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# **COLLECTIVE BARGAINING AS A SUBSTITUTE FOR STATE ADJUDICATION: A JURISPRUDENTIAL STUDY OF INDIAN LABOUR LAW**

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## **1. ABSTRACT**

Historically, in India, the resolution of industrial disputes has been accomplished through State adjudication as provided under labour legislation, particularly through the Industrial Disputes Act, 1947. Though this legal provision for the resolution of industrial disputes has been found to have been designed and developed as an initial measure to cope with the imbalance in the bargaining power between the industrialists or bosses and workmen, its overwhelming prevalence has also caused some concern in terms of delay in procedure, overreach of State intervention, and loss of industrial autonomy. On these lines, collective bargaining has been found to serve as an attractive alternative through participant orientation.

This paper attempts to undertake a jurisprudential analysis of collective bargaining as an alternate and feasible process to state adjudication in the context of Indian labour laws. In fact, the juristic foundations of Labour Jurisprudence in relation to principles of social justice, freedom of association, and justice as participation have been analysed to validate and examine different tenets of collectivism and the effectiveness of different provisions of the collective bargaining process in India, in comparison to and as an alternative to compulsory adjudication.

An analysis of the major historical decisions of the courts and legislation, as well as current trends in the new Industrial Relations Code, 2020, helps to highlight the trend towards the voluntary resolution of industrial disputes. The author will also sketch the limits on collective bargaining, from the declining membership of trade unions to resistance on the part of employers and the nature of the informal economy.

With this in mind, the paper concludes that it embraces an internationally comparative approach in positioning the study of labour jurisprudence in India in relation to internationally stipulated labour standards adopted by the International Labour Organisation. The study also concludes that despite the juncture that collective bargaining may never fully replace official

adjudication by the State, still it has the ability to function as an effective alternative to labour disputes where it has an active role involving robust frameworks and judicial support.

**Keywords:** Collective Bargaining; State Adjudication; Industrial Dispute Resolution; Indian Labour Law; Industrial Democracy; Trade Unions; Social Justice.

## 2. INTRODUCTION

### 2.1 Background of Industrial Dispute Resolution in India

The context for understanding Indian industrial relations is an economic setting where economic development is balanced with social justice. With the dawn of industrialisation, intricate employer-employee relations resulted in conflicts. These conflicts resulted mainly from issues around wages, conditions, and security. Therefore, for resolution and for resolving conflicts, industrial unrest, and other challenges, the Indian state played an active role, especially after Independence.

The Industrial Disputes Act, 1947<sup>1</sup>, marks one of the most significant milestones in the evolution of Labour Law Jurisprudence in our country, which offered the option of conciliation, arbitration, and adjudication with the help of the Labour Courts or Conciliation/Industrial Tribunals. This adjudicatory process itself marks one of the most significant measures of the application of the philosophy of Welfare State Governance with an aim to achieve Social Economic Justice, as enshrined in the provisions constitutionally. Even with the adjudicatory process, excessive borrowings of the adjudicatory model elements themselves indicate serious inefficiencies in the system over a period of time, with bureaucratic delays and backlogs/flexibility to address industry-wise grievances.

### 2.2 Evolution from State Adjudication to Collective Bargaining

In the formative years of the evolution of labour law in India, the adjudicatory role of the State should be noted in relation to the imbalance in the bargaining power of capital and labour. The rationale of making labour regulation through the intervention of the courts and the legislature should be noted in relation to the potentialities of labour exploitation. In the future scenario of

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<sup>1</sup> Industrial Disputes Act, 1947

labour relations, which is taking shape, more emphasis is being placed upon the voluntary resolution of labour disputes.

"Collective bargaining, on the other hand, is democratic because it offers an alternative that not only allows negotiation to happen but also makes intervention optional rather than compulsory.<sup>2</sup> The move from an adjudication-oriented system to a system that is negotiation-oriented is also emblematic of a broader policy shift from adjudication-based forms of justice to one that is derived through industrial self-regulation and a form of justice that is 'participative.'"<sup>3</sup> There has been a recognition by Indian jurists and policy-makers that a system of collective bargaining will promote industrial peace.<sup>4</sup>

### 2.3 Concept and Meaning of Collective Bargaining

"Collective bargaining arrangements are relationships in which an employee and an organisation of employees in an enterprise engage in discussions about terms and conditions of employment between them," and it is supported by the belief in collective autonomy, whereby there can be self-regulation of relations between them in the absence of interference from the State.<sup>5</sup>

Nevertheless, in the Indian context in terms of industrial jurisprudence, collective bargaining equally remained as an component of industrial democracy with reference to its ability to provide workers with an esteemed chance to actively engage in participatory processes in accordance with constitutional provisions with reference to equality, dignity of labour, and freedom of association as provided in Article 14, 19(1)(c), and 21 of the Indian Constitution,<sup>6</sup> thereby assuming a distinguished socio-legal characteristic in industrial jurisprudence in its own capacity.

### 2.4 Collective Bargaining vis-à-vis State Adjudication

Dispute resolution is governed by two different approaches: one is state adjudication and the other is collective bargaining. State adjudication is characterised by various features that

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<sup>2</sup> *Bharat Iron Works v. Bhagubhai Balubhai Patel*, (1976) 1 SCC 518

<sup>3</sup> *Workmen of Delhi Cloth & General Mills Ltd. v. Management*, AIR 1970 SC 919

<sup>4</sup> *Karnataka State Road Transport Corporation v. KSRTC Staff & Workers' Federation*, (1999) 2 SCC 687

<sup>5</sup> *Herbertsons Ltd. v. Workmen*, (1977) 2 SCC 232

<sup>6</sup> *All India Bank Employees' Association v. National Industrial Tribunal*, AIR 1962 SC 171

include compulsory intervention, formalism, and authority-based decision-making.<sup>7</sup> While state adjudication is more enforceable and predictable, it is less adaptive and effective.

