A REPORT ON INDIA'S COLLECTIVE BARGAINING

by KASHIKA

AMITY UNIVERSITY, AMITY LAW SCHOOL, NOIDA, UTTAR PRADESH

ABSTRACT

Collective bargaining is just another word for negotiation. It gives the workforce a chance to establish industrial democracy. It is used at several levels, from the craft level to the national level. Collective bargaining in Indian industry began in the second half of the 19th century and received legal recognition in the first half of the 20th. This essay focuses on the idea of collective bargaining in general and discusses its range, goals, types, circumstances, environment, theories, and many levels. Additionally, the pertinent clauses of the Industrial Disputes Act, Trade Union Act, Standing Order, and the Constitution, as well as a few Apex Court decisions, have been addressed to justify the legitimacy.

Introduction

Development requires peace, because conflicts waste the society's valuable time, energy, and resources. However, in a practical sense, conflict is unavoidable. Due to the lengthy process of settling conflicts through a traditional court of law, commerce, business, development work, administration, etc. all suffer. Alternative ways of resolving industrial disputes, such as collective bargaining, conciliation1, mediation2, arbitration3, worker engagement in management, pay boards, etc., exist to help people escape this maze of litigation. Collective bargaining is regarded as the greatest approach out of the bunch because it allows the disputing parties to get together and settle their disagreements in a respectful and friendly way. Several ideas, including those from the domains of sociology, economics, political science, and industrial relations, as well as Activists, employees, and labour organisations have made attempts to describe and elucidate collective bargaining in their publications. According to one theory, the right to engage in collective bargaining is one that should be protected by the law.4. Facilities Sector Bargaining, decided by Canada's Supreme Court in June 2007,

The case of Assn. v. British Columbia5 in-depth examined the justification for believing collective bargaining to be a human right. With regard to this matter, the court noted the following:

The ability to influence the creation of workplace rules and thereby gain some control over a significant aspect of their lives—their work—is one of the benefits of having the right to bargain collectively with an employer. Collective bargaining is not just a tool for pursuing external ends, but rather a means of promoting human dignity, liberty, and autonomy.

This essay focuses on the idea of collective bargaining in general and discusses its range, goals, types, circumstances, environment, theories, and many levels. Additionally, the pertinent clauses of the Industrial Disputes Act, Trade Union Act, Standing Order, and Constitution, as well as a few Apex Court decisions, have been discussed to support the validity of collective bargaining. Finally, a little discussion has been had regarding the State level recognition of collective bargaining.

Collective bargaining concept

Sydney and Beatrice are credited with creating the term "collective bargaining."6. Opinions about the precise definition of the phrase "Collective Bargaining" vary. Collective bargaining is described as a process of discussion and negotiation between two parties, one or both of whom are a group of people acting in concert, by the Encyclopaedia of Social Sciences. More specifically, it is the process by which an employer, employees, or ground employees agree upon the conditions of work.

According to the International Labor Organization (ILO), collective bargaining is "the discussions about the terms and conditions of employment between an employer, a group of employers, or one or more employers' organisations on the one hand, and one or more representative workers organisations on the other, with a view to reaching an agreement."8 Likewise, Ludwing and Teller state that collective bargaining is "an agreement between a single employer or an association of employers on the one hand and a labour union on the other hand which regulates terms and conditions of employment."9 According to the Webbs, trade unionism functions as a labour cartel by regulating entry into the industry, making collective bargaining a fundamental economic institution. On the other side, Professor Allan Flanders has suggested that the main goal of collective bargaining a political process as opposed to an economic one. The Supreme Court of India found that collective bargaining is a method by which disputes between labour and capital are settled amicably by agreement rather than by question in the case of Karnal Leather Karamchari Sanghatan vs. Liberty Footwear Co.10. The conflict between labour and management is resolved amicably and voluntarily, if reluctantly. Similar claims are made about collective bargaining as a process for labour and management to amicably, peacefully, and freely address issues related to salaries and working conditions.

