

INDUSTRIAL RELATIONS

M.A (H.R.M)
Semester-III, Paper-II

Lesson Writers

Dr. V. Tulasi Das
Associate Professor
Dept. of HRM
Acharaya Nagarjuna University

Dr. M. Rama Satyanarayana
Faculty
Dept. of HRM
Acharaya Nagarjuna University

Dr. Madhu Babu Kavala
Faculty
Dept. of HRM
Acharaya Nagarjuna University

Dr. V. Naga Nirmala
Faculty
Dept. of HRM
Acharaya Nagarjuna University

EDITOR
Prof. P ARUN KUMAR
Professor
Dept. of HRM, AU

Director
Dr. NAGARAJU BATTU
MBA., MHRM., LLM., M.Sc. (Psy), MA (Soc), M.Ed., M.Phil., Ph.D
CENTRE FOR DISTANCE EDUCATION
ACHARAYA NAGARJUNA UNIVERSITY
NAGARJUNA NAGAR – 522 510
Ph: 0863-2293299, 2293214,
0863-2346259 (Study Material)
Website: www.anucde.info
e-mail: anucdedirector@gmail.com

M.A. (H.R.M): Industrial Relations

First Edition: 2023

No.of Copies :

©Acharya Nagarjuna University

This book is exclusively prepared for the use of students of M.A (HRM) Centre for Distance Education, Acharya Nagarjuna University and this book is meant for limited circulation only.

Published by:
Dr. NAGARAJU BATTU,
Director
Centre for Distance Education,
Acharya Nagarjuna University

Printed at:

FOREWORD

Since its establishment in 1976, Acharya Nagarjuna University has been forging ahead in the path of progress and dynamism, offering a variety of courses and research contributions. I am extremely happy that by gaining 'A' grade from the NAAC in the year 2016, Acharya Nagarjuna University is offering educational opportunities at the UG, PG levels apart from research degrees to students from over 443 affiliated colleges spread over the two districts of Guntur and Prakasam.

The University has also started the Centre for Distance Education in 2003-04 with the aim of taking higher education to the door step of all the sectors of the society. The centre will be a great help to those who cannot join in colleges, those who cannot afford the exorbitant fees as regular students, and even to housewives desirous of pursuing higher studies. Acharya Nagarjuna University has started offering B.A., and B.Com courses at the Degree level and M.A., M.Com., M.Sc., M.B.A., and L.L.M., courses at the PG level from the academic year 2003-2004 onwards.

To facilitate easier understanding by students studying through the distance mode, these self-instruction materials have been prepared by eminent and experienced teachers. The lessons have been drafted with great care and expertise in the stipulated time by these teachers. Constructive ideas and scholarly suggestions are welcome from students and teachers involved respectively. Such ideas will be incorporated for the greater efficacy of this distance mode of education. For clarification of doubts and feedback, weekly classes and contact classes will be arranged at the UG and PG levels respectively.

It is my aim that students getting higher education through the Centre for Distance Education should improve their qualification, have better employment opportunities and in turn be part of country's progress. It is my fond desire that in the years to come, the Centre for Distance Education will go from strength to strength in the form of new courses and by catering to larger number of people. My congratulations to all the Directors, Academic Coordinators, Editors and Lesson- writers of the Centre who have helped in these endeavors.

*Prof. P. Raja Sekhar
Vice-Chancellor
Acharya Nagarjuna University*

M.A (H.R.M) Semester-III
Paper-II
302HM21 - INDUSTRIAL RELATIONS
SYLLABUS

UNIT – I

Industrial Relations: Concept, Determinants of Industrial Relations; Perspectives of Industrial Relations; Evolution of Industrial Relations. Origin and Development of Industrial Relations. Economic Restructuring and Industrial Relations Systems in India,

UNIT – II

Public Policy on Industrial Relations in India : Constitution and Labour, Industrial Policy Resolutions; Five Year Plans; Tripartism: Indian Labour Conference; Standing Labour Committee; Industrial Committees; Wage board; Evaluation and Implementation of Committees; Voluntarism; code of Discipline and code of Conduct;

UNIT – III

Labour Management Cooperation in India : Works committees; JMCS; Worker's Participation in Management; Worker Director; Employee Grievance Redressal System; Industrial employment Standing Orders and its Role in Industrial Relations; Management of Discipline in Industry; Misconduct; Process of Domestic Enquiry and Punishment.

UNIT – IV

Industrial Disputes – Causes, Manifestation and Effects, Trends in Industrial Disputes in India, Strikes, Lockouts, Gherao, Lay off, Retrenchment and Closure, Unfair a Labor Practice, Dispute Settlement

UNIT – V

Trade Union movement; Historical development; growth of trade unions in India; Problems of Trade unions; challenges before trade unions Recognition, Leadership, Political involvement, Inter and Intra Union Rivalry, Finance, Trade Union Structure; National Trade Union Federations; Emerging Trends in Unionism in India

Prescribed Books:

1. Dunlop, John t., Industrial Relations System, Host, New York .
2. Monappa, Arun, Industrial Relations, Tata McGraw Hill Pub.Comp. Ltd., New Delhi .
3. Chaterjee, N.N Industrial Relations in India 's Developing Economy, Allied Book Agency, New Delhi .
4. Joseph, Jarome, Industrial Relations, Global Business Press, New Delhi .
5. Sharma, A.M. Industrial Relations, conceptual and Legal Framework, Himalaya Publishing House, Mumbai.
6. Kennedy, V.D Unions, Employers and Government, Manaktalas, Bombay .
7. John niland, Chrissieverevis and Russell Lansburg, The future of Industrial Relations, Sage, Pub. London .
8. Poole Michael, Industrial Relatilons : Origins and Patterns of National Diversity;Routledge & Kegan Paul, London .

CONTENTS

LESSON	Page No.
1 Industrial Relations	1.1 – 1.12
2 Evolution of Industrial Relations	2.1 – 2.11
3 Origin and Development of Industrial Relations	3.1 – 3.14
4 Economic Restructuring and Industrial Relations System in India	4.1 – 4.15
5 Constitution and Labor	5.1 – 5.17
6 International Labour Organization (ILO)	6.1 – 6.11
7 Standing Labor Committee	7.1 – 7.13
8 Code of Discipline	8.1 – 8.17
9 Labour Management Cooperation In India - Works Committees & JMCS	9.1 – 9.12
10 Workers Participation in Management	10.1 – 10.14
11 Employee Grievance & The Industrial Employment (Standing Orders) ACT 1946	11.1 – 11.12
12 Employee Discipline and Disciplinary Action	12.1 – 12.10
13 Industrial Disputes	13.1 – 13.12
14 Trends of Industrial Dispute in India	14.1 – 14.15
15 Strikes & Locks Outs	15.1 – 15.15
16 Unfair Labor Practice & Dispute Settlement	16.1 – 16.18
17 Trade Union Movement in India	17.1 – 17.11
18 Problems & Challenges of Trade Union	18.1 – 18.12
19 Trade Union Structure	19.1 – 19.13
20 Emerging Trends in Trade Unions	20.1 – 20.16

LESSON -1

INDUSTRIAL RELATIONS

Learning Objectives

- ✓ To understand the objectives and key aspects of Industrial Relations
- ✓ To Know the scope of Industrial Relations
- ✓ To Learn the Forms of Industrial Relations
- ✓ To Study the Determinants of Industrial Relations
- ✓ To Identify the Perspectives of Industrial Relations

Structure

- 1.0 Introduction
- 1.1 Concept of Industrial Relations
- 1.2 Objectives & Key Aspects of Industrial Relations
- 1.3 Scope of industrial relations
 - 1.3.1 Employer to Individual Employee Relationships
 - 1.3.2 Labour Management Relations
 - 1.3.3 Industrial Peace and Productivity
 - 1.3.4 Industrial Democracy
 - 1.3.5 Liaison Functions
- 1.4 Forms of Industrial Relations
 - 1.4.1 Managing by Contending
 - 1.4.2 Managing by Conceding
 - 1.4.3 Managing by Colluding
 - 1.4.4 Transformational Process Model
- 1.5 Determinants of Industrial Relations
 - 1.5.1 Trade Union Density
 - 1.5.2 Frequency of Strike Activity
 - 1.5.3 Political-economic Institutions
 - 1.5.4 Cultural Diversity
 - 1.5.5 Demographic Structure
 - 1.5.6 Pattern of Behavior
- 1.6 Perspectives of Industrial Relations
 - 1.6.1 Equity and Fairness
 - 1.6.2 Power and Authority
 - 1.6.3 Individualism and Collectivism
- 1.7 Summary
- 1.8 Key words
- 1.9 Self Assessment questions
- 1.10 Suggested Readings

1.0 Introduction

The relationship between the employer and the employee is usually referred to as industrial relations. The labour-management relationship is a highly sensitive and complex aspect influenced by a variety of factors. The nature of the industrial relationship in an organization is determined by factors such as the organizational culture, the attitude of the management, employee and unions, the condition of employment, the existence of a grievance-handling system and dispute settlement procedures, and the efficacy of rules and regulations. As a separate field of study, it is basically concerned with the systematic study of

the various aspects of the labour management relationship. An industrial relationship arises out of the continuous interaction between the employers and the unions, which represent the employees. Thus, the chief actors in industrial relations are the employers and the unions, and their main relationship is through collective bargaining. Compensation-related issues, workload problems, retrenchment, layoffs and similar issues can determine the degree of cordiality in the industrial relationship collectively and individually.

The efficacy of industrial relations can be measured through the man-days lost due to strikes, lock-outs and other forms of disturbances in the organization. Generally, the government plays a proactive role in establishing harmonious industrial relations since labour-management problems usually have a social dimension. It acts as a partner and a facilitator in the industrial relations exercise of the organization. It contributes effectively to the establishment of harmony in the industrial relations by enacting laws, formulating policies and participating in the collective bargaining process and tripartite talks. It also acts as a conciliator or the third party in dispute settlement forums. The terms industrial relations, employee relations and labour-management relations are used interchangeably by the organizations while dealing with the employer-employee relationships in the organizations. The protection of the manual interests of the employees and the employers is the essence of the definitions of industrial relations.

1.1 Concept of Industrial Relations

- ✓ To understand the objectives and key aspects of Industrial Relations
- ✓ To Know the scope of Industrial Relations
- ✓ To Learn the Forms of Industrial Relations
- ✓ To Study the Determinants of Industrial Relations
- ✓ To Identify the Perspectives of Industrial Relations

Let us examine the concept of industrial relations with the help of some definitions so as to understand better the dimensions of the subjects.

In a work setting, those who offer their services are workers and those who utilize these are the employers. Between them, there are interpersonal or individual relationships, and also the relations between the two groups. Their economic interest primarily brings workers to work for wages, and the employers hire their services as a factor contributing to production. Industrial relations in any work situation go beyond these economic aspects and involve several elements of human relationships in which one individual interacts and adjusts with the other, and one group understands and cooperates with the other. It is equally likely that the relationship may give rise to friction and conflict of interests.

One of the most comprehensive definitions which put industrial relations in a proper perspective of human relationships is by J. Henry Richardson. He says, "Industrial relations are the art of living together for purposes of production". The parties involved in industrial relations, i.e. the workers and the employers, have a common purpose – production. They willingly bind themselves to work together. The most prominent feature of industrial relations is that it is an art which the two parties learn by acquiring the skills of adjustment. Though this definition highlights the interpersonal aspects of human relationships, it does not tell us about the possibilities of conflicts which may result in interruptions in production and may call for control by some other agency, such as the government. The workers as a group from trade unions, the employers form their own associations and the state provides institutions for the regulation of relations. The definition, however, does not mention these

institutional aspects of industrial relations.

The definition by Allan Flanders focuses attention on the institutionalization of the relationship in which forums are created to regulate the relations. 'The subject of industrial relations deals with certain regulated and institutionalized relationships in the industry.' Similar emphasis on regulation and institution is noticed in the definition by H.A. Clegg. He observes: "The field of industrial relations includes the study of workers and their trade unions, management, employers' associations and the state institutions concerned with the regulation of employment".

According to J. Henry Richardson, the regulation of relationship is from within, for the parties have to learn to live together by a process of accommodation and adjustment. Both A. Flanders and H.A. Clegg assign great importance to the role of institutions and to the regulatory role played by the state/ government.

According to Dale Yoder, industrial relations deal with the problems which arise in the context of human relationships when the workers submit themselves to being controlled by the employers. "Problems of human relationship arising from the sale of services for a wage and working on the premises of employers and under their control form the subject matter of Industrial relations." This definition is significant, for it does not talk only of adjustment and cooperation between the parties but rather draws attention to the problem which arises due to conflict of interests between the workers and the employers. It is interesting to note that industrial relations arise in the work setting where human beings engage themselves in activities of production and strive to satisfy human wants by the flow of goods and services; but they also create situations in which dissatisfactions – friction, conflict and adjustment and cooperation – coexist.

Like a coin, it has two faces – cooperation and conflict. The relationship, to use Hegel's expression, undergoes change from thesis to antithesis and then back to synthesis. Thus, the relationship starting with cooperation soon changes into conflict and after its resolution again changes into cooperation.

This changing process becomes a continuous feature in industrial systems. The relationship between labour and management is based on mutual adjustment on interests and goals. It depends upon economic, social and psychological satisfaction of the parties. Higher the satisfaction, healthier the relationship. In practice, it is, however, found that labour and capital constantly strive to maximize their preferred values by applying resources to institutions. In their efforts, they are influenced by and are influencing others.

Both of them augment their respective incomes and improve their power position. The major issues involved in the industrial relations process are terms of employment viz. wages, dearness allowances, bonus, fringe benefits, working conditions, viz. leave, working hours, health, safety and welfare; non-employment related situations such as job security, manning and employment. Impact of work changes personnel issues such as discipline, promotional opportunities and, among others, recognition of trade unions. However, in view of sharply divided and vociferously pressed rival claims, the objective of labour and management are not amenable to easy reconciliation. This is all the more so in view of the fact that resources are limited. Be that as it may, the means adopted to achieve the objective which vary from simple negotiation to economic warfare adversely affect the community's interest in maintaining an uninterrupted and high level of production.

The definition given in the Encyclopedia Britannica underscores the fact that industrial relations cover both individual and collective relations. “The subject of industrial relations, therefore, includes individual relations and joint consultation between employers and employees at the place of work, collective relations between employers and their organization and the trade unions, and the part played by the state in regulating the relations.” The definition has added one more dimension of joint consultation to the subject of industrial relations. One aspect is that of individual or interpersonal relationships among the workers and between the workers and the employers. The other aspect pertains to consultation between the employers and the workers as a process of adjustment. The third aspect is the institutionalized relationships directed towards the regulation of relations. But in its wider connotation, Industrial Relations cannot merely be confined to common labour management relations, or employer-employee relations. It is a comprehensive and total concept, embracing the sum total of relationships that exist at various levels of organizational structure. It connects relationships among workers themselves within the class of employees, and relations among the managements within the managerial class. It connects all types of inter-group and intra-group relationships within industry. Such relationships can be both, formal and informal.

Industrial relations arise in any setting where somebody hires the work/services of someone else by offering a reward. Industrial relations vary according to the scale or degree of organization. At one end, relations may be personal and informal, as in the small-scale sector. At the other end, industrial relations may be highly institutional, formal and conditioned by legally prescribed structures and procedures. A composite of several influences, such as social, political and psychological, which operate in the work setting, maybe termed as a framework of industrial relationships between different participants in the context of a productive organization which has an overall purpose of generating a surplus economic value. In terms of the setting, framework and system, it is possible to comprehend the broader perspective or the complete environment of industrial relations.

The system of industrial relations functions in the context of an environment consisting of different sub-systems. It interacts with the environment and the environment influences the functioning of the system. Changes take place within the system by way of a shift in ideologies, in the values of the actors, the attitudes of an interaction among the performers; and also outside the industrial relations system, in such other areas as technology, market, legal sanction, etc. One of the characteristic features of the industrial relations system is its interactive nature. The interactions take place among the various components and between the components and the other sub-systems of the environment. As a result, both the harmony and conflict have to be recognized and accepted as the end-product of the system. It may be said that when the parties become responsible and discrete in the use of power, they learn to accommodate conflict.

The Scope of Employee Relations crosses the boundaries of organization and industries and interfaces with society. It deals with social relationships in different walks of life and creates collective social relationship – a social capital. It grows and flourishes or stagnates and decays in accordance with economic, social and political conditions prevailing in a society and the policies and legal framework made by the state to regulate it. The divergence in Employee Relations systems is because of different economic, social, political, technological and cultural environments of different societies. Environments exert tremendous influence on industrial relations and, therefore, as Fox argues “organizational

issues, conflicts and values are inextricably bound up with those of society, at large”.

The present is only a part of a continuum linking the past with the future. Consequently, current industrial relations owe much to their past and the participant's goal and expectations for the future. At the micro level, the time-context may be evident in two ways:

Today's problem stems from yesterday's decision and its solution will, as the environments change, become a problem in the future, and The attitudes, expectations and relationships manifest, led by the participants, are at least in part, the product of their past individual and collective experiences. It is apparent that the State, with ever-increasing emphasis on welfare aspect of governmental activity, cannot remain a silent and helpless spectator in the economic welfare.

This is all the more necessary because they are required to protect the interests of public –“the third party”. The legislative task of balancing the conflicting of interests in the arena of labour management relations proves to be an extremely difficult one, in view of the mutually conflicting interests of labour and management. The substantive issue of industrial relations is of perennial nature and, thus, there can never be a “solution for all times to come”. There can only be broad norms and guidelines as criteria in dealing with issues of industrial relations.

Law plays an important role in shaping the structure of industrial relations. It represents the foundations from which the present system and procedures flow to deal with the problems of industrial relations.

New frontiers of Employee Relations are explored which views them as a composite result of the attitudes and approaches of employers – and employees towards one another with regard to direction and co-ordination of activities of an organization with minimum of friction, with an animating spirit of cooperation and with proper regard for genuine well-being of all members of the organization. Serious attempts are being made to change the attitude and behavior of all concerned and generate positive culture and values – consultations, participation, empowerment and communication – a structure conducive to the development of the desired climate for workplace Employee Relations. Thus, Employee Relations are viewed as a positive culture of working together for business excellence. The purpose of positive Industrial Relations is not only to maintain Industrial Relations but to create an enabling climate to motivate people and make them committed to giving of their best by adopting the latest management practices like Team Working, TQM, QCs, etc.

Industrial Relations do not have a shape of their own. These do not have a fixed level like water. As water seeks its own level directed by the gravitational force of the market. Protective, passive and slow-moving industrial Relations dispensation were developed to cater into the needs of a controlled, regulated and protected market after independence in India and were still continued till 1990. But the fierce globally competitive market demands an aggressive and dynamic approach to Industrial Relations to cater to the highly demanding market imperatives like international standards of quality, competitive pricing, quick responses, high flexibility in working and fulfilling the ever-increasing demands of customers. This requires a highly flexible and business-friendly industrial relations climate.

“All distinctive approach of employment management is the need of the hour which seeks to achieve competitive advantage through strategic development of a highly committed and capable workforce, using an integrated array of cultural, structural and personnel techniques.”

John Storey (1995)

In the 21st century, the business is the responsibility of both, the employee and employer. Performance is the key driver of success, which will lead to survival. Labour relations being a crucial management function of HRM, is essential to understand that in developing workers as the integral part of the business management decisions, the biggest challenge that lies with the HR professionals is to take up a developmental initiative in making the work-force more accountable, committed as business partners. Though collective bargaining is a powerful tool in maintaining peace and harmonious relationships, the approach needs to be reinvented as a collective decision-making process rather than one of collective bargaining, rather it should be based on business growth model which implies maximizing the profit ethically and distributing the same proportionately among all the stakeholders. It is high time that organizations and unions understood and took initiative in demolishing the management – worker barriers and developing a mutual gain model to avail competitive advantage.

1.2 Objectives & Key Aspects Of Industrial Relations

Industrial relations are not an ‘objective’ science. As Salamon argues, there are no simple objective facts in industrial relations. This is not to deny the presence of important issues and debates in industrial relations apart from those entangled with the conflictual/consensual relationship of the participants. The loftier issues centre around such concepts as fairness/equity, power/ authority and individualism /collectivism. Apart from the primary objective of bringing about sound and healthy relations between employers and employees, industrial relations aim:

1. To facilitate production and productivity
2. To safeguard the rights and interests of both labour and management by enlisting their cooperation;
3. To achieve a sound, harmonious and mutually beneficial labour-management relations;
4. To avoid unhealthy atmosphere in the industry, especially work stoppages, go-slows,
5. gheraos, strikes, lockouts; and

The state endeavors to correct, through effective industrial relations, an imbalanced disordered and maladjusted social and economic order with a view to reshaping the complex socio-economic relationships following technological and economic progress. It also controls and disciplines the parties concerned and adjusts their conflicting interests. In this process it protects some and restrains others, depending upon their situations.

According to Nair & Nair, the following are the key attributes of IR:

- The development of healthy employer – employee relations
- The maintenance of industrial peace and high productivity

The development and growth of industrial democracy Kirkaldy (1947), stated that “industrial relations in a country are intimately connected with the form of its political government; and the objectives of an industrial organization may vary from purely economic to purely political ends. He divided the objectives of industrial relations into four categories which are as following:

Improvement of economic conditions of workers in the existing state of industrial management and political government, State control on industries for regulating production and promoting harmonious industrial relations. Socialization or rationalization of industries by making State itself a major employer Vesting of the proprietary interest of the workers in the industries in which they are employed.

1.3 Scope of industrial relations

Given these overall goals and objectives, it is not surprising that the field is engaged in a number of policy and operations-oriented activities. Some of these focus on the relationships between the employer and individual employees, while others deal with management and other organized labour groups. Still another area to which industrial relations activities contribute significantly is that of overall industrial goals such as productivity, labour peace and industrial democracy. Now, let us draw our attention to some of these:

1.3.1 Employer to Individual Employee Relationships

This relates to the focus areas of management in relation to policies and practices that ultimately affect the productivity and well-being of their employees as individuals. With a view to optimizing the interests of the employer and those of employees, these comprise fields such as:

1. Wages and salary administration
2. Career prospects inclusive of planning and promotion
3. Retirement benefits and medical benefits
4. Discipline and redress of grievances
5. Training and Development
6. Counselling
7. Workers' compensation, connected and related issues such as insurance

1.3.2 Labour Management Relations

Distinct from Employer-Employee relations in this area, which relates to relations between the employer as a management body and its workers as a recognized group or set of groups, Labour Management Relations covers rights, protocols and practices, often regulated by a legal structure, related to –

1. Management (with concepts like 'management rights')
2. Formation and recognition of unions which represent the interests of the employees
3. Collective agreements
4. The settling of industrial disputes

Through these bodies, management and labour negotiate and enforce the establishment of welfare measures and benefit schemes. Another focus of labour-management relations is health and safety regulations and programmes at work.

1.3.3 Industrial Peace and Productivity

One of the most important aspects of IR is to maintain industrial peace and, thereby, increase productivity. It depends on the quality of the union management relations at workplaces. In fact, proactive labour administrations of some countries have changed their focus from being a law enforcer to a facilitator to maintain industrial peace. Rather than resolving strikes by union, good IR means averting strikes through proactive interaction. Productivity is another important area in which IR becomes significant. In the highly competitive area of global business, maintaining high productivity is important for the

survival of organizations. A few other areas of focus for Industrial Relations are:

1. Upgrading technology and production methods
2. Securing employee commitment and cooperation in improving productivity
3. Minimizing 'man days lost' per year
4. The restraining and redevelopment of surplus labour

1.3.4 Industrial Democracy

The nature of the relationship between employees and management in the organization's decision-making process is central to the character and conduct of the industrial relations system at the organizational level. Industrial democracy is also known as worker's control (Salamon, 1998, p. 353). According to Salamon, this is a socio-political concept to philosophy of industrial organization, which focuses on the introduction of democratic procedures to restructure the industrial power and authority relationship within organizations. He further argues that thereby it creates a system which involves 'determination by the whole labour force of the nature, methods and indeed purpose of production'. Salamon elaborates that the central objective of industrial democracy is the establishment of employee self-management within an organization, whose ownership is vested in either the employees or the state and whose managerial function is exercise ultimately through a group, elected by the employees themselves. This group has the authority over all decisions of the organization, including the allocation of 'profits' between extra wages and reinvestment.

1.3.5 Liaison Functions

In addition to the above, the IR function has also a liaison role within it. Those who are responsible for the IR function in an organization have to play a key and central role in the formulation of the industrial relations policy of the organization. This is at a conceptual and policy level but there are other activities which take IR personnel out of the organization in the likes of liaison with Government and Local Government authorities such as labour officers/inspectors etc. participation in judicial and semi-judicial disputes settlements, participation in labour conferences and so on.

1.4 Forms Of Industrial Relations

The interaction among the stakeholders in Industrial Relations is characterized by a certain 'balance of power'. In highly regulated industrial relations environment, the State is likely to be the dominant player. Similarly, in a market-driven economy, employers tend to dominate as a result of the right to "hire and fire" in response to market exigencies. In a socialist economy, trade unions tend to have a dominant role. In that process, industrial relations degenerate into a dominance-submission syndrome in which the dominant stakeholder tends to control. The management of industrial relations within the framework of culture of dominance can take three forms:

1.4.1 Managing by Contending

Signifies that the stakeholders engage in a contest of will with the dominant stakeholder holding the reins and steering the choice-making processes as well as choices. Pressure tactics coupled with employment of leverages like litigations and direct action go hand-in-hand with the reaction of the dominated to protect threatened interest.

1.4.2 Managing by Conceding

Indicates that the dominant stakeholder manages interactions with other less dominant and dominated stakeholders by making concessions to buy peace on an ad hoc, situational basis.

A major ploy here is to adopt a ‘divide-and-rule’ policy.

1.4.3 Managing by Colluding

Denotes that the dominant stakeholder strikes up equations with individual stakeholder representatives or with coalitions of stakeholders, through which, mechanism of choice making as well as choices are influenced to favour the dominant stakeholder. The collusion character of the interaction leads to the compromise of the interests of the less dominant stakeholder groups.

Within the framework of the culture of dominance, when change is sought, generally the changes only of the dominant stakeholder. The culture of managing by contending or conceding or colluding or a combination of any of those patterns remains unchanged.

Liberation for the dominated stakeholder is to become the dominant stakeholder, and so the cycle of contending, conceding, colluding goes on.

And yet, it is possible to think of breaking out of this vicious cycle only if the interacting stakeholders decide to change the culture of dominance and compliance to culture of dialogue and mutuality. This is feasible only if an individual or a coalition of stakeholders change the mode of choice-making from a contending-conceding-colluding orientation to a mutuality-based cooperative orientation. This is possible through collaborative problem-solving approach, evidence of which is already available in various organization across the globe.

Managing by Collaborative Problem-Solving in the sphere of industrial relations choice-making is, perhaps, the key to the development of a new ethos. The “dominant stakeholder in today’s deregulated environment is likely to be the Corporation and the onus is on corporation to create a new ethos, revolving around collaboration and mutuality.

1.4.4 Transformational Process Model

The Transformational Process Model is, in essence, a dynamic process in which the Corporation continuously defines the environment and responds appropriately. It is a continuous process of redefining the organization’s own core in relation to its internal stakeholders in order to, not only remain in existence but also to change and able to grow. This involves not only structural changes and systematic innovations but also involves change of mindset and values of the interacting stakeholders in corporations. It is this broadening of the scope of industrial relations management that opens up possibilities for this approach which is basically a search for internal stakeholder congruence to energise the corporation for strategic survival and growth in a fiercely competitive environment.

1.5 Determinants of Industrial Relations

Basically, the success of industrial relations depends on the nature of the relationship prevailing among the actors of industrial relations. It also depends equally on the power equation existing between the employers and the trade unions. The attitude of one party

towards the other and its strategies depend on its assessment of the strengths and weaknesses of the other party in industrial relations. The power equation of the actors in the industrial relations is determined by a combination of several factors. Some of the factors which influence the distribution of power between employers and employees are:

1.5.1 Trade Union Density

When the unions are phenomenally strong in an industry, the power balance would be in favour of the employees and the unions. In such a situation, the terms of industrial relations would be decided by the unions.

1.5.2 Frequency of Strike Activity

When the organization or industry reports a high number of strikes within a specific period, the industrial relations would come under increasing strain. Depending upon the outcome of the strikes, the power equation would change.

1.5.3 Political-economic Institutions

The role of politico-economic institutions is critical in achieving industrial peace and harmony. When the political institutions, especially the ruling combine, overtly favour the employees and the trade unions, the power equation would tilt in favour of the unions.

1.5.4 Cultural Diversity

When there is cultural diversity among the workforce, it may favour the employers to have divisions among the employees along cultural lines. The educated and enlightened employees may make independent decisions, which may differ with the general stand of the unions.

1.5.5 Demographic Structure

The presence of heterogeneous groups based on age, gender, income and other relevant bases can also influence the power balance between employers and employees. For instance, the organizations with a high proportion of women employees may witness low intensity in union activity.

1.5.6 Pattern of Behaviour

When the employers espouse authoritarianism in behavior and style of management, the employees may predominantly prefer unions and aggressive postures, if possible. In contrast, the employees side with the employers when the latter adopt a consultative paternal approach. In addition to these factors, the state of technology, the nature of supply and demand in the product and labour markets, legal factors and other external environmental developments can also influence industrial relation

1.6 Perspectives of Industrial Relations

1.6.1 Equity and Fairness

Equity refers to equal treatment to one and all under comparable circumstances. Equity and fairness are used synonymously in industrial relations. The concept of fairness is an objective when one applies a technical yardstick like market forces for its evaluation. For instance, the management may consider it fair to freeze wages in time of recession, while workers may feel that it is unfair to do so in view of the rise in the cost of living. The concept of fairness is utilitarian when one goes by what the majority accepts. The notion of fairness

becomes relative when one considers whether or not one is getting a fair share of pay in relation to what others with similar qualifications and experience are receiving. In an engineering company, the welders were upset when they got a lesser pay raise than the gardeners. They immediately formed a rival union of technical staff and protested. Another example that can be referred here is disparity of wages between grass-cutters themselves. There can be differences about the notion of fairness not only between management and employees but also, as in these examples between groups of employees.

1.6.2 Power and Authority

Power has the ability to influence, impose or control. It implies the use of force. Power emanates from six major interrelated aspects:

1. The power to reward and / or punish
2. Power to coerce others
3. Position power
4. Reference power
5. Reference power due to personal attributes
6. Expert power due to one's access to information, knowledge, or experience
associational power through membership in trade unions, employers organizations, chambers of commerce, networking/coalitions, etc.

Authority has the right to expect and command obedience. Power and authority are often regulated by society. The manner in which they are exercised may have implications on the rights and entitlements of others, particularly subordinates. The law may sometimes extend or contract managerial authority. Again, this has its implications on the rights and power of subordinates.

1.6.3 Individualism and Collectivism

The fundamental basis of a democratic society is the freedom of the individual. In an employment relationship, collectivist basis may negate or limit an individual's freedom. The closed-shop system is a case in point. An individual should have the right to join a trade union. Likewise, he or she should have the right not to join a union. Compelling an employee to join a union due to the union shop clause or closed-shop system in a collective agreement negates the right of freedom of the individual employee.

1.7 Summary

Each industrial relations system is grounded in the national historical, economic, and political context and therefore differs from country to country. As part of industrial relations, social dialogue is key for communication and information sharing; for conflict prevention and resolution; and for helping overcome work-related challenges. Social dialogue has demonstrated its potential as an instrument for democratic governance and participation; a driver for economic stability and growth; and a tool for maintaining or encouraging peaceful workplace relations.

1.8 Key words

Industrial Relations- The term 'Industrial Relations' refers to the complex of human relationships which emerges in work situations. These situations bring people together for services which are bought and sold at a price.

Industrial Democracy- The nature of the relationship between employees and management

in the organization's decision-making process is central to the character and conduct of the industrial relations system at the organizational level

Managing by Contending- Signifies that the stakeholders engage in a contest of will with the dominant stakeholder holding the reins and steering the choice-making processes as well as Choices.

Managing by Conceding- Indicates that the dominant stakeholder manages interactions with other less dominant and dominated stakeholders by making concessions to buy peace on an ad hoc, situational basis.

Managing by Colluding- Denotes that the dominant stakeholder strikes up equations with individual stakeholder representatives or with coalitions of stakeholders, through which, mechanism of choice making as well as choices are influenced to favour the dominant stakeholder

Transformational Process Model- The Transformational Process Model is, in essence, a dynamic process in which the Corporation continuously defines the environment and responds appropriately.

1.9 Self Assessment questions

1. Briefly Explain the objectives and Key aspects of Industrial relations?
2. Discuss the Scope and Forms of Industrial Relations?
3. Examine the Determinants of Industrial Relations?
4. Explain the Perspectives of Industrial Relations?

1.10 Suggested Readings

1. PRN Sinha, Indu Bala Sinha, Seema Priyadarshini Sekhar (2002) Industrial Relations, Trade Unions, and Labour Legislation Dorling Kindersley Pvt Ltd
2. MV.Pylee & A.Simon George (2007) Industrial Relations and Personnel Management 2nd Edition Vikas Publishing House Pvt Ltd
3. V. Kubendran, K. Kodeeswari (2011) Industrial Relations and Labour Laws 1st Edition Himalaya Publishing House.
4. A. M. Sarma (2015) Industrial Relations Conceptual and Legal Framework 10th Edition English, Himalaya Publishing House
5. Sarma A.M. (2016) Industrial Relations Conceptual legal Framework, Himalaya Publishing House.
6. Bean R. (2020) Comparative Industrial Relations Taylor & Francis Ltd
7. Dr. F. C. Sharma (2020) Industrial Relations 1 Edition SBDP Publications
8. Avtar Singh & Harpreet Kaur (2021) Introduction to Labour and Industrial Laws Forth Edition, Lexis Nexis Publications.
9. S.C. Srivastava (2022) Industrial Relations and Labour Laws 8 edition, S Chand And Company Ltd
10. Dr. Satish Kumar Saha, Dr. Anju Agarwal (2022) Industrial Relation & Labour Law Latest Edition Prescribed by Industrial Dispute Act, 1947 and The Factories Act, 1948 1st Edition

Dr.Nagaraju Battu

LESSON -2

EVOLUTION OF INDUSTRIAL RELATIONS

Learning objectives

- ✓ To Understand the First World War to Pre Independence Period
- ✓ To Know the Industrial relations during the Colonial Period
- ✓ To Study the Industrial Relations In Post-Independence Era
- ✓ To Outline the Industrial Relations In Post Globalisation Period From 1991 To Till Date
- ✓ To examine the Changing Dimensions Of Industrial Relations In India

Structure

- 2.1 Introduction
- 2.2 First World War to Pre Independence Period
 - 2.2.1 Position Prior to the First World War
 - 2.2.2 Position from the First World War to Independence
 - 2.2.3 The Employer
- 2.3 Industrial Relations During Colonial Period
 - 2.3.1 Statutory Regulation of industrial relations through the Defence of India Rules
- 2.4 Industrial Relations In Post-Independence Era
- 2.5 Industrial Relations In Post Globalisation Period From 1991 To Till Date
- 2.6 Emerging Business Scenario
- 2.7 Changing Dimensions Of Industrial Relations In India
- 2.8 Summary
- 2.9 Key words
- 2.10 Self Assessment Questions
- 2.11 Suggested Readings

2.1 Introduction

India was predominantly a pastoral and agrarian economy during ancient and medieval times. Trade and business were few and far between. Manual services formed the third rung of organizational occupation. A large number of occupations were carried out by small manufacturers in their cottages, mostly on hereditary basis. Slavery and serfdom were common.

2.2 First World War to Pre Independence Period

When compared to the position in the United States, United Kingdom and other European countries, the evolution of industrial relations in India was belated on account of a number of factors such as late beginning of industrialization in the country, absence of modern trade unions during early periods of industrialization, and indifference of the British government towards the problems of Indian labour.

However, with the expansion of the labour force, spread of unionization, development of industries, increasing espousal of the cause of labour by many nationalist and political leaders and their active participation in the labour movement, changes in governmental policies and programmes relating to labour, and new developments in economic, political and social fields, industrial relations in the country also started developing and taking its own

shape. Many features of industrial relations in the country can be discerned from Chapters 4–9, which are concerned with the study of the various aspects of trade unionism in the country. In the sections that follow, an attempt has been made to bring to the fore the more glaring features of industrial relations in the country

2.2.1 Position Prior to the First World War

Modern industries began to be set up in the country by the middle of the nineteenth century. Prior to the outbreak of the First World War, the country had witnessed the establishment of textile mills, jute mills, iron and steel factories, coal mines, plantations and a few other industries in a more or less scattered manner. During this period, majority of important industrial establishments were owned by British employers who had rather uncontrolled dominance over their workers, particularly in plantations, coal mines and railways. Deriving undue advantage of the protection accorded by the British government, they unilaterally laid down the terms and conditions of employment of their workers and subjected them to undue disabilities. The relationship between the employers and workers during the period could be said to be that of masters and servants. Workers' organizations during the period were either non-existent or in the nascent stage of emergence. A few workers' organizations that came to be set up during the period were mainly philanthropic organizations and lacked elements of modern unions. Workers, no doubt, resorted to strikes here and there, but these were confined mainly to some immediate issues and were spontaneous and short-lived (see Chapter 4). It was rather futile to expect from workers or their incoherent organizations to exert pressure on their employers or government for improving their terms and conditions of employment. Most of the labour laws enacted during the period such as Workmen's Breach of Contract Act, 1859, Employers and Workers (Disputes) Act, 1860, Assam Labour Emigration Acts (1863–1901) were primarily intended to serve the interests of the British employers. Although the period witnessed the enactment of a few protective labour laws such as Factories Act, 1881, Merchant Shipping Act, 1859, Fatal Accidents Act, 1855, and Mines Act, 1901, they provided minor relief to the workers. A notable feature of the then existing industrial relations in the country was the role of Jobbers or Sardars. In many industries, particularly mines and plantations, they were the main sources of labour supply.

They were the leaders of the workers brought by them and took up their grievances with the employer and looked after their welfare. When the employer did not pay heed to the grievances or these could not be redressed to their satisfaction, they withdrew all the workers brought by them

2.2.2 Position from the First World War to Independence

The pace of industrial development in the country was accelerated during the period following the end of the First World War. A number of industrial undertakings came to be established in different parts of the country. This was accompanied by an appreciable expansion of workforce most of which was drawn from the rural areas. The industrial workers had to face several sorts of problems relating to the terms and conditions of employment, the solution of which was possible only when their organizations were capable of exerting effective pressures on the employers and alien government. This period witnessed the formation of a large number of trade unions at various levels such as enterprise, locality, region, industry and even at the national level. Trade unions at all the levels acquired considerable strength under the able leadership of renowned nationalist and other leaders. In a number of industrial establishments, trade unions were capable of exerting effective pressures on the employers for improving the terms and conditions of employment of their members,

and quite a few of them contracted collective agreements with them. Such agreements were also contracted at region-cum-industry level. The period also witnessed increasing participation of trade unions in tripartite forums at various levels and reached unanimity with the representatives of employers and government on broader issues concerning labour and industrial relations. As a consequence of the growing strength of trade unions and increasing involvement of political parties and nationalist leaders in the trade union movement, the attitude of the employers towards workers and their organizations and their perception towards labour issues materially changed. They also started forming their organizations at different levels primarily with a view to facing new challenges in a united manner. The important employers' federations formed during the period were: Federation of Indian Chambers of Commerce and Industry (FICCI: 1927), All India Organisation of Employers (AIOE: 1932), and Employers' Federation of India (EFI: 1933). Although these federations primarily aimed at protecting and promoting the interests of the employers and their members, they actively participated in deliberations of tripartite bodies at national levels and tried to reach unanimity among representatives of the workers and the government on broader labour issues. A few employers' organizations formed at the industry-cum-regional level also contracted collective agreements with corresponding unions at intervals. A detailed description of employers' federations in the country has been given subsequently in the chapter. The more notable measures adopted by the government to regulate industrial relations during the period included enactment of the Trade Unions Act, 1926, which is still in force in the country (see Chapter 20), and Trade Disputes Act, 1929; insertion of Rule 81A in the Defence of India Rules, 1942; enactment of Industrial Disputes Act, 1947, which incorporated many provisions of Rule 81A of the Defence of India Rules, 1942, and still in force with subsequent amendments; and establishment of tripartite bodies for deliberations on matters relating to labour and industrial relations. Most of the measures initiated by the government during the period continued to operate with modifications in the post-Independence period as well.

2.2.3 The Employer

Employee relations were those of master and slave and, later on, of those of master and servant. Ancient scriptures and laws of our country laid emphasis on the promotion and maintenance of peaceful relations between capital and labour. From very early times, craftsmen and workers felt the necessity of being united. The utility of unions has been stated in Sukla Yajurveda Samhita, "If men are united, nothing can deter them."

The description of unions of workmen in different occupations is found at many places in the Vedic literature and Shastras. Kautilya's Arthashastra gives a comprehensive picture of the organisation and functions of the social and political institutions of India and a good description of unions of employees, craftsmen or artisans. During the period of Harsha, we hear of "Shrenis" and "Sanghs" as well as unions of labourers and employers at Kanauj. During the days of Vikramaditya (of Ujjain), there were well-organised guilds known as "Shrenis" or "Kula". These guilds worked according to their own bye-laws for the management of the unions. From the earliest Buddhist literature, it appears that 'Puga' and 'Shreni' aimed at making commercial progress. Almost every craft, profession or occupation had its own union which was called 'Shreni'. Every 'Shreni' included about a thousand members. The 'Shreni' elected its chief who was called Pramukha or Jyestha. These guilds and corporations often wielded considerable political power and influence. Rhys Davis mentions 18 unions while Cambridge History of India speaks only of 4 organised unions. Majumdar gives a list of 28 unions on the authority of Jatakas and other works as well as inscriptions.

The Indian works of arts and crafts were badly damaged during the foreign invasions, which lasted for about 700 years. To save themselves from the onslaught of these invaders, the craftsmen, artisans and unskilled workers fled in large numbers, from their original homes and sought refuge in distant villages. These artisans gradually lost their traditional skills. Their condition deteriorated to such an extent that there was hardly any difference between an artisan and a slave.

