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Start to finish guide to understand Collective Bargaining

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I. Introduction to collective bargaining

Collective bargaining refers to the negotiation of employment terms between an employer and a group of employees. Workers are normally constituted by a labor union in the course of collective bargaining. The terms clinched at the time of collective bargaining can include working conditions, compensations and salaries, hours of work, and benefits. The goal of employees is to negotiate a collective bargaining agreement with a written contract. According to the International Labour Organization (ILO), "collective bargaining is a fundamental right for all employees". Collective bargaining is a way to solve problems related to the workplace. It is also seen as the best means for raising wages in America. Indeed, with the help of collective bargaining, working people in unions have higher wages, a safer workplace, and better and more benefits. The union may conclude with a single employer (typically who is the representative of shareholders) or may negotiate with a group of businesses, depending on the country, to reach an industry-wide agreement. For instance, Collective bargaining includes the process of negotiation between representatives of a union of employees and employers (generally represented by management, in some countries such as Austria, Netherlands, and Sweden, by an employers' organization) just for the terms and conditions of employment of employees, such as wages, working hours, conditions of the workplace, grievance procedures, and about the rights and responsibilities of trade unions. The parties often mean the result of the conclusion as a collective bargaining agreement (CBA) or as a collective employment agreement (CEA).

In a view of a historical eye

The term "collective bargaining" was first used by Beatrice Webb in 1891, who was a founder in Britain of the field of industrial relations. It means the sort of collective negotiations, conclusions, contracts, and agreements that had existed since the 18th century during the rise of trade unions. The National Labor Relations Act of 1935 made it illegal for any employer to deny union rights to an employee in the United States. The combining or unionizing of government employees in a public sector trade union was controversial until the 1950s. President John F. Kennedy issued an executive order granting federal employees the right to unionize in 1962. In 1979 An issue of jurisdiction surfaced in National Labor Relations Board v. Catholic Bishop of Chicago when the Supreme Court held that the National Labor Relations Board (NLRB) could not contend jurisdiction over a church-operated school because such jurisdiction would breach the First Amendment building of freedom of religion and the separation of church of state.

How does it work?

The ILO states that collective bargaining is a fundamental right available to all workers. This means all employees are empowered to present their grievances to their employers and to be able to negotiate them while providing workers with labor protection. It takes place between members of corporate management and labor union leaders, who are elected by workers to represent them. Collective bargaining is normally initiated when employee contracts are up for renewal or when employers make changes to the workplace or contracts. These issues fall into three categories, which are referred to as mandatory subjects, including anything that the law requires of the employer, such as salary, overtime, and workplace safety. Voluntary subjects, including negotiable things the law doesn't require like union issues and decisions about employer board members. And illegal subjects, which consider anything that violates laws, such as workplace discrimination. These changes include, but are not limited to:

- Employment conditions
- Working conditions
- Basic pay, wages, or overtime pay
- Working hours and shift length
- Holidays, sick leave, and vacation time
- Benefits related to issues such as healthcare and retirement

The goal of collective bargaining is known as collective bargaining agreement. This agreement is meant to indicate some rules of employment for a set

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number of years. Union members usually pay for the cost of the representation in the form of union dues. And the process of collective bargaining may involve employee lockouts or antagonistic labor strikes if the two sides have trouble reaching an agreement.

Protection

The right of collective bargaining is recognized through **international human rights conventions.** Also, Article 23 of the **Universal Declaration of Human Rights** specifies the capability to organize trade unions as a fundamental human right. Item 2(a) of the International Labour Organization's Declaration on Fundamental Principles and Rights at Work indicates the "freedom of association and the effective recognition of the right to collective bargaining" as a crucial right of workers. The Freedom of Association and Protection of the Right to Organize Convention, 1948 and several other conventions explicitly protect collective bargaining through the creation of international labor standards that demoralize countries from violating workers' rights to collectively bargain.

Different types

- Composite Bargaining – it has no relation with compensation. It focuses on other issues, like working conditions, and other corporate policies. These may include hiring and firing practices as well as workplace discipline.
- Concessionary Bargaining – it focuses on union leaders making concessions in exchange for job security. This bargaining is common during an economic downturn or recession.
- Distributive Bargaining – it is characterized as benefitting one party financially at the expense of the other. This bargaining can come through increasing bonuses, salaries, or any other financial benefits.

Some other types are integrative and productivity bargaining.

Laws and realities in India

Collective bargaining in India stands limited in its scope. Also restricted in its coverage and width by a well-defined and specified legal structure. In the case of reality, the labor laws orderly promoted and maintain an existence of a duality of labor-formal sector workers appreciating better space for collective bargaining and informal ones with no scope for collective bargaining. To understand this we can discuss about the labor legislation in India and its scope and coverage.

- The Factories Act (1948) provides for the health, safety, welfare, and other aspects of employees working in the factories. According to this act, "an establishment where the manufacturing process is carried on with the help of power and employs 10 workers or an establishment where the manufacturing process runs without power and employs 20 workers is considered to be a factory". Despite that, the following provisions of this Act do not apply to all factories; the provision of a restroom will be relevant only if there are 150 or more workers. Provision of canteen will be relevant only if there are 250 or more workers; provisions for an ambulance, dispensary, and medical and para-medical staff: relevant only if there are 500 or more workers.
- Employees Provident and Miscellaneous Provisions Act, Maternity Benefit Act, and Payment of Gratuity Act applicable to all establishments with 10 or more workers. However, the Employees State Insurance Act applies to only those establishments with 20 or more workers. Minimum Wages Act applies to all establishments and all workers, but the Payment of Wages Act applies only to those establishments with 10 or more workers, and also only to those employees getting wages less than Rs 1600 monthly. Whereas, the Payment of Bonus Act applies only to those enterprises employing 20 or more workers and only to those workers getting wages less than Rs 3500 monthly.
- Industrial Disputes Act (1947) describes the procedures for the settlement of industrial disputes. The procedural aspects are relevant to all enterprises for the settlement of industrial disputes. Industrial Employment Act makes a compulsion on Standing Orders in each enterprise to define misconducts and other service conditions, and also necessitate that, for any misconduct, no employee will be punished without due process of law with the help of principles of natural justice. But this law does not apply to those enterprises employing less than 100 workers. Trade Union Act applies to all establishments with 7 or more workers since a minimum of 7 members is compulsory to register a trade union.

If we look generally, only a small section of the workforce is protected by labor laws and has assured space for collective bargaining in specified legal boundaries. Hence, protective labor laws apply to only less than 3% of enterprises; for the rest of the 97% of enterprises, only the Industrial Disputes Act, Minimum Wages Act, the Workmen's Compensation Act, Equal Remuneration Act, and the Shops and Establishments Act by each and some pieces of labor legislation enacted for specific occupations are relevant. Trade Union Act of India 1926 contributes

the right to the association only with a very limited scope. This act was amended in 2001 and subsequently, it became more difficult to form trade unions. Before the amendment, only 7 members were required to register a trade union, but after the amendment "at least 10% or 100, whichever is less, subject to a minimum of 7 workmen engaged or employed in the establishment is required to be the members of the union before its registration". It is also limited within the scope provided in Industrial Disputes Act 1947. Only when the unions are recognized by the management then only they get full-fledged rights as a bargaining agent on behalf of employees.

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