COLLECTIVE BARGAINING: PROCESS AND ADVANTAGES

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ABSTRACT

The trade union, as a form of organization among workers, evolved in different parts of the world, in widely differing conditions and for varying reasons. Trade unions are formed by the workers “to promote, protect, and improve, through collective action, the social, economic, and political interests of its members.” Corrollarily, argued that labor unions’ primary aim is to protect and pursue the economic interests (such as raise wages, shorten hours of work, and increase the security of employment) of its own members. Collective bargaining is specifically an industrial relations mechanism or tool, and is an aspect of negotiation, applicable to the employment relationship. As a process, the two are in essence the same, and the principles applicable to negotiations are relevant to collective bargaining as well. It has been said that collective bargaining plays very important role although it may lack the impartiality it requires to satisfy all groups of employees, regardless of position or status within the organization based on the perceptions of the workers themselves. It is important as administrators and people of interest in collective bargaining to employ good-faith practices and negotiate collectively in favor of all parties. It is important that management, make attempts to bridge the perceptual gaps, which exist between them and workers. This would serve to promote better attitude towards work and enhance the perceptions of the collective bargaining process.

KEYWORDS: Collective Bargaining, Trade Unions.

INTRODUCTION

The trade union, as a form of organization among workers, evolved in different parts of the world, in widely differing conditions and for varying reasons. Its historical formation from the early 1800s can be traced to economic, political, and social theories. Trade unions are formed by the workers “to promote, protect, and improve, through collective action, the social, economic, and political interests of its members.” Corrollarily, argued that labor unions’ primary aim is to protect and pursue the economic interests (such as raise wages, shorten hours of work, and increase the security of employment) of its own members. The Constitution and By-laws of one of the most active national trade unions, stipulates that its
four main objectives are to: (1) unite and organize all workers into one union; (2) promote job security and defend workers’ rights to self-organization, collective bargaining, and concerted action; (3) secure better terms and conditions of work; and (4) promote and advance the interests and general welfare of workers. These objectives are very similar to those cited in the economic, political and social theories on the formation of unions. Even the Labor Code defines a labor organization as “any union or association of employees which exists in whole or in part for the purpose of collective bargaining or of dealing with employers concerning terms and conditions of employment.”

Collective Bargaining

Collective bargaining is specifically an industrial relations mechanism or tool, and is an aspect of negotiation, applicable to the employment relationship. As a process, the two are in essence the same, and the principles applicable to negotiations are relevant to collective bargaining as well. However, some differences need to be noted. In collective bargaining the union always has a collective interest since the negotiations are for the benefit of several employees. Where collective bargaining is not for one employer but for several, collective interests become a feature for both parties to the bargaining process. In negotiations in non-employment situations, collective interests are less, or non-existent, except when states negotiate with each other. Further, in labour relations, negotiations involve the public interest such as where negotiations are on wages which can impact on prices. This is implicitly recognized when a party or the parties seek the support of the public, especially where negotiations have failed and work disruptions follow. Governments intervene when necessary in collective bargaining because the negotiations are of interest to those beyond the parties themselves. In collective bargaining certain essential conditions need to be satisfied, such as the existence of the freedom of association and a labour law system. Further, since the beneficiaries of collective bargaining are in daily contact with each other, negotiations take place in the background of a continuing relationship which ultimately motivates the parties to resolve the specific issues. The nature of the relationship between the parties in collective bargaining distinguishes the negotiations from normal commercial negotiations in which the buyer may be in a stronger position as he could take his business elsewhere. In the employment relationship the employer is, in a sense, a buyer of services and the employee the seller, and the latter may have the more potent sanction in the form of trade union action. Unfortunately the term "bargaining" implies that the process is one of haggling, which is
more appropriate to one-time relationships such as a one-time purchaser or a claimant to damages. While collective bargaining may take the form of haggling, ideally it should involve adjusting the respective positions of the parties in a way that is satisfactory to all.

It can also be noted that the collective bargaining process seems to differ more in style than in substance. Researchers have identified two styles, namely: (1) the adversarial and (2) the cooperative. The adversarial style involves a high degree of animosity and antagonism between the union and management during the negotiation, while the cooperative style is more of a collaborative effort between the union and management to arrive at an agreement.

Another research has found a new contract negotiation style called target-specific bargaining. This model is a team-based, interactive process which helps one organization and its bargaining unit/s bury old tensions and sign long-term agreements.

Nature of Collective Bargaining

There are several essential features of collective bargaining, all of which cannot be reflected in a single definition or description of the process:

- It is not equivalent to collective agreements because collective bargaining refers to the process or means, and collective agreements to the possible result, of bargaining. Collective bargaining may not always lead to a collective agreement.
- It is a method used by trade unions to improve the terms and conditions of employment of their members.
- It seeks to restore the unequal bargaining position between employer and employee.
- Where it leads to an agreement, it modifies, rather than replaces, the individual contract of employment, because it does not create the employer-employee relationship.
- The process is bipartite, but in some developing countries the State plays a role in the form of a conciliator where disagreements occur, or where collective bargaining impinges on government policy.

