

**COLLECTIVE BARGAINING
AN ESSAY ON
THEORIES AND PRACTICE**

Dissertation in part fulfilment of
M. Phil. Degree Course of the
UNIVERSITY OF POONA

Submitted by
K. P. R. SESHAGIRI RAO

Gokhale Institute of Politics and Economics

POONA - 411 004

1978-79

**COLLECTIVE BARGAINING : AN
ESSAY ON THEORIES AND PRACTICE**

**DISSERTATION IN PART FULFILMENT
OF M.PHIL. DEGREE COURSE OF THE**

UNIVERSITY OF POONA

SUBMITTED BY

K.P.R. SESHAGIRI RAO

GOKHALE INSTITUTE OF POLITICS AND ECONOMICS, PUNE

1978-79

ACKNOWLEDGEMENTS

I would like to express my deep indebtedness to Dr. G.N. Rao, my Dissertation Guide, who helped me in various ways all through my work. I take this opportunity to record my deep sense of gratitude to him.

I am equally grateful to Prof. V.M. Dandekar, Director, Gokhale Institute of Politics and Economics, Pune, for providing me with all facilities and for offering me a Junior Fellowship.

I am especially grateful to Prof. Tippa Reddy, and Prof. Raghuram of Osmania University for their valuable suggestions.

I am immensely thankful to Shri V.N. Inamdar who has very kindly accepted the typing work at a very short notice and did the job well. I gratefully acknowledge the help received from the Servants of India Society's Library Staff.

Help and cooperation received from my colleagues and from my better half, Ranganayaki, are also acknowledged with thanks.

Gokhale Institute of
Politics and Economics,
Pune-4.

K.P.R. Seshagiri Rao

June 30, 1979

CONTENTS

	<u>Page</u>	
ACKNOWLEDGEMENTS	(1)	
LIST OF TABLES	(111)	
INTRODUCTION	(iv)	
 <u>Chapter</u>		
I	COLLECTIVE BARGAINING: CONCEPT AND THEORIES	1
II	COLLECTIVE BARGAINING IN THE U.S.A.	24
III	COLLECTIVE BARGAINING IN INDIA	37
IV	COLLECTIVE BARGAINING VERSUS GOVERNMENT REGULATION	52
V	SUMMARY AND CONCLUSIONS	67
BIBLIOGRAPHY		79

LIST OF TABLES

<u>Table No.</u>		<u>Page</u>
1	Industrial Disputes, Workers Involved and Man-days Lost in India, 1951-1973	42
2	Particulars of Agreement	45
3	Trends in Money Wages and Real Earnings Per Worker.	50
A ₁ .1	Work Stoppages Resulting from Labour- Management Disputes from 1945 to 1972 in the U.S.A.	74
A ₁ .2	International Comparisons of Statistics Relating to Stoppages due to Industrial Disputes in Mining, Manufacturing, Construction and Transport	75
A ₂ .1	Total Number of Awards and Agreements Arrived at between the Managements and Labour from 1966 to 1977 in India	76
A ₂ .2	(Important) Agreements Arrived at between the Management and Their Workers relating to Duration Covering More Than 20 Workers : 1974 to 1977	77
A ₂ .3	Number of Awards and Agreements Arrived at between Management and Labour Relating to Causes	78

INTRODUCTION

The field of industrial relations has become thorny and complicated in the modern world. This is particularly so in capitalistic and semi-capitalistic Third World Countries. These societies characterized by a divorce between the workers and the means of production, acute poverty and inequalities of wealth and income, exhibit industrial disharmony in terms of strikes, lockouts, work stoppages and consequent loss of work-days. Though the developed Western World is not free from this industrial strife experience of life and force of circumstances taught them to evolve their own social and legal institutions to sort out their problems in the industry. One such socio-legal entity which has acquired a historical sanctity and proved its utility in the field of industrial relations is collective bargaining.

The present exercise addresses itself to certain basic questions such as the following: Can we draw any lessons from the experience of the industrialized countries of the Western world to tackle the thorny labour problems of the Third World Countries? How is it that the Third World Countries like India failed so far to emulate the West in evolving a suitable and effective system of institutions like collective bargaining to soothen the situation? Are there any special reasons for this state of affairs? If so, could we

think of any suitable remedies? These are the questions that come to one's mind.

The present study may be broadly divided into two parts. Part I deals with the conceptualization and a theoretical discussion of the various bargaining models and their scope and limitations in understanding the phenomenon. Part II deals with the experience of the U.S.A., the U.K. and India. The experience of the U.S.A. and the U.K. is analysed at length with a view to understand the relative success of the collective bargaining and the reasons thereof. This, viewed together with comparative failure of this socio-legal institution to make much headway in India would, it is hoped, make the issues clearer and the perspectives wider.

CHAPTER I

COLLECTIVE BARGAINING: CONCEPT AND THEORIES

1.00 Place of Labour in the Industrial Economy

'Labour' is the backbone of industry both from national as well as international point of view. The term labour refers to any work that is mental or manual undertaken for a monetary consideration. Sometimes the term labour is used in a very broad sense of total working force, which includes all kinds of workers. The working force is not only a significant segment of the population and beneficiary of the fruits of development but is also the most important instrument for the achievement of national objectives. The prosperity of any nation depends on the proper solution of various problems of labour engaged in different industries. 'Labour' is a major factor in the process of production and its great role cannot be over-emphasized.

1.10 Pre-Industrial Revolution Period and the Worker

The rise of modern economy, with a complicated industrial system has given rise to many labour problems such as problems of wages, industrial housing, health, unemployment, etc. Besides these economic problems there are also non-economic problems of psychological and social dimensions which cannot be ignored. Before the Industrial Revolution took place there was only a system of individual bargaining. The terms of

employment were laid down by the employer unilaterally and the individual worker had to either accept them or quit. Trade unions had not yet come into existence and there was a big competition among the unorganized workers. Individual bargaining came into being. Under individual bargaining set up individual worker may be tempted to accept undesirable conditions and may thus bring down the general level of remunerations. If a worker bargains individually with his employer he is only one among the workers and unless he is a key man with qualifications which are in great demand the employer can easily carry on his business without him. On the other hand, the employee may need a job immediately in order to provide for himself and his family and may have to accept whatever wages and conditions the employer offers.

1.20 Industrial Revolution and the Worker

After the advent of Industrial Revolution trade unions came into existence in every country and slowly began to bargain collectively. In the Western world the unions came to occupy an established position in the country's industrial system and they formed an important plank in the machinery of industrial relations. Unfortunately in India trade unions did not grow up on sound lines partly because 70 per cent of the workers belongs to unorganized sector like agriculture, construction, handloom, etc., and partly because of intervention of political parties and the consequent intra-party rivalries. According to reliable estimates the proportion of union members

to the total number of workers in 1962-63 could be placed at about 24 per cent in sectors other than agriculture. If workers in agriculture were also included the percentage of organized labour will fall considerably. So in the absence of proper organization they are not able to establish their reasonable claims. The workers can prevent such a situation by forming the trade unions and bargaining collectively. Such action will also frequently help ensure greater equality of treatment and standardization of conditions and the disappearance of unwarranted differences and discriminations.

1.30 The Concept of Collective Bargaining

The term collective bargaining came into existence at first in Great Britain in response to certain conditions created by the Industrial Revolution. It is a process of negotiations of the terms and conditions of employment between employers and employees with least interference from the third party. It is by and large a bilateral affair between the employers and the trade unions. It came to be regarded as the most effective instrument to settle the industrial disputes involving wages and other conditions of employment. According to Dale Yoder "collective bargaining is essentially a process in which employees act as a group in seeking to shape conditions and relationships in their employment".¹ In other words

1 Dale Yoder. Personal and Labour Relations. New York : Prentice-Hall, Inc., 1938, p. 97.

it is a continuous process where a number of work people enter into contracts as a bargaining unit with an employer or group of employers with the object of reaching an agreement on wages and other conditions of employment.

To quote another authority, L.G. Reynolds, "Trade unions try to advance the interests of their members mainly by negotiating agreements usually terms union contracts or collective agreements with the employers. The process by which these agreements are negotiated, administered, and enforced are included in the term of collective bargaining."² This means the term collective bargaining covers negotiation, administration, interpretation, and enforcement of written agreements between both the parties representing the policies and procedures governing wages, rates of pay, hours of work, etc.

The National Commission on Labour observed that "the best justification for collective bargaining is that it is a system based on bipartite agreements, and as such, superior to any arrangement involving third party intervention in matters which essentially concern employers and workers."³

Collective bargaining is a dynamic process and is constantly expanding. The procedure of collective bargaining

² L.G. Reynolds. Labour Economics and Labour Relations. New York : Prentice-Hall, Inc., 1950, p. 169. (2nd Ed. 1955)

³ Report of the National Commission on Labour 1969. Government of India, Ministry of Labour Employment and Rehabilitation, p. 325.

differs from one industry to another, one country to another, depending upon the geographical distributions.

1.40 Models of Collective Bargaining

Any model (either economic or bargaining) is an abstraction or caricature of the actual conditions. In so far as it is an abstraction or caricature it has to shed certain aspects of reality and also make some unrealistic assumptions. To that extent reasons for the divergence between the model and actuality are built into the very system and complaints about the model being unrepresentative remain as mere truisms.

However, this model building is not without its advantages. Unlike the physical sciences social sciences lack the facility to experiment in the four walls of a laboratory. Human society is itself a vast and complex laboratory for a social scientist. This makes his task of eliciting patterns and order in human behaviour and establishing causal relationship between phenomena difficult. Hence a social scientist has perforce to select the more relevant variables and find out the causal relationships. When a social scientist discards or ignores certain variables as unimportant and picks up a few others as relevant he is taking the first steps in model building. How far the inferences that he draws from his model are effective in explaining the phenomena partly depends upon the social scientist's a priori understanding of the situation. With all these limitations a model captures the essential features of the situation and points out the significant patterns and

causal interrelationships. Such inferences with all their limitations, are highly useful not only in understanding the phenomena but also in seeking solutions to the practical problems. In what follows we discuss certain models of collective bargaining.

1.41 Hicks' Theory of Wages

As early as 1932 Sir John Hicks tried to explain the bargaining process in terms of employer concession curve and union resistance curve. His theory depends basically on the theory of strikes. It is a weapon for the trade unions to secure the favourable terms for their members. "The central factor in the bargaining is the mutual threatening with a strike. Both parties will have in mind some extreme wage rate which they will accept rather than strike. ... The longer the strike the bargainer expects, the more unfavourable will be his extreme wage rate."⁴

Employer's Concession Curve

When a trade union is demanding higher wages there are two alternatives to the employer, one is he has to pay them higher wages or on the other hand he must incur loss which will follow from a strike. If the loss from the stoppage of work is less than the concession he will resist and if concession seems cheaper he will meet the union's demands. It is obvious

⁴ J. Pen, "The General Theory of Bargaining," American Economic Review, Volume No. 42, March 1952, p. 25.

that the higher is the wage demanded by the union, the greater will be the cost of concession and therefore the more likely he is to resist.⁵ (Figure 1.)

If we construct a schedule for wages and the length of strike we will get employees' concession curve. This curve will start from point M. Thus, OM is the wage rate which would have been paid by the employer if there is no trade union. The curve will rise up to a fixed point since there is some wage beyond which no trade union can compel an employer to go. If the trade unions demand higher wages beyond that point the employer will shut down his firm. At any lower wage the employer will pay the wage demanded by the union.

Union's Resistance Curve

The union representatives would like to obtain higher wages for its members. If they are not able to secure the wage, they will resist by declaring a strike. How long they will resist or how much time they are prepared to stand out will depend upon the length of strike, the present unemployment and future low wages. It will vary according to the prospects of gain from the strike. (Figure 2.)

The union resistance curve cut the line MM_1 at point Q. That is, beyond this point, the union will not agree whatever the terms offered by the employer. Both the curves will determine the wage rates. (Figure 3.)

⁵ J.R. Hicks. The Theory of Wages. London : Macmillan, 1963 (Second Edition), p. 141.

