
COLLECTIVE BARGAINING IN INDUSTRIAL RELATION

Kasthuri M, Tamil Nadu Dr. Ambedkar Law University

ABSTRACT

"Collective bargaining" is simply another name for negotiations. It provides the workers an opportunity to realize a democracy in industry. The procedure of collective bargaining in Indian industry started in the latter part of the 1800s and was officially accepted by law in the former half of the 1900s. This essay focuses on the concept of collective bargaining as an entire concept, going into its beginnings, its scope, goals, types, environments, and many levels as well as its ideas. Additionally, the Industrial Disputes Act, Trade Union Act, Standing Order, the Constitution, and certain Apex court decisions have been analyzed to promote the validity of collective bargaining. Finally, a short discussion of state recognition of collective bargaining has been undertaken.

INTRODUCTION:

The procedure of establishing contract conditions between laborers or employees and their employers is referred to as collective bargaining. Labor unions or trade organizations usually represent the workers. The usual explanation for doing this is to fulfill the requests and rights of the laborers, including those related to working conditions, wages, and hours worked. In the context of labor relations in India's private and public sectors, this method of resolving workplace disputes has proved innovative. This is due to recognizing that issues involving business and trade are bound to occur and that using the legal system to settle each dispute is impractical. Collective bargaining has thus emerged as an acceptable replacement for resolving workplace conflicts.

DEFINITION

The phrase "collective bargaining" was coined by Sydney and Beatrice Webb in their "History of the trade union".

The Encyclopedia Britannica defines "collective bargaining" as a negotiation between an employer or group of employers and a group of workpeople to reach an agreement on working conditions. If negotiations are between an employer and a group of his work people the dependence of the work people on the employer for their job weakens their bargaining power therefore collective bargaining is more usually understood to be a negotiation between one or more trade unions and an employer or group or association of employers. Trade union organization gives the work people greater strength to provide means for the expert presentation of demands by skilled officials not dependant on the employers for their jobs. Furthermore, a union has funds and means of obtaining information outside anyone's understanding and can secure for the work people at any one firm the support of their fellows in other firms.

In black's dictionary, "collective bargaining" is defined as the negation between employer and organized employees as distinguished from individuals to determine by joint agreement the conditions of employment.

According to Ludwig Teller, collective bargaining is an agreement between a single employer or an association of employers on the other hand and a labor union on the other, which regulates

the terms and conditions of employment.

According to Bake and Kear, collective bargaining is a two-way process. It is a mutual give-and-take process. It requires both party's involvement. Essentially, successful collective bargaining is an exercise in graceful retreat without seeming to retreat. This involves ascertaining the maximum concession of the opposing negotiator without disclosing one's ultimate concession. In this sense, all negotiations are exploratory until the agreement is consummated.

HISTORY OF COLLECTIVE BARGAINING IN INDIA

Collective bargaining as a term was first used in the writings of Beatrice and Sydney. This movement was first introduced in Great Britain and saw some use of it by coal miners early. It has been used in various forms and has also experienced significant changes from time to time. Various countries have distinct models and functions for it.

India had a shorter history of collective bargaining than industrialized nations like the United Kingdom and America due to industrialization originating later in the country. Bargaining wasn't popular in India until after independence, but it originated much earlier, in the 1920s at Ahmedabad's textile mills, thanks to the initiative of our great leader, Mahatma Gandhi. The understanding by unions that using industrial tribunals to resolve disputes was a waste of money, time, and effort as well as an obstacle to peace and harmony throughout the work environment led to the rise of collective bargaining. In 1931, the Royal Commission on Labor revealed that collectivism in its genuine meaning had been restricted to Ahmedabad's textile factories.

In 1947, the Dunlop Rubber Company in West Bengal established its first collective agreement. Afterwards, the Bata Shoe Company in the identical area agreed an agreement in 1951, and the Indian Aluminum Company in Belur agreed a five-year agreement with the employee's union. The concept of collective bargaining was initially introduced in 1952 by the Imperial Tobacco Company, and by 1955, several major Indian companies, namely Tata Iron and Steel Company and Hindustan Lever, along with several smaller businesses, were adopting it. By the end of 1961, 49 companies with 4.5 lakh employees had adopted collective bargaining as a means of maintaining harmony and peace in the industrial community.

The historical record of collective bargaining in India shows that except for Indian Railways, the practice of collective bargaining was mostly carried through in the private sector. No major attempts were made in the public sector. Representatives from Bharat Heavy Electricals Limited experimented in 1978. There has not been sufficient legal support for this practice's development. There were not any formal rules regulating the practice of collective bargaining even after independence. The use of collective bargaining as a way to enhance relations at work is still not commanded by law. The "Rights of Collective Bargaining" are essential based on ILO convention number 98.