The situation improved only after the restoration of law and order under the Mughals. Bernie has observed, "Different kinds of work such as embroidery, goldsmiths' work, varnishing, tailoring, leather work, pottery, polishing of metals with gold or silver, weaving of silken clothes and super fine muslins, were carried on in big apartments known as the karkhanas. Under Emperor Akbar, the government factories worked at Agra, Lahore, Fatehpur and Ahmedabad, where employees could develop their respective arts."

All contemporary travelers and historians agree that the industry of manufacture of wool and woolen material was in a very highly developed condition in Kashmir. For this purpose, the royalty patronised the skilled craftsmen and artisans under the supervision of government officials in royal workshops, which were located in different Capital towns. The articles produced by these crafts men were mostly consumed by the Mughal emperors and the members of the household and nobles.

The commercial character of the East India Company did not change the conditions of the workers. After the abolition of the monopoly of the East India company in 1883, the British Industrialists and merchants were able to develop some industries (Cotton, Jute, Railways, Plantation, Coal-mines etc.) and trade in India.

2.3 Industrial Relations During Colonial Period

Industrial relation is a by-product of Industrial Revolution and it owes its origin from excessive exploitation of workers by the owners of industries. The relationship was that of two unequals - the powerful employers and powerless workers. It was, in fact, a master-servant relationship which continued for long. In the early stages, the Government adopted the policy of Laissez-faire and, later on, enforced penalty on workers for breaches of contract. Some legislative measures were also adopted for the purpose. Sporadic attempts were made to form trade unions, which were resisted and crushed by the employers.

The First World War is the first milestone enroute to industrial relations in India. It created certain social, economic and political conditions, which raised new hopes among the workers in industries. It was for the first time, that workers realised their importance, that unless they produce goods required for war (like steel, etc.), the wars cannot be fought successfully. After war, prices of consumer goods also become dearer. This led to intense labour unrest because workers' earnings did not keep pace with the rising prices and their own rising aspirations. Many other events happened which accelerated the pace of industrial relations during the period

- a) The success of Russian Revolution in 1917
- b) Establishment of ILO (1919) and the influence of its conventions and recommendations
- c) Constitutional development in India and formation of Central and Provincial Legislatures in 1919

- d) Establishment of AITUC in 1920
- e) The happenings at Carnatic and Birmingham Mills in which Mr. B.P. Wadia was arrested in 1923
- f) Emergence of Left wing on the Indian political horizon in 1924
- g) Formation of the Labour Party Govt, in the U.K. in 1924
- h) Influence of British Liberal Thought
- i) Pressure by British Industrialists of Lancashire and Birmingham
- j) The Indian Trade Union Act of 1926
- k) The Trade Dispute Act, 1929
- l) Formation of Royal Commission on Labour, 1929-31, which made a comprehensive study of
- m) Indian labour problem regarding health, safety and welfare of workers and made recommendations of far-reaching consequences.
- n) The Second World War gave a new spurt in the field of industrial relations. The exigency of the
- o) war made it essential for the Government to maintain uninterrupted flow of goods and services for successful operation of war.

Therefore, the Government of India embarked upon a two-fold action for maintaining/countering industrial relations: -

2.3.1 Statutory Regulation of industrial relations through the Defence of India Rules

Even though the Defense of India Rules lapsed after World War II, Rule 81A which regulated industrial relations during the war was kept alive for six months by an ordinance. Meanwhile, the tripartite deliberations during 1942-46 on the revision of Trade Disputes Act, 1929, helped the Union Government in enacting the I.D. Act, 1947, which laid down a comprehensive dispute settlement machinery to be applicable to all the States. The Act retained one of the principal features of the Defence of India Rules, viz. compulsory adjudication of industrial disputes.

Bringing all the interests together at a common forum for shaping labour policy tripartite consultative system was one of the important developments in the sphere of industrial relations in our country. Tripartite consultation epitomizes the faith of India in the ILO's philosophy and objectives. The need for tripartite labour machinery on the pattern of ILO was recommended by the Royal Commission on Labour as early as 1931. But the first step in this direction was taken only in the year 1942, when the first tripartite labour conference was held at New Delhi under the Chairmanship of Dr. B.R. Ambedkar. The conference consisted of two organizations, namely, the Indian Labour Conference (ILC) and the Standing Labour Committee (SLC).

The objectives, set before the two tripartite bodies at the time of their inception in 1942, were:

- a) Promotion of uniformity in labour legislation;
- b) laying down of a procedure for the settlement of industrial disputes; and
- c) discussion of all matters of all-India importance as between employers and employees.

The function of ILC, as viewed by Dr. Ambedkar, was to advise the Government of India on any matter referred to it for advice, taking into account suggestions made by various State Governments and representatives of employers and workers. These tripartite bodies were essentially deliberative, recommendatory and advisory in nature and the area of their

operation depended on the discretion of the Central Government.

Tripartite deliberations helped to reach consensus, inter alia, on statutory minimum wage fixation (1944), constitution of tripartite industrial committees (1944), introduction of a health insurance scheme (1945) and a provident funds scheme (1950). Thus, it led to the passing of three important central labour laws, viz. the Minimum Wages Act, 1948, the Employees' State Insurance Act, 1948, and the Employees' Provident Funds Act, 1952. Even though the defence of India Rules lapsed after, World War II, Rule 81 which regulated Industrial-relations during the war were kept alive. Meanwhile in the tripartite deliberations (19-42-46) Trade Disputes Act, 1929 was revised and enactment of ID Act, 1947 was done – A comprehensive legislation on dispute resolution.

2.4 Industrial Relations In Post-Independence Era

The following forces were operating at the time of independence.

For the inherited industrial relations legacies from our colonial masters with colonial mindset, colonial habits and colonial culture. Coincidentally, our freedom struggle coincided with the struggle by the working class for better industrial relations. In course of these struggles, our top leaders made promises and pledges to workers. Therefore, after independence, our leaders had to fulfil those "promises" and the "pledges" made to the workers during freedom struggle.

Most of our leaders were influenced by Fabian Socialist and Marxist/Communist philosophies and after independence they were put to practice. Our industrial relations were deeply influenced by all the above forces. These philosophies got reflected in our Constitution –

- a) Preamble of the Constitution
- b) Fundamental Rights
- c) Directive Principles of State Policies.

This "Trinity" of Indian Constitution is the fountainhead of all factors which shape and guide the spirit of industrial relations. This was further put in practice when we launched our Five-Year Plans.

Each of the successive Five Year Plans emphasised for the "well-being of the working class, cooperation between worker and employer, harmonious industrial relations, workers' right and workers' participation, Welfare State etc. Social justice and Egalitarianism became the guiding spirit.

The aftermath of independence saw the mushroom growth of trade unions and a plethora of labour legislations and this led to the furtherance of litigations and bitter industrial relations not only between the employers and trade unions but between multiple trade unions themselves. This was the period when Industrial Policy Resolution, 1956, facilitated the growth of the public undertakings both, at the Centre and State level. Through these PSUs, Government wanted to present a role-model of industrial relations as "Model-Employers".

In the year 1957 (15th ILC) the voluntary schemes for workers' participation in management and workers' education schemes and in the year 1958 (16th ILC) voluntary code of discipline and voluntary code of conducts were introduced to counteract the unhealthy

trends of litigations and delays.

In the year 1969, the first National Commission on Labour was formed under the Chairmanship of Justice Gajendragadkar which made significant recommendations but most of them could not be implemented.

This was also the period when Nationalization of industry was at its peak. Many banks, sick textile mills, sick steel plants and collieries, etc., were nationalized. In banks, workers' Directors were put on the Board of Directors as per the Bank Nationalization Act. This is the period when militancy and violence crept in, which gave rise to many wasteful and restrictive practices in the working of industries, especially of Public Undertakings. The result was that many of the industries especially in the Public Sector became weak, sick and many of them got closed.

Emergency of 1975 had its impact on industrial relations. Mrs. Indira Gandhi, the then Prime Minister of India, wanted to salvage her image as a democrat. Therefore, she amended the constitution (Article 43 A) to provide for workers' participation and added Chapter 5 B in the Industrial Dispute Act 1947. The Janta Government and each successive Governments, thereafter, competed with each other to provide measures for protection of workers' interests and formation of workers' welfare.

In the post-independence period, especially the later portion of 70s and 80s, the Indian judiciary displayed unprecedented judicial activism by giving pro-labour judgements, which had tremendous impact on industrial relations. This was the period when amendments in IDA led to the inclusion of Sees. 2A, 9A, 11A, 17B and Chapter V B, Contract Labour (R and A) Act, 1972, was passed and Sec-10 of the Act was interpreted to absorb the workers, if they have worked for substantial years on permanent and perennial nature of job, etc. This provided excessive protection to labour.

The result was that we had a pampered labour class and a stagnant, regulated and controlled industrial relations in the late 80s, quite oblivious of the fact, that sweeping changes were taking place and industries and businesses were quite susceptible to them and threatened by them, if they failed to gear themselves up to meet the situation.

2.5 Industrial Relations In Post Globalisation Period From 1991 To Till Date

The requirements and imperatives of global competitiveness are of international standards in quantity, quality, cost effectiveness and customers' concerns. This, in turn, requires introduction of state-of-art technology, followed by innovation, creativity and strategic alignment of divergent resources to create performing climate. Such a performing climate requires a dynamic and synergetic employee relationship.

The traditional IR was made to "fight the fire" or "douse the fire". It was reactive, negative, passive, ad hoc and legalistic. It was selfish by being confined to its own members, without having any concern for business organizations or society at large. It was inflexible, rigid and ideologies-bound, which have lost their relevance.

The result is that the tradition of industrial relations is under tremendous pressure, because it was made to cater to the requirements of controlled, protected and regulated market and it is unable to address to the imperatives of competitive global market. A tug of

war is going on between "forces of Action" and "forces of Inertia". The market requires a flexible, resilient and aggressive employees relations and traditional industrial relations want to stick to status quo and no change.

Traditional institutions of IR are losing their importance and relevance. Trade unions are marginalized and kept outside the mainstream of business. Strike is losing its cutting edge. Collective bargaining is being replaced by individual bargaining. Ideological decisions are being replaced by business pragmatism.

2.6 Emerging Business Scenario

In the Post-Industrial Society, technological revolution has created a situation where space, distance and time have lost their relevance. National boundaries have completely withered away. The world has really become a global village. This has facilitated the movement of business across the borders. Therefore, global entrepreneurs, better known as MNCs and TNCs, have come up with multi locational and multi-cultural characteristics. The business skyline is completely changing by continuous mergers and acquisitions across the globe. Global competitiveness is the only rule of the global business game where only the fittest can survive.

We also saw the growth of joint venture of Indian and foreign collaborators in banking, insurance, IT, telecom, BPOs, automobiles, hotels and entertainments, fast food and drinks, tours and travels, hospitals/pharmaceuticals, etc. The giant multinationals like GE, GM, Toyota, IBM, Microsoft and many others have started showing interest in the big Indian market. The cheap Chinese goods have also made inroads.

The traditional industries are facing acute competition and have also started thinking to become smart by shedding their extra baggage by resorting to re-structuring and re-engineering. This has been necessitated also by day-to-day technological innovations and their application in industry. The exercise amounts to generating surpluses and its management. This has created real HR crisis for the "sunset industries".

The profiles and requirements of emerging industries are entirely different from the requirements of the traditional industries, mentioned above; The required Organisational Structure is not a monolithic and pyramidal one. It is flat, lean and smart, almost leading to virtual organisation.

The offices are intelligent, paperless and fitted with all modern electronic gadgets which require very few manpower. Employers are global with multi-locational working dispensations. They like to approach their employees directly without intervention of any outside agency like trade unions. They negotiate with their employees on all matters including compensation package and productivity. Encouraged by the success of new management principles, they introduce HR interventions like QCs, workers empowerment, team-working, etc., to reach the workers directly.

The employees are knowledge-employees, younger, educated, full of expectations and aspirations and career-oriented. The manpower is diverse with multi- cultural/lingual employees and a sizeable number of female employees. Their problems and perspectives are different from those of old blue-collar employees.

New players like Consumer Forums, NGOs, Environmental Campaigners and Electronic

- a) Media are replacing trade unions in many grey areas.
- b) Flexibility has become of vital importance, which may be enterprise flexibility like outsourcing, franchising, etc., or labour flexibility like Numerical flexibility (size of workforce), Skill flexibility (Composition of workforce), Functional flexibility (Job employment, Job enrichment), Locational flexibility (flexi-timings), Pay flexibility (flexi pay) and Place flexibility (flexi-working places - Home working), etc.
- c) Contracting out of non-core activities like Catering and Housekeeping Services, Security, Parking, Courier Services, Medical and Health Services, Education and Training, etc., have become common.
- d) Changing Pattern of Managerial Practices - Diverse forms of employment - Life-long employment vs Short-term, Part-time employment, House worker, Contract worker/Contingent worker, International workers are regular features.
- e) Changing Nature of Work-Robotized working, Unmanned Work Station (Power-Plants), Fieldwork (Journalists, Sales executives), Open 24 hours, 365 days (Banks, Restaurants, Callcentres)-is yet another new phenomenon.
- f) Use of Electronic Gadgets in the offices-like Telephones, Mobile phone, Computers and its
- g) numerous utilities such as M.S office, e-mail, S.M.S., Internet, etc., have made them self-reliant.
- h) Pressure from International Bodies - ILO/WTO/WB/IMF, International Labour Standards- are
- i) exerting pressure on Industrial Relations. These business scenarios require a different brand of Employees Relations.

2.7 Changing Dimensions Of Industrial Relations In India

Emerging business scenario has brought in new market imperatives. The traditional IR system is under unprecedented pressure because it is not geared to meet this. A market determined profile of Industrial Relations is required to meet the challenges of the market. Therefore, traditional IR is giving way to emerging employee relations. Some of the features of this phenomenon are given below:

- a) The institution of trade union is getting weak. Employers are going for unitarism and no unionism. In IT and ITES, there are hardly any TUs.
- b) The institution of collective bargaining is being decentralized and being replaced by unit bargaining, individual bargaining and commercial bargaining.
- c) Disinvestment/Privatization and VRS are almost accepted facts of Industrial Relations.
- d) Changing Pattern of Compensation /Rewards Management - Fixed/Assured time rate wages are replaced by Variable/Performance-based wages.
- e) Well paying, secure, low-productive jobs in organised sector are replaced by low-paying more insecure productive jobs in unorganised/self-employed sectors.

- f) Pro-labour stance of the Government is getting reduced.
- g) The attitude of judiciary is also changing.
- h) There is a proposal for Labour Law simplification/codification
- i) There is a trend to make employer-friendly conciliation.
- j) There has been ease in labour inspection.
- k) There has been use of Section 10 (3) of IDA declaring strikes illegal.
- l) Strict enforcement of Unfair Labour Practices
- m) Use of Police for diluting labour struggle
- n) Re-engineering and Rationalization of work - Job mobility, Redeployment, Job Rotation, Shedding surplus manpower
- o) Competencies management and skill formation - multi-skilling and career development
- p) Employee involvement, participation and communication
- q) Trade Union participation
- r) Enterprise-based unions
- s) Responsive Trade Unionism
- t) Diluting political ideology
- u) All these activities have become regular features and are increasingly impinging on the emerging industrial relations. This trend is going to be accelerated, in future.

2.8 Summary

The present chapter had attempted to figure out the status of Industrial relations at various time periods in India. It reviews the movement of industrial relations through the various periods starting from ancient India to British rule, and from post-independence to globalisation and lastly the contemporary times. It identified some of the factors that why traditional industrial relations are at the crossroads. Emerging business scenario has brought in new market imperatives. The traditional industries are facing acute competition and have also started thinking to become smart by shedding their extra baggage by resorting to restructuring and re-engineering. This has been necessitated also by day-to-day technological innovations and their application in industry. The exercise amounts to generating surpluses and its management. This has created real HR crisis for the "sunset industries". The traditional IR system is under unprecedented pressure because it is not geared to meet this. A market determined profile of Industrial Relations is required to meet the challenges of the market. Therefore, traditional IR is giving way to emerging employee relations. Factors influencing this phenomenon has been discussed in this chapter.

2.9 Key words

Industrial relations is that field of study which analyses the relationship among the management and the employees of an organization at the workplace and also provides a mechanism to settle down the various industrial disputes

Trade Union means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business.

Industrial democracy is an arrangement which involves workers making decisions, sharing responsibility and authority in the workplace. While in participative management organizational designs workers are listened to and take part in the decision-making process, in organizations employing industrial democracy they also have the final

decisive power

Globalization is a term used to describe how trade and technology have made the world into a more connected and interdependent place. Globalization also captures in its scope the economic and social changes that have come about as a result

2.10 Self Assessment Questions

1. Briefly Explain the Scenario of Industrial Relations in India
2. Discuss the Industrial Relations During Colonial Period, Post Independence Era?
3. Identify the Post Globalisation Period from 1991 to till date
4. Evaluate the Emerging Business Scenario of Industrial Relations
5. Explain the Changing Dimensions of Industrial Relations in India

2.11 Suggested Readings

1. PRN Sinha, InduBala Sinha, Seema Priyadarshini Sekhar (2002) Industrial Relations, Trade Unions, and Labour Legislation Dorling Kindersley Pvt Ltd
2. MV.Pylee & A.Simon George (2007) Industrial Relations and Personnel Management 2nd Edition Vikas Publishing House Pvt Ltd
3. V. Kubendran, K. Kodeeswari (2011) Industrial Relations and Labour Laws 1st Edition Himalaya Publishing House.
4. A. M. Sarma (2015) Industrial Relations Conceptual and Legal Framework 10th Edition English, Himalaya Publishing House
5. Sarma A.M. (2016) Industrial Relations Conceptual legal Framework, Himalaya Publishing House.
6. Bean R. (2020) Comparative Industrial Relations Taylor & Francis Ltd
7. Dr. F. C. Sharma (2020) Industrial Relations 1 Edition SBDP Publications
8. Avtar Singh & Harpreet Kaur (2021) Introduction to Labour and Industrial Laws Forth Edition, Lexis Nexis Publications.
9. S.C. Srivastava (2022) Industrial Relations and Labour Laws 8 edition, S Chand And Company Ltd
10. Dr. Satish Kumar Saha, Dr. Anju Agarwal (2022) Industrial Relation & Labour Law Latest Edition Prescribed by Industrial Dispute Act, 1947 and The Factories Act, 1948 1st Edition

Dr.Nagaraju Battu

LESSON -3

ORIGIN AND DEVELOPMENT OF INDUSTRIAL RELATIONS

Learning objectives

- ✓ To study the Origin and Development and Industrial Relations
- ✓ To understand the 19 and 20th Industrial Relations
- ✓ To Know the studies of worker behavior
- ✓ To focus on the conceptions of the managers
- ✓ To discuss the responsibility of the community

Structure

- 3.1 Introduction
 - 3.1.1. Ancient Period
 - 3.1.2. Medieval India
 - 3.1.3. British Period
 - 3.1.4. Modern Period (Post Independence)
- 3.5 19th- and 20th-century views
- 3.6 The advent of industrial relations in the United States
- 3.7 Studies of worker behaviour
 - 3.7.1 Scientific management
 - 3.7.2 Industrial psychology
 - 3.7.3 Human relations
 - 3.7.4 Behavioral science
- 3.8 Conceptions of the manager
 - 3.8.1 Specialized management
 - 3.8.2 Participative management
 - 3.8.3 Responsibility to the worker
 - 3.8.4 Laissez-faire
 - 3.8.5 Paternalism
 - 3.8.6 Pullman, George M relations
- 3.9 Responsibility to the community
- 3.10 Summary
- 3.11 Key words
- 3.12 Self Assessment Questions
- 3.12 Suggested Readings

3.1 Introduction

Even though it is very recently that industrial relation have succeeded in establishing an organizational footing in India, the origin of the industry can be traced back to the origin of the industry itself. The historical background can be classified under the four periods.

1. Ancient Period
2. Medieval Period
3. British Period
4. Modern Period

3.1.1. Ancient Period

The origin of productive engagement in India can be traced to prehistoric ancient period, when a primitive type of socioeconomic relation had existed. In various stages and

ancient enterprises like hinting stage, handicraft system, barter economy, emergence of money economy and putting out system. There was little scope for systematic practice of industrial relation. Varnashrams which existed in the ancient India during vedic and puranic periods provides the evidence for the existence of a type of divisions of labour. It reveals the existence of socio economic enterprise which necessitated for a primitive type of industrial relation even in ancient India. Brahmins earned their living by teaching offering sacrifice on behalf of others receiving gifts etc. They were the managers of affairs of the state who represented god on earth and as a result they claimed implicit obedience from other section of the society.

Generally a slave system emerged in India for which Varnashrams also helpful. Aryans are said to have developed this institution for tiding over family difficulties for the repayment of debts and payments of fines and dues to rulers. An Aryan could be mortgaged or sold as a slave for the above reason, but he could become free after repayment of the loan with interest. The relationship between slave and his master was only according to commodity theory.

3.1.2. Medieval India

Kautilya has given a vivid picture of the productive occupations during medieval period, in the 3rd book of his Arthashastra. It provides sufficient evidence for the absence of organizational existence of industrial relation in the beginning of the medieval period. Various types of guild system artisans build merchants guild and co-operative guild caste system and slave system had not provided any scope for organized industrial relation. In spite of the foreign invasion, there is sufficient evidence to indicate that the relation between the employees and the workers were based on justice and equity.

The existence of two organisations viz, Pigma and shreni during Buddhist period can be traced from the earliest Buddhist literature. These organizations had aimed at achieving a good commercial progress. Shreni was a type of union consisting of about thousand workers. Each occupational group had its own shreni which was headed by a leader who was called pramukha or Jyestha at the same time there is mention of about four unions in the Cambridge History of India. These relations were cordial in the beginning of the guild system.

During the period of native rules industry and trade were monopolized in the public sector. Government workshops were engaged in manufacturing brocades, silk, copper, iron, gold and silver ornaments etc. For this purpose royalty patronised the skilled craftsman and artisans under supervision of government officials in royal workshop which were located in different capital towns. Workers were well regarded and the employers employee relation were cordial. All industrial activities were controlled according to the whims and fancies of the autocracy. Kotwal who were town governor had virtually controlled all the local industrial activities.

The above discussion had thrown light on the fact that the industrial relation during both ancient and medieval periods had been cordial. They emphasized the importance of mutual relations and peaceful coexistence workers were treated with affection and respect in many cases and hence they did not prefer to leave their employers. The relations were cordial, any disputes between workers and their employers had been settled and then under the mediation of the rulers for their representatives. This situation had prevailed until the advent of British rule.

3.1.3. British Period

There was much scope for industrial development in India during early British period. India was expected to be a market for the British good still the second half of the 19th century. The period from 1860 to 1875 was a period of development of jute and cotton industries, coal mines and rail road constructions. The workers were to work in subversive and deplorable condition, while they were exploited by their contractors. Their relation had been strained and the workers abstained themselves from work. The central govt, was then forced to pass the first industrial relation act in 1860 employers and workmen (Diaputs) act of 1860. The payment of wages was also systematised. This act was in force until it was repealed in 1932. The modern industry in India owes its existence to a great deal to the initiative of Europeans. However the workers not satisfied with the conditions in which they worked and the workers management relations were not cordial. The first labour association, Bombay mill hands association was established in 1890. After that the number of union have come into existence working as well as living conditions and wages also were not satisfactory and there was a lot of strain in workers and management relations.

The presidency govt of Bombay and Bengal therefore felt the need to tackle the burning industrial and labour problems. Two committees Bengal committees, had consequently been set up. The former had recommended is set up jointly workers councils while the latter recommended to establish an industrial court of enquiry and an Industrial court of conciliation. The govt of India act of 1935 which had provided for provisional autonomy had generated new hopes and inspirations in the minds of working class. Bombay Govt, to pass Bombay industrial disputes act of 1938, many of the provisions of which are still in force. More over the new industrial relation Bill (1978) which is recently initiated by Govt of India has adopted a major of this act. The industrial scene was very much troubled as a result of growing workers unrest during the period of 2nd world rise because of the price rise for essential commodities cordial relation between the workers and management was very rare. Both management and workers were legally bound by decisions of the tribunal. Neither strike nor lock out could be possible when the conciliation or arbitration was pending. Similarly no strike could be resorted to without a panacea for unprecedented industrial unrest in the country.

3.1.4. Modern Period (Post Independence)

Modern industrial relation represents a bending of older system with innovation introduced as a society has changed through the ages. When India became independent in 1947 industrial scene was subject is a considerable amount of chaos and confusion. Industrial unrest and shattered works management relations have been prevalent everywhere. Hence govt of India did not wish to remain a passive spectator govt has emerged out as an arbitrator between management and workers. It is in this context that the industrial disputes act 1947 has come to existence. The need for a code of discipline for both workers and management has been widely felt which was discussed and evolved at India labour conference in 1957. industrial relations, also called organizational relations, the behaviour of workers in organizations in which they earn their living.

Scholars of industrial relations attempt to explain variations in the conditions of work, the degree and nature of worker participation in decision making, the role of labour unions and other forms of worker representation, and the patterns of cooperation and conflict resolution that occur among workers and employers. These patterns of interaction are then related to the outputs of organizations. These outputs span the interests and goals of the parties to the employment relationship, ranging from employee job satisfaction and economic

security to the efficiency of the organization and its impact on the community and society.

3.5 19th- and 20th-century views

In classical economics, workers were regarded as commodities that were subject to the natural laws of supply and demand. Although classical economists readily acknowledged that workers are not motivated by money alone, their abstractions were based only on the economic aspects of reality. This led them to consider workers as undifferentiated and passive instruments in the production process.

Karl Marx in the mid-1800s challenged this view of labour. He rejected the notion that workers should bear the costs of market forces and went so far as to argue that all the value of production comes from workers' input; therefore, he insisted, labour should own the means of production. Since under a capitalist system the means of production are not owned and controlled by workers, the workers would be exploited. Eventually, suggested Marx and his followers, the injustice of this exploitation would lead to a revolutionary overthrow of the capitalist system and its replacement by a socialist state.

Later, around the turn of the century, British political economists Sidney and Beatrice Webb joined this debate by arguing that a combination of worker and community forces would gradually achieve a socialist state. They shared with Marx a belief that workers and employers are separated by class interests and that only by organizing into trade unions would workers amass the bargaining power needed to improve their economic and social conditions. They did not believe, however, that a revolutionary overthrow of the capitalist system was necessary for social progress. Instead, worker, employer, and community interests would eventually be harmonized through union representation, collective bargaining, and legislative protections.

About the same time the Webs were developing their views in Britain, an American view was taking shape under the work of John R. Commons and his associates at the University of Wisconsin. Unlike classical economists, these institutional economists believed that the laws of supply and demand could be influenced by the policies, values, structures, and processes used to govern employment relationships. Like Marx and the Webbs, Commons rejected the classical school's "commodity" view of labour and believed that an inherent conflict of interests separates workers and employers. He also believed, however, that these conflicts are a natural and legitimate part of any employment relationship and would not disappear if capitalism were replaced by socialism.

Like Commons, many American scholars and social activists emphasized the importance of legislation designed to protect worker safety and health, to provide unemployment and workers' compensation insurance, and to guarantee minimum wages and retirement benefits. Because they believed in the value of organized labour and in the need for negotiation and compromise between workers and employers, the institutional economists not only contributed to the development of modern industrial relations—they also provided many of the ideas behind the labour legislation enacted as part of President Franklin D. Roosevelt's New Deal in the 1930s.

3.6 The advent of industrial relations in the United States

The New Deal changed the face of modern industrial relations. In response to the

economic and social crisis of the Great Depression, the U.S. Congress and the Roosevelt administration enacted a series of laws granting workers the right to organize into unions and to engage in collective bargaining with employers. Other New Deal legislation set minimum wages and provided a system of unemployment insurance and social security. In subsequent years unions organized large numbers of workers in the growing manufacturing, transportation, and communications industries. Labour organization reached a high point at the end of World War II, with unions representing nearly one-third of all American workers. By the beginning of the 21st century, however, membership in American unions had undergone significant decline.

As the problems of labour–management relations came to the public’s attention (largely through strikes), a number of American universities formed industrial relations research and teaching programs. The goal of these programs was to draw together the theories and insights of economists, labour and management specialists, and other social scientists to find ways to encourage greater cooperation and improved conflict resolution among workers and employers. Thus, the modern field of industrial relations was born.

3.7 Studies of worker behaviour

3.7.1 Scientific management

While Marx, the Webs, and Commons focused on the role of labour in the late 1800s and early 1900s, others were developing theories of management. Frederick W. Taylor’s engineering approach, later known as scientific management, was similar to that of the classical economists in regarding workers as passive instruments of production, but it did recognize differentiation among workers, at least insofar as degrees of skill were concerned. Taylor developed methods for time-and-motion studies to identify the elements of particular jobs and to determine how elements should be arranged for the greatest efficiency. He limited his study to the individual worker, however; there was no place in his model for group membership or for the effects of groups upon individual behaviour.

3.7.2 Industrial psychology

A step further in the recognition of differentiation among workers came with the emergence of industrial psychologists, who are concerned with the measurement of the skills and aptitudes of individuals. At least in the early stages of these developments, workers were viewed as isolated individuals, and no attention was given to group phenomena.

3.7.3 Human relations

In the 1930s the emphasis of management researchers shifted from individuals to the work group. Of primary importance was the human relations research program carried out by Elton Mayo and his associates at the Hawthorne Western Electric plant and their discovery of the “Hawthorne effect”—an increase in worker productivity produced by the psychological stimulus of being singled out and made to feel important. The ideas that this team developed about the social dynamics of groups in the work setting had lasting influence. (See history of the organization of work.)

3.7.4 Behavioral science

Behavioral scientists had made their entry into the field by attacking as oversimplified the tendency to view workers as autonomous labourers and to comprehend companies through notions, borrowed from engineering, that stressed organizational structure, technology, and efficiency. As often happens in arguments between members of competing schools of thought, some behavioral scientists went so far as to view the work organization

exclusively as a system of social relations and to downplay the role of economic forces. During the 1950s and '60s the field underwent a major process of redefinition that helped change previous conceptions of the worker.

Behavioral scientists now recognize the importance of economic factors, but they see material rewards as having an effect upon behaviour in combination with social and psychological factors, and they study the pattern in this combination. Thus, over the years behavioral scientists have deepened the understanding of the ways that interpersonal, structural, and technological forces can affect organizations and industrial relations.

3.8 Conceptions of the manager

Classical economists made no distinction between the manager and the entrepreneur, the person who brings together land, labour, and capital and puts them to work. This distinction did not take hold in the literature until the publication of *The Modern Corporation and Private Property* (1933) by Adolf Berle and Gardiner Means. When the authors demonstrated that in most American corporations the owners (that is, the stockholders) played no direct role in the management of the concern and that the managers generally had insignificant holdings of stock, it became apparent that theories of entrepreneurial behavior contributed little to the understanding of managerial behaviour.

3.8.1 Specialized management

At the onset of the 20th century, German sociologist Max Weber approached the study of managerial behaviour through his concept of bureaucracy. Weber used the term to highlight a phenomenon of growing importance to industrialized society: that of the large organization with a fixed hierarchical structure based on specialization and division of labour and with established rules and regulations governing behaviour. To Weber, the manager was a person who interpreted and applied the rules of the organization.

Later organizational sociologists, though recognizing the importance of Weber's emphasis on the impersonality and rationality of modern industrial and governmental organizations, pointed out flaws in Weber's model of the modern business organization. They argued that Weber's theory gave an unduly rigid picture of organizations, that it failed to devote attention to processes of change, and that it built so exclusively on the hierarchy of authority as to neglect relations not explicitly defined by the structure. In any case, Weber's formulations were of interest primarily to social scientists. Practicing managers and students in business schools at that time were likely to have little familiarity with the Weberian approach to managerial behaviour.

The early model of the manager taught in American business schools emphasized functional specializations. In these terms the manager was the one who had mastered such subjects as accounting, marketing, production, finance, and so on. Later it was recognized by theoreticians and practicing managers alike that management was a good deal more than the sum of these specialized functions, and this realization in turn led to the conception of the manager as generalist—a person capable of comprehending the organization's various specialized functions and the people engaged in them. The emphasis turned to decision making, leadership, and the relation of the firm to its environment.

3.8.2 Participative management

Some of the most innovative thinking on management education and practice was originated by management theorist Douglas McGregor in *The Human Side of Enterprise*

(1960). In this book McGregor challenged many of the prevailing managerial assumptions about worker motivation and behaviour. According to the prevailing view, which he labeled “Theory X,” workers were seen as uninformed, lazy, and untrustworthy members of the organization. Management’s task was to control workers and motivate them through a combination of control systems, fear of discipline or dismissal, and organizational rules. McGregor contrasted this with a “Theory Y” assumption, namely, that workers are highly motivated and can be trusted to contribute to the organization’s objectives if given the opportunity to participate in organizational decision making. Out of the work of McGregor and others, such as Rensis Likert, has evolved “participative management,” a process in which managers consult with and involve employees at all levels of the organization in organizational problem solving and decision making.

McGregor’s views were supplemented by theories that promoted innovations in the design and implementation of new technologies and production systems that would accommodate the physical and social needs of workers. These socio technical concepts originated in Europe and had substantial impacts on the design of innovative work systems in Scandinavia in the 1960s and ’70s. By the early 1980s they had achieved significant acceptance and use in American firms.

Socio technical theory and worker-participation models of decision making have become essential to companies as they face global competition and rapid technological change. Most contemporary organizational and industrial relations scholars have concluded that the full potential of new information and manufacturing technologies can only be realized through management processes that support participation and communication across functional lines and departments. This must be accompanied by effective problem solving and flexibility in how work is organized. Yet there is still considerable debate among practitioners over the feasibility, wisdom, and even the legal consequences of involving workers in organizational decision making. Therefore, vestiges of both Theory X and Theory Y can be found in the concepts and practices of contemporary organizations.

3.8.3 Responsibility to the worker

The debate over the appropriate role for workers in organizational decision making is part of a larger debate over the extent of the firm’s responsibilities to its community and society. This debate has been going on since the days of the Industrial Revolution.

The Industrial Revolution brought about great accumulations of wealth and also focused public attention on the apparent negative effects of rapid industrialization on working people. To what extent workers in the new factories were worse off than they had been in the much smaller-scale cottage industries may be a matter of continuing debate, but there is no question that large concentrations of workers—men, women, and children—crowded together in factories and working long hours for low pay made health and social problems much more publicly visible. In earlier employment settings, such as the domestic system, the exchanges between workers, owners, and agents were usually based on personal relationships. The establishment of large factories destroyed those direct relationships, giving owners less opportunity to establish a personal interest in workers.

In the past two centuries managers of industry have taken, in general, two broadly different positions regarding management’s social responsibilities: one is marked by minimal involvement in the lives of workers, while the other entails involvement with workers both on

and off the job.

3.8.4 Laissez-faire

The first stance represents a combination of laissez-faire economic theory and the Protestant ethic as described by Weber. In this view the owner or manager has responsibility for the welfare of the workers only within the immediate plant situation. Coupled with this was the understanding that the firm's labour costs are the result of competitive market conditions. In this view, then, the owner's or manager's responsibility to his employees begins and ends with operating the firm in such an efficient manner that it can compete in the marketplace and create opportunities for workers. Furthermore, if all business managers follow a similar policy of intelligent self-interest, the broad social interests of society would be better served than by any other means.

This managerial style has changed significantly over the years; today one hardly expects business leaders to state their position with religious overtones, and even the executive most inclined toward a laissez-faire viewpoint is likely to concede that there are some social problems that are not resolved by the pursuit of enlightened self-interest.

3.8.5 Paternalism

The other stance begins with the assumption that management has a social responsibility to the communities in which its plants are located. If one states the situation in this general way, hardly a management spokesperson today would deny this social responsibility. Yet, when one gets beyond rhetoric, one finds a wide variety of views as to what actions—if any—management should take. In assessing the present scene, one might do well to examine the historical evolution of conceptions of management's social responsibilities.

In the early part of the 19th century, the Welsh industrialist and social reformer Robert Owen was the first manufacturer to back up words about management's social responsibilities with a program of action. Having risen out of the work force in a textile mill himself, he was concerned with the social and economic conditions of workers and believed that the economic success of an enterprise did not have to depend upon exploitation of labourers. In the mill town of New Lanarkshire, Scot., Owen built workers' housing, schools, and a store that were far superior to contemporary standards for workers' communities. His philosophy was influential in the development of the cooperative movement in England.

Owen's ideas and the successful operation of his plant and community during his lifetime impressed many social reformers and the business community as well. His influence was clearly visible in the establishment of the industrial city of Lowell, Mass. Francis Cabot Lowell had visited England and Scotland to study textile mills and related community problems before launching his own enterprises in Massachusetts. He had found New Lanark far more in harmony with American ideals regarding the dignity of the individual than was the average English industrial plant of the time. Lowell faced a social problem of an immediate practical nature: he had to recruit a labour force, largely female, not available in the towns where he was building his plants. To meet this need, the firm built, in what came to be the city of Lowell, a number of boardinghouses especially for young women. Each house was under the control of a woman who was supposed to ensure the morality of her charges, and the young women were not allowed out of the house after 10 PM except with special permission. In addition, Lowell provided for the building of schools and churches. He and his

associates also gave stimulus to the Middlesex Mechanics Association, which sponsored cultural and educational programs. In the United States Lowell was the longest-lived project of its kind and the one most admired by foreign visitors. Charles Dickens compared Lowell very favourably with the typical English industrial city.

3.8.6 Pullman, George M relations

Later in the century George M. Pullman fostered the construction of a community near the Pullman Palace Car Company (the town of Pullman, now part of Chicago) that would house all the employees and provide for all the essential facilities. In the early period of the Pullman Company, the quality of worker housing was notably superior to that of most other industrial workers. Yet another example could be found in Hershey, Pa., a site Milton S. Hershey chose in 1903 for a chocolate factory that evolved into a company town.

Similarly noteworthy were the paternalistic steps Henry Ford took to help workers make good use of their increasing affluence. Ford Motor Company instituted a small legal department to help workers with the complicated problem of home buying, and then Ford established what he called a sociology department. It was staffed with social workers who made home visits to workers' families to provide advice and help on family problems. Members of the department were also free to talk with workers within the plant during working hours in efforts to straighten out family problems.

Company towns and the associated paternalistic view of the employment relation are still important in Japan and some other countries. A classic example is "Toyota City," which provides housing and community services to Toyota employees.

Yet company towns have also been centres of controversy. They have been the locus of some of the most bitter strikes in the United States—from Pullman in 1894, through the Southern mill towns in the 1930s, to Kohler, Wis., in the 1950s. Whatever grievances workers have had in these situations, it is clear that economic issues do not offer a complete explanation of the bitterness of the disputes, in part because any grievance a resident may have is seen to be the fault of the company.

3.9 Responsibility to the community

Most company officials recognize the need for firms to participate in the affairs of the communities in which they are located. Yet engagement with local communities can be difficult, especially for multinational corporations that operate plants in distant cities around the world. Many companies have sought to develop public relations and community service programs as a means of strengthening the organization's image. A plant manager's role may be defined to include representing the company in community activities and establishing ties with locally based business and professional persons. Thus, it is common to find the manager and other plant executives playing prominent roles in community fund drives and other service programs.

3.9.1 Plant closings

Since the late 20th century, protests and debates over the issue of community responsibility have been ignited by corporate restructurings and plant closings that result in local job losses. Many closings are attributed to high local labour costs coupled with pressures from international and domestic competition; others stem from technological changes; and still others reflect new business strategies and priorities, such as taking advantage of cheaper labour costs by operating production plants in developing countries.

Regardless of the causes, say labour leaders and community activists, employers should provide their workers and communities with advance notice of the closing; moreover, corporations should work with employee representatives and community leaders to investigate possible alternatives to closing or to ease the effects of job losses. Concern over this issue has led nearly all industrialized countries to enact legislation requiring companies to notify workers and communities of impending closings or mass layoffs.

3.9.2 Demographic changes

Over the years employers have had to broaden the scope of their responsibilities in answer to changes in the demographic makeup of the labour force and to various social issues that affect the employment relationship. For example, in the 1960s the United States enacted a series of equal employment opportunity laws, which forbid discrimination in employment on the basis of race, colour, creed, sex, age, or disability. Companies that do business with the U.S government have an additional obligation to demonstrate that they have taken affirmative action to provide job opportunities for women and minorities.

Since the 1960s, therefore, firms have carefully reexamined and upgraded their recruitment, selection, training, and promotion policies to eliminate discriminatory practices. The evidence on the job market status of blacks and women shows that, while these legislative and company-level initiatives have helped to reduce the income and employment differentials of blacks and women, sizable gaps in wages and occupational status still remain. Moreover, while most employers have eliminated overt forms of discrimination from their formal personnel policies, many observers believe that there is still considerable subtle discrimination that holds back women and minorities in organizations. Research has shown, for example, that some managers tend to bias their performance evaluations of women or minorities. Others unconsciously hold lower expectations for women or minorities or are uncomfortable dealing with them as equals or superiors.

Because of their subtle nature these forms of discrimination are especially hard to eliminate from organizational life. Many firms make use of mentors (senior managers who look out for and provide career advice for junior employees), ombudsmen (third-party neutrals who help to solve conflicts and resolve problems in organizations), and peer support groups or networks to address discriminatory practices that impede the full utilization of all members of the work force.

3.9.3 The changing work force

In the past, when one wanted to describe the demographic and social characteristics of the work force and the career patterns of its members, it was common to divide individuals into two categories: managers, or “salaried” employees, and workers, or “hourly” employees. The laws governing employment practices still make this distinction, as salaried employees are “exempt” from much of the wage-and-hour legislation that governs the rights of “nonexempt” hourly employees. However, increasing diversity in both the characteristics of the labour force and the organization of work have made these categories less helpful.

Consider, for example, the degree to which women have become a significant presence in the American work force. In 1950 women accounted for roughly one-third of all paid workers, and by 1994 they represented nearly half—a proportion that remained more or less stable through the early 21st century. Just as this demographic change contributed to productivity, it also introduced new legal issues—and in many cases, new regulations—to the workplace.

As demands for labour continue to grow, most of the new jobs in the United States will be created not in the large manufacturing firms but in the service sector, especially health services, business services, social services management, and engineering. The majority of these new jobs will be created by small rather than large firms. Furthermore, the educational requirements of the “typical” job are expected to continue to increase.

