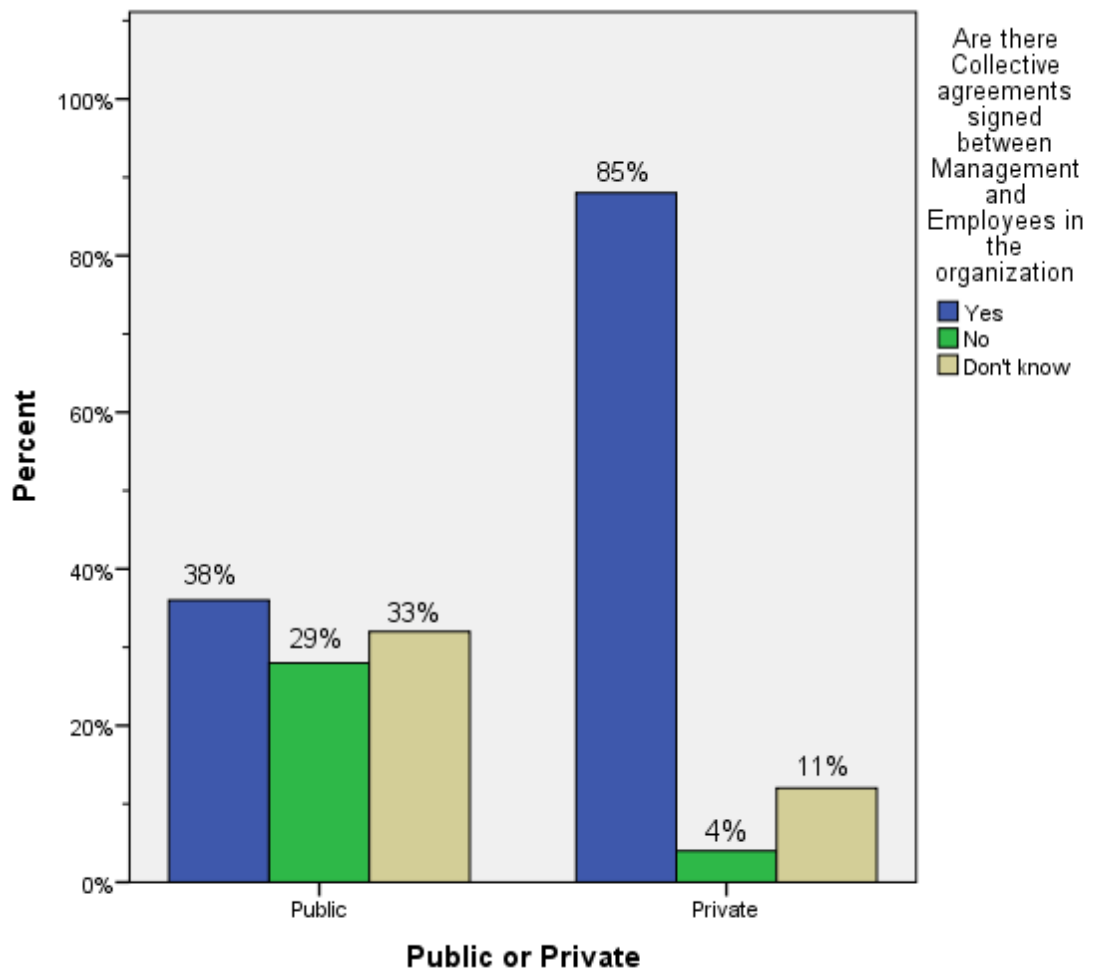


Figure 6: A graph showing whether there are collective agreements between Management and Employees

On whether there are collective bargaining agreements signed between employers and employees, the findings on the graph above, disclose that out of the 26 respondents in the private sector, 22 respondents (85%) agreed that there are collective agreements signed. The findings further indicate that only 1 (4%) respondent said there are no agreements and a further 3 (11%) do not know about the existence of these agreements. This is contrary to what was found in the public sector. It was found that only 9 of the 24 respondents (38%) has the knowledge of the existence of collective agreements

signed while 7 (29%) had an outright no about the existence of the agreement and the remaining 8 (33%) doesn't know if these agreements do exist. The results mean that the private sector is organized by having Collective Bargaining agreements as compared to the public sector. This implies that the private sector is able to control the conduct of CB as they have a document to refer to when disagreements arise. The lack of signed agreements in the public sector can be viewed as a major cause of conflicts as there are no documents to fall back in times of disagreements between employers and employees. There is a need to encourage the public sector to have signed agreements guiding the conduct of CB.

4.4.2 Major issues in Collective agreements

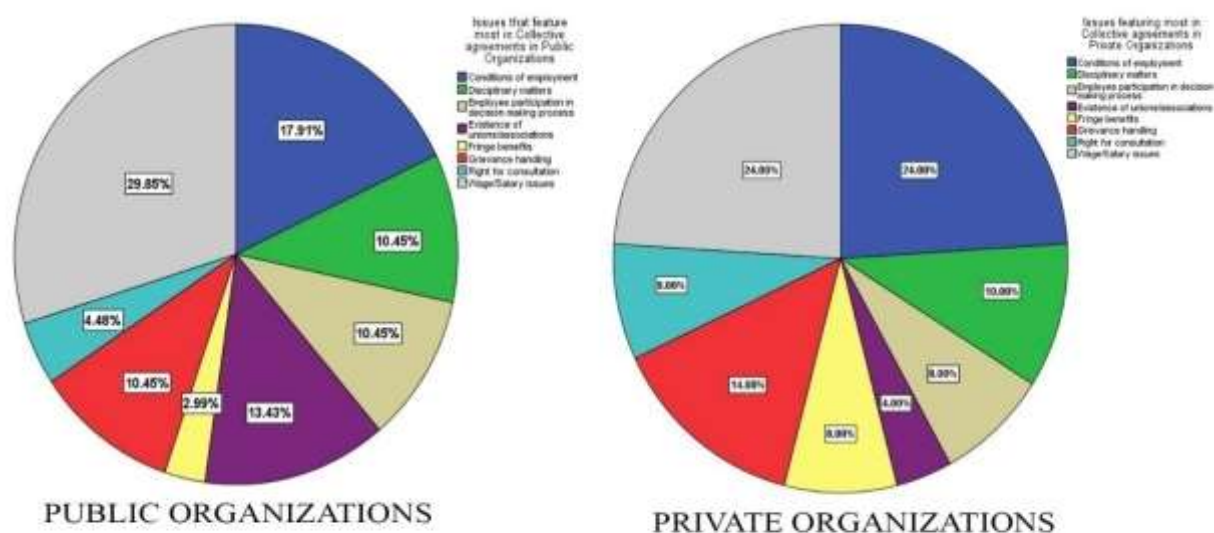


Figure 7: Pie Charts showing major issues in collective agreements-Source-Primary data

On finding out the issues which dominate the signed collective agreements, the pie chart (figure 7) above shows that in the private sector, issues to do with conditions of

employment and wages and salaries dominate the contents of signed collective agreements. They scored a combined 48%, (24% each). The other issue which came closer is the handling of grievances which scored 14%. As seen from Armstrong (2010) these issues are substantive matters. They are regarded as the primary purpose of both TUs and CB. The findings imply that most collective agreements signed in the private sector borders on substantive matters. Despite this being the case, the 24% is so low to suggest that the collective agreements signed have an impact in influencing CB processes. However it was noted from respondents that the two issues are a catalyst for transparency in resolving conflicts between the two parties hence their dominance in signed collective agreements. As put by one respondent, *“issues of wages and salaries and conditions of service hinge upon workers substantive rights which must not be infringed upon”*. These issues form part of contractual agreements as such their importance is crucial in an organization as they are enforceable by law.