Therefore, collective bargaining is the process of negotiating between firm and worker representatives with the aim of setting employment conditions that are acceptable to both parties. The outcome of the negotiations is frequently referred to as a collective bargaining agreement or a collective employment agreement by the parties. Because both the employer and the employee behave as a group rather than as individuals, it is known as a "collective" arrangement. The process of coming to an agreement involves making propositions and counterproposals, offers and counteroffers, and other forms of negotiation, which is why it is known as "bargaining." Both procedural and substantive rules are provided for in collective bargaining. While substantive rules focus on the content of the agreement, including the market (terms and conditions), substantive rules deal with the process for handling interpretation and implementation of agreements as well as resolving disagreements.

OPEN ACCESS JOURNAL

Aims and Objectives - The following are the aims and objectives of collective bargaining:

1. Maintains a Balance Between Legitimate Expectations - Management has a right to expect that the most competent labour will be offered at a price that allows for a reasonable profit margin. Laborers, on the other hand, can assert that each employee has a job and that their pay increases steadily. In other words, the worker's interest in planning his and his family's life and in being protected against an interruption in his mode of existence, whether through a decline in real income or through the loss of his job13, is exactly equivalent to management's interest in doing so. Through the negotiation process, collective bargaining balances these conflicting interests.

2. Maintain Equality - Since the latter are in a more advantageous position from the start, collective bargaining is a way to keep the worker and the workmen on an equal footing. Because of things like illiteracy, debt, and socioeconomic adversity, an individual worker's bargaining strength is typically extremely low. There is therefore no competition for the employer who is more superior politically and economically. These put the worker at risk of exploitation, prejudice, and humiliation. The Common Law presumes that it is dealing with an agreement between equals, but in practice, except in extraordinary situations, the individual worker does not bring equality of bargaining power to the labor market, as Lord Wedderburn correctly points out.

3. Encourage Industrial Democracy - The Trade Union aims to encourage industrial democracy. They currently stand for the right of workers to form unions, voice their demands collectively, and take industrial action, such as strikes, when their demands are not met by their employers. They try to persuade their employers that when choices are made that have an impact on their working lives, their collective voice should be heard. In this way, unions guarantee that the interests of the group should come before those of the individual members. Collective bargaining can be a tool for the democratisation of industrial life17 since it replaces authoritarian decision-making with shared regulation. According to the International Confederation of Free Trade Unions, collective bargaining aims to convey in concrete ways

4. The function of rule-making is carried out via collective bargaining. Collective agreements establish commonly accepted norms by regulating employment interactions within the bargaining unit. This shows that there are boundaries to an employer's sovereign power and that groups have the ability to provide for their own internal regulation (for example, through tradition and practise). Thus, collective bargaining can be seen as a pluralistic expression19.

Therefore, collective bargaining is more than just a way to increase pay and improve working conditions. It goes beyond only democratic government in business. It is primarily a method by which a lower social class or group continuously presses for a larger share of social sovereignty, as well as for more welfare, security, and liberty.

Sorts of Collective Bargaining:

There are two sorts of negotiations: integrative or cooperative negotiations and conjuritive or distributive negotiations.

Even while both strive for collaborative decision-making, their methods are different. Distributive bargaining addresses problems where parties have divergent interests and each makes the most of their coercive power. One party's gain is the other party's loss in this scenario. A clear example of distributive or conjunctive bargaining is wage negotiations. Integrative negotiation is concerned with finding solutions to issues that both sides are facing, as opposed to the win-lose syndrome. In this arrangement, neither party can benefit unless the other party also benefits. It creates a method of problem-solving in which both parties come to a satisfying agreement effort for the benefit of both parties. Integrative bargaining is used in productivity negotiations. Productivity negotiating can be broadly defined as agreements in which workers receive benefits of one kind or another, such as a better wage or more leisure time, in exchange for their consent to accept changes in working conditions, procedures, etc.

