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Collective Bargaining in the Changing World of Work: Challenges, Legal Reforms and the Future of Industrial Peace in India

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ABSTRACT

Collective bargaining is a fundamental pillar of industrial relations and an essential mechanism for promoting industrial peace, protecting workers' rights and fostering harmonious employer–employee relationships. Through collective negotiation, employers and employees can resolve workplace disputes, determine fair wages and working conditions, and enhance productivity while minimising industrial conflict. Despite its recognised significance, collective bargaining remains limited in practice in many workplaces, particularly in developing economies such as India. This paper examines the major barriers that hinder the effective functioning of collective bargaining, including weak trade unions, the multiplicity of unions, the lack of union recognition, employer resistance, political interference, inadequate legal enforcement, the growth of informal and gig employment, and changing economic and technological conditions. These challenges weaken the bargaining process and reduce its ability to ensure equitable labour relations and sustainable industrial peace. The study further explores legal provisions, judicial developments, international labour standards and comparative practices from selected countries to assess the effectiveness of different models of collective bargaining. On the basis of this analysis, the paper proposes practical strategies to strengthen collective bargaining, including legal and institutional reforms, recognition of representative trade unions, promotion of good-faith bargaining, capacity building for employers and employees, extension of collective bargaining coverage to informal and gig workers, and greater emphasis on social dialogue and tripartite cooperation. Adopting a doctrinal and analytical methodology, the paper relies on statutes, judicial precedents, academic literature, government reports and International Labour Organization (ILO) standards. It concludes that strengthening collective bargaining is essential not only for protecting labour rights but also for improving productivity, reducing industrial disputes and achieving inclusive and sustainable economic development. Effective collective

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bargaining remains indispensable for balanced industrial relations and long-term industrial peace in a rapidly evolving world of work.

Keywords: *Collective Bargaining, Industrial Peace, Trade Unions, Labour Laws, Industrial Relations, Social Dialogue, Employer–Employee Relations, ILO, Gig Economy, Industrial Disputes*

I. INTRODUCTION TO COLLECTIVE BARGAINING

A. Meaning and definition

Collective bargaining is the process of negotiation between an employer and a group of employees, usually represented by a trade union, to agree on wages, hours of work, other benefits and working conditions. It is called “collective” because the workers act together, and “bargaining” because the terms are settled by negotiation rather than imposed unilaterally.¹ In general, the process is understood as a social and legal process that turns conflict into a basis for agreement.

B. History and evolution

The development of collective bargaining was shaped by industrial capitalism, as workers began to unite to secure fair wages and better working conditions. In India, collective bargaining developed alongside the emergence of trade unions, labour legislation and the growth of industrial employment. The process evolved from informal negotiation into a formal process supported by labour and industrial laws, and so became one of the essential features of democratic industrial relations.

C. Objectives of collective bargaining

Collective bargaining serves several key objectives:

1. To obtain just and fair wages – to secure just and reasonable wages and other monetary rewards for employees.
2. To achieve optimum working conditions – to secure an effective, safe and healthy working environment.
3. To protect the rights of employees – to protect employees from unfair treatment and exploitation.
4. To maintain industrial peace – to avoid conflict and ensure harmonious relations between employers and employees.

¹ INT’L LABOUR ORG., Right to Organise and Collective Bargaining Convention, 1949 (No. 98); INT’L LABOUR ORG., Collective Bargaining Convention, 1981 (No. 154), art. 2.

