

MARUDHAR KESARI JAIN COLLEGE FOR WOMEN, VANIYAMBADI

DEPARTMENT OF SOCIAL WORK

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SYLLABUS

UNIT- II

COLLECTIVE BARGAINING

Concept – Theories – Goals – Principles – Prerequisites – Stages of Collective Bargaining – Bargaining Strategies – The factors influencing Collective bargaining – Skills of an effective bargaining agent. Inter and Intra union rivalry, Concept of Conciliation, Arbitration and Adjudication.

CONCEPT OF COLLECTIVE BARGAINING:

Collective bargaining is the process in which working people, through their unions, negotiate contracts with their employers to determine their terms of employment, including pay, benefits, hours, leave, job health and safety policies, ways to balance work and family, and more. Collective bargaining is a process where employers and employees negotiate the terms of employment. This includes:

- Working conditions
- Compensation
- Benefits
- Shift length

- Vacation time
- Sick leave
- Health care benefits
- Job health and safety policies
- Ways to balance work and family

Collective bargaining can also provide ways to settle disputes between employers and employees. In India, collective bargaining is recognized as a fundamental right of workers. It is protected under the Industrial Disputes Act, 1947.

Theories of Collective Bargaining:

The theories of collective bargaining also provide the agreement as a law. It creates a political relationship between the worker's union and management. These parties form a constitutional relationship in this labor industry. They treat the said agreement as the constitution for both parties.

The theories of collective bargaining aim to give workers their basic rights. These include:

- Minimum wage
- Good work conditions
- Employers making policies with workers in mind
- There are three concepts of collective bargaining:
- Marketing concept: Collective bargaining is a way to buy and sell labor in the market place.
- Governmental concept
- Industrial relations or managerial concept

Walton and McKersie view collective bargaining as four sub-processes:

Distributive bargaining: When union and management goals are in conflict.

- Integrative bargaining
- Attitudinal structuring
- Intra-organizational bargaining
- Some say that existing theories of collective bargaining are partial. They only
- explain part of the phenomenon of collective bargaining.

Goals of Collective Bargaining:

The main goal of collective bargaining is for both parties, the employees' representatives and the employer, to come to an agreement on employment terms. This is known as a collective bargaining agreement or contract.

Other goals of collective bargaining include:

1. To foster a pleasant and cordial relationship between employer and employees
2. To equally safeguard the interests of both employer and employees
3. To ensure that the government intervention is maintained at a minimum level
4. To improve wages and benefits
5. To settle the disputes and conflicts amidst the parties
6. To increase the strength of the workforce, thereby, increasing their bargaining capacity as a group
7. To increase the morale and productivity of employees
8. To restrict management's freedom for arbitrary action against the employees

Generally, there are four important methods of collective bargaining, namely, negotiation, mediation, conciliation, and arbitration for the settlement of trade disputes.

Principles of Collective Bargaining:

The following principles of collective bargaining apply to both employers and unions. Both parties must aim to discuss alternatives. They must choose the best solution for all parties. These parties must have respect and trust.

Here are some principles of collective bargaining:

Willingness to bargain:

To discuss an agreement or price in order to make it more appealing. The price listed is quite high, but the seller might be willing to bargain. There should be a willingness to bargain collectively and in good faith. Britannica Dictionary definition of BARGAIN. [no object]: **to discuss an agreement or price in order to make it more appealing.** The price listed is quite high, but the seller might be willing to bargain.

Freedom of association

Collective bargaining is an essential element of freedom of association, which is the right of workers and employers to organize to defend their interests. Freedom of association entails **respect for the right of employers and workers to freely and voluntarily establish and join organizations of their own choice**, according to the International Labour Organization (ILO).

Arbitration:

Arbitration is a procedure in which a dispute is submitted, by agreement of the parties, to one or more arbitrators who make a binding decision on the dispute. In choosing arbitration, the parties opt for a private dispute resolution procedure instead of going to court. Arbitration is a method of dispute resolution used as an alternative to litigation.

Mutual cooperation

There should be mutual cooperation between the employers and the employees.

- Other principles of collective bargaining include:
- Concessionary bargaining
- Union leaders make concessions in exchange for job security.
- Composite bargaining
- Workers believe that productivity bargaining agreements increased their workloads.
- Recognition of a trade union
- Before a trade union can represent its members in collective bargaining, it must be accorded recognition by the employer.
- Safe and healthy workplace
- Collective agreements can provide for paid sick leave and healthcare benefits.
- Prerequisites of Collective Bargaining
 - (i) Both parties (employer and employees) should realise the need of collective bargaining.
 - (ii) Both parties should try to solve the problems through negotiations sincerely and honestly.
 - (iii) A single plant bargaining is considered better than a multiple plant bargaining.

