


Subject: Human Resource Management

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Paper 13: Strategic Human Resource Management
Module 31: Structure and Framework of Collective Bargaining in India



Development Team

Principal Investigator

Prof. Ipshita Bansal
Department of Management Studies
BPS Women University, Khanpur Kalan, Sonapat

Paper Coordinator:

Dr Mamta Mohapatra
Professor & Chair OBHR Area
International Management Institute, New Delhi

Paper Co-Coordinator

Dr Mani Shreshtha
Haryana School of Business,
GJ University of Science & Technology, Hisar

Content Writer:

Dr Mamta Mohapatra
Professor & Chair OBHR Area
International Management Institute, New Delhi

Content Reviewer:

Dr SS Narta
Professor, Department of Commerce and Management
Himachal Pradesh University, Shimla

Component – I (B) Description of Module

Items	Description of Module
Subject Name	Human Resource Management
Paper Name	SHRM
Module Name/Title	Structure and Framework of Collective Bargaining in India
Module ID	31
Pre – requisites	
Objectives	To familiarize oneself with the collective bargaining framework in India
Keywords	collective bargaining, negotiation

Module : Structure and Framework of Collective Bargaining in India
1. Learning Outcome
2. Introduction
3. Collective Bargaining: The Concept
4. Definitions of Collective Bargaining
5. Features of Collective Bargaining
6. Approaches to Collective Bargaining
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Module - 33

Structure and Framework of Collective Bargaining in India

1. Learning Outcomes:

After studying this module, you would be able to understand:

- Nature and scope of collective bargaining
- Process of collective bargaining
- Collective bargaining in different countries
- Importance of collective bargaining
- Future of collective bargaining in India

2. Introduction

Collective bargaining is a process of negotiation between employer and a group of employees for employment related issues such as working conditions, wages, productivity and the like. The term collective bargaining was coined by Sydney and Beatrice Webb in their book *Industrial Society* in 1897. The bargaining is termed as collective as it takes place collectively between the trade union representatives chosen by the employees and representatives of management. During the early phases of industrialization, the employees had to fight with the management for their rights. But in today's competitive scenario, it is being increasingly realized by organizations that cooperative and cordial relations with trade unions and employees is an imperative for growth.



3. Collective Bargaining: The Concept

The term "collective bargaining" befits all negotiations that take place between an organization or a group of organizations whether it be employer & employer, employer & employee or employer & trade union. It is used as below to:

- Determine the working environment and terms in the contract
- Facilitate employer - employee relations
- Regulate relations between employers and trade unions

Collective bargaining is a process by which workers' organizations protect workers interests especially their safety and benefits. It is a forum that promotes mutually agreeable formulation of rules and guidelines. As the name suggests, collective bargaining process involves a group of stakeholders and is not individualistic in nature.

The process of collective bargaining is sometimes viewed as one of unions sharing governance with management. In other cases economic and political factors and forces together determine the results of collective bargaining.



4. Definitions of collective bargaining

As defined by Encyclopedia Britannica, collective bargaining is 'the ongoing process of negotiation between representatives of workers and employers to establish the conditions of employment. The collectively determined agreement may cover not only wages, but also hiring practices, lay-offs, promotions, job functions, working conditions and hours, worker discipline and termination, and benefit programs'.

As per Encyclopedia of Social Sciences it is 'a process of discussion and negotiation between two parties, one or both of whom is a group of persons acting in consent. The resulting bargain is an understanding as to the terms and conditions under which a service is to be performed. More specifically, collective bargaining is a procedure by which employers and a group of employees agree upon the conditions of work.'

The International Labour Organization (ILO) defines it as 'Negotiations about working conditions and terms of employment between an employer, a group of employers, or one or more employers' organizations, on the other hand, and one or more representative workers' organizations on the other hand, with a view to reaching an agreement.