On the other hand, collective bargaining is based on voluntary and consensual elements of dialogue and compromise, enabling different parties to sort out their issues in their own industrial way leading to cooperation and trust between them. The above framework of contrast will enable us to determine whether collective bargaining has a potential role in providing a viable alternative to judicial intervention by the Indian government.

## 2.5 Statement of the Problem

Despite legislative sanction and support for the process of collective bargaining by the courts, supremacy of adjudication of State has always prevailed in Indian adjudicatory principles of resolving industrial disputes. However, the overdependence on adjudication itself points to several alarming tendencies, viz., independence in industry, justice in participation, and efficacy in administration. Too much adjudication and State oversight lead to an unamiable delay in resolving disputes.<sup>8</sup>

Broadly, it can be indicated that the quintessentially prevailing concern that has formed part of the subject matter in this study would include whether collective bargaining, as it manifests as a purely optional process that also promotes elements of democracy, can sustain itself as a viable alternative to adjudication in association with the role of the state, in consonance with elements of labour welfare that have been maintained as part of Indian law.

## 2.6 Objectives of the Study

The objectives of this current study are:

- For the evaluation of the jurisprudential basis of Collective Bargaining in Indian Labour Laws.
- To determine the importance of State adjudication in resolving industrial conflicts

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<sup>7</sup> *State of Punjab v. Labour Court, Jullundur*, (1980) 1 SCC 4

<sup>8</sup> O.P. Malhotra, *The Law of Industrial Disputes*

- To test the effectiveness of collective bargaining as an alternate model
- For assessing judicial and legislative trends favourable to negotiated settlements
- To suggest what can be done to further improve the bargaining process at the Union Level

## 2.7 Scope and Limitations of the Study

The scope of the present work is confined to a study of collective bargaining and State adjudication from the perspective of Indian labour law. Only source materials relating to judicial decisions, statutory amendments, and policy matters are mainly used in discussion. The comparative/international perspective has been mentioned only where it is considered useful in properly placing the Indian labour jurisprudence.

The study has its limitations with regard to the absence of empirical evidence and statistics related to industrial disputes. Secondly, while laying emphasis on the organised sector, it is to be noted that collective bargaining in the unorganised sector would bring about different problems for which an altogether new study would be required.

## 3. THEORETICAL AND JURISPRUDENTIAL FOUNDATIONS

### 3.1 Jurisprudential Basis of Labour Law

Labour laws have a distinct position in the entire jurisprudence of the legal profession, given that it is an effort to create a delicate equilibrium where the divergent tendencies of capital and labour are brought together in consideration of broader objectives of social justice, thereby being quite different from the traditional discipline of contractual laws, which is predicated upon principles of equality and liberty, whereas in labour laws, it is rather the asymmetry of power that is intended to produce a rationale of legal interference & Law of Torts:

Indian Labor Jurisprudence is heavily impacted by the constitutional imperatives of realizing the ideals of social, economic, and political justice within the Indian domain of the rule of law, to the extent that in keeping with the provisions of Articles 38, 39, 41, 42, and 43 of Part IV of the Indian Constitution, which constitute the guiding principles for the Directive Policies of the States, it is the constitutional duty of the Indian government to offer justice-filled work

conditions, coupled with higher wages, and involvement of the workforce in the management through the device of collective bargaining, without the need to invoke the intervention of the government to influence diligence in the same sphere through State adjudication cum collective bargaining itself.

### **3.2 Concept of Industrial Democracy**

The concept of industrial democracy is actually one of the assumptions on which the concept of collective bargaining is based. Industrial democracy, as a concept, may actually be explained as "the extent to which industrial workers participate on their own behalf in regard to their terms and conditions of employment."<sup>9</sup> The assumption on which industrial democracy is actually based is the extent to which industrial workers participate on their own behalf.

"The principal institutional means through which industrial democracy is actually implemented or achieved is through the medium of collective bargaining."<sup>10</sup> Labour is then able to express itself with regard to the question of fixation of wages, working hours, discipline, and all matters related to the question of services.

In the Indian context, it has been held by the Courts that industrial democracy is a necessity for the achievement of industrial peace and harmony, which underscores the valid importance of the method of collective bargaining when juxtaposed with a method imposed through adjudication.

### **3.3 Freedom of Association and Collective Autonomy**

However, the principle of "the liberty of association"<sup>11</sup> is a fundamental constitutional principle that supports the principle of collective bargaining to some degree. Article 19(1)(c) of the Constitution of India recognises the right to form associations and unions of employees with others. Even this right, which can be construed as "more than formal," is intended to enable employees to better their economic position collectively.<sup>12</sup>

So characterised, this liberty breeds the development of the phenomenon denoted by "collective

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<sup>9</sup> Sidney & Beatrice Webb, *Industrial Democracy*.

<sup>10</sup> G.B. Pai, *Labour Law in India*.

<sup>11</sup> Article 19(1)(c), Constitution of India.