Figure 1
Employers' Concession Curve

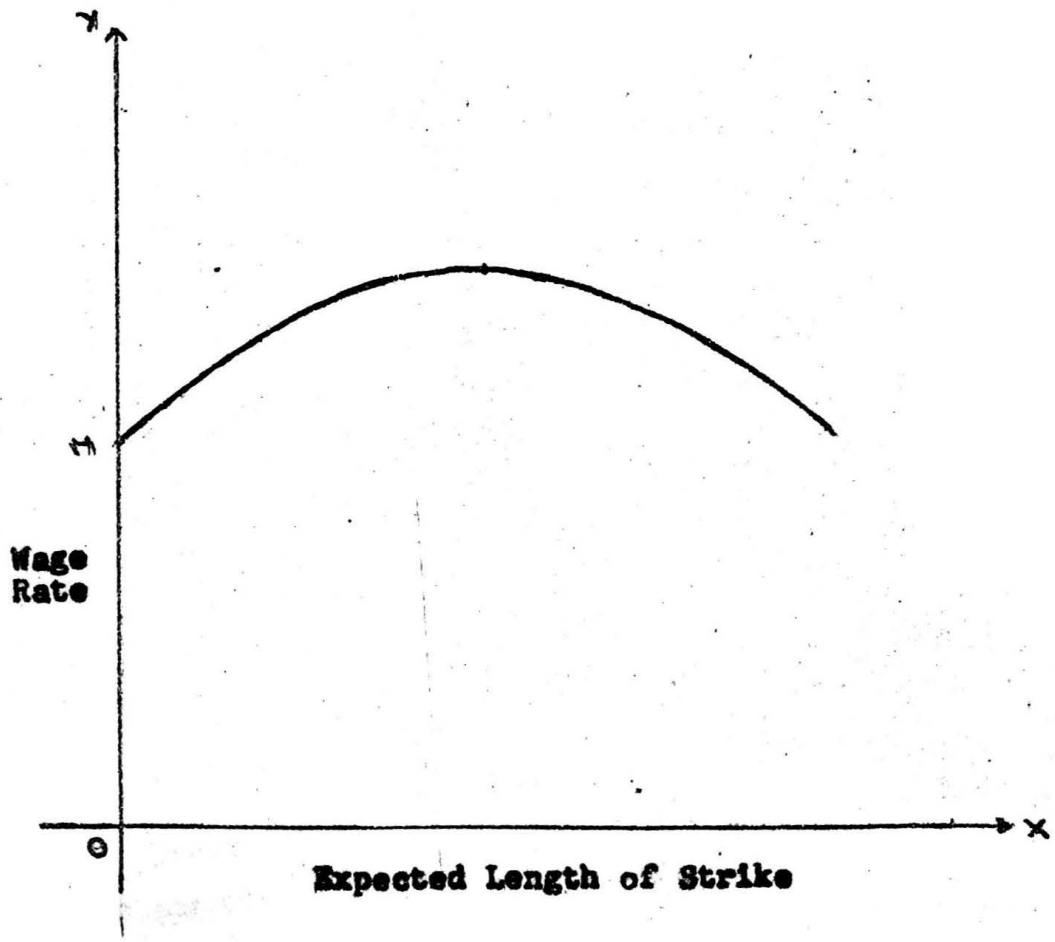


Figure 2
Unions' Resistance Curve

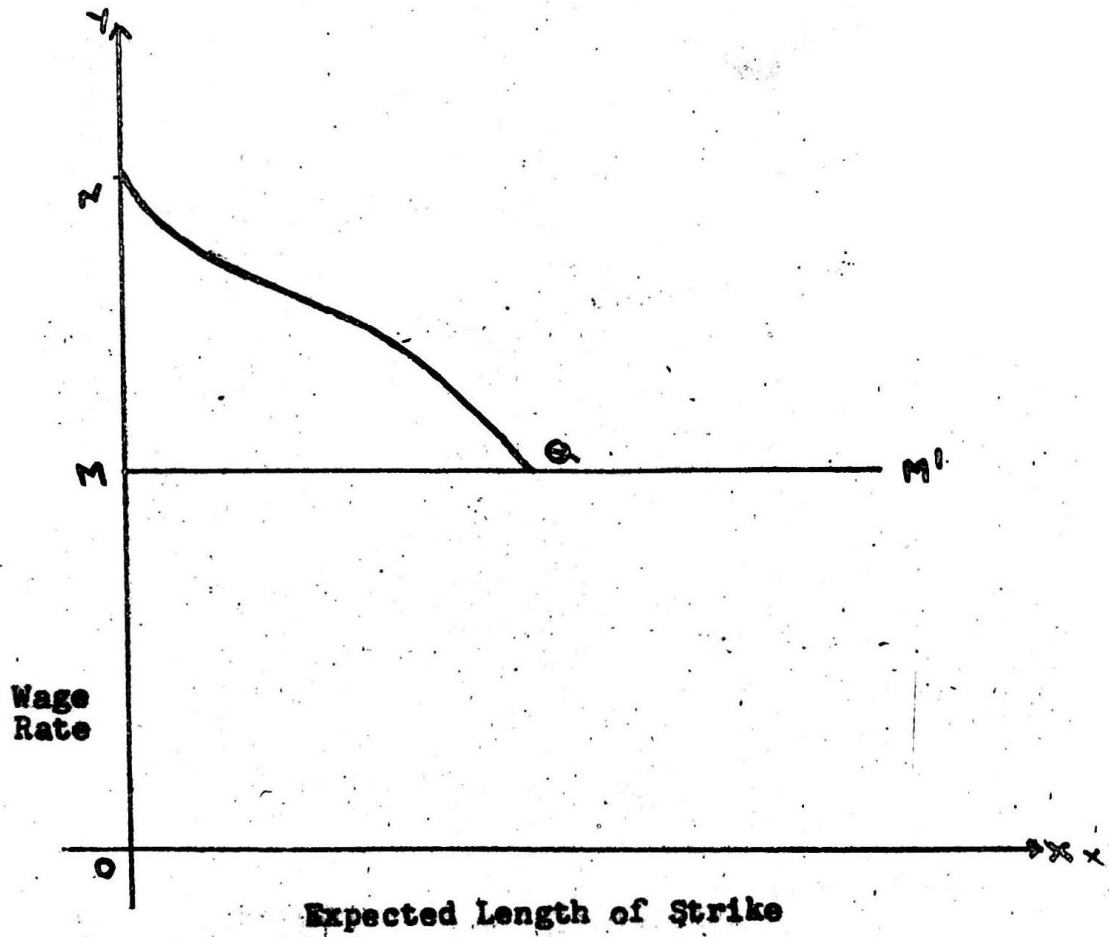
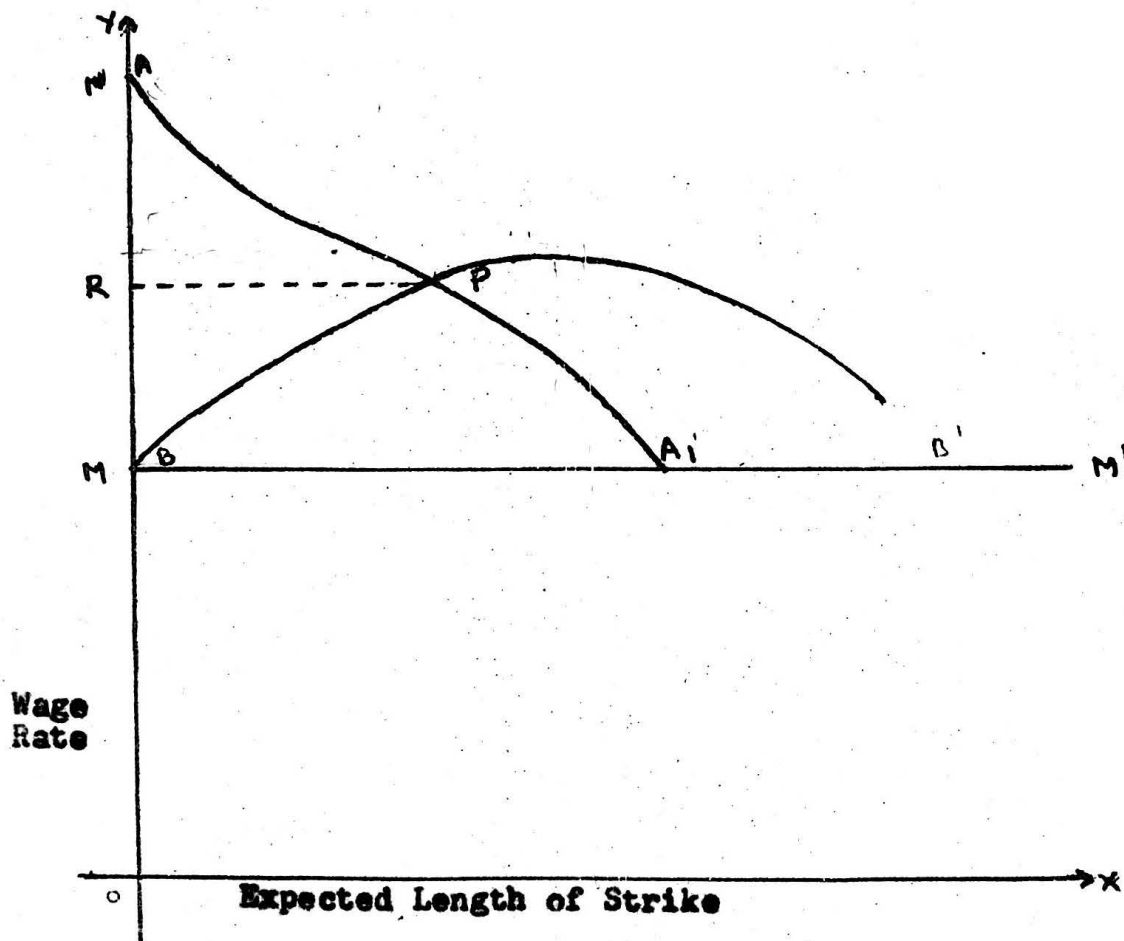


Figure 3



AA₁ = Unions' Resistance Curve

BB₁ = Employers' Concession Curve

The employer's concession curve will start from the Y axis from the point where OB is the wage which the employer would have paid if there is no pressure from trade unions. The union resistance curve will start from Y axis from the point A because sometimes the union will not desire to go beyond some wage and this curve will cut MM_1 at some finite distance which means that beyond that point the unions cannot last out whatever the terms offered. Both curves will cut at a point P and the wage OR corresponding to this point is the highest wage which skilful negotiation can extract from the employer. If the union representatives demand a wage higher than this the employer will refuse it because the strike undertaken by the employees is lesser evil.

Chamberlain criticised this model by stating that the bargaining power is relative to one's demand and each party's bargaining power is determined by the economic, political and psychological context within which negotiations take place. According to him each party of course attempts to strengthen its bargaining power vis-a-vis the other. His model is representative of simple bargaining power models and these types have generally limited themselves to considering only how the terms of the agreements are influenced by the bargaining process.

1.42 Fellner's Theory of Collective Bargaining

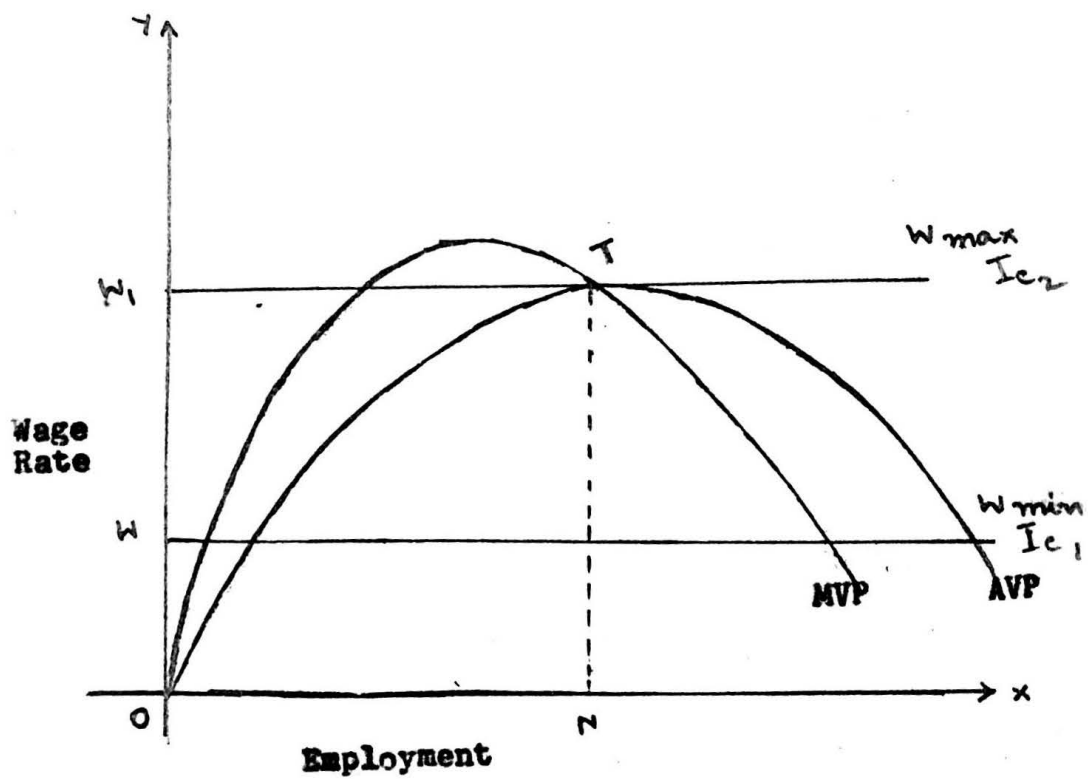
William Fellner has attempted an extended and sophisticated approach to wage employment determination through

collective bargaining. According to him the theory of bilateral monopoly has a direct bearing not merely on price and output in certain product markets but also on the more generally significant problems of wage rates and employment under collective bargaining. Analysis of bilateral monopoly only brings out two limits, the upper limit sought by the union and the lower limit set up by the employer. Within the range the relative bargaining strength of the union and the employer are important in determining the wage rate. He summarized the theory in terms of employees indifference curves and marginal value productivity curves.