In the public sector, according to the chart above, issues of salaries and wages also top the list with 29.2%. This is followed by issues to do with conditions of service which has 17.9%. The findings in the public sector are similar to those in the private sector. This means that substantive issues also dominate the contents of signed collective agreements between employers and employees. Similarly the percentages are on the lower side to have any meaningful impact on influencing CB processes. Like the private sector many respondents from the public sector feel that these issues border on *rights to economic activity as such they form an integral part of CB*. The findings of this study differs from what LRS (2010) found out that most collective agreements signed by employers and unions are procedural and not substantial.

4.5 Factors affecting CB

CB faces some hurdles to be implemented fully hence the constant conflicts between employers and employees. The researcher therefore wanted to find out what factors are affecting the smooth conduct of CB.

4.5.1 Recognition of Unions to influence the process of CB

Table 8: Showing whether Unions are recognized by Managements

			Public or Private		Total
			Public	Private	Respondents
Is your union recognized by the management	Yes	Count	22	25	47
		%	88%	96%	92%
	No	Count	3	1	4
		%	12%	4%	8%
Total		Count	25	26	51
		%	100%	100%	100%

On whether Unions are recognized to influence the process of Collective Bargaining, 25 out of 26 respondents in the private sector (96%) agreed that their unions are recognized in their organizations. The findings reveal that the TUs are recognized by Management. Similarly, 22 out of 25 (88%) respondents in the public sector also agreed that their unions are recognized. The Law in Malawi states that once a union is legally constituted the employer has to recognize it, Muhome (2012). Similarity in France, the Act on social dialogue (2013) states that unions need to have an electoral base of 50% employees for it to be valid and be able to represent employees.

4.5.2 Strength of Unions to influence CB

Table 9: Showing the strength of Unions to influence CB processes

			How strong is the union to influence the process of CB				Total
			Weak	Strong	Very strong	Very Influential	
	Public	Count	6	10	3	4	23
		%	26%	44%	13%	17%	100%
	Private	Count	2	17	3	3	25
		%	8%	68%	12%	12%	100%
Total Respondents		Count	8	27	6	7	48
		%	17%	56%	12%	15%	100%

On the question of strength of unions in influencing CB, it was catergorised into four, whether the unions are weak, strong, very strong and very influential. As per table 9 above, it was found that the private sector acknowledged that their unions are strong as 17 out of 25 respondents (68%) held that view. In contrast the public sector has 44% of respondents who feel that the unions are strong. This is a low percentage and it is befitting that it can not influence decsions to do with CB. This shows that there is a difference in the strength of unions in public and private sectors. According to Soni (2013) weakness of unions is a catalyst of unsuccessful CB. The weakness of Unions can also lead to divisions and formation of splinter groups (unions) from the main unions as was the case recently when there were divisions in the leadeship of TUM over Covid 19 risk allowances, Nation Newspaper, (February 26, 2021). The weakness of unions can be the reason why Management underrates employees in decision making in the public sector.

4.5.3 Interference of politicians in decision making

Table 10: Showing whether politicians interfere in CB processes

			Public or Private		Total Respondents
			Public	Private	
Do politicians interfere in the CB processes	Yes	Count	9	2	11
		%	36%	8%	22%
	No	Count	16	24	40
		%	64%	92%	78%
Total		Count	25	26	51
		%	100%	100%	100%

From the findings presented in table 10, in the private sector 92% of the respondents said that politicians do not interfere in the decision-making process while in the public sector 64% also feel that there is no interference of politicians in the decision-making process. According to the findings, in the private sector politicians play a minimal part in the final decisions made while in public sector, there is a certain indication that politicians do play a part in interfering with the process of decision making. This is observed because non-interference in the private sector is high while in the public sector is moderate. The findings vindicate Tundes (2011) findings that CB is more pronounced in private sector than public sector and this is due to the arrogance of government. Most public sector organizations are government sponsored which are run by subvention (funds received from government).

4.5.4 Influence of politicians in decision making

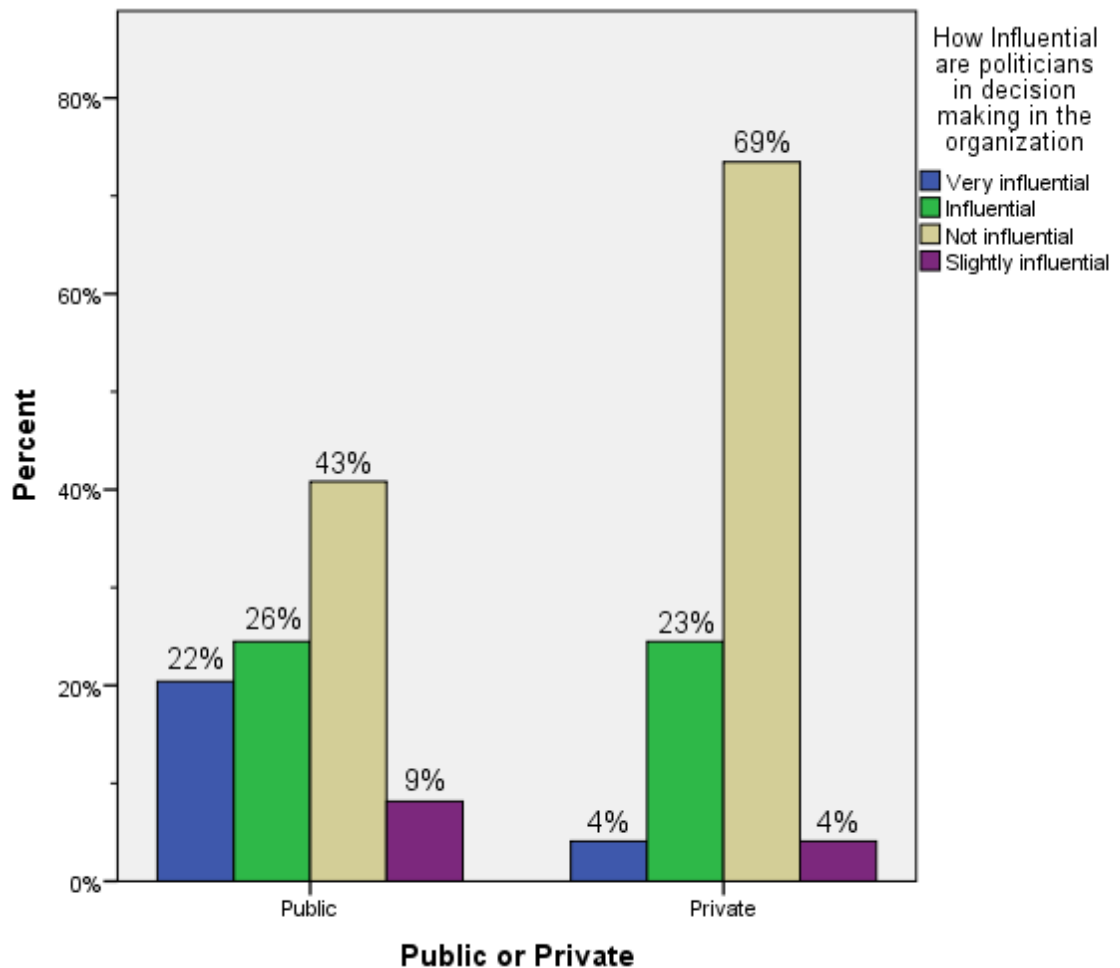


Figure 8: A graph showing how influential are politicians in decision making

On the influence which can emanate from politicians in influencing the CB processes, the findings on figure 9 indicate that 69% of respondents in the private sector feel that politicians have no influence in the decision making in regard to CB. This is against 43% of respondents from the public sector. From the findings it is observed that politicians do not influence the processes of CB in the private sector while in the public sector they do influence the CB processes. The findings vindicate what has been found on interference as the private sector and the public sector. The findings imply that despite the minimal interference, politicians still has an influence in most decision made

in public sector regarding the conduct of CB. This is backed by the 22% of the respondents who felt that politicians do influence decision making process in public sector as opposed to only 4% from the private sector. The reason for this is because of the nature of the set up of these sectors and the divide and rule tactics employed by government in conducting CB as seen in Dzimbiri (2008). The researcher observed that the private sector is managed by people appointed on merit and operates independently while the public sector is managed by political appointees and operates to please the appointee. This scenario can change if the public sector starts appointing its Management on merit rather political appointees.