Taken together, these trends worry many industrial relations personnel experts and managers, who fear a mismatch developing between the characteristics of future entrants to the labour force and the types of skills that will be in high demand. If this is true, considerable efforts will be required to coordinate the two. This in turn implies that individuals will need to engage in lifelong learning, training, and retraining and that firms will need to increase their training investment. The changing nature of the labour force further implies an increase in opportunities for women, minorities, and immigrants.

3.9.4 Interests, values, and expectations

The interests, values, and expectations that workers bring to the workplace provide a useful point of departure for understanding how employees respond to managerial policies. While these psychological features vary among individuals, over time as workers move through different stages of their family and career cycle, and across nationalities, they do reveal certain similarities.

3.9.5 Assessing workers’ interests

There is a long-standing debate between psychologists and economists over how best to ascertain worker interests and expectations. Psychologists have traditionally used survey questionnaires and interviews to measure worker attitudes, values, and beliefs. Survey findings are applied to observable workplace behaviours such as job search, turnover, absenteeism, union organizing, and withdrawal from the labour force as a means of determining how an individual worker’s expressed attitudes and beliefs correspond to his actions at the workplace. Economists favour direct observation and measurement of these observable behaviours. This provides evidence of what economists call “revealed preferences”—preferences that are revealed by actions taken. Both approaches are helpful in painting a complete picture of workers’ views and the workplace outcomes that result from these views.

Since work is in nearly all cases the most important source of a person’s income, it is no surprise to find that all workers place a high value on the income and security their jobs provide. Survey responses and labour market behaviour indicate that workers expect their jobs to provide both adequate and fair compensation. Fairness, or equity, is normally determined by comparing one’s wages and fringe benefits with those of others in the same occupation, area, industry, or organization. Failure to provide adequate and equitable wages has consistently been shown to lower workers’ job satisfaction and to increase the likelihood that workers will either look for another job or take actions to increase wages through organizing a union or striking. Furthermore, there is no evidence that the expectation of high and equitable wages weakens as individuals move up the occupational ladder and receive higher pay. Even among professionals, pay dissatisfaction continues to be a strong predictor of job turnover.

Most workers expect much more from their jobs than good pay. In fact, perhaps the most important long-run trend in worker values is the gradual expansion and broadening of worker expectations. Survey data have shown that the vast majority of workers throughout the industrialized world place a high value on such qualities as autonomy, opportunity for advancement, and the ability to have a say in how they do their work. Moreover, the higher the level of education, the higher the value workers tend to place on these aspects of their jobs. Given that educational attainment levels are gradually rising, these dimensions of employment are becoming more central to behaviour at the workplace. It is not surprising, therefore, that leading employers throughout the world have been seeking ways to enhance these qualities within their organizations.

3.9.6 Voicing workers' interests

With broader expectations and higher levels of education also comes a more assertive labour force—one composed of people willing to voice their demands or expectations. The means chosen for expressing such demands will vary according to laws, cultural preferences, the availability of collective forms of representation, the degree of employer resistance, and employee preferences for either individual or collective action. For example, the right to organize and bargain collectively is provided by law in all industrialized democracies around the world, but this is not always the case in developing nations or in totalitarian states.

3.9.7 Individual and collective action

There are wide variations in the means workers prefer to use to assert their interests at the workplace. Generally, workers with good educations and high occupational status are more likely to assert their interests individually rather than through collective bargaining. When organized, higher-level professionals such as doctors, lawyers, engineers, scientists, and middle managers tend to act through occupational associations rather than in broad-based unions with blue-collar workers.

This occupational or professional approach helps to create and reinforce the professional ties and status of these groups as well as to bring their special needs to the attention of employers. Moreover, these groups tend to rely on the power they derive from their labour market and geographic mobility along with professional norms, licensing or certification procedures, and government-passed standards as much as, if not more than, they rely on collective bargaining. Teachers and other white-collar government employees represent a significant exception to this tendency. In the United States and many European countries, some of the fastest growing and most powerful unions represent government employees (such as the American Federation of State, County and Municipal Employees). Moreover, in some European countries an increasing number of white-collar and professional employees in the private sector have organized into unions and now negotiate collectively with their employers.

It should be noted that blue-collar workers who have highly marketable skills derive individual bargaining power from their potential mobility. In general, however, blue-collar workers around the world are more likely to form unions and bargain collectively to promote and protect their interests.

3.9.8 Participative decision making

How strongly do workers wish to take part in decisions that affect them? Do they want to be coequals with management on issues, or are their interests more limited? Such questions have been at the centre of historic debates among industrial relations scholars,

practicing managers, union leaders, and public policymakers. The evidence is surprisingly robust over time and across national boundaries: workers reveal the greatest interest in participating in decisions that affect their immediate economic concerns and those that directly affect their specific job.

3.10 Summary

Industrial relations are key for businesses because of their repercussions on the working environment and the production of goods and delivery of services. Given the differences between systems, prior to getting established in a given country, businesses have to properly study and understand the way in which industrial relations work there. For instance, they may want to know if collective bargaining occurs in a multi-employer context, or if collective agreements are extended to cover all workers and employers (even if they are not members of a trade union or an employers' organisation); whether multiple trade unions are allowed in a given company and if all of them have a right to sign a collective agreement; or if unions tend to be highly conflictual and engage in collective disputes. Moreover, because of globalisation, new strategies to broaden industrial relations at the international level have emerged, such as through International Framework Agreements (IFAs) between a global union and a multinational company.

3.11 Key words

Ancient Period- The origin of productive engagement in India can be traced to prehistoric ancient period, when a primitive type of socioeconomic relation had existed. In various stages and ancient enterprises like hunting stage, handicraft system, barter economy, emergence of money economy and putting out system.

Medieval India- Kautilya has given a vivid picture of the productive occupations during medieval period, in the 3rd book of his Arthashastra. It provides sufficient evidence for the absence of organizational existence of industrial relation in the beginning of the medieval period.

British Period- There was much scope for industrial development in India during early British period. India was expected to be a market for the British goods till the second half of the 19th century. The period from 1860 to 1875 was a period of development of jute and cotton industries, coal mines and rail road constructions.

Behavioral science- Behavioral scientists had made their entry into the field by attacking as oversimplified the tendency to view workers as autonomous labourers and to comprehend companies through notions, borrowed from engineering, that stressed organizational structure, technology, and efficiency.

3.12 Self Assessment Questions

1. Briefly Explain the Origin and Development of Industrial Relations
2. Explain the studies of Worker Behavior
3. Discuss the conceptions of the Managers in Industrial relations
4. Outline the Responsibility of Community in Industrial relations

3.13 Suggested Readings

1. PRN Sinha, Indu Bala Sinha, Seema Priyadarshini Sekhar (2002) Industrial Relations, Trade Unions, and Labour Legislation Dorling Kindersley Pvt Ltd
2. MV.Pylee & A.Simon George (2007) Industrial Relations and Personnel Management 2nd Edition Vikas Publishing House Pvt Ltd
3. V. Kubendran, K. Kodeeswari (2011) Industrial Relations and Labour Laws 1st Edition Himalaya Publishing House.
4. A. M. Sarma (2015) Industrial Relations Conceptual and Legal Framework 10th Edition English, Himalaya Publishing House
5. Sarma A.M. (2016) Industrial Relations Conceptual legal Framework, Himalaya Publishing House.
6. Bean R. (2020) Comparative Industrial Relations Taylor & Francis Ltd
7. Dr. F. C. Sharma (2020) Industrial Relations 1 Edition SBDP Publications
8. Avtar Singh & Harpreet Kaur (2021) Introduction to Labour and Industrial Laws Forth Edition, Lexis Nexis Publications.
9. S.C. Srivastava (2022) Industrial Relations and Labour Laws 8th edition, S Chand And Company Ltd
10. Dr. Satish Kumar Saha, Dr. Anju Agarwal (2022) Industrial Relation & Labour Law Latest Edition Prescribed by Industrial Dispute Act, 1947 and The Factories Act, 1948 1st Edition

Dr.Nagaraju Battu

LESSON -4

ECONOMIC RESTRUCTURING AND INDUSTRIAL RELATIONS SYSTEM IN INDIA

Learning objectives

- ✓ To Identify the Blue collar workers
- ✓ To understand the Service sectors in Industrial Relations
- ✓ To Know the Technical Professionals in Industrial Relations
- ✓ To focus on the Union Management Relations

Structure

- 4.1 Introduction
- 4.2 Training and promotion
- 4.3 Competitive pressures
- 4.4 Blue-collar workers
 - 4.4.1 Attitudes toward work
- 4.5 Service-sector workers
- 4.6 Technical professionals
 - 4.6.1 Interests and concerns
 - 4.6.2 Career paths
 - 4.6.3 Organized research and development
 - 4.6.4 Organizational design
 - 4.6.5 Specialization of function and separation of authority
- 4.7 Participatory management and flexible work systems
- 4.8 Union–management relations
- 4.9 Union organizing
- 4.10 Collective bargaining
- 4.11 The United States
- 4.12 Japan
- 4.13 Enterprise unions
- 4.14 Labour–management cooperation
- 4.15 Employment security
- 4.16 Germany
- 4.17 Common challenges
- 4.18 Summary
- 4.19 Key words
- 4.20 Self Assessment questions
- 4.21 Suggested Readings

4.1 Introduction

In all industrialized countries managers are typically recruited from among university or postsecondary technical-school graduates. Although there are exceptions to this pattern, it is becoming rare for blue-collar workers without a college or technical-school degree to rise beyond the level of first-line supervision into the ranks of higher management. Yet because few graduates fresh out of a university or technical school have the experience or background necessary to assume broad-based or high-level managerial responsibilities, most organizations invest heavily in systematic management training and development efforts.

Moreover, there has been a great expansion in post-graduate management education in the United States. This trend is also taking hold in Europe.

4.2 Training and promotion

An initial part of typical on-the-job training often involves socialization into the practices, values, and culture of the organization. Another source of training and development lies in the career paths and job rotation policies of the firm. One large multinational firm, for example, devised a 10-year management development plan for all its junior managers, assuming that within those 10 years the manager would change jobs at least five times. Each job change was expected to expose the junior manager to a different functional area, such as marketing, finance, technology or product development, and manufacturing. Each job change also was expected to increase either the level of responsibility or the number of people the manager supervised. This firm, like an increasing number of others, attempted to include international experience in the career path, especially for those young managers targeted early in their careers as having the potential to rise to the level of senior management.

4.3 Competitive pressures

The competitive career environment described above can lead to considerable tension and stress among middle managers. This stress is intensified by the desire of many firms to reduce not only the number of levels in the management hierarchy but also the number of middle managers.

Rapid changes in business practices, skills, and knowledge also create a strong demand for continuing education programs for middle and senior managers. Most leading business schools and many consulting firms offer various short refresher courses or short conferences to practicing managers. Many firms spend a significant amount of their training and management development resources on such programs.

In large companies that have plants or offices in many different locations, moving up the managerial hierarchy usually requires a number of geographic moves. While employers normally give a manager the option to accept or reject a geographic transfer and promotion, individuals who want to rise in their organizations tend to be reluctant to reject such offers. Yet the process of selling a house and moving one's family to another community can be difficult, especially if both spouses have careers or their children have special needs. This tension between work and the responsibilities and priorities of family life is a growing concern in many leading companies, especially as the number of women managers and dual-career couples increases.

4.4 Blue-collar workers

The long-run income prospects of a blue-collar worker are heavily dependent on the amount and quality of basic education. Failure to complete high school reduces significantly one's expected lifetime earnings. Those who obtain post-high-school technical training through vocational schools, community colleges, or apprenticeship programs that involve both formal schooling and on-the-job experience can expect increased long-run earnings. By choosing a job that provides additional training opportunities, either on the job or through part-time outside course work, a worker further increases his or her earnings potential.

The career of blue-collar workers can be divided into four parts: initial education and entry-level training period, trial or job-matching period, stable period, and retirement. Thus, the initial career stage is one in which an individual is investing in education or, as social

scientists put it, building human capital. Failure to complete high school or to acquire basic mathematical, verbal, and analytical skills not only limits long-run earnings but also increases the risk of being unemployed for longer periods than for those who invested more time and energy in this period of education and training.

In searching for a job, blue-collar workers tend to rely heavily on informal contacts and information provided by friends, family members, or school advisers. Following the completion of schooling and entry-level training, most workers experience a trial period in which they change jobs a number of times in search of a good match between their abilities and aspirations and the opportunities available to them. The average U.S. worker changes jobs six to eight times before settling into a stable employment relationship, while the average worker in Europe and Japan will hold many fewer jobs over a career. (The relative stability in Japanese and European employment patterns may, however, be disappearing.) Some of this job movement may be involuntary, because many firms follow a seniority rule in laying off workers (that is, the most junior workers are laid off first).

Blue-collar workers generally experience their most stable period of employment between the ages of 30 and 60. As family responsibilities expand and seniority on the job increases, the likelihood of staying with a given firm also becomes greater. The potential costs of a job change or a job loss also tend to mount over time, as it becomes harder to find a job with another company that can match the level of wages and benefits often achieved after years of service and internal promotion.

Workers face new choices as they approach the retirement stage of their careers. A recent trend can be illustrated with an example from the United States: although American firms are no longer allowed to impose a mandatory retirement age, few blue-collar workers choose to stay at the job beyond the customary retirement age of 65. Instead, an increasing number of workers retire and then take part-time jobs. This trend may be caused by the early retirement incentives many firms offer to employees. The practice has also contributed to the growing number of older workers who are employed on a part-time basis.

4.4.1 Attitudes toward work

Along with the stages in workers' careers go shifting attitudes toward their jobs. When workers remain with the same company, their outlook on the job and the company tends to follow a curvilinear pattern: high at first, then dropping through the middle period, and rising in the later parts of their career. Individuals tend to begin work with such unrealistically high expectations as to the nature of the jobs and the opportunities before them that disillusionment later sets in; but after some years they adjust themselves, lower their expectations, and express more satisfaction with the work situation.

Interest in joining a union or in becoming a leader in the union tends to follow a reverse curvilinear path. Interest is low at the beginning of tenure with a company because of the uncertainty over how long the worker will stay with the firm and because satisfaction with a new job is generally high. Over time job satisfaction may decline, accompanied by an increased interest in changing work-related conditions. Only as retirement approaches and the costs of leaving the firm become untenable does job satisfaction again rise, thereby lowering the worker's tendency to participate in aggressive efforts—such as union organization—to change the work situation.

A number of studies have shown that few blue-collar workers want to leave their

community when a production plant or office shuts down. Ties with friends and family make workers reluctant to leave. They may also find that housing costs are much higher in communities where job opportunities are plentiful. Blue-collar workers and their families are therefore likely to conclude that it is best to stay where they are in the hope that the local job market will pick up.

4.5 Service-sector workers

Most research on the careers and expectations of workers comes from blue- and white-collar workers employed in manufacturing industries. Yet the manufacturing sector is shrinking in comparison with the service sector. In most advanced industrialized economies, more than half of private-sector workers are employed in services, compared with approximately 20 percent in manufacturing.

It is difficult to make generalizations about the nature of service-sector employment and careers, as the jobs vary widely. For example, while average wages in service-sector jobs are lower than average wages in manufacturing, the wage differential between the best and the worst jobs in services is also larger than the comparable differential in manufacturing. This greater inequality of income (and skill requirements) helps explain why workers who are displaced from manufacturing jobs experience, on average, significant pay cuts when they take new jobs in the service sector. The best predictor of the size of the difference in pay between the job lost and the new job is the amount of education and transferable training the worker possesses. Again, education and training are critical not only to income but also to job security and career advancement.

4.6 Technical professionals

The first research in industrial relations focused on blue-collar workers. Gradually attention spread to foremen and then to higher levels of management. Considerable attention has also been devoted to the study of scientists and engineers who work in industrial organizations. Interest in such technical professionals reflects the importance organizations attach to the development and use of new scientific discoveries and technologies. How well these technical professionals—and the research and development processes they engage in—are managed can have substantial effects on the long-run profitability of a firm and on the competitiveness of the larger economy.

Scientists or engineers are often thought of as solitary individuals who work in a laboratory on some abstract problem or idea. While this may accurately represent a relatively small number of scientists who work on basic research, the vast majority of technical professionals in organizations actually work together in teams or project groups on applied research and development tasks. Their primary role is to transfer new scientific discoveries or ideas from the laboratory to manufacturing and out to the marketplace by creating new products or technologies. These company-wide project teams often include specialists in marketing, manufacturing, and human resources management as well as representatives of various scientific disciplines or technical specialties.

4.6.1 Interests and concerns

What do technical professionals want from their jobs and careers? Like all other workers, scientists and engineers are concerned about their employment security and long-term career opportunities, especially because their job security can depend on winning contracts from customers or on obtaining budget funds from top managers. This uncertainty leads some firms to try to keep their permanent research and development staffs rather small;

additional engineers or technicians are hired as consultants on a contract-by-contract basis.

Like other professionals, scientists and engineers also want to gain the respect of peers in their field of work. Recognition of this desire led many early researchers to speculate that these professionals were more interested in contributing to science than they were in meeting the needs of their particular employer. Later research showed, however, that most technical professionals also want to work on problems that are critical to the success of the firm. They want to understand the firm's goals and be given an opportunity to help meet them. Above all else they seek important and challenging projects that are accompanied by the resources, influence, and autonomy needed to complete the projects successfully.

4.6.2 Career paths

Not all technical professionals want to remain in technical jobs throughout their careers. Some aspire to move into management; others want to continue to do technical work but want the status and economic rewards that normally come with promotions to higher management. This has led many organizations to establish a dual-ladder, or dual-track, progression system. Individuals in mid-career can seek promotions to more senior assignments on the technical ladder or to administrative positions on the management ladder. In theory the steps on each ladder are supposed to provide equivalent economic rewards, influence, and status. In practice, however, the management track usually provides broader exposure within the organization and thus better access to senior executive positions. Experience has shown that dual-ladder systems are extremely hard to administer.

4.6.3 Organized research and development

In the past, research and development work was organized in a linear fashion, with a project passing from one group of specialists to another until it was ready to be given to the manufacturing section. The metaphor of "throwing it over the wall" was often used to describe this mode of organization, signifying both the serial and the isolated nature of each stage of the process. Research evidence convinced most organizations that this was very inefficient and time-consuming, and firms now encourage more cross-functional communication and participation by bringing together teams of representatives from each stage of the development process. The goal is to coordinate the process better and to identify and avoid problems that otherwise might be discovered only at a later stage. Specific management techniques—such as quality circles (small, project-oriented teams comprising representatives from all relevant areas of the company)—reflect one way organizations attempt to improve communication and increase productivity.

To work effectively in these cross-functional project teams, scientists and engineers must have both up-to-date knowledge of their technical disciplines and skill in the communication, problem-solving, and group decision-making processes essential for successful teamwork. Universities have developed curricula to teach these skills, while organizations reinforce them through their career-development paths and reward systems.

One key to the success of the research and development process is the project leader, who must motivate, lead, and coordinate team members. At the same time, the leader must represent the group's interests in the larger organization by serving as an advocate for the team's project and by winning the support and resources needed to get the job done. In the end, it is the project leader who is responsible for keeping the project on schedule and within budget.

4.6.4 Organizational design

A central task of management is to reach the organization's goals by motivating individual workers and coordinating their diverse efforts. Although the concepts and methods used to structure work have changed considerably over the years, many firms see no need to change their methods of management. As a result, a company's age is often indicated by the way work is structured, because work practices tend to reflect the organizational structures and methods that were common when the organization was founded. Although most firms draw from the strengths of various managerial forms, work structure can fall into one of two categories: those that are hierarchical and traditional and those that are participatory and flexible.

4.6.5 Specialization of function and separation of authority

such of the early thinking about organizational design can be traced to the influence of Frederick W. Taylor's scientific management movement and the division-of-labour concepts found in Max Weber's description of the ideal bureaucracy. Although many of these concepts originated in the 19th century, they endured because they advanced the needs of the modern corporation, which has come to be defined by its multiple divisions and functions. Formal bureaucratic rules, specialization of functions, and close supervision proved suitable for disciplining and directing an immigrant and poorly educated labour force in factories geared to mass production markets. The phenomenal success of manufacturing organizations in the first half of the 20th century reinforced managerial faith in these systems and provided workers with sufficient improvements in income and standard of living to support their continuity. Furthermore, labour movements adapted well to this organizational framework, and the collective bargaining systems that developed in the 20th century provided workers with the opportunity to have their voices heard, if only indirectly, through union representatives. As a result, unions strengthened the division of labour in industrial settings.

Taylor's concept of scientific management was based on a clear separation of authority between (a) the engineers and supervisors, who decided how to organize the work, and

(b) the production employees, who carried out their boss's orders. Scientific management also emphasized narrow job definitions and clear divisions of labour between jobs, thereby accommodating the low levels of education or skills expected of production workers. Finally, scientific management emphasized individual incentive wages. In this way, companies sought to maximize employee motivation by paying each worker for the output he or she produced. This approach was also meant to overcome any presumed conflict of interest between the worker and the firm.

When the industrial unions that grew rapidly after the 1930s inherited this form of work organization, they generally accepted it, but they codified job descriptions, negotiated wage rates for each job, and established principles of seniority to govern worker rights to different jobs and workplace benefits. All these provisions were written into a collective bargaining contract, and disputes over interpretation of the contract were resolved through grievance arbitration.

The production area was not the only part of the organization to undergo such rigid job classification. A company's managerial and technical hierarchies were also structured according to job functions or department classifications. Specialization of function and clear

lines of authority separated managers so that each was assigned to one department (such as marketing, sales, finance, personnel, production, or engineering). Within the engineering and new-product development process similar specialized tasks separated design engineers, manufacturing engineers, industrial engineers, and so on. As departments and managerial tasks grew more specialized, a large cadre of middle managers was required to produce the financial and performance reports needed by top executives for monitoring and directing company-wide operations.

These organizational design principles allowed large manufacturing firms around the world to use their economies of scale to improve productivity and increase profits. Sharing the fruits of these economic returns with the labour force in turn produced a stable industrial relations system.

4.7 Participatory management and flexible work systems

By the 1960s many of these traditional principles of organization and work group design were being challenged by early advocates of participatory management. Arguments for enlarging the scope of responsibilities and influence of individual workers were presented as better means of motivating workers and increasing job satisfaction. While these ideas gained favour in a number of the new companies and high-technology industries that grew rapidly through the 1960s and '70s, it was not until the following decade that they began to gain support within older organizations in the manufacturing and service sectors.

Competition from other countries magnified the significant productivity and quality performance problems that most American firms faced in the 1980s. At the time, Japanese and some European firms outperformed their American counterparts by adopting flexible work systems and participatory management practices. Japanese manufacturing firms in particular had instituted practices such as quality circles that were designed to produce continuous improvement. These approaches, articulated first by W. Edwards Deming, relied on knowledgeable workers who were authorized to interrupt the production process when they detected defects.

The development and implementation of electronic and computerized technologies that began in the 1980s reinforced the need for flexibility in the work organization. Competitive pressures continued to break down many of the traditional dividing lines that had grown out of older and more restrictive job definitions.

Critics of the new technologies argued that these approaches essentially took jobs away from many clerical and blue-collar workers while also giving managers new methods for controlling employees and invading their privacy. For example, computers and surveillance cameras can monitor the work of machine operators and therefore serve as a new form of electronic supervision. This approach replaces the personal presence and control of the supervisor or production foreman. The introduction of new technologies also displaces—and in some cases replaces—personnel, posing a threat to the job security and economic well-being of the workers affected. Thus, a critical challenge facing managers, worker representatives, and public policymakers lies in the management of technological and organizational change that will benefit not only individual firms but also the work force and the larger society.

4.8 Union–management relations

Of all the conflicts found in industrial organizations, those involving unions and

management have received the most attention. Labour unions are the primary means workers have for advancing their collective interests at the workplace. Much of the history of industrial relations is filled with efforts on the part of workers to gain the right to organize into free trade unions—that is, worker organizations that are controlled neither by employers nor by a government.

While the actual percentage of workers who are organized into unions varies considerably from country to country and over time within individual countries, it is safe to say that there is no democratic country in the world where independent trade unions are not present. Unions serve an essential role in a democratic society by giving voice to worker interests. The best evidence of the importance of this function is that unions are often among the first institutions—along with the church and the press—attacked by totalitarian regimes.

Unions and union–management relations are also of special importance in that, through collective bargaining and other formal and informal means of interaction, unions and employers establish the wages, hours, and working conditions of large numbers of workers. In countries such as Sweden, Denmark, and Norway collective bargaining covers more than 80 percent of the labour force. In Britain, Germany, and Japan it covers between one-third and two-thirds. Even in countries like France or the United States, where less than 20 percent of the workers are unionized, collective bargaining often sets new patterns in wages and other conditions of employment that are eventually adopted by nonunion employers.

It should be noted that employers are often reluctant participants in collective bargaining. While the degree of opposition to unions varies among countries, this opposition is perhaps strongest in the United States, where employers have aggressively opposed unionization of their employees. This is one of the reasons why the right of employees to organize and bargain collectively is normally protected by law.

The decades of the 1980s and '90s were a time of tremendous pressure for change in union–management relations around the world. This pressure came from increases in market competition within and between countries, the rapid rate of technological progress, the changing nature of the work force, shifts in jobs from highly unionized large manufacturing firms and industries to smaller, newer firms and service industries, and, in some countries, the election of governments less supportive of unions. As a result unions in the majority of industrialized countries have lost membership and continue to debate how best to adjust their strategies and practices to their changing environments. The following discussion, therefore, focuses both on the traditional union–management practices that have dominated relations since the 1930s and on how these practices have responded to pressures for change.

4.9 Union organizing

The typical way in which workers become organized into a union in the United States is through an election campaign and vote on representation. A majority of workers must vote in favour of union representation and collective bargaining. In these campaigns arguments about the need for a union and the benefits of collective bargaining are countered by employer efforts to convince workers that they do not need a union. American workers historically have taken a pragmatic approach to this choice: they vote in favour of union representation only when they are highly dissatisfied with their employer and when they see union representation as a viable means of improving their employment conditions.

In the case of clerical and professional employees, unions have appealed by arguing that one need not see the employer as hostile or untrustworthy to believe in the need for collective representation. When an organizing drive took place among clerical and technical employees at Harvard University, for instance, the union campaigned on the slogan, “It’s not anti-Harvard to be pro-union.” While this approach has gained favour among white-collar and professional workers, it still is the exception rather than the rule for these workers to join a union, with the notable exception of government employees.

Sometimes employers voluntarily recognize the union or remain neutral in the election process. This is most often the case in the public sector. Some private-sector employers have voluntarily recognized unions in new establishments in return for union cooperation and participation in the task of designing the work system, training the work force, and starting up operations. Such accommodation, however, is the exception in the United States; the typical picture of an organizing drive is still one of aggressive union campaigning in the face of aggressive employer opposition.

The more adversarial the organizing campaign, the more likely it is that the bargaining relationship will develop along similar adversarial lines. Conversely, the less resistance to organizing by the employer, the higher the likelihood that the union–management relationship will evolve along cooperative lines. For example, one large manufacturing company that voluntarily recognized a union in the 1940s, and has remained neutral in organizing drives held in new plants opened since then, has experienced only one brief strike in its entire history. This record stands in marked contrast to the pitched organizing battles and frequent strikes experienced over the years in the rubber, meat-packing, and coal-mining industries.

4.10 Collective bargaining

What effects do unions and collective bargaining have on the outputs of the employment relationship that are of greatest interest to workers, employers, and the larger society? The historical evidence is that unions improve the wages, hours, and working conditions of their members. Perhaps the biggest and most direct effects have been on wages and fringe benefits; estimates indicate that unions have raised the wages and benefits of their members by 15 to 30 percent above those of comparable nonunion workers. Unions have also pioneered over the years in introducing an expanded array of fringe benefits such as paid vacations, sick leave, pensions, seniority provisions, apprenticeship and training programs, and grievance procedures for resolving conflicts on a day-to-day basis.

Assessing the effects of collective bargaining on the goals of the firm is a more difficult task. Historically, unions have served to encourage greater formalization and professionalization of personnel management practices. By increasing wages and related labour costs, unions have also encouraged employers to take actions that improve labour productivity. But the evidence is that, overall, unions reduce returns to shareholders, in part because they increase the cost of labour.

Some behavioral scientists distinguish between “distributive” and “integrative” bargaining. Distributive bargaining is essentially a win–lose engagement. What one party “wins” through hard bargaining comes at the expense of the interests or goals of the “losing” party. In contrast, with an integrative bargaining approach the parties engage in cooperative problem solving in an effort to achieve a resolution from which each party benefits.

4.11 The United States

Perhaps the value most closely identified with American culture is that of individualism. The importance of individualism can be seen in organizational systems of authority and conflict resolution, where subordinates are free to question the orders of superiors and may attempt to resolve differences in a one-on-one fashion. The expected response to individual ambition and achievement is reward and promotion, and individuals normally turn to collective actions only when frustrated with organizational responses to individual efforts.

The broader economic and political context in which organizational and industrial relations developed has been one that places a high value on the role of the free market and minimizes government intervention in private enterprise. This ethos was particularly strong during the period of rapid industrialization between the late 1800s and the 1920s. The economic and social shock of the Great Depression modified this position considerably, however, and since then the American public has expected the government to play a more active role in regulating economic policy and industrial relations practices. Still, the view favouring decentralized institutions, industrial self-governance, and free enterprise has kept industrial relations focused at the level of the firm.

Given these values, it is not surprising that the greatest conflicts in American industrial relations tend to arise over efforts to unionize a company and over negotiation of the specific terms of an employment contract. The value Americans place on individualism and mobility also helps explain why turnover rates tend to be higher in American firms than in many other countries and why cooperative labour–management relations are difficult to sustain.

4.12 Japan

Shimada Haruo, a leading Japanese industrial relations scholar, has maintained that one cannot comprehend Japanese industrial and organizational practices without recognizing that Japanese managers regard human resources as the most critical asset affecting the performance of their enterprises. Therefore, management in large Japanese companies is deeply committed to developing and sustaining effective human resource and industrial relations practices. Many Japanese observers go on to argue that this assumption grows out of Japanese culture and traditions. Shimada points out, however, that this cultural thesis fails to explain the changes in management and labour practices that have occurred over the years. Thus, he and most other contemporary scholars of Japanese practices stress the interactions of cultural, economic, and political events that shape organizational relations in the country's industries.

Japanese culture places a high value on family relations and obligations, and some analysts claim that this family model carries over into the workplace. Employers are expected to show the same regard for their workers as a parent shows for other family members. Unity within the firm becomes a central value and corporate objective. In turn, employees are expected to show strong loyalty to their employer. It should be noted, however, that employment relations can be quite different in the smaller Japanese firms that supply the giant producers and exporters. The smaller companies have a tenuous existence and cannot guarantee secure employment or make substantial investments in employee training.

Employees in large Japanese firms exhibit fewer traces of individualism and place more emphasis on group relationships in the design of work and in their day-to-day workplace interactions, especially when compared to their Western counterparts. Direct conflict in organizational decision making is discouraged in favour of a more informal group consensus building. Authority is respected so highly that the outcomes of group problem-solving tasks will tend to reflect the views or preferences of senior managers.

From the early days of industrialization, Japanese employers, labour leaders, and bureaucrats were divided over whether Western-style conflicts between management and labour were inevitable and whether Western models of unionization and dispute resolution were appropriate models for Japan. Many employers (and, in the nationalistic 1930s, some labour leaders) argued that Japan's "beautiful customs" of benevolence from superiors and loyalty from subordinates made the Japanese family a more appropriate model for industrial enterprise. Between 1920 and 1931 government policymakers brought forward eight proposals to provide a legal framework for the establishment of labour unions, but each was defeated by vigorous opposition from employer associations and politicians. At its peak in 1931, the union movement had reached only 7.9 percent of the total industrial labour force. Large-scale enterprises were particularly successful in forestalling the formation of unions, and several developed alternative "Japanist" models of paternalistic management. With the outbreak of World War II, the union movement was brought to a halt.

Japan's rapid economic growth from the mid-1950s through the 1980s propelled its industrial relations and organizational practices into the centre of international attention and debate. Three interrelated features of the system have attracted the most attention: (1) enterprise unions, (2) high levels of labour-management cooperation and cross-functional problem solving, and (3) lifetime employment security.

4.13 Enterprise unions

In the immediate postwar period the lifting of restrictions on unionization resulted in a wave of labour activism and unrest. Alarmed by the radicalism of the industrial union movement and the active involvement of the Communist Party at the movement's national level, the Japanese government and the American occupation authorities launched a counteroffensive (the "Red Purge" of 1947–48) to deny union rights to Communist-backed organizations. The newly formed Japan Federation of Employers' Associations (Nikkeiren) embarked on a campaign to form moderate, anti-Communist enterprise unions that included lower level management personnel as well as production workers.

Employers made important concessions to the labour movement, including employment security, seniority-based wage systems, and twice-yearly bonuses negotiated each year along with base-pay increases. These accommodations, along with the cultural traditions that influenced behaviour at the workplace, shaped the large-scale enterprises that led Japan's remarkable economic growth from the mid-1950s to the mid-1970s. Even the slowdown in growth that followed the 1973 Arab oil embargo did little to shake the implicit security of employment. Those industries that faced the most severe business declines—shipbuilding, steel, aluminum processing, and petrochemicals—softened the effects of layoffs through outplacement programs (often in cooperation with affiliated companies), government-subsidized retraining programs, and diversification.

4.14 Labour–management cooperation

Low levels of conflict, even in declining industries, are characteristic of the generally cooperative relationship between managers and workers in Japan's large private-sector firms (it should be noted that these relations are more conflictual in the public sector). This may be the case because blue- and white-collar workers belong to the same union, meaning that there are fewer lines of demarcation between these groups. In most enterprises, for example, the scale of management bonuses is tied to the size of bonuses for blue-collar workers. Many senior Japanese executives served as union leaders in their companies at earlier stages in their careers.

In part because the union leader of today may well be the manager of tomorrow, large firms generally practice union–management consultation over broad strategic issues. They also cultivate employee participation in some problem solving and solicit recommendations for improving the workplace. Quality circles and employee suggestion systems are widespread. Problems in product and technological development are more easily identified and solved by employing cross-functional teams and by a career development strategy that provides engineers and managers with job experience in multiple functions, including working on the factory floor.

4.15 Employment security

Lifetime employment security is not guaranteed by law or contract but is embedded in the business and human resource planning policies of large firms. Recruitment, training, compensation, and internal promotion policies are designed to facilitate lifetime employment. Growth in company size and stabilization of employment are high priorities for Japanese executives. Generally, Japanese firms accept the stakeholder view of corporate objectives more readily than do their American counterparts. A stakeholder can be anyone with an interest in the firm—employees, customers, suppliers, owners, or even the general public.

In most large Japanese firms, employees are hired immediately upon completion of their education and are expected to stay with the firm until they retire. In return, the company invests heavily in employee training and development. Layoffs are carried out only as a last resort, even during periods of technological change or a downturn in the business cycle. Wages in Japanese companies tend to rise with seniority, and most job openings within the blue-collar and managerial ranks are filled through internal promotions rather than by hiring from the external labour market. These combined features limit the likelihood that workers or managers will make mid-career transfers to other companies, because the cost of leaving a firm that offers lifetime employment security will be too high.

It should be noted that these aspects of Japanese employment relations do not apply to all firms or all workers. Security of employment, for example, is also supported by a large number of small firms and subcontractors. These smaller companies often employ many retired workers, immigrants, women, and those who have not found work or have lost their jobs in the large firms. While the law forbids discrimination against women and minorities, Japanese women traditionally have been excluded from the lifetime employment system and from higher-level jobs in corporations.

4.16 Germany

The industrial relations system of the Federal Republic of Germany presents an interesting contrast to both the American and Japanese models. The key characteristics of the German system are (1) industrial unions and industry-wide collective bargaining, (2) formal

structures for employee representation in management decision-making processes, and (3) the close integration of formal education and training with human resource practices within firms.

Unlike their Japanese counterparts, few scholars of German institutions emphasize the centrality of culture when characterizing industrial relations in Germany. Instead, attention focuses on the legal framework and organizational structures created in the aftermath of World War II. This is not to deny the influence of German culture, which is evident in the strong work ethic and the deep respect for the values of community and authority.

These qualities can be seen in the industrial relations system that began to emerge during the time of the Weimar Republic, between 1919 and 1933. In this era the factory came to reflect the values of the society and to serve as an industrial community or plant family. In 1918 a compromise was reached between the ruling authorities and the German labour movement in which unions were recognized by the government and employers. In return unions accepted the basic rules of a capitalist economy despite their socialist rhetoric to the contrary.

Nazi rule from 1933 to 1945 suppressed free trade unions. Following the war, development of the German labour movement paralleled the union structures that were emerging in the American manufacturing sector, with unions eventually representing about 40 percent of the German labour force. A sharp drop-off in the 1990s brought union membership down to about 25 percent of the labour force. Contemporary German unions operate on an industry-level system of collective bargaining, and firms within each industry are represented by employer associations that serve as their bargaining agents with the industrial unions.

Government policy supported industry-level bargaining by enacting legislation that extends the basic wage and fringe benefit patterns negotiated in collective bargaining to cover workers in the nonunionized firms of each industry. These industry-level negotiations are supplemented with tripartite (government–union–employer) consultations at the national level over larger economic, social, and employment policy issues. Industrial relations in Germany reflect a respect for employee rights and a preference for negotiation rather than open conflict or challenge to authority.

Consultation and Codetermination

In addition to collective bargaining, both union and nonunion German workers are represented formally by works councils that are required by law to exist within establishments employing 20 or more workers. Works councils are representative bodies elected by all the employees in an enterprise. Management must consult with works councils on a broad range of employee issues, including questions of adjustment to technological change, safety and health, training, and layoffs.

German law also provides for a system of “codetermination,” or worker representation, on the supervisory boards of large companies. (Supervisory boards are similar to the boards of directors in American firms.) The supervisory board appoints executives to top management positions, including the Arbeits direktor, or personnel director. This person must be approved by the majority of the worker representatives who sit on the supervisory board. In this way, workers are provided a voice at the highest level of managerial decision making in large companies. This points to a stakeholder view of the corporation.

4.17 Common challenges

Together, comparisons of the American, Japanese, and German models illustrate that, while institutions are consistent with each country's unique cultural, economic, and political environments, all industrial relations systems ultimately face the same fundamental issues. They all must devise policies and institutions that can meet workers' expectations and enhance productivity. Industrial relations systems must also provide employees with a means of expressing their needs at the workplace while offering steps for resolving the conflicts that inevitably arise between workers and employers. How well an industrial relations system performs these functions has a major effect on the welfare of individual workers, their employers, and the society in which they live.

4.18 Summary

In reality, most bargaining relations are mixed-motive in nature; that is, they have both distributive and integrative features. In the 1980s, however, the pressures on labour and management to solve complex problems intensified and therefore strengthened the efforts of many unions and companies to develop integrative relationships. The scope of labour-management relations expanded to include more opportunities for employee participation and union consultation in managerial decision making. Again, these innovative relationships did not spread to large numbers of bargaining relationships. Instead, sustained innovation and cooperation tended to be limited to environments in which the economic pressures for change were intense and the company was willing to share influence and power with the union and accept union leaders as joint partners in the enterprise.

4.19 Key words

Industrial relations is that field of study which analyses the relationship among the management and the employees of an organization at the workplace and also provides a mechanism to settle down the various industrial disputes

Trade Union means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business.

Industrial democracy is an arrangement which involves workers making decisions, sharing responsibility and authority in the workplace. While in participative management organizational designs workers are listened to and take part in the decision-making process, in organizations employing industrial democracy they also have the final decisive power

Globalization is a term used to describe how trade and technology have made the world into a more connected and interdependent place. Globalization also captures in its scope the economic and social changes that have come about as a result

4.20 Self Assessment Questions

1. Briefly Discuss the Issues of blue collar worker in the Industry
2. Explain the issues of Workers in Service Sector
3. Outline the Union Management relations

4.21 Suggested Readings

1. PRN Sinha, InduBala Sinha, Seema Priyadarshini Sekhar (2002) Industrial Relations, Trade Unions, and Labour Legislation Dorling Kindersley Pvt Ltd
2. MV. Pylee & A.Simon George (2007) Industrial Relations and Personnel Management 2nd Edition Vikas Publishing House Pvt Ltd
3. V. Kubendran, K. Kodeeswari(2011) Industrial Relations and Labour Laws 1st Edition Himalaya Publishing House.
4. A. M. Sarma(2015) Industrial Relations Conceptual and Legal Framework 10th Edition English, Himalaya Publishing House
5. SarmaA.M.(2016) Industrial Relations Conceptual legal Framework, Himalaya Publishing House.
6. Bean R. (2020) Comparative Industrial Relations Taylor & Francis Ltd
7. Dr. F. C. Sharma(2020) Industrial Relations 1 Edition SBDP Publications
8. Avtar Singh & Harpreet Kaur(2021) Introduction to Labour and Industrial Laws Forth Edition, Lexis Nexis Publications.
9. S.C. Srivastava (2022) Industrial Relations and Labour Laws 8edition, S Chand And Company Ltd
10. Dr. Satish Kumar Saha, Dr. Anju Agarwal(2022) Industrial Relation &Labour Law Latest Edition Prescribed by Industrial Dispute Act, 1947 and The Factories Act, 1948 1st Edition

Dr.Nagaraju Battu

LESSON -5

CONSTITUTION AND LABOR

Learning Objectives

- ✓ To study the labor laws in the fundamental rights
- ✓ To learn the Industrial Policy 1948-1991
- ✓ To Understand the New Industrial Policy, 1991
- ✓ To Outline the Five year Plans

Structure

- 5.1 Introduction
- 5.2 Labour laws in Fundamental Rights
- 5.3 Evolution of Industrial Policy 1948-1991
- 5.4 Objectives and Goals
- 5.5 Industrial Policy Resolution, 1948
- 5.6 Industrial Policy Resolution, 1956 (IPR 1956)
- 5.7 Industrial Policy Statement, 1977
- 5.8 New Industrial Policy, 1991
- 5.9 Five year plans
 - 5.9.1 First Plan (1951–1956)
 - 5.9.2 Second Plan (1956–1961)
 - 5.9.3 Third Plan (1961–1966)
 - 5.9.4 Plan Holidays (1966–1969)
 - 5.9.5 Fourth Plan (1969–1974)
 - 5.9.6 Fifth Plan (1974–1978)
 - 5.9.7 Rolling Plan (1978–1980)
 - 5.9.8 Sixth Plan (1980–1985)
 - 5.9.9 Seventh Plan (1985–1990)
 - 5.9.10 Annual Plans (1990–1992)
 - 5.9.11 Eighth Plan (1992–1997)
 - 5.9.12 Ninth Plan (1997–2002)
 - 5.9.13 Tenth Plan (2002–2007)
 - 5.9.14 Eleventh Plan (2007–2012)
 - 5.9.15 Twelfth Plan (2012–2017)
- 5.10 Summary
- 5.11 Key words
- 5.12 Self Assessment Questions
- 5.13 Suggested Readings

5.1 Introduction

The Constitution of India is the touchstone for any Act passed in our country. The Constitution of India is the largest written constitution of the world. Each and every act which was in force before the enactment of our constitution were either amended or nullified after its enforcement. Our constitution plays an important part in the changes and growth in labour laws in India. The Fundamental Rights and Directive Principles of State Policy enshrined in Part III and Part IV mentions working class related benchmark laws.

