

**COLLECTIVE
BARGAINING**

&

**CORPORATE
STRATEGY**

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The latter two methods, which amount to unilateral determination, are now relatively rare but by no means non-existent, especially in industries where management or the trade unions are particularly powerful or of greater importance. In view of customarily prevailing disparity of bargaining power, individual bargaining will often be tantamount to a collateral imposition of the terms of employment by the employer.

One reason that accounts for the prevalence of collective bargaining is its use as an instrument for applying widely held notions of equity or social justice to the industrial setting or the labour market. In proportion to growth of the conviction that the individual worker could not be adequately protected against exploitation through individual dealings with his employer, there gradually develop a readiness in many societies to entrust the requisite protective functions to a process that will allow the combined strength of workers to offset the initially superior bargaining power of the employer.

HISTORICAL DEVELOPMENT OF COLLECTIVE BARGAINING

The emergence of collective bargaining is intimately linked to the economic and social consequences of that complex constellation of technological, demographic, ideological and other developments, the insecurity and disturbances ensuing from the profound changes of the industrial revolution, that had a particular unsettling effect on

the traditional relations of employers and workers. Working men sought to protect themselves against the harsh effect of new machines, new methods of production, a new division of labour and new intensities of competition by forming organizations capable of representing their interests as a group vis-à-vis employers and the state. At the outset, the only organizations that were able to survive the vicissitudes of the business circle, the adamant resistance of employers and the hostile policies of the state were the ones set up by the skilled workers, and the craftsmen. They alone had the material and administrative resources and the leadership to build solid institutions.

Craftsmen organized for various purposes, some emphasized restriction of entry to the trade to avoid the market disabilities resulting from an over-supply of qualified workers, while others sought to build up mutual benefit society to provide rudimentary protection against loss of income due to unemployment, old age, ill health or industrial dispute. Of course, the purposes were not mutually exclusive. Regulation of wages and other key terms of employment were usually an important object, but there was no single pattern, no common channel through which such regulation developed.

Some early organizations merely tried to determine unilaterally the wages scale under which their members work, while other organizations sought to reach agreement with employers on a

satisfactory schedule. On the employer side reactions varied, depending on the circumstances, from the defensive formation of employers associations to an outright refusal to deal with workers except on an individual basis.

Thus, collective bargaining had no single, uniform origin. Sometimes it was the employers who sought to establish it in place of union imposed "price lists". Sometimes, the union strove to establish joint wages determination in the face of employer opposition and sometimes, though perhaps more rarely, the impetus came from both sides. The practice of collective bargaining had existed well before the name came into existence. The credit for coining the expression belongs to Beatrice Webb, who first used it in 1891 in her study on the co-operative movement in Great Britain.

CONCEPTUAL AND THEORETICAL FRAMEWORK

Collective bargaining has been variously defined by many authors and practitioners. The International Labour Organization (ILO) defined it in its convention No. 154 of 1981 as all negotiations between an employer or group of employers, on the one hand, and one or more workers organizations on the other, for determining working conditions and terms of employment, regulating relations between employers and workers, relations between employers and

their organizations, workers and their organizations.

The Labour Act of 1974 defines collective bargaining as the process of arriving at or attempting to arrive at a collective bargaining agreement. Whilst collective bargaining represents the totality of relationships among and between all actors in the industries (management, government, customers and users of services) negotiation are mere specific instances of attempts, by way of discussions with all parties duly represented, to reach agreement on one or more issues, dealing with remuneration or terms of conditions of employees.

Other authors have viewed collective bargaining as economic rule or political process (Flanders 1965). Marketing and governmental process (Chamberlin & Kuhn 1965) conflict rationalizing process, and as a means of rule making (Dunlop 1958). This book applies a multi-theoretic and integrative approach to the analysis of collective bargaining and corporate business. Such an approach spans the gamut of unitary, institutional or pluralist, Marxian, systems strategic models in the analysis and discuss of collective bargaining and industrial relations.