4.5.5 Factors mostly affecting the process of CB

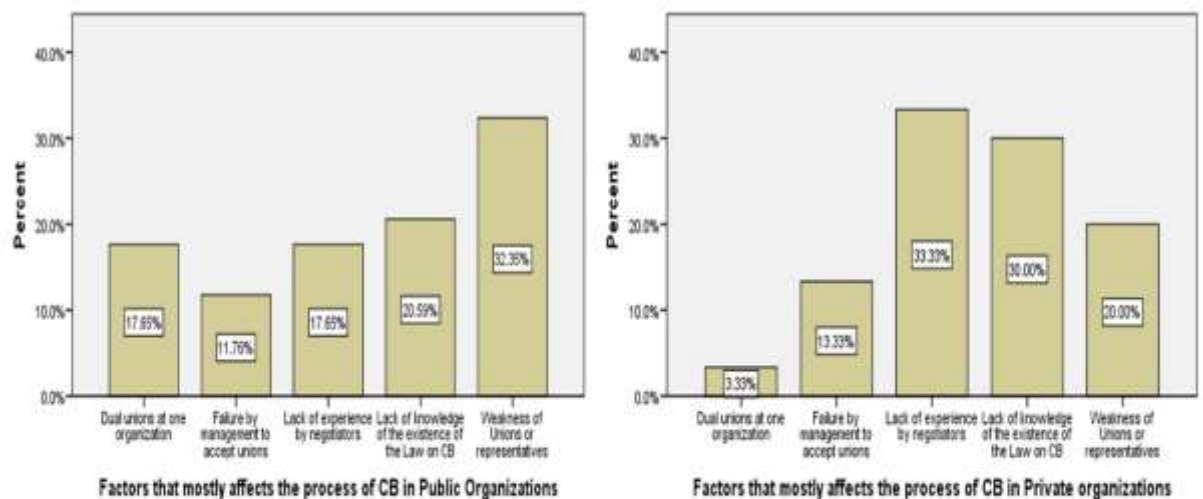


Figure 9: Graphs showing factors mostly affecting the process of CB

On the factors which are mostly common in infringing the process of CB in private and public sectors, the findings in figure 10 above, show that the private sector has 33.3% of respondents who feel that the negotiators lack experience in handling CB matters, On the other hand others feel that many people do not know that there is law governing the conduct of CB. This was highlighted by 30% of the respondents.

In the public sector, the findings show that 32.4% of the respondents feel that unions are weak thereby making CB ineffective. Again, lack of knowledge on the existence of the law was cited by 20.6% of the respondents as the second major huddle in having effective CB processes.

These findings reveal that there are different reasons which affect the process of CB in private and public organizations. In the private sector, while the politicians do not interfere with the handling of CB, the employee representatives do not have the expertise and experience. They also do not know the labour law governing CB. This calls for training of unions leaders (employee's representatives) on the skills of handling CB and sensitizing them about the law governing issues to do with CB. On the contrary, in the public sector, the findings reveal that most people holding leadership positions in TUs are weak to handle CB matters. They also lack some knowledge in the law governing employer-employee relationship (labour law). This explains why most government as an employer in the public sector is accused of being arrogant in decision making, Tunde (2011). It also explains why most union leaders in public sector organizations are accused of eating scones or being corrupted to rubber stamp the decisions made by management, TUM tussle with government is an example reported in the Nation Newspaper, (February 22:2021)..

4.6 Effectiveness of CB

The effectiveness of CB depends on several factors. The researcher investigated some of the factors.

4.6.1 Who are responsible in effecting CB

Table 11: Showing those responsible on effecting CB

		Responsible for the implementation of CB in the organization			Total
		Management	Employee Reps-Trade Unions	Both parties	
Public	Count	6	6	12	24
	%	25%	25%	50%	100%
Private	Count	3	1	22	26
	%	11%	4%	85%	100%
Total	Count	9	7	34	50
	%	18%	14%	68%	100%

On the question of who are responsible for the initiation (effecting) of CB in both private and public sector, the findings according to Table 11 above indicate that, the private sector had 85% (22 out 26 respondents) who think that both Management and Employee representatives work together in effecting CB. In the public sector 50% (12 out 24 respondents) think that Management and Employee representatives are responsible for effecting CB. This explains that in the private sector both parties liaise in their activities regarding CB processes while in the public sector, they only liaise when there is an issue under contention. This is against the spirit of CB which calls for both parties (employer and employee) to have a sincere willingness to consult each other on any decision making, (Ebhomam, 2015). This can be backed by the findings which

indicate that Employers (Management) and Employer representatives (TUs) both scored 25% in the public sector while the private it is 11% and 4% respectively.