5.2 Labour laws in Fundamental Rights

Part III of the Constitution of India is the benchmark for labor laws in India. Also, Part III (Article 12 to 35) of the Constitution covers the fundamental rights of its citizens which includes Equality before the law, Religion, Sex, caste, place of birth, the abolition of untouchability, freedom of speech and expression and prohibition of employment of children in factories.

Article 14

Equality before the law which is interpreted in labor laws as “Equal pay for Equal work”. It does not mean that article 14 is absolute. There are a few exceptions in it regarding labor laws such as physical ability, unskilled and skilled labors shall receive payment according to their merit.

In the case of *Randhir Singh vs Union of India*, the Supreme Court said that “Even though the principle of ‘Equal pay for Equal work’ is not defined in the Constitution of India, it is a goal which is to be achieved through Article 14, 16 and 39 (c) of the Constitution of India.

Article 19 (1) (C)

Constitution guarantees citizens to form a union or association. The Trade Union Act, 1926 works through this Article of the Constitution. It allows workers to form trade unions.

Trade Unions provide the power to raise voice against atrocities done to the workers. Unionization brings power to the laborers. Trade Unions discuss various labor-related problems with the employers, they conduct strikes, etc.

Article 23

Constitution prohibits forced labor. When the Britishers ruled over India, forced labor was prevalent all over India. They were made to work against their will and weren't paid according to their work. The Government at that time were infamous for forced labor and the landlords were also involved in forced labor.

In current times, forced or bonded labor is an offense which is punishable under the law. The Bonded Labor (Abolition) Act, 1976 prohibits all kinds of bonded labor and is declared illegal.

Article 24

Constitution prohibits all forms of child labor. Nobody can employ a child under the age of 14 to work. Child labor was a massive problem of our country in the earlier times and it still is happening but at a lower scale. The penalization of article 24 is severe.

Relevancy of Part IV (Article 36 – 51) on Labor Laws

Part IV of the Constitution of India, which is also known as the “Directive Principles of State Policy” aims to work toward the welfare of its citizens. DPSP cannot be enforced in the court of law, but it provides a guideline to the legislature for making labor laws in India.

Article 39 (a)

“The State shall, in particular, direct its policy towards securing; That the citizens, men and women equally, have the right to an adequate means of livelihood. It means that every citizen of the country has the right to earn a livelihood without getting discriminated on

the basis of their sex.

Article 39 (d)

Constitution says that “The State shall, in particular, direct its policy towards securing; that there is equal pay for equal work for both men and women. Wages will not be determined on the basis of sex rather it will be according to the amount of work done by the worker.

Article 41

Constitution provides “Right to Work” which means that every citizen of the country has the right to work and the state with the best of its abilities will secure the right to work and education.

Article 42

Provides for the upliftment of the working conditions for workers. It talks about creating a suitable and Humane workplace. This article also talks about maternity relief, i.e leave provided to women when they are pregnant.

Article 43

Talks about the “living wage” for its citizens. Living wage not only includes the “bare necessities of life” but also the social and cultural upliftment of the person. It also includes education and insurances for a person.

The State shall constantly try to create opportunities in the fields of Agriculture and Industries with special reference to cottage industries.

5.3 Evolution of Industrial Policy 1948-1991

1. Industrial Policy is a formal declaration by the Government . It outlines the government’s general policies for industries.
2. It includes the actions and policies of the government which affects the industrial development of a country
3. Through the policy the government takes measures aimed at improving the competitiveness and capabilities of domestic firms and promoting structural transformation.
4. The quest for industrial development started in India soon after independence in 1947.
5. The Industrial Policy Resolution of 1948 defined the broad contours of the policy delineating the role of the State in industrial development both as an entrepreneur and authority.
6. This was followed by comprehensive enactment of Industries (Development & Regulation) Act, 1951 (referred as IDR Act) that provides for the necessary framework for implementing the Industrial Policy.
7. It also enables the Union Government to direct investment into desired channels of industrial activity inter alia through the mechanism of licensing keeping with national development

5.4 Objectives and Goals

The main objectives of the Industrial Policy of the Government are:

- ✓ to maintain a sustained growth in productivity
- ✓ to enhance gainful employment;
- ✓ to achieve optimal utilisation of human resources;

- ✓ to attain international competitiveness; and
- ✓ to transform India into a major partner and player in the global arena.

To achieve these objectives, the Policy focus is on deregulating Indian industry; allowing freedom and flexibility to the industry in responding to market forces; and providing a policy regime that facilitates and fosters growth.

Economic reforms initiated since 1991 envisages a significantly bigger role for private initiatives. The policy has been progressively liberalized over years to at present, as would be evident in subsequent paragraphs.

Historical Development of Industrial Policy in India

5.5 Industrial Policy Resolution, 1948

- ✓ Clarified that Indian economy would follow a Mixed Economic Model.
- ✓ It laid down the foundation of a mixed economy wherein the public sector (the state) and the private sector were to co-exist and work in their demarcated areas.
- ✓ The small and cottage Industries were given importance.

It Classified industries into 4 categories:

1. Strategic Industries (Public Sector):

It included Arms and ammunition, Atomic energy and Rail transport
The Central Government had the monopoly over these industries

2. Basic/Key Industries (Public-cum-Private Sector):

- ✓ 6 industries i.e. coal, iron & steel, aircraft manufacturing, ship-building, manufacture of telephone, telegraph & wireless apparatus, and mineral oil were included in this category.
- ✓ Existing private industries were allowed to function. However, new industries would be set up by the Union Government.

3. Important Industries (Controlled Private Sector):

This included 18 industries including heavy chemicals, sugar, cotton textile & woollen industry, cement, paper, salt, machine tools, fertiliser, rubber, air and sea transport, motor, tractor, electricity etc. The government controlled and regulated the activities of the private companies in these sectors.

4. Other Industries (Private and Cooperative Sector): All industries not mentioned in the other 3 categories were kept open for the private sector

5.6 Industrial Policy Resolution, 1956 (IPR 1956)

IPR 1956 is also known as the “Economic Constitution of India” or “The Bible of State Capitalism”. In December 1954, the Parliament adopted the ‘Socialistic Pattern of Society’ as the goal of economic policy. The new goal called for the state or the public sector to increase its sphere of activity in the industrial sector and thus prevent concentration of economic power in private hands.

- ✓ India had also launched a programme of planned economic development with the first five-year plan. IPR 1956 was based on the Mahalanobis model of economic growth which put emphasis on the development of heavy industries.

- ✓ It sought to give a dominant role to the public sector. It prioritised the development of power, transport, and financial sectors.
- ✓ Obtaining an Industrial License from the government was made a prerequisite for opening new industry or to expand production.
- ✓ Opening new industries in economically backward areas was incentivised through easy licensing and subsidization of critical inputs like electricity and water. This was done to counter regional disparities that existed in the country.
- ✓ Licenses to increase production were issued only if the government was convinced that the economy required more of the goods.
- ✓ The IPR 1956 adopted the classification of industries into 3 categories as follows:

1.Schedule A industries:

- ✓ It included 17 industries which were the exclusive responsibility of the State.
- ✓ Out of these 17 industries, four industries (arms and ammunition, atomic energy, railways and air transport) had Central Government monopolies new units in the remaining industries were developed by the State Governments.

2.Schedule B Industries:

- ✓ This category consisted of 12 industries.
- ✓ They were open to both the private and public sectors
- ✓ However, such industries would be progressively made State-owned.

3.Schedule C Industries:

- ✓ All the other industries not included in these two Schedules were put in this category.
- ✓ These were left open to the private sector.
- ✓ However, the State reserved the right to undertake any type of industrial production.
- ✓ IPR 1956 has been criticised on the grounds that by enormously expanding the field of public sector it had drastically curtailed the area of activity for the private sector.

5.7 Industrial Policy Statement, 1977

- ✓ This Industrial Policy was announced by the Janata Government in the parliament in 1977.
- ✓ It advocated the growth of small scale and cottage industries as a remedy to widespread problems of unemployment and regional inequalities in industrial development.
- ✓ The small sector was classified into three groups—cottage and household sector, tiny sector and small scale industries.
- ✓ To reduce the recurring Labour Unrest, the policy encouraged the worker's participation in management from shop floor level to board level.

5.8 New Industrial Policy, 1991

- ✓ The Government of India released this policy in 1991 in the midst of severe economic instability in the country.
- ✓ The previous licensing policies and regulations were responsible for lower growth rate and balance of payment crisis.
- ✓ By this time, the public sector industries had become inefficient and the government faced the burden of perpetual losses.
- ✓ The new industrial policy resolution 1991 aimed at liberalizing the regulations and license controls of the industrial sector to improve economic growth rate.

The important provision so of the policy include:

1. De-reservation of Public Sector:

- ✓ Sectors that were exclusively reserved for the public sector were reduced.
- ✓ However, public sector continued to its control in 5 core areas like arms and ammunition, atomic energy, mineral oils, rail transport and mining.
- ✓ At present only Atomic Energy is reserved exclusively for the public sector.

2. De-licensing

Industrial Licensing for all projects except for a short list of industries was abolished.

3. Disinvestment of Public Sector:

Government stakes in Public Sector Enterprises were reduced to enhance their efficiency and competitiveness.

4. Liberalisation of Foreign Investment:

- ✓ This was the first Industrial policy in which foreign companies were allowed to have majority stake in India.
- ✓ In 47 high priority industries, upto 51% FDI was allowed. For export trading houses, FDI up to 74% was allowed.

National Manufacturing Policy (NMP)

- ✓ In order to bring about a quantitative and qualitative change to the manufacturing sector, GOI announced the NMP in 2012.
- ✓ The objective of enhancing the share of manufacturing in GDP to 25% and creating 100 million jobs over a decade or so.
- ✓ The policy is based on the principle of industrial growth in partnership with the States.
- ✓ The Central Government would create the enabling policy framework, provide incentives for infrastructure development on a Public Private Partnership (PPP) basis through appropriate financing instruments
- ✓ State Governments would be encouraged to adopt the instrumentalities provided in the policy.
- ✓ Manufacturing sector's share in India's GDP was stuck at 16% since the 1980s.
- ✓ The policy aims to increase the share of manufacturing in the country's GDP from the current 16% to 25% by 2022.

Significant features of NMP are:

- ✓ Establishment of National Investment and Manufacturing Zones (NIMZ) equipped with world-class infrastructure. NIMZ would be autonomous and self-regulated developed in partnership with the private sector.
- ✓ Incentives to states for infrastructure development
- ✓ Incentives for Green Manufacturing
- ✓ Rationalization of business regulations to reduce burden of procedural and regulatory compliance on businesses
- ✓ Increased focus on employment intensive industries, capital goods industry, industries with strategic significance and those in which India enjoys a competitive edge and the SME sector.
- ✓ Make industrial land (land acquisition) available through creation of land banks by states.

India's strengths to become a global manufacturing hub:

- ✓ India is one of the fastest growing major economies in the world. It is expected to be listed among the top three manufacturing destinations.
- ✓ India's workforce is among the youngest in the world with an average age of 29 years. According to the Ministry of Labour and Employment, India has the largest workforce population of around 470 million.
- ✓ The cost of labour in India is relatively lower as compared to other major manufacturing nations.
- ✓ India's huge population provides a strong domestic consumer base.

Make in India:

- ✓ Make in India is a national initiative launched by the Government of India in 2014.
- ✓ It is aimed at transforming India into a global design and manufacturing hub.
- ✓ The targets listed in the National Manufacturing Policy of 2012 such as increasing the share of manufacturing from present 16 percent to 25 percent of GDP by 2020 (earlier target was 2022), and creating employment for around 100 million people by 2022 have now been subsumed under

Make In India.

- ✓ The initiative is designed to facilitate investments, scale-up skill development, encourage innovation, protect intellectual property rights with the overall objective of building the best in class manufacturing industry in India.
- ✓ Under Make in India, governments at national and state levels shall strive to attract investments from across the globe in a bid to strengthen India's manufacturing sector.
- ✓ For ensuring investment promotion, Ease of Doing Business, FDI reforms, skill development, infrastructure creation and fiscal incentives are at the focus of Make in India.

Activities under Make in India include:

- ✓ Five industrial corridors are proposed to be created.
- ✓ Delhi – Mumbai Industrial Corridor.
- ✓ Chennai – Bengaluru Industrial Corridor. (First defence industrial corridor is proposed to be developed along this corridor)
- ✓ Visakhapatnam – Chennai Industrial Corridor.
- ✓ Bengaluru – Mumbai Economic Corridor.
- ✓ Amritsar – Kolkata Industrial Corridor.
- ✓ Key sectors such as Railways, Defence, Insurance and Medical Devices were opened up for higher levels of Foreign Direct Investment (FDI).
- ✓ Government has identified 25 sectors which will be focused under Make in India. They include automobiles, aviation, chemicals, IT & BPM, pharmaceuticals, construction, defence manufacturing, electrical machinery, food processing, textiles and garments, etc.
- ✓ Department for Promotion of Industry and Internal Trade (DPIIT) is entrusted with the task of formulation of FDI policy, monitoring of Ease of Doing Business reforms and

Investment Promotion and Facilitation activities.

Steps to improve the ease of doing business such as Shram Suvidha Portal, eBiz portal (provides single window access to 11 central government services related to starting a

business) etc.

Production Linked Incentives (PLI) scheme

- ✓ In March 2020, the central government introduced the PLI scheme in order to boost domestic manufacturing and cut down on import bills.
- ✓ It aims to give companies incentives on incremental sales from products manufactured in India.
- ✓ The scheme also aims to encourage local companies to set up or expand existing manufacturing units and invite foreign companies to set shop in India.
- ✓ It was initially rolled out for mobile and allied equipment as well as pharmaceutical ingredients and medical devices manufacturing.
- ✓ In November 2020, it was expanded to more than ten sectors. This includes food processing, leather, textiles, advanced chemistry cell batteries, electronic and technology products, automobiles and auto components manufacturing.
- ✓ The government will pay the companies it selects for the scheme a specific proportion of their turnover from making and selling products made in India as an incentive over the next few years.
- ✓ The amount of the incentive would decrease as the years go by.
- ✓ The idea of PLI is important as the government cannot continue making investments in these capital intensive sectors as they need longer times to start giving the returns.
- ✓ Instead, what it can do is to invite global companies with adequate capital to set up capacities in India.

5.9 Five year plans

Five-Year Plans (FYPs) are centralized and integrated national economic programs. Joseph Stalin implemented the first Five-Year Plan in the Soviet Union in 1928. Most communist states and several capitalist countries subsequently have adopted them. China continues to use FYPs, although China renamed its Eleventh FYP, from 2006 to 2010, a guideline (guihua), rather than a plan (jihua), to signify the central government's more hands-off approach to development. India launched its First FYP in 1951, immediately after independence, under the socialist influence of India's first prime minister, Jawaharlal Nehru.

5.9.1 First Plan (1951–1956)

The first Indian prime minister, Jawaharlal Nehru, presented the First Five-Year Plan to the Parliament of India and needed urgent attention. The First Five-year Plan was launched in 1951 which mainly focused in the development of the primary sector. The First Five-Year Plan was based on the Harrod–Domar model with few modifications.

This five years plan's president was Jawaharlal Nehru and Gulzarilal Nanda was the vice-president. The motto of first five years plan was 'Development of agriculture' and the aim was to solve different problems that formed due to the partition of the nation, second world war. Rebuilding the country after independence was the vision of this plan. Another main target was to lay down the foundation for industry, agriculture development in the country and to provide affordable healthcare, education in low price to the folks.

The total planned budget of ₹2,069 crore (₹2,378 crore later) was allocated to seven broad areas: irrigation and energy (27.2%), agriculture and community development (17.4%), transport and communications (24%), industry (8.6%), social services (16.6%), rehabilitation of landless farmers (4.1%), and for other sectors and services (2.5%). The most important

feature of this phase was active role of state in all economic sectors. Such a role was justified at that time because immediately after independence, India was facing basic problems—deficiency of capital and low capacity to save.

The target growth rate was 2.1% annual gross domestic product (GDP) growth; the achieved growth rate was 3.6% the net domestic product went up by 15%. The monsoon was good and there were relatively high crop yields, boosting exchange reserves and the per capita income, which increased by 8%. National income increased more than the per capita income due to rapid population growth. Many irrigation projects were initiated during this period, including the Bhakra, Hirakud and Damodar Valley dams. The World Health Organization (WHO), with the Indian government, addressed children's health and reduced infant mortality, indirectly contributing to population growth.

At the end of the plan period in 1956, five Indian Institutes of Technology (IITs) were started as major technical institutions. The University Grants Commission (UGC) was set up to take care of funding and take measures to strengthen the higher education in the country. Contracts were signed to start five steel plants, which came into existence in the middle of the Second Five-Year Plan. The plan was deemed successful for the government having outperformed growth projections.

5.9.2 Second Plan (1956–1961)

The Second Plan focused on the development of the public sector and "rapid Industrialisation". The plan followed the Mahalanobis model, an economic development model developed by the Indian statistician Prasanta Chandra Mahalanobis in 1953. The plan attempted to determine the optimal allocation of investment between productive sectors in order to maximise long-run economic growth. It used the prevalent state-of-the-art techniques of operations research and optimization as well as the novel applications of statistical models developed at the Indian Statistical Institute. The plan assumed a closed economy in which the main trading activity would be centered on importing capital goods.[5][6] From the Second Five-Year Plan, there was a determined thrust towards substitution of basic and capital good industries.

Hydroelectric power projects and five steel plants at Bhilai, Durgapur, and Rourkela were established with the help of the Soviet Union, Britain (the U.K) and West Germany respectively. Coal production was increased. More railway lines were added in the north east.

The Tata Institute of Fundamental Research and Atomic Energy Commission of India were established as research institutes. In 1957, a talent search and scholarship program was begun to find talented young students to train for work in nuclear power.

The total amount allocated under the Second Five-Year Plan in India was Rs. 48 billion. This amount was allocated among various sectors: power and irrigation, social services, communications and transport, and miscellaneous. The second plan was a period of rising prices. The country also faced foreign exchange crisis. The rapid growth in population slowed down the growth in the per-capita income.

The target growth rate was 4.5% and the actual growth rate was 4.27%.

The plan was criticized by classical liberal economist B.R. Shenoy who noted that the plan's "dependence on deficit financing to promote heavy industrialization was a recipe for

trouble". Shenoy argued that state control of the economy would undermine a young democracy. India faced an external payments crisis in 1957, which is viewed as confirmation of Shenoy's argument.[8]

5.9.3 Third Plan (1961–1966)

The Third Five-year Plan stressed agriculture and improvement in the production of wheat, but the brief Sino-Indian War of 1962 exposed weaknesses in the economy and shifted the focus towards the defence industry and the Indian Army. In 1965–1966, India fought a War with Pakistan. There was also a severe drought in 1965. The war led to inflation and the priority was shifted to price stabilisation. The construction of dams continued. Many cement and fertilizer plants were also built. Punjab began producing an abundance of wheat.

Many primary schools were started in rural areas. In an effort to bring democracy to the grass-root level, Panchayat elections were started and the states were given more development responsibilities. For the first time India resorted to borrowing from IMF. Rupee value devalued for the first time in 1966.

State electricity boards and state secondary education boards were formed. States were made responsible for secondary and higher education. State road transportation corporations were formed and local road building became a state responsibility.

The target growth rate was 5.6%, but the actual growth rate was 2.4%. It was based on John Sandy and Sukhamoy Chakraborty's model.

5.9.4 Plan Holidays (1966–1969)

Due to miserable failure of the Third Plan the government was forced to declare "plan holidays" (from 1966 to 1967, 1967–68, and 1968–69). Three annual plans were drawn during this intervening period. During 1966–67 there was again the problem of drought. Equal priority was given to agriculture, its allied activities, and industrial sector. The government of India declared "Devaluation of Rupee" to increase the exports of the country. The main reasons for plan holidays were the war, lack of resources and increase in inflation.

5.9.5 Fourth Plan (1969–1974)

The Fourth Five-Year Plan adopted the objective of correcting the earlier trend of increased concentration of wealth and economic power. It was based on the Gadgil formula focusing on growth with stability and progress towards self reliance. At this time Indira Gandhi was the prime minister.

The Indira Gandhi government nationalised 14 major Indian banks (Allahabad Bank, Bank of Baroda, Bank of India, Bank of Maharashtra, Central Bank of India, Canara Bank, Dena Bank, Indian Bank, Indian Overseas Bank, Punjab National Bank, Syndicate Bank, UCO Bank, Union Bank and United Bank of India[9]) and the Green Revolution in India advanced agriculture. In addition, the situation in East Pakistan (now Bangladesh) was becoming dire as the Indo-Pakistan War of 1971 and Bangladesh Liberation War took funds earmarked for industrial development.

- ✓ The concept of a buffer stock was first introduced and a buffer stock of 5 million tonnes of food grains was envisaged
- ✓ The Drought Prone Area Program (DPAP) was launched
- ✓ The target growth rate was 5.6%, but the actual growth rate was 3.3%.

5.9.6 Fifth Plan (1974–1978)

The Fifth Five-Year Plan laid stress on employment, poverty alleviation (GaribiHatao), and justice. The plan also focused on self-reliance in agricultural production and defence. In 1978 the newly elected Morarji Desai government rejected the plan. The Electricity Supply Act was amended in 1975, which enabled the central government to enter into power generation and transmission.

The Indian national highway system was introduced and many roads were widened to accommodate the increasing traffic. Tourism also expanded. The twenty-point programme was launched in 1975. It was followed from 1975 to 1979.

The Minimum Needs Programme (MNP) was introduced in the first year of the Fifth Five-Year Plan (1974–78). The objective of the programme is to provide certain basic minimum needs and thereby improve the living standards of the people. It is prepared and launched by D.P.Dhar.

The target growth rate was 4.4% and the actual growth rate was 4.8%.

5.9.7 Rolling Plan (1978–1980)

The Janata Party government rejected the Fifth Five-Year Plan and introduced a new Sixth Five-Year Plan (1978–1980). This plan was again rejected by the Indian National Congress government in 1980 and a new Sixth Plan was made. The Rolling Plan consisted of three kinds of plans that were proposed. The First Plan was for the present year which comprised the annual budget and the Second was a plan for a fixed number of years, which may be 3, 4 or 5 years. The Second Plan kept changing as per the requirements of the Indian economy. The Third Plan was a perspective plan for long terms i.e. for 10, 15 or 20 years. Hence there was no fixation of dates for the commencement and termination of the plan in the rolling plans. The main advantage of the rolling plans was that they were flexible and were able to overcome the rigidity of fixed Five-Year Plans by mending targets, the object of the exercise, projections and allocations as per the changing conditions in the country's economy. The main disadvantage of this plan was that if the targets were revised each year, it became difficult to achieve the targets laid down in the five-year period and it turned out to be a complex plan. Also, the frequent revisions resulted in the lack of stability in the economy.

5.9.8 Sixth Plan (1980–1985)

The Sixth Five-Year Plan marked the beginning of economic liberalisation. Price controls were eliminated and ration shops were closed. This led to an increase in food prices and an increase in the cost of living. This was the end of Nehruvian socialism. The National Bank for Agriculture and Rural Development was established for development of rural areas on 12 July 1982 by recommendation of the Shivaraman Committee. Family planning was also expanded in order to prevent overpopulation. In contrast to China's strict and binding one-child policy, Indian policy did not rely on the threat of force[citation needed]. More prosperous areas of India adopted family planning more rapidly than less prosperous areas, which continued to have a high birth rate. Military Five-Year Plans became coterminous with Planning Commission's plans from this plan onwards.

The Sixth Five-Year Plan was a great success to the Indian economy. The target growth rate was 5.2% and the actual growth rate was 5.7%.

5.9.9 Seventh Plan (1985–1990)

The Seventh Five-Year Plan was led by the Congress Party with Rajiv Gandhi as the prime minister. The plan laid stress on improving the productivity level of industries by upgrading technology.

The main objectives of the Seventh Five-Year Plan were to establish growth in areas of increasing economic productivity, production of food grains, and generating employment through "Social Justice".

As an outcome of the Sixth Five-Year Plan, there had been steady growth in agriculture, controls on the rate of inflation, and favourable balance of payments which had provided a strong base for the Seventh Five-Year Plan to build on the need for further economic growth. The Seventh Plan had strived towards socialism and energy production at large. The thrust areas of the Seventh Five-Year Plan were: social justice, removal of oppression of the weak, using modern technology, agricultural development, anti-poverty programmes, full supply of food, clothing, and shelter, increasing productivity of small- and large-scale farmers, and making India an independent economy.

Based on a 15-year period of striving towards steady growth, the Seventh Plan was focused on achieving the prerequisites of self-sustaining growth by 2000. The plan expected the labour force to grow by 39 million people and employment was expected to grow at the rate of 4% per year.

Some of the expected outcomes of the Seventh Five-Year Plan India are given below:

1. Balance of payments (estimates): Export – ₹330 billion (US\$4.1 billion), Imports – (-) ₹540 billion (US\$6.8 billion), Trade Balance – (-) ₹210 billion (US\$2.6 billion)
2. Merchandise exports (estimates): ₹606.53 billion (US\$7.6 billion)
3. Merchandise imports (estimates): ₹954.37 billion (US\$12.0 billion)
4. Projections for balance of payments: Export – ₹607 billion (US\$7.6 billion), Imports – (-) ₹954 billion (US\$11.9 billion), Trade Balance- (-) ₹347 billion (US\$4.3 billion)
5. Under the Seventh Five-Year Plan, India strove to bring about a self-sustained economy in the country with valuable contributions from voluntary agencies and the general populace.

The target growth rate was 5.0% and the actual growth rate was 6.01%.[12] and the growth rate of per capita income was 3.7%.

5.9.10 Annual Plans (1990–1992)

The Eighth Plan could not take off in 1990 due to the fast changing economic situation at the centre and the years 1990–91 and 1991–92 were treated as Annual Plans. The Eighth Plan was finally launched in 1992 after the initiation of structural adjustment policies.

5.9.11 Eighth Plan (1992–1997)

1989–91 was a period of economic instability in India and hence no Five-Year Plan was implemented. Between 1990 and 1992, there were only Annual Plans. In 1991, India faced a crisis in foreign exchange (forex) reserves, left with reserves of only about US\$1 billion. Thus, under pressure, the country took the risk of reforming the socialist economy. P.V. Narasimha Rao was the ninth prime minister of the Republic of India and head of

Congress Party, and led one of the most important administrations in India's modern history, overseeing a major economic transformation and several incidents affecting national security. At that time Dr. Manmohan Singh (later prime minister of India) launched India's free market reforms that brought the nearly bankrupt nation back from the edge. It was the beginning of liberalization, privatisation and globalization (LPG) in India.

Modernization of industries was a major highlight of the Eighth Plan. Under this plan, the gradual opening of the Indian economy was undertaken to correct the burgeoning deficit and foreign debt. Meanwhile, India became a member of the World Trade Organization on 1 January 1995. The major objectives included, controlling population growth, poverty reduction, employment generation, strengthening the infrastructure, institutional building, tourism management, human resource development, involvement of Panchayati raj, Nagar Palikas, NGOs, decentralisation and people's participation.

- ✓ Energy was given priority with 26.6% of the outlay.
- ✓ The target growth rate was 5.6% and the actual growth rate was 6.8%.
- ✓ To achieve the target of an average of 5.6% per annum, investment of 23.2% of the gross domestic product was required. The incremental capital ratio is 4.1.
- ✓ The saving for investment was to come from domestic sources and foreign sources, with the rate of domestic saving at 21.6% of gross domestic production and of foreign saving at 1.6% of gross domestic production.

5.9.12 Ninth Plan (1997–2002)

The Ninth Five-Year Plan came after 50 years of Indian Independence. Atal Bihari Vajpayee was the prime minister of India during the Ninth Plan. The Ninth Plan tried primarily to use the latent and unexplored economic potential of the country to promote economic and social growth. It offered strong support to the social spheres of the country in an effort to achieve the complete elimination of poverty. The satisfactory implementation of the Eighth Five-Year Plan also ensured the states' ability to proceed on the path of faster development. The Ninth Five-Year Plan also saw joint efforts from the public and the private sectors in ensuring economic development of the country. In addition, the Ninth Five-Year Plan saw contributions towards development from the general public as well as governmental agencies in both the rural and urban areas of the country. New implementation measures in the form of Special Action Plans (SAPs) were evolved during the Ninth Plan to fulfill targets within the stipulated time with adequate resources. The SAPs covered the areas of social infrastructure, agriculture, information technology and Water policy.

Budget

The Ninth Five-Year Plan had a total public sector plan outlay of ₹859,200 crore (US\$110 billion). The Ninth Five-Year Plan also saw a hike of 48% in terms of plan expenditure and 33% in terms of the plan outlay in comparison to that of the Eighth Five-Year Plan. In the total outlay, the share of the center was approximately 57% while it was 43% for the states and the union territories.

The Ninth Five-Year Plan focused on the relationship between the rapid economic growth and the quality of life for the people of the country. The prime focus of this plan was to increase growth in the country with an emphasis on social justice and equity. The Ninth

Five-Year Plan placed considerable importance on combining growth oriented policies with the mission of achieving the desired objective of improving policies which would work towards the improvement of the poor in the country. The Ninth Plan also aimed at correcting the historical inequalities which were still prevalent in the society.

Objectives

The main objective of the Ninth Five-Year Plan was to correct historical inequalities and increase the economic growth in the country. Other aspects which constituted the Ninth Five-Year Plan were:

Population control.

- ✓ Generating employment by giving priority to agriculture and rural development.
- ✓ Reduction of poverty.
- ✓ Ensuring proper availability of food and water for the poor.
- ✓ Availability of primary health care facilities and other basic necessities.
- ✓ Primary education to all children in the country.
- ✓ Empowering the socially disadvantaged classes like Scheduled castes, Scheduled tribes and other backward classes.
- ✓ Developing self-reliance in terms of agriculture.
- ✓ Acceleration in the growth rate of the economy with the help of stable prices.
- ✓ Strategies

Structural transformations and developments in the Indian economy.

- ✓ New initiatives and initiation of corrective steps to meet the challenges in the economy of the country.
- ✓ Efficient use of scarce resources to ensure rapid growth.
- ✓ Combination of public and private support to increase employment.
- ✓ Enhancing high rates of export to achieve self-reliance.
- ✓ Providing services like electricity, telecommunication, railways etc.
- ✓ Special plans to empower the socially disadvantaged classes of the country.
- ✓ Involvement and participation of Panchayati Raj institutions/bodies and Nagar Palikas in the development process.

Performance

- ✓ The Ninth Five-Year Plan achieved a GDP growth rate of 5.4% against a target of 6.5%
- ✓ The agriculture industry grew at a rate of 2.1% against the target of 4.2%
- ✓ The industrial growth in the country was 4.5% which was higher than that of the target of 3%
- ✓ The service industry had a growth rate of 7.8%.
- ✓ An average annual growth rate of 6.7% was reached.
- ✓ The Ninth Five-Year Plan looks through the past weaknesses in order to frame the new measures for the overall socio-economic development of the country. However, for a well-planned economy of any country, there should be a combined participation of the governmental agencies along with the general population of that nation. A combined effort of public, private, and all levels of government is essential for ensuring the growth of India's economy.
- ✓ The target growth was 7.1% and the actual growth was 6.8%.

5.9.13 Tenth Plan (2002–2007)

The main objectives of the Tenth Five-Year Plan:

- ✓ Attain 8% GDP growth per year.
- ✓ Reduction of poverty rate by 5% by 2007.
- ✓ Providing gainful and high-quality employment at least to the addition to the labour force.
- ✓ Reduction in gender gaps in literacy and wage rates by at least 50% by 2007.
- ✓ 20-point program was introduced.
- ✓ Target growth: 8.1% – growth achieved: 7.7%.
- ✓ The Tenth Plan was expected to follow a regional approach rather than sectors approach to bring down regional inequalities.
- ✓ Expenditure of ₹43,825 crore (US\$5.5 billion) for tenth five years.
- ✓ Out of total plan outlay, ₹921,291 crore (US\$120 billion) (57.9%) was for central government and ₹691,009 crore (US\$87 billion) (42.1%) was for states and union territories.

5.9.14 Eleventh Plan (2007–2012)

- ✓ It was in the period of Manmohan Singh as the prime minister.
- ✓ It aimed to increase the enrolment in higher education of 18–23 years of age group by 2011–12.
- ✓ It focused on distant education, convergence of formal, non-formal, distant and IT education institutions.
- ✓ Rapid and inclusive growth (poverty reduction).
- ✓ Emphasis on social sector and delivery of service therein.
- ✓ Empowerment through education and skill development.
- ✓ Reduction of gender inequality.
- ✓ Environmental sustainability.
- ✓ To increase the growth rate in agriculture, industry and services to 4%, 10% and 9% respectively.
- ✓ Reduce total fertility rate to 2.1.
- ✓ Provide clean drinking water for all by 2009.
- ✓ Increase agriculture growth to 4%.

5.9.15 Twelfth Plan (2012–2017)

Main article: 12th Five-Year Plan (India)

The Twelfth Five-Year Plan of the Government of India has been decided to achieve a growth rate of 9% but the National Development Council (NDC) on 27 December 2012 approved a growth rate of 8% for the Twelfth Plan.

With the deteriorating global situation, the Deputy Chairman of the Planning Commission Montek Singh Ahluwalia has said that achieving an average growth rate of 9 percent in the next five years is not possible. The Final growth target has been set at 8% by the endorsement of the plan at the National Development Council meeting held in New Delhi.

"It is not possible to think of an average of 9% [in the Twelfth Plan]. I think somewhere between 8 and 8.5 percent is feasible," Ahluwalia said on the sidelines of a conference of State Planning Boards and departments. The approached paper for the Twelfth Plan, approved last year, talked about an annual average growth rate of 9%.

"When I say feasible... that will require a major effort. If you don't do that, there is no God-given right to grow at 8 percent. I think given that the world economy deteriorated very sharply over the last year...the growth rate in the first year of the 12th Plan (2012–13) is 6.5 to 7 percent."

He also indicated that soon he should share his views with other members of the commission to choose a final number (economic growth target) to put before the country's NDC for its approval.

The government intends to reduce poverty by 10% during the 12th Five-Year Plan. Ahluwalia said, "We aim to reduce poverty estimates by 9% annually on a sustainable basis during the Plan period". Earlier, addressing a conference of State Planning Boards and Planning departments, he said the rate of decline in poverty doubled during the Eleventh Plan. The commission had said while using the Tendulkar poverty line, the rate of reduction in the five years between 2004–05 and 2009–10, was about 1.5% points each year, which was twice that when compared to the period between 1993–95 to 2004–05.[15] The plan aims towards the betterment of the infrastructural projects of the nation avoiding all types of bottlenecks. The document presented by the planning commission is aimed to attract private investments of up to US\$1 trillion in the infrastructural growth in the 12th five-year plan, which will also ensure a reduction in the subsidy burden of the government to 1.5 percent from 2 percent of the GDP (gross domestic product). The UID (Unique Identification Number) will act as a platform for cash transfer of the subsidies in the plan.

The objectives of the Twelfth Five-Year Plan were:

- ✓ To create 50 million new job opportunities in non-agricultural sectors.
- ✓ To remove gender and social gaps in school enrollment.
- ✓ To enhance access to higher education.
- ✓ To reduce malnutrition amongst children aged 0–3 years.
- ✓ To provide electricity to all villages.
- ✓ To ensure that 50% of the rural population has access to proper drinking water.
- ✓ To increase green coverage by 1 million hectares every year.
- ✓ To provide access to banking services to 90% of households.

5.10 Summary

Constitution of India is the base for all laws in our country. The labor laws are also made according to the constitution and any violation of constitutional laws result in the abolition of that particular law. The Directive Principles of the State policy play a major role in the making of new labor laws in India.

5.11 Key words

Industrial Policy Resolution (1956)- India had also launched a programme of planned economic development with the first five-year plan. IPR 1956 was based on the Mahalanobis model of economic growth which put emphasis on the development of heavy industries.

Industrial Policy Resolution (1977) This Industrial Policy was announced by the Janata Government in the parliament in 1977. It advocated the growth of small scale and cottage industries as a remedy to widespread problems of unemployment and regional inequalities in industrial development.

Industrial Policy Resolution (1991)- The Government of India released this policy in 1991 in the midst of severe economic instability in the country. The previous licensing policies and regulations were responsible for lower growth rate and balance of payment crisis

Five-Year Plans (FYPs) are centralized and integrated national economic programs. Joseph Stalin implemented the first Five-Year Plan in the Soviet Union in 1928. In order to bring about a quantitative and qualitative change to the manufacturing sector, GOI announced the NMP in 2012.

5.12 Self Assessment Questions

1. Briefly Discuss about the Labor laws in the Fundamental rights?
2. Explain the Labor laws in the Fundamental rights?
3. Outline the New Industrial Policy 1991?
4. Examine the Outline of Five Year Plans?

5.13 Suggested Readings

1. Kubendran, K. Kodeeswari(2011) Industrial Relations and Labour Laws 1st Edition Himalaya Publishing House.
2. Dr.T.Vijaya Kumar (2014), Labor and Industrial Law, Atlantic Publisher Distribution Private Limited.
3. Avtar Singh & Harpreet Kaur(2021) Introduction to Labour and Industrial Laws Fourth Edition, Lexis Nexis Publications.
4. Justice M.R. Mallik(2020) Labor and Industrial Relations, Professional Book Publishers.
5. Sia Experts(2022), Industrial Relations and Labor Legislations, Sia Publisher & Distributors, 2022-23 Edition
6. S.C.Srivastava(2022), Industrial Relations and Labor Legislations, S.Chand & Co.Ltd, 8th Edition.
7. Dr. Ganesh Kumar Jha(2022), Labor Law and Industrial Relations, 1st Edition, Notion Press
8. Dr.Satish Kumar Saha (2022), Industrial Relations and Labor Laws, SBPD Publications.
9. Dr. Satish Kumar Saha, Dr. Anju Agarwal(2022) Industrial Relation & Labour Law Latest Edition Prescribed by Industrial Dispute Act, 1947 and The Factories Act, 1948 1st Edition

Dr.V.Tulasi Das

LESSON-6

INTERNATIONAL LABOUR ORGANIZATION (ILO)

Learning Objectives

- ✓ To study the ILO
- ✓ To Learn the Decent Work in the Globalizing work
- ✓ To Outline the Forced Labor and Child Labor
- ✓ To Know the Wages and Other conditions of Employment
- ✓ To Focus on the International Labor Conference
- ✓ To focus on the Social Protection and Social Security

Structure

- 6.1 Introduction
- 6.2 Decent Work
- 6.3 In a Globalizing World
- 6.4 Social Dialogue
- 6.5 Governance and Policymaking
- 6.6 Freedom of Association
- 6.7 Forced Labour
- 6.8 Child Labour
- 6.9 Discrimination
- 6.10 Employment And Income
- 6.11 Wages and Other Conditions of Employment
- 6.12 Social Protection
- 6.13 Social Security
- 6.14 International Migration
- 6.15 Health and Safety
- 6.16 International Labor conference
 - 6.16.1 ILO members
 - 6.16.2 Members
 - 6.16.3 Convention No 144 of the ILO
- 6.17 Summary
- 6.18 key words
- 6.19 Self Assessment Questions
- 6.20 Suggested Readings

6.1 Introduction

The International Labour Organization (ILO) is the United Nations agency devoted to advancing opportunities for women and men to obtain decent and productive work in conditions of freedom, equity, security and human dignity. Its main aims are to promote rights at work, encourage decent employment opportunities, enhance social protection and strengthen dialogue in handling work-related issues. The ILO is the only “tripartite” United Nations agency in that it brings together representatives of governments, employers and workers to jointly shape policies and programmes. The ILO is the global body responsible for drawing up and overseeing international labour standards. Working with its 181 member

States, the ILO seeks to ensure that labour standards are respected in practice as well as principle.

The ILO was created in 1919, as part of the Treaty of Versailles that ended World War I, to reflect the belief that universal and lasting peace can be accomplished only if it is based on social justice. The ILO's founders were committed to spreading humane working conditions and combating injustice, hardship and poverty. In 1944, during another period of international crisis, ILO members built on these aims by adopting the Declaration of Philadelphia, which states that labour is not a commodity and sets out basic human and economic rights under the principle that "poverty anywhere constitutes a danger to prosperity everywhere".

The ILO in 1946 became the first specialized agency associated with the newly formed United Nations. On its 50th anniversary in 1969, the ILO was awarded the Nobel Peace Prize. The vast expansion in the number of countries belonging to the ILO in the decades after World War II brought much change. The organization launched technical assistance programmes to provide expertise and assistance to governments, workers and employers worldwide, especially in developing nations. In countries such as Poland, Chile and South Africa, the ILO's strong support for trade union rights helped in the fight for democracy and freedom.

Another important date for the ILO was 1998, when delegates to the International Labour Conference adopted the Declaration on Fundamental Principles and Rights at Work. These principles and rights are the right to freedom of association and collective bargaining and the elimination of child labour, forced labour and discrimination linked to employment. The guarantee of these fundamental principles and rights at work, according to the Declaration, is important because it enables people "to claim freely and on the basis of equality of opportunity, their fair share of the wealth which they have helped to generate and to achieve fully their human potential

6.2 Decent Work

Work is central to people's well-being. In addition to providing income, work can pave the way for broader social and economic advancement, strengthening individuals, their families and communities. Such progress, however, hinges on work that is decent.

Decent work sums up the aspirations of people in their working lives. It involves opportunities for work that is productive and delivers a fair income, security in the workplace and social protection for families. Decent work means better prospects for personal development and social integration, and freedom for people to express their concerns, organize and participate in the decisions that affect their lives. It entails equality of opportunity and treatment for all women and men.