The standard model of collective bargaining

According to Allan Fox (1965), the standard model of collective bargaining is grounded firmly on the explicit or implicit acceptance by

both negotiating parties of the pluralistic conception of the organization. The working assumption is made that a distribution of power exists which, while not necessarily balanced between the two sides, at least is not so unequal as to induce either side to feel it is being coerced. On this basis, bargaining representatives conclude collective agreements which can rightly claim observance by those covered, not only for reasons of their own expediency but also because a moral obligation rests upon the parties to observe any agreement or contract which has been fairly and honorably negotiated free of duress. The standard model also includes the notion of mutual survival. Each side has, at any one time, a conception of certain entrenched rights which underpin a definition of its own functions; well-being and development, and these rights are recognized by the other. Thus management has a certain view as to those categories of decision-making which should be reserved for its own prerogative, as against those in which it is proper for unions and work groups to demand participation. Both parties therefore agree on how they define the frontiers of control and influence.

The theoretical propositions of collective bargaining are neatly summed up by Professor Chamberlain (1965) who identifies its three essential characteristics thus:

- (a) That is a means of contracting for the sale of labour
- (b) A form of industrial government, and
- (c) A method of management:

Chamberlain and Kuhn (1965) view the marketing concept of collective bargaining as the means or process of which labour is bought and sold in the market place. In other words, it is that method of conducting industrial relations which determines the standard terms and conditions of employment by which labour is supplied to an employer either by its present employees or by its newly hired works. This is an exchange or economist model that is based on the principle that workers have the right to contract with employ's wages and conditions of work and that employers recognized that right. Thus, it is possible for labour and management to institute arrangements for review of terms and conditions of employment when the need arises. In most employment relationships, the social partners have employed the marketing function of collection bargaining to resolve issues of divergent interests, that is, matter on which both the employer and the employees have divergent claims such as wages, benefits, hours of work and the like.

The governmental concept viewed the institution of collective bargaining as a rule-making process by which rules governing the relations between management and trade unions are made. Thus, the administration of industry is determined by the extent to which the social partners are willing to have their relationships influenced by rules that are jointly made, or the extent to which rules

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unilaterally determined by one of the parties are acceptable to the other. It is obvious here that collective bargaining is viewed as a political phenomenon in which power relationship is patterned. The interplay of power is illustrated in the extent to which the action of one party is held in check by the action of the other party. For instance, the union must be able to hold the management down on account of some of its actions that temporarily inconvenience the management vice-versa. Power relationship is least manifested when one party is extremely powerful and the other is totally unable to get any meaningful result in its interaction with the other party. In practice, the trade union will be able to deploy the strike weapon, and the employer will be able to lock out the workers say in the event of a strike action. Hence, the trade unions or the employer can assess and advance their power towards the realization of their member's aspirations and work place interests.

In the industrial management theory, Chamberlain and Kuhn stress the functional relationship between the union and their employing organizations. This concept views collective bargaining as a system of industrial management to the extent that trade unions join employers in reaching decisions on matters in which both parties have vital interests. This happens because collective bargaining by its nature involves trade union and management in making decisions in those areas covered by collective agreement. In

practice, there is usually a list of items which both parties regard as negotiable. All other issues are either the prerogative of employers and unions are precluded from negotiating them. However, towards the end of the 1990s, socio-economic dictates of the time encouraged most employers and trade unions to relax on the boundaries between issues for managerial decisions and those for which the union is invited, as a privilege. Thus, a reduction of managerial rights was experienced, whereas the list of items regarded as union rights or privilege grew considerably. In summary, this theory enables the function of management to be shared with trade unions. Ordinarily, the management exercises rights or prerogatives over many industrial issues such as expansion of the business, relocation and other investment-rate decisions, but the incidence of the trade union brings about the joint sharing with management decisions that would otherwise be guided by managerial prerogatives only.