4.6.2 Effectiveness of CB

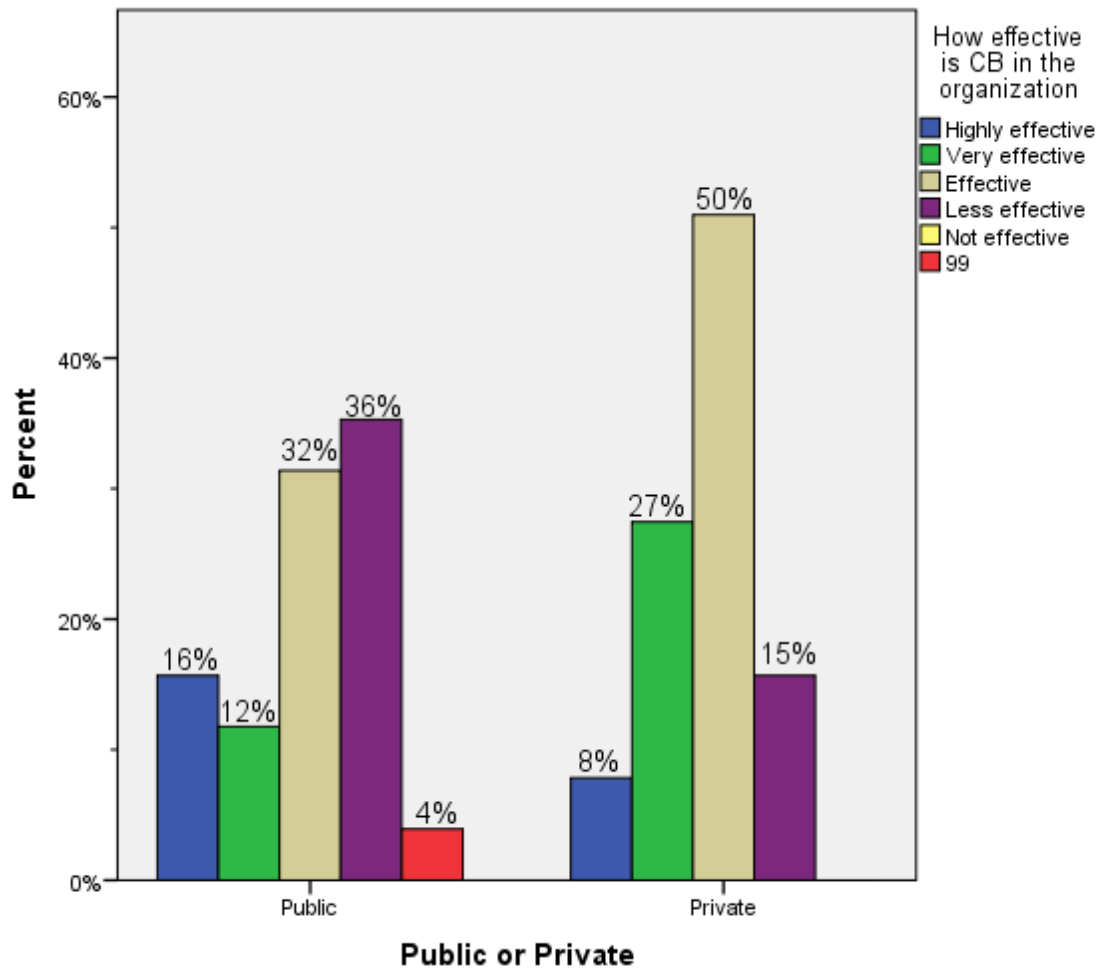


Figure 10: Showing effectiveness of CB

On whether CB is effective in organizations, the findings as per figure 11 above show that the private sector has 50% (half the respondents) who feel that CB is effective in the decision making processes. This is unlike in public sector where the percentage is very low as only (32%) of the total respondents feel that CB is effective. These findings mean that in both sectors CB is not viewed as a strong tool in reaching collective agreements. Despite this being the case, in the private sector at-least it can be pointed

out that CB is in operation considering the number of those who feel that it influences decisions unlike in the public sector. These findings vindicates what has been already mentioned elsewhere that in the public sector CB is not taken seriously because of CB is not more pronounced and the government which sponsors public sector organizations is arrogant, (Tunde, 2011). This is not the case in the private sector as organizations are run independently from politicians and CB is used to settle matters, (Tunde, 2011).

4.6.3 Union recognition as a tool of CB

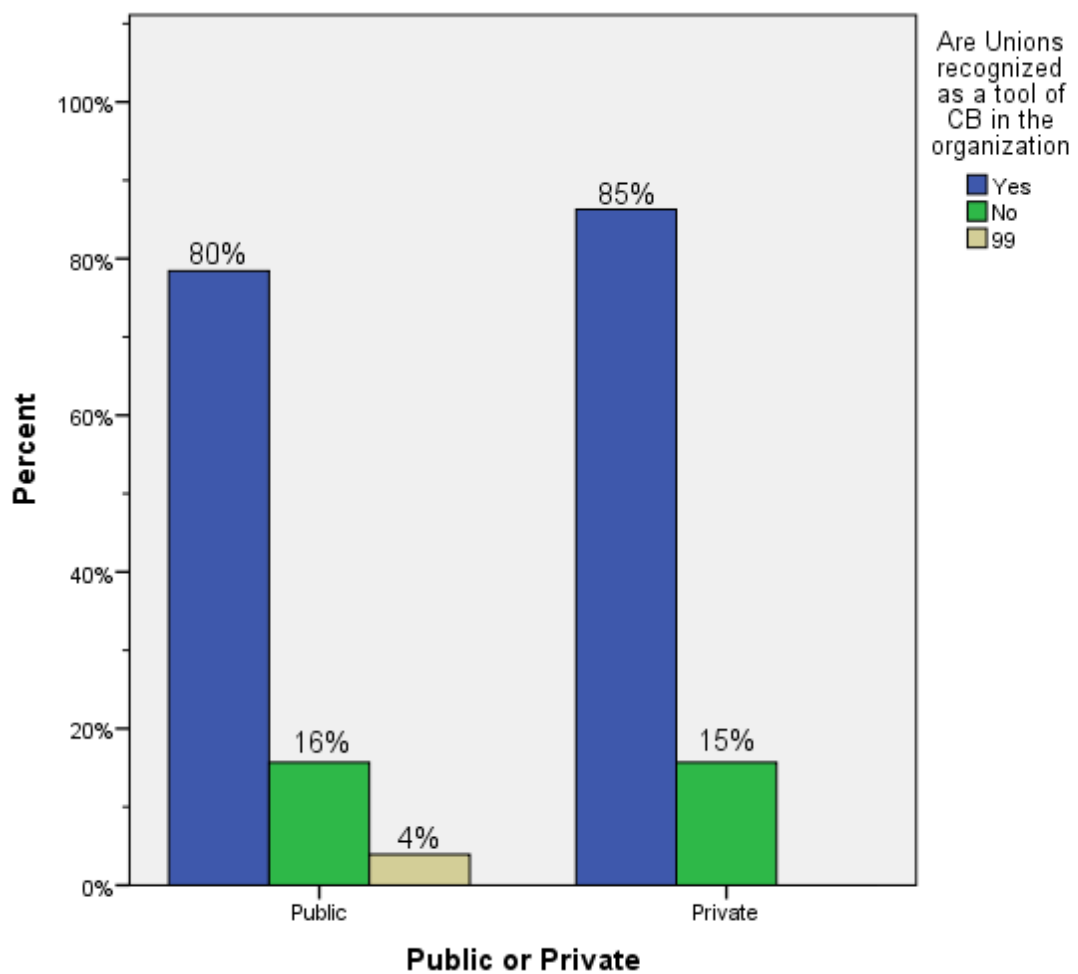


Figure 11: A graph showing whether unions are recognized as a tool of CB

From figure 12 above, unions are recognized in both sectors as a tool of implementing CB. This is backed by the results which reveal that 22 out of 26 respondents in the private sector (85%) agreed that unions are recognized as a major tool of conducting CB. Likewise 20 out of 25 respondents in the public sector (80%) also agreed that unions are recognized as a major tool of conducting CB. Looking at the findings, both sectors scored highly on union recognition as a major tool of conducting CB. These results reveal that TUs in both sectors are very important in the implementation of CB. The high scores shown are a clear indication that despite the CB not being effective, TUs are an integral part in the process of having CB in organization. The importance of TUs is paramount as it can lead to successful negotiations which in turn can at least avert the prospects of strikes and sit-ins.

4.6.4 Strength of Unions in influencing Collective Decisions

Table 12: Showing strength of Unions to influence Collective Decisions

		Is the union/association strong enough to influence Collective Decisions			Total
		Very strong	Strong	Weak	
Public	Count	3	16	5	24
	%	12%	67%	21%	100%
Private	Count	3	20	3	26
	%	11%	78%	11%	100%
Total Respondents	Count	6	36	8	50
	%	12%	74%	14.0%	100%

On the strength of unions in influencing CB in public and private sector organizations, 78% of the respondents from the private sector organizations felt that their unions are strong to influence collective decisions. In the public sector 67% of the respondents

view that their unions are strong to influence the processs of CB. The findings reveal that unions in the private sector are very strong to influence CB processes while in the public sector unions are not very strong to influence the process of CB. In both sectors unions have a role to play in the processes of CB.

The findings echo the fact that unions in private sector are more recognized hence having enough membership which makes them have strength to influence the processes of CB. This is contrary to the public sector where union are less recognized and this result in having less strength in influencing the process of CB. The less strength mean that they can easily be manipulated by the employers unlike their counterparts in the private sector.

4.6.5 Freedom of Association by Employees

Table 13: Showing whether employees are free to join association of choice

		Are employees and employers free to join any association they want			Total
		Yes	No	99	
Public	Count	22	3	0	25
	%	88%	12%	0%	100%
Private	Count	24	1	1	26
	%	92%	4%	4%	100%
Total Respondents	Count	46	4	1	51
	%	90%	8%	2%	100%

On the whether there is freedom of association, table 13 above reveal that, 92% (24 out of 26) of the respondents from the private organizations agree that there is indeed freedom of association for both employees and employers to join and participate in any meaningful decision making in their respective organizations.