Decent work is the key to the eradication of poverty. If women and men have access to decent work, they can share in the gains brought by increased international economic integration. Extending opportunities for decent work to more people is a crucial element in making globalization more inclusive and fair. Creating decent employment must therefore be at the heart of development policy

6.3 In a Globalizing World

In 2004, the role of the ILO in promoting strategies for a fair globalization was

backed by the report of the World Commission on the Social Dimension of Globalization. The drive to foster decent work spans the ILO, integrating what the organization does at international, regional, national and local levels. In bringing together governments, employers and workers to set labour standards, supervise their implementation, raise awareness, develop policies and devise programmes, the ILO aims to ensure that its efforts are rooted in the needs of working women and men.

The ILO works actively with the UN and other multilateral agencies to develop policies and programmes that support the creation of decent work opportunities as a central plank of efforts to reduce and eradicate poverty

6.4 Social Dialogue

Underlying the ILO's work is the importance of cooperation between governments and employers' and workers' organizations in fostering social and economic progress. Dialogue between the governments and the two "social partners" promotes consensus-building and democratic involvement of those with vital stakes in the world of work.

This "social dialogue" can mean negotiation, consultation or simply an exchange of views between representatives of employers, workers and governments. It may consist of relations between labour and management, with or without direct government involvement. Social dialogue is a flexible tool that enables governments and employers' and workers' organizations to manage change and achieve economic and social goals.

The very structure of the ILO, where workers and employers together have an equal voice with governments in the work of its governing councils, shows social dialogue in action. It ensures that the the social partners are closely reflected in ILO labour standards, policies and programmes.

At the same time, the ILO helps governments and employers' and workers' organizations establish sound labour relations, adapt labour laws to changing economic and social circumstances and improve labour administration. In supporting and reinforcing employers' and workers' organizations, the ILO helps to create the conditions for effective dialogue with governments and with each other

6.5 Governance and Policymaking

The ILO's broad policies are set by the International Labour Conference, which meets once a year and brings together the organization's constituents. The Conference also adopts new international labour standards and approves the ILO's work plan and budget.

Between sessions of the Conference, the ILO is guided by its Governing Body, which is composed of 28 government members, 14 employer members and 14 worker members. The ILO's Secretariat, the International Labour Office, has its headquarters in Geneva, Switzerland and maintains field offices in more than 40 countries.

In 1999, Juan Somavia of Chile became the ILO's ninth Director General. He is the first person from the Southern Hemisphere to head the organization

Since its early days, the ILO has sought to define and guarantee labour rights and improve conditions for working people by building a system of international labour standards

expressed in the form of Conventions, Recommendations and Codes of Practice.

The ILO has since adopted more than 180 ILO Conventions and 190 Recommendations covering all aspects of the world of work.

This body of international labour law was recently reviewed by the Governing Body which determined that more than 70 of the Conventions adopted before 1985 remained fully up to date and the remainder required revision or withdrawal. In addition, dozens of Codes of Practice have been developed.

In areas as varied as maternity leave and protection of migrants, these standards play an important role in the drawing up of national legislation. A supervisory process helps to ensure that standards ratified by individual member States are applied and the ILO provides advice in the drafting of national labour laws.

With the adoption of the Declaration on Fundamental Principles and Rights at Work in 1998, ILO member States decided to uphold a set of core labour standards regardless of whether they had ratified the relevant conventions. These are basic human rights and a central plank of decent work.

6.6 Freedom of Association

The right of workers and employers to form and join organizations of their choice is an integral part of a free and open society. It is a basic civil liberty that serves as a building block for social and economic progress. Linked to this is the effective recognition of the right to collective bargaining. Voice and representation are an important part of decent work.

The existence of independent organizations for workers and employers serves as a foundation to the ILO's tripartite structure, and their involvement in ILO actions and policies reinforces freedom of association, directly and indirectly. From advising governments on labour legislation to providing education and training for trade unions and employer groups, the ILO is regularly engaged in promoting freedom of association.

The ILO's Committee on Freedom of Association was set up in 1951 to examine violations of workers' and employers' organizing rights. The committee has examined more than 2,000 cases, including allegations of murders, disappearances, physical attacks, arrests and forced exile of trade union officials. The committee is tripartite and handles complaints in ILO member States whether or not they have ratified freedom of association conventions.

Through the Committee on Freedom of Association and other supervisory mechanisms, the ILO has frequently defended rights of trade unions and employers' organizations. In many cases, these organizations have played a significant role in their countries' democratic transformation.

6.7 Forced Labour

An estimated minimum of at least 12 million people worldwide are victims of forced labour. Of those, 10 million are exploited by forced labour in the private economy, rather than that imposed directly by states. The ILO estimates that US\$32 billion in annual profits are generated by the forced labour of trafficked people.

Forced labour takes different forms, including debt bondage, trafficking and other forms of modern slavery. The most vulnerable victims are women and girls forced into prostitution, migrants trapped in debt bondage, and sweatshop or farm workers kept there by clearly illegal tactics and paid little or nothing.

The ILO has worked since its inception to tackle forced labour and the conditions that give rise to it and has established a Special Action Programme on Forced Labour to intensify this effort. In partnership with workers, employers, civil society and other international organizations, the ILO seeks to address all aspects of forced labour. These range from preventive measures including livelihood improvement projects in communities where trafficking victims originate, to support for freed workers. Programmes can include microfinance, training opportunities and facilitating access to education.

The ILO is also pressing for effective national laws and stronger enforcement mechanisms, such as legal sanctions and vigorous prosecution against those who exploit forced labourers. By raising public awareness, the ILO seeks to shine a spotlight on such human and labour rights violations.

6.8 Child Labour

There are more than 200 million children working throughout the world, many full-time. They are deprived of adequate education, good health and basic freedoms. Of these, 126 million — or one in every 12 children worldwide — are exposed to hazardous forms of child labour, work that endangers their physical, mental or moral well-being.

Over the past 15 years, the world has awakened to child labour as a pressing social, economic and human rights issue. Today, child labour globally is on the decline, and if this trend continues, its worst forms may be eliminated in the coming decade. This is the direct result of a powerful international movement to eliminate child labour.

This movement is reflected in the unprecedented pace with which countries are ratifying the ILO's Worst Forms of Child Labour Convention. Adopted in 1999, the Convention has been ratified by nine out of every 10 of the ILO's 181 member States. Similarly, the ILO's Minimum Age Convention adopted in 1973 has now been ratified by four out of five ILO member States.

The ILO has been a principal engine behind this growing movement. The International Programme on the Elimination of Child Labour(IPEC), launched in 1992, now encompasses activities in over 80 countries. As with other aspects of decent work, eliminating child labour is a development as well as human rights issue. ILO policies and programmes aim to help ensure that children receive the education and training they need to become productive adults in decent employment.

6.9 Discrimination

Hundreds of millions of people suffer from discrimination in the world of work. This not only violates a most basic human right, but has wider social and economic consequences. Discrimination stifles opportunities, wasting the human talent needed for economic progress and accentuating social tensions and inequalities. Combating discrimination is an essential part of promoting decent work, and success on this front is felt well beyond the workplace. Issues linked to discrimination are present throughout the ILO's sphere of work. By

bolstering freedom of association, for example, the ILO seeks to prevent discrimination against trade union members and officials.

Programmes to fight forced labour and child labour include helping girls and women trapped in prostitution or coercive domestic labour. Non-discrimination is a main principle in the ILO's code of practice on HIV/AIDS and the world of work. ILO guidelines on labour law include provisions on discrimination.

At the same time, gender equality is integrated into all ILO activities. This reflects the persistent and varied problems faced by women in the labour market. Women continue to earn less than men, dominating low-paid and less-protected occupations and accounting for the majority of workers in informal, atypical and unpaid situations. The

ILO works to expand employment opportunities for women, enhance conditions of employment and eliminate gender discrimination. It encourages women's entrepreneurship through support services, business development, training, microfinance and documentation of good practices. And it helps workers' organizations defend and expand the rights of women at the workplace and promote their role in trade unions and society at large.

6.10 Employment And Income

With global unemployment at historically high levels, there has never been a greater need to put employment at the centre of economic and social policies. Even among those who work, the extent of poverty underscores the need for a far greater number of productive and decent jobs.

The insufficient pace in creating decent work worldwide points to the need for greater international coordination of macro-economic policies, as well as active labour market policies at the national level.

Productive and freely chosen employment is at the core of the ILO's mandate, and the organization is committed to full employment. The ILO identifies policies that help create and maintain decent work and income — policies that are formulated in a comprehensive Global Employment Agenda worked out by the three ILO constituents.

The organization carries out research and takes part in international discussion of employment strategies. The ILO is particularly concerned about the massive unemployment of young women and men — nearly half the world's unemployed are young people — and it seeks to help them and their governments through policy advice and concrete training and employment initiatives.

The ILO has pioneered analysis and action on the informal economy. This term is used to describe work done beyond the reach of formal laws and enforcement mechanisms. In many developing countries, more than half of the non-agricultural workforce is in the informal economy. Most women in these countries work informally often as street traders. Informal work is mostly unproductive, insecure, poorly remunerated and done under adverse conditions. Helping employers and workers to move out of informality requires comprehensive strategies to raise skills and productivity, improve laws and their application and foster self-support institutions.

Periodic ILO publications including Key Indicators of the Labour Market analyse trends and provide extensive statistical data. The ILO provides technical support and advice in areas ranging from training and skills to microfinance and small business development. It has advised countries making the transition from centrally planned to market economies on employment, labour market and human resource policies. The organization also works to promote employment-intensive investment in developing countries.

6.11 Wages and Other Conditions of Employment

While wages may rise in many countries, they often remain too low for many workers to meet their basic needs. And while some workers may see decreases in the time they devote to work, the accompanying unpredictability can weaken job security and pose new difficulties for reconciling work and family. Dirty and dangerous working conditions, on the decline in industrialized countries, are still prevalent in the developing world. Meanwhile, job related stress and violence are starting to be recognized globally as major problems.

Wages, working time, work organization, working conditions and adapting working life to the demands of life outside work are core elements of the employment relationship and of workers' protection, as well as key dimensions of economic performance, and thus are of principal interest to the ILO. These issues are major components of human resources management, collective bargaining and social dialogue, as well as of government policies.

6.12 Social Protection

Most men and women do not have adequate levels of social protection. They face dangers in the workplace and poor or non-existent pension and health insurance coverage. Some are not allowed sufficient rest times and many women lack maternity benefits. International labour standards and the UN recognize social protection as a basic human right. Moreover, well-designed social security systems improve economic performance, contributing to competitiveness. The ILO is committed to helping countries extend social protection to all groups in society and to improving working conditions and safety at work.

6.13 Social Security

Only 20 per cent of the world's population have adequate social security coverage, and more than half lack any coverage at all. The situation reflects levels of economic development, with fewer than 10 per cent of workers in least-developed countries covered by social security. In middle-income countries, coverage ranges from 20 to 60 per cent, while in most industrial nations, it is close to 100 per cent.

Social security involves access to health care and income security, particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity or loss of a main income earner. Concern among governments, employers and workers led the ILO to launch a "Global Campaign on Social Security and Coverage for All" in 2003. The campaign builds on ILO efforts already under way in more than 30 countries. These include projects to help countries extend coverage at the national level and to strengthen community based social security organizations. The ILO is also doing important research to identify factors that undermine security among people in the developing and developed world.

6.14 International Migration

Close to half of all migrants and refugees worldwide — or some 86 million adults — are economically active, employed or otherwise engaged in remunerative activity. And the number of migrants crossing borders in search of employment and human security is

expected to increase rapidly in the coming decades due to the failure of globalization to provide jobs and economic opportunities. Strict immigration controls and barriers imposed by major receiving countries have led to a number of issues of concern, including a high incidence of abuse and exploitation of migrant workers in host societies.

The ILO sees today's global challenge as forging the policies and the resources to manage labour migration better so that it contributes positively to the growth and development of both home and host societies, as well as to the well being of the migrants themselves

6.15 Health and Safety

Every year, more than 2 million people die from occupational accidents or work-related diseases. By conservative estimates, there are 270 million occupational accidents and 160 million cases of occupational disease. The safety of work varies enormously between countries, economic sectors and social groups. Deaths and injuries take a particularly heavy toll in developing nations, where large numbers of people are engaged in hazardous activities such as agriculture, construction, logging, fishing and mining. Throughout the world, the poorest and least protected — often women, children and migrants — are among the most affected.

Given the progress that many industrialized countries have made in reducing serious injuries, it is clear that improvements in work place safety yield results. Yet there is a lack of awareness, knowledge and information about the issue. The ILO works to fill this gap through research, advocacy and technical assistance. It helps countries develop management tools, monitoring and information services, with the primary focus on hazardous occupations. The ILO places special importance on developing and applying a preventive safety and health culture in workplaces worldwide.

It argued that since Indian Parliament has ratified Convention No 144 of the International Labour Organisation, it is now India's legal obligation to hold the ILC in order to strengthen the tripartite mechanism.

6.16 International labor conference

ILC also known as the 'labour parliament' of the country formed on the lines of International Labour Conference is the apex level tripartite (Government, Employers and Workers) consultative committee in the Ministry of Labour & Employment. International Labour Conference also known as International Parliament of Labour is a conference organized by ILO every year. Each member State is represented by a delegation consisting of two government delegates, an employer delegate, a worker delegate, and their respective advisers.

The first meeting of the ILC (then called Tripartite National Labour Conference) was held in 1942 and so far a total of 46 Sessions have been held. The most recent session of which was held in 2015.

The agenda of the ILC is finalised by the Standing Labour Committee which is again a tripartite body after detailed discussions.

6.16.1 Function

To advise the Government on the issues concerning the working class of the country.

6.16.2 Members

Central Trade Union Organisations, Central Organisations of employers, all State Governments and Union Territories and Central Ministries/Departments concerned with the agenda items, are the members of the ILC.

Some Government Initiatives for the Working Class:

- ✓ New Labour Codes, 2020
- ✓ Pradhan Mantri Shram Yogi Maan-dhan
- ✓ National Pension Scheme for Traders, Shopkeepers and Self-Employed Persons
- ✓ Pradhan Mantri Rojgar Protsahan Yojana
- ✓ International Labour Organization

It is the only tripartite United Nation (UN) agency. It brings together governments, employers and workers of 187 member States (India is a member), to set labour standards, develop policies and devise programmes promoting decent work for all women and men.

- ✓ Received the Nobel Peace Prize in 1969.
- ✓ Established in 1919 by the Treaty of Versailles as an affiliated agency of the League of Nations.
- ✓ Became the first affiliated specialized agency of the UN in 1946.
- ✓ Headquarters: Geneva, Switzerland

6.16.3 Convention No 144 of the ILO

Convention 144 of the year 1976 which is also known as the Convention on Tripartite Consultation (International Labour Standards), promotes application of an essential principle on which the International Labour Organization (ILO) was founded which is:

1. Tripartite social dialogue in the development and implementation of international labour standards.
2. Tripartism in respect to international labour standards promotes a national culture of social dialogue on wider social and economic issues.

Convention No. 144 Tripartite Consultation (International Labour Standards) Convention, 1976 Each State party to the Convention undertakes to operate procedures which ensure effective consultations between representatives of the government, of employers and of workers with respect to the following activities of the ILO: government replies to questionnaires concerning items on the agenda of the Conference and government comments on proposed texts to be discussed by the Conference; the submission of Conventions and Recommendations to the competent authorities pursuant to article 19 of the Constitution; the re-examination of un ratified Conventions and of Recommendations;

- ✓ It reports on the application of ratified Conventions;
- ✓ proposals for the denunciation of ratified Conventions.

These consultations have to be undertaken at appropriate intervals fixed by agreement, but at least once a year. The representatives of employers and workers have to be freely chosen by their representative organizations.

Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976.

- ✓ Employers and workers should be represented on an equal footing on any bodies through which consultations are undertaken.
- ✓ The Recommendation enumerates various procedures through which tripartite consultations may be held, including:
 - ✓ a committee specifically constituted for questions concerning the activities of the ILO;
 - ✓ a body with general competence in the economic, social or labour fields;
 - ✓ a number of bodies with special responsibility for particular subject areas; or
 - ✓ written communications, where those involved in the consultative procedures are agreed that they are appropriate and sufficient.
- ✓ Each State should operate procedures which ensure effective consultations between representatives of the government, of employers and of workers on the preparation and implementation of the measures to give effect to ILO Conventions and Recommendations, in particular to ratified Conventions.
- ✓ The competent national authority, after consultation with the representative organizations of employers and workers, should determine the extent to which these procedures should be used for
 - ✓ other matters of mutual concern, such as:
 - ✓ the preparation, implementation and evaluation of ILO technical cooperation activities;
 - ✓ the action to be taken in respect of resolutions and conclusion adopted by the Conference, regional conferences and other meetings convened by the ILO;
 - ✓ the measures to be taken to promote a better knowledge of ILO activities

6.17 Summary

The competent authority shall assume responsibility for the administrative support of the procedures provided for in this Convention; make appropriate arrangements with the representative organisations, for the financing of any necessary training of participants in these procedures issue an annual report on the working of the procedures, when this is considered appropriate after consultation with the representative organizations.

6.18 Key words

Decent work - Decent work means better prospects for personal development and social integration, and freedom for people to express their concerns, organize and participate in the decisions that affect their lives.

Social Dialogue-This “social dialogue” can mean negotiation, consultation or simply an exchange of views between representatives of employers, workers and governments.

Forced labour - Forced labour takes different forms, including debt bondage, trafficking and other forms of modern slavery

International Labor standards- International labour standards and the UN recognize social protection as a basic human right. Moreover, well-designed social security systems improve economic performance, contributing to competitiveness.

Social security - Social security involves access to health care and income security,

particularly in cases of old age, unemployment, sickness, invalidity, work injury, maternity or loss of a main income earner. Concern among governments, employers and workers

International Labour Conference - International Labour Conference is the apex level tripartite (Government, Employers and Workers) consultative committee in the Ministry of Labour & Employment. International Labour Conference

6.19 Self Assessment Questions

1. Define ILO? Briefly Discuss the Decent Work in the Globalizing work
2. Describe the difference between the Forced Labor
3. Discuss the issues of International Labor Conference
4. Examine the difference between the Social Protection and Social Security

6.20 Suggested Readings

1. Kubendran, K. Kodeeswari(2011) Industrial Relations and Labour Laws 1st Edition Himalaya Publishing House.
2. Dr.T.Vijaya Kuamr (2014), Labor and Industrial Law, Atalantic Publisher Distribution Private Limited.
3. Avtar Singh & Harpreet Kaur(2021) Introduction to Labour and Industrial Laws Forth Edition, Lexis Nexis Publications.
4. Justice M.R. Mallik(2020) Labor and Industrial Relations, Professional Book Publishers.
5. Sia Experts(2022), Industrial Relations and Labor Legislations, Sia Publisher & Distributors, 2022-23 Edition
6. S.C.Srivastava (2022), Industrial Relations and Labor Legislations, S.Chand & Co.Ltd, 8th Edition.
7. Dr.Ganesh Kumar Jha (2022), Labor Law and Industrial Relations, Ist Edition, Notion Press
8. Dr.Satish kumar Saha (2022), Industrial Relations and Labor Laws, SBPD Publications.
9. Dr. Satish Kumar Saha, Dr. Anju Agarwal(2022) Industrial Relation & Labour Law Latest Edition Prescribed by Industrial Dispute Act, 1947 and The Factories Act, 1948 1st Edition

Dr.V.Tulasi Das

LESSON-7

STANDING LABOR COMMITTEE

Learning objectives

- ✓ To study the Standing Committee
- ✓ To Learn the Migrant Workers
- ✓ To Know the Industrial Tripartite Committees
- ✓ To focus on the Composition and Functions of Wage Boards
- ✓ To focus on the Working and Evaluation of Wage boards

Structure

7.1 Introduction

- 7.1.1 Standing Committee
- 7.1.2 Coordination between States and Centre
- 7.1.3 Pendency in wage disbursement and revision of wage rates
- 7.1.4 Committee called out DoRD
- 7.1.5 Feasibility of linking existing women centric works with MGNREGA
- 7.1.6 Doorstep medical facilities for job cardholders

7.2 Migrant workers

7.3 No element of Social Audit

7.4 Credible database to be prepared

7.5 Legal right to work

7.6 Demand driven scheme

7.7 Decentralized Planning

7.8 Industrial Tripartite Committees

7.8.1 Composition and Functions of Wage Boards

7.8.2 Working of Wage Boards

7.8.3 Evaluation of the Wage Boards

7.9 The Practice of Voluntarism in Industrial Relations

7.10 Summary

7.11 Key words

7.12 Self Assessment Questions

7.13 Suggested Readings

7.1 Introduction

The parliamentary standing committee on Rural Development and Panchayati Raj tabled the report on MNREGA in February 2022. Recently, the Action Taken Report on the same was presented in the Parliament. While the government has accepted 26 of the 33 recommendations made, the government's response to the remaining seven recommendations was not accepted by the committee.

The Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) guarantees a minimum of 100 days of wage employment in a financial year to every rural household whose adult members volunteer to do unskilled manual work. It was notified in

September 2005. After about 16 years of implementation, a parliamentary standing committee on Rural Development and Panchayati Raj tabled the report, '[Critical Evaluation of Mahatma Gandhi National Rural Employment Guarantee Act \(MGNREGA\)](#)' in the Lok Sabha in February 2022. In that report, the Committee assessed and highlighted the shortcomings in the implementation of the flagship scheme and made a list of [recommendations](#) to be incorporated to improve the scheme's outcomes. Recently, the [Action Taken Report](#) on the same was presented in the Parliament. Here is a review of the action taken report.

7.1.1 Standing committee made 33 recommendations including revamping of MGNREGA scheme

A total of 33 recommendations were made in the standing committee report covering various aspects of the scheme- from budget allocation, revision of wage rates and the number of days of work, social audits, and appointment of ombudsperson. Of the 33 recommendations, the government has accepted 26 of them. The government's response with respect to the remaining 7 recommendations were not accepted by the standing committee. These responses were generic citing provisions of the Act and did not address the issue at hand. The action taken by the Government on some of the observations or recommendations that need reiteration according to the committee have been discussed in this review. Further, the committee has set a deadline of 3 months for the Department of Rural Development (DoRD) for the final action taken reports.

7.1.2 Coordination between States and Centre should be improved to avoid delay in funds

The committee called for effective coordination between States and Centre for timely release of funds and completion of procedural formalities. Accepting this recommendation, the DoRD stated that "*funds released under MGNREGA is based on the provision of the Act and guidelines*". The committee found this response stereotypical and added that if these provisions were followed, then the issue of delay in funds would not have arisen. The committee recommended that DoRD should revive the process to improve Centre-State ties for the timely release of funds.

The delay in the release of skilled labour and material components share funds by the Centre and State resulted in incomplete projects under MGNREGA. The reason cited for this delay was the non-completion of documentary procedures for the release of the next batches of funds. Though the committee recommended DoRD supervise this to prevent delay, DoRD cited provisions of the Act elaborating on how funds are released in tranches as per the existing provisions instead of discussing the delay or taking measures to prevent it.

7.1.3 Pendency in wage disbursement and revision of wage rates on par with inflation have not been addressed by DoRD

Previously, the committee noted that wage liabilities were Rs. 2763.78 crores as on 05 November 2021 and called upon DoRD to 'pull up its socks' and take all possible measures to clear off wage liabilities as soon as possible. To this, the department responded that the release of funds was a continuous process based on provisions. It has also been mentioned that an amount of Rs. 73,023.05 crores were released to States for the wage component. However, the committee felt that no specific action was taken to deal with the pendency and called for more effective steps to ensure there is no delay in wage disbursement.

The Committee observed that indexing of MGNREGA wages to Consumer Price

Index (CPI)- Rural as opposed to CPI-Agricultural Labour (AL), as recommended by Dr. Nagesh Singh Committee was not implemented. The Standing Committee recommended the Ministry to review its position and increase the wages to which DoRD replied that the Ministry decided to continue with existing CPI-AL for wage rates. The committee, expressing its concern for the beneficiaries of MGNREGA, again asked DoRD to review its position and increase wages by linking it to a suitable inflationary index.

Observing that the wage rates notified under MGNREGA ranged from Rs. 193 to Rs. 318 in different states, the Committee recommended devising a mechanism for a unified wage rate across the country. However, DoRD's reply was "*unacceptable and evasive*", according to the committee and asked DoRD to consider uniform wage to end wage disparity.

Standing committee called for amendment in Act to provide additional days of work

With respect to the committee's recommendation to increase the guaranteed days of work under the scheme from 100 days to 150 days, especially in the light of the pandemic, DoRD stated the provisions of the Act allow states to provide additional 50 days of wage employment in case of natural calamities.

"Mahatma Gandhi National Rural Employment Guarantee Act (Mahatma Gandhi NREGA) is to provide at least 100 days of guaranteed wage employment in a financial year to each household in rural areas of the country whose adult members volunteers to do unskilled manual work. In addition to this, there is a provision for upto additional 50 days of wage employment in a financial year in drought/natural calamity notified rural areas. As per Section 3 (4) of the Act, the State Governments may make provision for providing additional days of employment beyond the period guaranteed under the Act from their own funds."

The committee found the response generic, highlighting the provisions of the Act. Thus, the committee reiterated its recommendation and asked DoRD to make an amendment to the Act so that the number of days is uniform throughout the country and not left to states to decide.

7.1.4 Committee called out DoRD for citing only the obstacles for the implementation of any novel concept instead of examining it

Citing 'Buldhana Pattern' wherein water conservation is done through desilting and deepening of waterbodies by the removal of earthen material and silt, which is used for constructing the National Highway, the committee recommended convergence of various rural development schemes along with MGNREGA as it would help address rural poverty. DoRD responded that the transportation cost of soil from the site to the other place cannot be borne by the scheme. The committee reiterated its recommendation stating that DoRD should scrutinize the proposal elaborately instead of citing obstacles.

7.1.5 Feasibility of linking existing women centric works with MGNREGA should be explored

In response to the committee's recommendation to link women Self Help Groups that are engaged in farm works or animal rearing activities with MGNREGA to empower women through financial independence, DoRD stated the women-centric provisions in the Act such as the provision of a minimum of 33% of the work to women labourers.

To encourage women to participate in the works under the Scheme features like separate schedule of rates for women, no discrimination in the wage, women caretaker for looking after children upto five years of age, if there are 5 or more children of such age, encouragement to women SHG members as mate, worksite facilities exist under the Scheme.

The percentage of participation of women under Mahatma Gandhi NREGS from FY 2018-19 to FY 2021-22 is given below:

Financial Year	2021-22	2020-21	2019-20	2018-19
Percentage of participation of women	54.72	53.19	54.78	54.59

It did not mention anything about the linkage of livelihood projects. The committee called for a thorough examination of the possibility of linkage of existing women-centric works as well as exploring the practicability of more women-centric programmes under MGNREGA.

7.1.6 Doorstep medical facilities for job cardholders has been recommended by the committee

Following the pandemic, the committee observed the need for incorporating newer safety measures for the workers, especially in such a mass-oriented scheme, in terms of the easily accessible medical facilities at the doorstep of villagers. It suggested that the scheme be revamped to cater to the new and unforeseen challenges the pandemic had brought to light. DoRD listed the medical facilities provided to the workers such as insurance, hospitalizations, etc

(i) If any personal injury is caused to any person employed under the Scheme by any accident arising out of and in the course of his employment, he shall be entitled to such medical treatment as required, free of cost.

(ii) Where hospitalisation of the injured worker is necessary, the State Government shall arrange for such hospitalisation including accommodation, treatment, medicines and payment of daily allowance which is not less than half of the wage rate.

(iii) If a person employed under the Scheme meets with death or becomes permanently disabled by accident arising out of and in the course of employment, he or his legal heirs, as the case may be, shall be paid by the implementing agency an ex gratia as per entitlements under the Pradhan Mantri Suraksha Bima Yojana or as may be notified by the Central Government.

(iv) If any personal injury is caused by accident to a child accompanying a person who is employed under the Scheme, such person shall be entitled to medical treatment free of cost; and in case of death or disablement of the child due to the said accident, ex gratia shall be paid to the legal guardians as determined by the State Government."

Acknowledging these measures, the committee recommended that doorstep medical facilities attached with job cards of the labourers be included.

With respect to other recommendations such as strict monitoring and evaluation of the scheme, more participation of elected representatives, appointment of ombudsperson, etc., the committee accepted the government's response. The committee appreciated the efforts of DoRD to mitigate unspent balances by bringing down the unspent amount from Rs. 5,270.76 crores at the end of 2020-21 to Rs. 1,351.46 crores as on 05 November 2021. However, it recommended that DoRD maintain and increase the momentum even further so that the unspent balance amount does not get accumulated.

Key Points

MGNREGS:

- ✓ The Mahatma Gandhi National Rural Employment Guarantee Act, 2005 provides for a **specific and significant welfare provision, constitutive of the very idea of citizenship.**
- ✓ There is no **“better scheme”** to provide **“sustainable livelihood”** to unskilled workers.
- ✓ Over 7 crore households (10.43 crore individuals) have already availed of the scheme and 330 crore person days have been created till February 2021 during the current **financial year**. This is the **highest for any year since inception of the scheme in 2006.**

7.2 Migrant workers

1. 1.08 crore migrant workers returned to their home states during the pandemic.
2. The **absence of reliable and authentic data/information** on the numbers of migrant workforce and their movement back to their home States following the outbreak of the **Pandemic** has apparently **impacted the relief and rehabilitation measures.**
3. There were a number of appreciable initiatives launched by the Government (**eg: Pradhan Mantri Garib Kalyan Yojana**), which are aimed at benefiting the Migrant Labour. **However, no guidelines were issued** nor enforced for distribution of relief material to stranded Migrant Labourers.

7.3 No element of Social Audit prescribed. Instant and immediate Relief

Covid-19 Pandemic and the resultant challenges and lacunae observed in the system must be addressed so as to **strengthen the preparedness to effectively deal with any such emergent situations.**

7.4 Credible database to be prepared

Credible databases of unorganized workers especially that of migrant labourers be put in place to **ensure seamless delivery of relief packages to them at the time of distress.**

Earlier in december 2020, the Government has decided to **create a database of migrant workers, including workers in the informal economy.**

Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS)

About: It is one of the largest work guarantee programmes in the world.

Launch:

It was launched on 2nd February 2006

The Mahatma Gandhi National Rural Employment Guarantee Act was passed on 23rd August 2005.

Objective:

The primary objective of the scheme is **to guarantee 100 days of employment** in every financial year to **adult members of any rural household** willing to do public work-related unskilled manual work.

7.5 Legal right to work

Unlike earlier employment guarantee schemes, the act **aims at addressing the causes of chronic poverty through a rights-based framework.**

At least **one-third of beneficiaries have to be women.**

Wages must be paid according to the statutory minimum wages specified for agricultural labourers in the state under the **Minimum Wages Act, 1948.**

7.6 Demand driven scheme

The most important part of MGNREGA's design is **its legally-backed guarantee for any rural adult to get work within 15 days** of demanding it, failing which an 'unemployment allowance' must be given.

This demand-driven scheme enables the self-selection of worker.

7.7 Decentralized Planning

There is an emphasis on strengthening the process of decentralisation by giving a significant role in **Panchayati Raj Institutions (PRIs)** in planning and implementing these works.

The act mandates **Gram sabhas to recommend the works** that are to be undertaken and at least 50% of the works must be executed by them.



7.8 Industrial Tripartite Committees

The decision to constitute Industrial Tripartite Committees (ITCs) was the outcome of tripartite deliberation at the Indian Labour Conference in 1944 over demarcation of general subjects discussed at the ILC and their relevance to different industries. Following the procedure adopted by the ILO, the Government of India set up Industrial Tripartite Committees for different industries. The functions of the Industrial Tripartite Committees in general are to study and discuss problems in the labour field specific to the industry concerned with a view to bring about better understanding between the parties and to advising the Government in solving these problems and reach a workable formula agreeable to the parties concerned. The meetings of the Industrial Tripartite Committees are convened as and when necessary

Wage boards are set up by the Government, but in selection of members of wages boards, the government cannot appoint members arbitrarily. Members to wage boards can be appointed only with the consent of employers and employees. The representatives of employers on the wage boards are the nominees of employers' organization and the workers' representatives are the nominees of the national center of trade unions of the industry concerned.

The composition of wage boards is as a rule tripartite, representing the interests of labor, Management and Public. Labor and management representatives are nominated in equal numbers by the government, with consultation and consent of major Central Organizations. These boards are chaired by government nominated members representing the public. Wage board function industry-wise with broad terms of reference, which include recommending the [minimum wage](#) differential, cost of living, [compensation](#), regional wage differentials, gratuity, hours of work etc.

The main objectives of wage boards are

1. To work out wage structure based on the principles of fair wages as formulated by the Committee on Fair Wages.
2. To work out a system of payment by results.
3. To evolve a wage structure based on the requirements of social justice.
4. To evolve a wage structure based on the need for adjusting wage differentials in a manner to provide incentives to workers for advancing their skill.

7.8.1 Composition and Functions of Wage Boards

The wage board is, as a rule, tripartite body representing the interest of labor, management and the public. Labor and management representatives are nominated in equal numbers by the government, after consultation with and with the consent of major central organizations. Generally, the labor and management representatives are selected from the particular industry which is investigated. These boards are chaired by government – nominated members representing the public.

They function industry – wise with broad terms of reference, which include [recommending the minimum wage](#), differential cost of living compensation, regional wage differentials, gratuity hours of work, etc.

Wage boards are required to:

1. Determine which categories of employees (manual, clerical supervisory, etc.) are to brought within the scope of wage fixation.
2. Work out a wage structure based on the principles of fair wages formulated by the committee on fair wages.
3. Suggest a system of payment by results.
4. Work out the principles that should govern bonus to workers in industries.

In addition to these common items, some wage boards may be asked to deal with the question of Bonus (like that of the wage boards for cement, sugar and jute industries); gratuity (like that of the wage boards for iron ore mining, limestone and dolomite mining industries) and the second wage board on cotton textile industry; demands for payments other than wages (wage boards for jute and iron and steel industry); hours of work (rubber plantation industry); interim relief (wage boards for jute industry and post and dock workers). Some wage boards (Wage boards for sugar, jute, iron ore, rubber, tea and coffee plantations, limestone and dolomite mining industries) have been required to take into account the 'special features of the industry'.

Thus, wage boards have had to deal with a large number of subjects. Of these, the fixation of wage – scales on an industry – wise basis constitutes the biggest of all the issues before them. In evolving a wage structure, the board takes into account:

1. The needs of the industry in a developing economy including the need for maintaining and promoting exports;
2. The requirements of social justice, which ensures that the workman who produces the goods has a fair deal, is paid sufficiently well to be able at least to sustain himself and his family in a reasonable degree of comfort, and that he is not exploited;
3. The need for adjusting wage differentials (which is in relation to occupational differentials; inter-firm differentials; regional or inter-area differentials; inter-industry differentials and differentials based on sex) in such a manner as to provide incentives to workers for improving their skills.

For the determination of fair wages, the board has to take into consideration such factors as the degree of skill required for his work, the fatigue involved, the training and experience of the worker, the responsibility under-taken, the mental and physical requirements for work, the disagreeableness or otherwise of the work and the hazards involved in it. The board is required to make due allowances for a fair return on capital, remuneration to management and fair allocation to reserve and depreciation.

7.8.2 Working of Wage Boards

Although wage boards are set up by the government, the basic reason for their establishment is the pressure brought to bear on the government, by the trade unions, industrial federations and national organizations on the one hand after the employers' formal or informal consent on the other. Pressure has been used for the appointment of wage boards for the jute industry by the jute workers association and for the coal mining industry by their trade union. The formation of wage boards in other industries has been the result of similar demands and pressures on the part of trade unions – such as plantations, iron and steel, engineering, sugar and electricity.

The government cannot appoint members of the wage boards in an arbitrary way. Independent members can be appointed only with the consent of employers and employees. The representatives of employers on wage boards are the nominees of the employer's organisation and the workers representatives are the nominees of the national organisation of trade unions of the industry concerned. However, before their actual appointment, a great deal of negotiations take place not only between the two main recalcitrant interests but also among different groups representing particular interests.

Item to be included for the consideration of the wage boards are the outcome of the negotiations between the parties. The issues are unanimously determined by trade unions and employers; but these invariably relate to gratuity, bonus, hours of work and grant of interim relief. The quantum of interim relief is also decided by negotiations and bargaining which have sometimes resulted in temporary deadlocks.

The wage boards functions in three steps:

1. The first step is to prepare a comprehensive questionnaires designed to collect information on the prevailing wage rates and skill differentials, means of assessing an industry's paying capacity and workloads, prospects for industry in the immediate future, and regional variations in the prices of widely consumed consumer goods. The questionnaire is sent out to labor unions, employers associations, interested individuals, academic organisations and government agencies.
2. The second step is to give a public hearing at which leaders of labor unions and employers associations, not represented on the board, as well as others interested in the industry in question, are given a verbal or oral bearing on issues dealing with wages, working conditions and other items.
3. The third step is to convene secret sessions at which members of the board make proposals and counter – proposals regarding the items covered under the terms of reference.

In the case of failure to reach a unanimous decision on the issues, each party has the right to veto the others decision.

The role of independent members on the board is limited to conciliation and mediation; they try to prevent deadlocks by promoting communication between labour and management representatives. They also offer advice and suggestions to the parties, but the final decision must result from the parties give – and – take attitudes and compromises

The decision – unanimous recommendations – is written down in the form of a report and submitted to the government, which usually accepts unanimous agreements, although it may modify any provisions thereof. Then the report is to be compiled with by the parties. The government has no legal powers to enforce the board's recommendations. It tries to persuade the parties to narrow their differences and aim to unanimity.

Wage boards like their own time in the submission of reports, e.g., the second wage board for cement and the first wage board for cotton textiles and sugar took a little less than 3 years; while the wage board for coal mining, non journalists, jute, iron and steel took a little over 3 years; that for tea plantations took 5 ½ years and for coffee plantation 4 years and iron ore mining 5 years. Some of the wage boards constituted in 1964 did not submit reports even by 1969, e.g., heavy chemicals, fertilizers, engineering industries and ports and docks. The

average time taken by wage boards in the finalization of their deliberations varies from 3 years to 5 ½ years.

The main reasons for the delay in the completion of wage boards work have been :

1. Routine delays in the recruitment of staff; preparation and printing of questionnaires;
2. Getting replies to questionnaires
3. Time involved in public hearings and
4. Lack of accord among members in arriving at a decision.

7.8.3 Evaluation of the Wage Boards

The boards have been successful in fulfilling their primary object of promoting industry – wise negotiations and active participation by the parties in the [determination of wages](#) and other conditions of employment. The board's deliberations and awards have contributed significantly towards the development of a national and 'development oriented' outlook on questions pertaining to particular areas and sectors. They have given serious attention to the impact (of wage increase) on factors like prices, employment and the profitability of the industry.

The committee setup by the National Commission on Labour identified three major problems from which the wage boards suffer:

1. A majority of the recommendations of the wage boards are not unanimous.
2. The time taken by the wage boards to complete their task has been rather unduly long and
3. The implementation of the recommendations of the wage boards has been difficult.

But it concluded that the system of wage boards has, on the whole served a useful purpose. As bipartite collective bargaining on wages and allied issues on an industry wise basis at the national level has not been found practicable at present for various reasons, this system has provided the machinery for the same. It is true that the system has not fully met all the expectations; and, particularly in recent years, there has been an erosion of faith in this system on the part of both employers and employees. The Committee is convinced that these defects are not such as cannot be remedied.

The committee made some important recommendations. These have been given below:

1. The chairman of the wage should selected by common consent of the organizations of employers and employees in the industry concerned.
2. In future, the wage board should function essentially as machinery for collective bargaining and should strive for unity.
3. Wage boards should be assisted by technical assessors and experts.
4. The terms of reference of wage boards should be decided by the government in consultation with the organisations of employers and the workers concerned.
5. A central wage board should be set up in the Union Ministry of Labour on a permanent basis to serve all wage boards through the supply of statistical and together material and lending of the necessary staff.

6. Unanimous recommendations of wage boards should be accepted and in case of non – unanimous recommendations, the government should hold consultations with the organizations of employers and employees before taking a final decision.
7. Wage boards should not be set up under any statues, but their recommendations, as finally accepted by the government, should be made statutorily binding on the parties.
8. For the industries covered by wage boards, a permanent machinery should be created for follow-up action.
9. Wage boards should complete their work in one years time and the operation of its recommendation should be between two or three years, after which the need for a subsequent wage boards should be considered on merit.

7.9 The Practice of Voluntarism in Industrial Relations

Definition: It is a system characterized by now legal intervention, and that issupported by Trade Union Act and Social Welfare Provisions.

Voluntarism: It subscribes to the principles of ILO Conventions

Freedom of Association

The Right to Organize and bargain collectively.

Tripartite Consultations.

- a. It follows conventions and practices.
- b. It follows what the law allows.
- c. It identifies with Collective Bargaining.
- d. Collective agreements and joint consultation.
 - ✓ Voluntarism exists in a state of free enterprise.
 - ✓ The state acts as a mediator between labour and employees.
 - ✓ It reflects mandatory standards, re: Safety and Health, Wages Protection, Welfare provision.
 - ✓ Voluntarism in Industrial Relations is based on good faith, which enables trade unions and employees to regulate their own relations without interference from public authorities.

Principles of The Voluntary System Of Industrial Relations

1. Free collective bargaining between trade unions and employer, as opposed to state regulation (Non legalistic).
2. The Legal Frame: Collective bargaining agreements, Constitution, Labour Codeof Practice – Trade Union Act.
3. Regulation of relations is based on established procedural rules and procedures fordispute resolution.
4. It relies on law of contract and common law that govern employment relations.

5. It embodies conciliation, mediation and arbitration.
6. There is a minimum legal regulation – judicial involvement and state support.

7.11 Summary

The pandemic has demonstrated the importance of decentralised governance. Gram panchayats need to be provided with adequate resources, powers, and responsibilities to sanction works, provide work on demand, and authorise wage payments to ensure there are no delays in payments. Social Auditing creates accountability of performance, especially towards immediate stakeholders. Hence, there is a need to create awareness regarding government policies and measures in rural areas.

