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ROLE OF INTERNATIONAL LABOUR ORGANIZATION IN PROTECTING COLLECTIVE BARGAINING

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Abstract

International labour standards aim to end the exploitation of workplaces and provide decent wages to workers. Child labour and workplace inequality have long been a curse.The emergence of labour unions and collective bargaining have greatly contributed to maintaining human rights and employment in the workplace.Although the labour organisations grew in the early stages under the shadow of the employers, the emergence of the ILO provided a regulatory framework for labour organisations and their activities.Employers are forced to determine employee wages and other benefitsbased on labour market forces. This is mainly done in two ways. One, as economists point out, is how the worker is seen as a product, and the workers' wages are determined by their demand and supply. The second is the method of collective bargaining in which workers collectively negotiate for wage increases and favourable working conditions, and they have more bargaining power than individuals. They usually do this through the system of a trade union.This process existed in England even before the end of the 18th century, and later, it spread to Europe and the United States of America. In the 19th century, collective bargaining theory considered only the process of negotiation as the core of the theory and ignored key factors such as trade unions, employers' associations, and legally sanctioned strikes or lock-outs[1].Freedom of association and collective bargaining are the fundamental rights declared by ILO at the beginning of the twentieth century through itsConvention, namely the Right to Organise and Collective Bargaining Convention. It was ratified by 167 countries, indicating the importance of collective bargaining and its application for setting labour standards in respective states.

Definition

The ILO Collective Agreement Recommendation 1982, paragraph 2 defines collective bargaining as:

> All agreement in writing regarding working conditions and terms of employment concluded between an employer, a group of employers or one or more employers' organisations, on the one hand, and one or more representative workers' organisation, or, in the absence of such organisations, the representatives of the workers duly elected and authorised by them by national laws and regulations, on the other.[2]

It is an ongoing negotiation process between workers' representatives and employers or employers' associationsto establish the conditions of employment. The collectively determined agreement may cover wages, hiring practices, layoffs, promotions, job functions, working conditions and hours, worker discipline and termination, and benefit programs[3].Thus, collective bargaining is a process or activity leading up to the conclusion of a collective agreement. All agreementsregarding working conditions and terms of employmentshapedup from the process must be put down in writing. The binding nature of collective agreement can be established either by legislature means or by the collective agreement itself, according to the method followed in each country.

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[1] Sidney & Beatrice Webb, *Industrial Democracy*, Longmans, 538 (1902)

[2]Bernad Germigon, Alberto Odero, Horacio Guido, *ILO Principles Concerning Collective Bargaining*, 139 Int'l Lab. Rev. 33, 35 (2000)

[3]https://www.britannica.com/topic/collective-bargaining (May 26, 2020, 12:29 PM).

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Sydney and Beatrice Webb presented a classical model of Collective Bargaining in their famous book *Industrial Democracy*[4] as an economic model during the 19th century[5]. They did not define collective bargaining but produced many examples, such as the one below:

> In unorganised trades the individual workman, applying for a job, accepts or refuses the terms offered by the employer without communication with his fellow workmen, and without any consideration other than the exigencies of his own position for the sale of his labour he makes, with the employer, a strictly individual bargain. But if a group of workmen concert together, and send representatives to conduct the bargaining on behalf of the whole body, the position is at once changed. Instead of employer making a series of separate contracts with isolated individuals, he meets with collective will, and settles, in a single agreement, the principles upon which, for the time being, all workmen of a particular group, or class, or grade, will be engaged[6].

The above thought overlooked the role of employer and their associations and denied any possibility of individual contracts in the absence of a collective agreement. Therefore, it is considered an alternative model against individual contracting and is an exclusive trade union method that substitutes collective will for individual bargaining.

