

## Vital Role of Collective Bargaining Under Industrial Unrest

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### **Abstract:**

At the beginning of the modern era. The union cabinet had approved the contentious industrial relation code 2019 that proposes to remain the flexibility of 100 employees to impart flexibility to firms for retrenchment. So a few groups were formed amongst workers in India so as to improve their bargaining power with respect to their service conditions, wages and workers' participation in management. At the beginning of the collective bargaining in India remained limited in its scope and restricted in its coverage by a well-defined legal structure. Actually, the labour laws systematically y promoted and perpetuated a duality of labour-formal sector workers enjoying better space for collective bargaining and informal once with no scope for collective bargaining. Collective bargaining has serve as a cornerstone institution for

democracy, a mechanism for increasing worker's incomes, improving working conditions and reducing inequality and industrial unrest, a means for insuring fair employment relations and a source of work place innovation. However the number of workers belonging to trade unions has declined in many countries and global economic integration has tipped bargaining power in favor of employers. This paper reviews recent trends and developments in respect of collective bargaining. It examines the evaluation of collective bargaining institutions in different reasons of the world. It highlights the manner in which collective bargaining structures have adopted to competitive pressures and the increasing co-ordinations of bargaining practices both within and a cross borders. In a survey of collective bargaining agendas, the authors note the

increasing diversity of issues on the bargaining agenda. They highlights particularly innovative practices in respect of application of collective agreements to non-standard workers and the role that collective bargaining in mitigating the effects of recent economic crisis on workers development and the ongoing challenges facing collective bargaining present a number of issues or future research.

### Introduction

Collective bargaining has served as a cornerstone institution for democracy, a mechanism for increasing workers; income, improving working conditions and reducing industrial unrest, a means for ensuring fair employment relations and a source of workplace innovation. However, the number of workers belonging to trade unions has decline in many countries and global economic integration has tipped bargaining power in favour of employer. This paper reviews recent trend and developments in respect of collective bargaining. It examines the evolution of collective bargaining institutions in different regions of the world. It highlights the manner in which collective bargaining structures

have adapted to competitive pressures and increasing coordination of bargaining practices both within and across borders. The collective bargaining in India remained limited in its scope and restricted in its coverage by a well defined legal structure. Actually, the labour laws systematically promoted and perpetuated a duality of labour-formal sector worker enjoying better space for collective bargaining. To understand this, I can discuss in brief about the labour legislations in india and their scope and coverage. It is interesting to note that the applicability of different sections of labour laws is limited by number of workers engaged in an establishment. The limitations put in applicability of labour laws is haphazard and there is no logic behind it, but in overall terms it systematically denies any protection and any social security to those employed in smaller factories with less than ten workers. The factories Act 1948 amendment by the factories act 1987 provides for the health, safety welfare and other aspects of workers while at work in the factories. Under this Act, an establishment with power employing

10 workers and 20 workers in case of no power connection is a factory, but following provisions of the act are not applicable to all factories: Provision for reche applicable only if 30 more women are employed; Provisions of a rest room applicabe only if there are 150 or more workers; Provisions of canteen: applicable only if there are 250 or more workers; Provisions for ambulances, dispensary, and medical and para-medical staff: applicable only if there are 500 or more workers. Employees Provident and Miscellaneous Provisions Act, Maternity Benefit Act and payment of Gratuity Act apply to all establishments with 10 or more workers. But Employees State Insurance Act applies to only those establishments with 20 or more workers. Minimum Wages act apply 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 workers getting wages less than Rs 1600 per moth. On the other hand, the payment of Bounus Act is applicable to only those enterprise employing 20 ore more workers and only to those workers

getting wages less than Rs 3500 per month. Industrial Dispute Act, 1947 Laws down the procedure for the settlement of industrial disputes. Its procedural aspects are applicable to all enterprise for the settlement of industrial disputes. However, really protective clauses for the workers pertaining to layoffs, retrenchments and closure are contained in Chapter VA and Cahpter VB, whtich fhave limited applibility. Chapter VB does not apply to any d\establishment employing less than one hundred workers, and Chapter VA does not appy to any establishment employing less than 50 wprlers . industrial Employments (Standing Orders) Act 1946 makes it compulsory to have Standing Orders in each enterprise to define misconducts and other service conditions, and also entails that for any disconduct no worker will be punished without due process of law using the principles of natural justice. But this law does not apply to those enterprise employing less than 100 workers only in few states like Uttar Pradesh, it is made applicable to all factories (i.e. employing 10 or more workers). Trade union act applies to all establishments with 7 or more workers, since a minimum of 7

members are necessary in order to register a trade union. To sum up, if we look at the general picture, only a tiny section of workforce is protected by the labour laws and has and has guaranteed space for collective bargaining in well defined legal boundaries. According to the Fifth Economic Census (2005) more than 97 percent of the enterprises employ less than ten workers, and most of these employee less than five workers. Therefore, protective labour laws apply to only less than three percent of the enterprises; and in rest of the 97 percent enterprises only industrial Disputes Act 1947 (minus its protective sections like section V-A, V-B), Minimum Wages Act, the workmen's Compensation Act, Equal remuneration Act, and the Shops and Establishments Act (enacted by each state separately) and some pieces of labour legislation enacted for specific occupations are applicable. Generally these 97 percent enterprises are said to represent industrial informal sector (those not covered under Factories Act 1948) and the three percent as formal sector (those sector covered under Factories Act 1948). Total workforce employee is over 400 million in respect 39.1% of

the total population of the country in different sectors in India (principal plus subsidiary employment) is about 456 million, of which informal sector accounts for about 393.2 million (86 percent).