5. Features of collective bargaining

Collective bargaining is an action taken collectively by a group or representative body of workers. It has certain underlying features such as:



- Flexibility is a key feature of the negotiation process under collective bargaining. Such flexibility ensures that a win - win is created for all parties involved in the process. Bakke and Kerr suggest that, 'Essentially, a successful collective bargaining is an exercise in graceful retreat – without something to retreat.'
- The second key feature is that there generally are two participants or parties involved in this process, where one or both initiate a dialogue based on facts and trust for the process. The process is free of animosity and resentment and is based on mutually agreeable terms.
- It is a process of continuous improvement towards the sustainable welfare of employees and development of plants. It helps in building and improving employee relations.
- As a participative mechanism it provides a platform towards industrial democracy. This helps in checking of monopolization and arbitrariness in decision making by any of the parties.

6. Approaches to Collective Bargaining

Collective bargaining involves persuasion and negotiation, and the parties involved in bargaining should know when to do what. So it can be approached from three perspectives:

- As a process of social change
- As a peace treaty between the conflicting parties
- As a system of industrial jurisprudence

6.1. Process of social change: Collective bargaining is understood as a technique of bringing about a change in the balance of power between employers and employees. It helps the inferior social class or group exert pressure on the powerful group for a bigger share in social, economic and political power, as well as for better welfare, security and liberty to individual members. This is the real spirit behind collective bargaining, though in its narrow sense, perceived as a tool for resolving industrial disputes. Balancing power involves balancing out interests of company and employees or making it weigh more towards workers.

6.2. Peace Treaty: Collective bargaining is understood as a peace treaty in a continual conflict. But peace is temporary as neither side is completely satisfied with the results. Each party would like to break the treaty at the earliest opportunity and come forward with new list of demands, including previously unsatisfied ones. The key is to promote a constructive climate and foster positive personal relations between unions and management.

6.3. Industrial jurisprudence: Collective bargaining creates a system of industrial jurisprudence – a method of introducing civil rights into the industry requiring that the management deals with the labour by rules rather than by arbitrary decisions. It is this role of collective bargaining which helps resolve industrial disputes. It helps to develop a climate of healthy compromise by creating procedures that allow parties to be flexible for each other's demands.

Collective bargaining benefits both employees as well as employers. This means that the basic interests of the management are protected and also the rights of the employees. The two sides

have a responsibility towards each other. For example, unions should not expect the management to concede on issues which would ultimately impair the company's ability to stay in business. Likewise, the management must recognize the rights of employees to form unions and to argue for improved wages and working conditions.

7. Importance of collective bargaining

Collective bargaining is beneficial in some of the ways as suggested below:

Economic viability and growth is an imperative factor in any business. The collective bargaining process ensures that all parties involved in the process are growing and their interests are safeguarded mutually. It helps establish and sustain fair employment practices. It helps resolve disputes and helps build industrial democracy.

8. Principles of Collective Bargaining

For the smooth execution of the collective bargaining process between the employer and workers' unions the below are the guiding principles:

- The first principle is that both, the union representatives and the employer must be made well versed by either party about the correct situation on their respective sides. Meaning, the union leaders must make the employers aware of employee grievances and the employer must make the former aware of cost challenges in case of non commitment to the unions' demands.
- The process of collective bargaining must be entered with a mind set of creating a win for the



other party and not with a planned compromise towards the other side.

- The union representatives and management must have respect for each other while entering negotiations and they must be well versed with and ready to comply with workers' laws wherever applicable and to any agreements that have been mutually agreed upon in the past.