Conditions for Collective Bargaining - Without a few prerequisites, collective bargaining is impossible. Typically, these are as follows:

1. Parity of Power Between the Two Parties - In order to obtain true negotiating status, management and unions should be roughly equal in terms of power or strength. A weak union cannot even compel management to bargain, much less secure meaningful results for its members. Similar to this, ineffective management might give up so much to strong unions that the deal cannot legitimately be described as the outcome of a bargain. For instance, excessive political oversight and meddling by the ministries weakens the administration and gives the union the appearance of being larger than it actually is.

2. negotiation in Good Faith - The negotiation partners' intentions must be obvious from the outset, and the presence of unspoken goals can only make things more difficult. For instance, if negotiations lead to a standstill and are used as an excuse to shut down the plant.

3. Mechanism to Break a Deadlock - Bargaining may sometimes come to a standstill, with neither managements' nor unions' demands or proposals being budge. Either by an ultimatum like strikes or lockouts, or through third party mediation, like arbitration or conciliation, this impasse can be broken.

Environment for Collective Bargaining

The scope of collective bargaining is not just determined by management and labour; rather, a number of additional elements are equally crucial. First, both the macroeconomic environment and the microeconomic environment have an impact on collective bargaining. For example, in the former, inflation may encourage the union to raise its demands, whereas microeconomic considerations include cost facts and trends, the rate of profit, and so on. Second, the industrial environment, including plant size and technical advancement, has an impact on collective bargaining. Larger factories are therefore better able to absorb wage increases, but seasonal production units confront a number of challenges in doing so. Additionally, collective bargaining is influenced by social and political variables, such as the competition between unions and the proportion of women in the workforce. Finally, the time and era also affect collective bargaining. As government intervention waned, collective bargaining advanced more quickly.

Theories of Collective Bargaining

Using concepts from marketing, governance, and labour relations, Chamberlain and Kuhn have described the theories of collective bargaining. Early industrialization saw collective bargaining as the process for deciding the terms of how labour will be supplied to the market, and unions were viewed primarily as an agency for regulating the labour market and the price of labour or wage. This viewpoint gave rise to the marketing concept. According to governmental theory, the collective bargaining agreement serves as the foundation for the industrial governance system that was developed for the plant or the industry. Therefore, on the basis of checks and balances, management and unions behaved much like a government. The third notion, known as industrial relations, sees collective bargaining as a way for the union to be represented in decision-making and as giving employees the opportunity to influence the policies that governed and regulated their working lives.

Levels of Collective Bargaining

There are various methods used for collective bargaining. The forms range from those in which the government plays a minimal role to those in which it intervenes significantly or from those in which it is outright tripartite. Technically speaking, there are different degrees of collective bargaining, from national to craft.

1. National-Level Bargaining

In this style of negotiation, the dominant union centre and employers' groups negotiate over topics that are fundamental to industrial work. These adjustments could be made annually or every two or three years, depending on the basic salary rates or cost-of-living formula. The consequence would be that all industries and industrial employees embrace these fundamental issues on an equal basis. In small, homogeneous industrial structures, this style of negotiating is relatively simpler to follow25. As a result, given India's vastness and diversity26, it is not feasible. However, sectoral bargaining at the national level has begun to take place in India since the early 1970s27 in industries where the government is a strong stakeholder.

2. Industry-Level Bargaining

In this kind, employers' groups or organizations in one industry collaborate with its labour unions to negotiate. These unions are set up either as industry federations or as registered entities, with branches in various facilities within the same industry. Basic production rules and working conditions that are unique to that industry30 are also included in this sort of bargaining in addition to basic salaries and allowances. This style of haggling is typical in the private sector-dominated industries of cotton and jute textiles, engineering.

3. Corporate-Level Bargaining

This takes place when a company with several plants' corporate management negotiates a single contract with various unions for every one of those plants. Typically, corporate management negotiates on behalf of the company's several plants. The majority of significant public sector organizations, which have numerous locations across the nation, practise it 32. The main advantages of this method are the avoidance of wage conflicts and wage homogeneity among establishments. However, the system is too rigid to account for variations in plants, goods, or technologies that may come from differences in size, age, or employment patterns, as well as the performance that results.