PRINCIPLES OF COLLECTIVE BARGAINING

Collective bargaining may be a critical means of preventing and resolving labor disputes. Both employers and workers should take responsibility for the proper use of this crucial tool to guarantee labor agreement. Collective negotiations should allow the union leaders to show their demands and wishes to the board and create a basis for management to explain problems and difficulties to the union leaders. One should try to solve problems honestly and offer solutions to tricky problems. For collective bargaining to be effective in practice, it is necessary to develop trust and confidence in each other. Peers should be respected. Labor and management representatives must be honest and act responsibly.

In the case of **K.C.P Limited v. Presiding Officer and Others**, the court held that collective bargaining is entitled to due weight and consideration

FEATURES OF COLLECTIVE BARGAINING

A representative body or a group of employees bargains collectively. It has some key features such as:

1) Flexibility is a key feature of collective bargaining. This flexibility ensures that all parties involved in the process can profit. Bakke and Kerr state that "the essence of successful collective bargaining is a civilized back-off - no retro-off.

2) Another crucial point to note. the feature is that the process usually involves two actors or parties, one or both of whom initiate the agreement actual dialogue, and trust in the process.

There is no animosity or resentment involved in the process, but rather it is conducted on mutually satisfactory terms.

3)It is a continuous improvement towards the sustainable welfare of workers and plant development. It helps build and improve employee relations.

4)As a participatory mechanism, it provides a platform for industrial democracy. It helps to check monopolization and arbitrariness in decision-making by any party.

AIMS AND OBJECTIVE OF COLLECTIVE BARGAINING

The aims and objectives of collective bargaining include the following:

1. Maintain a balance between valid expectations and reasonable investment margin by ensuring that top-notch employees are available. On the other hand, units can demand the work of every worker and a constant increase in wages. Management's concern for preparing production and shielding them from disruption is identical to the worker's interest in safeguarding their family and personal lives, regardless of their actual income or labor negotiations. Collective bargaining balances this conflicting interest through a process of bargaining.

2. Maintaining equality is achieved through collective bargaining, which ensures that both parties can benefit from the agreement. The bargaining power of the individual worker is often quite weak due to factors such as illiteracy, debt, and socioeconomic backwardness. Consequently, there is no superior employer in terms of financial and political advantages. They risk being used, discriminated against, and humiliated by the workers. As Lord Wedderburn rightly states: "The common law assumes that it concerns a contract between equals, but individual workers bring no bargaining power to the labor market, except in exceptional times".

3. The Union aims to advance industrial democracy. The representation of worker's right to organize, express their demands, and retort toward worker action has begun. e. a strike, if employers do not agree to their demands. They try to influence their employers so that their collective voice is heard when they make decisions that affect their working lives. Thus, the union affirms that individual interests must be subordinated to the common welfare of

members. Collective bargaining can be a means of democratizing working life by allowing co-regulation and making authoritative decisions. According to the International Union of Free Trade Unions, collective bargaining is intended to convey the practice of employees. It desires to be treated with respect and to achieve democratic participation in decisions affecting their working conditions.

4. The rulemaking function of collective bargaining is fulfilled by the rule. Labor relations within a bargaining unit are controlled by collective agreements, which establish standards that can be applied globally. Groups can maintain their internal control, as demonstrated by customary practices and the limitations of employer sovereign power. Collective bargaining is a representation of plurality, as stated above. Accordingly, collective bargaining is not only a tool to raise wages and improve working conditions. Nor is it merely a democratic government in industry. This method is primarily used to encourage lower social classes and groups to achieve greater social autonomy, prosperity, security, or freedom. However, it is more complex in practice. In short, collective bargaining helps to create and maintain mutual relations between workers and management. Therefore, it strengthens the union as an organization. It also makes the company more responsive to people.' To set.

TYPES OF COLLECTIVE BARGAINING:

There are two types of negotiation: **conjunctive or distributive bargaining** and **integrated or cooperative bargaining**. They both aim to make decisions, but their methods are dissimilar. When the interests of each party conflict, and both parties try to exert coercion as much as possible, issues are dealt with through distributed negotiations. In such a situation, one side's gain is the other's loss. Salary negotiations are a clear illustration of negotiations in arrangements or distributive agreements. Unlike the winner-loser syndrome, integrative negotiation is about solving problems on both sides. This is a situation where neither side benefits unless the other side also wins. It represents problem-solving in which both parties work together positively to achieve mutual satisfaction. Productivity negotiation is an instance of integrated negotiation. Productivity bargaining can generally be described as agreements in which employees receive some benefit, such as higher wages or extended vacation time, in exchange for accepting changes in work practices, work practices, etc.