An indifference curve reveals the attitude of the labour representatives with respect to the advantages of high wages on the one hand and more employment on the other. The curves marginal value productivity and average value productivity show the employers' demand curve for labour.

If the indifference curves are horizontal straight lines they indicate that the trade union does not bother about the effect on employment or the wage rate fixed. The union seeks to achieve the maximum possible wage rates and cares nothing about the likely effect on the employment. (Figure 4.)

As we move upward on the Y axis each successive indifference curve represents a higher level of satisfaction corresponding to the higher wage rate. The upper limit of bargaining range which will be set by the union is OW_1 where the AVP curve is tangent to the IC_2 . If the wage rate was raised

Figure 4

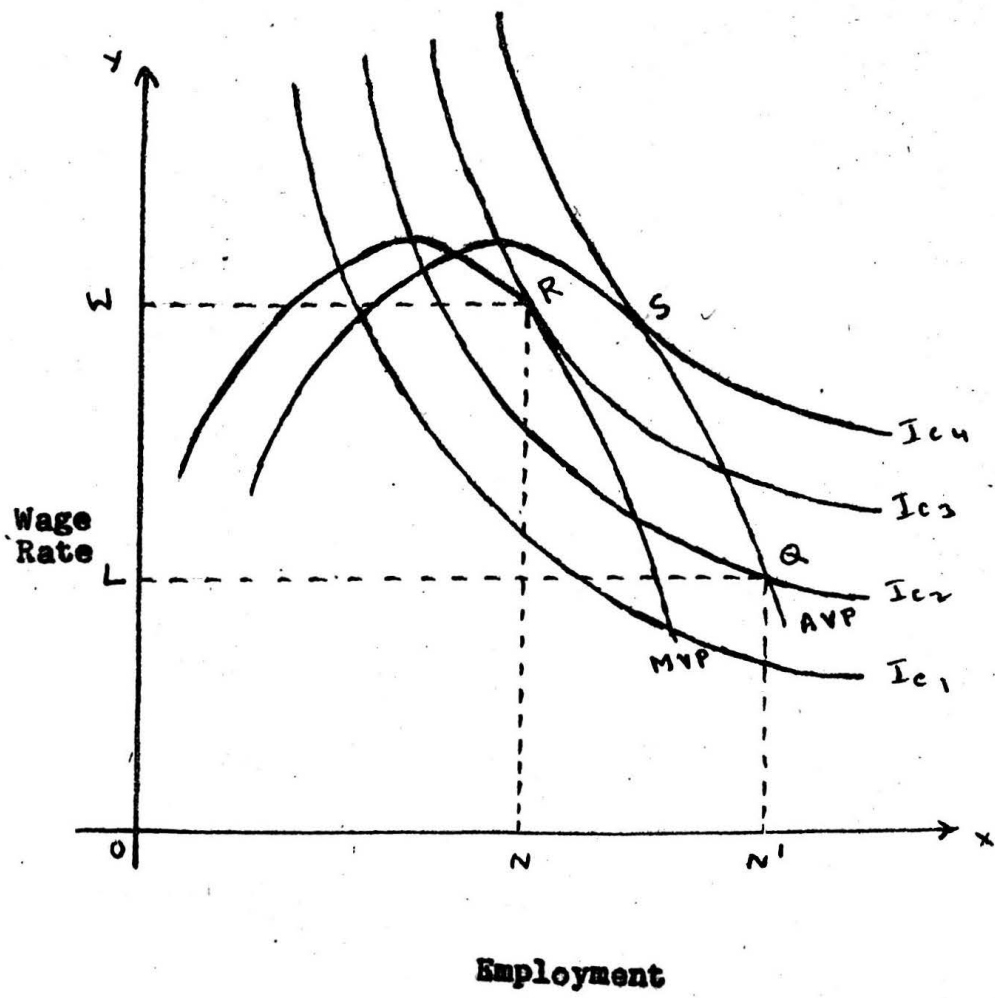
- AVP = Average Value Productivity Curve
 MVP = Marginal Value Productivity Curve
 W_{max} = Upper Limit of Bargaining Wage Rate
 W_{min} = Lower Limit of Bargaining Wage Rate
 I_{c1} & I_{c2} = Indifference Curves

higher the firm would go out of the business. It should be noted that the trade union will not seek the wage rate above OW_1 , though its satisfaction goes on increasing as the wage rate rises. This is because any wage rate higher than average value produce will mean losses for the employer and he would rather stop production than to pay the wage rate higher than AVP.

If the indifference curves are convex to the origin that means the trade union is likely to seek a certain optimum combination of wage and employment considering the wage rate and employment as substitutes to some extent. (Figure 5.)

The trade union will obtain maximum possible satisfaction at the point on the given marginal value productivity curve, to which the indifference curve of the union is tangent. At point R, the curve MVP is tangent to IC_3 , at that level the average rate is OW and the employment is ON_3 . Point Q is the lowest limit of satisfaction of the union. Therefore, the wage employment which will be determined as a result of collective bargaining will lie somewhere between R and Q on the MVP curve, i.e. the wage rate determined as a result of bargaining between the employer and the union will lie between OW and OL . If the union is relatively more powerful the wage rate arrived at will be closer to OW and on the other hand, if employer has a relatively greater bargaining strength, the wage rate will lie closer to OL . It may be pointed out that in an all or nothing bargaining and demand for wage rate together with a particular employment a strong trade union may be able to secure wage

Figure 5



employment combination indicated by the tangency of the average value productivity curve with indifference curve, i.e. the point S in the above figure. A powerful trade union in an all or nothing bargaining will insist on and may be able to secure wage employment combination represented by point S where IC_4 is tangent to AVP.

Criticisms

Fellner's analysis gives us an area of indeterminacy in which the bargaining may be settled at any point so he failed to give a particular wage determination point under collective bargaining. He judged the employer's behaviour by the marginal value productivity curve, and it takes too much simplified view of employer's side and does not involve his preference function.

1.43 Chamberlain's Model of Collective Bargaining

Chamberlain's model is representative of simple bargaining power models. He defines bargaining power as follows: "The bargaining power of A is the cost to B of disagreeing on A's terms relative to the cost to B of agreeing on A's terms."⁶ The bargaining power of B can similarly be defined. The following equation presents the relationship between the bargaining power of A and B.

⁶ Bewars Dupre Mabry, "The Pure Theory of Bargaining," Industrial and Labour Relations Review, Vol. 18, No. 4, July 1965, p. 494.

<u>Cost to B of disagreeing on A's terms</u>	>
Cost to B of agreeing of A's terms	=
	<

<u>Cost to A of disagreeing on B's terms</u>
Cost to A of agreeing on B's terms

Chamberlain's concept of cost, of course, includes both economic and non-economic costs. He also concedes that these costs might vary as the terms are changed. However, his model of collective bargaining has been criticised on three counts.

Firstly, it is considered as somewhat one-sided approach to bargaining since it focusses primarily on the losses incurred in bargaining. As one critic put it: "There are also rewards or benefits which result from bargaining, but Chamberlain makes no effort to relate the negative and positive aspects of bargaining, as is done through the net gain functions."⁷ Again, Chamberlain fails to reduce the monetary and non-monetary aspects to bargaining conceptually to a common denominator.

Secondly, Chamberlain's model also lacks a theory of motivation in determining the benefit levels to be sought by the parties.⁸ As stated earlier Chamberlain concedes that the bargaining power changes with the benefits or terms that are considered. In point of fact with changes in benefits a change also occurs in the strength of a party's motives to seek or

7 Ibid.

8 Ibid.

resist those benefit levels. After all, "the ability of the parties to influence each other's motives to cause them to shift or change, is the essence of bargaining power".⁹

Lastly, labour supply and labour demand which are not unimportant in any model of collective bargaining are completely left out of Chamberlain's model.

1.44 Pen's Model of Collective Bargaining

The focus of Pen's model is on bargaining under conditions of uncertainty. Pen's model is concerned not only with the manner in which the terms of agreement are influenced by bargaining but also with how benefits are subjectively evaluated by the bargainers and with equilibrium conditions for settlement of the agreement. According to Pen, the terms of the bargain can be expressed in terms of ophelimity (utility) evaluation functions and the estimates of the cost of bargaining can be measured in such subjective terms. According to him, bargaining power of labour is:

$$\phi_L \left[\frac{L(w_1) - L(w)}{L(w_1) - L_c} \right] - F_1 [E(w) - E_c] \begin{matrix} > \\ = \\ < \end{matrix} 0,$$

and bargaining power of the employer is:

$$\phi_E \left[\frac{E(w_e) - E(w)}{E(w_e) - E_c} \right] - F_e [L(w) - L_c] \begin{matrix} > \\ = \\ < \end{matrix} 0$$

where ϕ (L or E) = Labour's (employer's) risk valuation factor;
 $L(w_1)$ or $E(w_e)$ = Labour's or Employer's ophelimity function for desired wages

9 Ibid.

$L(w)$ or $E(w)$ = Wage under consideration.

L_c or E_c = Wage resulting from conflict.

F_1 or F_e = Risk of resistance factor.

$L(w_1) - L(w)$ is the cost of agreement to labour i.e. what labour loses if it accepts the offer under consideration.

$L(w_1) - L_c$ is the cost of disagreement to labour i.e. the difference between what labour desires and what it gains from conflict.

$E(w) - E_c$ is the employer's will to resist the actual price minus what the opponent will be forced to pay.

Mabray reformulated Pen's model thus:

$$\phi L(\text{or } E) \left(\frac{\text{Cost of agreement}}{\text{Cost of disagreement}} \right) - F \left(\begin{array}{l} \text{Opponent's will} \\ \text{to resist} \end{array} \right) \begin{array}{l} > \\ = \\ < \end{array} 0$$

According to Pen, settlement will be reached between the employers and employees when each party's estimated costs of agreement relative to the cost of disagreement are equal to the opponent's estimated will to resist.

Pen's model of bargaining is criticised in some respects.

Firstly, though Pen recognises the functional relationship between wages and the satisfaction derived from each wage level, he does not "functionally identify the levels of dissatisfaction associated with each level of wages and thereby derive a net gain function. For this reason his theory of motivation is incomplete."¹⁰

Secondly, Pen's formulation of equilibrium condition is

¹⁰ Mabray, op.cit., p. 495.

incorrect. Instead of formulating the equation of

$$\left(\frac{\text{Cost of agreement}}{\text{Cost of disagreement}} \right)$$

Pen should have, according to Mabray, stated his equation as
 " (Cost of disagreement minus cost of agreement)".

Thirdly, a model should explain how equilibrium is restored when disequilibrium sets in. Pen's model does not show this. All that the model tells us is whether or not the parties are motivated to seek or resist a change in benefits.

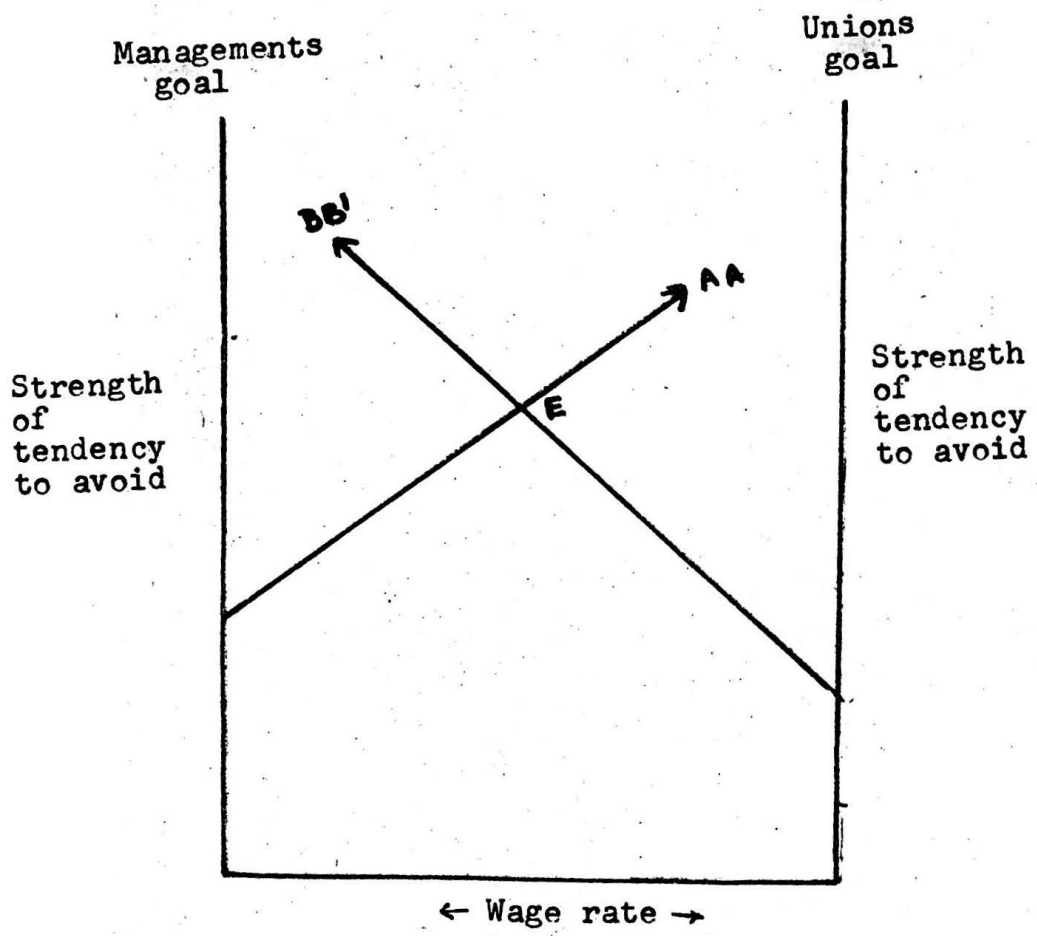
1.45 Stevens' "Avoidance-Avoidance" Model

According to Carl Stevens bargaining can be viewed as a conflict situation in which employers and employees are required to make choices between two undesirable alternatives. In this "Avoidance-Avoidance" model union's goal and the management's goal represent extreme ultimate positions. A range of wage rates separates the distance between these extreme positions.