4. Plant-Level Bargaining

In this style of negotiation, the management of a specific plant, factory, or establishment negotiations with the unions that represent that establishment, unit, or facility. The problems, which are entirely related to how well that establishment is performing, can certainly be described in as much detail and depth as feasible. This technique of negotiation is used in the majority of India's private sectors.

5. Craft-Level Bargaining

In this kind of negotiation, the employer enters into separate contracts with various craft unions working for the same company. Airlines are the only industry in India that uses this approach frequently.

Origin and Development of Collective Bargaining in India

- Since Collective Bargaining is a byproduct of trade union activity, it is important to first look into the history of trade unions. The organised labour movement in India is credited to N.M. Lokhande, a former industrial worker. He formed an agitation in Bombay in 1884 and wrote a memorandum outlining his requests, which included a weekly holiday, a cap on the number of hours workers may work, and compensation for accidents. The mill owners in Bombay actually complied with his demands. In actuality, the Bombay Mill Hands' Association was established in 1890 with Lokhande as its chairman and the launch of the workers' periodical "Deenabandhu." Origin and Development of Collective Bargaining in India - Since Collective Bargaining is a byproduct of trade union activity, it is important to first look into the history of trade unions. The organised labour movement in India is credited to N.M. Lokhande, a former industrial worker. He formed an agitation in Bombay in 1884 and wrote a memorandum outlining his requests, which included a weekly holiday, a cap on the number of hours workers may work, and compensation for accidents. The mill owners in Bombay actually complied with his demands. In actuality, the Bombay Mill Hands' Association was established in 1890 with Lokhande as its chairman and the launch of the workers' periodical "Deenabandhu." However, like to many other nations, India's system of collective bargaining benefited from a number of statutory provisions. The Industrial Disputes Act of 1947, the Trade Union Act of 1929, the Bombay Industrial Relations Act of 1946, and the Madhya Pradesh Industrial Relations Act of 1960 all offered mechanisms for consultation and prepared the path for collective bargaining.

Recognition and Validity

The evaluation of the ensuing documents, coupled with the court's rulings, demonstrates the legitimacy of collective bargaining in India. 1. The 1947 Industrial Disputes Act - The Act was essentially created to provide a method for resolving disputes41. A settlement reached by agreement between the employer and workman other than during a conciliation action shall be binding on the parties to the agreement, according to Section 18 of the Act. As a result, any solution other than conciliation that can be reached through a legally binding agreement between the employer and the employee is only a consequence of the collective bargaining agreement. In other words, collective bargaining is recognised by Section 18. In reality, the concept of collective bargaining is included in the Act's definition of settlement.

OPEN ACCESS JOURNAL

The Management of Dimakuchi Tea Estate v. Workmen of Dimakuchi Tea Estate43 reveals from an analysis of the Act's key provisions that its main goals are "(1) the promotion of measures for securing and preserving amity and good relations between the employer and workmen; (2) an investigation and settlement of industrial disputes, between employers and employers, employers and workmen, or workmen and workmen.Additionally, the Court ruled in Karnal Leather Karamchari Sanghatan (Regd.) vs. Respondent: Liberty Footwear Company (Regd.) and Ors44 that the Industrial Disputes Act, passed in 1947, aims to establish social justice through collective bargaining. The infrastructure for delivering justice in industrial adjudication includes voluntary arbitration. Thus, the arbitrator belongs to the wide range of statutory tribunals. The workers must therefore be informed of the dispute and the arbitrator whose decision will eventually bind them when a dispute is referred to arbitration. They need to be

aware of what will be arbitrated, who will be the arbitrator, and what will happen next. They must be given the chance to express their ideas to one another and to present the same before the arbitrator, if necessary. This justifies the need for collective bargaining, which cannot take place without the participation of the workers. The Union simply assists the employees in resolving their conflicts with management; however, it is the employees who will ultimately make decisions and provide solutions. We believe that the arbitration agreement must be made public before the arbitrator decides whether to evaluate the merits of the dispute. Failure to comply with this condition would render the arbitral award null and void.