7.12 Key words

MGNREG- The Mahatma Gandhi National Rural Employment Guarantee Act, 2005 provides for a Specific and Significant Welfare Provision, Constitutive Of The Very Idea Of [Citizenship](#).

Decentralized Planning – There is an emphasis on strengthening the process of decentralization by giving a significant role in [Panchayati Raj Institutions \(PRIs\)](#) in planning and implementing these works.

Industrial Tripartite Committees- The decision to constitute Industrial Tripartite Committees (ITCs) was the outcome of tripartite deliberation at the Indian Labour Conference in 1944 over demarcation of general subjects discussed at the ILC and their relevance to different industries

Wage boards- Wage boards are set up by the Government, but in selection of members of wages boards, the government cannot appoint members arbitrarily. Members to wage boards can be appointed only with the consent of employers and employees

7.13 Self Assessment questions

1. Briefly Discuss about the Standing Committee
2. Define Migrant workers explain the Issues of Migrant workers
3. What is Industrial Tripartite Committes
4. Explain the Composition and Functions of Wage Boards?
5. Discuss the Working and Evaluation of Wage boards?

7.14 Suggested Readings

1. Kubendran, K. Kodeeswari(2011) Industrial Relations and Labour Laws 1st Edition Himalaya Publishing House.
2. Dr.T.VijayaKuamr (2014), Labor and Industrial Law, Atalantic Publisher Distribution Private Limited.
3. Avtar Singh & Harpreet Kaur(2021) Introduction to Labour and Industrial Laws Forth Edition, Lexis Nexis Publications.
4. Justice M.R. Mallik(2020) Labor and Industrial Relations, Professional Book Publishers.
5. Sia Experts(2022), Industrial Relations and Labor Legislations, Sia Publisher & Distributors, 2022-23 Edition
6. S.C.Srivastava(2022), Industrial Relations and Labor Legislations, S.Chand & Co.Ltd, 8th Edition.
7. Dr.Ganesh Kumar Jha(2022), Labor Law and Industrial Relations, Ist Edition, Notion Press

8. Dr.Satish kumar Saha (2022), Industrial Relations and Labor Laws, SBPD Publications.
9. Dr. Satish Kumar Saha, Dr. Anju Agarwal(2022) Industrial Relation & Labour Law Latest Edition Prescribed by Industrial Dispute Act, 1947 and The Factories Act, 1948 1st Edition

Dr.V.Tulasi Das

LESSON - 8

CODE OF DISCIPLINE

Learning Objectives

- ✓ To study the Disciplinary Procedure
- ✓ To Know the Code of Conduct
- ✓ To discuss the Disciplinary Rules and Procedure
- ✓ To Understand the Misconduct

Structure

- 8.1 Introduction
- 8.2 Disciplinary Procedure.
- 8.3 Section 5 - Code of Conduct
 - 8.3.1 General Conduct
 - 8.3.2 Conduct Towards Others
 - 8.3.3 Relative means
 - 8.3.4 Working Arrangements
 - 8.3.5 Council Policies, Procedures, Rules, Regulations, etc
 - 8.3.6 Care of Tools, Materials, etc
 - 8.3.7 Alcohol, Drugs and other Substances
 - 8.3.8 Political Neutrality
 - 8.3.9 Confidentiality and Disclosure of Information
 - 8.3.10 Outside Interests
 - 8.3.11 Sponsorship
 - 8.3.12 Off-duty Hours
 - 8.3.13 Gifts and Hospitality
- 8.4 Section 6 - Introduction to Disciplinary Rules And Procedure
- 8.5 Authority to Act
- 8.6 General Responsibilities
- 8.7 Disciplinary Rules
- 8.8 Misconduct
- 8.9 Summary
- 8.10 Key words
- 8.11 Self Assessment Questions
- 8.12 Suggested Readings

8.1 Introduction

The Council's Code of Conduct, Disciplinary Rules and Procedure aim to stabilise and maintain appropriate standards of conduct at work; promote fairness, consistency and order in the treatment of its employees, and support a healthy and harmonious working environment, through the application of fair and effective management of disciplinary matters.

As a formal approach, the main purpose of the Council's Code of Conduct, Disciplinary Rules and Procedure is to encourage an improvement in an employee whose conduct is unsatisfactory. The Council's policy is to ensure that effective arrangements exist

for dealing with disciplinary matters and that, as far as possible, common standards are observed for all employees. It must be seen as an attempt to secure improvement in conduct, to treat employees in a fair and consistent manner and to provide a procedure so all parties know what to expect.

It is important that management, employees and their representatives accept responsibility for maintaining standards of conduct when carrying out their duties, not only for their own interests but also in the interests of the Council and the communities it serves.

The Council expects all its employees to conduct themselves in a way that ensures that standards of service and the reputation of the Council are maintained. An employee is required to observe the conditions of service laid down by national and local agreements, which are supplemented by the Council's Code of Conduct and Disciplinary Rules & Procedure. A clear Code of Conduct and Disciplinary Rules & Procedure also protects employees from misunderstandings and criticism by setting standards and ensuring that employees know what conduct is required of them.

Any breach of the Code of Conduct and Disciplinary Rules can lead to action being taken against the employee concerned in accordance with the Disciplinary Procedure. Where appropriate, warnings will normally be given. In cases of persistent misconduct and after a final written warning, an employee may be dismissed with notice or be subject to other disciplinary action as an alternative to dismissal. More serious breaches of the Code of Conduct and Disciplinary Rules will be treated as gross misconduct. Gross misconduct means conduct where the Council cannot tolerate the continued presence of the employee at work. Subject to any mitigation, gross misconduct will lead to an employee being dismissed without notice.

In addition to this Code of Conduct and Disciplinary Rules there are Council Policies and Procedures, financial regulations and standing orders which dictate the way that the Council operates. Management may issue further rules from time to time either in writing or by oral instruction (oral instructions should be recorded by management). Failure to observe the Code of Conduct or any of the Disciplinary Rules, regulations, standards and orders may lead to disciplinary action. If this is taken, it will be in accordance with the Council's

8.2 Disciplinary Procedure.

A copy of this Code of Conduct, Disciplinary Rules and Procedure will be supplied to all employees who will confirm in writing that they have received them. Managers will take steps to ensure that all employees understand the rules and management requirements in respect of standards of conduct and the observance of working procedures, operational regulations, safety rules and regulations, standing orders, etc.

Employees will be expected, through agreed procedures and without fear of recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of service. Employees must report to the appropriate manager any impropriety or breach of procedures.

If there is anything in this document that employees do not understand they should seek the advice of their manager.

8.3 Section 5 - Code Of Conduct

1. This Code of Conduct sets down a set of “core principles” which underpin the Council’s concept of public service.

8.3.1 General Conduct

Employees are expected to conduct themselves at all times in a manner that will maintain public confidence in both their integrity and the services provided by the Council. This includes the avoidance of personal gain from the use of public funds. All employees are expected to behave at all times in a reasonable way towards other employees, the Council, its partners and the public generally. A clear code of conduct protects employees from misunderstandings and criticisms by setting standards and ensuring employees know what conduct is required of them.

In general what an employee does while not at work is his/her personal concern subject to the conditions at paragraphs (34 - 41 & 44) but an employee shall at all times, while at work, endeavour to ensure value for money to the local community, operate proper stewardship of public funds and where it is part of their duties, to provide appropriate advice to Councilors and other employees impartially. Employees must observe the requirements of the law; the standing orders of the Council and Committees, comply with the requirement to register or declare interests, gifts and hospitality and comply with the Council's Policies, Procedures, Rules and Regulations pertinent to their job, and the rules contained within this document (copies are available on the Council’s Intranet). The Register of Gifts, Hospitality & Interests is available through an e-work form on the Intranet or from your Manager.

Failure to observe the minimum standards and requirements that should apply as set out in this Section could result in allegations of potential gross misconduct as exemplified in Section 6 paragraphs 16 - 18 or misconduct,

8.3.2 Conduct Towards Others

Whilst carrying out his/her duties or acting as a representative of the Council, an employee shall not:

Act in an oppressive, abusive or rude manner, use threatening/offensive language or take action likely to cause offence, towards another employee, manager, Councilor, other work contacts or member of the public nor by word, act, or demeanour, abuse the authority vested in him/her, or be insubordinate to his/her supervisor or any other level of management.

Disregard the Council’s code of practices for ensuring Equality of Opportunity in Employment and Dignity at Work or unlawfully discriminate against or harass another employee, Councillor or member of the public, or incite another individual to do so, on any grounds including those of gender identity or gender reassignment, social/economic status, race, national and or ethnic origin, colour or religion, marital status, disability, age, sexual orientation, physical or sensory impairments, learning disabilities, HIV status, or other personal characteristic. All employees are required to observe the law and the policies of the Council regarding non-discrimination.

„Harassment“ is regarded as objectionable and/or offensive comments, actions, conduct, materials, suggestions, jokes or physical contact, unrelated to the requirements of an individuals or groups job, and has the potential to create an intimidating and unpleasant

working environment and would include: physical assault, threats or intimidation; bullying; unwanted sexual advances – touching, standing too close; spreading malicious rumours or insulting someone (particularly on the grounds of age, race, sex, disability, sexual orientation and religion or belief) copying memos/forwarding electronic mail that are critical about someone to others who do not need to know; unfair treatment ;overbearing supervision or other misuse of power or position; making threat or comments about job security without foundation deliberately undermining a employee by overloading and constant criticism; derogatory language, remarks, jokes, or statements (oral or written),also conduct and actions, either formal or informal, which ridicules, abuses, degrades, or insults individuals or groups of people; displaying or distributing within Council premises or vehicle any material such as leaflets, posters or magazines, which are degrading or offensive. This includes graffiti, the display of “pin up” pictures and electronic graphics e.g. Screen savers ;exclusion or victimization of, or discrimination against, any employee, Council or or member of the public who has made or is contemplating making a complaint or who has provided or is contemplating providing information to management about discrimination or any other disciplinary offence.

Be involved in any appointment to the Council where he or she is related to the applicant or has a close personal relationship with him or her. Employees involved in appointments should ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment, which was based on anything other than the ability of the candidate to undertake the duties of the post.

A manager must inform his/her Senior Manager if they are aware that a friend or relative is applying for a job with the Council. He/she must not provide a reference themselves. Similarly, an employee must not be involved in decisions relating to discipline, grievance, promotion, pay adjustments or other similar employment related matters for any other employee who is a relative* or with whom they are having a relationship.

8.3.3 Relative means:-

A spouse or partner

A son, daughter, step-child, child of partner or grandchild

A parent, parent in law, partner's parent or grandparent

A brother or sister or step brother or step sister

An uncle, aunt, nephew or niece

The spouse or partner of any of the above

Be knowingly an accessory to, condone or fail to report a disciplinary offence, unless there are justifiable mitigating circumstances. Proper Conduct of the Council's Business

8.3.4 Working Arrangements

1. An employee shall comply with the agreed arrangements relating to his/her hours of work, meal breaks, sickness absence and requests for leave etc.
2. Employees shall not absent themselves from duty, report late or cease work before the authorized finishing time without permission.
3. An employee included in the flexible working hours or flexible working scheme shall observe its related rules and conditions.
4. When an employee is absent from work because of sickness he/she must report the absence in accordance with contractual requirements and instructions issued by management. The employee must not abuse the sickness scheme. The advice and

instructions of any medical adviser(s), where appropriate, shall be observed. The employee must not commit any act that is likely to be inconsistent with the reasons for absences or do anything which may delay his/her return to work.

8.3.5 Council Policies, Procedures, Rules, Regulations, etc

An employee shall observe agreed working procedures, operational regulations, safety rules, regulations and safe working procedures, management policies, procedures and codes of practice, standing orders, Council rules and financial regulations and shall carry out reasonable and proper instructions given in matters relating to duties. Employees should strive to ensure value for money to the local community and to avoid legal challenge to the Council.

An employee shall not:

- (a) Disobey or omit to carry out a reasonable instruction or be insubordinate;
- (b) Breach the requirements of the Council's Smoking Policy Statement;
- (c) Fail to comply with a health and safety requirement;
- (d) Fail to discharge through carelessness, or neglect an obligation placed upon him/her by contract or statute;
- (e) Use public funds entrusted to, or handled by, them in an irresponsible and unlawful manner;
- (f) Fail to report any matter that he/she is required to report;
- (g) Fail to allow the search or seizure of offices, desks, mobile telephones, lockers, electronic documents, work diaries etc provided by the Council or produced on Council equipment;
- (h) Fail to wear in full, or as modified by instruction or authorisation, such uniform, special clothing or identification as may be issued by the Council;
- (i) Fail to properly wear any safety clothing or footwear, or properly use any safety equipment which has been issued as being necessary in the interests of health and safety or otherwise fail to have due regard to health and safety requirements;
- (j) Fail to act at any time in accordance with the trust that the public is entitled to place in them;
- (k) Commit any act that could result in an action against the Council which arises from negligence or breach of the duty of care;
- (l) Knowingly breach a copyright owned by a third party;
- (m) Knowingly breach the Council's

Information Management & Information & Communication Technology Guidelines & Compliance Statement

8.3.6 Care of Tools, Materials, etc

Employees are required to take due care of all stores, materials, tools, plant, equipment and vehicles and any other property of, or under the control of, the Council. The employee must report to the manager/supervisor any loss, defect or damage to any such property which has been issued to or used by him/her, or where care has been entrusted.

An employee shall not:

- (a) Remove property from offices, stores, depots or other locations without prior authorisation. This includes any items or materials collected or deposited for disposal by the Council;
- (b) Use or allow others to use any such items without prior authorisation;
- (c) Use any such items for unauthorized purposes;

- (d) Wilfully, or by neglect, cause any waste, loss or damage;
- (e) Wilfully dispose of a Council asset without prior authorization or without realising an appropriate value for the asset
- (f) Misuse the Council's telephone, radio or electronic systems, including the use of mobile telephones, hand held computer devices, postal system, facsimile system, e-mail systems or personal computers;
- (g) Use a computer diskette, tape, CD ROM, DVD, USB storage device, data memory card from any mobile device (MP3 player, camera, handheld computer devices or mobile phone) or downloaded file from any source on to a Council personal computer without first having it virus checked by the Information Services Business Unit;
- (h) Use the Council's photocopiers, facsimile system, electronic mailsystem, fixed or mobile computers, fixed or mobile telephones or other equipment and materials for private purposes, without the permission of the manager;
- (i) Use any of the Council's facilities or equipment, which may include premises, materials, transport, stationery and secretarial services, other than for Council business or other approved purposes, unless properly authorised to do so;

8.3.7 Alcohol, Drugs and other Substances

An employee shall not through the use of intoxicating substances, for example, alcoholic drink or drugs, either report for duty unfit, or become unfit during working hours for the duties that he/she is required, or likely, to perform.

Employees must ensure that any alcohol which they consume out of working hours (including lunchtime) will neither impair their work nor cause them to conduct themselves so as to damage the good reputation of the Council.

8.3.8 Political Neutrality

Employees are responsible to the Council through its senior managers. For some, their role is to give advice to Councillors and senior managers and all are there to carry out the Council's work. Mutual respect between employees and Councillors is essential to good local government. Councillors should be treated professionally and, close personal familiarity between employees and individual Councillors that can damage the relationship and prove embarrassing to other employees and Councillors should therefore be avoided.

Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the authority.

Employees serve the Council as a whole. It follows they must serve all Councillors and not just those of the controlling group(s), and must ensure that the individual rights of all Councillors are respected.

Subject to the Council's conventions, employees may also be required to advise political groups. They must do so impartially and in ways which do not compromise their political neutrality.

Employees, whether or not politically restricted, must have proper regard to every lawful expressed policy of the Council and must not allow their own personal or political opinions to interfere with their work.

8.3.9 Confidentiality and Disclosure of Information

The Council practices open government. Where information is necessarily confidential, it should only be made available on a “need to know” basis. An employee must not discuss or divulge confidential information to any unauthorised persons. Many employees have regular access to confidential information, (for example on Council tenants, clients, businesses, contractors, other employees, Councilors and members of the public). All Council information should be treated as confidential unless the employee is sure that it is for public consumption. Employees must be aware of which information within the Council is open and which is not, and act accordingly. Employees should follow the Council’s rules on the ownership of intellectual property or copyright created during their employment. For guidance contact your line manager.

Under the Data Protection Act an employee must not give personal information to any one who does not have a right to receive it. An employee must not communicate information or documents, which are the property or copyright of the Council, to a third party without proper authority.

An employee must not use, or attempt to use, his/her official position for an improper purpose or any information obtained in the course of his/her employment for personal gain or benefit, nor pass it on to others who might use it in such a way.

An employee must not use in a private capacity (for example in a public meeting) any information gained through employment with the Council that is not available to the public at large.

An employee must not make statements to the press or any other person/media, regarding the business of the Council and purporting to be acting on behalf of the Council without prior authority.

Any particular information received by an employee from a Councillor which is personal to that Councillor and does not belong to the Council should not be divulged by an employee without the prior approval of that Councilor, except where such disclosure is required or sanctioned by the law.

8.3.10 Outside Interests

Whilst the Council does not wish to unreasonably prevent its employees from taking other paid employment or pursuing personal business interests, it is important that this should not interfere with their work for the Council in anyway. If an employee has paid employment or business interests in addition to his/her job with the Council or is considering one/them, he/she should discuss it with his/her manager. Employees will need the specific approval of their senior manager, Chief Officer or Director and, for senior employees, it may not be allowed at all. All employees should be clear about their contractual obligations and should not take outside employment that conflicts with the Council’s interests.

An employee must declare membership of a secret society** in the Council’s Register of Gifts, Hospitality and Interests. A secret society is defined as "Any lodge, chapter, society, trust or regular gathering or meeting, which:

(a) Is not open to members of the public who are not members of that lodge, chapter, society or trust

- (b) Includes in the grant of membership an obligation on the part of the member a requirement to make a commitment (whether by oath or otherwise) of allegiance to the lodge, chapter, society, gathering or meeting; and
- (c) Includes, whether initially or subsequently, a commitment (whether by oath or otherwise) of secrecy about the rules, membership or conduct of the lodge, chapter, society, trust, gathering or meeting.

A lodge, chapter, society, trust, gathering or meeting as defined above, should not be regarded as a secret society if it forms part of the activity of a generally recognised religion.

Employees, or their partners or relatives (See Section 5 paragraph 5 (d)), who have any formal or informal relationship with a contractor(s), and/or have previously had, or currently have, a private or domestic relationship with a contractor(s), must tell their manager and complete the Council's Register of Gifts, Hospitality and Interests.

All relationships of a business or private nature with external contractors, or potential contractors, must be made known to the appropriate manager and declared in the Council's Register of Gifts, Hospitality and Interests. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour should be shown to businesses run by, for example friends, partners or relatives, in the tendering process. No part of the community should be discriminated against. Employees, who engage or supervise contractors or have any other official relationship with contractors and have previously had or currently have a relationship in a private or domestic capacity with contractors, should declare that relationship to the appropriate manager and complete the Register of Gifts, Hospitality and Interests.

Where there is any potential conflict of interest, financial or non-financial, with any part of the Council's services, or that they consider could bring about conflict with the Council's interests, an employee must ensure that the outside interests are brought to the attention of their manager, and recorded in the Council's Register of Gifts, Hospitality and Interests. An employee must take appropriate steps to ensure that actual or perceived bias is removed in relation to the delivery of the Council's Services (e.g. Determination of applications).

If the Council has entered, or is proposing to enter, into a contract in which the employee has knowledge of a direct or indirect pecuniary or personal interest, the employee must inform his/her manager and enter this in the Council's Register of Gifts, Hospitality and Interests.

The Council welcomes the involvement of employees in voluntary organisations. However, in order to ensure that public confidence is maintained an employee should inform their manager in writing if the services which the employee gives to any such organizations could conflict with the work which the employee carries out for the Council or if the organization receives a grant from or has a contract (or service level agreement) with the Council.

Employees must not use their position as employees of the Council to favour any voluntary or other bodies to which they give service. If an employee's job involves assessing a funding application for a voluntary body to which they give service they should inform their manager in writing and seek the guidance of the manager.

8.3.11 Sponsorship

Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors. Where the Council wishes to sponsor any event or service no employee or his/her partner, spouse, relative or close associates should benefit directly without there being a full disclosure to the appropriate manager of any such interest. Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

8.3.12 Off-duty Hours

Off-duty hours are the personal concern of employees (See General Conduct Section 5 paragraphs 2, 3 and 4 and Outside Interests paragraphs 34 - 41) but they shall not:

- (a) Subordinate their duties to private interests;
- (b) Allow duties and private interests to conflict;
- (c) Engage in employment in off-duty hours or conduct themselves in anyway which, in the view of the Council, could conflict with or react detrimentally to the Council's interest, in any way weaken public confidence in the conduct of the Council's business or contravene statutory provisions relating to their jobs;
- (d) Wear issued uniform during off-duty hours except when travelling to and from work, or when specifically authorized.
- (e) Use any Council vehicle, equipment, facilities or supplies without the express permission of their manager.

8.3.13 Gifts and Hospitality

The Council provides a wide range of services. To do this it has to place large orders with suppliers for materials and equipment, and contractors. In spending public money it is essential that the Council be seen to be scrupulously correct and fair in its dealings. If an employee is involved in contract tendering in any way he/she must speak to his/her manager about the rules and procedures related to these activities.

The general rule is that gifts and hospitality will rarely be accepted and should never be invited

Any offers or gifts should be made to the Council for the purposes of its functions or for the benefit of the service or the Borough - not to an individual as an employee. Suppliers or organizations of a similar nature must be treated in the same way in relation to gifts or hospitality accepted.

Invitations or hospitality given formally through the Council as an organization are more acceptable than invitations given personally. Offers of hospitality should only be accepted if there is a genuine need to impart information or represent the Council or the community. When hospitality has to be declined, those making the offer should be courteously but firmly informed of the procedures and standards operating within the Council. It may still be appropriate in these circumstances to record the rejection in the Register of Gifts, Hospitality and Interests.

Employees cannot

- ✓ Accept any monies offered directly to you as a result of your position at the Council

- ✓ Accept any personal gift of more than £25.00 in value
- ✓ Accept an offer to attend a purely social or sporting function unless it is considered appropriate for the Council to be seen to be represented (check with your Manager)
- ✓ Accept a bequest if it relates directly to actions undertaken by you in the normal course of your Council duties
- ✓ Accept a gift or hospitality where its timing could be construed as sensitive to any decision being taken by the Council
- ✓ Accept a gift or hospitality where it may be perceived that this would influence a purchasing decision or provision of a service

Employees can

- ✓ Accept insignificant gifts e.g. pens, diaries. (Items useable at work are generally more acceptable than those for personal use)
- ✓ Accept a one-off reward of money for service which the customer writing in feels is "above the call of duty", the reward is unsolicited, below £20 and the acceptance has been approved by your Manager and registered in the Register of Gifts, Hospitality and Interests
- ✓ Accept hospitality received during attendance at conferences, meetings or seminars where it is clear that it is "corporate" rather than personal and attendance has been authorised by your

Manager

On the rare occasions that it is considered acceptable to accept gifts or hospitality a record must be made in the Register of Gifts, Hospitality and Interests as soon as possible and at least within 28 days

Employees must register

- ✓ All gifts of money, cash, cheques or credit
- ✓ Any tangible item of value over £5.00
- ✓ Any incidence of hospitality accepted other than a normal meeting or seminar
- ✓ The entry in the Register of Gifts, Hospitality and Interests should detail on what grounds the gift or hospitality has been accepted and what has happened to any gifts received (e.g. donated to the Mayor's charity)

Where an outside organisation wishes to sponsor a Council activity, the same conventions apply concerning acceptance of gifts or hospitality. Apart from participating in concessionary schemes arranged by Trade Unions or other groups for their members, employees should not use contractors employed by the Council to get materials or work done at cost, trade or discount prices.

Employees are expected to take all proper steps to avoid any suggestions that they may be involved in any corrupt or dishonest practices, through bribery or other wise, in accepting gifts or rewards. Should you have any doubt as to the right course of action in any particular circumstances you should always seek the advice of your manager. Ultimately, improper behaviour may not just be a disciplinary matter; it could be a criminal offence.

8.4 Section 6 - Introduction To Disciplinary Rules And Procedure

Management is responsible for maintaining and setting standards of performance and for ensuring that disciplinary rules and procedures are in place and that these are understood by employees. Managers in conjunction with Personnel Services are responsible for ensuring that all notifications are made in accordance with this Procedure and that appropriate records/notes are kept of all proceedings.

As a formal approach, the main purpose of the Council's Code of Conduct, Disciplinary Rules and Procedure is to encourage an improvement in an employee whose standard of conduct is unsatisfactory. The Council's policy is to ensure that effective arrangements exist for dealing with disciplinary matters and that, as far as possible, common standards are observed for all employees. It must be seen as an attempt to secure improvement in conduct, to treat staff in a fair and consistent manner and to provide a procedure so all parties know what to expect.

It is in everyone's interest to ensure that any disciplinary matter is dealt with quickly, effectively and above all fairly. Minor faults will, in the main, be dealt with through normal management practice and may possibly involve counselling, coaching and supervision. Where this has failed to correct a situation, more formal measures may be necessary.

The Disciplinary Procedure does not cover the initial stages of dealing with impaired performance through factors such as ill health or lack of ability to cope with changing demands; this is dealt with initially by a separate Capability Procedure. The latter stages of the Capability Procedure do however follow the same format as the Disciplinary Procedure.

The Procedure draws a clear distinction between informal and formal processes, provides for consistency of approach, is designed to be transparent, easy to understand in application and to reflect good employment practice.

Principles

In accordance with the ACAS Code of Practice on „Disciplinary and Grievance Procedures; the Council's general disciplinary principles are outlined below. They will be expanded upon further in this document.

(a) Minor shortcomings in an employee's overall conduct shall, where day to day supervision is appropriate, be drawn to the attention of the employee and possible remedies should be considered before formal steps become necessary.

(b) The Procedure is designed to establish the facts quickly and fairly and no management decisions/disciplinary action will be made until there has been a proper investigation of the facts/Disciplinary Hearing held. At every stage of the Procedure the employee will be treated fairly, and full account taken of any special needs (e.g. disability, English not first language etc) be advised of the nature of the allegation and given the opportunity to state his/her case fully.

(d) No employee will be dismissed for a first breach of discipline except in the case of Gross Misconduct when they are potentially liable for summary dismissal without notice or payment in lieu of notice. Dismissal will only be decided upon by those authorized to act.

(e) All managers involved in the Disciplinary Procedure will keep management notes of the investigations and Hearings including the rationale behind the decision making process.

These will be made available to the employee.

(f) At all stages of the Procedure the employee will have the right to be accompanied by a trade union representative or work colleague of their choice but by no one else including external legal representation.

(g) When an employee is required to attend a Disciplinary Hearing there will be advance written notice to them setting out the grounds for the Hearing and its possible consequences. Witnesses may be called by either party. Documentary and other evidence (including which witnesses are to be called) will, as far as practically possible, be produced with that written notice. The employee will be expected to also make the necessary witness and documentary disclosure available prior to the Hearing.

(h) Criminal activities (either inside work or outside if it is likely to affect an employee's work and/or the Council) will be investigated under the Disciplinary Procedure. Awaiting the outcome of any criminal investigation may not delay the Council's Hearing.

(i) The formal procedure may be implemented at any stage if the employee's alleged misconduct warrants such action.

(j) Only designated employees/Councillors will implement the Disciplinary Procedure and take disciplinary action in accordance with the level authorised. Such employees/Councillors will have a copy of the Disciplinary Procedure and will have received guidance on how to apply it.

(k) An employee will be given an explanation for any penalty imposed, informed of the improvement expected and have the right to appeal against it to the next level of management. Such appeals will normally involve a complete review of the circumstances of the case and the penalty decided upon. Any sanction imposed will have an expiry date.

(l) Every effort will be made to proceed expeditiously. The timescales are constructed to allow sufficient time for the preparation of case. A formal request for a deferment of a Hearing where further time is needed to prepare will not be unreasonably refused provided enough notice is given and the reasons explained. The deferment will not exceed 5 working days and will not normally exceed one instance.

(m) Where an employee raises a grievance related to the disciplinary case, proceedings may have to be suspended for a short while until the grievance is considered. Where a grievance is raised Personnel Services must be consulted.

(n) If an employee refuses to attend a meeting called under this Procedure management will write to the employee concerned explaining that a disciplinary decision may have to be taken in their absence, based on information to hand. If a reasonable reason for non-attendance is forthcoming the process at (l) above will apply.

(o) All disciplinary matters will be treated confidentially.

(p) Personnel Services will be available to managers for advice and support at every stage of the Procedure and will monitor and advise on its consistent application throughout the Council. A representative of Personnel Services will be present at all formal interviews held with employees under this Procedure.

(q) The Procedure has been drawn up in discussion with the trade unions recognised by the Council.

8.5 Authority To Act

Only those so authorised may act in the implementation of this Procedure. A schedule of “Authority to Act” is attached at Appendix 2.

Notwithstanding “Authority to Act” (Appendix 2), the Director of Finance & Resources may independently initiate disciplinary action against any employee with regard to suspected fraud or financial irregularity

A designated employee with “Authority to Act” (Appendix 2) shall present the management case at an appeal against the decision they have taken.

The designated employee may nominate a representative where they are unavailable to act.

8.6 General Responsibilities

Chief Officers/Directors and Managers are responsible for ensuring that the Council’s Code of Conduct, Disciplinary Rules and Procedure are understood by all employees including those whose first language is not English or have a disability or other impairment. They shall also ensure that the Code, Rules and Procedure are correctly implemented within their service areas. It is the responsibility of managers in consultation with Personnel Services to ensure that all notifications are made in accordance with this Procedure and that appropriate records/notes are kept of all proceedings.

Where appropriate, arrangements for training in the use and operation of the Procedure will be initiated by Personnel Services.

13. Personnel Services will make the necessary arrangements for Disciplinary and Appeal Hearings, which involve Councillors. They will also provide any advice necessary to Councillors.

It is the responsibility of Personnel Services to provide overall guidance and advice, as required, in the implementation of the procedure and to monitor consistency of application throughout the Council.

8.7 Disciplinary Rules

The aim of these rules is to make clear the standards necessary for ensuring a safe and efficient workplace and for maintaining good employment relations.

8.8 Gross Misconduct

Acts which constitute Gross Misconduct are those resulting in a serious breach of contractual terms and can, therefore, after proper investigation of the alleged offence, justify summary dismissal. (Dismissal without notice or previous warning).

Whilst it is possible to give examples of what might constitute gross misconduct, each case has to be considered in the light of its own circumstances, since the seriousness of an action often depends on considering a number of criteria. These include:

- a) The nature of the alleged offence;
- b) The duties and position in the Council of the employee (how senior they are, and what responsibilities they have);

- c) Wilfulness/intent (whether there has been deliberate intention to breach Council policy and/or standards);
- d) Mitigating circumstances.

The following acts, and offences of a like nature or similar gravity, are normally regarded as gross misconduct; but as indicated earlier this list is not intended to be exhaustive.

- (a) Serious insubordination to a member of management including continual refusal to carry out reasonable instructions;
- (b) Theft, or attempted theft, misappropriation of property, fraud/dishonesty or deliberate falsification of, or destruction of, records from the Council, or its employees, Councilors or associated organisations, or from premises being visited during the course of employment;
- (c) Unauthorised possession or use of the Council's property, or the property of its employees, Councilors, the public and contractors .Criminal and/or malicious damage to or any other unlawful act which involves the property of the Council, its employees, Councilors, the public, suppliers or contractors or associated organisations;
- (d) Offences of a dishonest or fraudulent character, including failure to disclose material information, convictions, or knowingly making a false statement or omission when applying for an appointment, or falsification of records, time sheets, flexi sheets, time recording sheets, expense claim forms, car allowance claims, returns of ticket sales, drivers 'records, etc.;
- (e) Deliberate disregard and/or intentional breach of the Council's Policies, Procedures, Rules and Regulations, statutory provisions and general instructions concerning the collection, transfer, security and paying in of monies, the issue and receipt of tickets or receipts and the completion and submission of associated documents and the deliberate or willful failure to maximise income to the Council in the disposal of any of its assets;
- (f) Deliberate action or omission which endangers or might endanger life or limb including deliberate damage to, or neglect of, or misappropriation of, safety equipment and any violations of health and safety rules ,instructions and codes of practice which could give rise to serious consequences; i.e. breach of the Council's duty of care;
- (g) Disorderly or indecent conduct, physical violence or bullying, actual or threatened;
- (h) Unlawful discrimination or harassment including discrimination as defined within the Council's Codes of Practice for Dignity at Work and

8.9 Equality of Opportunity in Employment;

- (i) Possession of illegal drugs or substances whilst on duty or the consumption of alcohol or the taking of drugs or other substances indirect contravention of a specific management instruction or regulation, or being under the influence of alcohol or illegal drugs or intoxicating substances in circumstances where it could constitute serious incapability at work, a health and safety hazard or where it would be in breach of a position of responsibility and trust;
- .
- (j) Serious breach of the Council's Information Management & Information&

Communication Technology Guidelines & Compliance Statement;

(k) Deliberate or wilful sabotage of one of the Council's computerized systems; Without prior management agreement engage in other paid employment whilst receiving sick pay or other benefits from the Council during a period of sickness or unauthorized absence;

(m) The use, or attempted use, of an employee's official position for an improper purpose, for his/her own private advantage or for the advantage of a third party, including without authorization, accepting any fees, gifts, hospitality, favours or other reward or favouring family and friends in the delivery of a service;

(n) Omission, misrepresentation or conduct likely to damage seriously the image and/or reputation of the Council and/or which leads to a loss of confidence in the public service;

(o) Serious misuse of the Council's property or name;

(p) Wilful damage to Council property, those other agencies or other employees;

(q) Serious neglect of duty and responsibility or carelessness, which causes or might cause unacceptable loss, damage or injury;

(r) Criminal offences and other conduct outside employment, whether on or off duty which affects the employee's suitability to perform his/her work, makes him/her liable to be unacceptable to other employees or management, or is liable to damage the Council's business and/or

reputation and are such that the employee's presence at work cannot be allowed;

(s) Failure to comply with the requirements of the Local Government Act 1972, which requires an employee or office holder to declare an interest where it comes to their knowledge that a contract in which he/she has any, either direct or indirect, pecuniary interest has been or is proposed to be entered into by the Council. Employees to whom this may apply must seek advice;

(t) Canvassing Councilors for appointment, promotion or other personal advantage.

(u) Failure to disclose when asked any keys, equipment, documents, passwords, decryption codes or any other item or information needed to assist with any investigatory process. (v) Failure to allow investigatory processes relating to the searching or seizure of offices, desks, mobile telephones, lockers, electronic documents, work diaries etc provided by the Council or produced on council equipment.

8.10 Misconduct

Any employee may, after careful investigation of the alleged offence, have disciplinary action taken against them. Examples of misconduct that may result in the Procedure being invoked are:

(a) Breach of the Council's Code of Conduct;

(b) Insubordination, refusal or deliberate failure to follow a reasonable management instruction;

(c) Irregular timekeeping or continual lateness;

(d) Unauthorised absence from work or the work place;

(e) Truculent/foolish behaviour or abusive language likely to cause offence to other employees or members of the public;

(f) Contravention of safety/hygiene rules and instructions;

(g) Breach of the Council's Smoking Policy Statement;

(h) Sleeping on duty, without management approval;

(i) Being under the influence of alcohol or other substances;

(j) Repeated and significant misuse of Council paid working time or facilities (e.g. computer facilities, telephones, parking in unauthorized areas, fax machines);

- (k) Minor neglect of responsibilities or breach of the Council's policies and procedures;
- (l) Wilful failure to adapt to changing technologies, methods and pattern of work (as distinct from inability to adapt which is dealt with under capability procedures); Repeated failure may lead to dismissal.
- (m) Minor contravention of the Council's Information Management & Information & Communication Technology Guidelines & Compliance Statement.
- (n) Any wilful act that impedes an investigation into an alleged act of misconduct.
- (o) Any other act or omission that might otherwise (if the context were judged to be more serious) be dealt with as a matter of gross misconduct

8.11 Summary

To maintain harmonious relations and promote industrial peace, a Code of Discipline has been laid down which applies to both public and private sector enterprises. It specifies various obligations for the management and the workers with the objective of promoting cooperation between their representatives. It has to Maintain peace and order in industry. Promote constructive criticism at all levels of management and employment. Avoid work stoppage in industry. Secure the settlement of disputes and grievances by a mutually agreed procedure. Avoiding litigation.

8.12 Key words

Disciplinary Procedure- A copy of this Code of Conduct, Disciplinary Rules and Procedure will be supplied to all employees who will confirm in writing that they have received them.

General Conduct- Employees are expected to conduct themselves at all times in a manner that will maintain public confidence in both their integrity and the services provided by the Council.

Off-duty hours- are the personal concern of employees General Conduct Subordinate their duties to private interests; Allow duties and private interests to conflict;

Gross Misconduct - Acts which constitute Gross Misconduct are those resulting in a serious breach of contractual terms and can, therefore, after proper investigation of the alleged offence, justify summary dismissal. (Dismissal without notice or previous warning).

8.13 Self Assessment questions

1. Explain the Disciplinary Procedure in Industrial Relations
2. Examine the Code of conduct in the Industries
3. Outline the Disciplinary Rules and Procedure
4. Explain the Misconduct in the organization

8.14 Suggested readings

1. Kubendran, K. Kodeeswari(2011) Industrial Relations and Labour Laws 1st Edition Himalaya Publishing House.
2. Dr.T.VijayaKumar (2014), Labor and Industrial Law, Atlantic Publisher Distribution Private Limited.
3. Avtar Singh & Harpreet Kaur(2021) Introduction to Labour and Industrial Laws Fourth Edition, Lexis Nexis Publications.
4. Justice M.R. Mallik(2020) Labor and Industrial Relations, Professional Book Publishers.
5. Sia Experts(2022), Industrial Relations and Labor Legislations, Sia Publisher & Distributors, 2022-23 Edition

Code of Discipline	8.17	Industrial Relations
--------------------	------	----------------------

6. S.C.Srivastava (2022), Industrial Relations and Labor Legislations, S.Chand & Co.Ltd, 8th Edition.
7. Dr.Ganesh Kumar Jha(2022), Labor Law and Industrial Relations, Ist Edition, Notion Press
8. Dr.Satish kumar Saha (2022), Industrial Relations and Labor Laws, SBPD Publications.
9. Dr. Satish Kumar Saha, Dr. Anju Agarwal(2022) Industrial Relation & Labour Law Latest Edition Prescribed by Industrial Dispute Act, 1947 and The Factories Act, 1948 1st Edition

Dr.V.Tulasi Das

LESSON - 9

LABOUR MANAGEMENT COOPERATION IN INDIA - WORKS COMMITTEES AND JMCS

Learning Objectives

- ✓ To study the labour management
- ✓ To learn the labour management concept
- ✓ To know the works committees
- ✓ To identify the JMCs

Structure

- 9.1 Introduction Labour Management
- 9.2 Improving Productivity Through Cooperative Labor-Management Relations
- 9.3 Concept of Labor-Management Cooperation
- 9.4 Obstacles to Labor-Management Council
- 9.5 Essential Conditions for Effective Labor-Management Council
- 9.6 Importance of Labor-Management Cooperation
- 9.7 Historical and International Legal Bases of Employee-Management Cooperation
- 9.8 Why is there a need for bipartite cooperation
- 9.9 Works Committee
- 9.10 Joint Management Councils
- 9.11 Summary
- 9.12 Keywords
- 9.13 Self - Assessment Questions
- 9.14 Suggested Readings

9.1 Introduction Labour Management

The Labour Management Cooperation is an intensive program designed to facilitate the union-management partnership. Union-management partnerships can be an important and effective vehicle for designing and implementing improvements in the workplace and for building relationships with the union.

The goals of labor-management cooperation are to increase productivity, promote industrial democracy, and avoid conflict and friction. The objective of the cooperative process is to obtain benefits for both parties, not to bargain over the division or distribution of gains.

In many countries, labor-management relations are militant and adversarial.

Both parties hold a negative attitude toward each other. This pervasive negative attitude creates a workplace climate of mutual distrust and hostility. Management perceives the union as interfering with the smooth operation of the organization. The union's role is to get the best possible deal for its members while preventing inequities and other managerial abuses.

Both sides are drawn to protecting and advancing what each perceives as its natural interest.

This traditional adversarial unionism produces economic inefficiency – hostility and animosity between employer and employee and thus leads to a decrease in productivity. Lower productivity is translated into lower employee wages and benefits.

Adversarial unionism has also been criticized because it emphasizes the advancement of material needs such as pay, benefits, job security, and working conditions to the detriment of

more fundamental issues such as fairness and equity.
Is conflict in the employment relationship inevitable?

Godard argues that there are “underlying sources of conflict” that are present as a result of labor-management relationships in many countries. Conflict may arise when workers have little control over the means and processes of doing their work.

In several employment relationships, there are conflicts of interest between the goals of employers and employees – while employers often want productivity and efficiency, employees may seek to maximize compensation while reducing their work effort.

Many workplaces are adopting more cooperative labor-management relations, stimulated partly by sweeping changes in the economic environment over the last decade. Many forces like globalization, organizational downsizing and restructuring, job and workplace restructuring, labor force outsourcing, new technology introduction, bargaining unit consolidations, and system reorganization have also contributed to a growing need to adopt more cooperative arrangements between labor unions and management. Moving beyond adversarial unionism requires restructuring the attitudes of managers, union officials, and members.

9.2 Improving Productivity Through Cooperative Labor-Management Relations

Under this circumstance, fostering union-management cooperation to solve the problem of organization ineffectiveness cannot be ignored.

It is now more important than ever because organizational competitiveness is at stake. Productivity improvement is the only way of addressing the challenge of globalization, which is characterized by international competition, deregulation, and automation.

Productivity is a primary determinant of an organization’s level of profitability and, ultimately, its ability to survive. It also determines people’s standards of living within a particular country.

Thus, the citizens of a highly productive country are likely to have notably higher standards of living than those of a country with low productivity.

Both the labor and managers benefit from increased productivity. Improved productivity mitigates the workers’ demand for higher wages and employers’ demand for a higher return on investment.

How does a business or industry improve its productivity? Numerous specific suggestions made by the experts for improving productivity generally fall into two broad categories: improving research and development (R&D) operation and increasing employee cooperation through participation.

R&D activities are expensive and risky. This does not mean that research and development are less important.

