

Study of Collective Bargaining and Controversial Issues in Indian Industry

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ABSTRACT

Collective bargaining negotiation between labour unions and corporate employers constitute a specialized area in the field of general negotiations, but the underlying legal and relationship aspects make them distinct. The trade unions are voluntarily organization of the workers to promote and protect the interest of workers through collective action. The first quarter of the twentieth century saw the birth of the trade union movement in India, through the germs of the movement to be found in the last quarter of the 19th century, S. S. Bangalee, M. Lokhande and others succeeded in forming trade unions. Organizing strikes and, in general, in bettering the conditions of the working classes. However it was not until the close of First World War that the modern trade union movement really took permanent roots in Indian soil.

Key words: Trade union, workers, Indian soil

INTRODUCTION

Development of modern industry, especially in the Western countries, can be traced back to the 18th century. Industrial development in India on Western lines however commenced from the middle of the 19th century. The first organized Trade Union in India named as the Madras Labour Union was formed in the year 1918. Since then a large number of unions sprang up in almost all the industrial centers of the country. Similarly, entrepreneurs also formed their organizations to protect their interests. In 1926, the Trade Unions Act was passed by the Indian Government. The Act gave legal status to the Registered Trade Unions. The Registrars of Trade Unions in different states were empowered to register the Trade Unions in their respective states. These registered Trade Unions (Workers & Employers) are required to submit annual statutory return to the Registrar regarding their membership, General Funds, Sources of Income and Items of Expenditure and details of their assets and liabilities, which in turn submit consolidated return of their state in the prescribed preformed to Labour Bureau.

The 1841 census enumerated 240,000 male artisans and 1.2 million male unskilled workers, the bulk of them agricultural laborers. (There were also more than one million working women, mainly in clothing and domestic service, who were not members of trade unions.) Despite the enactment of anticomination laws prescribing trade union laws beginning in 1729, journeymen artisans formed secret societies as the guilds lost their role in trade protection. With the repeal of the combination acts in 1824, local craft unions formed in the main cities. These new unions had a militant conception of their role initially, but following violent episodes and an economic slump in the late 1830s, they adopted a "moral force" strategy in the 1840s and pursued their demands through campaigns for public support. Unskilled rural laborers were afforded some protection by the White boy movements that emerged in 1760 to defend tenant farmers and others. In Leinster in particular, White boyism extended to unskilled urban workers through Ribbon lodges, another variant of the secret societies which used violence or intimidation to protect laborers from employers or landlords.

After the famine, unions in southern Ireland were weakened by demographic and economic decline. In the industrializing north, craft unions developed with the growth of engineering and shipbuilding. In the textiles and

clothing industries, unions of skilled and semi-skilled men emerged in the 1870s, and some progress was made in organizing women in the 1890s. Although unions in Ulster remained secular, victimization of Catholic workers regularly accompanied political crises from the 1860s to the 1920s.

Industrial Relations in India

India was greatly advanced in the field of industry and commerce in the past, as evidenced from its ancient literature. In ancient times, the highest occupation in our country was agriculture followed by trading. Manual services formed the third rung of occupation. Small manufacturers in their cottages, mostly on hereditary basis, carried on a large number of occupations. Ancient scriptures and laws of our country laid emphasis on the promotion and maintenance of peaceful relations between capital and labour. From the very early days, craftsmen and workers felt the necessity of being united. The utility of unions has been stated in Sukla Yajurveda Samhita, "if men are united, nothing can deter them." Kautilyas's Arthashastra gives a comprehensive picture of the organization and functions of the social and political institutions of India and a good description of unions of employees, craftsmen or artisans. There were well-organised guilds, which worked according to their own byelaws for the management of the unions. However, there were no organizations of workers during the Mughal rule. The labourers were entirely dependent on their masters and forced work was taken from them. Historical evidence further shows the existence of rules of conduct and prescribed procedure for the settlement of disputes for promoting cordial relations between the parties. The working relations, however, in those days were more or less of a personal character and are very much distinguishable from the present-day industrial relations as have gradually developed with the growth of largescale industries. A study of modern industrial relations in India can be made in three distinct phases. The first phase can be considered to have commenced from the middle of the nineteenth century and ended by the end of the First World War. The second phase comprises the period thereafter till the attainment of independence in 1947, and the third phase represents the post-independence era.

First Phase: During the first phase, the British Government in India was largely interested in enforcing penalties for breach of contract and in regulating the conditions of work with a view to minimizing the competitive advantages of indigenous employers against the British employers. A series of legislative measures were adopted during the latter half of the nineteenth century, which can be considered as the beginning of industrial relations in India.