To facilitate the operation of the process of collective bargaining, a favourable political system with high growth opportunities and economic freedoms, a process to support pressure groups, in which the lobbying and decision-making pluralism and legal framework to protect various interest groups, etc., are the preconditions for the better functioning of collective bargaining[7]. But it is not the same as selling a product, where both the seller and the buyer enter into an agreement about the eventual purchase. In collective bargaining, both parties force the other party to accept the conditions of one party in the form of socio-economic sanctions like strikes and lock-out. The primary purpose of collective bargaining is to determine the terms and conditions of employment, including wages. Therefore, some authors point to its three dimensions: (i) the union as the certified bargaining agent of employees negotiating with an employer or their associations, (ii) the process-backed legal sanctions in the form of permissive strike or lock-out, (iii) resolving the grievances of the parties[8].

Collective bargaining is not always an end-to-end solution to all industrial sector disputes to promote and maintain industrial unity. The bargaining depends upon the principle of the independence and autonomy of the parties and the free and voluntary nature of the negotiations, andit requires the minimum level of interference from the government. The state intervened through statutes facilitating certain mechanisms, such as conciliation, arbitration, courts, boards, and national industrial tribunals, to resolve disputes between employer and employee. In the presence of the government, the bilateral negotiations become a tripartite negotiation, which the ILO promotes[9]. However, the government cannot intervene in the conclusions of collective bargaining unless they are contrary to public policy. Moreover, the government considers this process an internal mechanism for determining the working conditions of an industry. Therefore, the state promotes collective bargaining to reduce its involvement in the determination of wages and other working conditions of workers.

An open warfare between employer and employees or their union will cause the industrial stoppage, which can be costly and disastrous for both parties.In his business interests, an employer buys cheap labour from the market; on the contrary, an employee always seeks wage increases and

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[4]*Supra* n. 2

[5]Syed M. A. Hameed, *A Theory of Collective Bargaining,* Industrial Relations, 25 Industrial Relations (No. 3)531, 551 (1970).

[6]*Supra* n. 1

[7]*Supra* n. 6 at 531

[8]*Id* at 538

[9]*Supra* n.3 at 34

favourable working conditions. The question, then, is about the bargaining power of both parties. However, the parties try to find a solution through negotiations. The conflicts of interests of both parties can be settled through discussions and to reach an agreement.Negotiations may occur at the national, regional, or local level, depending on the structure of industry within a country.The voluntary nature of collective bargaining is explicitly laid down in Convention No. 98[10], as it is a fundamental aspect of the principle of freedom of association[11]. Collective bargaining is effective only if both parties have done it in good faith, but since good faith cannot be imposed by law, it can only be the result of voluntary and persistent efforts by both parties.

The parties behind the collective agreement must ensure that the agreement is always legal and does not conflict with the country's existing laws. For example, a union and an employer cannot use collective bargaining to deprive employees of rights they would otherwise enjoy under civil rights statutes[12]. The binding nature of collective agreement can be established either by legislature means or by the collective agreement itself, according to the method followed in each country. The agreement is not purely voluntary since employees and employers can resort to different legal tactics, such as strikes and lock-outs, to pressure and force the other party to accept the bargaining conditions.

Not all issues in a bargaining unit are negotiated or resolved by the parties. Some issues are designated as compulsory matters of bargaining in which the parties negotiate and reach an agreement.Mandatory issues are either prescribed by state legislation or agreed upon by the parties on compulsory matters. Non-compulsory matters may be subject to bargaining, but it should not force the other party to bargain.While most decisions an employer makes can affect employees, not all are compulsory bargaining issues. However, it may be unfair labour practice if one party refuse to bargain over a mandatory topic.The employer and the union are not required to reach an agreement but must bargain in good faith over compulsory subjects of bargaining until they reach an impasse[13]. Arbitrary changes will be considered unfair work practices[14].The employer should not refuse to bargain with the employee's representatives if they have the majority support of the employees in the bargaining unit.Once a valid representative has been selected, even workers who do not belong to the union are bound by the collective bargaining agreement and cannot negotiate individual contracts with the employer[15].In some cases, trade unions may not have enough membership to represent workers before the forum, in which case the most representative union may have the opportunity to represent the entire workforce.Free election should be done to select the majority union unless it would be hampering the right to free choice of union of employees. The ILO instruments expressly authorise collective bargaining with the representatives of the workers concerned if there is no trade union to represent the workers in the area[16]. However, it warned that "the existence of elected representatives is not used to undermine the positions of the trade unions concerned or their representations.[17]"

