Collective bargaining

Collective bargaining is a process of negotiations between employers and the representatives of a unit of employees aimed at reaching agreements which regulate working conditions. Collective agreements usually set out wage scales, working hours, training, health and safety, overtime, grievance mechanisms and rights to participate in workplace or company affairs. [1]

The union may negotiate with a single employer (who is typically representing a company's shareholders) or may negotiate with a group of businesses, depending on the country, to reach an industry wide agreement. A collective agreement functions as a labor contract between an employer and one or more unions. Collective bargaining consists of the process of negotiation between representatives of a union and employers (generally represented by management, in some countries by an employers' organization) in respect of the terms and conditions of employment of employees, such as wages, hours of work, working conditions and grievance-procedures, and about the rights and responsibilities of trade unions. The parties often refer to the result of the negotiation as a collective bargaining agreement (CBA) or as a collective employment agreement (CEA).

History

The term "collective bargaining" was first used in 1891 by economic theorist Beatrice Webb. [2] However, collective negotiations and agreements had existed since the rise of trade unions during the nineteenth century.

International protection

...where free unions and collective bargaining are forbidden, freedom is lost. [3]

Ronald Reagan, Labor Day Speech at Liberty State Park, 1980

The right to collectively bargain is recognized through international human rights conventions. Article 23 of the Universal Declaration of Human Rights identifies the ability to organize trade unions as a fundamental human right. [4] Item 2(a) of the International Labour Organization's Declaration on Fundamental Principles and Rights at Work defines the "freedom of association and the effective recognition of the right to collective bargaining" as an essential right of workers. [5]

In June 2007 the Supreme Court of Canada extensively reviewed the rationale for regarding collective bargaining as a human right. In the case of Facilities Subsector Bargaining Association v. British Columbia, the Court made the following observations:

The right to bargain collectively with an employer enhances the human dignity, liberty and autonomy of workers by giving them the opportunity to influence the establishment of workplace rules and thereby gain some control over a major aspect of their lives, namely their work... Collective bargaining is not simply an instrument for pursuing external ends...rather [it] is intrinsically valuable as an experience in self-government... Collective bargaining permits workers to achieve a form of workplace democracy and to ensure the rule of law in the workplace. Workers gain a voice to influence the establishment of rules that control a major aspect of their lives. [6]
**Economic theory**

Different economic theories provide a number of models intended to explain some aspects of collective bargaining:

1. The so-called Monopoly Union Model (Dunlop, 1944) states that the monopoly union has the power to maximize the wage rate; the firm then chooses the level of employment. (Recent literature has started to abandon this model.)

2. The Right-to-Manage model, developed by the British school during the 1980s (Nickell), views the labour union and the firm bargaining over the wage rate according to a typical Nash Bargaining Maximin (written as $\Omega = U^\beta \Pi^{1-\beta}$, where $U$ is the utility function of the labour union, $\Pi$ the profit of the firm and $\beta$ represents the bargaining power of the labour unions).

3. The efficient bargaining model (McDonald and Solow, 1981) sees the union and the firm bargaining over both wages and employment (or, more realistically, hours of work).

**United States**

In the United States, the National Labor Relations Act (1935) covers most collective agreements in the private sector. This act makes it illegal for employers to discriminate, spy on, harass, or terminate the employment of workers because of their union membership or to retaliate against them for engaging in organizing campaigns or other "concerted activities" to form "company unions", or to refuse to engage in collective bargaining with the union that represents their employees. Unions are also exempt from antitrust law in the hope that members may collectively fix a higher price for their labor.

At a workplace where a majority of workers have voted for union representation, a committee of employees and union representatives negotiate a contract with the management regarding wages, hours, benefits, and other terms and conditions of employment, such as protection from termination of employment without just cause. Individual negotiation is prohibited. Once the workers' committee and management have agreed on a contract, it is then put to a vote of all workers at the workplace. If approved, the contract is usually in force for a fixed term of years, and when that term is up, it is then renegotiated between employees and management. Sometimes there are disputes over the union contract; this particularly occurs in cases of workers fired without just cause in a union workplace. These then go to arbitration, which is similar to an informal court hearing; a neutral arbitrator then rules whether the termination or other contract breach is extant, and if it is, orders that it be corrected.

In 28 U.S. states, employees who are working in a unionized shop may be required to contribute towards the cost of representation (such as at disciplinary hearings) if their fellow employees have negotiated a union security clause in their contract with management. Dues usually vary, but are generally 1-2% of pay. Some states, especially in the south-central and south-eastern region of the U.S., have outlawed union security clauses; this can cause controversy, as it allows individuals who benefit from the protection of union contracts to avoid paying their portion of the costs of contract negotiation. Such laws would prevent a person's union dues from being used to fund political causes that may be opposed to the individual's personal politics.

The industrial revolution brought a swell of labor organizing in the US. The American Federation of Labor was formed in 1886, providing unprecedented bargaining powers for a variety of workers. The Railway Labor Act (1926) required employers to bargain collectively with unions.

In 1930, the Supreme Court, in the case of *Texas & N.O.R. Co. v. Brotherhood of Railway Clerks*, upheld the act's prohibition of employer interference in the selection of bargaining representatives. In 1962, President Kennedy signed an executive order giving public-employee unions the right to collectively bargain with federal government agencies.
Notes


References


• Herman, Jerry J. "With Collaborative Bargaining, You Work with the Union--Not Against It." The American School Board Journal 172 (1985): 41-42, 47.


External links

• Labor & Worklife Program at Harvard Law school (http://www.law.harvard.edu/programs/lwp)

• Collective Bargaining Subject Guide at the ILR School, Cornell University (http://www.ilr.cornell.edu/library/research/subjectGuides/collectiveBargaining.html)

• Collective Bargaining, Labor Law, and Labor History at DigitalCommons@ILR (http://digitalcommons.ilr.cornell.edu/cb/)

• Collective Bargaining Agreements at DigitalCommons@ILR (http://digitalcommons.ilr.cornell.edu/cba/)

• GVSU links to actual arbitration awards and collective bargaining resources (http://www.gvsu.edu/arbitrations/)
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