The close of the First World War gave a new twist to the labour policy, as it created certain social, economic and political conditions that raised new hopes among the people for a new social order. There was intense labour unrest because workers' earnings did not keep pace with the rise in prices and with their aspirations. The constitutional developments in India led to the election of representatives to the Central and Provincial legislatures who took a leading role in initiating social legislation. The establishment of International Labour Organization (ILO) in 1919 greatly influenced the labour legislation and industrial relations policy in India. The emergence of trade unions in India, particularly the formation of All India Trade Union Congress (AITUC) in 1920 was another significant event in the history of industrial relations in our country.

Second Phase: The policy after the First World War related to improvement in the working conditions and provision of social security benefits. During the two decades following the war, a number of laws were enacted for the implementation of the above policy. The Trade Disputes Act, 1929 sought to provide a conciliation machinery to bring about peaceful settlement of disputes. The Royal Commission on Labour (1929-31) made a comprehensive survey of labour problems in India, particularly the working conditions in the context of health, safety, and welfare of the workers and made certain recommendations of far-reaching consequences.

The Second World War gave a new spurt in the labour field. The exigencies of the war made it essential for the government to maintain an adequately contented labour force for maximising production. The Government of

India had, therefore, to step in and assume wide powers of controlling and regulating the conditions of work and welfare of industrial workers. It embarked upon a two-fold action in this regard, namely, (i) statutory regulation of industrial relations through the Defence of India rules and the orders made there under; and (ii) bringing all the interests together at a common forum for shaping labour policy.

Third Phase: After independence, an Industrial Truce Resolution was adopted in 1947 at a tripartite conference. The conference emphasised the need for respecting the mutuality of interests between labour and capital. It recommended to the parties the method of mutual discussion of all problems common to both, and settle all disputes without recourse to interruption in or slowing down of production.

The post-independence period of industrial relations policy aimed at the establishment of peace in industry, and grant of a fair deal to workers. The government sought to achieve these aims through appropriate labour legislation, labour administration, and industrial adjudication. State intervention in industrial relations was justified on the ground that it helped to check the growth of industrial unrest. However, it was noticed that the spirit of litigation grew and delays attendant on legal processes gave rise to widespread dissatisfaction. Hence, since 1958 a new approach was introduced to counteract the unhealthy trends of litigation and delays in adjudication. Its emphasis was based on the principles of industrial democracy, on prevention of unrest by timely action at the appropriate stages, and giving of adequate attention to root causes of industrial unrest.

According to the Twelfth Five-Year Plan (2012-2017), the planning process attempts to create conditions for improvement in labour productivity and for provision of social security to supplement the operations of the labour market. The resources have been directed through the plan programmes towards skill formation and development, exchange of information on job opportunities, monitoring of working conditions, creation of industrial harmony, and insurance against disease and unemployment for the workers and their families. The planning commission observed that the situation of surplus labour, coupled with the employment of most of the workers in the unorganised segments of the economy, has given rise to unhealthy social practices like bonded labour, child labour, and adverse working conditions faced by the migrant labour.

GOVERNMENT'S ROLE

The main issue in regard to the government's role in industrial relations is the degree of state intervention. In India, particularly after independence, the government has been playing a comprehensive and dominant role in shaping the pattern of industrial relations. In the mixed economy of our country, the state has emerged as a big employer. The government evolves through tripartite forums the norms or standards, which are in the nature of guidelines shaping employer-employee relations. It accepts the responsibility of ensuring conformity to these norms through the administrative and judicial mechanism. It enacts legislation on labour and implements both the substantive and procedural laws.

The industrial relations policy of the government forms part of the broader labour policy. The tenets of this policy, as stated by the National Commission on Labour, are: (i) primacy to the maintenance of industrial peace; (ii) encouragement for mutual settlement of disputes through collective bargaining and voluntary arbitration; (iii) recognition of the workers' right to peaceful direct action, i.e., strike; and (iv) tripartite consultation.

The state intervention primarily aims at preserving industrial peace and has, therefore, focused attention on: (a) the avoidance of industrial disputes; and (b) the expeditious settlement of industrial disputes when they do arise. The adjudication and other regulative aspects of the role of the government continue to form the core of industrial relations in India.

CURRENT DEVELOPMENTS

The current developments in the field of industrial relations are basically related to structural changes, acquisitions and mergers, globalization, liberalization, and technological changes.