The table further reveal that 88% (22 out of 25) of the respondents from the public sector agreed that there is freedom of association in their organizations which enables employers and employees to join and participate in the decision-making processes. The findings indicates that in both private and public sectors, employers and employees are not hindered to exercise their fundamental right of associating freely and also join any association of their choice. The right to associate freely is one of the fundamental conditions of having effective CB. As advocated by the ILO, employees have the right to speak freely and join any association they feel to be associated with. As also provided for in section 32 of the Malawi Constitution both EAs and TUs are free to participate and negotiate in democratic manner issues of importance to employees and employers. In both sectors freedom of association is not affecting the processes of CB.

4.6.6 Is there trust between Employees and Employers/ their representatives?

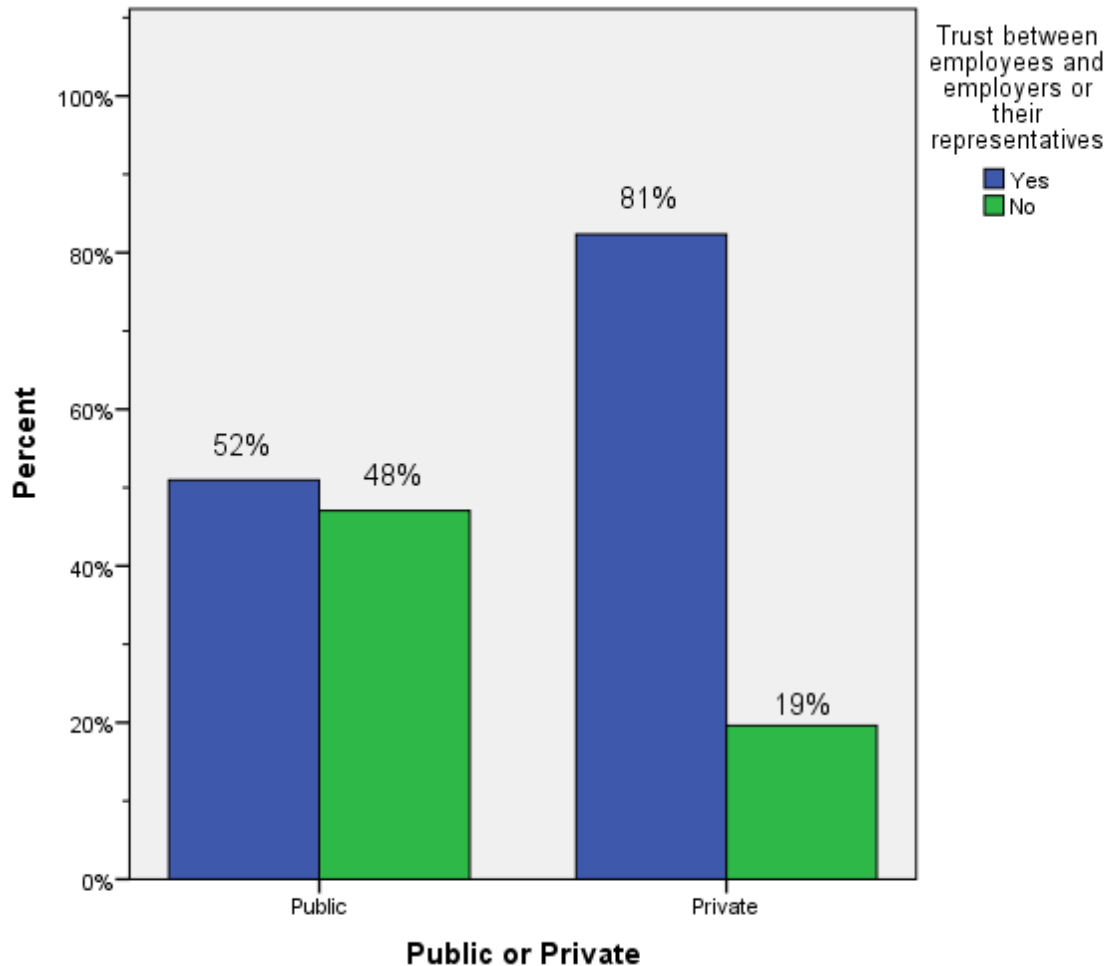


Figure 12: Showing whether there is trust between Employees and Employers

On whether employers and employees trust each other when conducting CB, the table above has shown that in private organizations, trust prevails between the two parties (employers and employees). This is shown from the table which indicates that 81% of those who responded said that trust exists between the parties involved in CB. The result is a revelation that there is a strong relationship existing between employers and employees in as far CB are concerned. On the other hand, the public sector had 52% of the respondents who agree that there is trust between employers and employees in negotiating the CB processes. This is an indication that there is mutual trust between the two parties.

The findings in this area reveal that in the public sector, there are more doubts about the good faith of the employers when it comes to CB and decision making. Many respondents when asked to clarify why they feel that there is no trust and good faith, 46% (table 14 below) of the respondents feel that there is lack of transparency in the way decisions are arrived at. Some said that in many cases CB is only effected after there is a threat of industrial action or after industrial action has commenced. In some cases, it was revealed that both parties already go to CB with their positions made and unwilling to change due to lack of trust of each other. As an example, COUM and UWTU engaged a conciliator to assist in reaching an agreement on a salary increase but the conciliator failed to reconcile the two parties citing that it appeared that both parties were unwilling to compromise their positions which they made before coming to the conciliator. For CB to be effective, it requires trust and good faith for employers and employees to willingly work towards a mutual settlement as highlighted in Decenzo and Robins (1996). Additionally De Silva (1995) observed that the failure to conduct CB in good faith and trust among parties concerned can result in never reaching an agreed consensus

In the private sector, the findings reveal that there is a moderate understanding between employers and employees in as far as trust and good faith is concerned. As per table 14 below, the respondents (54%) were of the view that stakeholders (employees) are involved in the CB processes hence a moderate trust exist between the two parties. The reasons for less trust are quite different from private sector. In the private sector for example, 14% of respondents felt that there is lack of trust between employees and employers. This is contrary to what is in public sector where lack of transparency scored

46%. This may point to the fact that there are many misunderstandings between employers and employees in the public sector than in the private sector, (Appendix 2).

Table 14: Showing reasons why there is Trust or No trust among employees/employers

			Reasons				Total
			No Trust at all	After discussion, there is satisfying results	Lack of transparency in decision making	Involvement of stakeholders in decision making	
Public	Count		2	1	10	9	22
	%		9%	4%	46%	41%	100%
Private	Count		2	5	3	12	22
	%		9%	23%	14%	54%	100%
Total Respondents	Count		4	6	13	21	44
	%		9%	14%	29%	48%	100%