Management has to bear some costs if it settles on union terms, if it sticks to its own position (terms) an industrial conflict might ensue in which along with labour, management might also have to bear some costs. (Figure 6.)

"Management's motivation to avoid a settlement on the union's terms increases as the union's terms are approached in bargaining (AA in Figure 6) and an increasing risk of conflict also motivates management to avoid a settlement on management's terms (BB' in Figure 6). The point of intersection of the two avoidance curves determines a compromise position and a point

Figure 6



of possible settlement (E). The union has a similar set of avoidance curves. In bargaining, a party attempts to raise avoidance curve AA or to lower the avoidance curve BB', in order to bring about a settlement favourable to itself. A settlement can be reached only if both parties arrive at the same value for E and furthermore, both parties must be aware that such an "E" exists."¹¹

Like all models of bargaining Stevens' "Avoidance-Avoidance" model is also subject to certain criticisms. Firstly, it is stated that though collective bargaining is a tension-producing situation, it is not really comparable to a vacillating, neurotic behaviour. Besides, the goals are multiple and not restricted to two competing ones. Secondly, it is stated that the wage rate concept is not a good substitute for the concept of "distance" from a goal.

1.46 Scope of the Bargaining Models

Now a question arises as to how far these various models described above explain the phenomenon of collective bargaining. Is the explanation satisfactory? Is it adequately covering the relevant variables? Answers to these questions do not readily come in the affirmative form.

Like all models and theoretical postulates in economics, these models of bargaining have their own limitations a few of which are cited earlier. But some of the common limitations of the models may be stated for purposes of clarity.

11 Ibid., p. 496.

Firstly, "bargaining theory is essentially a qualitative rather than a quantitative approach to the analysis of bargaining behaviour".¹² Secondly, the bargaining theory seems to rest on certain unrealistic assumptions. For instance it is normally assumed that both the employers and employees are aware of the appropriate demand and supply functions. Actually, it is through the process of bargaining and through the exchange of information that a common estimate of these functions is approximated. And as it is only too well known, even if one assumes away this difficulty, one has still to contend with the fact that in a bilateral monopoly theory, there continues to exist, a range of indeterminacy with respect to the wage rate. Hence the theories as described above do not provide a final answer to the understanding the complex situation. The crux of the matter is that the model-builders are unable to quantify in terms of costs and returns the essentially non-quantifiable items like prestige of the parties, public opinion, etc. It is understandable, for after all, collective bargaining is a multi-dimensional phenomenon.

12 Ibid., p. 499.

CHAPTER II

COLLECTIVE BARGAINING IN THE U.S.A.

2.00 The Concept in the U.S.

In the U.S.A. the term collective agreement implies, 'a document setting forth in precise detail, what the conditions are'.¹ Collective bargaining is a complex phenomenon. It had evolved and flourished outside the courts and often in the face of legal interference. "In recent years some twenty million employees in the United States had obtained terms and conditions of employment determined through collective bargaining."² Thus, it is playing an important role in American economy.

2.10 A Brief History

The development of collective bargaining or relationship between the unions and employers had been discontinuous upto the middle of the nineteenth century. In 1917 the unions got the right to organize and bargain collectively under the National War Labour Board, but after this most of the employers' organizations attacked the policy of the government on the legal

1 P. Ford. The Economics of Collective Bargaining. Oxford, 1958, p. 2.

2 Roy B. Helfgott. Labor Economics. New York : Random House, 1974, p. 131.

recognition of trade unions. The National Labour Relations Act of 1935 usually known as Wagner's Act provided the workers for the first time the right to form unions.

The National Labour Relations Act signed by the then President Franklin D. Roosevelt declared: "It is hereby declared to be the policy of the U.S.A. to eliminate certain substantial obstructions to the free flow of commerce, and to mitigate and eliminate these obstructions where they have occurred by encouraging the practice and procedure of collective bargaining. ..."³

In the U.S.A. the provocation for strikes in almost all cases come from the unions which make demands upon the employers. However, there have been instances of strikes resulting from employer's demands for changes in the collective agreements for which unions refused. According to Ross and Irwin: "It is significant that the ratio of lost working time to the total working time in U.S.A. was higher than in any other country studied. ... The average annual loss per member was approximately twice that in Sweden and Canada, three times that in Australia and four times in U.K."⁴

³ Heron R. Alexander, "The Scope of Collective Bargaining," in Shister Joseph (ed.). Readings in Labour Economics and Industrial Relations. J.B. Lippincott Company, 1956, p. 206.

⁴ Arthur M. Ross, and Donald Irwin, "Strike Experience in Five Countries 1927-1947. An Interpretation," Industrial and Labour Relations Review, Vol. 3, April 1951, p. 333.

2.20 Industrial Disputes in the U.S.

The number of strikes and man-days lost from 1945 to 1972 are presented in Table A₁.1, which states that on an average the number of strikes that took place was 4,270 involving 2.27 million workers. The main cause for the disputes was the increase in the cost of living after the World War II and consequent fall in the real wages.

If we compare the strikes in U.S.A. with other countries, the number of strikes is not particularly high but the man-days lost due to strike is much higher than all the countries except Canada and Italy. This is obvious from Table A₁.2. The man-days lost through strikes have been at a notably low level upto 1963. The average level of strike activity in the six years 1960-1965 as measured by the percentage of estimated working time was half the level of the preceding ten years, 1950-1959.⁵ A significant change in public policy towards union recognition emerged from ^{since} Wagner Act of 1935.

2.30 The Wagner Act, 1935

The Act assumed that the industrial unrest was mainly because of employers' resistance to recognize the unions. An important section of this Act states that "employees shall have the right to self organization, to form, join or assist labour organization, to bargain collectively through representatives of their own choosing and to engage in concerted activities

⁵ John T. Dunlop, and Neil W. Chamberlain (ed.). Frontiers of Collective Bargaining. New York : Harper & Row, 1967, p. 18.

for the purpose of collective bargaining and other mutual aid or protection."⁶

It made some unfair labour practices on the part of employer illegal. If one employer interfered with his employees' union organization process or tried to dominate such unions and if he is not interested in bargaining with the newly formed unions, it was deemed as an unfair labour practice. To supervise all the disputes the National Labour Relations Board with quasi-judicial powers was established. The Board has strict rules governing attempts by outside unions to displace the already recognized unions. Understandably the Act met with stiff opposition from the employers. In many basic industries they intensified their resistance to union organization partly with the hope that the Act would be held unconstitutional.

The main drawback of this Act was it reduced the economic power of management by placing so many restrictions on them. So there were continuous attempts to amend the Wagner Act and finally, Labour Management Relations Act came into existence in 1947. It was also known as Taft-Hartley Act of 1947.

2.40 Taft-Hartley Act, 1947

The main purpose of this Act was to equalize the power

⁶ Richard A. Lester. Economics of Labour (2nd Edition). London : Macmillan Company, 1964, p. 223.

between the two parties by limiting the economic strength of unions. The obligation to bargain in good faith which under the Wagner Act had been placed upon employers was also placed on unions under this Act. In order to protect the small employers from the powerful unions, it deemed the coercion used on employees or self-employed person to join a union as unfair labour practice. Thus, it defined certain unfair labour practices for both the parties.

2.41 Unfair Labour Practices for Employers

- 1) To interfere with employee's right to organize a union and bargain collectively.
- 2) To interfere with the activities of a union.
- 3) To refuse to bargain in good faith with unions.
- 4) To discriminate in the hiring, or employment of workers, for the purpose of encouraging or discouraging membership in a union.

2.42 Unfair Labour Practices for Unions

- 1) To force an employer to recognize a particular union where another union has already been certified as the bargaining agent for the employer.
- 2) To refuse to bargain in good faith with the employer.
- 3) Attempts to compel an employer to pay the union or its members for work not done or for workers not hired.

In addition to this, the Act restricted the unions by asking them to submit, the report of constitutions, bye-laws,

and financial accounts. Neither the employers nor the employees were satisfied with this Act because politics and courts came to play a larger and larger role in industrial relations. This Act extended government regulation to the internal life and government of unions. Such detailed regulations may reduce private initiative, institutional responsibility and acceptance of the results by the parties. This Act in a way aimed at strengthening the hands of government to intervene and encourage collective bargaining.

2.50 Present Position

In May 1962, the Presidents' Committee on Labour Management Policy once again reviewed the role of the government. Though there was disagreement among the members they argued that "Collective bargaining is an essential element of economic democracy. It is a mark of our progress as a nation." "The Fact" said the President, "that all agree on the necessity that collective bargaining be responsible to the public or common interest is a symbol of the maturity of the parties to the collective bargaining relationship."⁷

In 1970 President Nixon proposed a new approach of collective bargaining to control the disputes in the industries like Railroad, Airlines, Longshore and ^Mmaritime. According to this both parties have to submit the final offers to the

7 A.V. Ramana Rao. Collective Bargaining Versus Government Regulation. Bombay : Allied Publishers, 1964, p. 153.

Secretary of Labour within 3 days and bargain over these offers for another 5 days. The President will establish a panel of three neutrals. If they failed to come to an agreement the panel would decide the final offer and the parties have to agree. This is the final offer. Neither labour unions nor management welcomed the President's proposal and finally he withdrew his proposal.

In the American labour policy in industrial relations it was a long step from Wagner Act to Taft-Hartley Act. The first sponsored collective bargaining and the second regulated it. The scope of collective bargaining has now been extended to matters which were formerly reserved for the employer alone. It covers not only wage matters but also subjects like job classification, and evaluation, grading, introduction of new productive methods, incentive methods, etc.

In the U.S.A. the techniques of collective bargaining negotiating procedures, the limits of bargaining, the terms of negotiations are all spelled out by the legislation itself. Arbitration is used, but its use is entirely voluntary and the parties select their own arbitrator.

Current feelings in the United States are at a high pitch as labour and management are very much hostile to the increasing participation by the government in the collective bargaining process. They feel they are best left to themselves to negotiate successfully within the limits set by law. There are some sections of influential public opinion which feel that

"labour and management have failed to come up to their expectations in their abilities to enjoy the fruits of voluntarism in collective bargaining, thus making it inevitable for government to intervene when they fail in the discharge of their responsibilities".⁸

The advisory committee on labour management policy established in February 1961 submitted its report to President Kennedy in which it has broadly outlined the need for preservation of essential freedom-of-choice elements in collective bargaining, without any governmental position.

2.60 Collective Bargaining in the U.S.: An Assessment

Now we can ask ourselves the following question: Is collective bargaining successful in United States? The answer to this question is affirmative. The reasons for this are not far to seek.

There are approximately 1,25,000 collective agreements or contracts in United States the estimates of the total number of agreements have run up to 2,00,000⁹ and many of them particularly in the large mass production industries. One of the requisite conditions for the success of collective bargaining

⁸ Boyd Leedan, "New Horizons in Labour Relations," Labour Law Journal, 1960, as quoted by A.V. Raman Rao, op.cit., p. 152.

⁹ Neil W. Chamberlain, "The Structure of Bargaining Units in the U.S.A.," Industrial and Labour Relations Review, Vol. 20, October 1956, p. 4.

in the United States was effective trade unionism. Today trade unions are playing very important role. There are mainly two unions: one is A.F.L. (American Federation of Labour) and another C.I.O. (Congress for Industrial Organisation). These two unions had merged their membership together, and together they have now a membership of 20 million workers. Besides the leadership of organized trade unions is 'non-political' by tradition as well as by training.

2.61 Causes for the Success of Collective Bargaining in the U.S.

The trade unions in the U.S. are financially sound and have adequate financial support from Congress. The government will supervise the utilization of funds in a proper manner, for example, one of the main objectives of the Landrun-Griffen Act was to utilize the union funds in a useful manner. This Act also gave much more importance and powers to the Secretary of Labour to supervise the financial affairs of the local union even though it is small.

The techniques of collective bargaining between labour and management in the United States takes place under rules established by laws. Under the Wagner Act the employees got the right to organize a union and bargain collectively. The Landrun-Griffen Act declares organizational picketing and secondary boycotts as illegal.* Unions and management could

* Boycott can involve either a refusal to handle or a refusal to buy or patronise. The main purpose is to put economic pressure on the employer to force him to comply with

be punished for violation of contract terms in the United States. The Taft-Hartley Act has specifically provided action against wild strikes by unions and other interference with production. Similarly government control was extended to the administration of the welfare funds of the unions. It was made unlawful for an employer to contribute to a labour welfare fund.