CONDITION OF COLLECTIVE BARGAINING:

There are certain preconditions without which collective bargaining cannot exist. These are generally as follows:

1) To achieve genuine bargaining power, both management and unions must possess equal power or strength. A weak union cannot force management to even negotiate, let alone achieve something beneficial for its members. In the same way, inadequate management can expose powerful unions to so many problems that they cannot assert that the contract is a good one. For example, excessive political intervention and control by ministries weakens leadership and makes the union larger than it is.

2) It is important to negotiate with confidence - any parties involved must be clear on their intentions, and hidden motives can only hinder progress. For instance, when negotiations are thwarted to close a factory. eventually.

3) Management or unions may not change their offers or demands during negotiations due to the deadlock mechanism. There are two methods to break the deadlock, including the use of threats, such as strikes or lockouts, or utilizing third-party mediation like arbitration or reconciliation.

LEVELS OF COLLECTIVE BARGAINING:

There are various levels of collective bargaining. The types of measures available range from government assuming a minor role to substantial government or tripartite intervention. Technically speaking, collective bargaining varies from country to country.

1. Employers negotiate a national bargain with specialized trade unions to address fundamental issues in the industrial sector. These can be a source of discomfort. basic salary or a basic cost of living adjustment, and they can happen every year or after a gap of two or three years. All industries and industrial workers would come together as one, accepting these fundamental issues. It is relatively easy to see such negotiations in a small homogeneous industrial structure. Due to its large size and diverse population, India cannot accommodate it. Despite this, India has been engaging in sectoral discussions at the national level since the 1970s, particularly in areas where the government holds sway. This type of negotiation has the advantage of

harmonizing wages and avoiding disputes. about inequality. However there is little room for flexibility, so it does not allow for variation of the theme.

2. The industry of this type involves the negotiation between unions and employers or bodies at the industrial level. Industrial or trade-registered unions have branches in multiple factories of different sizes. that industry. Dealing with these types of bargaining issues goes beyond basic wages and benefits, including basic industry standards and working conditions. This type of negotiation is common in cotton and jute textiles, mechanical engineering, and roads where the private sector dominates.

3. Company-level bargaining involves the management of multiple plants and their unions agreeing to a single contract for each plant. Negotiations are typically conducted by the company's leadership and representatives from multiple factories. This is practiced by most large public sector companies with multiple locations in different regions of the country. The main advantage of this system is the equality of salaries in different companies and the avoidance of disagreements. But at the same time, the system is not rigid enough to account for differences between plants, products, or technologies that may be due to our, size or employment patterns and the resulting performance.

4. The management of a particular plant, facility, or establishment bargains with the unions of that establishment or unit in factory-level bargaining. Problems can be as broad or as detailed as possible and are entirely linked to the activities of the relevant social organization. Most of the private sector in India uses this negotiation system.

5. Trade-level bargaining involves the employer signing separate contracts with trade associations within the same company. This system is not common in India, airlines are an exception.

COLLECTIVE BARGAINING IN INDIA:

Collective bargaining, according to the Supreme Court ("SC"), is a method that allows for peaceful resolution of disputes over working conditions rather than coercion. It is a process of discussion and negotiation. between employer and employees regarding working conditions and employment contract conditions. Unions represent workers in general presenting their grievances about working conditions and wages to employers and management. Under the

Industrial Disputes Act 1947 (IDA), not bargaining in good faith with an employer in fairness is considered unfair labor. This is usually an effective system because it usually results in employers taking action to solve employee problems. However, the legal procedure to continue collective bargaining in India is complicated.

In the case of **Tamil Nadu Electricity Workers Federation vs. Madras State Electricity Board**, the Madras High Court observed that the whole theory of organized labor and its statutory recognition in industrial legislation is based upon the unequal bargaining power that prevails between the capital employer and individual workman, or disunited workman. Collective bargaining is the foundation of this movement, and it is in the interest of labor that statutory recognition has been accorded to Trade Unions and their capacity to represent workmen, who are members of such bodies.

In the case of **Workmen of Dimakuchi Tea Estate vs. The Management of Dimakuchi Tea Estate**, the court held that the examination of the salient provisions of the Act shows that the principal objects of the Act are “(1) the promotion of measures for securing and preserving amity and good relations between the employer and workmen; (2) an investigation and settlement of industrial disputes, between employers and employers, employers and workmen, or workmen and workmen, with a right of representation by a registered trade union or federation of trade unions or association of employers or a federation of associations of employers;....and (5) collective bargaining”.