<sup>12</sup> *All India Bank Employees' Association v. National Industrial Tribunal*, AIR 1962 SC 171.

autonomy,”<sup>13</sup> wherein both ‘workers’ relations’ and ‘employers’ relations’ are subject to self-regulation. In other words, from the jurisprudence outlook, “collective autonomy” means “the requirement of ‘respect for ‘private’ ordering in ‘labour’ relations,” while “unrestricted reliance on State adjudication” often works to produce its erosion “in favour of decisions being imposed rather than agreed to through a process of negotiation.”

### **3.4 Social Justice Theory and Labour Welfare**

Thus, social justice constitutes the ideological underpinning of the Indian model of Labour Laws. Such a set of labour legislation was framed, which was not only intended towards providing a mechanism of redressal of disputes, but was focused more towards providing a framework of redressing historical social injustices. Such a judicial methodology is underpinned by protecting employees from any exploitation in the form of providing them a sense of ‘minimum’<sup>14</sup> in any given circumstance.

However, social justice does not always mean that the State intervenes all the time. Rather, collective bargaining may even, in good faith, promote well-being in the labour field with active trade union support, as it may help the labour group bargain to produce terms of work which may be more appropriate to its well-being. Finally, collective bargaining may even represent substantive justice under a jurisprudential viewpoint.

### **3.5 Marxist, Pluralist, and Functionalist Perspectives on Collective Bargaining**

There are several schools of thought in law that provide different insights into the role played by collective bargaining in the field of labour relations. As far as the Marxist school is concerned, in regard to collective bargaining in relation to employees in general, it is fighting against exploitation of power in the form of capitalism; although it does not do away with inequality, it still provides an opportunity for labour to improve its situation.

The pluralist theory presupposes an industry structure that is controlled by interest groups. These interest groups would include the employees and the employers, together with the State itself. According to the pluralism theory, the process of collective bargaining would be a fundamental one that would be legitimate, with adjudication merely playing a supplementary

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<sup>13</sup> Otto Kahn-Freund, *Labour and the Law*.

<sup>14</sup> *Crown Aluminium Works v. Workmen*, AIR 1958 SC 30.

role to it.

The above argument is based on the functionalist perspective of industrial relations. In the functionalist perspective, there is a lot of emphasis attached to efficiency in the overall functioning of the industrial relations system. The functionalist perspective is also in favour of collective bargaining in the resolution of the dispute expeditiously and practically.

### **3.6 Natural Justice and Participatory Justice in Labour Relations**

The natural principles of 'fairness,' 'equality,' and 'being heard' play a crucial role as labour jurisprudence. 'Fairness' in labour jurisprudence is ensured by the State's adjudicative process; conversely, 'worker participation' remains conspicuously absent.

Due to this fact, collective bargaining is seen as one of the elements of participatory justice in that it accounts for the direct involvement of the workers' interests in the determination of an outcome in the employment contract decision-making process.

Participatory justice is, in essence, seen as an exemplification of the real essence of consensual decisions aimed at attaining respectful interactions between individuals involved in any particular issue or activity.

The jurisprudential side of the concept of participatory justice enhances the legitimacy of the outcome of the industry, thereby offering a more desirable kind of collective bargaining than that of the court.

### **3.7 Collective Bargaining as a Jurisprudential Alternative to State Adjudication**

At the theoretical level, collective bargaining may be defined as the transition from State-centric conflict resolution towards autonomy-based regulation. It may be seen as aligned with contemporary trends in jurisprudence that place emphasis upon decentralisation, stakeholder involvement, and collaborative governance styles.

It would appear to this writer, from the collective bargaining process through the Indian approach to labour law, that there is no invocation to exclude adjudication but rather to fundamentally re-examine its place. The law is moving towards an interpretation where adjudication is used as a measure of last resort and where collective approaches have first been

exhausted. This would present the foundation on which the following chapters seek to examine collective bargaining as a complement rather than an opponent to adjudication by the State.

#### **4. STATE ADJUDICATION UNDER INDIAN LABOUR LAW**

##### **4.1 Concept and Rationale of State Adjudication**

The term 'State adjudication in Labour Law' would relate to a statutory system of settling industrial disputes by bodies judicially or quasi-judicially. In India, this model evolved from the recognition that, in industrial relations, there is no equality of bargaining power. Since individual workmen are normally not in a position to have the necessary economic strength or organisational capacity to bargain effectively with employers, the intervention of the State is necessary to avert exploitation and also industrial unrest.

State adjudication thus rests on the philosophy of the welfare state as accepted by the countries after gaining independence. The State arrogated to itself the role of impartial arbiter for achieving the goal of industrial peace, a minimum level of uniform standards of employment, and to implement ideals of social justice. Adjudication was thus conceived not so much as a machinery of dispute settlement as an agency of socio-economic regulation.

##### **4.2 Industrial Disputes Act, 1947 – Adjudicatory Mechanisms**

The Industrial Disputes Act, 1947 outlines an elaborate framework for the settlement of industrial disputes. This act has established an order of authorities that are empowered to settle disputes referred to them by the proper government.

###### **4.2.1 Labour Courts**

The Labour Courts have been constituted to adjudicate cases relating to matters specified in the Second Schedule to the Industrial Disputes Act, which include legality of dismissals, discharges, retrenchments, and interpretation of standing orders. The Labour Courts mainly deal with right-based cases.

The Labour Courts perform a vital function in safeguarding workmen from any arbitrariness emanating from managerial practices. However, the process in those courts may be almost akin to normal litigation, which sometimes results in the proceedings being too Time-Consuming

and Complex.

#### **4.2.2 Industrial Tribunals**

Industrial Tribunals have the power to decide disputes relating to general industrial matters such as wages, allowances, hours of work, and service conditions as specified in the third schedule to the act. Industrial tribunals deal with collective disputes involving large numbers of workmen.