5. To settle disputes peacefully – to resolve differences at the workplace through discussion and negotiation.²

D. Principles of collective bargaining

1. Good faith – the employer and the employees must negotiate in good faith.
2. Mutual respect – each party must respect the other's rights and interests.
3. Equal bargaining power – acting collectively, workers should be able to bargain with the employer on terms approaching parity.
4. Flexibility and compromise – both parties should be ready to find compromise solutions.
5. Mutual agreement – the final outcome should be acceptable to both parties and help to secure industrial peace.³

E. Types of collective bargaining

Collective bargaining can take various forms, depending on the issues involved:

1. Distributive bargaining – negotiation over issues such as wages and benefits, where one party's gain is the other's loss.
2. Integrative bargaining – negotiation aimed at outcomes that benefit both employers and employees; for example, higher productivity leading to higher wages and higher profits.
3. Productivity bargaining – linking gains in productivity to additional benefits for workers.
4. Composite bargaining – covering a range of employment matters such as wages, working conditions, safety, welfare and job security.
5. Concessionary bargaining – workers agreeing to make concessions, usually when a business is going through hard times.⁴

F. Process of collective bargaining

In general, collective bargaining proceeds in four basic steps:

1. The first step consists of the workers settling their common demands and selecting, or giving a mandate to, their representatives. After consulting the workers, the trade union prepares a plan of action.

² P.L. MALIK, INDUSTRIAL LAW (Eastern Book Co.).

³ S.C. SRIVASTAVA, INDUSTRIAL RELATIONS AND LABOUR LAWS (Vikas Publ'g House).

⁴ JOHN T. DUNLOP, INDUSTRIAL RELATIONS SYSTEMS (rev. ed. 1993).

2. The second step consists of meetings between the representatives of the workers and of management. Each party presents its demands, justifies its position and discusses the alternatives.
3. The third step consists of compromise and agreement. Each party moderates its demands in order to reach a settlement, and once agreement is reached, its terms are reduced to writing.
4. The last step is the implementation of the agreement.⁵

G. Importance of collective bargaining

1. Encourages industrial harmony – helps to avert conflict and maintain peace between employer and employees.
2. Secures reasonable wages – enables workers to negotiate collectively over pay and other monetary matters.
3. Safeguards employees' rights – gives employees collective strength to protect their interests and rights.
4. Improves the working environment – helps workers to negotiate for a better, safer and healthier workplace.
5. Settles industrial issues – provides a peaceful means of resolving disputes through negotiation and agreement.

II. LEGAL AND CONSTITUTIONAL FRAMEWORK GOVERNING COLLECTIVE BARGAINING IN INDIA

A. Constitutional provisions

The term “collective bargaining” does not appear in the Constitution of India, but several Fundamental Rights and Directive Principles of State Policy provide the constitutional basis for trade unionism and collective action. For example:

1. Article 19(1)(c) guarantees the right to form associations or unions, subject to reasonable restrictions.⁶
2. Article 14 guarantees equality before the law and the equal protection of the laws.⁷
3. Article 21 guarantees the right to life and personal liberty.⁸

⁵ INT'L LABOUR ORG., *Collective Bargaining and Labour Relations*, <https://www.ilo.org/topics-and-sectors/collective-bargaining-and-labour-relations>.

⁶ INDIA CONST. art. 19(1)(c).

⁷ INDIA CONST. art. 14.

⁸ INDIA CONST. art. 21.

4. The Directive Principles of State Policy are equally important. Article 39 directs the State to secure an adequate means of livelihood for all citizens and equal pay for equal work for both men and women.⁹
5. Article 41 provides for securing the right to work and to public assistance in cases of unemployment, old age, sickness and disablement, within the limits of the State's economic capacity and development.¹⁰
6. Article 42 directs the State to make provision for securing just and humane conditions of work and for maternity relief.¹¹
7. Article 43 directs the State to endeavour to secure to all workers a living wage and conditions of work ensuring a decent standard of life.¹²

Together, these provisions reflect the commitment of the Constitution of India to social justice and to the protection of workers' rights.

