Conclusion

Thehandwhorocksthecradle..may rock the world".

The above said famous quotation speaks about the powerful instinct prevalent in a woman. A woman is tender, vulnerable, soft person who nurtures her companion, son, parents, in laws all her life without any selfish motives. From centuries woman has been sacrificing her life for her family. Her giving nature and affectionate self made her appear fragile and she was subjected to cruelty by men. After years and years of suffering, certain great people such as *Mahatma Gandhi*, *Raja Ram Mohan Roy etc* spoke against the violence and ill treatment meted out to women. Since then woman empowerment was seriously considered and many woman related laws were made internationally and nationally to improve the condition of women. The most effective Convention that paved the way for woman empowerment worldwide was CEDAW (Convention on Elimination of Discrimination against Women). CEDAW as constituted by the United Nations had been successful in providing some kind of improved conditions in various countries like India. Constitutions and domestic laws have been reformed on the basis of the principles of the Convention.

Sexual Offences against women need to be dealt with much more seriousness and strong laws should be framed against the perpetrators. It is outright clear that sexual offences are to be excoriated, but if death sentence is given to such convicts- so as to deter the rest, then no doubt that the graph of rape cases will come down considerably- It may also happen that those who commit such offences- simply to leave no witnesses or evidence, may even kill their victims and dispose off their bodies (whereas it is observed that in most cases - it is the victim who is the only source of evidence in most cases), thereby frustrating the main object of the Indian Penal Code and the legislature. Studying the laws, the process, the application of those laws, one thing is certain- the entire structure of justice needs an over haul, otherwise the victim shall no longer the woman, but humanity. The National Commission for Women and many Non Governmental Organizations has taken initiative in protecting women rights nationwide and the momentum has reached to a great success. The only impediment that comes in the way of full-fledged development of women is their illiteracy and non-awareness. If these problems are dealt with then woman can be one of the most efficient companion of man and only together they can develop the world and make it a better place to live.

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COLLECTIVE BARGAINING IS THE HUMAN RIGHT – NATIONAL & INTERNATIONAL PERSPECTIVES - A STUDY

By

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Abstract

Collective bargaining is a process of negotiations between employers and the representatives of a unit of employees aimed at reaching agreements that regulate their working conditions. Collective agreements usually set out wage scales, working hours,

training, health and safety, overtime, grievance mechanisms and rights to participate in workplace or company affairs[1].

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

Nature of Collective Bargaining

Collective bargaining as: "Voluntary negotiation between employers or employers' organizations and workers' organizations, with a view to the regulation of terms and conditions of employment by collective agreements."

Collective bargaining could also be defined as negotiations relating to terms of employment and conditions of work between an employer, a group of employers or an employers' organization on the one hand, and representative workers' organizations on the other, with a view to reaching agreement.

There are several essential features of collective bargaining, all of which cannot be reflected in a single definition or description of the process[2]:

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

ii. It is a method used by trade unions to improve the terms and conditions of employment of their members.

iii. It seeks to restore the unequal bargaining position between employer and employee.

iv. Where it leads to an agreement, it modifies, rather than replaces, the individual contract of employment, because it does not create the employer-employee relationship.

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

Negotiation and Collective Bargaining

Collective bargaining is specifically an industrial relations mechanism or tool, and is an aspect of negotiation, applicable to the employment relationship. As a process, the two are in essence the same, and the principles applicable to negotiations are relevant to collective bargaining as well. However, some differences need to be observed.

In collective bargaining the union always has a collective interest since the negotiations are for the benefit of several employees. Where collective bargaining is not for one employer but for several, collective interests become a feature for both parties to the bargaining process. In negotiations in non-employment situations, collective interests are less, or non-existent, except when states negotiate with each other. Further, in labour relations, negotiations involve the public interest such as where negotiations are on wages

1. Ronald Reagan, Labor Day Speech at Library State Park, 1980
2. Collective Bargaining Negotiations By Sriyan de Silva.

which can impact on prices. This is implicitly recognized when a party or the parties seek the support of the public, especially where negotiations have failed and work disruptions follow. Governments intervene when necessary in collective bargaining because the negotiations are of interest to those beyond the parties themselves.

In collective bargaining certain essential conditions need to be satisfied, such as the existence of the freedom of association and a labour law system. Further, since the beneficiaries of collective bargaining are in daily contact with each other, negotiations take place in the background of a continuing relationship which ultimately motivates the parties to resolve the specific issues.

The nature of the relationship between the parties in collective bargaining distinguishes the negotiations from normal commercial negotiations in which the buyer may be in a stronger position as he could take his business elsewhere. In the employment relationship the employer is, in a sense, a buyer of services and the employee the seller, and the latter may have the more potent sanction in the form of trade union action.

Unfortunately the term "bargaining" implies that the process is one of haggling, which is more appropriate to one-time relationships such as a one-time purchaser or a claimant to damages. While collective bargaining may take the form of haggling, ideally it should involve adjusting the respective positions of the parties in a way that is satisfactory to all, for reasons explained in the Paper entitled "Principles of Negotiation".

International protection

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

The right to bargain collectively with an employer enhances the human dignity, liberty and autonomy of workers by giving them the opportunity to influence the establishment of workplace rules and thereby gain some control over a major aspect of their lives, namely their work... Collective bargaining is not simply an instrument for pursuing external ends…rather is intrinsically valuable as an experience in self-Government... Collective bargaining permits workers to achieve a form of workplace democracy and to ensure the rule of law in the workplace. Workers gain a voice to influence the establishment of rules that control a major aspect of their lives[3].