Industrial tribunals were established with the purpose of delivering comprehensive and binding decisions that have restorative power in bringing about industrial harmony. Yet, despite the stated objective, adversarial aspects and protracted legal processes have created discordant industrial relations.

#### **4.2.3 National Industrial Tribunals**

The National Industrial Tribunals are constituted in cases involving national importance or establishments located in more than one State. In fact, the very establishment of such Tribunals reflects the requirement for uniformity and centralized adjudication in matters with wide economic implications.

While National Tribunals serve an important coordinating function, their small number and heavy caseload further contribute to delay, reinforcing criticism of adjudication-centric dispute resolution.

### **4.3 Role of Government in Industrial Dispute Resolution**

The singular feature of the Indian adjudicatory system is the important role that the government plays. Under the Industrial Disputes Act, it is at the discretion of the appropriate government to refer disputes for adjudication. The referral of disputes has important bearing on the role of the State.

However, the level of control exercised by the government in the process of referral has often been criticized for striking political balance in the process of industrial disputes, leading to efforts being discouraged for settling disputes.

#### **4.4 Judicial Interpretation of State Intervention**

Indian Courts have all along sustained the constitutional validity of State adjudications on the premise that it is one mechanism to ensure industrial peace. The Courts' decisions highlight that the primary aim of the adjudication is to ensure industrial peace and to maintain fair labour practices in society.

At the same time, it has also been realized by the judiciary that compulsory adjudication has its own limitations and has encouraged the withdrawal of negotiated settlements. It has been repeatedly held by the courts that voluntary agreements reached by collective bargaining are entitled to more respect.

#### **4.5 Limitations and Criticism of State Adjudication**

However, the process, which is intended to protect, has come under severe criticism for being inefficient and too formal. Delays and backlogs of cases, and technical complexities, have made the process inefficient, tackling problems of dispute resolution directly. Adversarial relationships have also resulted from adjudication.

In addition, excessive reliance on adjudication would create a lack of confidence in collective autonomy and undermine trade union initiative. There is a likelihood that employers and workmen would prefer adjudication as a means of resolving disputes, as opposed to negotiation, which could cause industrial stagnation. The above problems raise a need for re-evaluating the significance of adjudication in industrial disputes resolution.

### **5. COLLECTIVE BARGAINING IN INDIAN LABOUR LAW**

#### **5.1 Meaning, Features, and Types of Collective Bargaining**

Collective bargaining is a method by which employers and groups of employees interact with each other, with mutual agreement, towards reaching a mutual agreement on terms and conditions of employment. Collective bargaining is governed by dialogue, compromise, and faith-based negotiations rather than decision-making and reaching specific results. However, unlike individual bargaining, collective bargaining was formed to counterbalance the power

imbalance that usually occurs between employers and employees.<sup>15</sup>

The main features of collective bargaining are the collective representation of workers, the voluntary participation of the parties, good faith negotiation, and the establishment of a binding agreement. It is a dynamic process involving not only wage issues but also working conditions, security, grievance handling, and discipline. Collectively, the juristic concept of collective bargaining is viewed as a symbol of industrial democracy.

### **5.2 Statutory Recognition of Collective Bargaining in India**

While most jurisdictions have introduced a single, comprehensive statute to govern collective bargaining, Indian labour law is silent on this aspect. Its recognition is implicit within several legislations. For example, the Industrial Disputes Act, 1947, calls for settlement through collective agreements: Sections 18 and 19 particularly give binding force to a settlement arrived at in the course of conciliation.<sup>16</sup>

The Trade Unions Act, 1926, provides legal recognition to trade unions that represent workers collectively<sup>17</sup>. More recent legislation under the Industrial Relations Code, 2020, negotiated further emphasis on unions and negotiating councils, strengthening the institutionally provided support for collective bargaining.<sup>18</sup>

### **5.3 Role of Trade Unions in Collective Bargaining**

Trade unions are the main institutions through which collective bargaining is carried out.<sup>19</sup> They unite the interests of individual workers and express the collective needs of workers in negotiations with their employers. Strong trade unions are beneficial in the process of collective bargaining as they ensure discipline, legitimacy, and continuity in the negotiations.

However, the Indian TU movement has had to contend with problems like political fragmentation, declining membership, and a lack of financial autonomy. These factors often undermine the bargaining power of workers and force them to rely on adjudicatory procedures

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<sup>15</sup> Workmen of Delhi Cloth & General Mills Ltd. v. Delhi Cloth & General Mills Ltd., AIR 1970 SC 919.

<sup>16</sup> Industrial Disputes Act, 1947, Sections 18 & 19.

<sup>17</sup> Trade Unions Act, 1926, Sections 2(h), 13, 15.

<sup>18</sup> Industrial Relations Code, 2020, Sections 14–16.

<sup>19</sup> B.R. Singh v. Union of India, (1990) 1 SCC 554.

instead of negotiation.

#### **5.4 Voluntary Collective Bargaining vs Compulsory Adjudication**

The outstanding characteristics of collective bargaining are the opposites of those suggested for compulsory State adjudication. Instead of autonomy, flexibility, and an endeavour to reach a consensus, adjudication depends upon authority, formal procedure, and an imposed decision.