Here are some prerequisites for collective bargaining:

- Mutual trust and confidence
- Trade unions and management must accept each other as responsible parties in the collective bargaining process.
- Freedom of association
- Workers must be able to form strong and stable unions.
- Recognition of trade unions
- Employers must recognize trade unions or the workers association for that purpose.
- Strong and representative trade unions

- The union must have the support and trust of the employees, and be able to negotiate effectively with the employer.
- Other prerequisites include:
- Both parties (employer and employees) should realize the need of collective bargaining.
- Both parties should try to solve the problems through negotiations sincerely and honestly.
- A single plant bargaining is considered better than a multiple plant bargaining.

Collective bargaining is a process in which the representatives of labor organization (Trade Union) and the representatives of business organization (Management) meet and attempt to negotiate a contract or agreement. The issues include compensation, working conditions, the work environment, benefits, and company policies and procedures.

Stages of Collective Bargaining

- The five stages of collective bargaining are:
- Preparing for bargaining
- Conducting negotiations
- Ratifying the contract
- Resolving a contract dispute
- Changing or clarifying the contract
- Other stages of collective bargaining include:
- Forming a union
- Making a charter of demands
- Strikes
- Conciliation
- Implementation of agreement
- Settlement, or handling disputes

Collective bargaining is a process that both employees and employers follow to reach an amicable solution. It involves negotiations over issues such as compensation, working conditions, benefits, and company policies and procedures. The process is usually initiated by the trade union, which represents the workers, and the employer or its representatives.

Bargaining Strategies:

Bargaining strategies help to resolve the conflict through proper communication and understanding of the situation. 2 types of bargaining strategies are; Distributive Bargaining, Integrative Bargaining.

Here are some bargaining strategies:

- **Team negotiation:** Multiple people on each side of the negotiation bargain toward an agreement. This is common in large business deals.
- **Negotiation strategies:** Strategies that promote a mutual gains approach can help you achieve a negotiated agreement.
- **Distributive negotiation:** You do everything you can to gain more than the other side.
- **Integrative negotiation:** You take the other side's needs into consideration and are willing to compromise for a "win-win".
- **Adversarial negotiation:** The more aggressive participant in a negotiation obtains a deal that benefits them.
- **Multiparty negotiation:** Three or more parties undertake various negotiation strategies.

Other bargaining strategies include:

- (i) Conducting thorough research and preparation
- (ii) Building strong relationships with trade unions
- (iii) Identifying common goals and interests
- (iv) Maintaining open and transparent communication
- (v) Managing conflicts and disagreements
- (vi) The factors influencing Collective bargaining
- (vii) Factors that affect collective bargaining

These issues include compensation, working conditions, the work environment, benefits, and company policies and procedures. Collective bargaining also provides ways to settle disputes that may come up between employers and their employees.

There are several factors that can influence collective bargaining, including:

Intangible influences: The role of history, setting expectations, the nature of the people involved, timing, and catharsis

Behavioral factors: Organizational and institutional framework, organizational behavior, strategic and tactical planning, membership support, and building an effective bargaining committee

Union goals: Economic security, workplace representation, and voice

Trade union density: The percentage of the workforce in the trade union

Other factors that can influence collective bargaining include:

- Working conditions
- Salaries and compensation
- Working hours
- Benefits
- Terms of employment
- Regulation of relations between employers and trade unions
- Level at which bargaining takes place
- The goal of collective bargaining is to come up with a collective bargaining agreement or contract.

Skills of an effective bargaining agent:

Here are some skills that can help with effective bargaining:

Communication: Effective communication skills can help make intentions clear and establish boundaries. This involves identifying nonverbal cues, using the right words, and expressing thoughts in a compelling way.

Active listening: Listening to the other party's wishes and acting accordingly

Emotional intelligence: Being able to predict how you will behave in a given bargaining scenario

Expectation management: Avoiding conflict

Patience: Being adaptable

Problem-solving: Creating value

Building trust: Adjusting behavior based on the intentions of the other party

Other bargaining skills include:

- (i) Aiming to achieve the best result
- (ii) Focusing on developing good relationships
- (iii) Working on realistic proposals
- (iv) Negotiation skills involve back-and-forth communication designed to reach an agreement between two or more parties who are in conflict.