Trade Union is a Fundamental Element of Collective Bargaining

Two questions need to be answered on the authority of a trade union to represent the workers. Does the trade union represent all members regardless of membership? Or does it just represent its

[10] Article 4 of the Right to Organize and the Collective Bargaining Convention, 1949

[11] Freedom of association: Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO. Fourth (revised) edition. Geneva. Para 844

[12]*Alexander v. Gardner-Denver Co*, 415 U.S. 36, 94 (1974)

[13]*Louisiana Dock Co. v. NLRB*, 909 F.2d 281 [7th Cir. 1990]

[14] https://www.encyclopedia.com/social-sciences-and-law/economics-business-and-labor/labor/collective-bargaining (May 26, 2020, 12:29 PM).

[15]*J. I. Case Co. v. NLRB*, 321 U.S. 332

[16]*Supra* n.3 at 36

[17] Article 5 of Convention No. 135

members in the collective bargaining process?In the initial stages of collective bargaining, labour organisations were controlled by the employers, and the representatives of both parties were loyal to the employer. Collective bargaining in such circumstances does not make sense. In the 1930s, the US Supreme Court addressed the issue and held that collective bargaining cannot be done where the employer controls representatives on both sides of the table[18]. Industry, in general, has accepted the view that collective bargaining can be carried on only with unions. Theoretically, it is still possible for unorganised workers to select representatives to bargain collectively with their employer without forming any sort of union, but actually, they seldom, if ever, do so. Employers may bargain collectively with them, provided they represent a majority of employers and are completely free from employer interference[19].

Trade unions are formed to protect the position of employees against employers and thereby introduce some parity between these groups.The right of the worker to join a trade union is essential for collective bargaining.A worker can, through his union, negotiate with his employer on an equal footing and reach a reasonable conclusion. The ILO illustrates this.

> Freedom of association ensures that workers and employers can associate to negotiate work relations effectively. Combined with strong freedom of association, sound collective bargaining practices ensure that employers and workers have an equal voice in negotiations and that the outcome is fair and equitable. Collective bargaining allows both sides to negotiate a fair employment relationship and prevents costly labour disputes. Indeed, some research has indicated that countries with highly coordinated collective bargaining tend to have less inequality in wages, lower and less persistent unemployment, and fewer and shorter strikes than countries where collective bargaining is less established. Good collective bargaining practices have sometimes been an element that has allowed certain countries to overcome passing financial crises[20].

The process enables the workers to negotiate between equal parties. In many of its documents, the ILO clarifies that a just and fair agreement can only be reached through negotiation between equal parties with the help of the principle of collective bargaining.The presence of a trade union may not be possible in all areas of collective bargaining. In such cases, workers' representatives can participate in the process[21]. However, it warned that employees' representatives would not be used to weaken the status of trade unions in collective bargaining[22]. After noting that the principle of collective bargaining is not applicable effectively, the ILO, through its Convention of Collective Bargaining, provides that "appropriate measures shall be taken, whenever of these (workers') representatives is not used to undermine the position of the workers' organisations concerned"[23].

Some countries provide trade unions with an exclusive bargaining agent representing all workers regardless of their own members and offer special benefits to trade unions through their legislation, which can negatively affect both parties.[24]From the employee's point of view, each '

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[18]*Texas and New Orleans v. Brotherhood of Railway Clerks,* 281 U.S. 548 (1930)

[19]Edwin E. Witte, *Collective Bargaining and the Democratic Process,* The Annals of the American Academy of Political and Social Science, Vol. 274, Labor in the American Economy 85, 93(1951). www.jstor.org/stable/1027077 Accessed 19/08/2019

[20]https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/collective-bargaining/lang--en/index.htm May 28, (2020, 04.08 PM).