While adjudication provides enforceability and protection in the most extreme cases of power imbalance, over-reliance on compulsory adjudication negatively affects the development of a collective bargaining culture. A jurisprudential predisposition toward voluntary bargaining would be more in tune with democratic principles and efficient industrial government

#### **5.5 Judicial Attitude towards Collective Bargaining**

The Indian judiciary is always supportive of collective bargaining as an effective means of solving industrial disputes. Indian courts have especially underscored that any settlements arrived at through collective bargaining have to be respected and implemented except in instances where such settlements are deemed unfair, unjust, and/or instances where such settlements are deemed unfair, unjust, and/or in violation of public policy.

Careful consideration has been given by judicial pronouncements to the fact that negotiated settlements aid in maintaining industrial peace and limiting litigation. Similarly, there has been an understanding that collective bargaining must operate within the parameters of labour welfare and constitutional mandates.

#### **5.6 Collective Agreements and Their Legal Status**

The sanction for the legal relevance of collective agreements lies primarily in their recognition under various labour laws. The agreements reached during the course of conciliation proceedings bind not only the parties to the agreement but also all the workmen in the establishment.

Private settlements, though binding between the contracting parties, may not hold universal validity. It has, however, largely been recognised that collective agreements are sincere and voluntary attempts at the regulation of industrial relations.

## 6. COLLECTIVE BARGAINING AS A SUBSTITUTE FOR STATE ADJUDICATION

### 6.1 Shift from Adjudicatory Model to Negotiation Model

The traditional adjudicatory model for industrial dispute resolution in India has the compulsory intervention of the State through labour courts and tribunals. Though this model was justified in history to protect workers from unequal bargaining power, its continued predominance demonstrated systemic inefficiencies. Due to long litigation, procedural delays, and rigid outcomes, over time, adjudication has weakened as an effective primary dispute resolution mechanism.

The Indian labour jurisprudence, in its response, has gradually moved towards a bargaining model with collective bargaining as its centrepiece. This change reflects a greater recognition that industrial relations are better regulated through dialogue and mutual adjustment than through adversarial litigation. The judgments pronounced by the courts and legislative reforms have increasingly endorsed voluntary settlements as a more sustainable mode of settling industrial disputes. The negotiating model enables both parties to become masters of conflict resolution internally and reduces dependence on State authorities at a macro level.

### 6.2 Collective Bargaining as an Alternative Dispute Resolution Mechanism

Collective bargaining may be regarded as another form of alternative dispute resolution (ADR) that falls within the industrial relations system. Collective bargaining has also been differentiated from other forms of dispute resolution, like conventional adjudication, whereby it places more emphasis on decision-making, flexibility, and relationship adaptation between employers and employees.

As a mode of ADR, collective bargaining supports preventive dispute resolution, which entails resolving disputes before they arise. Further, it supports both settlement of disputes arising from interests as well as settlement of rights-based disputes, hence reducing the necessity for adjudicatory action. At a jurisprudential level, collective bargaining is consistent with the trends in modern dispute resolution, which prefer negotiation over enforcement.

### 6.3 Efficiency, Speed, and Industrial Peace

Perhaps the most compelling evidence for adopting the system of collective bargaining as an

alternative to State adjudication is the element of efficiency involved in collective bargaining. Labour adjudicatory forums are frequently beset by procrastination, and the objective of providing justice on a timely basis is defeated.

Prompt settlements arrived at through collective bargaining also help in maintaining industrial peace. This is so because the decisions arrived at can be easily implemented by the parties involved. Industrial harmony is thus maintained by avoiding strikes, lockouts, and other forms of industrial unrest. Collective bargaining promotes harmony and cooperation, not conflict.

#### **6.4 Reduction of Judicial and Administrative Burden**

Overburdening of labour courts and industrial tribunals has been a constant problem in the Indian labour adjudication system. Thousands of disputes, which could have been settled by negotiation, are regularly referred for adjudication. This results in delayed justice and also deprives the judicial system of more valuable time that could be spent on complicated and unavoidable disputes.

This can be achieved by strengthening collective bargaining as the primary dispute resolution mechanism, thereby easing the pressure on judicial and administrative institutions. Collective bargaining, through effective workplace or industry-level settlements, minimises the requirement of State referrals for adjudicatory proceedings and adjudication. This would serve a better and more effective function of the Adjudicatory Bodies to handle more such issues that are not feasible to achieve under the process of negotiated settlement.

#### **6.5 Balancing Employer–Employee Power Dynamics**

One of the most important objections to replacing State adjudication with collective bargaining is that there is inequality between employers and employees. Whereas adjudication has the benefit of protective oversight, it can also lead to the disempowerment of workers as it removes them from the process. Collective bargaining, when bolstered by good trade unions and supported with legal provisions, can be a more participatory method to balance power relations. Through collective representation, workers amass bargaining strength and negotiating capacity. Collective bargaining, therefore, distributes power in industrial relations in a manner that allows workers to have influence in outcomes that touch and concern their employment. This participatory model would, from a jurisprudential perspective, conjoin with constitutional

values of equality, dignity of labour, and industrial democracy.

### **6.6 Limitations of Collective Bargaining as a Substitute**

Although it has its own advantages, collective bargaining cannot replace State adjudication entirely. There are several limitations in its exercise, which include a weak trade union, dual representation, lack of support from employers, and a high incidence of informal employment. In cases of extreme power disparity, collective bargaining between employers and workers cannot effectively address labour interests. Furthermore, there also lies a risk that the outcome of collaborative bargaining may undermine statutory labour standards if it fails to undergo proper legal scrutiny. Hence, while emphasis on collective bargaining as an approach to dispute resolution must be encouraged, State adjudication, on the other hand, is indispensable. Therefore, a perfect blend of these two approaches is essential to arrive at the most viable approach to dispute resolution in India.