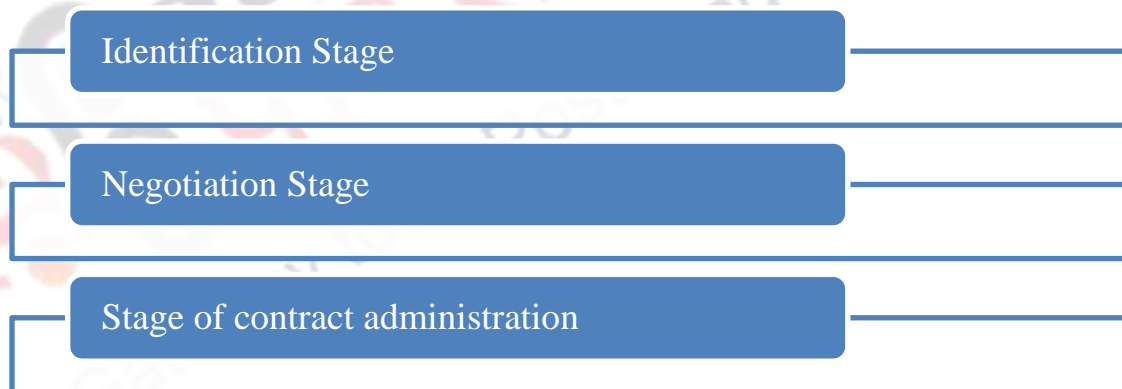
9. Types of Collective Bargaining

Collective bargaining has to be approached in different formats in case of different type and number of plants/employers. Here are some types of collective bargaining styles:

- 9.1. Single plant bargaining: It is the kind of bargaining that occurs between representatives of management of a single plant and its trade union. This kind of one to one bargaining is existent in USA and India
- 9.2. Multiple plant bargaining: This kind of bargaining is prevalent between employer and trade unions in situations where the employer has two or more plants and workers are employed in all of them.
- 9.3. Multiple employers bargaining: When workers' unions and not a single employer but an organization representing all employers in the particular industry enters into the bargaining process, such type of bargaining is multiple employers bargaining. A classic scenario of the same could be doctors' unions vs. Indian medical association or Bank employees' unions vs. Indian bank association.

10. Stages of Collective Bargaining

The three main stages of the collective bargaining process are:



10.1. The identification stage: The stage where the management and the workers' unions/employees finalize whether negotiation has to be entered in now or some time later in the future. While in this stage the influencers / determining factors are the choice of representatives, their level of awareness of the root cause of the issues, the size of the representative body that would enter the negotiation, the negotiation period etc.

10.2. The negotiation stage: The stage in which negotiation is entered into. Characteristic of this stage is that the entire process of bargaining is presided over by the chief representative from the management's side. He/she lays down the agenda and scope of negotiation and then understands the views of both parties. He/she then facilitates a win – win solution for both sides.

10.3. The stage of contract administration: Collective bargaining agreement should include following essentials: motive of the agreement, rights and responsibilities of the management and the unions, terms and conditions of employment of workers, method of handling grievance, dispute settlement mechanism and its procedure, and termination clause for closing the agreement.

Creating a win-win solution through Collective Bargaining

Creating a win-win situation involves satisfying interests of both the parties involved in bargaining by finding a solution that is acceptable to both of them. This requires both parties to be well informed about each other. If negotiation is about getting a slice of the whole pie, then parties involved should work together to increase the size of the pie before dividing it or fighting for a bigger slice initially.



Following points should be considered while negotiating:

- Learn about the resources at stake - what is to be negotiated, what is the whole pie
- Learn what will happen if the bargain is unsuccessful - what is there to lose
- Focus on the other parties interests - what does the other part want
- Know you own limit - to what limit you can give up to make the deal happen

11. Collective Bargaining in India

In India, collective bargaining has been growing along with the growth of trade unions and the first collective bargaining agreement was made in the textile industry of Ahmedabad. Collective bargaining has been growing rapidly in the post independence scenario, happening mostly at the plant and organizational level and not at the industry level. The limited success of collective bargaining in our country can be attributed to the following factors:

- Problems with the unions such as absence of strong unions, multiplicity, and inter and intra union rivalries
- Lack of initiative by the government for the development of the process of collective bargaining
- Easy accessibility of adjudication leading to loss of sheen for collective bargaining
- Political interference in union matters and inter party rivalry causing inter union rivalry