Structural Changes

The main aspects of the structural changes having an impact on the industrial relations system in the country could be mentioned as: i) Production reorganization or decentralized production making a thin organized sector employment thinner. The large-sized units shifted to flatter structures and opted for decentralized decision-making. These units reorganized their production by trimming their size and carrying out production in multiple units or by externalizing their production, i.e., concentrating on core activities with higher value addition, and subcontracting the other work/production to other ancillary units. These measures of economic reforms have distinctly affected the industrial relations system in the country as it has limited its institutions and practices to the formal organized sector in the large-sized units. As such, the system has come under pressure to adjust and adapt to the challenges of growth of small and medium units and shift its employment in favour of unorganized sector. ii) Globalization and technological changes proved disruptive for the system in terms of displacement of labour, i.e., job losses, destabilizing the wage structure, and a shift in skill/occupation composition of labour. iii) Ascendancy in managerial rights and the weakening of trade unions gave greater flexibility to management in utilization of labour and in handling industrial conflict.

Globalization

Trade unions are also working in the context of Globalization, which can be conceptually explained as the process of economic or commercial integration of a company or a country with the rest of the world. The magnitude of such integration will determine the extent of globalization accomplished by the company or the country as the case may be. It is important to note that globalization is not an 'event' but a 'process'. 'Some segments of the labour force have suffered from the direct and indirect effects of globalization more than others. Increased trade and increased competition have led to job losses in the advanced economies, probably not too many in aggregate terms but concentrated in low-skilled labour intensive industries with high labour costs. In addition, organizational changes such as contracting-out and downsizing of permanent staff have affected low-skilled workers more than high-skilled workers and have contributed to widening wage disparities (ILO, 2012).

Trade unions and Privatization

Privatization is one of the major elements of structural adjustment process taking place in different parts of the world as well as which has not been far away from the scene of trade unions. It involves complex social and labour issues. Apprehensions about privatization concern potential loss of present and future jobs. However, there is not enough evidence to suggest that privatization per se destroys jobs. The trade unions are concerned about privatization due to fears about job loss and potential adverse effects on the dynamics of trade unions and their rights.

LABOUR/INDUSTRIAL SNAPSHOT

Table-1
Number of Work Days Lost on Account of Work Stoppages

Month	Industrial Disputes		Non-Industrial disputes	
	2013 (P)	2014 (P)	2013 (P)	2014 (P)
January	2,003,992	7,990,913	719,733	1,025,983
February	1,443,312	1,418,330	703,640	909,880
March	1,623,770	1,416,369	729,067	1,035,676
April	1,907,380	1,483,756	746,050	1,235,930
May	1,780,398	507,927	846,879	414,678
June	1,591,203	131,110	855,126	132,912
July	1,580,879	-	955,791	-

Source; Indian Labour Journal, 2014

Labour productivity in Gujarat nearly doubled. Karnataka, Rajasthan, Uttar Pradesh and West Bengal exhibited improvement in terms of net value added per worker. Overall, performance has been varied, with Gujarat, Haryana, and Uttar Pradesh showing improvement and most of the other regions showing no distinct trend since the mid nineties.

Table-2

Sector/Sphere-Wise Number of Disputes, Workers Involved, Mandays Lost due to Industrial Disputes

SPHERE/IT EM	PUBLIC SECTOR			PRIVATE SECTOR			TOTAL		
Central Sphere	Disput es	Work ers Involv ed	Mand ays Lost	Disput es	Work ers Involv ed	Mand ays Lost	Disput es	Work ers Involv ed	Mand ays Lost
Strikes	54	28911 0	28440 3	10	11315	13812	64	30042 5	29821 5
Lockouts	2	62478 5	62312 32	-	-	-	2	62478 5	62312 32
Strikes & Lockouts	56	91389 5	65156 35	10	11315	13812	66	92521 0	65294 47
Strikes	5	1080	12607	77	33952	59444 0	82	35032	60704 7
Lockouts	-	-	-	193	95623	58119 11	193	95623	58119 11
Strikes	5	1080	12607	270	12957 5	64063 51	275	13065 5	64189 58

Source; Indian Labour Journal, 2014

ORGANISED SECTOR EMPLOYMENT

Organized-sector employment has experienced some growth in the private sector, which, in the current state of buoyancy of the industrial sector, should further accelerate if some of the rigidities in the labour laws are removed. The Industrial Disputes Act, 1947, Contract Labour Act, 1970, and Payment of Wages Act, 1936, are some of the legislative instruments that the government is considering for amendment. Simultaneously, the government is also proposing to bring forth comprehensive legislation for the welfare of workers in the unorganised sector. Under the Minimum Wages Act, in January 2002, wages were raised for workers of mining and construction sectors in respect of scheduled employment in the central sphere.