[21]*Supra* n.3 at 36

[22]This standard is set out in Paragraph 2 of Recommendation No. 91 and is confined in Convention No. 135, which provide in Article 5 that "the existence of elected representatives is not used to undermine the positions of the trade unions concerned or their representations" (ILO, 1996c, p. 496).

[23]Convention No. 154, Article 3, Paragraph 2

[24] "Union security" clauses in the United States and as "organization" clauses in Sweden

organisation clause'(privileges) violates the freedom to choose which union to join. From the employers' point of view, these provisions violate the freedom to choose which workers they will hire or retain.For example, under the closed shop agreement, the employer only appoints union members, in which the union has greater control over the selection of employees.In other words, anyone wishing to take employment must join the relevant union. As the privileges available to trade unions are more likely to be misused, the ILO advises states to follow certain safeguards to ensure fair play. They are: (a) Certification of the recognition of unions as an exclusive agent shall be carried out by an independent body established for this purpose; (b) A majority of votes must elect the representative union; (c) If the former trade union fails to garner enough votes to represent the workers, a request for fresh election after a certain period of time would be conducted; (d) Any new organisation, except a certified organisation, has the right to request a fresh election after a reasonable period of time; (d) If no union comprises more than 50% of the workforce, all unions in this unit must be granted collective bargaining rights[25].

Public employees who are employed with government departments or its agency are special categories of employees. They are not subject to collective bargaining since they arethe art of public administration. The wages and other benefits of public servants have financial implications, which must be reflected in public budgets, which parliaments and municipalities recognise aftertaking into account the economic situation and public interest of the country[26]. Therefore, as an employer, the government has been directly involved in the process ofbargaining through government-appointed commissions or committees thatare responsible for determining the wages or salaries of public employees after consultations with stakeholders. As far as India is concerned, there are respective commissions at the central and state levels to deal with the salaries and other benefits of public sector employees. The recommendations of both the Commissions are not mandatory. In its fullest sense, bargaining is impossible when the government is the employer. This shows that the government is not a qualified employer to be the party of collective bargaining.

According to the documents of ILO, public employees have the right to organise, which allows them to take part in collective bargaining with the government as their employer. Labour Relations (Public Service) Convention, 1978, therefore, provides that "public employees' organisations shall enjoy complete independence from public authorities"[27]. Due to the nature of the jobthey are involved in, this freedom does not apply to all public employees. The Right to Organise and the Collective Bargaining Convention 1949 exclude certain categories of public employees from the scope of collective bargaining. They are the armed forces, police, and civil servants engaged in the administration of the state[28]. All employees under public authority are not excluded from the scope of collective bargaining. Only the public employees who are directly involved in the administration of the state are excluded from the scope of bargaining.

[25]Report III (Part 4B), International Labour Conference, 81st Session, 1994. Geneva, page 240-241
[26]*Supra* n.2 at 48
[27] Article 5
[28] Articles 4-6

Labour Standards

International labour standards respond to a growing number of needs and challenges workers and employers face in the global economy[29]. Thestandards are a comprehensive legal tool that establishes basic principles and rights in the workplace with the aim of improving the work environment globally.The traditional idea of labour standards has changed over time. Issues like promotion, transfer, and dismissal without notice were also added to the existing list. On account of pressure from the international labour community, more rights were added, such as human rights to attain social justice and decent work, occupational safety and health, wages, working time, employment policy, vocational guidance and training, skills development, specific categories of workers, labour administration and inspection, maternity protection and social security. Indigenous and tribal people and migrant workers[30] were recently added to the labour standards.The ILO has adopted these standards through various conventions and other documents[31].Accordingly,the standards are legal instruments drawn up by ILO'stripartiteconstituents (Government employers and workers) that lay down principles, rights, and minimum standards related to work and workplace. These standards can be either Conventions, which are binding international treaties, or non-binding recommendations.

