



# Collective Bargaining in Industries: A Symbol of Sound Employment Relationship

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## **Abstract:**

When it becomes important to determine the terms and conditions of employment and settle the disputes arising from those terms, the role of collective bargaining comes into play. As a collective approach, bargaining solves workers' problems thus leading to a peaceful workplace environment. There exist different types of issues at the place of employment like rules, working hours, pay, holidays, leave, and other benefits that need to be resolved for ensuring a dispute free situation because this ultimately affects the productivity and profitability of the particular industrial establishment. Hence, collective bargaining is of utmost importance. This research paper attempts to highlight the concept of collective bargaining as well as its methods and theories.

**Keywords:** Bargaining, Disputes, Laws, Relations.

## **1.1 Introduction:**

A dispute free industry preserves a positive relationship amongst everyone involved in the workplace. Various mechanisms for settling disputes have come into existence since the time of the Industrial Revolution. When trade unions began to strengthen for protecting workers' rights and resolving disputes amicably, they found Collective Bargaining as a good way of negotiation. Collective Bargaining has proved to be a successful strategic process in bringing management and employees close together. The globalized era of changing Industrial Relations shows the significance of Collective Bargaining in the form of harmonious relationships, effective disciplinary procedures and peace thereby promoting industrial welfare.

**ILO Convention No. 154 defines collective bargaining as** “all negotiations which take place between an employer, a group of employers or one or more employers' organisations, on the one hand, and one or more workers' organisations, on the other, for:

- (a) Determining working conditions and terms of employment; and/or
- (b) Regulating relations between employers and workers; and/or
- (c) Regulating relations between employers or their organisations and a workers' organisation or workers' organisations.” (Article 2)

## 1.2 Main Features of Collective Bargaining:

1. **It is a Group Action:** Collective bargaining is a group action as opposed to individual action. The employer is represented by its delegates and, on the other side; employees are represented by their trade union. Both the parties of the settlement are represented by their groups.
2. **It is a Continuous Process:**It provides a mechanism for continuing an organised relationship between management and trade unions. It is a process that goes on 365 days of the year. Collective bargaining is a continuous process and does not end with one agreement.
3. **It is a Bipartite Process:**Collective bargaining is a two-part process. Both the parties(i.e., employers and employees)- It is a mutual give-and-take rather than a take-it-or-leave-it method of arriving at the settlement of a dispute. There is no intervention of any third party.
4. **It is a Process:**Collective bargaining is a process in the sense that it consists of several steps. The starting point is the presentation of a charter of demands by the workers and the last step is the reaching of an agreement or a contract which would serve as the basic law governing labour-management relations over some time in an enterprise.
5. **It is a Dynamic by Nature:**It has fluidity and there is no thumb rule for reaching an agreement. There is sufficient scope for negotiation. It is an essence of a give-and-take work unless a final agreement acceptable to both parties are reached. It is relatively a modern approach, and it is continually developing. Previously, it is emotional, turbulent and sentimental, but now it is more scientific, factual and systematic.
6. **It is Industrial Democracy:**Collective bargaining is built on the value of industrial democracy where the workforce union represents the manpower in employer or employers' negotiations. Industrial democracy is the government of the workforce with the consent of the governed - the workers. The principle of arbitrary unilateralism facilitates self-government in industry. Collective bargaining is not just the signing of an agreement granting superiority, breaks and pay intensification, by sitting around a table.
7. **It is a Complementary Process:**Collective bargaining is not a competitive process i.e.; labour and management do not compete while negotiating for the same object. It is essentially a complementary process

i.e., each party needs something which the other party has, namely, labour can put greater productive effort and management can pay for that effort and to organise and guide it for achieving the enterprise's objectives.

### 1.3 Theories of Collective Bargaining:

**1. The Marketing Concept and the Agreement as a Contract:**The marketing concept views collective bargaining as a contract for the sale of labour. It is a market or exchange relationship and is justified on the ground that it gives assurance of voice on the part of the organised workers in the matter of the sale. The same objective rules which apply to the construction of all commercial contracts are invoked since the union-management relationship is concerned as a commercial one. According to this theory, employees sell their labour only on terms collectively determined based on a contract that has been made through the process of collective bargaining.

The uncertainty of trade cycles, the spirit of mass production and competition for jobs make bargain a necessity. The trade union's collective action provided strength to the individual labourer. It enabled the worker to resist the pressure of circumstances in which he was placed and to face an unbalanced and disadvantageous situation created by the employer. The object of trade union policy through all the maze of conflicting and obscure regulations has been to give to each worker something of the indispensability of labour as a whole.

It cannot be said whether the workers attained bargaining equality with employers. But collective bargaining had given a new relationship under which it is difficult for the employer to dispense without facing the relatively bigger collective strength.

**2. The Governmental Concept and the Agreement as Law:**The Governmental Concept views collective bargaining as a constitutional system in the industry. It is a political relationship. The union shares sovereignty with management over the workers and, as their representative, uses that power in their interests. The application of the agreement is governed by a weighing of the relation of the provisions of the agreement to the needs and ethics of the particular case.