"In countries like India trade unions function both as collective bargaining agent and political institutions. The opposite extreme is to be found in U.S.A. where unions have functioned overwhelmingly as a collective bargaining agent with least ideological aspirations and minimal objectives."¹⁰ And also the American government has been playing an important role by creating an atmosphere of mutual confidence between the two parties to promote collective bargaining.

2.70 Collective Bargaining in the U.K.

United Kingdom is said to be the home of collective bargaining¹¹ which had its first systematic application in the early 19th century. The structure of collective bargaining in

the unions' wishes. Such pressure by the employers' own employees is a primary boycott and is not illegal. In the case of secondary boycott an attempt is made to mobilize the help of others such as transportation firms, customers, etc., in a supportive action.

¹⁰ Robert E. Livernash, "Collective Bargaining," International Encyclopaedia of Social Sciences, Vol. 8. Macmillan, p. 492.

¹¹ Adof Sturmthal (ed.). Contemporary Collective Bargaining in Seven Countries. New York : Cornell University, 1957, p. 1.

United Kingdom was established mainly on a voluntary basis. The trade unions and employers association between them would discuss all the conditions prevailing in the industry. In some cases some voluntary joint machinery has been established on a permanent basis. If the parties failed to come to an agreement the provision has also been made by the State for statutory regulation under various legal enactments.

2.71 A Brief History

The Trade Unions Act of 1871 gave much impetus to settle the disputes in United Kingdom.¹² The Trade Unions Act of 1871 (amended in 1876) and the Conspiracy and Protection of Property Act of 1875 were intended to establish the legality of collective bargaining. Later the government appointed a Royal Commission to enquire whether any legislation is necessary to settle the disputes. The Commission submitted its report and finally the Conciliation Act of 1896 was passed. It emphasized the State as a mediator and not a deciding factor in the dispute. The Act thus emphasized the voluntary principle which has always been typical of British legislation on this subject.

World War I gave much more importance to the trade union activities and the principle of collective bargaining. However, "during the first decade of this century the process was already well under way with at least eight industry-wide collective

¹² *Jensen*. H. Vernon, "Notes on the Beginnings of Collective Bargaining," Industrial and Labour Relations Review, Vol. 9, 1956, p. 225.

agreements in force in important British industries."¹³

World War I has developed the machinery in different industries for joint negotiation, conciliation and arbitration as a kind of standard pattern of collective bargaining. Compulsory arbitration was accepted by the trade union Congress during the two war time periods of 1914-1918 and 1939-1945.

During the 19th century collective bargaining shifted from the company level to national level and in 1904 an important national conciliation agreement was signed for the first time by the workers and employers in the building trade. Thereafter national agreements became the rule in collective bargaining.

After the World War II collective bargaining further gained more importance due to State efforts to promote the settlements of disputes through conciliation and arbitration on the one hand, and the establishment of Joint Whitley Councils at national, district and at works levels in various industries.

One of the important features of industrial relations in United Kingdom is that the government is in contact with representatives of employers and workers at all levels on matters affecting their common interest. Standing arrangements also exist for consultation between the government and the

13 Kenneth Alexander, "Collective Bargaining," in Singh and Saran (ed.). Industrial Labour in India. Bombay : Asia Publishing House, 1963, p. 375.

British employers and trade union Congress through the National Joint Advisory Council set up in 1939 to advise the government on matters in which employers and workers have a common interest.

The functional differences in the organization of employers and workers and geographical distribution, the form of wage payments, etc., were all the factors mainly responsible for the promotion of a variety of voluntary processes in U.K. The workers and employers in United Kingdom are quite conscious of their responsibilities to set up full industrial democracy by giving due recognition to the principles and practice of collective bargaining.

CHAPTER III

COLLECTIVE BARGAINING IN INDIA

3.00 The Historical Setting

As in the U.K. in India also the collective bargaining has been the result of historical circumstances. During the middle of 19th century the policy of the government was to protect the social system from workers rather than to protect workers from the social system.¹ The government was mainly interested in collecting fines from the workers for breach of contract, and in regulating the conditions of work with a view to minimize the competitive advantage of the employers against the employees. The Workmen's Breach of Contract Act of 1859 and Employees' Contract Act of 1860 are examples of the first objective, and the Factories, Plantations and Mines Act are examples of the second objective.

Before the First World War there was no specific instrument to settle the disputes. The first biggest officially recorded strike occurred at Ahmedabad as a protest against the substitution of a fortnightly payment of wages in place of a weekly payment that had existed before. The strike was a failure. Another big strike took place in Bombay in 1897

¹ The Employers Federation of India, Bombay. Collective Bargaining: A Survey Monograph, 1966, p. 18.

regarding the wage issue and it met the same fate as the first strike. These strikes had failed due to lack of organization and consequent absence of an economic weapon like collective bargaining at the disposal of the working class.

3.01 The Origin

The first case of collective representation in India was made in 1884 by convening the factory workers and drawing up a memorandum to the Factory Commission appointed by the Government of Bombay. In 1890 under the leadership of Lokhande the mill workers submitted a memorandum containing demands and as a result the millowners of Bombay granted a weekly holiday.

3.02 The Evolution

During the First World War, the Kamgar Hitvardhan Sabha was the only active organization to take part in the improvement of working conditions and plead for cooperation with the British Government. Upto 1920 no serious effort was made to bargain collectively but in that year a group of employers and their employees in cotton textiles industry at Ahmedabad settled their problems under collective bargaining process.² According to the Royal Commission on Labour which reviewed the position in 1931 "The Ahmedabad experiment was the only instance of collective bargaining in the whole country."³

² V. Agnihotri, "Towards Collective Bargaining," Indian Labour Journal, Vol. 4, March 1963, p.

³ Report of the Royal Commission on Labour in India, 1931, p. 336.

3.03 Legislative Efforts

The first significant legislative measure that came in for the development of collective bargaining was the Trade Union Act, 1926. The most important 'safeguards' in relation to the exercise of the privilege to strike was provided by this Act. The Act also protected the officers of trade unions against criminal proceedings in respect of any agreement for the purpose of furtherance of any object of the union and they are also protected from civil suits. It provided for compulsory recognition of trade union, under certain conditions and defined certain unfair practices on the part of employers and workers. But the situation did not change significantly. So finally the government introduced the Trade Disputes Act of 1929 with a few modifications of the earlier (1926) Act. Public had criticised that the legislation modelled on the British Trade Disputes Act had little relevance to the Indian context. It was the first enactment which made provisions for the establishment of statutory machinery for prevention and settlement of industrial disputes in India.

During the second period 1930-1947 collective bargaining received a new impetus because of the encouragement of International Labour Organization. The Royal Commission on Labour in India reported in 1931 and its recommendations and suggestions influenced to labour policy of the government. The Trade Union Act of 1929, provided for the registration of trade union officials from civil and criminal liability for

conducting bona fide trade union activities. But even this Act did not give due importance to collective bargaining. The Royal Commission on Labour stated: "We do not doubt that statutory machinery will be permanently required to deal with the trade disputes and it will be necessary to consider the form which such machinery should take before the Act expires in 1934."⁴

The country witnessed several strikes at the outbreak of Second World War and the government enforced the rule 81-A of the Defence of India Rules in January 1942. With this all strikes and lockouts were declared illegal. After the Second World War collective bargaining received a stimulus due to the strength acquired by trade union movement and the steps taken by the government. The Industrial Disputes Act of 1947 provided compulsory recognition of trade unions in order to provide for the privilege of negotiation. To protect the labourer from the clutches of the employer the Act specified that the employer should not alter the conditions of service of such workmen or dismiss them during the pendency of conciliation proceedings without taking the permission from the authorities. The Act recommends works committees, conciliation officers, the court of enquiry, voluntary arbitration and national tribunals to settle the disputes. Even though this Act makes some effort to reduce the industrial disputes, it does not systematize the process of collective bargaining.

⁴ Ibid., p. 333.

The adoption of the code of discipline in industry and the code of inter-union conduct in 1958 gave an impetus to the growth of collective bargaining in India.

3.04 Results of a Survey

Between the period 1950-1960 the Employers' Federation of India conducted a survey according to which the number of disputes settled by collective bargaining varied between 33 per cent to 49 per cent out of the total number of agreements and most of these agreements have been at plant level.

Even though government has passed so many Acts to strengthen collective bargaining it has not yet come to play a prominent role in the determination of wages and conditions of work. "A host of labour laws in India provided creeping assistance to trade unions to grow but they would not establish a sound system of collective bargaining. Excepting for the constitutional guarantee for freedom to organize into trade unions (which may adopt the method of collective bargaining) no provision has^d been laid down in the statute for giving due status to a bargaining agent nor collective agreement."⁵ In addition to this there are so many reasons why collective bargaining is not playing an important role in India.

3.10 Industrial Disputes, 1960-1975

In India the industrial disputes become alarmingly

5 Shri Tribhuwannath Chowdary, "Legal Aspects of Collective Bargaining in India," Indian Worker, November 21, 1977.

Table 1 : Industrial Disputes, Workers Involved and Man-days Lost in India, 1951-1973

Year	No. of disputes	No. of workers involved (in '000)	Man-days lost (in Millions)
1951	1,071	691	3.8
1952	963	809	3.3
1953	772	467	3.3
1954	840	477	3.3
1955	1,166	528	5.6
1956	1,203	715	6.9
1957	1,630	889	6.4
1958	1,524	924	7.7
1959	1,531	694	5.6
1960	1,538	986	6.5
1961	1,357	512	4.9
1962	1,491	705	6.1
1963	1,471	563	3.2
1964	2,151	1,003	7.7
1965	1,835	991	6.4
1966	2,556	1,410	13.8
1967	2,815	1,490	17.1
1968	2,776	1,669	17.2
1969	2,626	1,826	19.0
1970	2,889	1,827	20.5
1971	2,752	1,615	16.5
1972	2,912	1,593	17.9
1973	2,924	2,102	17.8

Note: These statistics cover strikes/lockouts which involve 10 or more workers directly or indirectly but excluding political and sympathetic strikes.

Source: Indian Labour Year Books and Indian Labour Gazette.

frequent after independence. Earlier strikes occurred on a small scale and with less frequency as the workers were unorganized. Besides neither the public opinion was enlightened nor the government paid serious attention to the industrial problems. However, it would be wrong to think that there were absolutely no strikes before independence. The outbreak of Second World War in September 1939 had led to a sharp increase in the number of industrial disputes in India. The number of disputes rose from 322 to 694 from 1940 to 1942. But between 1942 and 1946 the strikes and lockouts were restricted by the Defence of India Rule 81-A by making the strikes and lockouts illegal. The year 1947 recorded the highest number of disputes (1,814). This was mainly due to inflationary conditions and the failure of the new government to pay serious attention to the labour problems. To meet this situation the government passed the Industrial Disputes Act in 1947.

From 1951 to 1954 the number of strikes and man-days lost in the country remained at a steady low level while during 1955-1960 the figures showed an upward trend.

From Table 1 we can see that by and large the frequency of industrial disputes increased upto 1973. The year 1964 marked the beginning of the period of industrial strife and escalation of industrial disputes. By the early sixties, the strains the economy underwent during the Second and Third Five Year Plans due to the foreign exchange crisis, serious fall in the foodgrains production consequent on the failure of the

monsoons began to manifest themselves. Indian working class was thoroughly disturbed and annoyed by the escalation of prices and consequent erosion of their real wages. In this situation organized industrial labour became militant with the result that the year 1966 turned out to be one of the worst years in the field of industrial relations in the country.

The major source of industrial unrest is the dissatisfaction on a wage and bonus payment. This is due to the failure of the government to evolve a definite wage policy and lack of an enlightened approach on the part of employees which results in retrenchment, suspension, dismissal of workers by the employers. The history of industrial disputes in India clearly shows that economic causes such as wages, dearness allowance and conditions of work were responsible for most of the strikes in the country.

3.11 Collective Agreements from 1966-1977: A Brief Study

The settlement of industrial disputes through collective bargaining with some degree of earnestness is a comparatively recent phenomenon. Legislation relating to industrial disputes has helped in this matter by providing for registration of trade unions and regulating their composition and granting them rights and privileges. The code of discipline in industry facilitated the growth of collective bargaining to some extent. According to an official review nearly 900 independent employers and unions accepted the code voluntarily by the end of March 1962

and it increased to 3,000 by the end of 1967. The disputes settled by the parties out of court rose from 13 in 1961 to 195 in 1965 in the State sphere and 53 disputes were resolved in the Central sphere.

In order to find out the trends in collective bargaining the Employers' Federation of India conducted a survey in 1961.⁶ From this it is clear that the relative position of plant-wide bargaining over a period of time has remained almost stable.

Table 2 : Particulars of Agreement

Type of agreements	First agreement		Current agreement	
	Units	Number	Units	Number
Voluntary	62	62	48	71
Settlements	79	82	43	173
Consent awards	11	11	19	20
Total	148*	155	148	264

* As the units have drawn agreements in different forms the total number of units does not aggregate to 148.