B. Industrial Relations Code, 2020

The Industrial Relations Code was enacted in 2020 to modernise the existing labour laws on strikes, retrenchment and the resolution of disputes. Its aim is to simplify industrial relations law while encouraging the negotiated settlement of disputes. The Code has its critics and has faced problems of implementation, but its purpose is to make India's labour laws more systematic.¹³ It consolidates, and repeals, the Trade Unions Act, 1926, the Industrial Employment (Standing Orders) Act, 1946 and the Industrial Disputes Act, 1947, and the Central Government brought all of its provisions into force on 21 November 2025.¹⁴

C. Trade Unions Act, 1926

The Trade Unions Act, 1926 was an important enactment that helped to launch the labour movement in India. It gave trade unions a legal footing through registration and conferred on registered unions certain rights, immunities and procedures. This mattered because trade unions can bargain collectively only if they represent workers in an organised way. By protecting the registration and functioning of trade unions, the Act strengthened workers in their dealings with employers.¹⁵ The Act was repealed with effect from 21 November 2025, and its scheme of

⁹ INDIA CONST. art. 39(a), (d).

¹⁰ INDIA CONST. art. 41.

¹¹ INDIA CONST. art. 42.

¹² INDIA CONST. art. 43.

¹³ The Industrial Relations Code, 2020, No. 35, Acts of Parliament, 2020 (India).

¹⁴ *Id.* § 104(1), amended by The Industrial Relations Code (Amendment) Act, 2026, No. 1, Acts of Parliament, 2026, § 2 (India) (deemed in force from Nov. 21, 2025); MINISTRY OF LABOUR & EMPLOYMENT, Notification S.O. 5320(E) (Nov. 21, 2025).

¹⁵ The Trade Unions Act, 1926, No. 16, Acts of Parliament, 1926 (India).

registration is now carried in the Industrial Relations Code, 2020, which also provides, for the first time in central legislation actually in force, for the recognition of a negotiating union.¹⁶

D. Industrial Disputes Act, 1947

The Industrial Disputes Act, 1947 was a milestone in India's labour law. Its object was to investigate and settle industrial disputes through conciliation, arbitration and adjudication. Although it did not codify collective bargaining as a right, it created an environment in which collective negotiation was used to resolve disputes. The Act provided for conciliation officers, labour courts and tribunals, which contributed to the resolution of disputes through negotiation.¹⁷ It, too, was repealed by the Industrial Relations Code, 2020 with effect from 21 November 2025.¹⁸

E. ILO conventions

The International Labour Organization (ILO) strongly supports collective bargaining at the international level. It does so through the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), which protects the right to organise and to bargain collectively, and the Collective Bargaining Convention, 1981 (No. 154), which promotes collective bargaining. Both instruments treat collective bargaining as an important labour right and as a tool of social justice.¹⁹ India, however, has ratified neither Convention No. 98 nor the companion Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); the Government has attributed this to statutory restrictions on government servants, including the prohibition on strikes.²⁰ The conventions nonetheless matter for India, because its labour policy draws on international principles, even though their domestic adoption is partial and their influence largely indirect.

F. International labour standards

International labour standards are essential to fair working relations. They emphasise freedom of association, the need to combat discrimination against trade unions, and the promotion of voluntary negotiation between workers and employers. For India, these standards provide policy direction for labour legislation and for aligning it with international practice. They stress that collective bargaining is a matter of people's rights, not merely a workplace procedure.

¹⁶ The Industrial Relations Code, 2020, § 14, 104(1) (India) (§ 104(1) as substituted by Act No. 1 of 2026).

¹⁷ The Industrial Disputes Act, 1947, No. 14, Acts of Parliament, 1947 (India).

¹⁸ The Industrial Relations Code, 2020, § 104(1) (India) (as substituted by Act No. 1 of 2026).

¹⁹ Right to Organise and Collective Bargaining Convention, 1949 (No. 98), *supra* note 1; Collective Bargaining Convention, 1981 (No. 154), *supra* note 1.

²⁰ PRESS INFO. BUREAU, MINISTRY OF LABOUR & EMPLOYMENT, *ILO Fundamental Conventions* (July 24, 2017), <https://www.pib.gov.in/newsite/PrintRelease.aspx?relid=168889>.

III. COLLECTIVE BARGAINING IN THE CHANGING WORLD OF WORK

Collective bargaining remains the primary institutional means by which workers negotiate pay, conditions and protections at work. It is, however, being reshaped rapidly by globalisation, new technologies, changing employment models and transformed employer–employee relationships.

