

Why Collective Bargaining Rights Are Important

By Chris Langford

What is collective bargaining and why is it so important? Or better yet, why should you care? This question has come up frequently over the past year due to all the press surrounding recent actions by politicians who have passed or attempted to pass legislation to strip collective bargaining rights from public sector employees. What has been missing from the discussion is an actual explanation and understanding of the concept of collective bargaining.

So let's start with the basics. The definition of collective bargaining is when a group of employees negotiate as a unit with their employer over pay, benefits and working conditions. The principle stems from the idea that as a group, employees have more strength or bargaining power if they collaborate than they do if they try to negotiate with their employer individually. Because of its basis in collaboration, collective bargaining is inherently a democratic process since a majority of employees select the subjects they bargain over and vote on whether they agree to a contract.

As for what can be negotiated, aside from compensation, a collective bargaining agreement with an employer can ensure a fair performance rating system; whistleblower protection; job flexibility; proper training and/or mentoring; career advancement opportunities; maintenance of quality control; and the overall ability to hold the employer accountable.

What has also been missing from the discussion is the fact that collective bargaining is often considered to be a fundamental human right, and in the United States, is a legal right that gives employees -- professionals included -- the ability to create changes and find solutions with their employer. Furthermore, bargaining collectively is beneficial to the economy and to society as a whole as it helps to promote an ownership society that empowers its citizens.

A Human Right

As a Human Rights Watch press statement urging the United States to honor public employee bargaining rights, issued on February 26, 2011, explains:

The reason why collective bargaining is recognized as an international human right is that the compromises resulting from a process in which workers have an autonomous voice reflect principles of dignity, equality, and democracy consistent with human rights principles.

Article 23(4) of the United Nations' Universal Declaration of Human Rights, adopted in 1948, asserts that "everyone has the right to form and to join trade unions for the protection of his interests." Similarly, the International Labor Organization, (ILO), the United Nations agency responsible for drawing up and overseeing international labor standards, states in its Constitution and Declaration of Principles that the freedoms to associate and to bargain collectively are fundamental rights. Most major democratic countries honor the right to collectively bargain for both private and public sector employees.

Unfortunately, the United States has not ratified U.N. Convention No. 87 on the Freedom of Association and Protection of the Right to Organize or U.N. Convention No. 98 on the Right to Organize and Collective Bargaining. As such, the United States remains a member of an exclusive club of countries

that have refused to ratify ILO Convention No. 98. This list also includes countries such as Afghanistan, Bahrain, China, Iran, Mexico, Qatar, Saudi Arabia, Somalia, Thailand, and the United Arab Emirates.

Though the freedom of association is enshrined in the U.S. Constitution, the Supreme Court has not interpreted this right to encompass the fundamental right to collective bargaining. Instead, Congress had to pass the National Labor Relations Act (NLRA or Wagner Act), the Railway Labor Act, and the Federal Service Labor-Management Relations Statute in order to guarantee private sector and federal employees the legal right to collectively bargain. However, these laws do not apply to state or local public sector employees, leaving their rights to bargain collectively up to their respective state governments.

Economic Prosperity and Productivity

In today's world, where notions of austerity are a fixture on Sunday morning political talk shows, some pundits see unions an impediment to economic prosperity and productivity. These commentators see collective bargaining as interfering with the natural course of the free market system as they believe it sets wages above the market demand, creating a negative impact on employment and non-union workers. This view assumes that individuals form and join unions solely because of wages, trivializing employees as nothing more than cogs in a machine with no desire for a meaningful career. Similar economic arguments based in the view of an "ideal" free market system have been used against anti-discrimination laws and laws that prevent child labor.

To the contrary, unionized employees' compensation is essential to creating an upwardly mobile middle class and economic prosperity. As economist Paula Voos of Rutgers University School of Management and Labor Relations notes, "It is no accident that the prosperity and consumer boom of the 1950s - a period of unprecedented middle class expansion, broad business growth, increased home ownership, rising consumer spending, and the shared expectation that a college education was within the reach of everyone and that the lives of our children would be better than our own - followed the greatest sustained expansion of unionization in American history."¹ Numerous other economists and experts concerned with the decline of U.S. middle class incomes over the last 35 years also cite the decline in union membership as a major factor.