Source: The Employers' Federation of India, Bombay. Collective Bargaining: A Survey, Monograph No. 8, p. 46.

According to this source out of the 352 agreements as many as 264 were concluded by 148 units where the tradition of collective bargaining was old while the remaining 88 agreements related to 52 units where the parties negotiated their first agreements only in recent years.

⁶ The Employers' Federation of India, Bombay. Collective Bargaining - A Study. Monograph No. 4, 1962.

Among the current agreements, 57 per cent dealt with wages, 27 per cent annual bonus, and 16 per cent with dearness allowance problems. The Employers' Federation of India had made another survey in 1966 and studied 109 agreements. Out of these 109 agreements, 79 were settlements, 28 collective agreements and 2 consent awards. Out of the total number of 109 agreements 60 agreements were drawn in 1965 and 22 agreements in 1966. Forty-nine agreements were concluded for the duration of five years and only a small proportion of agreements were concluded for a period of less than two years. Out of 109 agreements 96 agreements dealt with wages, over-time, medical benefits and others except bonus and dearness allowance, and 50 agreements with bonus, housing, sick leave, promotion, etc., excluding wage issue.⁷

According to the National Commission on Labour "most of the collective agreements have been at the plant level though in important textile centres like Bombay and Ahmedabad, industry-level agreements have been common. ... Apart from these, in new industries like chemicals, petroleum, etc., arrangements for settlement of disputes through voluntary agreements have become common in recent years. ... In the banking industry after a series of awards, the employers and unions are in recent years coming closer to reach collective agreements."⁸

7 The Employers' Federation of India, Bombay. Collective Agreements: Trends in the Sixties, Monograph No. 15, April 1971, p. 53.

8 Report of National Commission on Labour. Government of India, Ministry of Labour, 1969, op.cit., pp. 321-322.

Another attempt has been made ^{here} ~~by the Employers' Federation of India~~ to review the main lines of development and growth of collective agreements in India. The study covered all industries and covered all categories of employees including clerical and supervisory staff. Lastly it covered the major comprehensive agreements which covered wages, working conditions, dearness allowance and fringe benefits.

The total number of awards and agreements from 1966 to 1977 were given in Table A₂.1. The data on number of awards from 1974 to 1977 are not available. As far as the number of agreements in 1974, they covered only 6 months from July to December 1974. From 1974 to 1977 the data on agreements concluded between the management and their workers covered the industries with 20 or more workers.

The total number of agreements in 1966 ^{was} 168. It showed a remarkable decrease in 1968 and 1969. This is mainly due to compulsory adjudication. It hindered the growth of collective bargaining in industries. The wages and the terms of employment in a number of mills were standardized and governed by the recommendations of the Central Wage Boards and there is little scope for individual units to conclude collective agreements with the unions. The agreements which were 168 in 1971 had increased to 244 by 1973. It is interesting to note that the industrial disputes occurred in 1971 and 1973 were also very high, their number being 2,752 and 2,924 respectively.

However, from the data we notice that despite the inhibiting influence of State intervention in the regulation of wages and conditions of employment evidence confirms that increasing adoption of collective bargaining method to settle the disputes and a gradual replacement of adjudication.

An analysis of duration of agreements from 1974 to 1977 were given in Table A₂.2. As many as 106 agreements were concluded for periods ranging from one to three years and 46 agreements were concluded for the period three to five years. Only a small portion of agreements was concluded for periods of less than one year and more than five years. According to the survey conducted by the Employers' Federation a significant proportion of the agreements were concluded for considerably longer period of six or more years. They also stated that the average duration of agreements (median average) lengthened from 3.34 years to 3.60 years. If we compare this with our present data one thing that comes out is that there has been a marked shift from long term to short run agreements. The number of agreements from 3 to 5 years in 1961-1964 were 85 and the number of agreements from 1 to 3 years were 58. The agreements in 1974 and 1977 were 46 and 106 respectively.

Collective agreements not only vary in their contents and scope but also differ in duration in different countries. In recent years in the highly industrialized countries of North America, and Western Europe collective agreements in key industries have been concluded for two or three years duration. By

contrast a larger portion of agreements in U.K. extended for a term of 2 years or less. In India a number of agreements concluded for 2 or more years showed a marked increase in recent years.

A study of the objects of collective agreements from 1967 to 1977 concluded between Employers and workers is presented in Table A_{2.3}. From this Table it is clear that 50 per cent of the agreements were the result of trade union demands for bonus, 30 per cent carried claims on wages and 20 per cent on dearness allowance. From these data we notice that the agreements relating to wages have come down from the period 1954-1964 to 1967-1977. In recent years a new trend has emerged in the form of effective State intervention in the sphere of wages. Even though the statutory Wage Boards did not receive adequate attention the Second Plan stressed the importance of Wage Boards. The Fifteenth Indian Labour Conference also considered the appointment of industrywise wage boards. On these recommendations the Government of India appointed the wage boards in cotton textiles, sugar, cement, jute and iron and steel industry, etc.⁹

As a result of intervention by the State and as also collective bargaining the Indian working class could achieve some progress on wage front, though the spiralling price rise in the late sixties had considerably blunted the increase in

9 A.J. Fonseca. Wages Issues in a Developing Economy: The Indian Experience. Oxford University Press, 1975, p. 203.

real wages. Money wages and to a lesser extent real wages have increased in the organized sector in India in the late sixties. This can be seen from Table 3.

Table 3 : Trends in Money Wages and Real Earnings Per Worker

	Index of money wages per worker 1951=100	Index of real earnings per worker 1951=100
1966	214.4	122.4
1967	236.8	119.0
1968	254.6	124.3
1969	260.2	128.3
1970	288.5	135.3

Source: Money and Real Earnings Census of Indian Manufacturers and Annual Survey of Industries 1966-1970. Central Statistical Organization, Government of India.

So in recent years the demand for higher wages by trade unions had relatively decreased. Now bonus constitutes an important feature of a large number of collective agreements in India. The Government of India appointed a Bonus Commission in December 1961 on the recommendation of which it passed an Ordinance on bonus. The Payment of Bonus Act came into existence in September 1965. It was recognized that the workers have a right to share in the profits of an undertaking. But still many disputes on bonus issue were referred to adjudication. So still the claim was not a legal right but it was mainly accepted on grounds of broad principles of justice, equity and good conscience, with the object of having a

contended labour force.

Obviously in almost all the cases the agreements secured marked improvement for the employees in their remunerations and other benefits. In many cases particularly in respect of retirement benefits, dearness allowance, overtime, and annual leave, the agreements were far from liberal than the respective statutory provisions. It is noteworthy that notwithstanding the appointment of a series of wage boards for determination of wage in a number of small industries and the effective implementation of the Bonus Act of 1965 by the Central Government, collective bargaining has dealt with these matters on an extensive scale.

CHAPTER IV

COLLECTIVE BARGAINING VERSUS GOVERNMENT REGULATION

4.00 The Role of State in the Indian Experience

Collective bargaining is the process by which the parties conduct the search for the acceptable point of adjustment of their divergent interests. This process has to go on under some pressures; for without pressures neither side would be willing to move from its original position towards a common point of adjustment. Collective bargaining needs a reasonable parity of bargaining strength between the two parties. In the absence of such parity the stronger side will always impose its own terms on the weaker side which amounts ^{to} a failure of the bargaining process. The employer, of course, has his bargaining strength in his very status as employer. So the main problem is with workers' unions. In some sectors of the economy there are serious limits to the growth of trade unions. They have no powers and simply remain as puppets in the hands of employers. In this situation real collective bargaining is not at all possible. The weaker unions need protection from the clutches of the employers. As such protection has to be extended by the government through legislative action. The protective legislation for minimum wages, maximum hours of work, holidays with pay, accident and sick leave, and so on are an accepted part of public policy.

4.10 Legal Privileges

A successful collective bargaining policy needs three legal privileges, viz.: (1) The privilege to organize; (2) The privilege to negotiate; and (3) The privilege to strike.

The legal privilege to organize has been awarded to each citizen as his fundamental right under Article 18 of our Constitution. The Indian labour got the right to bargain with employers legally only since the inception of Trade Union Act of 1926. There was no legislation at the national level for compelling the employers to recognize unions. The government made an effort to make the trade unions to bargain with their employers in 1947 to provide for 'compulsory recognition' by the employers. But there is no legal sanctity, so the privilege for union to be recognized as bargaining agent is a matter depending upon the whims of the employer. We have no strategy or provision on a national scale for recognition of trade unions without which the collective bargaining process remains at the mercy or sweet will of the employer.

Further there is no legal privilege to strike in order to make collective bargaining effectively. The Supreme Court in one of the cases has held: "... Even a very liberal interpretation of sub-clause (1) of Article 19 cannot lead to the conclusion that the trade unions have a guaranteed right to an effective collective bargaining or to strike, either as part of collective bargaining or otherwise. The right to strike or the right to declare a lockout may be controlled or restricted

by appropriate industrial legislation, and the validity of such legislation would be tested not with reference to the criteria laid down in clause (4) of Article 19 but by totally different consideration."¹

The government encouraged the multiplicity of trade unions and permitted outsiders' involvement. Even under the Industrial Disputes Act statutory recognition of collective agreements is only half-hearted which has a depressing effect. In the policy pronouncement the government has repeatedly made it clear that in a planned economy such as ours work stoppages cannot be tolerated or accepted. But work stoppages have continued quite frequently. The reasons are that workers protest as a natural response to rise in the cost of living or intensive inter-union rivalry which has plagued the industrial relations scene in India since 1947. India has today over 20,000 organized trade unions while West Germany manages with only 19 and U.S.S.R. with 22. This is mainly because the Trade Union Act inherited from British rule itself encourages multiplicity of unions by conferring recognition of any body of 7 persons who may choose to form a trade union.

4.20 Half-hearted Measures

The move from the government to bring employers and employees to discuss the important issues of their interest was always in a half-hearted manner. The Joint Forum so far

¹ Tribhuwannath Chowdary, "Legal Aspects of Collective Bargaining in India," Indian Worker, November 21, 1977.

created by the government was not supported by the law with adequate power. The functions attached to the Works Committees, Joint Councils, etc., were only those which were of secondary importance. All matters pertaining to wages, bonus, etc., were excluded from the service of those councils and they became ineffective.

One of the weaknesses of the State policy on labour has been that it has failed to give a correct direction to industrial relations. At the time of independence we inherited a system of industrial relations which largely involved sound protection and regulating policies. The government adopted the same approach in immediate post-independence years and all the Acts (Minimum Wage Act of 1948, Industrial Disputes Act of 1947, etc.) were passed to give effect to a five year programme for labour while the policy of State paternalism has necessarily been incomplete with the idea of collective bargaining.

The Indian Law in Industrial Relations is yet to be framed even after 30 years of independence. The latest Act in this series is the Maharashtra's Recognition of Trade Unions and Prevention of Unfair Labour Practice Act (Maharashtra Act of 1972) which has received the President's consent and has not yet been implemented. It provides for certification of the sole bargaining agent to bargain in good faith, discourages unfair labour practices and encourages responsible trade unionism and management behaviour.

A bill on industrial relations was introduced in Lok

Sabha on 30th August 1978. A welcome feature of the bill is that it incorporates the concept of time bound action on the part of administrative and judiciary machinery for resolution of disputes. This move is welcome in view of the enormous delays involved now. According to annual reports of the Union Labour Ministry for 1977-78 only 5,600 cases out of the total 39,000 referred to the industrial relations machinery. If it goes at this rate it will take six more years to dispose of the remaining cases. So adequate care has therefore to be taken to ensure a really effective mechanism built into the new law for time bound resolution of disputes.

4.30 Collective Bargaining in the Context of Five Year Plans

Having reviewed the prevailing set up of collective bargaining as a place of primary importance in India, it is found that government intervention is only a method of last resort and not intended as a substitution for mutual negotiations. The government is searching for new policy towards a better industrial policy under Five Year Plans.

It was enunciated in the Five Year Plans that "... The worker is the principal instrument in the fulfilment of the targets of the Plan and in the achievement of the economic progress. His cooperation will be an essential factor in creating an economic organization in the country which will best subserve the needs of the social justice."²

2 First Five Year Plan Draft, New Delhi, 1952, p. 570.

4.31 First Plan

The First Five Year Plan stressed that the labourers must be free to organize and to take lawful action to protect their rights. The First Plan was drawn up in the context of the importance of industrial labour in recognition of its right which had long been neglected. The aim of the State has been to encourage mutual settlements, collective bargaining, and voluntary arbitration to the utmost and thereby reduce to the minimum occasions for its intervention in industrial disputes. The First Five Year Plan stressed the need for works committees and internal settlements between employers and employees.

4.32 Second Plan

The Second Five Year Plan stressed the need to have some statutory provisions for recognition of trade unions to strengthen collective bargaining. Knowing fully well about the failure and ineffectiveness of the works committees the Second Plan again stressed these committees to help the parties to implement agreements and the Plan stated it is not possible to conceive a stronger solution.