The Apex Court concluded that the process of negotiated settlements is at the core of the resolution of the collective disputes in the case of Amalgamated Coffee Estates Ltd. vs. Workmen45. A bipartite settlement with a majority union is equally binding if it is deemed to be fair and reasonable, in contrast to a settlement reached via conciliation processes. Similar to this, the court determined in Central Provinces Transport Services v. Patwardhan46 that the Industrial issues Act primarily addresses collective issues.

2. Trade Union Act, 1926 - This law establishes the rights, obligations, and privileges of the union47 and allows for the registration of unions. It is generally known that collective bargaining is one of the methods for regulating such a relation. The main reason why a trade union is formed is to regulate the ties between the employer and employee or among themselves48. The court acknowledges collective bargaining in the matter of D.N. Banerjee vs. P.R. Mukherjee49. In light of the current state of society, where capital and labour have organised into groups in order to fight their battles and settle them on the idea that "Union is Strength," collective bargaining has become more important than ever, according to Justice Chandra Shekhar Aiyer.

Furthermore, the Madras High Court noted in Tamil Nadu Electricity Workers Federation vs. Madras State Electricity Board50 that the basis for the entire theory of organised labour and its legal recognition in industrial legislation is the unequal bargaining power that exists between the capital employer and the individual worker, or disunited worker. This movement is built on the principle of collective bargaining, and it is in the best interests of labour that trade unions have received official recognition for their ability to represent the interests of the workers who are part of their membership.

3. The Industrial Employment (Standing Orders) Act of 1946 - The employer draughts the standing order, which specifies the terms of employment51. According to Section 3 of the Act, the employer must initially provide the Certifying Officer with a draught standing order that as closely as possible adheres to the model standing order52. After receiving any objections, the said Officer shall certify the standing order with the necessary modifications (if necessary) and shall send copies of the certified standing order to both parties. If there is no trade union, the said Officer shall also send copies of the certified standing order to the workmen.

4. The Indian Constitution The Fundamental Rights and Directive Principles of State Policy Chapters of the Indian Constitution provide justification for the legitimacy of collective bargaining. As previously indicated, one of the primary functions of a trade union is collective bargaining, and in this sense, Article 19 enables the formation of associations55, which calls into question the legitimacy of trade unions. Additionally, a number of Directive Principles56 support the measures for enhancing working conditions generally, and Article 43-A in particular mandates that States provide employee participation in management57. Even if the aforementioned Directives

aren't directly enforceable in a court of law, their binding character can nevertheless be proven with the aid of a few Apex Court of India judgements.

Although the directives principles cannot supersede the fundamental rights, the Supreme Court noted in Re Kerala Education Bill case 58 that "the court may not entirely ignore the directive principles in determining the scope and ambit of fundamental rights, but should adopt the principles of harmonious construction and should attempt to give effect to both as much as possible."

Recognition

The "recognition" of the union refers to an employer's or an employers' association's willingness to negotiate with a specific union. Therefore, recognition is the process through which management acknowledges and accepts a trade union as the voice of some or all of the employees in a company or industry and indicates its willingness to engage in dialogue with the union about all matters affecting those employees. When management agrees to negotiate with the relevant union or unions as part of this acceptance, they are referred to be the bargaining agent(s) or agents.61. The National Commission on Labour gave the issue of union recognition a great deal of attention. According to the Commission, it is clear from the that the requirement for union recognition has been realized. The Second Plan featured revisions that were adopted (but not enforced) in the Trade Union Act62 and the Code of Discipline63 as well as the Bombay Industrial Relations Act of 1946 and a few other state Acts (Madhya Pradesh and Rajasthan). The Commission proposed requiring union recognition under a Central Law in any enterprise with 100 or more employees or when the amount of capital invested exceeds a certain size64. The Commission also advocated for recognized unions' rights65. However, there is no national law requiring the recognition of unions. However, a few States have passed the necessary legislation for recognition, including West Bengal, Orissa, Andhra Pradesh, Maharashtra, and Andhra Pradesh.