In the case of **Karnal Leather Karamchari Sanghatan (Regd.)v. Liberty Footwear Company (Regd.) and Ors**, the Court laid down that the Act (Industrial Disputes Act, 1947) seeks to achieve social justice based on collective bargaining.

STAGES OF COLLECTIVE BARGAINING INDIA:

A) CHARTER OF DEMANDS

Typically, the union informs the employer of the necessity for collective bargaining. There are instances where the employer may initiate collective bargaining. Representatives of the union prepare the standard of demands through various discussions and negotiations with the union members. In the charter, there are frequent inquiries about pay and bonuses as well as hours of operation, perks and conditions of employment, vacation days, etc. Employers typically prefer

unionized conditions in companies with multiple unions, but all types of unions can be presented differently in theory.

B) NEGOTIATION:

The union representatives will initiate negotiations after presenting a charter of demands. Before negotiations, both the employer and the unions prepare for the negotiations, providing information collection, policy formulation, and finalizing the negotiation strategy. After such preparations, negotiations take place, where the unions and the employer participate in discussions and debates on the demands presented by the unions. PURJ If such demands are rejected, the union can decide to strike. The collective bargaining process is invisible. This takes a long time when an employer has to work with many unions. In the public sector, this can take months or even years. The petitioners' charter was presented to the Steel Authority of India Ltd, but it took more than three years.

In the case of **Amalgamated Coffee Estates Ltd. vs. Workmen**, the Apex Court held that the process of negotiated settlements is at the heart of the solution to collective disputes. Unlike a settlement in the course of conciliation proceedings, a bipartite settlement with a majority union is equally binding if it is held to be fair and reasonable.

C) COLLECTIVE BARGAINING AGREEMENT:

The employer and unionized employees then sign a collective agreement. It can be structured as a bilateral agreement, a memorandum of understanding, or a consensus decision. For details on this see Section III below.

D) STRIKES

The union(s) may go on strike if there is no agreement reached. Utility workers are entitled to a cooling off period, which is set by the IDA, and they can strike without prior notice. Processing of IDA, neither party can take all labor market measures while the conciliation process is pending and seven days after the end of the conciliation process or two months after the end of the legal procedure.

E) CONCILIATION

When the conciliator is notified of a strike or lockout, the process of reaching conciliation begins. The federal government has the authority to appoint specialized officers to investigate the dispute and mediate and promote conciliation during the consideration period. On the other hand, it can also appoint a mediation board, which is appointed in an equal number based on the recommendation of both parties and consists of a president and two or four members during the conciliation process strike may be organized. The conciliation process is terminated by one of the following recommendations:

(i) resolution,

(ii) no agreement, or

(iii) reference to the labor court or the labor dispute commission.

In the case of **P. Virudhachalam And Others v. Management Of Lotus Mills And Another**, the court emphasized that collective bargaining is at the core of the act's purpose, which is to resolve industrial disputes and maintain industrial harmony. Individual workers take a backseat in these negotiations, with unions representing their interests and advocating for common causes. These agreements, whether reached through negotiation or conciliation, play a pivotal role in ensuring industrial peace and prosperity.

In the case of "**National Engineering Industries Ltd. v. State Of Rajasthan And Ors**," the court held that, in the absence of such allegations of mala fide or fraud or even corruption a settlement in the course of collective bargaining is entitled to due weight and the principle of industrial democracy permeate the relations between the management on the one hand and the Union which resorts to collective bargaining on behalf of its members-workmen with the management on the other. Such collective bargaining which may result in a just and fair settlement would always be beneficial to the management as well as to the body of workmen and society.

FUTURE OF COLLECTIVE BARGAINING IN INDIA:

In India, the government's support for industrial pluralism and bilateral collective bargaining is reflected in powerplants. Trade union movement benefits from economic liberalization.

Independent labor unions exist and engage in violent negotiations with employers to secure essential wages and wage benefits for workers. Employers, for their part, have begun to implement the strategy of outsourcing practitioner managers. This somehow led to a slowdown in the growth of trade unions. Comparative analysis between monopoly and collective voice framework after independence shows rapid industrialization and minimal industrial disputes in a collective voice. Furthermore, the decreasing elasticity of employment indicates that more output can be achieved with less employment, especially with capital-intensive technologies. These types of technologies are not welcomed by unions because they reduce the flexibility of employment in the production process. The future of collective bargaining depends on its transformation into a collaborative process, where both management and the union decide on the progress of the process.