The reality is that poor developing countries like India cannot easily increase research and development activities due to resource constraints.

But these countries can easily modify and change the existing management practices, particularly human resources management, to enhance quality and productivity.

These countries should focus more on building sound labor-management relations, which, in turn, results in cooperation. It is widely believed and proven that productivity can be improved by fostering sound labor-management cooperation.

Drucker, the great management guru, rightly says, “Japanese firms succeed in the competitive business world by establishing a cooperative relationship between management and labor.” Now it is important to explain the concept of labor-management cooperation.

9.3 Concept of Labor-Management Cooperation

Labor-management cooperation (LMC) is a state of relations where labor and management work together to accomplish certain goals using mutually acceptable means.

It is the outcome of a continuous process of enhancing mutual trust and respect through sharing information, discussion, consultation, and negotiation. It is a scheme of workers’ participation process on matters not covered by collective bargaining agreements.

LMC is a long-term effort to improve organizational effectiveness. It is more than just problem-solving. It should be fully integrated into the organizational culture. People are the greatest asset of an organization, and each individual has the potential to strengthen and change the organization.

Good ideas are not reserved for management. Only a wide range of topics exist when labor and managers are recognized and addressed by all parties; the potential for a better solution exists.

The concept of labor-management cooperation is effective in Japanese and Western organizations. Labor-management cooperation is often confused with collective bargaining, although these two are not identical.

“Labor-management Cooperation” refers to the joint effort of labor and capital to find solutions and remedies to problems common to both.

As viewed by Batt and Weinberg, labor-management cooperation is not an alternative to free collective bargaining. Rather it extends collective bargaining beyond its traditional limits, that is, to deal with issues of mutual interest without impairing either party’s bargaining strength.

Collective bargaining deals with matters of the divergence of interests, while labor-management cooperation deals with matters of common interest.

The underlying principle is that there are many matters of common concern to managers and workers, which can best be handled by cooperating.

Labor-management cooperation is not a replacement for collective bargaining. Instead, it should be viewed as a supplement to collective bargaining.

It can be used as an active mechanism to address ongoing problems. Labor-management cooperation can be understood as any mode of bargaining or joint discussion in which the objective is to improve the well-being of both parties.

Labor-management cooperation can occur by setting up a Labor-Management Council (LMC). Labor-Management Council is a voluntary association of representatives of workers and management who meet to identify and resolve issues of common interest.

These issues are normally separate from and outside of the scope of a contract or collective bargaining agreement if there is a union.

Before setting up a WPC program, it is important to understand that it requires both: structure, a body, a body composed of management and labor representatives for jointly identifying, resolving, and implementing decisions on problems and issues of mutual concern to both partners, and a process of dialogue and exchange of information, leading to joint action and teamwork to address and resolve issues and problems that affect work and work relations.

9.4 Obstacles to Labor-Management Council

Several obstacles can be identified that prevent joint cooperative efforts between management and labor (Pfeffer, J. 1998). The main barriers are as follows:

1. Managers may not like to accept the legitimacy of the union,
2. Union officials are ideologically found to oppose, not to cooperate, management,
3. Internal union politics may hinder forming cooperative ventures with management,
4. The fear among union members that cooperation with management may lead to the erosion of the benefits they have worked so hard to attain.
5. Critics also argue that innovative workplace practices undermine union power by co-operating employees by forcing the alignment of employee interests with management.
6. Even under trust conditions, labor-management cooperation may not always flow freely. In some instances, labor-management committees or employee involvement forums may be considered unlawful if they are deemed to have been “set up” by management to usurp union prerogative.

9.5 Essential Conditions for Effective Labor-Management Council

Crane (1992), Cooke (1990), and others have identified several basic approaches or “best practices” that lead to effective labor-management cooperation. These include:

1. Mutual trust by both parties,
2. A problem-solving approach to bargaining,
3. A willingness to innovate and experiment, the widespread implementation of forums such as joint committees and activities that improve the bargaining relationship, and constant communication between both parties,
4. Benefits derived from the cooperation are equitably distributed;
5. Making sure that the cooperative effort is separate from and protected from the use of bargaining tactics,
6. Ensuring self-reliance on behalf of the parties on settling differences rather than resorting to legal counsel and
7. Cooperative labor-management forums and cooperative efforts must be specified beforehand and should not intrude in normally circumscribed areas within the collective bargaining process.

9.6 Importance of Labor-Management Cooperation

The goals of labor-management cooperation are to increase productivity, promote industrial democracy, and avoid conflict and friction. The objective of the cooperative process is to

obtain benefits for both parties, not to bargain over the division or distribution of gains.

Related: Creative Compensation: Non-Monetary / Non-Traditional Compensation

Each party has to serve its interest by cooperating with others. Through cooperation, both parties can replace reactive measures with proactive approaches. Proactive efforts benefit the union and management by saving time and expenses.

By working together, management and workers can find ways to lower costs add provide superior customer value. These savings can mean higher profits for the company and better contracts for the union.

Human relations and behavioral experts strongly feel that productivity or industrial progress depends on a cordial and sound union-management relationship.

Both management and workers are equal partners in industrial progress and prosperity. It is of vital importance to effectively manage the human resources of the organization – the most valued asset of the organization.

Dr. Jose C. Gatchalia argues, “Workplace cooperation is now understood as a broad concept connoting mutual commitment between labor and management to “working together and working smarter.”

Specifically, its goal is to develop an ideal situation where management and workers are full partners in identifying problems at the workplace, crafting solutions to those problems, and implementing agreed-upon solutions. The idea is that greater cooperation between labor and management on matters of mutual concern can create a more satisfying and productive workplace.

The process involves employee participation in day-to-day decision-making that affects their jobs. The structures and procedures enable the partners to redesign work to encourage group problem solving, open information sharing, teamwork, and skill development.

Many experts believe that people are the key to productivity. According to Peters and Waterman, excellent firms in the USA also encourage productivity via people. Productivity through people does not involve too much cost.

Akio Morita, the pioneer of the big Sony Corporation, rightly says, “Assets make things possible, but people make things happen.” It is people that make the difference between success and failure.

Drucker (1994) argues that union leaders tend to resist changes. In his opinion, only voluntary and cordial cooperation can reduce workers’ resistance to change.

They accept decisions gladly and work harder if they share in a decision affecting them. They do not resist change if they know that changes will not cause any inconvenience to them.

Both labor unions and management are concerned about organization and workplace productivity because, without it, management will not be able to provide unionized workers with high wages, benefits, and job security.

To address these economic and productivity issues, unions and management have entered into several joint cooperative programs.

Cooperative programs most common in health care organizations include quality circles and quality improvement teams, formal labor-management forums, joint committees, QWL activities, shared governance (co-determination councils), and employee involvement initiatives, including self-managed teams.

Labor-management forums are formal vehicles for bringing labor and management together under a spirit of cooperation and partnership. The benefits to workers and management of forming joint committees are significant.

Darby surveyed 55 employers and 66 unions in Canada regarding labor-management committees. She concluded that joint committees have the potential to improve communication, result in fewer grievances, and enhance labor-management relations.

9.7 Historical and International Legal Bases of Employee-Management Cooperation

The ILO, ever since its inception, has always strived to implement forms of workplace cooperation through social dialogue, which is defined “to include all types of negotiation, consultation or simply-exchange of information between, or among representatives of government, employers, and workers on issues of common interest relating to economic and social policy.” Various ILO Conventions and Recommendations contain standards related to workplace bipartite cooperation. These are as follows:

- Freedom of Association and Protection of the Right to Organize Convention, 1948 [No. 87]
- Right to Organize and Collective Bargaining Convention, 1949 [No.98]
- Collective Bargaining Convention, 1981 [No. 154]
- Cooperation at the Level of the Undertaking Recommendation, 1952 [No. 94]
- Consultation (Industrial and National Level) Recommendation, 1960 [No. 113]
- Communications within the Undertaking Recommendation, 1967 [No. 129]
- Examination of Grievances Recommendation, 1967 [No. 130]

Essential Requirements for a successful Employee-Management Cooperation

Voluntary and compulsory establishment of Employee-Management Cooperation In Indonesia, the establishment of an EMC can be both voluntary and compulsory. For firms employing less than fifty (50) workers/laborers, organizing an Employee-Management Cooperation is voluntary. However, the law requires that “Every enterprise that employs fifty (50) workers/laborers or more is under obligation to establish a bipartite institution”.

First essential requirement for a successful bipartite cooperation is for the parties to realize the need for cooperative employee-management relations. Whether the establishment of bipartite cooperation is voluntary or compulsory, to succeed, both the employees/laborers on one side and the entrepreneur on the other side must realize the need for cooperative employee-management relations: (a) to enhance the chance of their firm survival, (b) to increase the corporate economic pie and (c) to have a larger pie to distribute.

9.8 Why is there a need for bipartite cooperation

Aside from the fact that employee-management cooperation enhances the survival of the firm, employee-management cooperation is also intended to:

- promote worker's participation in decision making processes
- create a labor relations climate conducive to productivity improvement
- improve the quality of working life
- achieve and sustain economic growth

The second essential requirement for a successful bipartite cooperation relates to the sharing of information. Whether the bipartite cooperation is voluntarily organized or compulsory, its success, to a large degree, is dependent on the openness between the parties through the sharing of information. The quality of cooperation and its effectiveness largely depend on the quality and accuracy of information. But sharing of information is often made difficult by: a) the attitude of the parties; b) lack of appropriate skills; and c) lack of suitable structures.

1. Attitude of the parties

Trust is defined "as confidence in and reliance on good qualities, especially fairness, truth, honor and ability." Trust is an attribute that cannot be imposed but must be earned. Mutual trust between the parties is necessary for a successful and efficient bilateral cooperative relation.

"Trust" or "distrust" is normally a consequence of negotiations whether individual or collective. Where negotiation procedures are smooth, resulting in substantial benefits to the workers, the latter will have a high degree of trust in the process and will increase the ability of management to reach an agreement. On the flip side where the negotiations are turbulent and difficult, negotiations may result in a deadlock or even strikes and other concerted actions by the workers. Here, the level of trust of the workers to the management is low. "Trust" is also a factor in the determination of the issues that will be the subject of bilateral cooperation. Up to what level of information sharing will the management be willing to trust the workers? Bernstein has developed what he calls the range of issues over which control (cooperative relations) may be exercised. This dimension ranges from the immediate work-situation of the employee, to the way the organization functions, to the major goals and goal-setting activities.

2. Lack of appropriate skills

The representatives of both the management and the workers in sharing information must learn the tact of a diplomat. Information, which by its very nature is sensitive, must be delivered with judgment so as not to appear offensive to the other party. For instance, a situation where there is a need to change the company's composition and which would also call for the dismissal of some workers, must be delivered with extreme care. While it may be true, it is not wise to inform the other party that "we have to reengineer to promote efficiency and we have to dismiss a substantial number of workers." The more appropriate and tactful way of presenting this problem is "we have to discuss whether we have to reengineer to promote efficiency and we should also work on whether we have to dismiss some workers and what skills will be needed." The first statement would appear to the other party as a decision already made and they are just being used to 'rubber stamp' the decision. The second statement would show sincerity on the part of the management to seek the cooperation of the workers, even if a decision to reengineer had already been made. The art of timing in the delivery of shared information is also crucially important. Critical information should not be delivered too early where because of time it will be forgotten or too late where it becomes of no use to the parties. Information must be given at the appropriate time and when it is needed.

3. Lack of Suitable Structure

A suitable structure where exchanges of information take place and where Employee Management Cooperation may be pursued, enhanced and successfully executed is needed. Various countries have different names for this institution such as Labor Management Council, Labor Management Committee, Employee-Management Cooperation, Labor Management Board, etc.

The formal or legal procedure in establishing such bipartite institutions are largely based on agreement between the representative of employees and those of the entrepreneurs as follows:

- A. The employees and the entrepreneur are essentially free to determine the membership numbers in the bipartite institution. These should not exceed 20 and must have equal representation (Article 10, KEP. 32/MEN/XII/2008);
- B. They shall determine by agreement the structure of the bipartite institution's official (Article 8, par.2, KEP. 32/MEN/XII/2008). This must include a chairperson and a secretary (Article 11, par.1);
- C. The chairperson shall be rotated between the representatives of employees and representatives of the entrepreneurs (Article 11, par.2);
- D. The establishment and the structure of the bipartite institution's officials shall be recorded in an official report which shall be signed by the entrepreneur and the representatives of the trade union/labor union or representatives of the workers/laborer in the enterprise (Article 8, paragraph C); and
- E. Finally, it must be registered with the government through a written notification of the bipartite institution's establishment (Article 9, par.1).

On procedural matters, the law requires under Article 14 of KEP. 32/MEN/XII/2008 the observance of the following:

- Bipartite institution meetings at least once a month or at any time where such meeting is deemed necessary;
- The materials of the meetings may come from the entrepreneur, the worker/laborer or from the officials of the bipartite institution;
- The agenda shall be determined and discussed by the bipartite institution; and
- The relations between the bipartite institutions shall be cooperative, consultative, and communicative in nature.

The third essential requirement for a successful bipartite cooperation concerns the economic returns.

9.9 Works Committee

According to the Industrial Disputes Act of India, every employer should form a works committee if they have more than 100 employees in the organization. The committee has an equal number of workmen (employees) and individuals representing employers and aims to reduce the material differences between both parties.

As a part of the Industrial Disputes Act, 1947, several organizations are expected to follow a set of rules and regulations. One of these sections states that the company should form a works committee. However, forming it or the works committee procedure is unclear.

According to the Industrial Disputes Act of India, every employer should form a works committee if they have more than 100 employees in the organization.

The works committee members should be comprised of equal number of workmen (employees) and individuals representing employers. The employer should select the employees in consultation with the Union (if already formed in the organization).

Any industrial establishment in which one hundred or more workmen are employed or have been employed on any day in the preceding twelve months, the appropriate Government may by general or special order require the employer to constitute in the prescribed manner a Works Committee consisting of representatives of employers and workmen engaged in the establishment so however that the number of representatives of workmen on the Committee shall not be less than the number of representatives of the employer. The representatives of the workmen shall be chosen in the prescribed manner from among the workmen engaged in the establishment and in consultation with their trade union, if any, registered under the Indian Trade Unions Act, 1926 (16 of 1926).

1. Need for Works Committee

The need for the works committee procedure is to reduce the material differences between both parties. This committee looks after maintaining a healthy relationship between the employer and the employees through the collective efforts of both parties. It also aims at improving industrial peace and works on matters involving general peace and work-related issues.

It shall be the duty of the Works Committee to promote measures for securing and preserving amity and good relations between the employer and workmen and, to that end, to comment upon matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters.

2. Number of members.

The number of members constituting the Committee shall be fixed so as to afford representation to the various categories, groups and class of workmen engaged in, and to the sections, shops or departments of the establishment:

Provided that the total number of members shall not exceed twenty:

Provided further that the number of representatives of the workmen shall not be less than the number of representatives of the employer.

3. Group of workmen's representatives.

On receipt of the information called for under rule 41, the employer shall provide for the election of workmen's representative on the Committee in two groups.

- a) Those to be elected by the workmen of the establishment who are members of the registered trade' unions, and
- b) Those to be elected by the workmen of the establishment who are not members of the registered trade union or unions,

1. Bearing the same proportion to each other as the union members in the establishment bear to the non-members:
2. Provided that where more than half the workmen are members of the union or any one of ,he unions, no such division shall be made:
3. Provided further that where a registered trade union neglects or fails to furnish the information called for under sub-rule (1) of rule 41 within one month of the date of the notice requiring it to furnish such information such union shall for the purpose of this rule be treated as if it did not exist:

4. Provided further that where any reference has been made by the employer under sub-rule (2) of rule 41, the election shall be held on receipt of the decision of Assistant Labour Commissioner (Central).

4. Features of Works Committee.

In this section, we will discuss some of the common features of the works committee procedure that will help you constitute a committee.

- 1) The number of members in the committee should be fixed and not more than 20. Here, it is also specified that the members of employers should not be more than members of employees.
- 2) The representatives from the employer's side should be selected with the consent of the employer and these people should be associated with the organization directly.
- 3) Before the formation of the works committee, the employer should inform the union if they have one. Further, during elections, two groups should be formed: one of the union members who want to be a part of the committee and other non-union members.
- 4) The candidates added to the committee should have worked with the company for at least 1 year and should have attained a minimum age of 19 years.
- 5) The voters who are voting for committee members should be at least 18 years of age and must have worked in the company for atleast 6 months.
- 6) The Central Government or the equivalent authority holds the right to dissolve this committee if they feel it is not constituted as per the guidelines.
- 7) If you wish to understand the full works committee procedure, visit [here](#).

5. Powers and functions of Building and Works Committee

The Building and Works Committee shall discharge the following powers and functions, namely,

- a) it shall be the responsibility of the Committee for construction of all major capital works after securing from the Board the necessary administrative approval and financial sanction;
- b) it shall have the power to give the necessary administrative approval and financial sanction for all construction work and work pertaining to maintenance and repairs, within the grant place at the disposal of the Institute for the purpose;
- c) it shall cause to be prepared estimates of cost of building and other capital work, minor works, repair, maintenance and the like;
- d) it shall be responsible for making technical scrutiny of each work as may be considered necessary by it;
- e) it shall be responsible for enlistment of suitable contractors and acceptance of tenders and shall have the power to give direction for departmental works where necessary.

6. Building and Works Committee

The Building and Works Committee of each Institute shall consist of the following persons, namely.

- a) the Director, ex officio, who shall be the Chairperson of the Committee;
- b) one person nominated by Indian Institute of Technology located in the State in which the Institute is situated;
- c) one person nominated by the Board from amongst its members;
- d) Dean, Planning and Development;
- e) a civil engineer not below the rank of superintending engineer in the Government or Government Agency nominated by the Board;

- f) an electrical engineer not below the rank of superintending engineer in the Government or Government Agency nominated by the Board;
- g) the officer incharge of Estate of the Institute, ex officio Secretary.

7. Dissolution of Works Committee

The Central Government or any officer authority to whom the power under Section 39 has been delegated, may, after making necessary enquiry, dissolve any works committee at any time, by an order in writing provided it or he is satisfied the committee has not been constituted in the accordance with the rules or that not less than 2/3rd of the number of representatives of workmen have without any reasonable justification, failed to attend three consecutive meetings of the committee or that the committee has ceased to function for any other reason, thus defeating the very purpose for which this institution exists in the Industrial law.

Provided that where a Works Committee is dissolved under this rule the employer may, and if so required by the Central Government or, as the case may be, by such officer or authority, shall take steps to re-constitute the Committee in accordance with these rules.

9.10 Joint Management Councils

Under this system, Joint Management Councils are constituted at the plant level. These councils were set up as early as 1958 and consist of an equal number of representatives of the employers and employees, not exceeding 12 at the plant level. The plant should employ at least 500 workers.

This council is entrusted with the responsibility of administering welfare measures, supervision of safety and health schemes, scheduling of working hours, rewards for suggestions etc. The council is to take up issues related to accident prevention, management of canteens, water, meals, revision of work rules, absenteeism, indiscipline etc.

1. Attributes of Joint Management Councils

- It can be consulted by management on certain specified matters.
- In certain matters management is expected to share information with members of council.
- The council has administrative responsibilities.
- Subjects under collective bargaining, such as wages, bonus and allowances have been excluded from the scope of JMC.

2. Objectives of JMC

- Promote healthy relations between management and workers.
- Build trust and understanding between management and workers.
- Improve worker efficiency.
- Provide welfare facilities to the workers.
- Educate workers about the scheme for their increased participation.

3. Employee Directors

Under this method, one or two representatives of workers are nominated or elected to the Board of Directors. This is the full-fledged and highest form of workers' participation in management. The basic idea behind this method is that the representation of workers at the top-level would usher Industrial Democracy, congenial employee-employer relations, and safeguard the workers' interests. The Government of India introduced this scheme in several public sector enterprises such as Hindustan Antibiotics, Hindustan Organic Chemicals Ltd

etc.

10.11 Summary

The works committee is important in industrial organization. Hence, it should be constituted with proper guidelines as laid out by the government. Works Committee to promote measures for securing and preserving amity and good relations between the employer and workmen and, to that end, to comment upon matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters. Ensures employee participation practices that can play a complementary role to promote good relations between management and workforce. Works Committee to promote measures for securing and preserving amity and good relations between the employer and workmen and, to that end, to comment upon matters of their common interest or concern and endeavor to compose any material difference of opinion in respect of such matters.

10.12 Keywords

1. Works Committee - works committee procedure is to reduce the material differences between both parties.
2. JMCs - Administrative responsibility for safety, vocational training and welfare of workers.
3. Committee - A committee is a group of people who meet to make decisions or plans for a larger group or organization that they represent.

10.13 Self - Assessment Questions

1. Discuss the labour management cooperation in India?
2. Role of labour management cooperation for increasing the productivity?
3. Explain the importance of works committees in India?
4. Converse the JMCs to maintain the industrial effectiveness?

10.14 Suggested Readings

1. Industrial Relations, by C.S. Venkata Ratnam & Manoranjan Dhal, Publisher Oxford University Press, ISBN-13 978-0199456550, ISBN-10 - 0199456550, Year 14 April 2017.
2. Industrial Relations, Trade Unions and Labour Legislations, by P.R.N. Sinha, Sinha Indu Bala and Shekhar Seema Priyadarshini, Publisher Pearson Education, ISBN-13 978-9332547537, ISBN-10 933254753X, Year 30 June 2017.
3. Industrial Relations And Industrial Disputes, by Ahuja, Shagun & Amit Rawat, Publisher: Nation Press, ISBN 9789390812691, Year January 2021.
4. Industrial Relations, by C.S. Venkataratnam, ISBN:9780195671087, 16th edition, Oxford publishers, Year 2021.

Dr. Madhu Babu Kavala

LESSON-10

WORKERS PARTICIPATION IN MANAGEMENT

Learning objectives

- ✓ To study the Standing Committee
- ✓ To Learn the Migrant Workers
- ✓ To Know the Industrial Tripartite Committees
- ✓ To focus on the Composition and Functions of Wage Boards
- ✓ To focus on the Working and Evaluation of Wage boards

Structure

- 10.1 Introduction
- 10.2 Characteristics of WPM
- 10.3 Objectives of WPM
- 10.4 Forms of Participation
- 10.5 Levels of Participation
- 10.6 Importance of Workers Participation in Management
- 10.7 Scope of Workers Participation in Management
- 10.8 Evolution of WPM in India
- 10.9 Why WPM is not successful
- 10.10 Workers' Participation in Management (WPM) in India
- 10.11 Worker Director
- 10.12 Summary
- 10.13 Keywords
- 10.14 Self - Assessment Questions
- 10.15 Suggested Readings

10.1 Introduction

Workers Participation Management means different things to different people depending upon their objectives and expectations. Thus, WPM is an elastic concept. For example, for management it is a joint consultation prior to decision making, for workers it means co-determination, for trade unions It is the harbinger of a new order of social relationship and a new set of power equation within organisations, while for government it is an association of labour with management without the final authority or responsibility in decision making.

Article 43A of the Constitution of India deals with the Workers' participation in the management and this comes under DPSP (Directive principle of state policy). Workers' participation in management is one of the important elements of industrial democracy. It is a system where employees have a say in the decision of management. Workers participation in management refers to the participation of the workers in the decision-making process of the organization. This has an incredibly positive impact on the mental and psychological health of the workers, and they are associated with the organization. The concept of workers' participation in management is based on the Human Relations approach to Management which brought about a new set of values to labor and management. WPM focuses on sharing power with the workers who are engaged in work rather than being concentrating on one

hand. Through WPM workers can share and express their views, ideas, and contribute to the decision-making process. Sharing power with workers and listening to their opinion will develop loyalty and trust towards the organization and have a positive impact on the productivity of employees.

1. Historical background of WPM:

In 1920, Mahatma Gandhi had introduced the concept of WPM in India. In Ahmedabad, textile workers and employers agreed to resolve the dispute through joint participation. In 1958, TISCO had set up committees for workers to participate in various matters related to the organization.

According to Keith Davis, “Workers’ participation refers to the mental and emotional involvement of a person in a group situation which encourages him to contribute to group goals and share in responsibility of achieving them”.

In the words of Mehtras “Applied to industry, the concept of participation means sharing the decision-making power by the rank and file of an industrial organisation through their representatives, at all the appropriate levels of management in the entire range of managerial action”.

A clear and more comprehensive definition of WPM is given by the International Labour Organisation (ILO).

According to the ILO:

“Workers’ participation may, broadly be taken to cover all terms of association of workers and their representatives with the decision-making process, ranging from exchange of information, consultations, decisions and negotiations to more institutionalized forms such as the presence of workers’ members on management or supervisory boards or even management by workers themselves as practised in Yugoslavia”.

In Yugoslavia, WPM is governed by the Law on Workers’ Management of State Economic Enterprises and Higher Economic Association. The Act consists of a three-tier participation structure: collective bargaining, workers’ council, and board of management.

In fact, the basic reason for differences in perception of WPM is mainly due to the differential pattern of practices adopted by various countries while implementing workers’ participation in management.

For example, in Great Britain and Sweden, WPM is in the form of Joint Consultation through Joint Consultative Committees, Works Committees in France, Co-determination

Committees in West Germany, Joint Work Council in Belgium, Workers' Council and Management Board in Yugoslavia and Union Management Co-operation in USA.

In India, WPM is in the form of, what we call Labour Management Cooperation and Workers' Participation in Management. It is implemented through the agencies like Works Committees, Joint Management Councils (JMCs) Shop Councils, Unit Councils and Joint Councils. Notwithstanding, these different forms of WPM differ only in degree, not in nature. Be the perceptual differences as these may, WPM is a system of communication and consultation, either formal or informal, by which the workers of an organisation are kept informed, as and when required, about the affairs of the undertaking and through which they express their opinion and contribute to decision-making process of management.

10.2 Characteristics of WPM

The following are the main characteristics of WPM

1. Participation implies practices which increase the scope for employees' share of influence in decision-making process with the assumption of responsibility.
2. Participation presupposes willing acceptance of responsibility by workers.
3. Workers participate in management not as individuals but as a group through their representatives.
4. Worker's participation in management differs from collective bargaining in the sense that while the former is based on mutual trust, information sharing and mutual problem solving; the latter is essentially based on power play, pressure tactics, and negotiations.
5. The basic rationale for worker's participation in management is that workers invest their labour and their fates to their place of work. Thus, they contribute to the outcomes of organization. Hence, they have a legitimate right to share in decision-making activities of organisation.
6. Participation presumes willingly acceptance of responsibilities by the employees.
7. Workers participate through their representatives in the decision-making process. Though workers are participating through their representative, it should not be mixed with collective bargaining, as WPM is based on mutual trust, information sharing and collective bargaining is more of power play and creating pressure on management, negotiations.
8. The logic behind workers' participation is that they put their efforts, invest their labor for the organization, and after all, they are the ones who will be affected by the decision most. Also, they are contributing to the outcome, hence they have the right to give their opinion.
9. It can be formal or informal, but in both cases, it is a system of communication where workers can express their views. In formal participation, various committees and councils come into the pictures such as the works committee, Joint management council, safety committee, etc. whereas informal participation may be like supervisor consulting workers on leave, promotion, transfer, etc.

10. It gives psychological satisfaction to employees, as they spend most of the time in the organization, and commitment and recognition from the organization give them psychological satisfaction

10.3 Objectives of WPM

The objectives of WPM are closely netted to the ration-able for WPM. Accordingly, the objectives of WPM vary from country to country depending on their levels of socio-economic development political philosophies, industrial relations scenes, and attitude of the working class.

To quote, the objective of WPM is to co-determine at the various levels of enterprises in Germany, assign the final to workers over all matters relating to an undertaking in Yugoslavia, promote good communication and understanding between labour and management on the issues of business administration and production in Japan, and enable work-force to influence the working of industries in China, for example.

In India the objective of the government in advocating for workers' participation in management, as stated in the Industrial Policy Resolution 1956, is a part of its overall endeavour to create a socialist society, wherein the sharing of a part of the managerial powers by workers is considered necessary.

1. The objective of WPM, as envisaged in the Second Five Year Plan of India is to ensure

1. Increase in productivity for the benefit of all concerned to an enterprise, i.e., the employer, the employees and the community at large.
2. Satisfaction of worker's urge for self-expression in the matters of enterprise management.
- 3 Making employees better understood of their roles in the organisation.

In ultimate sense, the objective of WPM in India is to achieve organizational effectiveness and the satisfaction of the employees.

2. Objectives of WPM in India

- To increase the motivation level of workers.
- To develop ties of understanding leading to better effort and harmony.
- To act as a tool to check-balance the powers of managers.
- To act as a tool for solving industrial relations problems.
- To encourage harmonious relations between the company's management and workmen.
- To promote mutual trust and understanding among the company's management and worker.
- To increase workers' job satisfaction and promote a sense of importance among workers.
- To provide an opportunity for the workers to freely express their views towards the company's goals, rules, policies, and laws.
- To promote teamwork which helps in increasing production.
- To provide welfare and social justice facilities to workers.
- To maintain the work-life balance.
- To decrease labor turnover and absenteeism because it provides an opportunity for workers to express their concerns.
- It also gives freedom of expression to the employees. Moreover, it also increases job satisfaction among the employees

10.4 Forms of Participation

1. Collective Bargaining:

Collective bargaining is the process of negotiation between a group of employees and the employers to determine the salary, working condition and benefits and other rights of the employees. Workers usually prefer to use this tool rather than ask for a share in management.

2. Work Council/Committee:

Group of people who are representative of employees and employers form this kind of committee with the aim to maintain cordial and harmonious relations between employee and employer.

3. Joint Management Councils:

This council is advisory and consultative in nature and has an equal number of representatives from employee and employer. Neither management nor employee take these councils seriously.

4. Board Representation:

This is the highest form of participation. Under this type of participation few employees are elected on board of directors. The main idea of this is to safeguard the interest of the employees and maintain a good relationship between the employer and employee.

5. Workers Complete Ownership:

This form of participation is called Self-Management. Under this form employees get complete control over the management of enterprise through the elected board. This system is extremely popular in Yugoslavia. In this system two different sets of people perform two types of functions, managerial and Operative.

6. Co-partnership:

In this form workers participate in the share capital of their own company. In this scheme, workers buy the equity share of the company. Workers can make the payment in installments, advance, or loan or can get the assistance from the employer. As a shareholder they take part in the management. However, their participation is limited, hence not preferred by the trade union.

10.5 Levels of Participation:

Having known the objectives of WPM, the question then is to what extent workers can participate in decision-making process. In other words, it is important to know the extents/levels of co-determination in an organisation.

Viewed from this angle, Mehtras has suggested five levels of workers' participation ranging from the minimum to the maximum. Since these levels of workers' influence the process and quality of decision making in an organisation. We are therefore highlighting here these levels briefly ranking them from the minimum to the maximum level of participation.

1. Informative Participation:

This refers to management's information sharing with workers on such items those are concerned with workers. Balance Sheet, production, economic conditions of the plant etc., are the examples of such items. It is important to note that here workers have no right of close scrutiny of the information provided and management has its prerogative to make decisions on issues concerned with workers.

2. Consultative Participation:

In this type of participation, workers are consulted in those matters which relate to them. Here, the role of workers is restricted to give their views only. However the acceptance and non-acceptance of these views depends on management. Nonetheless, it provides an opportunity to the workers to express their views on matters involving their interest.

3. Associative Participation:

Here, the role of the workers' council is not just advisory unlike consultative participation. In a way, this is an advanced and improved form of consultative participation. Now, the management is under a moral obligation to acknowledge, accept and implement the unanimous decision of the council.

4. Administrative Participation:

In the administrative participation, decisions already taken are implemented by the workers. Compared to the former three levels of participation, the degree of sharing authority and responsibility by the workers is definitely more in this participation.

5. Decisive Participation:

Here, the decisions are taken jointly by the management and the workers of an organisation. In fact, this is the ultimate level of workers' participation in management.

10.6 Importance of Workers Participation in Management

Workers' participation in management is very beneficial for both organization and employees. Some important benefits of WPM are listed below:-

- It strengthens democratic participation in decision-making.
- It enhances employer-employee collaboration.
- Due to higher commitment and dedication of employees towards the achievement of goals which increase industrial efficiency.
- It promotes a higher level of health and social justice measures.

- The employees easily connect themselves with the organization, which results in improved performance.
- It increases the job satisfaction of employees
- It reduces conflicts in the workplace.
- It strengthens good communication and sharing of information.
- It ensures the participation of employees in the company's policies and decisions.

With the adoption of Workers' participation in management, the employees get an opportunity to share their ideas, suggestions, and feedback regarding the company's policies and decisions. Also, promote a sense of importance among workers because they are responsible for the achievement of organizational goals.

10.7 Scope of Workers Participation in Management

The main objective behind adopting Workers' participation in management is to bring a sense of belongingness to the employees through ideas, suggestions, and complaints. The whole procedure is backed by a strong and comprehensive reward policy that encourages employees to perform better each time.

The scope of workers' involvement in managerial decision-making may extend to social, economic, and personnel decision-making depending upon the requirements of the organization.

1. Social Decision-Making

Social decision-making considers with social or job security purpose of the employees. It involves decision-making regarding hours of work, rules and regulations at the workplace, working conditions, welfare measures, workers' health, safety or sanitation, and employee welfare.

2. Economic/Financial Decision-Making

WPM also encourages employees to participate in various financial or economic aspects of organizational operations such as the methods of manufacturing and production, cost cutting, inventory, capital structuring, technology and automation, shut-down, mergers and acquisition, lay-offs, etc. Organizations inviting ideas or suggestions from employees on various issues like how to cut down the operating cost can work wonders.

3. Personnel Decision-Making

The WPM plays a key role in personnel decision-making. Workers involved in various management processes including recruitment and selection, training and development, work distribution, placement, promotions, demotions and transfers, suspension, grievance handling, voluntary retirement schemes, remuneration, and so on.

Participation of workers in these kinds of functions or processes protects their interests and motivates them to work hard for the betterment of themselves as well as the organization.

10.8 Evolution of WPM in India

Despite the good intentions and development of various WPM schemes over the period, the scheme has not been a success, the result of the scheme is even not satisfactory.

Despite the noble intentions and evolution of the various WPM schemes over the period the schemes have not been a success. There are ample evidences to report that the Indian

experience in workers participation in management has been far from satisfactory. To quote, the 1983 scheme was introduced in only 91 out of 216 central public sector undertakings up to September 1986.

In a study⁷ covering SIX industrial units, (three each from public and private sectors) concluded that the functioning of JMCs had not been entirely satisfactory for reasons like JMCs imposition from above and its acceptance after hard persuasion, no clear-cut demarcation of JMCs from other consultative committees like works committee and production committee, etc..

- (i) Lack of understanding of the concepts.
- (ii) Rigid attitude of the employees.
- (iii) Vagueness of the legal definitions, scope and functions of these bipartite forums.
- (iv) Half-hearted implementation of decisions arrived at these forums.
- (v) Suspicion in the minds of trade union leaders about the fairness of the scheme.

10.9 Why WPM is not successful

1. Ideological Differences

There is an ideological difference between the employees and the employers regarding the WPM scheme. While employees want to introduce the scheme simultaneously at all levels, the employers are of the opinion to introduce participation gradually at the Board level⁸. The result is the half-hearted acceptance and implementation of the scheme.

2. Improper Imbibement of the Spirit

The workers' representatives consider WPM an instrument for redressal of grievances, higher wages, better working conditions, better security of service etc. They neglect the larger problems like absenteeism reduction, productivity increase, etc. On the other side, the employers feel that the participation will take away from them their right to manage. They also consider the bipartite bodies as substitutes for trade unions.

3. Absence of Strong Trade Unionism

The Indian trade unionism is characterized by features like multiplicity of unions, inter-union rivalry, affiliation to political philosophies, etc. As such there is lack or absence of strong trade unionism in the country. This renders the working of the WPM scheme ineffective.

4. Illiteracy of Workers

The Indian working class is generally illiterate. The workers' representative; on various participation bodies are, therefore, expectedly illiterate or less educated. As such, in the absence of adequate knowledge on their part about the various aspects of the WPM scheme they are unable to actively and effectively participate in decision making forums. Sinha felt that it was mainly illiteracy of workers that rendered the JMCs ineffective or failure.

5. Improper Implementation

There are reports that, in contrast to the stated objectives of participation, in most cases, various boards find themselves dealing with personal matters rather than with productivity and efficiency. This causes dissatisfaction to the employers towards the participation scheme. In addition, delay in implementing the suggestions and recommendations of various bodies often lead to the waning of workers' interest in such bodies and schemes.

6. Absence of Committed Spirit

Past experiences suggest that mere creation of structures and formulation of schemes do not

guarantee success. Spirit precedes success. The same seems absent in case of WPM scheme-be on the part of employees or employers.

There-are instances to cite that in some cases even elementary procedures such as selection of representatives, recognition of unions' undertakings are plagued by absence of genuine bargaining platforms. This leads to lack of trust between the parties and, in turn, eventual failure of the purpose.

10.10 Workers' Participation in Management (WPM) in India

1. Workers' Participation in Management Before Independence

The workers' participation in management is not a novel and imported idea from outside. It can be dated as far back as 1920 when Mahatma Gandhi suggested participation of workers in management on the ground that workers contributed labour and brains while shareholders contributed money to the enterprise and that both should, therefore, share in its property. He said that there should be a perfect relationship of friendship and cooperation among them. For the unions, he said that the aim should be to raise the moral and intellectual height of labour and, thus, by sheer merit, make labour master of the means of production instead of the slave that it is. It was at his instance that, in 1920, the workers and the employers in Ahmedabad Textile Industry agreed to settle their disputes by joint discussions and consultations.

Therefore, the Ahmedabad Agreement may be regarded as a mile-stone in the history of joint consultation i.e. participative management in India. Following this, some works committees were also set up in the Government Printing Presses and Railways. During the same period, such committees were also set up in the Tata Iron and Steel Company, Jamshedpur. Since then, there is no looking back in this direction.

While supporting the need for works committees, the Royal Commission on Labour suggested that, to promoting industrial harmony and to avoid misunderstanding and settle disputes, not only works committees be set up, but strong trade unions be developed and labour officers be appointed.

Along with the works committee, the Commission also suggested the establishment of a joint machinery to deal with the more general questions, and also to act as an advisory appellate body in respect of disputes which were confined to a single establishment. These recommendations of the Commission bore fruits with the provision of formal statutory machinery under the Bombay Industrial Relations Act, 1946 and the Industrial Disputes Act, 1947.

2. Workers' Participation in Management After Independence

In fact, the first major step in the direction of workers' participation in management in India was the enactment of the Industrial Disputes Act, 1947 with the dual purpose of prevention and settlement of industrial disputes. The Industrial Policy Resolution, 1948 advocated WPM by suggesting that labour should be in all matters concerning industrial production. Article 43 A of the Constitution of India has provided for WPM in these words:

"The State shall take steps, by suitable legislation, or in any other way, to secure the participation of workers in management of undertakings, establishments or other organisations engaged in an industry".

The First Five-Year Plan and the successive plans emphasised the need for workers' participation in management. For example, the Second Five-Year Plan' stressed the need for WPM in the following words:

“It is necessary in this context that the worker should be made to feel that in his own way he is helping build a progressive state. The creation of industrial democracy, therefore, is a prerequisite for the establishment of a socialist society”.

The Government of India set up a 'Study Group on Workers' Participation in Management', in 1956, consisting of representatives of the government, employers, and workers to examine the system of WPM in the UK, Sweden, France, Belgium, West Germany and Yugoslavia and make recommendations for the Indian case.

A. The Group submitted its report in May 1957 with the following recommendation

1. WPM schemes should be introduced in selected undertakings on a voluntary basis.
2. A sub-committee consisting of representatives of workers, employers and government should be set up for considering the WPM in India.

The above recommendations, among other things, were accepted by 15th Indian Labour Confer-ence held in July 1957. The Conference appointed a 12 member sub-committee to look into further details of the scheme. The recommendations made by the sub-committee were discussed in a “Seminar on Labour-Management Co-operation” held in New Delhi on January 31 and February 1, 1958. It drew up a “Draft Model Agreement” between labour and management for the establishment of the Joint Management Councils (JMCs) which would have the following three sets of functions:

First, to fulfill its functions as an advisory body.

Second, to receive information on certain matters.

Third, to fulfill administrative responsibilities.

Besides, the Seminar on Labour Management Co-operation also took the size of the Councils, its office bearers, term of office, etc. Thus, the Joint Management Councils (JMCs) were set up in 1958.

Following the recommendations of the Administrative Reforms Commission, the Government of India accepted the inclusion of the representatives of workers on the Board of Directors of public sector undertakings. Following this, the Nationalised Banks (Management and Miscellaneous Provi-sions) Scheme 1970 also provided for the appointment of worker director to their Board. One director was from among employees (who are workmen) and another from among officers for tenure of 3 years.

Thus up to July 1975, there had been three forms of workers' participation in management intro-duced in India: Works Committees, Joint Management Councils and Workers-Directors (public sec-tor) on Boards of Directors.

Under the Government of India's 20-Point Economic Programmes, a new scheme of shops and plants councils was introduced in 1975 after the emergency was declared in June 1975. In the following year 1976, the Government of India amended the constitution to incorporate workers participation in management as one of the Directive Principles of State Policy.

In June 1977, the Government of India set up a high-powered Expert Committee on Companies and MRTTP Acts under the Chairmanship of Rajinder Sachar with terms of

reference to:

- (i) Consider the provisions of the Companies Act and MRTP Act and
- (ii) To suggest measures participation in management and share capital of companies can be brought about. The Sachar Com-mittee submitted its report in August 1978.

Meanwhile, the Janata Government also set up a “Committee Workers’ Participation Management and Equity” in September 1977 under the Chairmanship of Ravindra Varma the then Union Minister of Labour The Committee consisted of 18 members representing Central Organisations of trade unions and employers and some of the States and professional institutions of management.

The strength of Committee increased to 21 by nominating three additional members in January 1978. The terms of reference of the Committee were to consider, among other things, the need for a statutory scheme for workers’ participation in management. The Committee was also to study and recommend an outline of a comprehensive scheme of workers participation at different levels of management in industrial establishments and undertakings. The Committee submitted its report to the Government in March 1979. The report showed that the majority of the members favoured adoption of a three-tier system of participation, viz., at the shop, plant and corporate or board levels. However, the employer of private sector did not favour board or corporate level participation in management. It also recommended to enact legislation on workers participation in management covering all undertakings, be public or private, employing 500 or more workers.

