

COLLECTIVE BARGAINING

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ABSTRACT

Collective bargaining is a fundamental mechanism of industrial relations through which employers and employees negotiate the terms and conditions of employment. Originating in the early twentieth century and later recognized by the International Labour Organisation, it promotes industrial democracy by enabling workers to collectively influence workplace policies with dignity and autonomy. The process involves structured negotiations on wages, benefits, working conditions, job security, and grievance redressal, ultimately culminating in legally binding agreements. Indian jurisprudence, through cases such as Karol Leather Karamchari Sangathan v. Liberty Foot Wear Company and Industrial Tribunal v. Ram Prasad Vishwakarma, underscores collective bargaining as a peaceful and cooperative method of resolving employment disputes. The Supreme Court in Chairman, SBI v. All Orissa State Bank Officers Association further clarified the representational rights of unions within this framework. Collective bargaining not only enhances worker rights and workplace standards but also contributes to productivity, stability, and harmonious labor–management relations. While it empowers employees by giving them a collective voice, it may also face challenges such as negotiation deadlocks and rigidity in implementation. Overall, collective bargaining remains an essential instrument for achieving fairness, cooperation, and balance in the employment relationship.

Key Words:

Collective bargaining, Industrial relations, Trade unions, Negotiation, Workers' rights, Employment conditions, Wagedetermination, Industrial democracy, Labour law, Grievance redressal, Productivity, Labour–management cooperation, Collective bargaining agreement (CBA), Industrial disputes, Workplace harmony

INTRODUCTION:

The word “collective bargaining” was first used by Beatrice Webb about hundred years ago in the beginning of twentieth century. But the term was not defined by Beatrice Webb. According to International Labour Organisation “negotiations about working conditions and terms of employment between an employer, a group of employers or one or more organisations or employers on the one hand and one or more representative organisation of workers on the other with a view to conclude agreement is known as “collective bargaining”.¹ Thus “collective bargaining” is that arrangement whereby the wages and conditions of employment of workmen are settled through a bargain between the employer and the workmen collectively whether represented through their Union or by some of them on behalf of all of them. Collective bargaining involves negotiations. In this approach, workers' rights are positioned to protect industrial democracy. At the end of the 19th and the start of the 20th centuries, it came in India rather late. Employees' autonomy to influence the organization in the event of bad management and to work with freedom and dignity is fostered by their right to engage in collective bargaining with an employer. It has constitutional value as a self-governance activity and functions as a vehicle for accomplishing external aims.²

MEANING :

The process of negotiating mutually acceptable terms and conditions of employment that safeguard the interests of both management and employees is known as collective bargaining.³

DEFINITION:

According to Dale Yoder', “Collective bargaining is essentially a Process in which employees act as a group in seeking to shape Conditions and relationships in their employment”.

Michael J. Jucious has defined collective bargaining as “a process

¹ S.N.MISRA, LABOUR & INDUSTRIAL LAWS ,401(30th edition)

² <https://www.studocu.com/in/document/Karnataka-state-law-university/labour-law/3-collective-bargaining/13128305>

³ <https://share.google/Cu5F1roTml8pjhaBh>

By which employers, on the one hand, and representatives of Employees, on the other, attempt to arrive at agreements covering The conditions under which employees will contribute and be Compensated for their services”.⁴

Collective bargaining has long been a topic of industrial arbitration and has been defined by a number of Indian courts. The Supreme Court of India noted in the well-known case *Karol Leather Karamchari Sangathan Vs. Liberty Foot Wear Company* that “collective bargaining is a technique where the problems related to the employment and wages are resolved harmoniously by a contract or agreement, not by coercion.”⁵

OBJECTIVES:

1. Remuneration Negotiation: One of the prime objectives of collective bargaining is to negotiate and determine fair wages and benefits for employees.
2. Working Conditions: The goal of collective bargaining is to create and enhance beneficial working conditions, including things like working hours, safety requirements, and other workplace regulations.
3. Employment Terms: To guarantee justice and stability for employees, it aims to negotiate and establish employment terms, such as contracts, job security, and grievance procedures. Or workers.
4. Resolution of Conflicts: By using negotiations to settle disputes between employers and employees, collective bargaining lessens the possibility of strikes or other disruptive acts.
5. Rights of the Workers: It focuses on safeguarding and defending workers’ rights, such as the ability to band together, engage in collective bargaining, and carry out other coordinated actions.⁶
6. Productivity and Efficiency: Collective bargaining seeks to increase overall productivity in the workplace by addressing issues like training, technology adoption, and efficiency improvements.

SCOPE:

The scope of collective bargaining applicable in any negotiation between the employer and employee.

1. Negotiation Power: Collective bargaining provides workers with a unified front, increasing their bargaining power when negotiating with employers.
2. Payments and Benefits: The negotiations are based on wages or salaries, benefits, and working conditions, to secure favorable terms for the employees.

⁴<https://share.google/Cu5F1roTml8pjhaBH>

⁵ Karnal Leather Karamchari Sangathan vs Liberty Footwear Company — 1990 AIR 247; 1989 SCR (3) 1065; 1989 SCC (4) 448

⁶ <https://share.google/ybHPwBLFVIWImOmQN>

3. **Working Conditions:** It addresses issues about the working hours, safety standards, and other conditions to ensure a fair and conducive work environment. The workers need to feel safe and secure while working for the organization.
4. **Conflict Resolution:** Collective bargaining is a process for settling disagreements between an organization's management and employees, encouraging a cooperative approach to conflict resolution.⁷
5. **Job Security:** The negotiations also include discussions on job security and layoffs with the goal of protecting workers from unjust terminations.
6. **Employee Rights:** During the discussions, specific topics like job roles and responsibilities, promotions, and disciplinary actions may be addressed to protect employees' rights.
7. **Efficiency and Productivity:** Through collective bargaining, employers and employees can agree to certain conditions that would increase productivity and efficiency.
8. **Legally Binding:** This agreement ensures that the contracts adhere to legal regulations and compliance, building a framework for fair and lawful employment practices.

PURPOSE:

For a workplace to be productive and peaceful, collective bargaining must achieve two basic objectives.

1. **Regulating Remuneration and Conditions:** Collective bargaining is used to negotiate pay, hours, bonuses, leave, job security, training, and workplace safety. Over time, its scope has expanded to encompass a wide range of subjects, including productivity, health hazards, dismissal procedures, and accident prevention. This change is being driven by employee expectations and changing economic conditions, with a growing emphasis on workplace improvement. Collective agreements now cover a wide range of topics, ensuring that workers' rights are respected and their concerns are taken seriously in both developed and developing countries.
2. **Regulating Labor-Management Relations:** Through cooperation and mutual understanding, collective bargaining encourages communication, lessens conflict, and advances peaceful dispute resolution. It is frequently codified in codes of conduct or labor relations charters, indicating a dedication to cooperative problem-solving. This results in a more peaceful workplace where management and labor cooperate to resolve conflicts and work toward shared objectives, fostering mutual understanding and corporate success.⁸

⁷ <https://share.google/qIQO5JHPWE1Ik9VSz>

⁸ S.N.MISRA, LABOUR & INDUSTRIAL LAWS 406,407 (30th edition)

STEPS:

Collective Bargaining Procedures During collective bargaining, the employer and employee are continuously exchanging offers and counteroffers. But the end goal of this negotiation is to get to a common understanding. The following steps are included in the collective bargaining process: ⁹

1. Determining the Problems and Setting Up the Needs: This involves compiling a list of complaints, such as unfair management practices or inadequate pay.
2. Bargaining Trade unions may use professional negotiators in an effort to come to a settlement with the employer. The employer will also send negotiators, and the parties will keep meeting until a compromise is reached.¹⁰
3. Reaching a Temporary Agreement: After reaching a compromise, the negotiating sides will present the agreement to their respective constituencies. While the details are being worked out, any last-minute concerns would be discussed.
4. Approving and Endorsing the Agreement: The union members would have the opportunity to vote in favor of or against the new agreement after viewing the entire contract.
5. Monitoring the Agreement: After the agreement has been completed and signed by both parties, representatives would monitor whether or not the parties are keeping their end of the deal.