4.33 Third Plan

The Third Plan rests on the foundations laid down by the working of the code of discipline which would pave the way for the growth of strong and healthy trade unions in the country. The Third Plan pointed out that if the dispute is not settled voluntarily or at the conciliation stage then it must be

referred to adjudication or compulsory arbitration. They also pointed out the need for "a new positive orientation to the Industrial relations based on moral rather than legal sanctions. The stress is now on prevention of unrest by timely action. This involves a basic change in the attitudes and outlook of the parties and the new set of readjustment in their mutual relations."³ Two important policies were referred in the Third Five Year Plan. They are: (1) Workers' participation in management, and (2) workers' education. It also stressed on joint management councils in each industry.

4.34 Fourth Plan

The Fourth Plan stressed that labour relations continued to be regulated by the protective legislation measures introduced in earlier Plan periods and the tripartite agreements. One of the main tasks in the Fourth Plan was to evolve practical ways in which they can make an increasing contribution to national development and national policy. "It is recognized that greater emphasis should be placed on collective bargaining and on strengthening the trade union movement for securing better labour-management relations supported by recourse in larger measure to voluntary arbitration."⁴

4.35 Fifth Plan

The Fifth Five Year Plan indicated that an effective

3 Third Five Year Plan Draft. New Delhi, 1961, p. 88.

4 Fourth Five Year Plan. New Delhi, 1969, p. 339.

bargaining relationship between the representatives of employees and management would need to be strengthened peace in the industry. The planners gave much more importance to bipartite relations in establishing a desirable state of industrial relations. Secondly, they pointed out that "The role of third party intervention would require sufficient modification consistent with the spirit of bipartite relations, voluntary arbitration and expeditious settlement of industrial disputes and unresolved conflicts."⁵

4.40 Labour Policy and Labour Disputes

The labour policy in India from First Plan to Fourth Plan laid more emphasis on the tripartite methods for settling the disputes. During the years 1959 to 1966 out of the total disputes handled by the central industrial relations machinery each year, the percentage of settlements have varied between 57 to 83, the remaining disputes were settled by voluntary arbitration or by adjudication.

In the year 1966 the percentage of disputes settled through conciliation in U.P., Punjab, Delhi was 60 whereas in Rajasthan it was 40. In the Southern region, conciliation is reported to be more successful especially in Kerala where the percentage of disputes settled was about 80. Though statistics are not available for Maharashtra, and in Gujarat the machinery on the whole has given a fair measure of satisfaction. But most of the employers and workers are reporting that this

5 Fifth Five Year Plan Draft. New Delhi, 1974, p. 139.

machinery, even though it is working satisfactorily, involves so much delay to settle the disputes.

4.50 The Institutional Impediments

The voluntary arbitration has gained so far little success in India. The system of adjudication has failed to achieve industrial peace. It has inhibited the growth of unions and has prevented voluntary settlement of industrial disputes and the growth of collective bargaining.

The advocates of collective bargaining argue that the present industrial relations system in India is a temporary measure and adjudication has given a great setback to the trade union movement. The only way is the wholesale rejection of dependency on a third party for settlement of disputes and acceptance of collective bargaining with all its implications including the right to strike. On the other hand, people who have good faith in adjudication argued that even though they have their own limits, by and large, they succeeded in bringing about some measure of industrial peace in the country.

In finding out a way the National Commission on Labour made the observation: "Adjudication as it has developed in India has tended to prolong disputes; allegations of political pressures though often without foundation have been there. ... On the other hand collective bargaining as it has developed in the West may not be quite suitable for India. ... In a democratic system pressure on government to intervene or not to intervene in a dispute may be powerful. The requirements of

national policy make it imperative that State regulation will have to coexist with collective bargaining."⁶

✓ 4.60 Causes for the Failure of Collective Bargaining in India

The record of reaching collective agreements in this country has, on the whole, been unsatisfactory. Collective bargaining as a way of living in an industrial society is however yet to develop. When a dispute arises between the employer and the worker in an industry on matters of wages or service conditions, the prevailing method of settlement in India is to refer it for adjudication by an industrial court or tribunal. This method has been prevailing for the last thirty years. It became a permanent feature in India. As a result the growth of collective bargaining has been stunted. The obstacles to the progress of collective bargaining have been: (1) Inter-union rivalry; (2) Lack of understanding of collective bargaining; and (3) Legislation which reduced the scope for bargaining.

After the independence union rivalries based on political considerations have become sharper. The splitting up of unions, and formation of new unions having sympathies with political parties, have permitted unions operating at different levels. In this situation some employers took advantage of the rivalries by playing one union against the other. Government machinery to reduce inter-union rivalry proved ineffective. Added to the

6 The National Commission on Labour Report, op.cit.,
p. 327.

inter-union rivalry in some instances intra-union rivalries have also been increasing in frequency in recent years. Sometimes employers have complained that they do not know whom to bargain with, for there are usually a number of unions with various political affiliations in the same plant.

In India excepting for the constitutional guarantee of freedom to organize trade unions (which may adopt the method of collective bargaining) no provision has been laid down in the statute for giving due status to a bargaining agent.

According to National Commission on Labour 73.2 per cent of unions with a membership below 300 account for only 12.4 per cent of the trade union membership in the country. The Commission concluded that the data indicate that unions are too small to be viable and have little following. In contrast, in the U.K. with 574 unions in the country, four-fifth of the membership is concentrated in 38 large unions.

Besides these drawbacks another important drawback is, while in manufacturing industries like cotton mills, iron and steel industries, etc., more and more educated labour is being recruited, in places like mines, ports, plantations, and construction, the workers are generally illiterate and most of the labourers belong to rural areas. If it is asked whether collective bargaining is alive or dead, the appropriate answer from them seems to be "was it born?"

The system of elections prevailing in the U.S.A. may not suit Indian conditions because trade unionism in India has not

progressed to the same extent as in America. Moreover, in the absence of responsible leadership and lack of organization, the individual worker in India is not able to participate in mutual discussions, and due to their illiteracy they cannot understand properly the viewpoints of the opposite party. Besides this disjunction into small unions, the Indian trade unions suffer from the further disadvantage of being very poorly financed, subscription rates being still very low.

In India collective bargaining as an act of public policy has not been promoted by legal enforcement. In New Zealand union membership is made compulsory by law. In Canada employers were legally compelled to recognize unions and in many countries collective bargaining is legally enforced. Whether any of these things are desirable in India is an open question.

The Committee on Comprehensive Industrial Relations Law, set up by the Janata Government under the chairmanship of the Labour Minister Mr. Ravindra Varma, discussed the issue of union recognition without any final decision. The trade union representative in the committee suggested that the determination of bargaining agent must be done by the workers in the industry and should be achieved by selecting one of the existing unions. If there were more than one, secret ballot paper was suggested as a mode of choice and 51 per cent votes polled as the minimum score to be a recognised bargaining agent.

The contribution of the Five Year Plans towards collective bargaining is of doubtful value. The planners did not give

any special room for collective bargaining. Since independence, the laws do not go beyond asking for better adherence to the industrial relations machinery that they have introduced. They could do nothing beyond that. Hence it is for the labour and managements to take up the task of building better mutual relations by their own efforts.

In order to study the system of labour management relations in the U.S.A. the Government of India sent a tripartite team to the United States early in 1963. The team suggested: "In order to give a fair trial to collective bargaining in India the distinction between public utility industries and non-public ^{wholly} industries with the present scheme of arbitration in the former and collective bargaining in the latter, should be done away with and a uniform system whereby collective bargaining could be given a fair trial should be adopted."⁷

4.70 Prerequisites for the Success of Collective Bargaining

The system of collective bargaining has gradually made significant headway in the recent years and it has been resorted to by a number of large companies like Tata Iron and Steel Co., Indian Aluminium, etc. There are also a few industrywise agreements reached between employers and employees on specific issues. If however collective bargaining has to be extended and adopted generally we must recognize that there are certain

7 G.L. Srivastava. Collective Bargaining and Labour Management Relations in India. Allahabad : Nagari Press, 1962, p. 116.

requisite conditions which would make the bargaining effective and more successful. They are as follows:

1. The first requisite condition for the success of collective bargaining is ^{that} bargaining agents have to be determined on both sides. If there are several unions claiming recognition, the agency should conduct a secret ballot. The agency conducting the ballot must be impartial and not subject to political pressures from government. If no union gets the majority, a fresh ballot should be taken after eliminating the lowest polling unions in the first ballot and so on in successive rounds of voting, till a union getting full majority of votes emerges. Such union should get the 'bargaining agent' status.

2. It is necessary that no obstacles be placed by law in the formation and registration of trade unions. At the same time, proliferation of rival trade unions in the same bargaining area needs to be discouraged.

3. Provisions to ensure that unions are run in a genuinely democratic manner and in accordance with their constitutions and that their funds are not misused would also be in order, but it will have to be ensured that the agency to enforce such provisions will have to be independent and non-political.

4. There should be mutual cooperation and coordination between the two parties. The employers should adopt give-and-take policy with the employees and at the same time the employees should bargain in good faith with the employers.

5. In order to make collective bargaining successful,

unfair labour practice must be avoided by both sides, for example, victimization of a worker for being a member of a union would be an unfair labour practice on the part of employer. Similarly, coercing the employer by demonstrations and strikes to recognize a union would be an unfair labour practice on the part of trade union.

6. If no agreement is reached between the parties, the employees should be at liberty to go on strike and the employers to declare a lockout. To restrict these rights is to defeat the process of collective bargaining.

7. The negotiations can be successful if the parties depend on facts and figures for supporting their respective case. Therefore there is need for the unions to have specialists such as economists and productivity experts, to assist them in putting forward their point of view.

8. In order to make collective bargaining successful, managements' and workers' organizations have to come together and discuss their problems. On the other hand, there should be realization on both sides of avoiding the mistakes and laying sound foundations for industrial democracy.⁸

These are the more important requisite conditions for the success of collective bargaining and these conditions can be considered only when the existing obstacles to collective bargaining are removed by suitable legislation or help establish a healthy set of customs and mores in the field of industrial relations.

⁸ N.N. Kaul, "Collective Bargaining Recent Collective Agreements," Indian Labour Gazette, Vol. 13, March 1956, p. 678.

CHAPTER V

SUMMARY AND CONCLUSIONS

5.00 The Problem

The rise of modern economy with a complicated industrial system gave birth to new and varied labour problems. The Western World which experienced the Industrial Revolution much earlier than the Third World Countries devised its own set of socio-legal institutions to cope up with the situation. Collective bargaining by the trade unions and employers is one such expedient devised in the West to solve some of the major labour problems and smoothen the rigours of the industrial relations.

5.10 The Concept

The concept of collective bargaining implies a process of negotiations of the terms and conditions of employment between the employers and the employees with least interference from the third party.

5.20 The Models

Economists have devised models to understand the operation of the collective bargaining and the process of arriving at agreements. Hicks' theory of collective bargaining is basically a theory of strikes. According to him, the fixation

of wage rate can be carried out with the help of Employers' concession curve and Unions' resistance curve.

Fellner sets the whole discussion in a bilateral monopoly set-up with its concomitant zone of indeterminacy. Chamberlain's model is representative of simple bargaining power models. According to this model, it is the relative power of the bargaining power of the party as opposed to that of its opponent which effectively influences the fixation of terms. Chamberlain defines the bargaining power of A as the cost to B of disagreeing on A's terms relative to the cost to B of agreeing on A's terms. Pen's model has its focus on bargaining under conditions of uncertainty. It is concerned not only with the manner in which the terms of agreement are influenced by bargaining but also with how benefits are subjectively evaluated by the bargainers and the equilibrium conditions for settlement of the agreement. Stevens views bargaining as a conflict situation in which employers and employees are required to make choices between the two "undesirable" alternatives. In this "Avoidance-avoidance" model, union's goal and the management's goal represent extreme ultimate positions. A range of wage rates separates the distance between these extreme positions.

The bargaining models have their own limitations. Bargaining is essentially a qualitative rather than quantitative approach to the analysis of bargaining behaviour. Also, bargaining theories rest on certain unrealistic assumptions.

Hence these theories provide at best only a partial explanation for understanding the phenomenon.

5.30 The Experience in the West

The history of the institution of collective bargaining in the U.S. shows how difficult it is for the workers, even devoid of all ideological aspirations to organise themselves and bargain for fixation of terms ^{and} conditions favourable to them. But their travails are now lessened and the institution of collective bargaining has become by and large acceptable to both the employers and employees, and even the U.S. Government is actively encouraging to help solve industrial disputes through bilateral negotiations. The experience of the British working class also shows that through a united action in the form of trade unions and collective bargaining, the terms of employment can be shifted decisively in their favour.

5.40 Collective Bargaining in India

Upto 1920 no serious effort was made in India to bargain collectively. The first instance of collective bargaining occurred in the cotton textile factories in Ahmedabad. The Trade Union Act, 1926 and the Trade Disputes Act, 1929 made provisions for the establishment of statutory machinery for prevention and settlement of industrial disputes in India. As a result of the encouragement given by International Labour Organization, collective bargaining received a new impetus in the thirties and forties. But the outbreak of the World War II, and the enforcement of Rule 81-A of the Defence of India Rules

in January 1942, which declared strikes illegal, collective bargaining received setback.