4.6.7 Relationship between Unions and Employer representatives

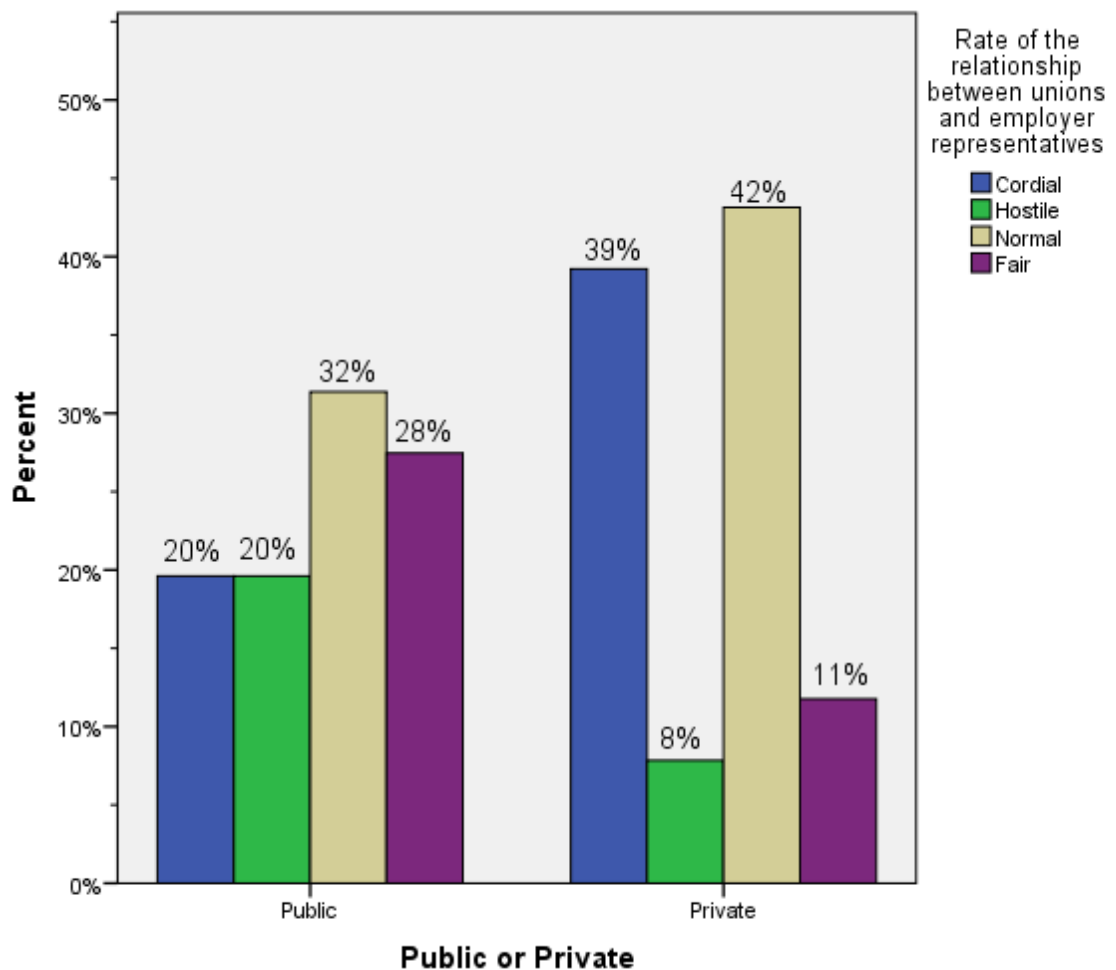


Figure 13: A graph showing the relationship between unions and Employer reps

On whether employers and employees enjoy a good relationship, figure 14 above reveal that in both sectors (private and public) the relationship between employers and employees is not healthy as to boost the smooth running of CB processes. The revelation is that 42% of respondents from the private sector feel that the relationship is normal against 32% of respondents from the public sector. In the private sector those who feel that the relationship is cordial is 39% against 20% from the public sector. In the private sector there is a feeling that the relationship is not hostile as only 8% feels so while the public sector has also 20% who feels that the relationship between employers and employees is hostile

These findings are an indication that all is not well between the two parties in the way CB is conducted. In both sectors the percentages are low to suggest that the relationship which exists can yield significant results. These findings vindicate the earlier findings that there is moderate trust among employer and employee representatives in both sectors. This kind of relationship can be responsible for the collapse of talks between TUM and government representatives on Covid-19 allowances, Nation Newspaper (February 22:2021). It is a reflection that in both sectors, the two parties (employers and employees) do not embrace each other to the extent of making joint decisions which can be binding to both parties.

4.7 Conclusion

The study was undertaken to make comparison between public and private sector organization in terms of whether there are processes which guide the conduct of Collective Bargaining in order to attain employee participation. In order to achieve this, the study collected information through the structured questionnaire from five organizations from the public sector and five from the private sector. In the public sector the organizations were, ESCOM, MHC, UNIMA, MIE and Judicial Service (Zomba Magistrate Court). The private sector was represented by the following organizations; MTL, Mapeto DWS, Satemwa Tea Estates, Universal Industries and CEAR. In addition to the questionnaire, other information was collected from newspapers and observing the trend in some organizations.

This Chapter has therefore analysed the findings on the existence processes of CB in public and private sectors. In the analysis it has been revealed that both sectors totally agree that CB is an important element in as far as employee participation in decision

making is concerned. The use of employer and employee representatives in discussion is the ideal situation in both sectors for the attainment of employee participation. Both sectors somehow agreed that there are policies which guide the conduct of CB; however in the public sector these policies are not significant as compared to the private sector where they are highly visible. Both sectors agree that the use of policies and having proper policies is beneficial as employees and employers agree on common ground and easily implement the agreed terms. In both sectors the findings show that trade unions are recognized as a tool of achieving CB and EP, however despite being recognized the unions have minimal influence in the process. The findings also reveal that in the private sector there are signed agreements between employers and employees while the public sector there are no known agreements signed. On trust between employers and employees, the findings have revealed in the private sector there is significant trust between the two parties in conducting the CB. In most cases stakeholders are involved and what is agreed is implemented. This is in sharp contrast to the public sector where trust between the two parties is not high as there is no transparency in the way CB is conducted. The feeling among employees and employers is that both parties in most cases engage in CB with their stand already made and unwilling to change to accommodate other parties view.

CHAPTER FIVE

CONCLUSION

5.1 Introduction

This chapter will present the summary of the findings of the study and its conclusion based on the findings.

5.2 Summary of the Study

This study was undertaken mainly with the aim of comparing the CB process which takes place in public and private sector organization in achieving employee participation in decision making. To achieve this, the study analysed the processes of CB. It also analysed the forms of employee participation. Further the study determined issues that are important in conducting CB. In addition, the study analysed the factors which affect the processes of CB and lastly determined the effectiveness of CB in the two sectors.

Based on the findings of the study, there is a similarity in both sectors (public and private) in the importance of CB as an important element in achieving employee participation in decision making. The process of conducting CB is the business of employers and employee representatives (TUs). However, the differences were noted in how the CB processes are conducted in decision making. In the private sector, the processes of CB follows set procedures and guidelines unlike in the public sector where there are no set guidelines to spearhead the smooth running of CB. It was also found

that despite the existence of the set guidelines in the private sector, the processes are not strictly followed. This has rendered the set guidelines and procedures to be non-effective like in the public sector where they don't exist. The findings of the study reveal that there is a difference in the way CB is conducted in the public sector and private sector. In the public sector, CB is done without following proper procedures unlike the private sector where there are procedures which acts as the benchmark of having CB. The manner in which CB is conducted in public sector is a wake-up call for unions to rethink about their role in as far as employee participation in decision making is concerned by following proper processes. The processes should not just exist on paper, but should be able to add value to the voice of employees in strengthening their decision making participation. This in turn will assist in avoiding conflicts as both employers and employees are able to agree on common grounds for negotiations as well as implementing the agreed terms.

Secondly, the study established that the common form of conducting CB is similar in both sectors as they use employer and employee representatives (collectivism). Employees are in most cases are informed of the decision management is to take in both sectors. Management is aware of the existence of employee representatives hence their engagement. In both sectors, the challenge being faced is that the engagement of employees is not backed by facts. Management is seen to engage employees with decisions already reached. They make the whole process look like it was endorsed by both parties. Despite the challenges being similar, the public sector leads the way. This has led to more frequent conflicts in the public sector. There is a need to improve on this by changing the mindset of management so that they start recognizing employee representatives.