Conditions for Successful Collective Bargaining

The Conditions for Successful Collective Bargaining are discussed as follows:

- **Pluralism and the Freedom of Association:** A pluralistic outlook involves the acceptance within a political system of pressure groups (e.g. religious groups, unions,
business associations, political parties) with specific interests with which a government has dialogue, with a view to effecting compromises by making concessions. Pluralism implies a process of bargaining between these groups, and between one or more of them on the one hand and the government on the other. It therefore recognises these groups as the checks and balances which guarantee democracy. It is natural that in labour relations in a pluralist society, collective bargaining is recognised as a fundamental tool through which stability is maintained, while the freedom of association is the sine qua non because without the right of association the interest groups in a society would be unable to function effectively. There can, therefore, be no meaningful collective bargaining without the freedom of association accorded to both employers and workers.

- **Trade Union Recognition:** The existence of the freedom of association does not necessarily mean that there would automatically be recognition of unions for bargaining purposes. Especially in systems where there is a multiplicity of trade unions, there should be some pre-determined objective criteria operative within the industrial relations system to decide when and how a union should be recognised for collective bargaining purposes. The accepted principle is to recognise the most representative union, but what criteria is used to decide it and by whom may differ from system to system. In some systems the issue would be determined by requiring the union to have not less than a stipulated percentage of the workers in the enterprise or category in its membership. The representativeness may be decided by a referendum in the workplace or by an outside certifying authority (such as a labour department or an independent statutory body). There could be a condition that once certified as the bargaining agent, there cannot be a change of agent for a prescribed period (e.g. one or two years) in order to ensure the stability of the process.

- **Observance of Agreements:** Especially in developing countries where there is a multiplicity of unions, unions are sometimes unable to secure observance of agreements by their members. Where a labour law system provides for sanctions for breaches of agreements, the labour administration authorities may be reluctant to impose sanctions on workers. Where there is frequent non-observance of agreements or understandings reached through the collective bargaining process, the party not in default would lose faith in the process
- **Support of Labour Administration Authorities:** Support by the labour administration authorities is necessary for successful collective bargaining. This implies that they will:
  - Provide the necessary climate for it. For instance, they should provide effective conciliation services in the event of a breakdown in the process, and even provide the necessary legal framework for it to operate in where necessary, e.g. provision for the registration of agreements.
  - Will not support a party in breach of agreements concluded consequent to collective bargaining.
  - As far as is practicable, secure observance of collective bargaining agreements.
  - Provide methods for the settlement of disputes arising out of collective bargaining if the parties themselves have not so provided.

- **Good Faith:** Collective bargaining is workable only if the parties bargain in good faith. If not, there will be only the process of bargaining without a result viz. an agreement. Good faith is more likely where certain attitudes are shared among employers, workers and their organizations e.g. a belief and faith in the value of compromise through dialogue, in the process of collective bargaining, and in the productive nature of the relationship collective bargaining requires and develops. Strong organizations of workers and employers contribute to bargaining in good faith, because there would be some parity in the bargaining strength of the two parties.

- **Proper Internal Communication:** Both the management and union should keep their managers and members respectively well informed, as a lack of proper communication and information can lead to misunderstandings and even to strikes. Sometimes managers and supervisors who are ill-informed may in advertently mislead workers who work under them about the current state of negotiations, the management's objectives and so on. In fact, it is necessary to involve managers in deciding on objectives and solutions, and such participation is likely to ensure greater acceptance – and therefore better implementation - by them.
Advantages of Collective Bargaining

Advantages of Collective bargaining are as follows:

- Collective bargaining has the advantage of settlement through dialogue and consensus rather than through conflict and confrontation. It differs from arbitration where the solution is based on a decision of a third party, while arrangements resulting from collective bargaining usually represent the choice or compromise of the parties themselves. Arbitration may displease one party because it usually involves a win/lose situation, and sometimes it may even displease both parties.

- Collective bargaining agreements often institutionalize settlement through dialogue. For instance, a collective agreement may provide for methods by which disputes between the parties will be settled. In that event the parties know beforehand that if they are in disagreement there is an agreed method by which such disagreement may be resolved.

- Collective bargaining is a form of participation. Both parties participate in deciding what proportion of the 'cake' is to be shared by the parties entitled to a share. It is a form of participation also because it involves a sharing of rule-making power between employers and unions in areas which in earlier times were regarded as management prerogatives, e.g. transfer, promotion, redundancy, discipline, modernization, production norms. However, in some countries such as Singapore and Malaysia, transfers, promotions, retrenchments, lay-offs and work assignments are excluded by law from the scope of collective bargaining.

- Collective bargaining agreements sometimes renounce or limit the settlement of disputes through trade union action. Such agreements have the effect of guaranteeing industrial peace for the duration of the agreements, either generally or more usually on matters covered by the agreement.

- Collective bargaining is an essential feature in the concept of social partnership towards which labour relations should strive. Social partnership in this context may be described as a partnership between organised employer institutions and organized labour institutions designed to maintain non-confrontational processes in the settlement of disputes which may arise between employers and employees.