Economic research on unions in manufacturing proves that unionized workplaces have higher productivity than nonunion workplaces. Studies suggest that this positive effect on productivity appears across all industries that maintain good labor-management relations. Through a union, employees have a means to participate in a dialogue with management whereby they can collaboratively engage with their employer in labor-management partnerships to identify problems and processes that are wasteful, inefficient, or harmful to the employer's operation. A unionized workforce can also reduce employee turnover and increase the retention of highly skilled and experienced employees, thus creating circumstances where the employer invests in resources in training employees.

Thus, employee rights should not be viewed as inefficiencies, as evidence points to the contrary. While democracies are designed to allow parties to negotiate and resolve issues, not to make market

¹ Voos, Paula B., 2009. *How Unions Can Help Restore the Middle Class*, EPI Commentary, Economic Policy Institute, Washington, DC. March 18, 2009. www.epi.org/publication/how_unions_can_help_restore_the_middle_class/ June 11, 2012

economies more or less efficient, it is important to emphasize that collective bargaining can be good for an employer's bottom line and for the economic prospects of the country.

Democracy and Civil Society

In order for a functional democracy to operate, a civil service system must exist separately from the political process. Otherwise, political cronyism, where only political supporters of those in power work in important government positions, becomes entrenched rather than a system in which individuals are hired to serve their country based upon their merit or skill.

Collective bargaining for public employees is a strong safeguard against cronyism. Civil servants who have the right to join together to negotiate with the government regarding their working conditions, pay, and benefits, gain the ability to hold their employer, the government, accountable while ensuring that factors such as money or political affiliation are not causes for mistreatment and termination.

The situations in Wisconsin and other states where public sector employees are losing their right to collective bargaining highlights this point. Governor Scott Walker of Wisconsin removed collective bargaining rights for only a select group of public employees who supported his opponent for the office. Though the Governor claimed his action was about saving money, he continued his push to strip collective bargaining even after the unions agree to dramatic pay and benefit cuts. His continued push clearly demonstrated that his real interests lie in preventing public sector employees from challenging his authority and in crippling the unions' ability to balance out corporate and money interests in the state's political system.

Another essential function of unions in a democratic society is to foster the notions of democratic government and solidarity. Living in a democracy necessitates resolving conflict and differences through negotiation and consensus-building, as we elect representatives who must negotiate with other representatives regarding our laws and the direction of our nation. The right to form unions and bargain collectively gives employees the opportunity to participate in a mini-democracy consisting of a self-governing community of their fellow employees. The rules by which a union operates are decided by the members of that union, and union members elect their representatives and vote on important issues that will affect them at the workplace. As such, unions help develop active and responsible citizens.

Vigilance Is Required

Throughout the 20th century and into the present, collective bargaining has been the catalyst for employees' ability to gain rights and respect in the workplace. During this time, individuals banded together in unions have promoted and won passage of laws that guarantee the legal status of negotiated collective bargaining agreements, otherwise known as union contracts. As such, our legal right to engage in collective bargaining is due to acts of Congress, so they could be taken away, as well as the agencies responsible for enforcement. Ultimately, we are missing the point when we label this as a Democratic or Republican issue. As a society, we must move beyond the notion that human rights should be politicized, and we must all take responsibility in critically assessing the motives of those who wish to take away this fundamental human right.

Thomas Jefferson wrote that, "eternal vigilance is the price of liberty." The same is true with human rights, including the right to freely associate and to earn respect in the workplace through collective bargaining.

Chris Langford is a strategist and organizer at the International Federation of Professional and Technical Engineers (IFPTE), a labor union that represents professional and skilled employees throughout the United States and Canada. Special thanks to Faraz Khan, IFPTE Researcher, and Teresa Idris, IFPTE General Counsel, who greatly assisted in developing this article.