
COLLECTIVE BARGAINING: A CRITICAL ANALYSIS OF THE CONCEPT, LEGAL FRAMEWORK, MERITS AND DEMERITS

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British social reformer and economist Beatrice Webb is widely credited with coining the term "collective bargaining" around 1891.

ABSTRACT

Collective bargaining is one of the most significant mechanisms in modern labour relations, enabling workers and employers to negotiate the terms and conditions of employment in a structured and democratic manner. It serves as an essential tool for balancing the unequal bargaining power between employees and management and plays a crucial role in promoting industrial peace and stability. The concept of collective bargaining has gained international recognition as a fundamental right of labour under the International Labour Organisation (ILO), particularly in relation to the principles of freedom of association and the right to organise. In the Indian context, although collective bargaining is not explicitly guaranteed as a constitutional right, several labour legislations, such as the Trade Unions Act, 1926¹ and the Industrial Disputes Act, 1947, provide the necessary legal foundation for its functioning. Judicial interpretation has significantly contributed to the recognition and development of collective bargaining, and it acts as an important aspect of industrial democracy. This research article critically examines the concept of collective bargaining, its legal framework, process, and the techniques involved. Furthermore, the paper analyses important landmark case law and evaluates in detail the merits and demerits of collective bargaining, which form the core focus of this study.

Keywords: Collective bargaining, Legal Framework, Trade Union, Case laws, Labour Convention.

¹ The Trade Unions Act, 1926.

1. Introduction

The relationship between employers and employees shapes industrial development. As largescale industry rose in the nineteenth and twentieth centuries, labour-management conflicts increased. Disputes often involved wages, working conditions, job security, and safety. Individual workers could not negotiate effectively with powerful employers. This inequality led to uneven bargaining power and exploitation.

Workers formed trade unions, enabling them to negotiate with employers through collective bargaining. This collective process improves negotiation strength and is essential to industrial democracy.

International organisations such as the International Labour Organisation have recognised collective bargaining as a fundamental right. In India, while not a constitutional right, it is supported by statutory provisions and judicial interpretation.

This article critically analyses collective bargaining, focusing on its conceptual foundations, legal framework, and case law in India. It expressly evaluates the core advantages and limitations of collective bargaining within current industrial relations to clarify its practical impact.

2. Meaning and Definition of Collective Bargaining

Collective bargaining is a negotiation between employers and employees, usually through representatives. This sets the terms and conditions of employment. Article 2 of the Collective Bargaining Convention, 1981 (No. 154), defines it as talks between employer or their groups and workers' groups. These talks set working conditions, regulate employment relationships, and manage relations between employers and workers.

The concept stresses collective negotiation over individual bargaining. Workers act through trade unions, which represent them to employers. Agreements made are called collective agreements and usually apply to all workers in the bargaining unit.²

Collective bargaining needs negotiation, cooperation, and compromise. Employers and

² The Industrial Disputes Act, 1947

employees seek agreements that balance efficiency and social justice.

3. Process of Collective Bargaining

The collective bargaining process generally includes several stages.

The first stage is preparation. Workers identify their demands and prepare a charter of demands. These demands may include wage increases, better working conditions, job security, or additional benefits.

The second stage involves negotiation. Representatives of the trade union and the employer meet to discuss the demands and attempt to reach an agreement. These negotiations may involve compromises from both sides. The third stage is agreement. If negotiations are successful, the parties sign a collective bargaining agreement that becomes binding on both sides.

If negotiations fail, the dispute may be referred to conciliation, mediation, or arbitration under the Industrial Disputes Act, 1947. In some cases, workers may resort to strikes or employers may declare lockouts.

4. Legal Framework Regulating Collective Bargaining in India

The legal framework regulating collective bargaining in India is primarily derived from labour legislation.

The Trade Unions Act, 1926, gives legal recognition to trade unions and lets them represent workers. Registered unions have legal immunities that help them bargain more effectively.

The Industrial Disputes Act, 1947, provides mechanisms for resolving industrial disputes. These include conciliation, arbitration, and adjudication. It also encourages collective bargaining to help settle disputes between employers and employees.

The Code on Wages Act, 2019, sets minimum wage rules and regulates wage issues. These issues are often discussed in collective bargaining talks. These statutes collectively provide India's legal foundation for collective bargaining.

5. International Labour Standards on Collective Bargaining

International labour standards have greatly shaped the development of collective bargaining.

The International Labour Organisation sees collective bargaining as a basic right. Convention No. 98 (1949) asks members to support voluntary talks between employers and workers' groups.

Another key instrument is the Collective Bargaining Convention, 1981 (Convention No. 154). It defines the scope and purpose of collective bargaining and urges governments to promote its development. The Declaration of Philadelphia, adopted in 1944, further emphasises the importance of recognising collective bargaining as a basic element of social justice and industrial relations.

6. Landmark Case Laws on Collective Bargaining

The judiciary in India has played an important role in shaping the concept and practice of collective bargaining.³

In *Bharat Bank Ltd v. Employees of Bharat Bank Ltd*⁴, the Supreme Court recognised the role of industrial tribunals in resolving disputes originating from collective bargaining. The Court observed that industrial adjudication must consider fairness, equity, and industrial justice.