With regard to these theoretical foundations of collective bargaining, Richard Hyman (1975) has correctly criticized the tendency on the part of most writers and analysts to give undue emphasis to organizations (trade unions, employer associations e.t.c.) in their discussion of collective bargaining and industrial relations in general. Hyman notes, that all relations in industry are personal. Managers, union officials and civil servants are all people; they are not simply disembodied representatives of organizational interests" (1975, 14) indeed, Allan Flanders (1965), did not seem to pay much attention to the increasing importance of informal relations and the

possibility of collective bargaining in establishments or enterprises where workers do not belong to trades unions.

The importance of Richard Hyman's observation is reinforced in the discussion of the processes of demand formation and negotiations, clearly revealing that collective bargaining involves individuals of varying intellectual and emotional capacities, different interests and needs and who belong to identifiable social groups governed by dissimilar norms and values, and thus have different aspirations.

The organizations, the institutional framework, are simply formal avenues through which aspirations are expressed (Otoyo 2000).

The strategic model

The book uses a three tiered strategic approach to analyse the operation of industrial relations and collective bargaining. First we consider the environmental contexts of collective bargaining; then we look at the operation and outcomes of the bargaining system.

The top tier of industrial relations, the strategic level, includes the strategies and structures that exert long-run influences on collective bargaining. At this level we might compare the implications for collective bargaining of a business strategy that

emphasizes product quality and innovation against a business strategy that seeks to minimize labour costs.

The middle tier of industrial relations activity, the functional level, or collective bargaining level, involves the process and outcomes of contract negotiations. Discussions of strikes, bargaining power, and wage determination feature prominently here.

The bottom tier of industrial relations activity, the workplace level, involves those activities through which workers, their supervisors, and their union representatives administer the labour contract and relate to one another on a daily basis. At the workplace level adjustment to changing circumstances and new problems occur regularly. A typical question at this level, for example, is how the introduction of employee participation programs has changed the day-to-day life of workers and supervisors.

It is through the joint effects of the environment and the actions of the parties within this three-tiered structure that collective bargaining either meets the goals of the parties and the public or comes up short.

- (c) Democratic function enables employees to participate in decision and policy making which can influence the overall corporate and business strategy.
- (d) It provides for statutory trade dispute settlement procedures in terms of mediation, conciliation arbitration industrial court and public enquiry and memorandum of understanding and tripartism.

GOVERNMENT STRATEGY:

- (a) To avoid negative effect of conflict, political instability, strikes and industrial actions.
- (b) It removes the need to continually intervene in industrial disputes.
- (c) It creates a healthy and enabling environment necessary for effective execution of government policies and programmes.
- (d) It complements government effort towards creating a peaceful atmosphere in the nation.
- (e) It prevents the negative effects of over expression of conflict.

COLLECTIVE BARGAINING STRUCTURE

Basic to collective bargaining is a capacity by the social partners to tactically and strategically develop structures suited to the bargaining

process and to adopt the structure when necessary to changes in internal and external environmental conditions and the bargaining power of workers and management, in their dealings and strategic choices, while negotiation can be significantly affected by ability of each of the parties to organize for concerted action. (Chamberlin & Kuhn 1965) (Fashoyin 1982), (Fajana 1996), (Mantami 1997).

DEFINITION OF BARGAINING STRUCTURE

The formal bargaining structure is defined as the bargaining unit, or the negotiation unit, that is, the employees and employers who are legally bound by the terms of an agreement. The informal bargaining structure is defined as the employees or employers who are affected by the results of a negotiated settlement, through either pattern bargaining or some other non-binding process.

Forms of bargaining structure

Forms of structures include multi-employer bargaining or national negotiation level, single employer bargaining, divided into centralized and decentralized bargaining, mixed bargained options and choices in the strategic decisions of corporate management and Labour. Table 1 shows strategic influences in choice of bargaining levels. These levels of bargaining also have their advantages and disadvantages. For multi-employer or centralized bargaining employers advantages are uniform conditions within the company, more predictable labour

costs, stable relationships between negotiating groups, fewer pay party claims, and better coordination between bargaining groups. The advantages of centralized bargaining are the disadvantage of the centralized and vice versa.