A. Globalisation

Globalisation has had a significant impact on labour markets, increasing foreign competition, fragmenting supply chains into smaller units and raising the demand for flexibility in labour costs. In India, foreign firms and firms in export-oriented sectors have often called for adaptable labour arrangements and lower levels of union protection in order to remain competitive in international markets. As a result, traditional bargaining power has been reduced, and jobs are increasingly located in small units where collective organising is difficult.

B. Gig economy

The rise of gig employment, short, task-based work arranged through online platforms, poses considerable obstacles to collective bargaining. Gig workers are mostly classified as independent contractors, which places them outside the statutory framework of collective bargaining. In India, both judicial decisions and public debate have begun to acknowledge the dependence of many gig workers, and the Code on Social Security, 2020 now recognises gig and platform workers and provides for social security schemes to be framed for them;²¹ but legislative safeguards and procedures for collective negotiation are still lacking.

C. Platform workers

Labour mediated by platforms obscures the employment relationship: algorithmic management, rating systems and dynamic pricing shape working conditions while denying workers the traditional avenues of bargaining. Collective action has taken new organisational forms, such as digital collectives, platform cooperatives and sectoral associations, which seek recognition from platforms or from government bodies. Successful negotiation presupposes legal recognition of the right of platform workers to exercise collective rights.

D. AI and automation

Automation and artificial intelligence (AI) threaten to replace routine jobs while creating demand for new skills. Collective bargaining therefore has to go beyond wages and address reskilling, redeployment, data protection and the transparency of algorithms. Social dialogue

²¹ The Code on Social Security, 2020, No. 36, Acts of Parliament, 2020, §§ 2(35), 2(61), 114 (India).

among unions, employers and the State is crucial to designing transitional arrangements (upskilling programmes, income support and job creation) and to preserving industrial peace during technological change.

E. Contract labour

Contract labour is widely used in India to externalise costs and limit the employer's obligations. This weakens the bargaining power of a significant part of the workforce, whose conditions are precarious and who have little social security. Legal reform of contractualisation, enforcement of equal pay for equal work, and avenues for collective bargaining along supply chains are needed to restore balance in bargaining.

F. Emerging labour relations

On the whole, the new labour relations call for adaptive techniques of collective bargaining: multi-employer bargaining, sectoral frameworks, recognition of new categories of workers (gig and platform workers), and legal means of governing the use of algorithms.

IV. CHALLENGES AND BARRIERS TO EFFECTIVE COLLECTIVE BARGAINING

The capacity of India's collective bargaining systems to secure industrial peace is constrained by structural and institutional challenges.

A. Declining union membership

The gradual decline in union density, especially in the informal and private sectors, has weakened collective bargaining. Among the reasons are deindustrialisation in certain sectors, contractualisation, and generational differences in workers' attitudes to unions. Falling membership reduces unions' bargaining power and their capacity to represent a fragmented workforce.

B. Employer resistance

Employers have become more resistant to unionisation, using legal, organisational and technological means to resist it. Such resistance is stronger still where employers choose to deal with workers individually rather than through collective bargaining.

C. Political influence

Political involvement has affected negotiations both positively and negatively. Party politics may create conflicts of interest in labour disputes, while government priorities and policies favouring labour flexibility may make collective bargaining arrangements ineffective. The key

is to strike a balance between the independence of trade unions and the promotion of better social dialogue.

D. Informal sector

India's large informal sector poses an enormous challenge, because informal workers lack stable employment relationships and legal protection, which in turn obstructs their capacity to organise and bargain collectively. Solutions may include strategies tailored to specific sectors of the economy.

E. Weak enforcement

Even where labour laws provide collective rights, weak enforcement (delays in adjudication, inadequate inspection regimes and limited remedies) reduces the effectiveness of bargaining and dispute resolution. Strengthening labour inspection, providing fast-track industrial tribunals and improving compliance mechanisms are essential reforms.