Further, the study established that in both private and public sectors, the common issues appearing on CB agreements are substantive in nature. Issues which hinge on salaries and wages and conditions of service were the most common issues in both sectors. These issues were deemed to be a source of motivation for employees to work hard. The failure to agree on these issues resulted in poor working relationship between employers and employees hence the increase in industrial action. This is the case because the signed agreements between the parties are not enforced. It is the responsibility of both employers and employee representatives to start enforcing the agreements. If these agreements are followed properly, they can result in having motivated and productive employees. Further conflicts can also be averted and solutions reached amicably between the concerned parties. The failure to enforce signed agreements is what makes CB issues to be viewed as procedural in nature while they are substantial as found by LRS (2010).

In addition to the above, the study has shown that there is no difference in the way employer representatives are recognized in conducting CB in both public and private sector organizations. Despite the fact that TUs are recognised in both sectors, there is a difference in terms of their strength. In the private sector, unions are strong while in the public sector they are weak. The study also reveals that despite unions being strong in the private sector their strength does not transform into having an influence in CB processes. In the public sector the unions are very weak thereby understandably unable to influence any serious decision making. The weaknesses of unions in the public sector allow the external influence from politicians to interfere and affect the CB processes. There is also a similarity in the way CB processes are affected in both sectors. They are affected by the fact that in the private sector most representatives lack

the skill to negotiate with their employers. In some cases representatives are not aware of the existence of the law governing employer-employee relationship. This is similar to the public sector where it has been established that employee representatives are weak and are easily manipulated by government. In order to improve the situation employee representatives should be trained once they are elected into leadership positions for them to understand the law governing employer-employee relationship. The training will enable them to understand the processes of CB. They can manage to conduct fruitful discussions with management on issues being put on the table. The government should also stop to be arrogant and learn to use proper processes in conducting CB. This will in turn assist in averting many conflicts as will be sound and decisions agreeable to both parties.

Lastly, the study has shown that there is a difference in the strength of CB between the public and private sectors. In the private sector CB is very strong as opposed to the public sector where its strength is very minimal. The study also recognized that in both sectors employees and employers are not hindered to join any association of their choice. However there is a difference in how employees and employers trust each other in conducting CB. Through the study, it was noted that in the private sector, employees and employers trust each other while there is no trust between the two parties (employees and employers) in public sector. In the public sector there is lack of trust on the employer's side because as one of the respondents said there is a prevailing thinking that giving much liberty to the employees would undermine their interest. In the employee's side, there is a feeling that their employers do not deal with them in good faith because they would always want to safeguard their interest through domination in decision and policy making. This is a dangerous scenario as it becomes difficult to concede to each

others decision hence the never ending conflicts which result in industrial action. It was also found that in both private and public sectors, the relationship existing between the employers and employees is not conducive to make CB effective. It was also noted that there is a difference in how agreements are effected in the two sectors. In the private sector, employees are satisfied that agreements reached between the two parties are effected. This is not the case in the public sector, where employees are not satisfied that the agreements reached are effected. They fear that management always changes the agreed terms to suit their interests as well as satisfying their employers. They also feel that politicians influence the CB processes by being arrogant thereby missing out on the pocesses of CB.

5.3 Implications

Based on the findings, there should be an immediate change of mindset in the public sector. The tendency of appointing board members has resulted in imposing decisions on employees. It was found that Employers in the public sector do recognize the existence of employee representatives. However this recognition was found to be cosmetic as they always engage employees with the decision already made. It was found that they normally do not change their decision despite coming to a negotiating table. The implication of this tendency is that there will always be conflicts which lead to industrial disputes between the employers and employees. Another implication observed is that there are poor working relationships between employers and employees due to failure to agree on substantive issues such as wages and salaries. The failure to agree on these issues has borne animosity between the two parties. This creates unhealthy working environment which is detrimental to the development of organizations in both sectors.

In addition, it was observed that there is in most cases lack of trust between employers and employees which make CB to be ineffective. The employees feel that employers do not deal with them in good faith. On the other hand, employers feel that they can not give much liberty to employees as this would undermine their interests and that of the organization. This is not a healthy scenario as it can lead to never ending conflicts despite the existence of CB processes. The implication is that, each party do not feel confident in what the other party is promising. The end result is that it becomes difficult to have a win-win solution even if there is a third party involved.

5.4 Areas for future research

As indicated on the onset, this study mainly focussed on the processes which are followed in order to achieve employee participation in organizational decision making in public and private sector organizations in Malawi through the use of Collective Bargaining. It is imperative to note from the study findings that CB in private sector is used to conclude collective agreements, settle disputes or reach a common understanding through laid procedures. However this can not be said about public sector where CB is not more pronounced as it is beset by weak union leadership, political interference and government arrogance to adhere to set out procedures on CB. This research therefore proposes that future scholarly studies can investigate why CB is facing a lot of challenges in the public sector as compared to private sector. Another interesting area would be looking at why there are frequent industrial disputes between employees and employers (government) in the public sector in comparison to the private sector

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APPENDICES

1. QUESTIONNAIRE

Topic: Comparative Analysis of Collective Bargaining Processes to Attain Employee Participation (Private and Public Sectors)

INTRODUCTION:

My name is Phillip Benito Neliyo. I am a student pursuing Master's Degree in Human Resource and Industrial Relations at Chancellor College, a constituent College of the University of Malawi. In fulfilling the requirement to be awarded a Degree, I am required to do a research on Human Resources and Industrial Relations. My area of interest is in Industrial Relations hence the topic stated above. The interest is to find out if Collective Bargaining processes are followed in making decisions in public and private sectors.

This is therefore a guide and questionnaire which will assist me to collect information and analyze it critically to find out the differences and similarities in Collective Bargaining processes in the sectors mentioned. Please note that the data collected is strictly to be used for academic purposes only. Be assured that as a participant your name will not be revealed anywhere in the study.

Answer the questions by ticking where necessary

SECTION A: Details of the participant

1. Name of the Organization _____

2. Is it Public or Private Sector?

(a) Public ☐

(b) Private ☐

3. Are you a union or an association member in your organization?

(a) Yes ☐

(b) No ☐

4. Your Position in the association/union

(a) Executive Member ☐

(b) Senior Member ☐

(c) Middle Member ☐

(d) Junior Member ☐

SECTION B: PROCESSES OF COLLECTIVE BARGAINING:

1. Do you agree that CB is important in an organization?

(a) Strongly Agree ☐

(b) Agree ☐

(c) Do not agree ☐

(d) Don't know ☐

2. Who are involved in Collective bargaining?

- (a) Management/Employers ☐
- (b) Employees ☐
- (c) Management and Employees representatives ☐
- (d) Management and Individual employees ☐

3. How are the people involved in CB identified?

- (a) Through their experience in CB matters ☐
- (b) Through their unions or associations ☐
- (c) Randomly selected ☐
- (d) Through their positions ☐
- (e) Through their influence in decision making ☐

4. Does the organization have laid out policies supporting CB processes?

- (a) Yes ☐ (b) No ☐

5. How effective are the processes of CB in the organization?

- (a) Highly effective ☐
- (b) Very effective ☐
- (c) Effective ☐
- (d) Less effective ☐
- (e) Not effective ☐

6. What are the benefits of following CB processes?

(a) Conducting negotiations in good faith ☐

(b) Agreeing on common grounds for negotiations ☐

(c) Implementing the agreed terms ☐

7. How are CB processes implemented in your organization?

(a) By engaging employees from the beginning ☐

(b) By endorsing already made decisions by management ☐

SECTION C: FORMS OF EMPLOYEE PARTICIPATION:

8. How do employees participate in CB?

(a) Individuals direct with the employers ☐

(b) Through representatives-unions or association ☐

9. At what time are employees participate in CB in your organization?

(a) When Management has already made a decision ☐

(b) Before Management has made a decision ☐

10. Are employees informed before a decision is made (CB)?

(a) Yes ☐

- (b) Sometimes ☐
- (c) No ☐
- (d) Not to my knowledge ☐

SECTION D: ISSUES SUBJECT TO CB:

11. Are there Collective agreements signed between Management and Employees in your organization?

- ☐
- (a) Yes ☐
- (b) No ☐
- (c) Don't know ☐

12. What issues feature most in Collective agreements in your organization?

- (a) Existence of unions/associations ☐
- (b) Right for consultation ☐
- (c) Disciplinary matters ☐
- (d) Grievance handling ☐
- (e) Conditions of employment ☐
- (f) Employee participation in decision making process ☐
- (g) Wage/Salary issues ☐
- (h) Fringe benefits ☐

13. Are issues selected above important to employees/employers?

- (a) Yes ☐ (b) No ☐

Explain your answer above

SECTION E: FACTORS AFFECTING CB:

14. Is your Union recognized by Management?

(a) Yes ☐ No ☐

15. How strong is your Union/s to influence the process of CB?

(a) Not Strong ☐

(b) Strong ☐

(c) Very Strong ☐

(d) Very influential ☐

17. Do politicians interfere in the CB Processes?

Yes ☐ (b) No ☐

18. How influential are politicians in decision making in your organization?

(a) Very influential ☐

(b) Influential ☐

(c) Not influential ☐

(d) Slightly influential ☐

19. What factors mostly affect the process of CB in your organization

- (a) Weakness of Unions or representatives ☐
- (b) Dual Unions at one organization ☐
- (c) Lack of knowledge of the existence of the Law on CB ☐
- (d) Lack of experience by negotiators ☐
- (e) Failure by management to accept unions ☐

SECTION F: EFFECTIVENES OF CB:

20. Who is responsible for the implementation of CB in your organization?

- (a) Management ☐
- (b) Employee Reps-Trade Unions ☐
- (c) Both parties ☐

21. How effective is CB in your organization?

- (a) Highly effective ☐
- (b) Very Effective ☐
- (c) Effective ☐
- (d) Less effective ☐
- (c) Not effective ☐

22. Are unions recognized as a tool of CB in your organization?

- Yes ☐ (b) No ☐

23. Is your Union/Association strong enough to influence Collective Decisions?

- (a) Very Strong ☐

(b) Strong ☐

(c) Weak ☐

(c) Very Weak ☐

24. Are Employees and Employers free to join any association they want?

(a) Yes ☐

(b) No ☐

25. Is there trust between Employees and Employers or their representatives?

(a) Yes ☐

(b) No ☐

26. Explain your answer:

27. How can you rate the relationship between unions and Employer reps?

a. Cordial ☐

b. Hostile ☐

c. Normal ☐

d. Fair ☐

THE END

THANKS FOR YOUR PARTICIPATION

APPENDICES 2 INDUSTRIAL ACTION -2015-2018

	Industrial action cases reported by newspapers in 2015-2018				
Date	Case	Newspaper	public	private	
	2015				
06/01/2015	Unima Staff refuses to work without full pay	Daily Times	✓		
07/01/2015	Judiciary strike Over-Courts open on Monday	The Nation	✓		
29/01/2015	Judiciary gears up to strike again	The Nation	✓		
04/02/2015	Parliament strike worries parties	Daily Times	✓		
17/02/2015	Judiciary walks out on executive	Daily Times	✓		
17/02/2015	Judges, Magistrates reject 22% pay hike	The Nation	✓		
17/02/2015	CSTU Mzuzu protests salary increment	The Nation	✓		
20/02/2015	Unima in drive to end strikes	The Nation	✓		
06/03/2015	Cham Hospitals staff down tools	The Nation		✓	
30/04/2015	Chief Justice saves APM-thwarts magistrates	The Nation	✓		
24/09/2015	Escom staff threaten to strike	The Nation	✓		
07/10/2015	Doctors threaten to strike	The Nation	✓		
03/11/2015	Blantyre teachers plan to strike	Daily Times	✓		
21/12/2015	Nurses rebuff government	Daily Times	✓		
			13	1	

	2016				
03/02/2016	Teachers Union condemns impending teachers strike	Daily Times	✓		
10/02/2016	Sacramento operators demonstrate	The Nation		✓	
18/03/2016	Minibus operators threaten to strike	Daily Times		✓	
30/04/2016	Teachers gives govt ultimatum	The Nation	✓		
19/05/2016	TUM shifts nationwide strikes	The Nation	✓		
06/07/2016	Fired Inde Bank staff protests	The Nation		✓	
05/07/2016	Teachers split on nationwide strike	The Nation	✓		
06/09/2016	Teachers defiant on strike	The Nation	✓		
06/10/2106	Health science workers on strike	Daily Times	✓		
26/10/2106	Court gives Mzuni staff go ahead to hold sit in	Daily Times	✓		
22/11/2016	Unima staff set to strike over salaries	Daily Times	✓		
06/12/2016	Judiciary staff to continue striking	Daily Times	✓		
			9	3	
	2017				
17/01/2017	Mzunistand off affects health services delivery	Daily Times	✓		
31/01/2017	Magistrates threaten to strike	Daily Times	✓		
09/02/2017	Judiciary down tools	Daily Times	✓		
14/02/2017	Shop workers strike over salaries hike	Daily Times		✓	
14/03/2017	Admarc staff in sit in	Daily Times		✓	

24/03/2017	Court staff issue 21day ultimatum	The Nation	✓		
28/03/2017	Unilia staff down tools	The Nation		✓	
04/05/2017	Strike paralyses Synod College of health sciences	The Nation		✓	
09/05/2017	Teachers threaten to strike over leave grants	The Nation	✓		
02/06/2017	CSTU protest 10% pay hike	The Nation	✓		
17/06/2017	400 secondary school teachers threaten to strike	The Nation	✓		
21/06/2017	CSTU, Government fail to agree again	The Nation	✓		
01/07/2017	Judiciary support staff strikes	Daily Times	✓		
05/07/2017	Admarc sit in goes country wided	Daily Times		✓	
11/07/2017	Industrial action still looms as chanco opens	Daily Times	✓		
12/07/2017	Judiciary employees settle for conciliator	Daily Times	✓		
17/07/2017	Prison warders vows to press on	Daily Times	✓		
30/07/2017	Unima staff give 21 days strike notice	The Nation	✓		
15/08/2017	NRB Officers to start sit in today	Daily Times		✓	
27/10/2017	Strike looms at MCC	Daily Times		✓	
				7	
	2018				
04/01/2018	MHC workers vow to continue strike	Daily Times	✓		
04/06/2018	MCTU wants 30% pay hike	The Nation	✓		
20/06/2018	Teachers plan strike for July 9	The Nation	✓		
11/07/2018	Judiciary support staff for Industrial action	Daily Times	✓		
18/07/2018	Irate workers match against Mzuzu City Council	Daily Times	✓		

14/08/2018	Malawi College of Health Sciences staff on strike	The Nation	✓		
04/10/2018	Govt, Teachers tussle over salary arrears	The Nation	✓		
10/10/2018	Workers return to work at terrastone	Daily Times		✓	
16/10/2018	Unima support staff sit in starts	Daily Times	✓		
19/10/2018	Unima sit-in case in court today	The Nation	✓		
14/11/2018	Court seeks court intervention on strike	Daily Times	✓		
26/12/2018	MCHS strike sees no end	Daily Times	✓		
			12	1	
			47	12	59