The contract is viewed as a constitution, written by the point conference of union and management representatives in the form of a compromise or trade agreement. The agreement lays down the machinery for making executing and interpreting the laws for the industry. The right of initiative is circumscribed within a framework of legislation. Whenever management fails to conform to the agreement of constitutional requirements, judicial machinery is provided by the grievance procedure and arbitration. This creates a joint Industrial Government where the union share sovereignty with management over the workers and defend their group affairs and joint autonomy from external interference.

**3. The Industrial Relations (Managerial) Concept as Jointly Decided Directives:**The industrial relations concept views collective bargaining as a system of industrial governance. It is a functional relationship. Group Government substitutes the State Government. The union representative gets a hand in the managerial

role. Discussions take place in good faith and agreements are arrived at. The union joins with company officials in reaching decisions on matters in which both have vital interests. Thus, union representatives and the management meet each other to arrive at a mutual agreement which they cannot do alone.

To some extent, these approaches represent a stage of development of the bargaining process itself. Early negotiations were a matter of simple contracting for the terms of sale of labour. Developments of the latter period led to the emergence of the Government theory. The industrial relations approach can be traced to the Industrial Disputes Act of 1947 in our country, which established a legal basis for union participation in the management.

#### 1.4 Method of Collective Bargaining:

The collective bargaining process begins with some sort of labour disagreement when a union or group of workers doesn't see eye to eye with an employer on a particular employment issue. The first stage of the process involves preparation, where each side chooses a representative to represent their respective interest in the negotiations.

Next, the parties meet for a discussion. The negotiation process can frequently turn heated and emotionally charged. For that reason, the parties typically agree to certain ground rules before beginning, to avoid conflict which could cause the process to fail. Once the specifics of the dispute have been discussed, the parties exchange proposals of options to resolve the dispute. This is followed by the bargaining process, whereby the parties explore various potential compromises.

As the parties get close to reaching an agreement, a tentative written collective bargaining agreement is drafted, revised, and developed as the parties reach a final agreement. Once all terms are firm, the final collective bargaining agreement is reviewed and signed by both parties and becomes a binding contract.

#### 1.5 Reasons for the Growth of Collective Bargaining:

1. **Statutory Provisions:** Which have laid down certain principles of negotiations, the procedure for collective agreements and the character of the representation of the negotiating parties?
2. **Voluntary Measures:** Such as tripartite conferences, joint consultative boards, and industrial committees at the industry level have provided an ingenious mechanism for the promotion of collective bargaining practices.
3. **Several Governments Measures:** Like schemes for workers' education, labour participation in management, the evolution of the code of Inter-union Harmony, the code of Efficiency and Welfare, the Code of Discipline, the formation of Joint Management Councils, Workers Committees and Shop Councils, and the

formulations of grievances redressal procedure at the plant level— have encouraged the collective bargaining.

4. **Amendments to the Industrial Disputes Act:**The Amendments to the Industrial Disputes Act in 1964 provided for the termination of an award or a settlement only when proper notice is given by the majority of workers. Agreements or settlements which are arrived at by a process of negotiation on conciliation cannot be terminated by a section of the workers.
5. **Industrial Truce Resolution:**The Industrial Truce Resolution of 1962 has also influenced the growth of collective bargaining. It provides that the management and the workers should strive for constructive cooperation in all possible ways and throws responsibility on them to resolve their differences through mutual discussion, conciliation and voluntary arbitration peacefully.

## 1.6 Types of Collective Bargaining:

1. **Conjunctive or Distributive Bargaining:** It is based on the principle, “my gain is your loss, and your gain is my loss” i.e., one party wins over the other. The employee and the employer try to maximize their respective gains. The economic issues such as wages, bonuses, other benefits are discussed, where the employee wishes to have an increased wage or bonus for his work done, whereas the employer wishes to increase the workload and reduce the wages. In this form of collective bargaining, both the parties viz.
2. **Co-operative or Integrative Bargaining:** For example, the workers may agree to the low wages or the management may agree to adopt the modernized methods, to have increased production. Both the employee and the employer sit together and try to resolve the problems of their common interest and reach an amicable solution. In the case of an economic crisis, such as a recession, which is beyond the control of either party, may enter into a mutual agreement concerning the working terms.
3. **Productivity Bargaining:** This type of negotiating is done by the administration, where the workers are given incentives or bonuses for increased production. Through this form of collective bargaining, both the employer and the employee enjoy the benefits in the form of increased production and improved pay respectively. The workers get encouraged and work very hard to reach beyond the standard level of productivity to gain additional benefits.
4. **Composite Bargaining:** with the intention to safeguard their interest and protect the dilution of their powers. In this type of collective bargaining, along with the demand for increased wages the workers also express their concern over the working conditions, recruitment and training policies, environmental issues, mergers and amalgamations with other firms, pricing policies, etc.

## 1.7 Conclusion:

Various types and methods used for amicable settlement of industrial disputes and arising to a negotiation depict the value of Collective Bargaining. In this way, Collective Bargaining serves as a basis of sound employment relationships along with promoting the concept of “democracy” within the organizations thereby ensuring a unified and harmonious industrial environment.

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