F. Economic and technological challenges

Macroeconomic volatility and rapid technological change increase employers' emphasis on flexibility, narrowing the space for stable collective agreements. Collective bargaining must therefore become more forward-looking, incorporating clauses on technological change, retraining, productivity-linked adjustments and dispute-resolution mechanisms suited to rapid change.

V. LANDMARK JUDICIAL PRONOUNCEMENTS ON COLLECTIVE BARGAINING AND INDUSTRIAL RELATIONS

Judicial pronouncements have shaped India's collective bargaining jurisprudence by defining trade union rights, adjudicating disputes, and balancing employer prerogatives with worker protections.

A. *Ram Prasad Vishwakarma v. Chairman, Industrial Tribunal* (1961)

A dispute over the dismissal of a workman had been espoused by his union and referred to the Industrial Tribunal, and the workman later sought representation independently of the union. The Supreme Court held that the individual workman is at no stage a party to such an industrial dispute independently of the union, and that representation by the union's officer should ordinarily continue throughout the proceedings unless exceptional circumstances justify otherwise. The decision placed the union at the centre of collective dispute resolution.²²

²² *Ram Prasad Vishwakarma v. Chairman, Industrial Tribunal*, AIR 1961 SC 857, (1961) 3 SCR 196 (India).

B. *All India Bank Employees' Association v. National Industrial Tribunal* (1962)

In a challenge to section 34A of the Banking Companies Act, 1949, which restricted the disclosure of banks' secret reserves in industrial adjudication, the Supreme Court held that the right to form unions under Article 19(1)(c) does not carry with it a guaranteed right to effective collective bargaining or to strike. The guarantee extends to the formation of the association; its activities remain subject to the laws regulating them.²³

C. *Bharat Iron Works v. Bhagubhai Balubhai Patel* (1976)

The Supreme Court explained that an employee is victimised when he is made a scapegoat and punished for no real fault of his own, as where he is pressured to give up union membership or union activity, and that a charge of victimisation must be specifically pleaded and proved. Where genuine misconduct meriting punishment is established, the taint of victimisation does not arise.²⁴

D. *B.R. Singh v. Union of India* (1989)

The case arose from the dismissal of union office-bearers and casual workers of the Trade Fair Authority of India after a strike. The Supreme Court reiterated that the right to form unions is a fundamental right under Article 19(1)(c) and, while recognising that the right to strike is not absolute, described it as "an important weapon in the armoury of the workers". It ordered the reinstatement of the dismissed office-bearers.²⁵

E. *Hindustan Lever Employees' Union v. Hindustan Lever Ltd.* (1994)

The union challenged the amalgamation of Tata Oil Mills Company (TOMCO) with Hindustan Lever. The Supreme Court upheld the scheme, finding that the interests of the employees were adequately protected because the scheme continued the service of TOMCO's employees on terms and conditions no less favourable than before, and that any later dispute over retrenchment could be taken before the labour courts.²⁶

VI. STRENGTHENING COLLECTIVE BARGAINING FOR INDUSTRIAL PEACE

A revitalised collective bargaining framework is central to preserving industrial peace amid technological change, informalisation and gig work. Core reforms should prioritise good-faith

²³ *All India Bank Employees' Association v. National Industrial Tribunal*, AIR 1962 SC 171, (1962) 3 SCR 269 (India).

²⁴ *Bharat Iron Works v. Bhagubhai Balubhai Patel*, AIR 1976 SC 98, (1976) 1 SCC 518 (India).

²⁵ *B.R. Singh v. Union of India*, (1989) 4 SCC 710, AIR 1990 SC 1 (India).

²⁶ *Hindustan Lever Employees' Union v. Hindustan Lever Ltd.*, AIR 1995 SC 470, 1995 Supp (1) SCC 499, 1994 Supp (4) SCR 723 (India).

bargaining, clear recognition rules, institutionalised social dialogue, and capacity building for workers, employers and State actors.