Since its inception in 1919, the ILO has developed a unique monitoring system to monitor the implementation of international labour standards.ILO supervisory mechanism established under the article of the ILO Constitution is responsible for creating and implementing those standards. In 1998, the ILO adopted the Declaration of Fundamental Principles and the Right to Work, recognising the right to work as a fundamental right and to be part of the international labour standard. It proposed to all countries, irrespective of the ratification of the Convention, to respect, promote, and in good faith, the right to work as a basis for promoting labour standards.The right to collective bargaining, freedom of association, the elimination of forced or compulsory labour, the effective abolition of child labour and the elimination of discrimination in employment and occupation are the fundamental conventions of ILO[32], which constitute basic international labour standards worldwide. The conventions of ILO and its recommendationsand supervisory mechanism documents are responsible for maintaining international labour standards.

Maintain Labour Standards

The International Labour Organization is a specialised agency of the United Nations with the mandate to promote social justice. It is an internationally recognised body for fixing labour rights and setting labour standards. Its main objectives are promoting workplace rights and decent employment, enhancing social security, strengthening dialogue on work-related issues, and promoting collective bargaining worldwide. The principle of collective bargaining conceptualised in the Right to Organise and Collective Bargaining Convention, No. 98, was adopted in 1949. This task was already laid down in the Declaration of Philadelphia, 1944[33]. To date, 164 member states have ratified it.

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[29] https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/lang--en/index.htm, 02/06/2020; 03:52 PM.

[30] https://www.ioe-emp.org/en/policy-priorities/international-labour-standards / 31/05/2020: 01:32 PM.

[31]By the end of June 2018, the ILO had adopted 189 Conventions, 205 Recommendations and 6 Protocols covering a broad range of work issues.

[32]*Supra* n.2 at 34

[33]*Supra* n.2 at 34

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The Organization and its instruments have always made efforts to dominate collective bargaining over any other contract between the employer and the employee[34].Under Article 19 of the ILO Constitution, Member States must report at appropriate intervals on non-ratified Conventions; under Article 22, reports are periodically requested from States which have ratified ILO Conventions.The Committee on Freedom of Association has repeatedly stated that collective agreements are preferred over individual contracts and are opposed to equal treatment of individual contracts or to the detriment of workers from a union. In a case concerning the United Kingdom, the Committee on Freedom of Association indicated that avoiding a representative organisation and entering into direct individual negotiation with employees is contrary to the promotion of collective bargaining[35].

The Governing Body of the ILO identified the following eight conventions as fundamental subjects that are considered fundamental principles and right at work:

Number	Convention	Adoption	Number of ratifications	Position of India
C087	Freedom of Association and Protection of the Right to Organise Convention, 1948	San Francisco, 31st ILC session (09 Jul 1948)	155 ratifications	Not ratified
C098	Right to Organise and Collective Bargaining Convention, 1949	Geneva, 32nd ILC session (01 Jul 1949)	167 ratifications	Not ratified
C029	Forced Labour Convention, 1930	Geneva, 14th ILC session (28 Jun 1930)	178 ratifications	30 November, 1954
C105	Abolition of Forced Labour Convention, 1957	Geneva, 40th ILC session (25 Jun 1957)	175 ratifications	18 May, 2000
C138	Minimum Age Convention, 1973	Geneva, 58th ILC session (26 Jun 1973)	173 ratifications	13 June, 2017
C182	Worst Forms of Child Labour Convention, 1999	Geneva, 87th ILC session (17 Jun 1999)	186 ratifications	13 June, 2017
C100	Equal Remuneration Convention, 1951	Geneva, 34th ILC session (29 Jun 1951)	173 ratifications	25 September, 1958

[34] The ILO has adopted a number or instruments dealing directly or indirectly with collective bargaining and related issues: the Collective Agreements Recommendation, 1952 (No. 91), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Workers' Representatives Convention, 1971 (No. 135), the Voluntary Conciliation and Arbitration Recommendation, 1951 (No. 92), the Rural Workers' Organisations Recommendation, 1975 (No. 149), the Labour Relations (Public Service) Convention, 1978 (No. 151), the Labour Relations (Public Service) Recommendation, 1978 (No. 159), the Collective Bargaining Convention, 1981 (No. 154), and the Collective Bargaining Recommendation, 1981 (No. 163).