Kameshwar Prasad v. State of Bihar,⁵ the Supreme Court held that peaceful demonstrations by government employees fall under the protection of freedom of speech and expression in Article 19(1)(a) of the Constitution. This ruling indirectly strengthened workers' collective rights.

In *Balmer Lawrie Workers' Union v. Balmer Lawrie & Co. Ltd.*,⁶ the Supreme Court stressed that collective agreements between employers and workers must be respected and complied with.

In *Food Corporation of India Staff Union v. Food Corporation of India*,⁷ the Court emphasised

³ International Labour Organisation, Right to Organise and Collective Bargaining Convention, 1949

⁴ *Bharat Bank Ltd v Employees of Bharat Bank Ltd*, AIR 1950 SC 188.

⁵ *Kameshwar Prasad v State of Bihar*, AIR 1962 SC 1166.

⁶ *Balmer Lawrie Workers' Union v Balmer Lawrie & Co Ltd*, (1984) 4 SCC 321.

⁷ *Food Corporation of India Staff Union v Food Corporation of India*, (1995) 1 SCC 391.

the value of collective bargaining. It saw it as a tool for industrial harmony and for solving labour disputes.

Similarly, in *National Engineering Industries Ltd v. State of Rajasthan*,⁸ the Supreme Court recognised the crucial role of collective bargaining in promoting industrial peace and preventing labour conflicts.⁸

These cases underscore that collective bargaining is essential for industrial democracy and should be the primary means for addressing and resolving labour disputes.³

7. Techniques of Collective Bargaining

Several techniques are used in the collective bargaining process.

Distributive bargaining is a competitive negotiation where one party's gain is perceived as the other party's loss. Integrative bargaining is a joint approach that focuses on mutually advantageous solutions.

Productivity bargaining links wage increases to productivity improvements.

Concession bargaining occurs when workers agree to temporary sacrifices, such as wage cuts, to preserve jobs in economic crises.

Composite bargaining focuses on both monetary and non-monetary aspects of employment, including working conditions, health benefits, and job security.

8. Merits of Collective Bargaining (Expanded Analysis)

Collective bargaining balances power between employers and employees, fostering cooperation and stability. It offers a structured, transparent way to resolve disputes and achieve fair employment conditions. Its primary benefits include protecting worker rights, promoting employer stability, and enhancing economic health.

1. Protection of Workers' Rights

One of the most important advantages of collective bargaining is the protection it offers to

⁸ *National Engineering Industries Ltd v State of Rajasthan*, (2000) 1 SCC 371.

workers. Individual employees usually lack the bargaining power to negotiate wages, benefits, or working conditions with employers. Through collective bargaining, workers unite and negotiate as a group, thereby strengthening their position and preventing exploitation.

2. Establishment of Fair Wages

Collective bargaining lets workers negotiate fair wages and salary structures. Trade unions review industry standards, living costs, and productivity before making wage demands.

Employees then receive fair wages based on their work and the industry's conditions.

3. Improvement of Working Conditions

Another major benefit of collective bargaining is improved working conditions. Workers can negotiate for reasonable working hours, overtime compensation, safety standards, and adequate workplace facilities. This ensures a healthier, safer working environment.

4. Promotion of Industrial Peace

Collective bargaining acts as a mechanism for resolving conflicts through negotiation rather than confrontation. By delivering a structured process for handling grievances, it reduces the risk of strikes, lockouts, and other forms of industrial unrest.

5. Strengthening of Trade Unions

Collective bargaining strengthens trade unions' role by providing them with a legitimate platform to represent workers. Strong trade unions contribute to better labour-management relations and ensure that workers' voices are heard in decision-making activities.

6. Enhancement of Workplace Democracy

Collective bargaining promotes industrial democracy by giving workers a voice in determining employment policies. Employees become active participants in decisions that affect their working conditions, benefits, and career prospects.

7. Increase in Employee Morale and Job Satisfaction

If employees feel that their concerns are addressed through negotiations, their morale and job

satisfaction increase. Workers who are satisfied with their employment conditions tend to be more motivated and productive.

8. Reduction of Arbitrary Employer Decisions

Collective bargaining creates clear rules governing employment conditions. Employers cannot arbitrarily change wages, working hours, or employment policies without consulting workers' representatives. This guarantees transparency and fairness in managerial decisions.

9. Stability in Industrial Relations

By specifying clear employment terms in collective agreements, collective bargaining reduces uncertainty in industrial relations. Both employers and employees understand their rights and obligations, thereby promoting workplace stability.

10. Increase in Productivity

Collective bargaining can indirectly increase productivity. When workers receive fair wages and better working conditions, they are more motivated to perform efficiently. Employers also benefit from reduced labour turnover and increased efficiency.

11. Effective Grievance Redressal Mechanism

Collective agreements frequently include grievance procedures that allow workers to raise complaints regarding workplace issues. These procedures provide a systematic way of resolving disputes without resorting to strikes or litigation.

12. Promotion of Social Justice

Collective bargaining promotes social justice by guaranteeing equitable distribution of economic benefits between employers and workers. It helps reduce economic inequality and improve workers' standard of living.