A. Good-faith bargaining

Bargaining in good faith should be a statutory duty of the parties, including obligations to meet and negotiate, to disclose relevant information, and to avoid surface bargaining and other unfair labour practices. Labour law reform should define what constitutes “good faith”, lay down procedural requirements for meetings (timeliness, notice and the like), and limit unilateral changes to terms while negotiations are in progress. Binding mediation-arbitration clauses should be adopted to resolve impasses that threaten strikes or lock-outs where the parties have genuinely attempted to negotiate but made no meaningful progress. Judicial and administrative guidance on standards of “good faith” is also needed, and it might draw on ILO principles and on comparative practice such as the work of ACAS in the United Kingdom and German co-determination.²⁷

B. Recognition of trade unions

Section 14 of the Industrial Relations Code, 2020 now requires the employer to recognise a sole negotiating union, which, where more than one registered union operates, is the union supported by 51 per cent or more of the workers on the muster roll; failing such a union, a negotiating council is formed of the registered unions each supported by at least 20 per cent of the workers. Recognition is valid for three years (extendable by agreement to five years in all), but the criteria for recognition and the facilities to be afforded are left to rules made by the appropriate Government.²⁸ India therefore needs uniform recognition rules across the States and procedures for secret-ballot recognition or independent certification by labour authorities. Recognition should be accompanied by exclusive bargaining rights for certified unions within defined bargaining units for a specified period, and by mechanisms to safeguard the interests of minority or unaffiliated workers (consultative committees, sectoral agreements and the like). Special recognition rules are needed for new forms of work, such as platform and gig work, where enterprise-level principles may not apply and bargaining could be sectoral rather than enterprise-based.

C. Social dialogue

Social dialogue is crucial to industrial peace and needs to take place at the national and State level among union, employer and government representatives, as well as at the sectoral level.

²⁷ Right to Organise and Collective Bargaining Convention, 1949 (No. 98), *supra* note 1, art. 4.

²⁸ The Industrial Relations Code, 2020, § 14 (India).

Sectoral councils should be established, with representation from employers and unions, to negotiate framework agreements on matters such as skills development, the impact of technology, minimum qualifications and social security. An independent secretariat (possibly located within the Ministry of Labour and Employment) could provide research, monitoring and dispute-resolution support.²⁹

D. Capacity building

Capacity building is essential to strengthening collective bargaining and should focus on developing knowledge and negotiating skills among unions, employers and conciliators. The State and development partners should invest in training institutes, universities and regional labour academies to provide quality instruction. The capacity of non-governmental organisations and unions to organise workers in small workplaces and in the informal sector also needs to be built, and digital tools should be used to help informal and gig workers bargain collectively. Employers' associations should be supported in developing the skills needed to engage in collective bargaining, including in anticipating technological change.

E. Policy recommendations

Policy recommendations include statutory bargaining duties and expedited mediation and arbitration procedures; transparent, democratic and fair recognition procedures; legal recognition of sectoral and occupational bargaining for non-standard workers; statutory tripartite bodies with research wings; and capacity-building grants and legal aid for unions. Incentives for collective agreements (tax breaks, procurement preferences and the like) and data-sharing mandates are also needed to support evidence-based bargaining. Labour legislation should be supplemented by administrative rules and by training for labour inspectors and adjudicators.

F. Future of collective bargaining

Collective bargaining is likely to become more diversified and digitalised. Multi-employer, sectoral and platform-level bargaining is expected to emerge, together with hybrid agreements that go beyond flexible work arrangements to cover matters such as data rights and algorithms. The legal framework should be technology-neutral while ensuring that bargaining processes are transparent and that workers' rights to voice, bargaining power and dispute resolution are protected.

²⁹ INT'L LABOUR ORG., Principles of Tripartism and Social Dialogue.

VII. COMPARATIVE ANALYSIS AND LEGAL REFORMS

Comparative lessons help to shape reforms that balance flexibility, worker voice and industrial stability.