[35] ILO, 1998e, Case No. 1853, para. 337

C111	Discrimination (Employment and Occupation) Convention, 1958	Geneva, 42nd ILC session (25 Jun 1958)	175 ratifications	03 June, 1960

India has ratified six out of the eight fundamental conventions and has not ratified the Freedom of Associations and Protection of the Right to Organise Convention, 1948, and the Right to Organise and Collective Bargaining Convention, 1949. The main reason for non-ratification of ILO Conventions No.87 & 98 is due to certain restrictions imposed on the Government servants. The ratification of these conventions would involve granting certain rights that are prohibited under the statutory rules for the Government employees, namely, to strike, to openly criticise Government policies, to freely accept financial contributions, to freely join foreign organisations[36].Once an ILO Convention is ratified, it becomes legally binding. The state is obliged to provide periodic reports regarding applying the conventions under Article 22 of the ILO Constitution. A ratifying country is subject to international supervisory procedures.

The right to work is not a fundamental right in India. However, it is placed in Part IV of the Constitution along with education and public assistance in case of unemployment, old age, sickness and disablement[37]. The mandate of this provision passes social welfare and industrial legislation. It may be observed that under certain circumstances, it is the duty of the state government to find and secure work for all persons in the state[38]. This provision can be read along with other relevant provisions in Part IV of the Constitution,such as provision for just and humane conditions of work and maternity relief[39], living wage and decent standard of life, etc[40].According to the principle of collective bargaining, the right to strike and lockout is considered the last weapon in the armoury of workers and employers. In the absence of these rights, collective bargaining has little significance. Substantial restrictions have been imposed while exercising the right to strike under the Industrial Dispute Act, State Industrial Relations Laws, and the occasionally enforced Essential Services Maintenance Act.The two National Commissions on Labour had proposed mandatory recognition of labour unions as a bargaining agent for workers and prescribed the minimum membership required.

In India, only a small percentage of workers have been organised on a regular basis. Available figures show less than 15 per cent of workers in India are organised, as against about 40% in the USA and around 50% in Great Britain, France and many other European Countries[41].

Conclusion

The concept of collective bargaining may be summarised hereon the basis of principles evolving from ILO conventions and other instruments. Collective bargaining is a fundamental right endorsed by member states of ILO. The right is applicable not only to employees but also to employers.

[36]This information was given by Shri Bandaru Dattatreya the Minister of State (IC) for Labour and Employment, in a written reply to a question in Lok Sabha, on 25 July, 2017

[37] Article 41 provides Right to work, to education and to public assistance in certain cases – The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and to other cases of undeserved want.

[38]V. Hemalatha Devi, Sayed Maswood and B. Yuvakumar Reddy, *Right to Work as Fundamental Right: Illusion or Reality*?, 44, No. 2 JILI 269, 272 (2002)

[39] Article 42

[40] Article 43

[41]V. Vijaya Durga Prasad, *Collective Bargaining – Its Relationship to Stakeholders*,45, No. 2 Indian Journal of Industrial Relations, 195, 202 (2009), www. Jstor.org/stable/20788259 accessed 10/08/2019

The purpose of collective bargaining is to enter into a collective agreement for constructing terms and conditions of employment in an industrial unit.Collective bargaining applies to both private and public sector industries; however, the armed forces, police forces, and civil servants involved in state administration are excluded from the scope of this process.A collective agreement is binding on both parties. The terms and conditions of the contract are more favourable to the workers than the law establishes. However, in some cases, an individual contract may be preferred if that contract contains more favourable terms.Only in the absence of a trade union can representatives of workers participate in the negotiations. Labour organisations must be independent and not under the control of the employer. The power of collective bargaining must continue without undue interference by the authorities. In the initial stages of collective bargaining, the employer nominated the union's office bearers and financed them. Representative bodies should work in good faith and avoid unreasonable delays in negotiations. Independent and voluntary process of collective bargaining is one of the basic components of freedom of association. Law or state authorities should not impose any terms and conditions unilaterally. It must be facilitated for bargaining to take place at any level.The involvement of the state legislature or administrative authorities in a freely concluded agreement cancels or modifies the existing contract. This is contrary to the principle of collective bargaining.