Table-3 : Organized Sector and Total Employment Patterns

Sector	Employment (Million)				Growth Rate (Percent Annum)
	2011	2012	2013	2014	2011-2013
Total Population	718.21	790.00	895.05	1004.10	2.12
Total Labour Force	308.64	333.49	381.94	406.05	2.05
Total Employment	302.75	324.29	374.45	397.00	2.04
Sector Employment	24.01	25.71	27.37	28.11	1.20
Public Sector	16.46	18.32	19.44	19.41	1.52
Private Sector	7.55	7.39	7.93	8.70	0.45

The service sector, which grew in the 1980s, experienced a quantum leap in the 1990s, increasing much faster than the agricultural and industrial sectors. As a result, the service sector's importance to the Indian economy increased many times. The rising importance of the service sector provided a basis for higher growth. The service sector's growth provided stability to the higher trajectory of growth in the 1990s, overcoming fluctuating agricultural performance. The declining share provided by the agricultural sector, however, did not affect the pervasive influence of this sector over the Indian economy. The growth of GDP has largely been determined by the trend in agricultural production. Agriculture not only accounts for a significant share of GDP, but also determines trends in the general economy through the inputs it takes from other sectors (e.g., the chemicals farmers purchase from industry). Agricultural hiring and wages set the pace for employment and incomes in other sectors. Agriculture has been subject to wide year-to-year fluctuation due to weather.

Impact of Collective Bargaining among Trade Unions

Collective bargaining is concerned with the relations between management representatives and union representatives. Collective bargaining has been characterized as a form of industrial democracy and industrial government. It involves the process of negotiation, administration, and interpretation of collective agreements covering wages, hours of work, and other conditions of employment for a specific period of time. For some issues, collective bargaining occurs when one party's goals conflict with those of the other party. The style and substance of the negotiations are affected by the legal requirement to bargain in good faith. The final product of negotiation process is a collective bargaining agreement. Effective administration of collective agreement is vital to the health of the union-management relationship. Successful administration of an agreement depends on mutual respect among employees, management and union. Collective bargaining today faces a crisis. Severe environmental pressures, particularly competition and technological change make it increasingly difficult for the parties to reach a mutually satisfactory settlement.

Approaches to Collective Bargaining

The World Labour Report of ILO (2013-14) mentions that the collective bargaining is weak as the state intervention plays a crucial role. The system of social dialogue is centralized at the industry or national level and leaves little discretion at the enterprise level. However, a new pattern of unionization has appeared due to the shift from organizing workers in a region/industry to the formation of independent trade unions at the enterprise level. Accordingly, the focus of collective bargaining has shifted from the region/industry level to the enterprise or even plant level.

Industry Bargaining

The industry level collective bargaining is common in the case of core industries in public sector like coal, steel, cement, ports, banks and insurance. The collective bargaining on industry basis is practiced by traditional industry groups like textiles, plantations and engineering in the private sector. The recent trend in the field of collective bargaining in India has been a gradual shift from national/industry level to local level leadership; and enterprise/job level bargaining.

Enterprise Bargaining

The importance of enterprise is growing as a bargaining level as the industry-wide bargaining is losing ground. Even in case of industry-wide bargaining, sufficient scope is offered for enterprise level negotiations. Enterprise level agreements are steadily increasing in number and becoming a point of decision-making. In the industrialized countries, the trend is towards increasing autonomy of enterprises and individualization of labour relations.

Concession Bargaining

Concession bargaining originated in U.S.A. as a temporary measure to save jobs in the period of economic depression. Concession bargaining was undertaken by the employers to face increased competition and cope up with higher productivity requirements. The trade unions preferred wage cuts or wage moderation to that of job losses and displacement. The trade unions indicated their readiness to accept other options to avoid labour redundancies. Apart from accepting wage reduction, other options considered under concession bargaining were: (a) shorter working hours; (b) freeze on fresh recruitment; (c) restriction on overtime; and (d) training and retraining of workers. In U.S.A. the concession bargaining agreements included wage cuts in case of newly hired workers, curbing the cost of health insurance, and increased compensation for voluntary separation. In India, it has taken the form of downsizing of employees and offering of voluntary retirement schemes.