A. United Kingdom

The United Kingdom has a decentralised bargaining system with a limited statutory recognition procedure. ACAS plays an important conciliatory role. Labour law reform in India could benefit from streamlined recognition procedures and improved mediation services.³⁰

B. Germany

Germany has a co-determination model and a strong sectoral bargaining infrastructure, which produce high levels of collective bargaining coverage and worker representation at company level. Works councils and industry-wide collective agreements contribute to predictability and stability. India could learn from Germany's enterprise-level voice mechanisms and its sectoral coordination of collective bargaining.³¹

C. United States

The United States has low bargaining coverage, adversarial labour relations and contested recognition procedures before the National Labor Relations Board (NLRB). Inadequate legal protection and limited recognition are obstacles to collective bargaining. India should ensure clear, enforceable recognition rules and protect workers from employer interference.³²

D. Australia

Australia has enterprise bargaining with statutory bargaining procedures, including good-faith bargaining requirements, and strong industrial tribunals. It also combines mandatory and optional bargaining rules for different sectors. India could adopt independent labour tribunals and clear bargaining procedures.³³

E. Lessons for India

India should consider a mixed approach to collective bargaining, combining statutory recognition with a strong mediation and arbitration infrastructure. Sectoral councils could extend bargaining coverage to dispersed and informal workers, while enterprise-level voice

³⁰ Trade Union and Labour Relations (Consolidation) Act 1992, c. 52, sch. A1 (UK).

³¹ FED. MINISTRY OF LABOUR & SOC. AFFAIRS (GER.), *Labour Law: Co-determination*.

³² NAT'L LAB. RELS. BD., *Your Right to Form a Union*.

³³ Fair Work Act 2009 (Cth) s 228 (Austl.).

mechanisms (works councils) offer flexibility. Protection from employer interference and incentives for collective agreements are also crucial.

F. Critical analysis of the Industrial Relations Code, 2020

The Industrial Relations Code, 2020 consolidated several laws but has been criticised for diluting workers' rights, in particular by extending the requirement of prior notice for strikes, formerly confined to public utility services, to every industrial establishment; by raising from 100 to 300 workers the threshold above which lay-off, retrenchment and closure require prior government permission; and by introducing fixed-term employment, albeit on hours, wages and benefits no less favourable than those of permanent workers.³⁴ Reform should clarify recognition norms, facilitate collective agreements and establish positive obligations of good-faith bargaining and social dialogue.

VIII. RECOMMENDATIONS AND CONCLUSION

A. Key recommendations

1. Legislate duties of good-faith bargaining and enforceable mediation-arbitration pathways.
2. Institute transparent, democratic recognition and secret-ballot certification for bargaining units.
3. Legally recognise sectoral bargaining for gig, platform and informal workers.
4. Create statutory tripartite social dialogue bodies and sectoral councils with research secretariats.
5. Invest in capacity building for unions, employers and conciliators.
6. Amend the Industrial Relations Code to protect worker voice, clarify recognition and limit anti-union employer practices.
7. Pilot digital collective bargaining tools and portable social protection schemes linked to collective agreements.

B. Major findings

Collective bargaining is essential to achieving industrial peace. Current Indian frameworks and practices, however, are inadequate to protect workers' voice amid the rise of new forms of work. Comparative analysis offers valuable insights for strengthening collective bargaining in India. Legal clarity on recognition, support for institutional mediation and conciliation, sectoral

³⁴ Compare The Industrial Relations Code, 2020, §§ 2(o), 62(1), 77(1) (India), with The Industrial Disputes Act, 1947, §§ 22, 25K (India).

councils for informal and dispersed workers, and capacity building are the key mechanisms for achieving these objectives.

C. Conclusion

India is at a crossroads in its industrial relations policy as it seeks to balance new business-friendly approaches against the protection of workers' voice in the face of disruptive forces in the world of work. Strengthening good-faith bargaining, recognition rules, social dialogue and capacity building will be essential to achieving lasting industrial peace and to enabling a fair transition to the future of work. The reform agenda will need a pragmatic, evidence-based approach that combines enterprise flexibility with collective safeguards, so as to ensure inclusive and sustainable development in the world of work.