Collective bargaining cannot be appliedto the same standard in all industries. It needs to be tailor-made to suit each industry. The collective bargaining process is ideal for industries that require a lot of labour. The employer can easily communicate with labour representatives instead of individually communicating to prepare a collective agreement for the entire group of workers. Industries that require a diverse and high-tech workforce need individualised discussions about specific employment terms and conditions. Collective bargaining is not sufficient in such cases.In modern industries, the employer is free to negotiate with individuals to find more capable employees, so the terms and conditions can be set on the basis of such objectives. Thus, different contracts may be executed for different individuals, even if they are workers in the same category or position.

India is one of the founding members of the organisation. Out of 190 Conventions,India has ratified only 47 Conventions and one Protocol of ILO, which include six fundamental Conventions, three Governance Convections and 38 technical Convections. The ILO criticised India's weak labour laws as a major obstacle to achieving the International Labour Standards. However, the Indian ruling class and their philosophies believe the opposite. According to them, foreign investment and foreign companies are reluctant to come to India because of labour laws. These two conflicting opinions should be evaluated based on productivity and equality, the two objectives set forth by the ILO. International Labour Standards in India will play a major role in creating a productive and equitable labour market and in shaping national policy and development initiatives.It may be submitted that the statutory requirements on labour standards and conditions should be replaced by collective bargaining. The stringent provisions imposed by the law for the benefit of the worker are not conducive to the development of the industry, which may cause stagnation of development. Therefore, flexibility across labour standards through collective bargaining in accordance with changing circumstances may be more appropriate in a country's industrial development.

Reference

1. Bernad Germigon, Alberto Odero, Horacio Guido, *ILO Principles Concerning Collective Bargaining*, 139 Int'l Lab. Rev. 33 (2000)
2. Collective Agreements Recommendation, 1952 (No. 91)
3. Collective Bargaining Convention, 1981 (No. 154)
4. Collective Bargaining Recommendation, 1981 (No. 163)
5. Edwin E. Witte, *Collective Bargaining and the Democratic Process*, The Annals of the American Academy of Political and Social Science, Vol. 274, Labor in the American Economy 85 (1951).
6. Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

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7. Freedom of association: Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO. Fourth (revised) edition. Geneva.
8. ILO on Right to Organize and the Collective Bargaining Convention, 1949
9. Labour Relations (Public Service) Convention, 1978 (No. 151)
10. Labour Relations (Public Service) Recommendation, 1978 (No. 159)
11. Report III (Part 4B), International Labour Conference, 81st Session, 1994. Geneva.
12. Rural Workers' Organisations Recommendation, 1975 (No. 149)
13. Sidney & Beatrice Webb, *Industrial Democracy*, Longmans (1902)
14. Syed M. A. Hameed, *A Theory of Collective Bargaining*, Industrial Relations, 25 Industrial Relations (No. 3) 531 (1970)
15. V. Hemalatha Devi, Sayed Maswood and B. Yuvakumar Reddy, *Right to Work as Fundamental Right: Illusion or Reality*?, 44, No. 2 JILI 269, (2002)
16. V. Vijaya Durga Prasad, *Collective Bargaining – Its Relationship to Stakeholders*,45, No. 2 Indian Journal of Industrial Relations, 195, (2009)
17. Voluntary Conciliation and Arbitration Recommendation, 1951 (No. 92)
18. Workers' Representatives Convention, 1971 (No. 135)