## **7. ROLE OF JUDICIARY AND CASE LAW ANALYSIS**

### **7.1 Supreme Court's Approach towards Collective Bargaining**

An important role has been played by the Indian judiciary, primarily through the pronouncements of the Supreme Court, regarding the path of collective bargaining. While underlining the need and importance of State intervention in ensuring labour welfare, it has been consistently asserted that the resolution of industrial disputes, wherever possible, needs to be achieved through negotiated settlements rather than through compulsory approaches. It has been recognised by the Supreme Court that collective bargaining forms an integral part of industrial democracy.<sup>20</sup> It has, in fact, been regarded by the Supreme Court as a preferred mode of dispute resolution. This can be gauged from the reasoning that settlement through mutual agreement and consent is likely to bring about harmony in the field of industry and that such outcomes are more readily acceptable to both parties.

### **7.2 Landmark Judgments Supporting Collective Bargaining**

Several landmark decisions have reaffirmed the legitimacy and significance of collective bargaining in Indian labour law. In *Workmen of Tata Engineering and Locomotive Co. Ltd. v.*

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<sup>20</sup> *Workmen v. Hindustan Lever Ltd.*, (1984) 4 SCC 392.

Tata Engineering and Locomotive Co. Ltd.,<sup>21</sup> the Supreme Court reiterated “collective bargaining” as “the most effective method for settlement of industrial disputes” and must not be undermined.

In the case of LIC of India v. D.J. Bahadur,<sup>22</sup> the Court emphasised the significance of collective agreements that are arrived at through negotiations by observing that a collective agreement reflects the will of the parties and hence invokes substantial respect from the Court. In this case, collective bargaining has been upheld as a means to bring industrial peace and is akin to a vision of justice that is part of the Constitution.

Similarly, in Balmer Lawrie Workers’ Union v. Balmer Lawrie & Co. Ltd.,<sup>23</sup> the Court was seen to uphold the sanctity of settlement agreements reached through collective bargaining mechanisms and stated that such settlement agreements must not be readily interfered with by the adjudicatory authorities.

### 7.3 Cases Favouring State Adjudication over Bargaining

“While supporting the cause of collective bargaining, the judiciary has also recognised circumstances where adjudication by the State is indispensable, such as in ‘situations involving a great inequality of bargaining power, absence of representative trade unions, or violation of statutory labour standards.’”<sup>24</sup>

In Bharat Iron Works v. Babubhai Babubhai Patel, the Supreme Court has reiterated that there is a need for adjudication when collective bargaining does not protect workers from unfair labour practices. The court observed that state intervention is needed to safeguard workers from exploitation and ensure that they adhere to the legal statutes.

Secondly, the inclination of the judiciary towards adjudication is also seen in instances where a settlement is deemed to be unjust, unfair, or even contrary to public policy. Therefore, as much as collective bargaining is promoted, it cannot be ensured at the expense of minimum labour norms.

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<sup>21</sup> Workmen of Tata Engineering and Locomotive Co. Ltd. v. Tata Engineering and Locomotive Co. Ltd., AIR 1981 SC 2163.

<sup>22</sup> Life Insurance Corporation of India v. D.J. Bahadur, (1981) 1 SCC 315.

<sup>23</sup> Balmer Lawrie Workers’ Union v. Balmer Lawrie & Co. Ltd., (1985) 4 SCC 325.

<sup>24</sup> Standard Vacuum Refining Co. v. Its Workmen, AIR 1960 SC 948.

#### **7.4 Comparative Judicial Trends**

From a comparative analysis of the judicial trends, Indian courts are seen to take a balanced approach, as in other common law jurisdictions. Similarly, the United Kingdom and the United States courts also emphasise collective bargaining and the adjudicatory role to deal with issues of imbalance and illegalities under the relevant statutes. It is pertinent to note that Indian judicial trends observe a hybrid model, which incorporates elements of negotiated settlements and adjudicatory principles. The said approach is consistent with global labour standards as promoted by the ILO, which emphasises collective bargaining as a fundamental right while acknowledging the principles of State institutions.

#### **7.5 Impact of Judicial Interpretation on Labour Relations**

One of the major factors that has affected labour management in India is judicial interpretation, which has been instrumental in promoting a culture of collective negotiation with minimal judicial interference.

At the same time, however, the requirement of compliance and justice has ensured that collective bargaining is conducted within the wider framework of labour welfare and justice. Such a balanced approach from the judiciary, therefore, has given shape to a system of labour dispute resolution that emphasises independence, participation, and protection. Such an approach from the judiciary, however, would lend further strength to the argument that collective bargaining, if backed by adjudicatory support, can act as a valid substitute for state adjudication.

### **8. COMPARATIVE AND INTERNATIONAL PERSPECTIVE**

#### **8.1 ILO Conventions on Collective Bargaining**

Collectively, it is an acknowledged right at the global level, recognised as a vital element in building industrial democracy. The ILO has always encouraged the practice of collective bargaining as a measure to produce fair terms of employment, social justice, and industrial harmony. Indeed, two vital conventions, in particular, are noteworthy in this context: the ILO's Convention no. 87 concerning Freedom of Association and Protection of the Right to Organise, and the ILO's Convention no. 98 relating to the Right to Organise and Collective Bargaining.

The above Convention No. 87 has insisted that workers, along with employers, have the right

to form and become members of worker organisations that they choose themselves without any necessity for prior authorisation, which has essentially established the foundation for conducting effective collective bargaining. Furthermore, Convention No. 98 has obligated States themselves to encourage and promote voluntary collective bargaining between employers and worker organisations. There is a mutual advocate in these conventions of minimal State intervention and resolution through negotiations alone. Though India has not ratified these conventions, there has been a significant impact on Indian labour jurisprudence.