Composite Bargaining

The contents of conventional bargaining are mainly wages, allowances and benefits, and conditions of work and employment. The composite bargaining calls for a strategic shift from conventional bargaining to include issues like quality of work life, productivity improvement, enhancing of market share or even financial matters. Composite bargaining reflects a change in strategy from confrontation to coordination between management and labour for the promotion of their common interest of survival and progress of enterprises.

Emerging Issues in Collective Bargaining

Union and management are going to face many substantive and procedural issues in collective bargaining. Some of the issues can probably be handled at the bargaining table by using existing structures and strategies. Some of the traditionally handled issues are as follows:

Job Security

The potential loss of jobs due to technological change has always been a major concern for the unions. Use of automation and computers will expand as Indian companies attempt to increase productivity and remain competitive in domestic and international markets. This will continue in the future and may even accelerate the collective bargaining process.

Productivity

Time has come, according to many economists, for the unions to be vitally concerned with productivity and to realize that employee welfare is tied directly to the success of the enterprise and industry. At the same time, management must recognize that to obtain an increase in productivity, it must seek the co-operation of the employees and the union. In short, what is needed in collective bargaining is re-approachment between union and management that recognizes the necessity of co-operating to raise productivity.

Technological Change

Management cannot expect workers and their unions to moderate their wage demands and attitude toward technological change unilaterally. As in every constructive collective bargaining situation, there must be a give and take. Further, the society cannot expect labour to bear the full cost of technological change. It is true that workers will ultimately benefit from a competitive product, but so will management, stockholders, and the consumer. It seems only equitable that all parties bear some of the cost. In Japan and some European countries, technological change is not normally opposed because jobs are guaranteed.

Quality of Work Life (QWL)

The issue of quality of work life is related to the need for organised labour and management to work co-operatively toward the goal of greater productivity. The attention now being paid to the QWL reflects the

growing importance being attached to it. It is apparent that a substantial number of employees are unhappy with their jobs and are demanding more meaningful work. Employees are beginning to demand improvements in both economic and non-economic benefits from their jobs. The importance of non-economic rewards is increasing relative to the importance of economic ones, especially among white-collar and highly educated employees. People are demanding greater control and involvement in the jobs. They do not want to be treated as a cog in a wheel. QWL experiments will continue in the years ahead and may eventually provide some impetus to the collective bargaining across countries.

Productivity Bargaining

Productivity bargaining has been described as “an agreement in which advantages of one kind or another, such as higher wages or increased leisure, are given to workers in return for agreement on their part to accept changes in working practices or in methods or in organization of work which will lead to more efficient working. The prime purpose of productivity bargaining is to raise labour productivity and lower unit labour costs. It aims at improving labour productivity, not so much by requiring workers to make greater efforts, but by eliminating the impediments to higher productivity. Moreover, it is an exercise in problem solving and creating new gains for both management and labour.

The significance of productivity bargaining is three-fold. First, it seems to be more successful in tightening of the pay-productivity link within organizations. Second, it is argued that it opens a whole new source of untapped productivity potential within an enterprise. Third, it provides potential opportunity for improving the climate of negotiation between management and trade union at company or organizational level.

Productivity Agreements

There are a number of industries in India, which have signed productivity agreements. Many agreements begin with opening paragraphs about productivity, work culture, and the role to be played by the union and the management. The productivity-linked wages settlement by Southern India Textile Association is a unique example of joint agreement of systematic assessment of workloads and the principle of sharing by workers of 50 percent of the savings by the total category of basic workers. Thirty mills were party to the agreement.

Collective Bargaining in Public Sector

In all literature on industrial relations, collective bargaining is considered as a central place around which other topics comprising industrial relations seem to revolve. There is hardly any qualitative difference between the collective bargaining techniques adopted by the workers in the public sector enterprises and their counterparts in the private sector. But the crux of the problem in the public sector is that with whom do the trade unions negotiate with? The owner of the enterprise is the government. The manager is as much as an employee as any worker and bound by a whole set of rules and regulations and unable to take any decision in the area of industrial relations. Further, the accumulation of unattended individual grievances fouls up the atmosphere for collective bargaining.

In the public sector, the issues taken up for collective bargaining include revision of wages and pay scales, dearness allowance, house rent and other allowances, loans and advances, medical and residential facilities, welfare measures and service conditions. Prior to negotiations, preparations are made in advance, at least a year ahead of the date of expiry of wage agreement. Exercises are carried out to collect voluminous data from within the organisation and many other undertakings. Hike in annual expenditure on account of increase in pay, dearness and other allowances, and fringe benefits are assessed. The organisation's prospects and financial positions are reviewed.