COLLECTIVE BARGAINING POLICIES IN PRACTICE:

Companies with multiple locations began to decentralize collective bargaining to capitalize on local market conditions. A different perspective suggested that every profit unit must be viewed as distinct and management's negotiation tactics should be adjusted accordingly. In contrast to unionized companies, the meetings of employee representatives with management were infrequently held, usually lasting about two days per week. They were used for formal discussions about complaints and procedural matters. Overall, productivity improvement was not a significant goal in productivity-based collective bargaining. Most established companies, with a few exceptions, are now less dependent on the frequent pursuit of comprehensive productivity agreements and instead seek out diverse initiatives beyond collective bargaining. The balance between labor relations and new human resource approaches seemed to have adapted in some way.

RECOGNITION OF COLLECTIVE BARGAINING:

The recognition of a union by an employer or organization as being willing to negotiate with it is known as "recognition". The process of recognition involves acknowledging and accepting a union that represents all or some workers in Scotland, factories, or industries, and being prepared to discuss all issues related to those workers. A person who is willing to negotiate with the concerned union under this approval is known as a bargaining agent or agent. Traders' recognition was of great importance to the National Labor Commission. The Commission

observed that the provision for recognition of a trade union was applied as self-evident in the ... Bombay Industrial Relations Act, 1946, and certain other State Acts (Madhya Pradesh and Rajasthan), amendments incorporated (but not implemented) in the Trade Union Law and the Disciplinary Code as well as its addition to the second plan. The commission recommended the implementation of mandatory measures. recognition of the trade union according to the central law in all enterprises with at least 100 employees or in which the invested capital is greater than the prescribed size. Trade union rights were also proposed by the commission. Even so, there is an element of reality is no national law on the recognition of trade unions. Nevertheless, certain states like Maharashtra, Andhra Pradesh, Madhya State, West Bengal, and Orissa have implemented legal measures to acknowledge it. Thus, it is evident that although there are no specifically centrally enacted collective bargaining provisions in India, India has adequate safeguards for the meaning of collective bargaining.

COLLECTIVE BARGAINING AND NATIONAL COMMISSION ON LABOUR:

Overall, there is a strong belief that the National Labor Commission supports increased collective bargaining. The proposal made in 1969 aimed to minimize government interference with labor market relations, specifically the settlement of disputes. The National Labor Commission also notes that mandatory dispute resolution should only be used as a last resort. Maintaining good labor market relations requires the joint efforts of management and unions to reduce the board's role in maintaining labor markets. While the second proposal suggests that compulsory arbitration is only a final option, both the first and second opinions suggest also needs to be considered. Then, the National Labor Commission also considered important the role of unions in the negotiation of collective agreements, issuing regulations separate legislation, or amending existing laws: Mandatory recognition of unions and union certification negotiation agents. Negotiate well. trust on the part of both workers and unions. Mutual agreements have been established. legal validity and legitimacy. to concede. Such provisions exist for the recognition of trade unions in Maharashtra and the prevention of real justice. Work Practices Act 1972 but this Act applies only to Maharashtra so this type of law must be enforced all over India. The National Labor Commission emphasizes the importance of training workers to ensure that unions have leaders from different industries, which would reduce reliance on political leadership and enhance collective bargaining.

CONCLUSION:

Industrial bargaining involves collective bargains, which are made jointly, and is considered to be a democratic practice in the industry. Proposals are essential for the success of collective bargaining, as demands require parties to compromise unless they can demonstrate their willingness to pursue the agreement. In India, the problem lies in a lack of law at the central level to recognize that this union is indeed representing an employer's interest which affects its bargaining power. In addition to being the source of unorganized labor, unions are often weak. Indian trade unions are characterized by competition among people based on their caste, creed, and religion to achieve effective collective bargaining. This is particularly problematic in India. Moreover, political ideology and weak financial position also hinder the growth of the trade Union. Therefore it is recommended that India should take care of trade union recognition at the central level for peace and harmony with leadership and management. workers can be retained, which in turn can provide better service to the community and thus lead to economic growth and development. India has international obligations to provide an effective collective bargaining mechanism. In this regard, India also recommends ratifying ILO Conventions No. 87 of 1948 and No. 98 of 1949, both of which guarantee the right to effective collective bargaining. To put it simply, we must repeat the past. Sir Henry Maine believes that a progressive community moves from being in the limelight to being on equal terms. However, considering the need for collective bargaining as an effective tool to resolve labor disputes, a progressive society must act differently, i.e. From the agreement. to country rather than from country to agreement.

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