

COLLECTIVE BARGAINING AND NEGOTIATING

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DEFINITION OF COLLECTIVE BARGAINING

➤ **Collective bargaining is an adversarial model, in which workers and management negotiate an agreement as how they will work together and relate to one another.**

(Dennis Dresang, Author of the book Public Personnel Management and Public Policy)

DEFINITION OF COLLECTIVE BARGAINING

- A voluntary negotiation between employers or employer's organizations with workers' organizations, with a view to the regulation of terms and conditions of employment by collective bargaining agreements.

(ILO Right to Organize and Collective Bargaining Convention (No. 98) 1949)

DEFINITION OF COLLECTIVE BARGAINING

- **An agreement negotiated between a labour union and an employer that sets forth the terms of employment for the employees who are members of that labour union. This type of agreement may include provisions regarding wages, vacation time, hours of work, working conditions and health benefits.**
- **Discussions, talks intended to produce an agreement.**

NEGOTIATIONS

- ❖ **A negotiation is the art of getting what you want from some one else who has the power to give it to you.**
- ❖ **Discussion between people / one or more parties who try to come to an agreement on some thing.**

ILO PRINCIPLES OF COLLECTIVE BARGAINING

- It is based on 'Freedom of Association' – Convention #87
- ILO Declaration on Fundamental Principles and Rights at Work -promotes obligation to respect, and to operating in good faith:

Convention #151: Protection of the right to Organize and Procedures for determining conditions of Employment

ILO PRINCIPLES OF COLLECTIVE BARGAINING

Convention No. 98.12

The right to collective bargaining should be recognized throughout the private and public sectors, and it is only the armed forces, the police and public servants engaged in the administration of the State who may be excluded from the exercise thereof.

ILO PRINCIPLES OF COLLECTIVE BARGAINING

- The purpose of collective bargaining is the regulation of terms and conditions of employment, in a broad sense, and the relations between the parties.
- Collective agreements should be binding. It must be possible to determine terms and conditions of employment which are more favourable than those established by law and preference must not be given to individual contracts over collective agreements, except where more favourable provisions are contained in individual contracts.

ILO PRINCIPLES OF COLLECTIVE BARGAINING

- It promotes the independence of workers' organizations are independent and not “under the control of employers or employers' organizations”
- It requires that workers' organizations are independent and not “under the control of employers or employers' organizations” and that the process of collective
- Bargaining can proceed without undue interference by the authorities.

ILO PRINCIPLES OF COLLECTIVE BARGAINING

- It recognizes that the voluntary nature of collective bargaining is a fundamental aspect of the principles of freedom of association
- Bargaining is not to be imposed by law
- It is acceptable for conciliation and mediation to be imposed by law in the framework of the process of collective bargaining, provided that reasonable time limits are established.

ILO PRINCIPLES OF COLLECTIVE BARGAINING

Interventions by the legislative or administrative authorities which have the effect of annulling or modifying the content of freely concluded collective agreements, including wage clauses, are contrary to the principle of voluntary collective Bargaining.

FEATURES OF COLLECTIVE BARGAINING

- It is not equivalent to collective agreements because collective bargaining refers to the process or means, and collective agreements to the possible result, of bargaining.
- Collective bargaining may not always lead to a collective agreement.

FEATURES OF COLLECTIVE BARGAINING

- It is a method used by trade unions to improve the terms and conditions of employment of their members.
- It seeks to restore the unequal bargaining position between employer and employee.
- Where it leads to an agreement, it modifies, rather than replaces, the individual contract

FEATURES OF COLLECTIVE BARGAINING

- The process is bipartite, but in some developing countries the State plays a role in the form of a conciliator where disagreements occur, or where collective bargaining impinges on government policy.

Expectations of Collective Bargaining

Centralized Bargaining

- **System wide application and enforceable. It tends to limit flexibility in negotiations at the enterprise level.**
- **Trade unions are more likely to favour centralisation as it tends to strengthen the position of workers.**
- **The amplitude of the scale of bargaining promotes greater labour market coverage, employment and also equality in wages and working conditions.**

Expectations of Collective Bargaining

- **Decentralized Bargaining – plant / company level**
- **Employer organisations tend to prefer company-level agreements.**

Problems and Objectives of Bargaining

- Negotiations appear to be highly fragmented, with a multiplicity of bargaining units. This makes it difficult to conclude agreements at different levels. The main problem in this case is usually the absence of bargaining at sectoral and state level.

Problems and Objectives of Bargaining

- The new productive context includes the emergence of new forms of business organisation and new relationships between companies – for example, in terms of networking and outsourcing. Work is often affected by different companies jointly or interdependently.
- Sometimes, negotiations can be extended for an excessive period of time.