STRATEGIC INFLUENCES ON COLLECTIVE BARGAINING

LEVEL, TABLE 1

CORPORATE STRATEGIC VARIABLE	CORPORATE STRATEGIC VARIABLE	SINGLE EMPLOYER BARGAINING CENTRALIZED	DECENTRALIZED
PRODUCT MARKET	COMPETITIVE	HOMOGENEOUS	HETEROGENEOUS
WORK ORGANIZATION	LABOUR INTENSIVE	CAPITAL INTENSIVE	CAPITAL INTENSIVE
TECHNOLOGY	SMALL BATCH	HOMOGENEOUS	HETEROGENEOUS
GEOGRAPHIC LOCATION	CONCENTRATED	CONCENTRATED	DISPERSED
BUSINESS STRUCTURE	MANY-FIRM SMALL PLANT SIZE	MULTI-PLANT SIZE	MULTI-PLANT
UNION STRUCTURE	CENTRALIZED FEW UNIONS	CENTRALIZED	DECENTRALIZED
PAYMENT SYSTEM	TIME PAYMENT	JOB EVALUATED	PAYMENT OF RESULT

Source: Understanding Industrial relation by Firnham and Pimlott (2000).

Type of bargaining unit: The two primary characteristics of a bargaining structure are:

1. The scope of employee or union interests represented in the unit, which can be either narrow craft or broad industrial or multiskill and
2. The scope of employer interests represented in the unit, which can be multi-employer (centralized), single-employer Multiplant, or single employer single plant (decentralized).

COMPONENTS OF BARGAINING STRUCTURE

The basis to productivity bargaining is the capacity by the social partners to tactically and strategically develop structures suitable to the bargaining process and to adopt the structure when necessary.

The bargaining structure has five features, as follow:

- (a) Bargaining agent
- (b) Bargaining form
- (c) Bargaining level
- (d) Bargaining scope
- (e) Bargaining unit

(a) **Bargaining Agent:** The union or unions recognized by the employer for productivity bargaining purposes.

- (b) **Bargaining Form:** The level of formality of the agreement. Agreement be formal or informal, written or unwritten. Informal, unwritten agreements often take the form of custom and practice. Agreements relating to terms and conditions and procedural agreements, are usually written.
- (c) **Bargaining Level:** The point at which bargaining between unions and employers takes place. Bargaining may be centralized or decentralized. Centralized bargaining refers to that occurring at some centre point (the social partners acting at a national level, or bargaining at the top level of a large organization, while decentralized bargaining is normally a form of single employer bargaining.
- In Nigeria, four overlapping alternatives are conceivable. These are (1) industry level (2) the company level (3) the branch (enterprise) level, (4) the plant level.
- (d) **Bargaining Scope:** The range of issues over which productivity bargaining may take place. Bargaining between trade unions and employers is normally restricted to terms and conditions of employment.
- (e) **Bargaining Unit:** The group or category of workers represented by a bargaining agent and covered by an agreement that has to do with productivity bargaining.

UNION ORGANIZING AND BARGAINING STRUCTURES

Negotiations cannot take place until a bargaining representative has been duly certified as the exclusive representative of the employees normally, this requires that a union win a representation election (although an employer may voluntarily recognize a union if the union if the union can demonstrate that it represents a majority of the employees involved). The events and regulation that surround representation elections are described.

The organizing process & representation election process

- Interested employees seek out a union to learn their rights and gain help in organizing, or a union seeks out a group of employees in order to explain their rights and explore their interest in organizing.
- The union builds support for organizing among the employees and solicits their signature on authorization card.
- When sufficient cards are signed to indicate substantial employee support, the union asks for recognition as the bargaining agent for the employees.

With the election date set, campaigning on both sides intensifies.

Why worker might want union representation

Evidence shows that for workers to express a preference for unionizing they must (1) be deeply dissatisfied with their current job and employment conditions (2) believe that unionization can be helpful in improving those job conditions and (3) be willing to overcome the generally negative stereotype of unions held by the population.