- Negative attitude of managements

The national commission of labour has made the following recommendations for the success of collective bargaining:

- Limited intervention by the government and usage of compulsory adjudication as the last resort
- Strengthening Trade Union Act, 1926 through various incorporations, such as
 - Compulsory registration of trade unions
 - Enhancing membership fee
 - Reduction of external influence on union bodies and office bearers

11.1. Future of Collective Bargaining in India

In India, the labour institutions are compatible with the government's officially promoted industrial pluralism and bilateral collective bargaining. The advent of economic liberalization has its effects on the union movement. The independent rank and file led unions have come into existence and engage in violent bargaining with the employers for securing substantial wage and non wage benefits for workers. The employers on their part, for dealing with militant union leaders, have started adopting the strategy of outsourcing from non union locations. This in a way has led to decline in the growth of trade unions.

An analysis of monopoly versus collective voice framework, since independence, indicates that there has been rapid industrialization and minimum industrial strife in the collective voice framework. Further, the declining employment elasticities imply that more output can be attained with less employment, more so with capital intensive technologies. Unions oppose the introduction of such technologies because it reduces the employment elasticity in the production process.

The future of collective bargaining is dependent on its transformation into a cooperative process where both management and union decide the proceeding of the process.

12. Collective Bargaining across the world

In certain countries it is the responsibility of employers to participate in collective bargaining in good faith while in others, for instance Australia, it isn't. In countries like Cyprus and Malaysia, unions can enter into collective bargaining with the management not on rights issues but on interest issues. Rights issues involve what should be done and what should not be done by workers during course of their employment. Interest issues refer to working conditions and wages.



With changes in industrial and employee relations and rapid advances in technology and nature of work, collective bargaining became an instrument of social transformation. Around 1970, apart from basic subsistence concerns, collective bargaining started addressing challenges of employment, income, social security, skills development, changes in organizations and governance. It also responded to challenges of occupational safety and environment. A survey conducted on collective bargaining in different countries over different time periods revealed that country's economic, political and institutional environments affect the way collective bargaining impacts economic ability of firms and well-being of workers.

Nowadays international trade union organizations and global trade union federations have been working towards securing cross border collaboration between trade unions. They plan to have worker representations not only at local, industry and national level but also at the regional and international level. While employers strive to minimize wages and get work done with cheap labour, trade unions on the other hand aim to take wages through coordinated international collective bargaining.

13. Collective Bargaining Policies in Practice

The managements in multi location companies have started to decentralize the process of collective bargaining to leverage the local market conditions. The other perspective was that each distinct profit center should be treated separately and the bargaining strategy of management should vary accordingly. A point that should be noted when comparing and contrasting unionized companies is that the frequency of employee representatives' meetings with management varied from twice a week to very rarely. These were used for formal discussions about grievances and procedural matters. In all, the important aspect regarding collective bargaining was that there was far less emphasis on achieving productivity gains through the ubiquitous mechanism of productivity bargaining. More and more established companies, with few exceptions, have begun to place less faith in the continued pursuit of detailed productivity agreements and are instead looking at a wide span of initiatives beyond collective bargaining. In a way, the balance between industrial relations and new human resource approaches has shown signs of adjustment.

14. Summary

This module provides comprehensive understanding of collective bargaining framework in India. It begins with explaining the concept of collective bargaining and its scope of implementation. Its features and 3 main approaches: as a process of social change, as a peace treaty and as a system of industrial jurisprudence is discussed in detail. Importance of bargaining is highlighted and principles for its smooth execution are emphasized in this module. Types and stages of bargaining have been discussed and how is collective bargaining done in various countries have been explored. Future of bargaining seems to be in favor of workers since trade unions are seeking to coordinate with each other at multiple stages and are attempting to collaborate at international level.