Conclusion

Collective bargaining is a method of making decisions together and, in essence, it reflects a democratic way of life in business. The sides should be prepared and willing to compromise in order for collective bargaining to succeed, otherwise the entire purpose of it would be defeated70. The process should start with proposals rather than demands. The issue in the Indian context is that the trade union's bargaining strength is impacted by the lack of any Central Level statutory requirements for the recognition of a representative trade union by an employer. Additionally, despite the fact that unorganised labour is a challenge, unions are typically weak. Another trait of Indian Trade Unions that come into conflict is rivalry based on caste, creed, and religion.

Therefore, it is advised that India make provisions for the central level recognition of trade unions in order to maintain peace and harmony between management and employees, which in turn can improve services to the community and thereby promote economic growth. India is obligated by international law to establish efficient mechanisms for collective bargaining72. In this connection, ratification of ILO Conventions Nos. 87 of 1948 and No. 98 of 1949, which both guarantee the right to effective collective bargaining, is also advised for India. In a nutshell, we may say that it is time to repeat history. According to Sir Henry Maine, status gave way to contract in a developing society. The progressive society must shift in a different direction, from contract to status rather than from status to contract, given the importance of collective bargaining as an effective tool for the resolution of industrial disputes.

REFERNCES:

In this strategy, a third party offers assistance with the goal of assisting the parties in coming to a consensus. The conciliator brings the opposing parties together, discusses their disagreements with them, and helps them resolve their issues. Conciliation can be either voluntary or mandatory. It is voluntary when the parties are free to use it, while it is mandatory when the parties are required to participate whether they want to or not. (See Secs. 4 & 5 of the Industrial Disputes Act, 1947)

Similar to conciliation, mediation enlists the aid of a third party to assist the parties in reaching a settlement. But unlike a conciliator, a mediator takes a more active role in helping the parties reach a settlement. He occasionally puts out his own suggestions for resolving their conflicts.

3 Arbitration proceedings may be used arbitrarily or compelled. In order for the arbitrator's decision to be binding on the parties to the dispute, a disagreement must be submitted to mandatory arbitration without the parties' approval or agreement. However, in the instance of voluntary arbitration, the disagreement can only be sent to arbitration with the parties' consent.

Article 23 of the United Nations General Assembly, 1948. Human Rights Declaration of the United Nations. Paris. Obtainable as of August 29, 2007. The right to form unions is listed as a fundamental human right in Article 23 of the Universal Declaration of Human Rights. In addition, the International Labour Organization's Declaration on Fundamental Principles and Rights at Work's Item 2(a) identifies employees' fundamental rights as "freedom of association and the effective recognition of the right to collective bargaining." Organization for International Labor) (1998). Declaration on Basic Values and Workplace Rights. Geneva, 86th Session.

Sydney and Beatrice, Industrial Democracy, 2007 SCC 27. (1987).

Vol. 3, page 628 of the Encyclopedia of Social Sciences

Collective Bargaining (A Worker's Education Manual), International Labour Office, 1960, p. 3. p. 476 of Teller's Labor Disputes and Collective Bargaining, Vol. (1989)4 SCC 448

Labor Law and Labor Relations, Indian Law Institute, 1968, p. 29

12 J.P. Windmuller et al., Collective Bargaining in Industrialized Market Economics: A Reappraisal, ILO, Geneva, 1987

13 N.M. Tripathi Pvt. Ltd., Bombay, Otto Kahn Freund, "Labor and the Law."

14 Power is opposed to power. Their agreements are a legitimate tool for social engineering because to the clash of interests.

15 The Worker and the Law, Lord Wedderburn (1986)

16 Labor Issues in, by V.V. Giri

Industrial Relations and Labour Laws, 4th Ed. Reprint, R. Blanpain & C. Engels, Vikas Publishing House Pvt. Ltd., New Delhi, 2002.