UNION CAMPAIGN PRACTICES: unions commonly rely on organizers to rally employee support during election campaigns.

THE ELECTION UNIT: The election unit serves as the basic for the bargaining unit. The election unit is the group of employees that the NLRB determines is covered under the appropriate student and is eligible to vote in the representation election.

ELECTION UNIT DETERMINATION IN HOSPITALS: The spread of bargaining to hospitals and the public sector has raised a number of questions about appropriate election units. Hospitals, for example, exhibit a wide range of fine distinctions among various professional and quasi-professional employees and vast difference in the nature of the tasks each group performs. (Katz and Kochan 2000)

DETERMINANTS OF BARGAINING STRUCTURES

The major forces that affect the degree of centralization in bargaining structures are bargaining leverage, public policies, and organizational factors.

BARGAINING LEVERAGE: Unions can increase their bargaining leverage if they organize a large share of the product market. One of the primary mechanisms for ensuring that wages are taken out of competition is to expand the bargaining structure to correspond with scope of the market.

PUBLIC POLICIES: Another crucial determinate of bargaining unit structures is the structure of the election unit imposed by the NLRB in a representation election. If the NLRB certifies the proper election unit to be an industrial units, for examples, this precludes a craft bargaining structure.

ORGANIZATIONAL FACTORS: The internal organizational characteristics of employers also have generated pressures to broaden the bargaining unit. In particular, the growth of large corporations and the centralization of managerial decisions making have led unions to seek centralized bargaining structure.

The influence of diverse labour and management interest: In order to participate in centralized bargaining local union officials or managers have to give up some of their independent authority and conform to centralized decision and leaders.

Unions leaders' opposition to consolidated bargaining units or to formal union mergers acts as an additional constraint on the centralization of negotiations. The reasons for this are very simple. Any consolidation of negotiating units or unions means that some leaders are going to lose influence, status, and perhaps even them.

Resolving different issues at different bargaining levels: It should be noted that even within centralized bargaining structures many issues are negotiated on a local basis.

PATTERN BARGAINING

Pattern bargaining is an informal means for spreading the terms and conditions of employment negotiated in one formal bargaining structure to another. It is an informal substitute for centralized bargaining aimed at taking wages out of competition.

Students of collective bargaining first began noticing the importance of pattern bargaining after World War II. The work Labour Board (WLB) had encouraged the development of pattern settlements, first, by attempting to fashion a national wage policy and second, by making the comparison between proposed wage settlements and other industry, area, and national settlements a prime criterion for deciding wages disputes.

PATTERNS WITH A FIRM: The employees working within the same firm typically are very aware of what other employees in the firm are receiving in the way of pay or fringe benefits and very jealous of any differentials that emerge.

PATTERNS BARGAINING IN OTHER COUNTRIES: from time to time economists who would like to see labour and management follow simple principles that link wage adjustments to macroeconomics trends look to Japan's SPRING WAGE OFFENSIVE

as a model. Then, industrial companies and their unions separately negotiate increases that are consistent with this overall rate.

NECESSARY CONDITIONS FOR EFFECTIVE BARGAINING:

The consolidation and achievement of corporate strategy is related to the effectiveness of collective bargaining, negotiation and trade union actions, especially where trade unions and managements are proactive, innovation, flexible and strategic in their orientation (Bamber 1998 OECD 1992). These conditions include: favorable political and economic climate, freedom of association, power relation, joint authorship of rule, stability of worker organizations, recognition of trade unions, ability of the parties to negotiate skillfully and reasonably, willingness to negotiate in good faith and reach agreement, willingness of parties to give and take, willingness to observe the collective agreement that emerges. (see chapter five on negotiation process).

COLLECTIVE AGREEMENT

Collective agreements are output of results, of collective bargaining process. First, they provide constitutional framework, by which management and employees make, apply, and monitor industrial relations decisions. Secondly, they define the market and managerial relations between an employer and employees whether formal or written or informal. Their content, interpretation and administration influence to a large extent management and labour strategy and behavior. Collective agreements are commonly classified as

(ii) Voluntary or discussion issues and - which are, neither mandatory nor exclusive to management, e.g. shift work, housing, and others.