NEGOTIATIONS AND COLLECTIVE BARGAINING

COMMONALITIES

- ❖ **Collective bargaining is specifically an industrial relations mechanism or tool, applicable to the employment relationship**
- ❖ **As a process the two are in essence the same, as the principles that apply to negotiations are relevant to collective bargaining.**

NEGOTIATIONS AND COLLECTIVE BARGAINING

DIFFERENCES

- ❖ In collective bargaining a trade union is involved, and the negotiations are for the benefit of several employees.
- ❖ In negotiations in non-employment situations, collective interests are less or non-existence.

ADVANTAGES OF COLLECTIVE BARGAINING

- **It allows for the settlement through dialogue and consensus rather than through conflict and confrontation.**
- **It has the effect of improving industrial relations in the workplace and tends to improve relations at the workplace between employer and employees**
- **It provides for the settlement of disputes and guarantees industrial peace.**

ADVANTAGES

- **It allows for participation by the parties involved.**
- **It differs from arbitration where the solution is not based on third party decision**
- **Promotes compromise over a win /loss situation**

ADVANTAGES

Collective bargaining usually has the effect of improving industrial relations. This improvement can be at different levels.

- Continuing dialogue tends to improve relations at the workplace level between workers and the union and the employer on the other.
- It also establishes a productive relationship between the union and the employers' organization where the latter is involved in the negotiation process.

THE PRINCIPLE OF GOOD FAITH

In the preparatory work for Convention No.154, it was recognized that collective bargaining could only function effectively if it was conducted in good faith by both parties; but as good faith cannot be imposed by law, it “could only be achieved as a result of the voluntary and persistent efforts of both parties” (ILO, 1981, p. 22/11).

STEPS TO COLLECTIVE BARAGINING OR NEGOTIATING

- Preparing
- Arguing
- Signalling – communication through words or body language
- Proposing -reading signals in order to prioritize proposals
- Packing – making concessions to a proposals
- Bargaining
- Closing
- Agreeing

Practice of Collective Bargaining in the Caribbean

- Voluntaristic vs Legal Industrial Relations Systems
- Voluntaristic system promotes collective bargaining processes such as recognition, collective agreements, gentleman's agreement, acceptance of customs and practice
- System not based on regulations

Practice of Collective Bargaining in the Caribbean

- Legal Industrial Relations System
- The system is based on regulation
- Industrial courts play a major role in IR
- Industrial Tribunals are found in Trinidad and Tobago, Jamaica, Antigua and Barbuda.

Practice of Collective Bargaining in the Caribbean

- All Caribbean countries have developed a legislative and institutional frame work supportive of collective bargaining.

ATTRIBUTES OF A GOOD NEGOTIATOR

- ❖ **Confidence**
- ❖ **Good Planning**
- ❖ **Thorough preparation**

PREPARING FOR NEGOTIATIONS

- **Understand the issues thoroughly**
- **Develop a plan ...Know what you want /List your goals**
- **Identify your best options (know your bottom line....i.e. your minimum)**

PREPARING FOR NEGOTIATIONS

- **List three ways your proposal satisfies your other party's offer**
- **Know your strengths and weaknesses**
- **Anticipate all options (understanding your opponent is one of the most powerful tool in negotiating)**
- **Identify the other side's interest**

GOLDEN RULES FOR NEGOTIATING

- **Seek a win – win situation**
- **Expect to win- go with the attitude that you will get what you want**
- **Learn from experiences – negotiating is not a game**
- **Recognize that everything is negotiable – focus on negotiation style and tactics**

GOLDEN RULES FOR NEGOTIATING

- **Never attack the demand, but only the rationale behind it**
- **Be creative think out the box**
- **Learn to listen**
- **Give and take**
- **Don't settle for too little**

GOLDEN RULES FOR NEGOTIATING

- **Don't concede too much at first**
- **Recognize that it isn't over until its over (i.e. get an agreement in writing)**
- **Maintain a good relationship throughout and after the negotiation process**

THE CONTENTS OF AN AGREEMENT

- ❖ The date of the commencement of the agreement
- ❖ Its duration – when will it terminate, or may be terminated, and how will it be terminated
- ❖ A definition of terms which may otherwise be ambiguous
- ❖ The procedure for the settlement of disputes regarding interpretation, as well as other disputes

THE CONTENTS OF AN AGREEMENT

- ❖ **The consequences in the event of breaches of the agreement**
- ❖ **As regard wages, exactly how conversion of employees wages to new scales is to be affected.**
- * The signing of an agreement does not ensure its successful implementation.**

***END OF
PRESENTATION!***



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