Present Trends in Collective Bargaining

Collective bargaining may take place at the national, industry or enterprise level. In no country does it take place exclusively at one level only. However, in many industrialized countries, especially in Europe, the existence of strong employers' organizations and trade unions have resulted in many important agreements being concluded at the national or industry level, supplemented by some enterprise level bargaining. In the USA, however, bargaining at the enterprise level has been the more usual practice, other than in specific sectors such as coal, steel, trucking and construction. In Japan national level bargaining has been the exception, and it has been supplemented by a substantial amount of enterprise level bargaining, facilitated partly by union structures which are enterprise-based. In many Asian countries relatively low rates of unionisation have militated against national and industry level bargaining, and enterprise level

3. Supreme Court of Canada observation in Facilities Subsector Bargaining Association v. British Columbia-2007.

bargaining has been more common. This accounts for the relative non-involvement of some Asian employers' organizations in collective bargaining. Japanese employers and workers have demonstrated how a combination of enterprise level bargaining and shop floor mechanisms (such as joint consultation) enables the parties to take into account specific enterprise conditions and also to increase productivity.

The tendency during the last decade - and especially in the 1990s - even among industrialised countries with a highly centralised bargaining system, is towards enterprise level bargaining. This is true of even a country like Sweden with a strong employers' organization, a strong trade union movement, and a previous tradition of centralized bargaining. In the 1990s the avowed policy of the Swedish Employers' Confederation has been to move negotiation to the enterprise level. Decline in union membership and an increase in corporate power in Europe have contributed to this trend. But most importantly, restructuring of enterprises flowing from intense competition has created the need to focus on enterprise level issues such as flexible working time, removal of narrow job classifications, new work organization, promotion of more worker involvement scemes and decentralised decision-making. Many employers view centralised bargaining as facilitating more equal distribution of incomes, but depriving employers of the ability to use pay as an instrument for productivity enhancement and to compensate for skills and performance. The push by employers for flexibility in the context of increasing global competition has raised many issues which are more appropriately dealt with at the enterprise level. Some of the many concerns of employers such as productivity and quality, performance, and skills development to retain or gain competitive edge and to make rapid changes to adapt to the global market place, are likely to increase the movement towards more enterprise level negotiation.

Application of Collective Bargaining to Public or Government employees

The controversy over submitting public Governments to collective bargaining agreements dates back to the 1930s. In the United States, President *Franklin D. Roosevelt*, a supporter of collective bargaining rights for employees in the private sector, indicated his opposition to such agreements for Government or public employee unions in a 1937 letter to the National Federation of Federal Employees:

"All Government employees should realize that the process of collective bargaining, as usually understood, cannot be transplanted into the public service. It has its distinct and insurmountable limitations when applied to public personnel management. The very nature and purposes of Government make it impossible for administrative officials to represent fully or to bind the employer in mutual discussions with Government employee organizations. The employer is the whole people, who speak by means of laws enacted by their representatives in Congress. Accordingly, administrative officials and employees alike are governed and guided, and in many instances restricted, by laws which establish policies, procedures, or rules in personnel matters."

The laws governing local, regional, and national Governments may allow Government employees to form unions, yet prohibit them from engaging in collective bargaining over one or more rights or benefits such as pay, personnel rights, health insurance, or pension contributions, as well as preventing them from going on strike against the Government. Both the federal Government and some state and local Governments in the United States have such rules. Public employee unions are usually prohibited from bargaining collectively with respect to pay or other benefits and/or rights on the grounds that their employer, the general public, is not represented in such

collective bargaining agreements but rather by administrative officials who cannot fully represent nor bind the voters to rules or procedures that may conflict with existing or subsequently executed laws and regulations. Thus, a collective agreement providing for fixed rights such as salary rates and pension contributions could not be revised by subsequent legislatures elected by the public at large, even if such measures were required to prevent fiscal insolvency.

Another reason cited for not granting collective bargaining rights to public employees is the advantage held by public employee in rights granted under existing civil service or personnel rules. In countries such as the United States, the Courts have repeatedly held that public employees possess a property interest in their jobs, which interest triggers constitutional protections to the employee including due process of law. In fact, public employees without collective bargaining rights frequently have more protection against arbitrary and unjust employer action than do private employees with such rights. The reality of collective bargaining is that it is essentially a bilateral process, whereas public policymaking is a multilateral process accessible to all taxpayers on equal terms. This conflict raises the possibility that over time, public employee unions could wield an insurmountable advantage in political power when negotiating Government wage and personnel policies with public administrators and elected officials, to the detriment of taxpayers and other competing groups and interests in the democratic process. This advantage in bargaining power is magnified with respect to certain monopolistic services provided only by the Government and which are critical to the welfare and safety of the public at large, such as police and fire protection[4].

Conclusion

Collective bargaining includes not only negotiations between the employers and unions but also includes the process of resolving labor-management conflicts. Thus, collective bargaining is, essentially, a recognized way of creating a system of industrial jurisprudence. It acts as a method of introducing civil rights in the industry, that is, the management should be conducted by rules rather than arbitrary decision making. It establishes rules which define and restrict the traditional authority exercised by the management.

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HUMAN RIGHTS OF AGED PERSONS IN INDIA

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Old age is an incurable disease, we cannot heal the old age, and we can protect it, promote it and extend it.

[1]"Trees grow stronger over the years, river wider, likewise, with age; human beings gain immeasurable depth and breadth of experience and wisdom. That is why older persons should be not only respected and reversed; they should be utilized as the rich resources to society that they are", as Kofi Annan, Secretary-General, United Nations rightly remarked.

1. http://www.silverinnings.com/ageing.html