

Editorial: Redefining Collective Bargaining in Asia

Collective bargaining has been one of the corner stones for workers movement not only in their quest to achieve better working and living standards but also to carve out political and social space that allows them to shape their future. In face of the mighty 'capital', only the 'collective' power of workers has allowed them to bargain and negotiate since the inception of industrial development.

By the 20th century, as a result of workers struggle, collective bargaining and freedom of association were recognised as basic rights and many countries institutionalised collective bargaining by framing laws and creating institutions predominantly acting to mediate between capital and labour. For some time, collective bargaining thrived in the West with organised labour represented by trade unions negotiating and bargaining with industry under supervision of the State. However, the past few decades have turned out to be 'game changer' with 'neo-liberalism' taking over as the predominant economic and political discourse with the agenda to re-establish capital accumulation and restore the power of economic elite. This no doubt involved restructuring of the production space forcing workers to compete in the 'race to bottom' for lowest wages and vulnerable employment. Living up to its character, neoliberalism also ensured hostility against any forms of social solidarity and collective actions that could constitute barriers to the unprecedented capital accumulation. This led to a serious decline in the membership of the unions – key pillars for collective bargaining, thus tilting the balance completely in favour of capital. The 'collectivity' of labour has been under constant threat with the restructuring of labour relations that have emphasised on the individuality of workers with 'flexible' work being the order of the day. Workers became 'divisible' into temporary, contract and part-time workers and thus turning invisible. Capital mobility and financial globalisation have further weakened the labour bargaining power. The new century is witnessing a complete mismatch between labour that is organised within the national framework, trying to take on an almighty multifaceted and multinational capital that works beyond the control of nation states.

Asian itself has been a different story with institutionalised collective bargaining only covering a small section of the workers as despite the diversity in the Asian region, very low level of organised workforce has been a persistent constant. They have been facing similar challenges as elsewhere and the existing low membership is further declining. Within the formal or organised sector, the enterprise level bargaining has been the dominant form of collective bargaining rather than sectoral or industry-wide bargaining. On the other hand, majority of the working population in Asia continues to work in the vast informal sector beyond the coverage of

state laws, thus excluded from the 'formal' and legal mechanisms of collective bargaining.

The present issue of Asian Labour Update attempts to portray what collective bargaining in Asia entails. Case study by Han Guijun on the collective contract in the catering industry in the Wuhan city, China, considered to be covering largest number of workers (450,000) in China, analyses the problems of very 'top-down' process of collective bargaining where workers seem to have no say in their representative or the process in itself. This case study exemplifies the fears that many have with respect to China and of the role that single workers union in China can play in effective collective bargaining in absence of – freedom of association. India on the other hand, as described by Surendra Pratap in his article, has neither ratified ILO convention on Freedom of Association and Protection of the Right to Organise 1948 (C. 87), nor the Right to Organise and Collective Bargaining Convention, 1949 (C. 98), as reflected in the Chapter on India. It has to be acknowledged that the institutional framework for collective bargaining is at different levels of development in India. As reflected by the article on compulsory arbitration, Sean Cooney compares the situation of arbitration in China and Australia and reflects that the existing laws in China do not deal effectively with the problem if the employer refuses to bargain, which happens in many cases. He further shares the Australian experience, where statutory tribunal, Fair Work Australia plays a vital role in arbitration and effectively deals with employers' refusal to bargain. Finally, in the lead article – Beyond Collective Bargaining written Sri Wulandari explains the concept of 'collective bargaining' that goes beyond the regulatory framework and effectively covers majority of working population in the informal sector. Collective bargaining carries different connotations for different workers and in case of informal workers collective bargaining begins with the struggle for getting recognition as workers. Asia is home to the majority of working poor in the world who remain marginalised and excluded. Based on the experience of workers' organisation in the Southeast Asian region, the paper highlights the struggle of working poor in defining their identity, forging alliances and their efforts to create a democratic space that allows them to bargain for their future themselves.

In Asia, the flexibilisation of labour market, a network of supply chains with multiple layers which blurred the employer- employee relation. Capital has invaded into social spheres and generally speaking society as whole is subordinated by the circuit of capital. Therefore, the conceptualisation of collective bargaining as resistance against this subordination becomes essential. It then becomes a political act that involves recreating social solidarity and figuring out alternate social relations. It involves cross sectoral alliances between different workers – industrial workers, farm workers, and self employed urban poor to bargain collectively beyond the membership benefits and beyond nation states. Collective bargaining becomes bargaining for identity, dignity and broader political struggle for democratic control.

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Written by Administrator
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As observed by the Supreme Court of Canada in 2007 [1], “*Collective bargaining is not simply an instrument for pursuing external ends.....*

Rather, collective bargaining is intrinsically valuable as an experience in self-government”.

[1] Health Services and Support – Facilities Subsector Bargaining Assn. v. British Columbia, 2007 SCC27 available at http://www.labourwatch.com/docs/decisions/LWDecision_BC_Health_Services.pdf