13. Development of Long-Term Employer–Employee Relationships

Through continuous negotiations and dialogue, collective bargaining fosters mutual faith and cooperation between employers and employees. This leads to long-term relationships which

benefit both parties.

14. Encouragement of Skill Development

In many cases, collective bargaining agreements include provisions for training programs and skill development initiatives. These programs enhance workers' abilities and contribute to organisational growth.

15. Contribution to Economic Security

At a broader level, collective bargaining contributes to economic stability by preventing largescale labour conflicts that can disrupt industrial production and economic growth.

9. Demerits of Collective Bargaining (Expanded Analysis)

Although collective bargaining offers many benefits, it also has certain constraints and challenges that may affect its impact on industrial relations.

1. Possibility of Strikes and Industrial Conflicts

One of the major disadvantages of collective bargaining is the possibility of strikes and industrial conflicts if negotiations fail. Such conflicts can interrupt production and cause financial losses to both employers and employees.

2. Time-Consuming Negotiations

Collective bargaining negotiations can take a long time, especially when the parties involved have conflicting interests. Extended discussions may delay decision-making and create uncertainty in the workplace.

3. Increased Labour Costs

Successful collective bargaining frequently leads to increased wages and benefits for workers. While this improves workers' welfare, it may increase labour costs for employers and reduce the competitiveness of businesses.

4. Risk of Union Dominance

In some cases, strong trade unions may control the bargaining process and impose excessive

demands on employers. This may lead to an imbalance in negotiations and strain employer–employee relationships.

5. Political Influence in Trade Unions

Trade unions in certain industries may become swayed by political interests. When union leaders prioritise political agendas above workers' welfare, the collective bargaining process may lose its effectiveness.

6. Lack of Flexibility for Employers

Collective agreements frequently establish fixed employment conditions that remain in force for a specified period. This may limit employers' ability to make quick modifications in response to changing market conditions.

7. Internal Conflicts within Trade Unions

Trade unions may experience internal disagreements among members regarding bargaining strategies or demands. Such conflicts can weaken workers' bargaining position.

8. Possibility of Inefficient Workers Being Protected

Collective agreements sometimes make it difficult for employers to dismiss underperforming employees. As a result, inefficient workers may remain in the organisation, affecting productivity.

9. Unequal Benefits Among Workers

In certain cases, collective bargaining agreements may benefit specific groups of workers more than others. This may create dissatisfaction among employees who feel that their interests are not adequately represented.

10. Risk of Employer Resistance

Some employers may resist collective bargaining because they perceive trade unions as a threat to managerial authority. This resistance can lead to tense industrial relations.⁵

11. Potential for Economic Disturbances

Large-scale strikes stemming from failed collective bargaining negotiations can disrupt entire industries and affect national economic security.

12. Cost of Union Administration

Maintaining trade unions and conducting negotiations require financial resources. Workers often have to pay union dues, which may be perceived as an additional burden.

13. Delay in Implementing Organisational Changes

Employers may need to renegotiate collective agreements before implementing major changes in workplace policies or technologies. This can slow down innovation and organisational development.

14. Overfocus on Monetary Benefits

Collective bargaining sometimes focuses excessively on wages and financial benefits, neglecting other important issues, such as skill development and workplace culture.

15. Risk of Collective Disputes Escalating

If collective bargaining negotiations break down completely, disputes may intensify into largescale protests or violence, as seen in certain industrial conflicts.

10. Conclusion

Collective bargaining remains one of the most important mechanisms for regulating labour relations in modern industrial societies. By enabling workers and employers to negotiate employment conditions collectively, it promotes fairness, equality, and industrial harmony. The process allows workers to express their concerns through organised representation while providing employers with an opportunity to address labour issues through dialogue rather than conflict. In this way, collective bargaining contributes significantly to the establishment of stable and cooperative industrial relations.

International labour standards recognise collective bargaining as a fundamental labour right, and various labour laws in India provide the legal framework necessary for its functioning. Statutes such as the Trade Unions Act, 1926, and the Industrial Disputes Act, 1947, have

played a crucial role in facilitating negotiation between workers and employers. Furthermore, the Supreme Court of India decisions have reinforced the importance of collective bargaining as a cornerstone of industrial democracy and an effective means of resolving labour disputes.

At the same time, the collective bargaining system is not without its challenges. Issues such as the risk of industrial conflict, delays in negotiations, and the potential misuse of union power underscore the need for responsible, balanced bargaining practices. Both employers and trade unions must approach negotiations in good faith and with a commitment to mutual cooperation in order to achieve fair and sustainable agreements.

In the evolving landscape of industrial relations, collective bargaining must continue to adapt to emerging economic realities, including globalisation, technological transformation, and the growth of non-traditional forms of employment. Strengthening institutional support for collective bargaining, encouraging transparent negotiations, and promoting collaboration between labour and management will be essential for ensuring that the process remains relevant and effective. Ultimately, when practised responsibly and supported by an appropriate legal framework, collective bargaining can serve as a powerful instrument for promoting social justice, protecting workers' rights, and achieving long-term economic stability.