Inter and Intra union rivalry

Inter-union rivalry is a type of competition or conflict that can occur between different trade unions or labor organizations. Intra-union rivalry is a type of competition or conflict that can occur between two groups of the same union. Inter-union rivalry is a term used to describe conflicts or competition between different labor organizations or trade unions. It can occur when multiple unions are competing for membership in a particular industry or sector, or when multiple unions are seeking to represent the same group of workers. Inter-union rivalry can be a major cause of industrial disputes. It can also be responsible for weak bargaining power of trade unions in collective bargaining. In the pre-globalization era, the causes for strikes were mainly confined to issues like wages, bonus, working conditions, and inter-intra union rivalry. Political interference in trade unions is a common challenge in India. Many trade unions are affiliated with political parties, which often leads to conflicts of interest, politicization of labor issues, and divisions within the trade union movement. Inter-union rivalry refers to competition or conflicts that arise between different trade unions or labor organizations. It occurs when multiple unions seek to represent the same group of workers or compete for membership in a particular industry or sector. Inter-union rivalry can be caused by a multiplicity of unions. This can weaken the power of collective bargaining and reduce the effectiveness of workers in securing their rights.

Intra-union rivalry can occur when there are disagreements within a union. These disagreements can be caused by:

- Ideological differences
- Personality conflicts
- Power struggles
- Disagreements over the union's priorities and strategies
- The desire of political parties to have a base among industrial workers
- Person-cum-factional politics of the local union leader
- Domination of unions by outside leaders
- Attitude and policies of the management, such as a divide and rule policy
- Intra-union rivalry can lead to:
 - Internal divisions
 - Weakened solidarity
 - Difficulties in presenting a united front to employers
 - A crippling effect on the industry
 - Disruption of the industry's normal and smooth functioning

Intense feuds

According to the ILO (2006), "Conflicts within the trade union movement" are the sole responsibility of the parties themselves.

Intra-union rivalry can arise due to ideological differences, personality conflicts, power struggles, or disagreements over the union's priorities and strategies. It can lead to internal divisions, weakened solidarity, and difficulties in presenting a united front to employers.

Intra-union rivalry can be caused by political reasons. This can cripple the union and pose difficult problems to the port administration.

Inter and intra-union rivalries have been a potent cause of industrial disputes in the country.

Concept of Conciliation

Conciliation is a voluntary process in which a professional facilitator assists employers and employees to resolve disputes when their own unassisted efforts have not succeeded. The process can be described as a facilitated search for agreement between disputing parties.

Conciliation is an alternative dispute resolution (ADR) process that involves a neutral third party, called a conciliator, who helps parties resolve a dispute. The conciliator meets with the parties separately and together to try to resolve their differences.

Conciliation is a non-adjudicatory and non-antagonistic process. It is voluntary, flexible, confidential, and interest based. The parties are free to represent themselves or be represented by trade unions or by employer organizations. Conciliation is an out-of-court settlement. It is informal and non-legalistic in its practice. Some conciliation processes do not require lawyers to participate.

Arbitration and Adjudication.

Arbitration is a procedure in which a dispute is submitted, by agreement of the parties, to one or more arbitrators who make a binding decision on the dispute. In choosing arbitration, the parties opt for a private dispute resolution procedure instead of going to court.

Arbitration is a form of alternative dispute resolution (ADR) that resolves disputes outside the judiciary courts. In arbitration, the parties agree to have their dispute heard by one or more arbitrators and agree to be bound by their decision. Arbitration is a contract-based form of binding dispute resolution. A party's right to refer a dispute to arbitration depends on the existence of an agreement (the "arbitration agreement") between them and the other parties to the dispute. The dispute will be decided by one or more persons (the 'arbitrators', 'arbiters' or 'arbitral tribunal'), which renders the 'arbitration award'. The arbitral award is final and binding upon

the parties. For example, an arbitration tribunal awarded Tata Motors Ltd Rs 766 crore in compensation for its capital investment losses in the stalled Singur manufacturing plant.

Adjudication.

Adjudication is a legal process that aims to resolve disputes. In collective bargaining, adjudication can help settle industrial disputes, improve employment conditions, and standardize statutory payments and allowances.

Adjudication is a legal process where parties present evidence and arguments, and a binding decision is issued. It's similar to a court hearing but is less formal.

In India, the Indian Industrial Disputes Act of 1947 provides a three-tier machinery for adjudication. A legal authority appointed by the government intervenes to make a settlement that is binding on both parties.

If the conciliation process fails, the parties can go for voluntary or compulsory arbitration. The recommendations of the arbitrator may be binding on the parties.

Some disadvantages of court-based adjudication include:

It's impossible for some parties to take their complaints to a court of law.

Courts are generalists and practically every jury is too.

Court dockets are often overbooked, causing significant delays before a case is heard.