It is also to be noted that informalization of the workforce that was accelerated with the advent of liberalization, has transformed the formal sector also in terms of shifting the job form formal to informal sector and also by informalisation of jobs within the formal sector units. Now, in the formal sector number of formal workers is about 33.7 million and informal workers about 28.9 million (2004-05). Increase in the employment (in whatever amount) in the formal sector has largely been of informal in nature.

### **Collective bargaining and Legal Framework**

India has neither ratified ILO convention on Freedom of Association and Protection of the Right to Organize 1948 (C. 87), nor the Right to Organize and Collective Bargaining Convention, 1949 (C.98). Trade Union Act of India provides right to association only with a limited scope and limited coverage.

The Trade Union Act 1926, only seven member were required to register a trade union, but after amendment at least 10% or 100, whichever is less, subject to a minimum of 7 workmen engaged or employed in the establishment are required to be the members of the union before its registration. The amendment also introduces a limitation on the number of outsiders among the office bearers. Collective bargaining is limited within the scope provided in industrial Disputes Act 1947. It is worth mentioning that only when the unions are recognized by the management then only they have the full-fledged rights as bargaining agent on behalf of workers. But there is no legal obligation on employers to recognize a union or engage in collective bargaining. The statutes of only few states of India like Maharashtra, Gujarat, Madhya Pradesh and Rajasthan, have made some provisions for recognition of union with a specific percentage of the workforce.

In India, right to protest is a fundamental right under Article 19 of the Constitution of India; but right to strike is not a fundamental right. Right to strike as also the right of

lock-out is legal right government may refer the dispute for compulsory arbitration or to a labour court for a final decision, and during this period the strike is maintenance of public order or supplies and services essential to the life of the community or for maintaining employment or maintaining industrial peace, make provisions for prohibiting strikes or lock-outs. Large number of special economic zones (SEZs) and proposed National Manufacturing Investment Zones are already declared public utility services and therefore the legal strike becomes almost impossible in the zones.

Moreover, in recent decades, a number of judgments came from the Supreme Court setting precedents against the right to strike.

The trade union movement in India comprises of over 70,000 registered union (politically affiliated and independent) and an unaccountable number of non-registered organizations engaged on the issues of promoting and protecting workers' interests. Trade unions in India largely represent only formal sector worker. There are now 12 Central Trade Union in India:

*BMS – Bharatiya Mazdoor Sangh (linked with far right political party BJP) – Member 6 Million*

*INTUC – Indian National Trade Union Congress ( Linked Centrist Congress Party), member 3.8 million*

*AITUC – All India Traded Union Congress (linked with Communist Party of India) member 3.3 million*

*HMS – Hind Mazdoor Sabha (Independent Socialist) members : 3.2 million*

*CITU – Centre of Indian Trade Union (linked with communist party of India(Marxist) member: 2.6 million*

*UTUC(LS) – United Trade Union Congress (Lenin Srani ) (Linked with party name Socialist Unity Center of India)*

*UTUC – United Trade Union Congress (linked with political party – Revolutionary Socialist party)*

*TUCC – Trade Union Co-ordination Centre (Linked with political party – All India forward Block)*

*SEWA – Self – Employed Women’s Association (Independent) – recently included in the list*

*LPF – Labour Progressive front (linked with political party – Dravida*

*Munnetra Kazhagam ) recently include in the list*

*ICCTU – All-India Central Council of Trade Unions (linked with Communist party of India (Markxist-Leninists – liberation group ) – recently included in the lists*

*INTTUC – Indian National Trinamool Trade Union Congress (linked with the political party – All india Trinamool Congress) recently included in the list*

*Union density in India is only 8 percent and in this regard it ranks at 48<sup>th</sup> position in the world. In the new verification of membership in 201, the growth in trade union membership in 2001, the growth in trade union membership is very visible, but largely this growth is from informal sector or most importantly from rural labour.*

### Conclusion & Suggestion

There are also new initiatives to organize informal sector worker particularly the agriculture workers. After the implementation of national Rural Employment Guarantee Act, the new possibilities emerged to unionize the rural worker around the NREGA. Many local unions of rural workers and also regional platforms of rural

workers have started emerging. However, the system of collective bargaining in this sector is very different; it is mostly on general issues like proper implementation of the act itself, ensuring minimum wages, employment guarantee and workplace facilities. Since the wages (minimum wages) and facilities are fixed by law, the struggle is actually for implementation of NREGA. There are also initiatives to organize other informal sector workers also like forest workers, fish workers and other self employed categories. But the movement is still very weak and informal sector workers are by and large not able to realize the right of collective bargaining.

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Minimum wages is fixed by the government and it is different in different regions and sectors of the economy. Presently it is different in different regions and sectors of the economy. Presently it is around Rs 100 (USD2) per day

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