(iii) Managerial issues by which management exercises full control in decision making. E.g. appointment promotion and demotion and others.

APPROACHES TO COLLECTIVE BARGAINING

Two approaches to collective bargaining have been noted in the literature. These are adversarial and consensual approaches or perspectives (Bamber 2000); Salaman (2000). These are synonymous or derivatives respectively to the distributive and integrative negotiation processes. Whilst they can be times be condition, corporate strategies can and do combined these approaches in the formulation and implementation of business policies and attaining competitiveness in the market. The new industrial relations is concerned with the concepts of "Empowerment", "partnership", "involvement", fairness (European social chapter) all deriving from collectivism and pluralist, analysis of industrial relations.

**INDUSTRIAL PEACE
COLLECTIVE BARGAINING, SOCIAL JUSTICE AND**

A major objective of collective bargaining and industrial relations is industrial peace and harmony. The major elements that can promote

procedural which regulate relations between the parties define the bargaining unit and determine status and facilities for trade union representative in the bargaining process. Substantive agreements on the other hand, regulate job, the pay for them, and the conditions under which they are performed.

NECESSARY CONDITIONS FOR EFFECTIVE BARGAINING

Since 1980s a number of new-style collective agreements have been negotiated between certain employers and some unions. These were variously described as single union deals, "no strike" deals or agreements incorporating "pendulum" arbitration arrangements. The major trade union involved in these new-style negotiations, as obtained in the case of Britain, U.S and other advanced economies the electrical telecommunication and plumbing union, which described them as "high-technology agreement". (Farham and Pilloit 2000). These can serve as examples for systematic labour management relations and collective bargaining in the emergent economies.

Negotiable And Non-Negotiable Issues

In terms of corporate strategy, negotiable and consultative, issues in collective bargaining, can be divided into: negotiable and non-negotiable issues. In the procedural agreement there are three distinct categories. Mandatory or negotiable issues; which management and the union have agreed to negotiate upon, E.g. Wages and conditions of service.

CHAPTER TWO

COLLECTIVE BARGAINING AND CORPORATE STRATEGY

CORPORATE AND OTHER ORGANIZATIONAL STRATEGIES

Strategy can be defined as the formulated of organizational mission, objectives and goals as well as action plan for achievement that explicitly recognize the competition and the impact of environmental forces.

Organizational strategies are usually formulated at four levels, corporate, business, functional and operational. Corporate level strategy is concerned with matching market to distinctive capabilities and resources (Thompson 2005). It is the management game plan for directing and running the organization as a whole and for achieving corporate objectives and performance targets. It usually include for work by analysis of internal and external environments of organization, establishment of mission, objectives, goals and the formulation an implementation of relevant strategies in accomplishing the vision, mission and objectives.

peace include: formality, objectivity and co-operative behaviour of management and trade unions. As regards the controversial bases of distributive justice or the distribution of benefits between management and other stake holders, including labour (Stahl and Grisby 1997) suggested three ethical bases which are (i) Proaction (ii) enlightened self-interest and (iii) minimal legal compliance which may be used in ensuring justice, truth, tolerance, and forgiveness.

TYPES OF BARGAINING PROCESS

Distributive bargaining is a component of corporate strategy. Under collective bargaining negotiation, it is a situation in which management or union can only gain at the expense of other others, which form the bases of the labour process market and competitive form of the industry. Another major form of the process is the integrative bargaining, which is related to corporate strategic of restructuring, reorganization, market competitiveness and the constraining effects of government policies and strategies. They require that management and union consult, discuss and set up committees, teams and work groups to facilitate and reach agreement on collective strategies for growth, renewal, productivity, redundancy and corporate turnaround (Walton and Mackenzie 1965) Chamberlin & Kuhn, Kochan (1996), p.252.