Industrial Tribunal v. Ram Prasad Vishwakarma (1961) The Supreme Court's panel, which included Justices Gupta and K.C. Das, noted that the workers had a very hard time negotiating the terms and circumstances of their contracts. However, things changed and workers had a better opportunity to express their thoughts after the idea of trade unions and collective bargaining was introduced.¹¹

TYPES:

Collective Bargaining Types Depending on the participants and the issues being bargained, collective bargaining can take many various forms. The categories of collective bargaining are listed below:

1. Distributive Bargaining: In this kind, parties must split a certain quantity of resources among themselves. It's frequently a zero-sum game in which the success of one side equals the failure of the other. One typical example is wage discussions, in which businesses want to keep labor expenses under control while employees demand increased compensation.
2. Integrative negotiation: Integrative negotiation produces a "win-win" scenario, in contrast to distributive bargaining. Increasing the resources available to benefit both parties is the goal. In order to meet the demands and interests of both parties, cooperative problem-solving and innovative solutions are promoted.¹²

⁹ <https://share.google/ybHPwBLFVIWImOmQN>

¹⁰ <https://share.google/ybHPwBLFVIWImOmQN>

¹¹ Industrial Tribunal (Punjab) v. Ram Prasad Vishwakarma (1961)AIR 1961 SC 283,1961 SCR (1) 371,(1961) 1 LLJ 504

¹² <https://www.geeksforgoeks.org/finance/collective-bargaining-meaning-working-objectives-types-and-examples/>

3. Composite negotiation: Another name for composite negotiation is pattern bargaining. This happens when several problems are discussed during talks, and decisions made on one of them establish a pattern for the others. It enables a complete approach to negotiation, where the resolution of one problem may impact or direct the resolution of other connected issues.
4. Concessionary Bargaining: Reaching a compromise throughout the negotiating process is known as concessionary bargaining. It revolves around union leaders consenting to give up something in exchange for job security. During a recession or other economic downturn, this is common. To preserve the sustainability of the staff and eventually the company, union leaders may agree to forgo some benefits.¹³
5. Productivity Bargaining: In this type of negotiation, employee productivity and remuneration are the main topics of discussion. Increased compensation and benefits are often used by union officials to boost employee productivity, which raises the company's worth and earnings. For this kind of negotiation to be successful, both parties must agree on financial conditions in order to optimize productivity.

BARGAINING BODIES:

Bargaining groups In order to debate and negotiate terms and conditions of employment, the parties involved gather in bargaining bodies. Distinct nations around the world have very distinct negotiation bodies in terms of their nature, organization, and functioning. These organizations' constitutions are voluntary in some nations, while they are established in compliance with legal requirements in others. Another distinction exists as well. The bodies are bipartite in certain nations and tripartite in others.¹⁴ Employer and employee representatives are included in bipartite agreements, whereas government representatives are included in tripartite agreements in addition to the aforementioned two. Together with labor unions, Works Committees and Works Councils function at the plant level in several nations. Confusion about responsibilities is frequently the result of this.