- Collective bargaining has valuable by-products relevant to the relationship between the two parties. For instance, a long course of successful and bona fide dealings leads to the generation of trust. It contributes towards mutual understanding by establishing
a continuing relationship. The process, once the relationship of trust and understanding has been established, creates an attitude of attacking problems together rather than each other.

- In societies where there is a multiplicity of unions and shifting union loyalties, collective bargaining and consequent agreements tend to stabilise union membership. For instance, where there is collective agreement employees are less likely to change union affiliations frequently. This is of value also to employers who are faced with constant changes in union membership and consequent inter-union rivalries resulting in more disputes in the work place than otherwise.

- Collective bargaining usually has the effect of improving industrial relations. This improvement can be at different levels. The continuing dialogue tends to improve relations at the workplace level between workers and the union on the one hand and the employer on the other. It also establishes a productive relationship between the union and the employers' organization where the latter is involved in the negotiation process.

Issues

Problems arise while collective bargaining is as follows:

- **Criteria for Wage Increases:** Traditionally, the factors or criteria which have influenced pay increases through collective bargaining include enterprise profit, job evaluation, seniority, cost of living, manpower shortage or surplus, the negotiating strength and skills of the parties. Performance measures such as productivity or profit related to groups or individuals have not featured prominently in collective bargaining. Further, though wage rates negotiated through collective bargaining do reflect wage differentials based on skills, such differentials have not been geared to the encouragement of skills acquisition and application. Therefore a major concern for employers is the need to negotiate pay systems which are
  - strategic in the sense that they achieve strategic objectives
  - flexible in the sense that their variable component can absorb downturns in business and reduce labour costs
  - oriented towards better performance in terms of productivity, quality, profit or whatever performance criteria are agreed upon
  - capable of enhancing earnings of employees through improved performance
o capable of reducing the incidence of redundancies during times of recession or poor enterprise performance through the flexible component of pay
o able to reward good performance without increasing labour costs as a part of total costs through enhanced productivity
o able to attract and retain competent staff
o able overall to control or stabilize labour costs.

These objectives have come to the forefront, particularly due to pressures flowing from globalization. Therefore wage increases through collective bargaining need to be based on a wider range of criteria than has traditionally been the case. Otherwise once collective bargaining is over, the employer may be left without the financial capacity to adjust pay based on group or individual performance, as well as on skills acquisition and application.

- **Levels of bargaining:** Originally collective bargaining at the national or the industry level was viewed by employers as a means of reducing competition based on labour costs through standardized wage rates. Employers no longer view collective bargaining from this perspective. Instead, centralized and industry level negotiation is considered as depriving enterprises of the needed flexibility to compete on the basis of adjustments at the level of the enterprise in relation to pay, working hours and conditions, work organization, manpower utilization and so on. The efficiency gains are considerably greater - and more easily realizable - when negotiations take place at the enterprise level. Therefore, the major thrust in all countries where the pattern hitherto was national or industry level bargaining, towards increased enterprise-level bargaining, has been by employers. Not all unions favour this trend; their power position can be automatically eroded by this trend, just as it is enhanced through centralized or industry level bargaining.

- **Recognition Criteria:** Even where there is a single union structure, there should be recognition criteria applicable to the union for collective bargaining purposes. The union should be representative of a minimum percentage of employees, as the employer cannot reasonably be expected to conclude an agreement with a union which is not representative. The need for recognition criteria is all the greater where there is union multiplicity. In countries with union multiplicity and rivalry,
recognition disputes have been a cause of major disputes, and practical problems often arise. One is the issue of the continued applicability of an agreement to workers who subsequently leave the negotiating union and join another union. Another issue relates to the status of a collective agreement where, during the duration of the agreement, the union loses its membership and is replaced by another union in the workplace. Employers expect the legal framework to provide for such issues, so as to overcome uncertainty and avoid disputes.

- **Extension of Agreements:** The principle of extension of collective agreements to cover employers and employees not parties to, or covered by, such agreements, is embodied in some labour law systems. The issue can arise only where negotiations are above the level of the enterprise, but can nevertheless be undesirable from several points of view.
  
  o Extension of collective agreements deprives an employer of the opportunity he would have had, had he been a party to the negotiations, to take account of workplace conditions and needs. This is particularly important at a time when enterprise level bargaining is the trend.
  
  o It is inconsistent to speak of voluntary collective bargaining on the one hand and provide for involuntary coverage on the other. An extension of coverage should occur, if at all, only where both parties agree to it.
  
  o Extensions are impractical - and can be harmful - in countries with large regional disparities.

- **Disputes Arising out of Agreements:** Employers expect disputes connected with collective agreements, whether they relate to interpretation or non-observance, to be settled in accordance with procedures agreed to and contained in the agreement, or through other machinery with conciliation as a first step.

**Conclusion**

It has been concluded that collective bargaining plays very important role although it may lack the impartiality it requires to satisfy all groups of employees, regardless of position or status within the organization based on the perceptions of the workers themselves. It is important as administrators and people of interest in collective bargaining to employ good-faith practices and negotiate collectively in favour of all parties. It is important that management, make attempts to bridge the perceptual gaps, which exist between them and
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