### **8.2 Collective Bargaining in the UK**

The UK's system of collective bargaining approached the issue from a voluntaristic perspective, which was historically underpinned by the model of collective laissez-faire. This model stressed non-intervention by the State in industrial relations; employers and trade unions mutually regulated employment conditions by negotiations. Collective agreements in the UK were not enforceable by law unless expressly incorporated into the contract of employment.

The courts have largely respected the autonomy of collective bargaining and have not sought to impose their decisions instead. The limited role of state adjudication has been to ensure that the outcome conforms to the minimum legal requirements. From the above, it has been demonstrated that the autonomy of collective bodies can be a means of sustaining harmony.

### **8.3 US Model of Labour Negotiations**

The United States' system of collective bargaining follows a regulated path under the National Labor Relations Act of 1935. Under this act, there is legal recognition of collective bargaining and a statutory obligation on employers to make a good faith effort to negotiate with recognised trade unions. This stands in stark contrast to the UK system.

Labour disputes in the US can be settled through collective bargaining, mediation, and arbitration, while the adjudication of labour boards serves as a supervisory body. Therefore, this is an instance where state regulation may be viewed as working in tandem with collective bargaining, albeit to protect labour rights and minimise legal intervention.

### **8.4 Lessons for Indian Labour Law**

Comparing international models, it appears that what all effective collective bargaining systems have in common is their underlying features: strong trade unions, legally recognised bargaining

agents, and limited but supportive State intervention. The experience of both the UK and the US shows that excessive reliance on adjudication can be avoided when collective bargaining institutions are robust and trusted. These models underpin for India the imperative of strengthening trade union representation, clarity of recognition procedures and encouragement of voluntary negotiations. The comparative perspective lends support to the contention that State adjudication should act as a residual mechanism and not as the dominant mode of dispute resolution.

### **8.5 Applicability of International Standards in India**

The applicability of international labour standards needs to be evaluated in the specific socio-economic conditions of India. Even though India has not ratified some of the ILO conventions on collective bargaining, Indian courts often refer to international law to interpret constitutional provisions.

The Indian courts have also referred to ILO standards to buttress the concepts of freedom of association, collective autonomy, and collaborative justice. The progressive development of national jurisprudence with international standards demonstrates a dynamic labour law system that accommodates the value of dispute resolution through negotiations. The modification of international standards to accommodate the realities of India could help promote collective bargaining with appropriate adjudicatory procedures to strike a balance for effective IR systems.

## **9. CHALLENGES AND CONTEMPORARY DEVELOPMENTS**

### **9.1 Decline of Trade Unions**

The efficacy of collective bargaining in India is inextricably linked to the strength and representativeness of its collectivising agents themselves—the trade unions. Of late, there has been a noticeable decline in the membership and strength of the unions, especially in the private sector. In recent times, economic liberalisation, the outsourcing phenomenon, contractualization of labour, and the development of individualised employment agreements have all impacted the development of a concept of workers' collective and so undermined the role of collective workers' organisations. In addition to that, the political, ideological, and occupational segmentation of trade unions has diluted their efficacy in the process of collective

bargaining, which assumes the existence of organised labour to begin with and serves to compensate for the absence of adjudicatory functions by the state.

### **9.2 Informal Sector and Gig Economy**

The foremost challenge that affects collective bargaining relations in India is related to its large informal sector and the rise of the gig economy. The level of labour force participation that is outside the formal employer-employee relationship presents one of the largest challenges to empowering employers. Workers engaged in the gig economy face the challenge of being categorised as individual entrepreneurs, who do not have access to labour legislation and collective bargaining. Despite rising calls for labour legislation on collective bargaining among gig workers, this has remained a challenge, causing them to rely on direct interventions by governments.

### **9.3 Impact of Industrial Relations Code, 2020**

The Industrial Relations Code, 2020, being one of the significant changes in Indian labour legislation, has significant ramifications for collective bargaining practices. The initiative attempts to codify industrial relations by recognising negotiating unions and negotiating councils, hence providing a framework for collective bargaining. However, it has also been suggested that this codified attempt has facilitated greater employer flexibility through its enforcement of stricter conditions before calling a strike, along with sterner approval procedures for retrenchment and closure. To what extent this codification can facilitate collective bargaining remains questionable, while its success largely depends on its fair and fair-minded implementation, failing which, state adjudication may prevail.

### **9.4 Employer Resistance and Power Imbalance**

Other pervading obstacles include resistance by employers, especially under competitive, profit-oriented economic regimes. Employers often prefer to deal with individual negotiations or discretion by managers based on efficiency and flexibility. This is further compounded by inherent power imbalances that exist between employers and employees, particularly in unorganised, low-skilled industries. Unless properly safeguarded, collective bargaining runs the risk of becoming unequal or symbolic, hence requiring judicial oversight or state adjudication for workers not to prevent workers from being exploited.

## 9.5 Collective Bargaining in the Post-Liberalisation Era

The post-liberalisation economic policies have reconstituted labour relations in India, giving priority to market efficiency, foreign investment, and ease of doing business. While these are the reforms that have escorted economic growth, these have also weakened traditional labour protections and collective institutions. Collective bargaining in this era faces a twin task: (a) responding to flexible labour markets and, at the same time, (b) preserving workers' rights. The current trend suggests that collective bargaining and state adjudication must work as complementary mechanisms rather than as substitutes, with collective bargaining encouraged where the conditions allow for it and adjudication retained as a safeguard. The current chapter highlights that while collective bargaining does really stand out as a substitute for state adjudication, modern economic realities, legal reforms, and structural challenges continue to limit its applicability universally in India.