The Industrial Disputes Act, 1947 provided compulsory recognition of trade unions in order to provide for the privilege of negotiation. It has further recommended Works Committees, Conciliation, Court of Enquiry, Voluntary Arbitration and National Tribunals to settle industrial disputes. However, it did not systematize the process of collective bargaining. The adoption of the code of discipline in industry and code of inter-union conduct in 1958 gave an impetus to the growth of collective bargaining in India.

5.41 Results of Surveys

During the fifties the number of disputes settled by collective bargaining varied between 33 per cent and 49 per cent of the total number of agreements and most of these agreements have been at plant level. The sixties saw dwindling importance of collective bargaining. Compulsory Adjudication which came into being hindered the increasing adoption of collective bargaining in this period. The total number of agreements in 1966 was 168. It showed a remarkable decrease by 1968/1969. The wages and the terms of employment in a number of mills were standardized and governed by the recommendations of the Central Wage Boards and there is little scope for the individual units to conclude collective agreements. But despite these inhibiting influence of State intervention in the regulation of wages and conditions of employment, collective

bargaining did gain some significance in the seventies.

5.42 The Seventies

Between 1974 and 1977 as many as 106 agreements were concluded for the periods ranging from one to three years and 46 agreements were concluded for periods ranging from three to five years. Only a small portion of agreements was concluded for periods of less than one year and more than five years.

Between 1967 and 1977, 50 per cent of the agreements were the result of trade union demands for bonus, 30 per cent carried claims on wages and 20 per cent on dearness allowance.

The late sixties saw some increase in money and real wages, probably to compensate for the virulent price rises. In the seventies bonus, as the topic for collective bargaining has assumed considerable importance.

5.50 State and the Collective Bargaining

In the Third World Countries like India trade unions are divided, weak and less resourceful. Hence the intervention of State on their behalf is not surprising. State has to provide certain legal privileges to the trade unions viz. privilege to organize, privilege to negotiate and privilege to strike. An unfortunate legacy of the colonial times is the indirect encouragement given to the multiplicity of trade unions in India. This has been a source of inter-union frictions and consequent weakness on the bargaining front. The policy of the Government of India with regard to collective bargaining

has always been half-hearted and lukewarm. The State has failed to give a correct direction to the industrial relations.

The Five Year Plan documents contain pious words about the welfare of the working class but precious little was done to evolve a consistent and coherent labour policy and harmonious industrial relations. Industrial workers remain sullen and bitter. The lifting of emergency in 1977 opened the Pandora's box on the industrial front. Strikes, go-slow, lay offs and lockouts have become the order of the day.

5.60 Is the Organized Working Class Holding the Society to Ransom?

Unfortunately an impression is being created among the public that the organized working class is not only getting what it wants through organized collective bargaining but also holding the economy and society to ransom. A view is emerging that the organized working class is actually in a privileged position compared to labour in the unorganized sector and also teeming millions below the poverty line. However, the crux of the matter is not money wages but real wages. Is the organized labour enjoying a higher level of real wages now compared to the early fifties? The answer is by and large "No". As a matter of fact, erosion of real wages has set in as early as in the mid-sixties. The Report of the National Commission on Labour (1969) has to admit that "the industrial workers at the lower levels were earning hardly a real wage corresponding to that in 1952. On the other hand the share of profits, rental and interest incomes in the total income has been increasing

faster than that of the wages and salaries." No further explanation is necessary.

In 1952-53, of the net output in the industrial sector, salaries and wages constituted 78.8 per cent and the profits before tax 22.0 per cent. By 1964-65 salaries and wages had gone down to 65 per cent. The percentage of wages to value added by manufacture has also steadily declined from 50 in 1949-50 to 40 in 1958 and 36.5 in 1964. The Commission comes to the inescapable conclusion that "increases in money wages of industrial workers since independence have not been associated with a rise in real wages, nor have real wage increases been commensurate with improvements in productivity." The inflation in the seventies has wiped out any gain in money wages. Thus the popular opinion about the effective use of collective bargaining power by the trade unions to better their lot, sometimes even at the expense of the other sections of the society, is not found to be true.

A lot more has to be done to strengthen the institution of collective bargaining. Determination of bargaining agents, facilitation of registration of trade unions, ensuring that the unions are run on democratic lines, etc., are some of the measures suggested in this study to act in this direction.

Table A_{1.1} : Work Stoppages Resulting from Labour-Management Disputes from 1945 to 1972 in the U.S.A.

Year	No. of Stoppages	No. of workers involved (in thousands)	Man-days lost (in thousands)
1945	4,750	3,470	38,000
1946	4,985	4,600	116,000
1947	3,693	2,170	34,600
1948	3,419	1,960	34,100
1949	3,606	3,030	50,580
1950	4,843	2,410	38,800
1951	4,737	2,220	22,900
1952	5,117	3,540	59,100
1953	5,091	2,400	28,300
1954	3,468	1,530	22,800
1955	4,320	2,650	28,200
1956	3,825	1,900	33,100
1957	3,673	1,390	16,500
1958	3,694	2,060	23,900
1959	3,708	1,880	69,000
1960	3,333	1,320	19,100
1961	3,367	1,450	16,300
1962	3,614	1,230	18,600
1963	3,655	941	16,100
1964	3,362	1,640	22,900
1965	3,963	1,550	23,300
1966	4,405	1,960	25,400
1967	4,595	2,870	42,100
1968	5,045	2,649	49,018
1969	5,700	2,481	42,869
1970	5,716	3,305	66,414
1971	5,135	3,263	47,417
1972	5,100	1,700	26,000

Source: U.S. Department of Labor, Bureau of Labor Statistics as quoted in Roy B. Helfgott. Labor Economics. New York : Random House, 1974, p.152.

Table A_{1.2} : International Comparisons of Statistics Relating to Stoppages due to Industrial Disputes in Mining, Manufacturing, Construction and Transport

Name of the country	No. of stoppages per 100,000 employees	No. of working days lost per 1,000 employees
United Kingdom	16.8	190
Australia ^a	63.8	400
Canada	15.8	970
Japan	7.6	240
U.S.A. ^b	13.2	870
France	21.8	200
Ireland	25.6	1,620
Italy	32.9	1,170

Note: a - Including Electricity and Gas.

b - Including Electricity, Gas, Water and Sanitary Service.

Source: Roy B. Helfgott. Labor Economics, p. 153.

Table A_{2.1} : Total Number of Awards and Agreements Arrived at between the Managements and Labour from 1966 to 1977 in India

Year	Total No. of Awards	Total No. of Agreements	Total No. of Important Awards and Agreements
1966	140	168	26
1967	129	105	35
1968	46	91	17
1969	84	109	11
1970	90	85	6
1971	101	168	17
1972	475	124	16
1973	456	244	22
@1974	N.A.	73	N.A.
*1975	N.A.	186	N.A.
*1976	N.A.	106	N.A.
*1977	N.A.	93	N.A.

Note: @ - The data pertain to only 6 months i.e. from July to December 1974.

* - Agreements arrived at between the management and their workers covering more than 20 workers.

N.A. - Not Available.

Source: Indian Labour Journal(s). Labour Bureau, Ministry of Labour, Government of India, Simla.

Table A_{2.2} : (Important) Agreements Arrived at between the Management and Their Workers Relating to Duration Covering More than 20 Workers : 1974 to 1977

Year	Period of Agreement				Total Agreements
	Upto 1 year	1 to 3 years	3 to 5 years	More than 5 years	
*1974	3	22	7	Nil	32
1975	5	37	17	2	61
1976	3	21	11	5	40
1977	10	26	11	2	49
Total	21	106	46	9	182

Note: * - The data pertain to only six months i.e. from July to December.

Source: Indian Labour Journal(s). Labour Bureau, Ministry of Labour, Government of India, Simla.

Table A_{2.3} : Number of Awards and Agreements Arrived at between Management and Labour Relating to Causes

Year	Basic Wage		Bonus		Dearness Allowance		Total	
	Awards	Agreements	Awards	Agreements	Awards	Agreements	Awards	Agreements
1966	34 (35.7)	35 (31.8)	30 (31.65)	54 (49.10)	31 (32.65)	21 (19.10)	95	110
1967	28 (28.28)	12 (16.43)	44 (44.45)	47 (64.39)	27 (27.27)	14 (19.18)	99	73
1968	20 (58.84)	20 (31.25)	8 (23.52)	32 (50.00)	6 (17.64)	12 (18.75)	34	64
1969	16 (23.18)	19 (28.78)	41 (59.43)	29 (43.95)	12 (17.39)	18 (27.27)	69	66
1970	26 (44.33)	17 (31.48)	30 (50.00)	27 (50.00)	4 (5.67)	10 (18.52)	60	54
1971	12 (19.35)	24 (22.64)	38 (61.30)	63 (59.43)	12 (19.35)	19 (17.93)	62	106
1972	68 (30.76)	24 (30.76)	115 (52.05)	46 (58.98)	38 (17.19)	8 (10.26)	221	78
1973	120 (45.12)	52 (36.36)	121 (45.49)	77 (53.85)	25 (9.39)	14 (9.79)	266	143
@1974	N.A.	25	N.A.	15	N.A.	8	N.A.	48
*1975	N.A.	68	N.A.	35	N.A.	25	N.A.	128
*1976	N.A.	37	N.A.	16	N.A.	13	N.A.	66
*1977	N.A.	40	N.A.	18	N.A.	7	N.A.	65

Note: Figures in brackets will show percentages

@ - The data pertain to only 6 months i.e. from July to December 1974.

* - Agreements arrived at between the management and their workers covering more than 20 workers.

N.A.- Not Available.

Source: Indian Labour Journal(s). Babour Bureau, Ministry of Labour, Government of India, Simla.

BIBLIOGRAPHY

Reports

Employers' Federation of India, Bombay. Collective Bargaining: A Study, Monograph No. 4, 1962.

_____. Collective Bargaining: A Survey of Practice and Procedures, Monograph No. 8, 1966.

_____. Collective Agreements, Trends in Sixties, Monograph No. 15, 1971.

First Five Year Plan Draft. Government of India, New Delhi, 1951.

Third Five Year Plan Draft. Government of India, New Delhi, 1961.

Fourth Five Year Plan Draft. Government of India, New Delhi, 1969.

Fifth Five Year Plan Draft. Government of India, New Delhi, 1974.

National Commission on Labour Report. Government of India, Ministry of Labour, Employment and Rehabilitation, 1969.

9 Report of the Royal Commission on Labour. 1939.

Books

Dunlop, John T., and Chamberlain, Neil W. (ed.). Frontiers of Collective Bargaining. New York : Harper & Row, 1967.

Fonseca, A.J. Wage Issues in a Developing Economy: The Indian Experience. Oxford University Press, 1975.

Ford, P. The Economics of Collective Bargaining. Oxford, 1958.

Helfgott, Roy B. Labor Economics. New York : Random House, 1974.

Hicks, J.R. The Theory of Wages. New York : Macmillan, (Second Edition), 1963.

- Lester, Richard A. Economics of Labor (Second Edition).
New York : Macmillan, 1964.
- Livernash, Robert E. "Collective Bargaining," in International Encyclopedia of the Social Sciences, Vol. 8. Macmillan.
- Ramana Rao, A.V. Collective Bargaining Versus Government Regulation in India and U.S.A. Bombay : Allied Publishers, 1964.
- Reynolds, Lloyd G. Labor Economics and Labor Relations. New York : Prentice-Hall, Inc., 1950.
- Shister, Joseph. (ed.). Readings in Labor Economics and Industrial Relations. Chicago : J.B. Lippincott Company, 1956.
- Singh, V.B., and Saran, (ed.). Industrial Labour in India. Bombay : Asia Publishing House, 1963.
- Srivastava, G.L. Collective Bargaining and Labour-Management Relations in India. Allahabad : Nagari Press, 1962.
- Sturmthal, Adolf. Contemporary Collective Bargaining in Seven Countries. New York : Cornell University, 1957.
- Yoder, Dale. Personal and Labor Relations. New York : Prentice-Hall, Inc., 1938.

Articles

- Agnihotri, V. "Towards Collective Bargaining," Indian Labour Journal, Vol. 4, March 1963.
- Bronfenbrenner, M. "The Economics of Collective Bargaining," Quarterly Journal of Economics, Vol. 53, August 1939.
- Chamberlain, Neil W. "The Structure of Bargaining Units in the U.S.A.," Industrial and Labor Relations Review, Vol. 20, October 1954.
- Jensen, Vernon H. "Notes on the Bargaining of Collective Bargaining," Industrial and Labor Relations Review, Vol. 9, January 1956.

- Kaul, N.N. "Collective Bargaining Recent Collective Agreements," Indian Labour Gazette, Vol. 13, March 1956.
- Mabry, Bevars D. "The Pure Theory of Bargaining," Industrial and Labor Relations Review, Vol. 18, July 1965.
- Patil, B.R. "Collective Bargaining and Conciliation in India," Indian Journal of Industrial Relations, Vol. 11, 1976.
- Pen, J. "The General Theory of Bargaining," American Economic Review, Vol. 42, March 1952.
- Ross, Arthur M., and Irwin, Donald. "Strike Experience in Five Countries," Industrial and Labor Relations Review, Vol. 3, April 1951.
- Tribhuwannath Chowdary. "Legal Aspects of Collective Bargaining in India," Indian Worker, November 21, 1977.