These organizations are typically opposed by trade unions because they worry about losing power. In India, establishing Works Committees is mandated by Section 3 of the Industrial Disputes Act, 1947 for businesses with 100 or more employees. Their goals are to enhance collaboration between employers and employees, foster goodwill, address shared concerns, and sustain positive relationships. However, similar committees failed in locations like the Calcutta Port due to opposition from trade unions. The National Commission on Labour (1969) noted that without trade union participation, Works Committees cannot function efficiently. There are similar problems in other nations. Conflicts emerge when union representatives collaborate with committees. Experts advise that in order to prevent this, Works

¹³ <https://www.geeksforgeeks.org/finance/collective-bargaining-meaning-working-objectives-types-and-examples/>

¹⁴ S.N.MISRA, LABOUR & INDUSTRIAL LAWS 407,(30th edition)

Committees should just offer advice and unions should manage collective bargaining. Two lists of topics were put up by the Indian Labour Conference in 1959:

One for issues that Works Committees might address and another for issues that were outside of their purview.

Works Committees tackle a variety of issues, such as:

1. Workplace conditions, including ventilation, lighting, and hygiene.
2. Workplace amenities like drinking water, a dining room, a canteen, restrooms, medical and health services, etc.;
3. Safety and accident prevention measures;
4. Festival and national holiday adjustments;
5. Welfare and fine fund administration;
6. Facilities for educational and recreational activities;
7. Encouragement of thrift and savings; and
8. Implementation and review of decisions made in works committee meetings.

Similarly, the following issues fall outside the purview of works committees:

1. Wages and allowances;
2. Bonuses, including profit-sharing bonuses;
3. Rationalization and issues pertaining to workload fixation;
4. Issues pertaining to the fixation of a standard labor force;
5. Planning and development programs;
6. Issues pertaining to worker layoffs and retrenchment;
7. Victimization for engaging in trade union activities;
8. Provident fund, gratuity, and other retirement benefits;
9. Leave and festival holidays;
10. Incentive schemes; and
11. Housing and transportation services.

INTERNATIONAL LABOUR ORGANIZATION AND COLLECTIVE BARGAINING:

International Labour Organizations and Collective Bargaining The idea of collective bargaining has also been recognized by the International Labour Organization. In 1951, the Industrial Labor Conference passed a resolution supporting collective bargaining.

It said that:

- (i) To negotiate, conclude, revise, and review collective agreements, or to be available to assist the parties in the negotiations, conclusions, revision, and renewal of collective agreements,

equipment appropriate for each industry's conditions should be established through agreements, laws, or regulations as may be appropriate under national conditions.¹⁵

- (ii) The organization, methods of operation, and functions of such apparatus should be governed by agreements between the parties or national laws or regulations, as may be suitable under national conditions.

The respondent association in *Chairman, State Bank of India and Others v. All Orissa State Bank Officers Association and Others* was an unrecognized union. The Supreme Court ruled that a trade union has no common law right to represent its members in collective bargaining or individual member complaints. The bank had a grievance mechanism for handling complaints, and it had been running smoothly for the previous few decades. Additionally, the employer-recognized union, which represents over 90% of officers in the relevant circle, was not granted the right to represent its members in grievance processes. The organization that responded is a minority organization. Since the respondent Association's claimed rights were not even granted to the dominant Union, there was no discrimination against it.¹⁶

CONCLUSION:

The negotiation of wages and benefits between an employer and union representatives is known as collective bargaining. All workers should have the right to collective bargaining since it is an effective tool for stability and fairness in the workplace. Collectively, employers and employees state their demands to each other and hear the other side out. Each party then steps back and makes appropriate sacrifices to arrive at an agreement. The written outcome at the end of collective bargaining is called a collective bargaining agreement (CBA), which usually includes employees' wages, benefits, hours and other terms of employment. By providing them with a collective voice, collective bargaining empowers workers. Better compensation, safer working conditions, and a more secure workplace are all made possible by it. By offering an organized forum for settling conflicts, it also promotes harmonious workplace relations. But it can also result in rigidity and protracted discussions.

¹⁵ S.N.MISRA, LABOUR & INDUSTRIAL LAWS 411(30th edition)

¹⁶ *Chairman, State Bank of India and Another v. All Orissa State Bank Officers Association and Others*
AIR 2002 SC 2279