# 10. FINDINGS, SUGGESTIONS AND RECOMMENDATIONS

## 10.1 Key Findings of the Study

The present study reveals that collective bargaining is a vital but underutilised institution within the context of the labour jurisprudence of India. While the labour jurisprudence of India formally acknowledges collective bargaining as one of the vital tools of resolving industrial conflicts, in reality, the mediation of industrial disputes through the mechanisms of the state judicial apparatus in the context of labour courts and industrial tribunals continues to prevail. Yet, collective bargaining has proven its potential of fostering participative decision-making, accommodationism, and industrial democracy in many contexts where trade unions are strong, and negotiating is conducted in good faith. However, many structural limitations — such as the fragmentation of trade unions, employer resistance, and the informal nature of the economy — exert a constraint over its viability as a universal substitute.

## 10.2 Need for Strengthening Collective Bargaining

These findings constitute a case for urgent strengthening of collective bargaining mechanisms in India. Collective bargaining empowers workers by giving them a direct voice in the determination of wages, working conditions, and employment security, thereby reducing dependence on external adjudicatory bodies. Strengthening collective bargaining also furthers

constitutional values of social justice and the dignity of labour. A strong bargaining framework could nurture industrial peace through the encouragement of dialogue rather than confrontation. This, however, requires not merely legal recognition but also institutional support to ensure fairness in representation, transparency, and balance in negotiations between employers and employees.

### **10.3 Legal and Institutional Reforms**

Some concrete legal and institutional changes may be necessary to strengthen the effectiveness of collective bargaining. For example, it may be necessary to go further than existing law regarding the recognition and enforcement of collective agreements and protection against unfair labour practices. The institution of labour administration may need to be overhauled to emphasise negotiation and conciliation of industrial disputes. There may be a need to support capacity-building activities among trade unions and employer organisations to develop skills and awareness of legal rights. Labour adjudicating bodies may need to be seen as facilitators and protectors of collective bargaining, stepping in only where collective bargaining is absent or power imbalances exist.

### **10.4 Policy Recommendations**

In the context of policies, it should be seen to what extent the government can bring in policies that would encourage collective negotiations, but at the same time discourage the process of litigation. This could include stimulating sectoral negotiations, extending the scope of workers to include informal workers at the appropriate level of labour legislation, and making sure that labour reforms are not predominantly against the voice of workers in any manner. The angle of consultations should be given more importance so that labour policies do not become discriminatory in any way.

### **10.5 Future of Labour Dispute Resolution in India**

The future of dispute resolution in labour disputes in India lies in the balanced integration of collective bargaining and adjudication. Although collective bargaining should be encouraged as the first avenue in the settlement of industrial disputes, adjudication must continue to act as a protective umbrella in the maintenance of fairness and the prevention of exploitation. Therefore, it is only inevitable that, with the evolving nature of work in line with technological

advancement and economic restructuring, labour law must be shaped to attain the ideals necessary to bring the effective dispute resolution mechanisms into check. A judicious approach which acknowledges the complementary, rather than competitive, nature of collective bargaining and adjudication is what the ideals of industrial harmony and justice recognise. This chapter presents a consolidation of the study's findings and once again emphasises the role and potential of effective labour collective bargaining, along with requisite legal and policy interventions, in significantly transforming the scenario of labour disputes in India.

## 11. CONCLUSION

Accordingly, the present study attempts to explore collective bargaining as an alternative to state adjudication in Indian labour law from a jurisprudential and pragmatic perspective. The analysis carried out throughout the previous chapters shows that while state adjudication has played a central role in the resolution of industrial disputes in India, its centrality has equally caused delays, adversarial industrial relations, and overburdening of judicial institutions. On the other hand, collective bargaining is a participatory, flexible, and democratic mechanism capable of promoting dialogue, mutual trust, and long-term industrial harmony.

However, the study identifies that Indian labour law does not reject collective bargaining; rather, it recognises and encourages it as a preferred mode of dispute resolution. Judicial pronouncements, statutory provisions, and international labour standards collectively support the idea that negotiated settlements are more sustainable and context-sensitive than imposed adjudicatory outcomes. But these facets of collective bargaining show its effectiveness in an uneven manner in India due to structural constraints such as the decline of trade unions, fragmentation of labour representation, employer resistance, and a very large informal and gig workforce that falls outside traditional bargaining frameworks.

Also, the research shows that collective bargaining cannot be relied upon exclusively for the resolution of labour disputes as a complete substitute to adjudication under the existing socio-economic framework. What is required by the system of labour dispute resolution in India is a combination of collective bargaining, which must be the primary consideration, with conciliations and negotiations on the one hand, and adjudication on the other hand, which should be the protective mechanism in cases of power imbalance, unfair labour practices, or failures in collective bargaining.

In the contemporary context of liberalisation, technological change, and constantly changing employment relations, the future of labour law in India lies in consolidating collective institutions while avoiding excessive state intervention. The jurisprudential dimension of a more negotiation-focused approach to dispute resolution provides a promising avenue for containing industrial strife, improving workplace democracy, and fostering balanced economic development. Ultimately, the success of collective bargaining as an alternative to state adjudication depends not only on official recognition but also on a context that facilitates an environment in which negotiation, fair play, and respect are the cornerstones of Indian labour relations.