18 Quotation from Collective Bargaining by Mary Sur (1965)

Id. Selig Pearlman's "The Principles of Collective Bargaining," published in the Annals of the American Academy of Political and Social Science in March 1936, is cited in Mamoriá's book Dynamics of Industrial Relations as "The Principles of Collective Bargaining." (1983)

21 The International Confederation of Free Trade Union states that the goal of collective bargaining is for the union to create and strengthen its authority in the workplace (Referenced in Mary Sur, Collective Bargaining). (1965)

Industrial Relation in India: Shifting Paradigm, Ratna Sen, 2003, Macmillan

23 Id. 24 J.W. Kuhn and N.W. Chamberlain, Collective Bargaining, Mcgraw Hill (1951)

As they are essentially small and uniform in their industrial structure, countries like Sweden and Norway frequently operate at the national level.

26 Supra Note 13. 27 Industrial Relations & Collective Bargaining in South Asia, by C.S. Venkata Ratnam and D.P.A. Naidu, ILO, 1999

28 Banks, coal, steel, and docks are a few of these. The Indian Banks' Associations includes private, public, and international banks as members. With the national federations of bank employees in India, they negotiate long-term settlements. For the whole coal business, there is a single national agreement. A permanent bipartite committee for integrated steel mills in the public and private sectors exists in the steel industry. (Ibid).

29 Id. 30 Supra Note 13 Note 18 in the Supra The relevant businesses for corporate level negotiations in India are BHEL

36 Other organisations that were not trade unions in the traditional sense were established during this time, but their establishment sowed the seeds of the working class's awareness of the need to defend their constitutional rights. These organisations' leaders were typically philanthropists or intellectuals. These unions included The Press Employees Union (1910), The Kamgar Hitwardhak Sabha (1909), The Bombay Postal Union (1907), The Printers Union (1904), The Amalgamated Society of Railway Servants of India and Burma (1897), and The Bombay Postal Union.

37 Labor & Industrial Law, 8th Edition, 2004 (Reprint), Allahabad Law Agency, S.K. Puri

38 The Ahmedabad experiment was the only instance of collective bargaining in India, according to the Royal Commission's observation from 1931.

39 Among the important agreements are those reached in 1948 by the T.I.S.C.O., India Aluminium Company, and Bata Shoe Company, 1956 by the T.I.S.C.O. and Tata Workers Union, and others inked by the Ahmedabad Mill Owners Association and the Ahmedabad Textile Labour Association. Additionally, the National Joint Consultative Committee for the Steel Industry reached a number of agreements about the pay scale and related issues for various employee categories.

The coal mining sector also has similar agreements in place.

40 The National Commission on Labour (1969) noted that it is not surprising that collective bargaining agreements are not reached given the absence of arrangements for statutory recognition of unions, except in a few states, and provisions requiring employers and employees to bargain in good faith.

"An Act to make provisions for the investigation and settlement of industrial disputes and for certain other purposes," reads the preamble of the Act.

"Settlement" is defined as "a settlement reached during conciliation proceedings, including a written agreement between the employer and employees reached outside of conciliation proceedings, where such agreement has been signed by the parties thereto in the manner permitted by law and a copy thereof has been forwarded to the conciliation officer and an officer authorised in this regard by the appropriate Government. (Article 2(p))

Industrial Relations and Labour Laws, 4th Ed., Reprint, 2002, Vikas Publishing House Pvt. Ltd., New Delhi. S.C. Srivastava.

72 In accordance with Article 8 of the International Covenant on Economic, Social, and Cultural Rights, which India has ratified, "the State Parties to the Covenant undertake to ensure that everyone has the right to establish trade unions and join the trade union of his choice, subject only to the rules of the organisation concerned, for the promotion and protection of his economic and social interests." No limitations may be imposed on the exercise of this right other than those set forth by law and required in a democratic society for the protection of national security, public order, or the rights and freedoms of others.