The Government accepted the recommendations made by the 21-Member Committee on Workers’ Participation in Management and Equity. Based on a review of the working of the various schemes of workers’ participation in management and experiences so gained the Government formulated and notified a new comprehensive scheme on a voluntary basis for ‘Workers’ Participation in Management’ on 30th December, 1983.

B. The salient features of the scheme were:

1. The scheme will be non-legislative.
 2. It will apply to all central public sector enterprises, except those specifically exempted.
 3. It envisaged constitution of bipartite forums at shop and plant levels.
 4. The mode of representation of workers representatives was to be determined by consulta-tion with the concerned unions.
 5. A wide range of work related issues were brought within the ambit of the councils.
- However, a host of constraints such as multiplicity of unions, inter-union rivalry, lack of proper knowledge on the part of workers about the scheme, etc., served as stumbling blocks in the successful working of the scheme.

Participation of workers in management bill 1990 (Bill No. XXVIII of 1990):

So far, all the schemes pertaining to the workers’ participation in management have been non--statutory which failed to provide meaningful participation to workers in management.

To remedy the situation, the Government has, therefore, introduced a Bill in the Parliament on 25th May 1990 to provide for:

1. Meaningful three-tier participation of workers in management in all industrial establish-ments.
2. Formulation of scheme specifying criteria regarding nomination of representatives from workers.
3. The principle of secret ballot for determining the representation of workers on the shop floor and establishment level councils.

4. Rules for monitoring the scheme.
5. Deletion of Section 3 of the Industrial Dispute Act, 1947.
6. Rules for appointment of Inspector.
7. Imprisonment up to 2 years or a fine up to Rs. 20,000 or both for contravention of the provisions.

10.11 Worker Director

The definition of worker director in the dictionary is a worker elected to the governing board of a business concern to represent the interests of the employees in decision making.

A worker director is a member of a company's board of directors that is elected by the workforce of an organisation. This example is from Wikipedia and may be reused under a CC BY-SA license. I sit on the board of a major company which has a worker director.

1. Job Summary

The Employee Relations Director will oversee the policies, procedures, and programs of the company's Employee Relations department, developing and improving programs related to employee morale and satisfaction.

2. Supervisory Responsibilities

- Trains, hires, and oversees the work of subordinate employee relations staff.
- Supervises and directs the development of in-service employee training and recruitment
- Ensures compliance with human resource policies and procedures by subordinate staff.
- Conducts performance evaluations that are timely and constructive.

3. Duties/Responsibilities

- Leads and facilitates the employee relations program and related functions.
- Maintains, develops, recommends, and implements program objectives, policies, and procedures.
- Develops and pursues new goals and objectives for improvement in areas of employee relations.
- Communicates with employees regarding employee relations concerns; provides guidance and recommendations for resolution of issues.
- Counsels employees on concerns related to applicable Equal Employment Opportunity laws including Title VII, the Americans with Disabilities Act, the Age Discrimination in Employment Act, and other similar federal and state laws.
- Assists managers and supervisors in understanding and implementing company policies related to performance, discipline, and related topics.
- Develops, presents, and administers departmental budget.
- Performs other related duties as assigned.

4. Required Skills/Abilities:

- Excellent verbal and written communication skills.
- Thorough understanding of human resources and labor relations principles, practices, and procedures.
- Excellent management skills.

- Ability to develop and maintain positive relationships with employees, boards, officials, directors, and other stakeholders.
- Working understanding of statistical concepts and methods of data collection.
- Ability to compile, research, and analyze information.
- Ability to compose and present comprehensive reports.
- Ability to acquire a thorough understanding of the organization's hierarchy, jobs, qualifications, compensation practices, and the administrative practices related to those factors.
- Proficient in Microsoft Office Suite or related software.

5. Education and Experience:

- Bachelor's degree in Human Resources, Business, Public Administration, or related field required; Master's degree preferred.
- At least six years of related experience required, including three years of management experience.
- SHRM-SCP preferred.

6. Physical Requirements:

- Prolonged periods sitting at a desk and working on a computer.
- Must be able to lift up to 15 pounds at times.

10.12 Summary

In this unit, we have dealt with the concept, objectives and the structure/levels and forms of employee involvement/workers' participation in management. Further, we have outlined the pre-requisites for effective participation. We have reviewed the historical development/practices of workers' participation in India and abroad. In some countries the employee participation is successful and in others it is not. In India it failed to take off. As observed by the second National Commission on Labour, the time has come for Government to enact a law to provide for participatory forums at all levels of the organisations. A worker director is a member of a company's board of directors that is elected by the workforce of an organisation.

10.13 Keywords

1. The philosophy of workers' participation in management provides a sound basis for the economic an.
2. The major institutions under the erstwhile Yugoslavian model are workers' council, management board, director, and local people's committees.
3. A worker director is a member of a company's board of directors that is elected by the workforce of an organisation.
4. Worker directors provide a direct link between the board and employees—and new perspectives on a business.

10.14 Self - Assessment Questions

1. What are the aims and objectives of Workers' Participation in Management?
2. Outline the origins of Workers' Participation in Management in India.
3. What are the pre-requisites for effective participation?
4. Discuss the worker director in industrial relations?

10.15 Suggested Readings

1. Industrial Relations, by C.S. Venkata Ratnam, Oxford publications, ISBN 9780199456550, Year May 2017.
2. Accounting Principles, Industrial Relations & Labour Laws, by Disha Experts, Disha Publications, More Information, ISBN 9788196150150, Year 2021.
3. Industrial and Employment Relations, by Gullybaba.com Panel, Publisher Gullybaba Publishing House Pvt. Ltd., ISBN-13 978-9355542540, ISBN-10 9355542542, Year 31 December 2021.
4. Industrial Relations And Labour Laws, by SIA Publishers, Publisher SIA Publishers & Distributors Pvt Ltd, Year 11 December 2022.
5. Industrial Relations and Labour Laws, by S C Srivastava, Year 2022.

Dr. Madhu Babu Kavala

LESSON- 11

EMPLOYEE GRIEVANCE AND THE INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT 1946

Learning Objectives

- ✓ To understand the concept of employee grievance
- ✓ To know the sources of identifying grievance
- ✓ To analyze the types of grievance
- ✓ To learn redressal system in India
- ✓ To study The Industrial Employment (standing orders) Act 1946
- ✓ To know the purpose and significance of the Industrial Employment Standing Orders Act, 1946
- ✓ To understand the role of Industrial Employment Standing Orders Act, 1946 in Industrial Relations

Structure

- 11.1 Introduction
- 11.2 Features of grievance
 - 11.2.1. Formal Complaint
 - 11.2.2. Employee Complaint
 - 11.2.3. Grievance Procedure
 - 11.2.4. Confidentiality
 - 11.2.5. Investigation and Resolution
 - 11.2.6. Timely Response
 - 11.2.7. Appeal Process
 - 11.2.8. Documentation
- 11.3 Sources of Identifying grievance
 - 11.3.1. Employee Complaints
 - 11.3.2. Exit Interviews
 - 11.3.3. Employee Surveys
 - 11.3.4. Performance Reviews
 - 11.3.5. Observations and Communication
 - 11.3.6. HR Records and Data Analysis
 - 11.3.7. Workplace Culture Assessments
 - 11.3.8. Whistle-blower Hotlines or Anonymous Reporting Channels
- 11.4 Types of grievance
- 11.5 Grievance redressal system in India
 - 11.5.1. Internal Grievance Redressal Mechanism
 - 11.5.2. Grievance Procedure
 - 11.5.3. Grievance Officer
 - 11.5.4. Labour Department
 - 11.5.5. Industrial Tribunals and Labour Courts
- 11.6 The Industrial Employment (standing orders) Act 1946
- 11.7 The Industrial Employment (standing orders) Act 1946 Features
- 11.8 Purpose and Significance of the Industrial Employment Standing Orders Act, 1946
- 11.9 Industrial Employment Standing Orders Act, 1946- A Vital for the Workers
- 11.10 Role of Industrial Employment Standing Orders Act, 1946 in Industrial Relations

- 11.10.1. Standardization of Employment Terms
- 11.10.2. Preventing Arbitrary Treatment
- 11.10.3. Facilitating Collective Bargaining
- 11.10.4. Resolving Disputes
- 11.10.5. Protection of Workers' Rights
- 11.10.6. Compliance and Enforcement
- 11.11 Summary
- 11.12 Key Words
- 11.13 Self-Assessment Questions
- 11.14 Suggested Readings

11.1 Introduction

Grievance definitions can vary depending on the context, but generally, a grievance refers to a formal complaint or feeling of injustice or dissatisfaction expressed by an individual or group. It typically arises from a perceived violation of rights, unfair treatment, or any other issue that causes distress or harm. Grievances can occur in various settings, including the workplace, educational institutions, organizations, or within personal relationships.

According to J.M. Jucius, “A grievance is any discontent or dissatisfaction whether expressed or not, whether valid or not, arising out of anything connected with the company which an employee thinks, believes or even feels to be unfair, unjust or inequitable.”

In the words of Edward Flippo, “It is a type of discontent which must always be expressed. A grievance is usually more formal in character than a complaint. It can be valid or ridiculous and must grow out of something connected with company operations or policy. It must involve an interpretation or application of the provisions of the labour contract.”

Dissatisfaction, Complaint and Grievance- It is rather difficult to define a grievance. Human resource professionals however, have attempted to distinguish between dissatisfaction, complaint, and grievance. Dissatisfaction is any state or feeling of dissatisfaction which is orally made known by one employee to another known as a complaint. A complaint becomes a grievance when this dissatisfaction, which is mostly related to work, is brought to the notice of the management.

11.2 Features of grievance

11.2.1. Formal Complaint: A workplace grievance is a formal complaint made by an employee to their employer or the human resources department. It is not merely an informal expression of dissatisfaction but a documented and structured process.

11.2.2. Employee Complaint: Grievances are raised by individual employees or a group of employees. They can be based on a wide range of issues such as harassment, discrimination, unfair treatment, working conditions, pay discrepancies, disciplinary actions, or any other matter that affects the rights, well-being, or terms of employment of the employee(s) involved.

11.2.3. Grievance Procedure: Most organizations have established grievance procedures that outline the steps to be followed when raising and addressing a grievance. These procedures typically involve a structured process that may include submitting a written complaint, meetings with relevant parties, investigations, and resolution mechanisms.

11.2.4. Confidentiality: Grievance procedures often ensure the confidentiality of the individuals involved to protect their privacy and prevent any potential retaliation or victimization. Confidentiality helps create a safe environment for employees to voice their concerns without fear of negative consequences.

11.2.5. Investigation and Resolution: Once a grievance is lodged, the employer or human resources department is responsible for conducting an investigation to gather relevant information and facts surrounding the complaint. The investigation aims to determine the validity of the grievance and find a resolution that is fair and reasonable for all parties involved.

11.2.6. Timely Response: Organizations typically have specific timelines within which they must respond to and address grievances. These timelines ensure that the complaint is dealt with promptly and efficiently, minimizing any potential harm or prolonged distress experienced by the employee(s).

11.2.7. Appeal Process: If an employee is dissatisfied with the outcome or resolution of their grievance, they may have the option to appeal the decision. This allows for a further review of the case by a higher authority or an impartial third party, providing an additional layer of accountability and fairness.

11.2.8. Documentation: Throughout the grievance process, it is essential to maintain thorough documentation of all the relevant steps, communications, and decisions taken. This documentation helps ensure transparency, record the details of the investigation, and serve as a reference for any future actions or potential legal proceedings.

11.3 Sources of Identifying grievance

Identifying grievances in the workplace involves recognizing and addressing employee concerns or complaints. Here are some common sources that can help identify grievances:

11.3.1. Employee Complaints: The most direct and common source of identifying grievances is through employee complaints. Employees may bring their concerns to the attention of their supervisors, managers, or the human resources department. Encouraging open communication channels and providing mechanisms for employees to voice their concerns can help in identifying grievances.

11.3.2. Exit Interviews: Conducting exit interviews with departing employees can be a valuable source of identifying grievances. Departing employees may be more willing to provide honest feedback about their experiences, concerns, or issues they faced during their tenure. This feedback can help identify systemic problems or patterns within the organization.

11.3.3. Employee Surveys: Organizations can use employee surveys to gather feedback and identify potential grievances. Anonymous surveys or questionnaires can provide a safe space for employees to express their opinions, highlight areas of concern, or disclose any unfair treatment they have experienced.

11.3.4. Performance Reviews: During performance reviews or evaluation discussions, employees may express grievances related to their job responsibilities, workload, career advancement, or treatment by supervisors or colleagues. Paying attention to employee feedback during these conversations can help identify grievances.

11.3.5. Observations and Communication: Managers and supervisors should be observant and proactive in identifying signs of employee dissatisfaction or grievances. This can include noticing changes in behavior, increased absenteeism, decreased productivity, or interpersonal conflicts within the workplace. Regular communication and building relationships with employees can also help uncover underlying issues.

11.3.6. HR Records and Data Analysis: Analyzing HR records, such as records of disciplinary actions, employee complaints, or patterns of absenteeism or turnover, can help identify potential grievances. Monitoring trends or recurring issues in these records can provide insights into areas that require attention or further investigation.

11.3.7. Workplace Culture Assessments: Conducting workplace culture assessments, climate surveys, or engagement surveys can help identify grievances by measuring employee satisfaction, perceptions of fairness, and overall workplace climate. These assessments can uncover underlying issues and areas where improvements are needed.

11.3.8. Whistle-blower Hotlines or Anonymous Reporting Channels: Implementing whistle-blower hotlines or anonymous reporting channels can provide employees with a secure and confidential means to report grievances without fear of retaliation. These channels can uncover grievances that employees might be hesitant to report openly.

11.4 Types of grievance

In the workplace, grievances can arise from various issues and concerns. Here are some common types of grievances that can occur:

11.4.1. Harassment: Grievances related to harassment can include sexual harassment, bullying, verbal abuse, or any form of unwelcome behavior that creates a hostile or intimidating work environment.

11.4.2. Discrimination: Grievances related to discrimination involve allegations of unequal treatment based on protected characteristics such as race, gender, age, religion, disability, or other factors. It can include instances of bias in hiring, promotion, pay, or job assignments.

11.4.3. Retaliation: Grievances related to retaliation occur when an employee faces adverse actions or treatment as a result of reporting a complaint, participating in an investigation, or engaging in protected activities, such as whistleblowing or exercising legal rights.

11.4.4. Unfair Treatment: Grievances related to unfair treatment can involve perceived favoritism, unfair distribution of work or assignments, arbitrary or inconsistent application of policies or rules, or unequal access to resources or opportunities.

11.4.5. Compensation and Benefits: Grievances related to compensation and benefits can include disputes over wages, salary discrepancies, unpaid overtime, denied bonuses or benefits, inadequate leave policies, or unfair distribution of incentives.

11.4.6. Working Conditions: Grievances related to working conditions can involve issues such as inadequate health and safety measures, excessive workload, lack of proper equipment or resources, poor facilities, or any other factor that negatively impacts the physical or mental well-being of employees.

11.4.7. Contractual Violations: Grievances related to contractual violations arise when there are alleged breaches of employment contracts or collective bargaining agreements. This can include issues such as changes in working hours, job duties, or terms of employment without proper consultation or agreement.

11.4.8. Lack of Career Development: Grievances related to career development can involve concerns about limited opportunities for advancement, unfair performance evaluations, inadequate training or development programs, or a lack of recognition for skills and accomplishments.

11.4.9. Management or Leadership Issues: Grievances related to management or leadership can include allegations of ineffective or abusive management practices, lack of communication, poor decision-making, or failure to address employee concerns or provide support.

11.4.10. Organizational Policies and Procedures: Grievances related to organizational policies and procedures can involve disputes over the interpretation or application of policies, perceived inconsistencies, lack of transparency, or unfair disciplinary actions.

11.5 Grievance redressal system in India

In India, the grievance redressal system for factories is governed primarily by the Factories Act, 1948, and the rules made thereunder. The Act provides for the welfare and safety of workers employed in factories and includes provisions for addressing grievances. Here are the key components of the grievance redressal system for factories in India:

11.5.1. Internal Grievance Redressal Mechanism: Every factory is required to have a Grievance Redressal Committee consisting of representatives of workers and management. The committee is responsible for addressing and resolving grievances raised by workers related to their employment, working conditions, and welfare.

Internal Complaints Committee:

As per the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 of India (POSH Act), every workplace having at least 10 employees is required to constitute an Internal Complaints Committee (IC). The IC is required to investigate into complaints of sexual harassment of women at the workplace and give recommendations to the employer.

Grievance Redressal Committee:

As per section 9C of the Industrial Disputes Act, 1947 of India (IDA), every employer employing at least 20 workmen^[ii], is required to set up a Grievance Redressal Committee (GRC) for resolution of the disputes arising out of grievances of the workmen.

The draft Industrial Relations Code, 2019 which has been introduced in Lok Sabha, proposes that the industrial establishment should have one or more GRC to resolve disputes arising out of grievances of individual workers relating to non-employment, terms of employment or conditions of service.

Works Committee:

The labour authorities may under section 3 of the IDA, order an establishment having at least 100 workmen, to set up a Works Committee (WC). The WC is required to promote measures

for securing and preserving amity and good relations between the employer and its workmen, and to that extent, comment upon matters of common interest or concern.

Committee for Employee's Health and Safety: Certain Indian states like Maharashtra (covering employers in Mumbai and Pune), require employers employing at least 100 workers, to set up a Health, Safety and Welfare Committee (HSW Committee). The duty of the HSW Committee includes surveying and identifying any accident-prone or hazardous objects or spots in the premises, rectifying such spots, conducting healthcare camps once a year, and conducting social and educational awareness programs.

Whistle blowing in India:

- As per the Companies Act, 2013, certain categories of companies are required to have a vigil mechanism (like whistle blowing channels). Every listed company and those companies which accept deposits from the public or have borrowed money from banks and public financial institutions in excess of INR 50 crores (approx. USD 7 million), are required to have a vigil mechanism in place.
- While the Whistle Blowers Protection (Amendment) Bill, 2015 was introduced by Lok Sabha, it is yet to be enacted as a law. Accordingly, private employers in India (unlisted entities) are yet to be mandated with a whistle blowing policy.
- In a bid to discourage employees from going external and to allow employees to complain about an anonymous basis, some of the progressive organizations have effectively and voluntarily adopted policies and implemented mechanisms to proactively address employee grievances across the organization.

11.5.2. Grievance Procedure: The Factories Act mandates that every factory must establish a grievance procedure that outlines the steps to be followed for lodging and resolving grievances. The procedure typically includes provisions for submitting written complaints, investigating the complaint, holding discussions with the concerned parties, and arriving at a resolution.

11.5.3. Grievance Officer: The factory is required to appoint a Grievance Officer who acts as a liaison between workers and management. The Grievance Officer is responsible for receiving and processing grievances, conducting investigations, and facilitating the resolution process.

11.5.4. Labour Department: In case the internal grievance redressal mechanism fails to resolve the grievance or if the worker is dissatisfied with the outcome, they can approach the Labour Department or the Chief Inspector of Factories in their respective state. These authorities have the power to intervene, conduct inquiries, and issue appropriate directions to resolve the grievance.

11.5.5. Industrial Tribunals and Labour Courts: If the grievance remains unresolved, the worker can file a complaint before the appropriate Industrial Tribunal or Labour Court. These judicial bodies have jurisdiction to adjudicate disputes related to employment, including grievances arising in factories.

11.6 The Industrial Employment (standing orders) Act 1946

The Industrial Employment Standing Orders Act, 1946 is an act of the Parliament of India that provides a framework for regulating conditions of employment in certain industries. It was enacted as a part of the post-independence labour reform efforts. The Act applies to

establishments employing ten or more workers and defines an 'industrial establishment' as one where at least 50 persons are employed at any time during the preceding 12 months.

A standing order is a rule made by an employer establishing a system or method of working or regulating any aspect of employment in an industrial establishment. The standards ensure that employees have access to safe working conditions, social security benefits, education facilities etc. These agreements must be registered with a labour officer, who can enforce compliance with them.

The Industrial Employment Standing Orders Act seeks to improve the living and working conditions of workers by providing better pay and benefits such as leave, health care, etc. It also aims to ensure that employers do not abuse their power by making unilateral decisions about wages, benefits or other conditions of employment without consulting workers' representatives (if any).

The Act provides for the establishment of a code of minimum wages and other conditions of employment for workers in factories and commercial establishments that employs the workers. The Code was originally enacted in 1946 by the Central Legislature as a result of the efforts of the labour movement led by the leaders of our nation to improve the working conditions of industrial workers in India.

11.7 The Industrial Employment (standing orders) Act 1946 Features

The Industrial Employment Standing Orders Act, 1946 regulates working hours, holidays, wages, and other conditions of service for workers employed in industrial establishments. It also prescribes procedures for the settlement of disputes between employers and employees and provides for arbitration machinery to deal with such disputes.

It was enacted to promote a better understanding between the employers and the industrial workers on matters relating to employment and payment of wages, hours of work, leave with pay, holidays with pay, termination of service rules etc.

The definition of the factory under the Industrial Employment Standing Orders Act includes not only factories but also workshops and mines established for extraction of coal or other minerals from the earth by means of machinery or otherwise than by manual labour; docks; railway wagons, aircraft and tramways whether propelled by mechanical power or otherwise; vessels navigated by steam or other mechanical power; electric light plants; cinematograph films showing apparatus or devices for exhibition or reproduction of pictures or images; cinemas and theatres; gas works; electric light works; textile mills, oil mills and sugar refineries.

The Industrial Employment Standing Orders Act, 1946 is an act of the Parliament of India which provides for the regulation of conditions of service of industrial workers in India. For each schedule within the Act, the Parliament of India issues the written instruction of standing orders which provide for minimum wages, maximum hours of work and working conditions. The main features of this Act are:

- It applies to all factories, mines and other establishments where 20 or more workmen are employed or were employed on any day of the preceding twelve months
- It provides for minimum wages, maximum hours and other conditions of employment, such as leave with wages, overtime allowance etc., to be determined by the appropriate

Government by notification from time to time

- It also provides for a provision of maternity relief and medical relief, and insurance cover against accidents for all the industrial workers covered by the Act
- Due compensation will be furnished to the workers under the provision of this Act as per their defined shift timings between 6 am to 6 pm, respectively.

11.8 Purpose and Significance of the Industrial Employment Standing Orders Act, 1946

The Industrial Employment Standing Orders Act, 1946 aims to provide for the fixation of minimum rates of wages, hours of work, holidays with pay and leave with pay in factories, workshops and other establishments or undertakings which employ ten or more workers.

It also provides for the regulation of facilities like medical aid and welfare schemes to be extended by employers to their employees.

It was enacted to monitor and regulate the terms and conditions of industrial employment in India. It made provisions for the security of employment and payment of wages by cash or through cheque etc. The Act also provides for machinery for adjudicating disputes regarding violation of such terms and conditions. A Standing Order is a document setting out terms and conditions of employment for workers in an industry.

The Industrial Employment Standing Orders Act, 1946 sought to ensure that all employees receive benefits such as:

- A minimum wage for every hour worked
- Payment of bonus at certain intervals during the year
- Provision of paid leaves
- Provision of free conveyance to and from the workplace

The Industrial Employment Standing Orders Act, 1946 for the welfare of the industrial workers lays down general principles for the fixation of wages and working hours in factories and other industrial establishments. The minimum wage ceiling fixed by this law has been increased from time to time by way of notifications issued by the Government of India from time to time.

It aims to provide security of employment and to regulate the terms and conditions of service in factories, mines and other establishments engaged in any industry. The Act provides for the establishment of a Board for each state to exercise jurisdiction over matters relating to industrial employment.

The Central Government may make rules for regulating the wages and conditions of service of employees in any establishment covered under this Act. These rules are called 'Standing Orders', and they are issued by the Ministry of Labour & Employment. The Standing Orders contain minimum rates of wages and other conditions of service which employers must adhere to as per the provisions of this Act.

The Standing Orders also contain provisions for payment of bonus, provident fund and gratuity, leave facilities etc., which apply to all establishments irrespective of size or number of workers employed therein.

11.9 Industrial Employment Standing Orders Act, 1946- A Vital for the

Workers

The Industrial Employment Standing Orders Act, 1946 was enacted to regulate relations between employer and employee in industrial establishments. It is based on the following premises:

- The employment of workers in any industrial establishment should be regulated by a uniform standard applicable to all establishments throughout the country
- There should be effective machinery for enforcing the observance of this standard
- Wherever possible, disputes between employers and employees should be settled by conciliation or arbitration
- The law applies to all factories, mines, oilfields and other industrial establishments employing 20 or more workers on any day in any one year or working 26 or more days in any one year

The Industrial Employment Standing Orders Act, 1946 (IESO) is important legislation that was enacted to ensure the rights and welfare of workers in industrial establishments. The Act lays down certain conditions under which the factories have to operate. It also provides for the fixation of minimum wages and other conditions of employment of workers in factories. The main objective of the Industrial Employment Standing Orders Act is to ensure that there is no exploitation of workers by their employers or vice versa. The Act also ensures that workers get their due wages and other benefits like medical facilities, holidays etc.

Under this Act, every worker has a legal right to minimum wage. This is a statutory entitlement under the Industrial Employment Standing Orders Act, 1946, which forms part of the labour laws in India.

The Industrial Employment Standing Orders Act 1946 is vital for the workers as it protects their rights and ensures that they get fair wages for their labour. The Act requires employers to provide a safe working environment for their employees by maintaining good hygiene and sanitation standards at the workplace.

The Act provides for the constitution of local committees and appellate tribunals. It also provides for conciliation by these committees before referring disputes to arbitration by the Central Government.

11.10 Role of Industrial Employment Standing Orders Act, 1946 in Industrial Relations

The Industrial Employment Standing Orders Act (IESO Act) of 1946 plays a significant role in shaping industrial relations in India. The act establishes a framework for defining the terms and conditions of employment for workers in industrial establishments. Its primary objective is to promote industrial peace, discipline, and uniformity in employment conditions across various industries.

Here are the key roles of the Industrial Employment Standing Orders Act 1946 in industrial relations:

11.10.1. Standardization of Employment Terms: The act requires employers to define and publish standing orders, which contain rules and regulations governing various aspects of employment, such as working hours, leave policies, disciplinary procedures, and grievance redressal mechanisms. It aims to bring uniformity and clarity in employment conditions and

ensures that workers are aware of their rights and obligations.

11.10.2.Preventing Arbitrary Treatment: The act prohibits the employer from making arbitrary decisions or changing employment conditions without due process. It mandates that any changes in standing orders must be communicated to the workers and the appropriate authority, ensuring transparency and preventing unfair practices.

11.10.3.Facilitating Collective Bargaining: The act recognizes the importance of collective bargaining between employers and workers' representatives. It encourages the formation of trade unions and provides a legal framework for negotiations, thereby promoting a harmonious relationship between management and labor.

11.10.4.Resolving Disputes: In cases of disputes related to employment conditions, the act provides a mechanism for resolving conflicts through conciliation, arbitration, or adjudication. This helps in maintaining industrial peace and avoiding prolonged labor disputes.

11.10.5.Protection of Workers' Rights: The act includes provisions to safeguard workers' rights and prevent exploitation. It ensures fair treatment, prevents discrimination, and provides mechanisms for workers to raise grievances against any violation of their rights.

11.10.6.Compliance and Enforcement: The act empowers the appropriate government authority to enforce the provisions of the act and ensure compliance by industrial establishments. Employers failing to comply with the provisions of the act may face penalties or legal consequences.

11.11 Summary

It is crucial for organizations to create a culture that encourages open communication, provides multiple channels for reporting grievances, and ensures that employees feel safe and supported when raising their concerns. Regular monitoring, feedback mechanisms, and a proactive approach to addressing employee concerns can help identify and address grievances effectively. There are different types of grievances that can occur in the workplace. It is important to note that each organization may have its own unique set of issues and concerns that can give rise to grievances. Additionally, specific laws and regulations may dictate the types of grievances that are legally protected and require specific procedures for resolution. It is important to note that the specific details and procedures of the grievance redressal system may vary from state to state. Each state may have its own rules and regulations governing the implementation of the Factories Act and the grievance redressal process. Therefore, it is advisable to refer to the relevant state-specific laws and regulations for a comprehensive understanding of the grievance redressal system for factories in a particular state in India. The Industrial Employment Standing Orders Act, 1946 aims to provide for the fixation of minimum rates of wages, hours of work, holidays with pay and leave with pay in factories, workshops and other establishments or undertakings which employ ten or more workers. Overall, the Industrial Employment Standing Orders Act 1946 aims to establish a fair and orderly framework for industrial employment, promote harmonious relations between employers and workers, and protect the rights of workers. It plays a crucial role in maintaining industrial peace, resolving disputes, and providing a structured framework for employment conditions in India.

11.12 Key Words

Harassment: Grievances related to harassment can include sexual harassment, bullying, verbal abuse, or any form of unwelcome behavior that creates a hostile or intimidating work environment.

Discrimination: Grievances related to discrimination involve allegations of unequal treatment based on protected characteristics such as race, gender, age, religion, disability, or other factors. It can include instances of bias in hiring, promotion, pay, or job assignments.

Retaliation: Grievances related to retaliation occur when an employee faces adverse actions or treatment as a result of reporting a complaint, participating in an investigation, or engaging in protected activities, such as whistleblowing or exercising legal rights.

Unfair Treatment: Grievances related to unfair treatment can involve perceived favoritism, unfair distribution of work or assignments, arbitrary or inconsistent application of policies or rules, or unequal access to resources or opportunities.

Compensation and Benefits: Grievances related to compensation and benefits can include disputes over wages, salary discrepancies, unpaid overtime, denied bonuses or benefits, inadequate leave policies, or unfair distribution of incentives.

Working Conditions: Grievances related to working conditions can involve issues such as inadequate health and safety measures, excessive workload, lack of proper equipment or resources, poor facilities, or any other factor that negatively impacts the physical or mental well-being of employees.

Contractual Violations: Grievances related to contractual violations arise when there are alleged breaches of employment contracts or collective bargaining agreements. This can include issues such as changes in working hours, job duties, or terms of employment without proper consultation or agreement.

11.13 Self-Assessment Questions

1. Write a note on features of grievance
2. What are the sources of identifying grievance?
3. Explain the types of grievance in detail
4. Explain Grievance redressal system in India
5. Discuss the feature of The Industrial Employment (standing orders) Act 1946
6. Explain the role of Industrial Employment Standing Orders Act, 1946 in Industrial Relations

11.14 Suggested Readings

1. Lewis, P., Thornhill, A. and Saunders, M. (2003) Employee Relations: Understanding the Employment Relationship, Harlow: Prentice Hall.
2. Tony Dundon, Derek Rollinson (2011) Understanding Employment Relations. McGraw-Hill Education
3. Robert L. Mathis, John H. Jackson (2008). Human Resource Management, Twelfth Edition. Thomson South-Western
4. [Deborah C. England](#) (2009). The Essential Guide to Handling Workplace Harassment & Discrimination. Nolo, 2009
5. H.L. Kumar, Law Relating to Disciplinary Proceedings in Industries (10th ed., 2019)
6. P.L. Malik's, Industrial Law (21st ed., 2008)

7. S.C. Srivastava (rev.), Labour Law and Labour Relations: Cases and Materials (7th ed., 2019)

Dr. Madhu Babu Kavala

Lesson- 12

Employee Discipline and Disciplinary Action

Learning Objectives

- ✓ To Understand the concept of employee discipline
- ✓ To study the nature, objectives, and significance of employee discipline
- ✓ To learn the factors to be considered in employee discipline
- ✓ To know the types of employee discipline
- ✓ To study process of domestic enquiry during employee allegations of employee misconduct
- ✓ To understand the disciplinary actions against employee misconduct

Structure

- 12.1 Introduction
- 12.2 Employee Discipline – Meaning and Definitions
- 12.3 Nature of Employee Discipline
- 12.4 Objectives of Employee Discipline
- 12.5 Significance of Employee Discipline
- 12.6 Factors to be Considered in Employee Discipline
 - 12.6.1. Seriousness of the Problem
 - 12.6.2. Duration of the Problem
 - 12.6.3. Nature of the Problem
 - 12.6.4. External Influence
 - 12.6.5. Degree of Familiarity
 - 12.6.6. Disciplinary Practices
 - 12.6.7. Management Support
- 12.7 Types of Employee Discipline
 - 12.7.1. Positive Discipline
 - 12.7.2. Negative Discipline
 - 12.7.3. Self-Discipline and Control
 - 12.7.4. Progressive Discipline
 - 12.7.5. The Red-Hot Stove Rule
- 12.8 Process of Domestic enquiry during employee allegations of employee misconduct
 - 12.8.1. Initiation of the Enquiry
 - 12.8.2. Preliminary Investigation
 - 12.8.3. Serving a Charge Sheet
 - 12.8.4. Response and Gathering Evidence
 - 12.8.5. Formation of Enquiry Committee
 - 12.8.6. Domestic Enquiry Proceedings
 - 12.8.7. Enquiry Report and Recommendations
 - 12.8.8. Decision and Disciplinary Action
 - 12.8.9. Communication and Appeals
- 12.9 Disciplinary Actions against employee misconduct
 - 12.9.1. Verbal Warning
 - 12.9.2. Written Warning
 - 12.9.3. Performance Improvement Plan (PIP)
 - 12.9.4. Suspension

12.9.5. Demotion

12.9.6. Termination

12.10 Summary

12.11 Key words

12.12 Self Assessment Questions

12.13 Suggested Readings

12.1 Introduction

Discipline is the backbone of healthy industrial relations. The promotion and maintenance of employee discipline is essential for smooth functioning of an organisation. Employee morale and industrial peace are definitely linked with a proper maintenance of discipline. Disciplinary action can also help the employee to become more effective. The actions of one person can affect others in the group.

In the Organization 'Discipline' refers to the State of employee's self-control and effectiveness in his work. It indicates the development of genuine team work. Discipline implies a state of order in an organisation. It means proper appreciation of the hierarchical superior subordinate relationship. The willing cooperation for and the observance of the rules of the organisation constitutes the essence of discipline.

The positive meaning of discipline is 'Training of mind that develops self-control character, orderliness and efficiency.' It also means punishment. But there is a general impression that obedience to rules and punishment for their breach constitute the main aspects of discipline in an organisation. Rules and Laws are necessary for the existence of society. They are generally observed when their advantages are known and accepted.

The real sanction behind laws and rules is, therefore, the consent of the people to whom they apply and no attempt to make good people by enforcing a particular behaviour will succeed if this consent is lacking. The large part of behaviour of employee and their interaction of subordinates is governed by informal and unwritten rules and norms. These informal rules and norms that support and legitimize practice are based on convention and culture of the organisation.

Since discipline is a behaviour or a mode of life, the emphasis should be on training or educating the employees to acquire self-control and habit of obedience. Satisfactory results cannot be obtained if discipline is thought of in terms of control and punishment. Let us now distinguish the major aspects of discipline.

12.2 Employee Discipline – Meaning and Definitions

Discipline is the orderly conduct by an employee in an expected manner. It is the force or fear of a force that deters an individual or a group from doing things that are detrimental to the accomplishment of group objectives. In other words, discipline is the orderly conduct by the members of an organisation who adhere to its rules and regulations because they desire to cooperate harmoniously in forwarding the end which the group has in view.

Good discipline means that employees are willing to abide by company rules and executive orders and behave in the desired fashion. Discipline implies the absence of chaos, irregularity and confusion in the behaviour of a worker. According to Calhoun, 'Discipline is a force that prompts individuals or groups to observe rules, regulations and procedures which are deemed to be necessary for the effective functioning of an organisation'.

Violation of rules, regulations, procedure and norms is considered as misconduct, that is, any act which is inconsistent with the fulfilment of the expressed and implied conditions of service—or is directly linked with the general relationship of the employer and the employee—has a direct effect on the contentment or comfort of men at work or has a material bearing on the smooth and efficient working of the organisation concerned.

Every organisation wants its employees' behaviour to be in conformity with the required system which it has prescribed in order to achieve the organisational goals. Thus, in brief, discipline is orderly conduct by the employee in an expected manner. The purpose of discipline is to encourage employees to behave sensibly at work, that is, adhere to rules and regulations. Disciplinary action is called for when an employee violates one of the rules.

Richard D. Calhoun- “Discipline is the force that prompts individuals or groups to observe rules, regulations, standards and procedures deemed necessary for an organization.” Discipline means systematically conducting the business by the organizational members who strictly adhere to the essential rules and regulations.

12.3 Nature of Employee Discipline

12.3.1. Proactive Approach: Employee discipline is a proactive approach to prevent misconduct, promote compliance, and maintain a positive work environment. It focuses on setting clear expectations, providing guidance, and establishing consequences for non-compliance.

12.3.2. Fair and Consistent: Employee discipline should be fair and consistent to ensure equal treatment of all employees. It should be based on established policies and procedures and applied uniformly to avoid favoritism or discrimination.

12.3.3. Corrective and Preventive: Employee discipline serves both corrective and preventive purposes. It corrects inappropriate behavior or performance issues and also acts as a deterrent to prevent future occurrences.

12.4 Objectives of Employee Discipline

12.4.1. Maintain Order and Productivity: The primary objective of employee discipline is to maintain order, discipline, and productivity within the organization. By setting standards of behavior and performance, discipline ensures that employees adhere to organizational policies and contribute to a positive and efficient work environment.

12.4.2. Ensure Compliance: Employee discipline aims to ensure employees' compliance with organizational policies, procedures, and legal requirements. It helps in preventing violations, misconduct, and unethical behavior that could harm the organization's reputation or create legal liabilities.

12.4.3. Promote Accountability: Discipline promotes accountability among employees. It establishes a system where employees are responsible for their actions and performance, creating a sense of ownership and professionalism within the workforce.

12.4.4. Improve Performance: Disciplinary actions, when necessary, are aimed at addressing performance issues, correcting deficiencies, and improving employee productivity. It provides an opportunity for employees to learn from their mistakes, develop their skills, and meet performance expectations.

12.5 Significance of Employee Discipline

12.5.1. Maintaining Order and Morale: Effective discipline ensures a harmonious and orderly work environment. It promotes respect for organizational policies, fosters professionalism, and enhances employee morale and satisfaction.

12.5.2. Preventing Workplace Issues: By clearly communicating expectations and consequences, employee discipline helps prevent potential workplace issues such as conflicts, harassment, absenteeism, and unethical behavior.

12.5.3. Legal Compliance: Employee discipline ensures compliance with legal requirements and labor laws. It helps organizations avoid legal disputes, penalties, and reputational damage arising from non-compliance with regulations.

12.5.4. Enhancing Organizational Reputation: Discipline contributes to the organization's reputation for professionalism, ethics, and compliance. It helps build trust among stakeholders, including employees, customers, and investors.

12.5.5. Employee Development: Discipline, when administered constructively, provides opportunities for employee growth and development. It allows employees to learn from their mistakes, improve their skills, and align their behavior and performance with organizational expectations.

12.6 Factors to be Considered in Employee Discipline

When all the employees follow the rules and regulations of the company, the question of indiscipline does not arise. Some employees fail to accept the norms of responsible-employee behavior, thus calling for disciplinary action.

To be fair and equitable the following factors need to be analyzed:

12.6.1. Seriousness of the Problem:

The manager must assess how serious is the indiscipline. For example, sexual harassment is more serious than late coming.

12.6.2. Duration of the Problem:

It must be known for how long the problem continues or how often this happens. First time offence may be less serious than subsequent offences of longer duration.

12.6.3. Nature of the Problem:

The pattern of the problem calls for more attention. It must be known whether it is a part of emerging problem or a continual problem. Continual problem is a serious one.

12.6.4. External Influence:

Sometimes a disciplinary problem may arise which is external to the employee. For example, an employee may fail to appear for an important meeting or performance appraisal due to some accident.

12.6.5. Degree of Familiarity:

The organization with formal written rules governing the employee conduct is more justified in strictly enforcing disciplinary action taken than the organization where the rules of conduct are informal or vague.

12.6.6. Disciplinary Practices:

There must be well laid out procedure in assessing disciplinary problems. Equitable treatment must take into consideration the previous actions taken against the employees for similar type of disciplinary violations.

12.6.7. Management Support:

When the affected employee takes the issue to higher authorities, the manager must be having adequate reasons/data to defend his actions. The disciplinary action is not likely to carry weight if the violators believe that they can challenge the manager's decisions.

12.7 Types of Employee Discipline

There are five types Employee Disciplines, which include

12.7.1. Positive Discipline:

Positive discipline in a business is an atmosphere of mutual trust and common purpose in which all employees understand the company rules as well as the objectives and do everything possible to support them. Any disciplinary program has, as its base, that all of employees have a clear understanding of exactly what is expected of them. This is why a concise set of rules and standards must exist that is fair, clear, realistic, and communicated.

Discipline takes the form of positive support and reinforcement for approved actions and its aim is to help the individual in moulding his behaviour and developing him in a corrective and supportive manner. Once the standards and rules are known by all employees, discipline can be enforced equitably and fairly.

A few guidelines for establishing a climate of positive discipline are given below:

- i. There must be rules and standards, which are communicated clearly and administered fairly.
- ii. Rules and standards must be reasonable and should be communicated so that they are known and understood by all employees. An employee manual can help with communicating rules.
- iii. While a rule or a standard is in force, employees are expected to adhere to it.
- iv. Even though rules exist, people should know that if a personal problem or a unique situation makes the rule exceptionally harsh, the rule may be modified or an exception be granted.
- v. There should no favourites and privileges be granted only when they can also be granted to other employees in similar circumstances.
- vi. Employees must be aware that they can and should voice dissatisfaction with any rules or standards they consider unreasonable as well as with working conditions they feel hazardous, discomforting, or burdensome.
- vii. Employees should understand the consequences of breaking a rule without permission.
- viii. Employees should be consulted when rules are set.
- ix. There should be recognition for good performance, reliability, and loyalty. Negative comments, when they are necessary, will be accepted as helpful if employees also receive feedback when things go well.

12.7.2. Negative Discipline:

Generally, negative discipline is interpreted as a sort of check or restraint on the freedom of a person. Discipline is used to refer to the act of imposing penalties for wrong behaviour. If employees fail to observe rules, they are punished. The fear of punishment puts the employee back on track.

“Discipline is the force that prompts an individual or a group to observe the rules, regulations and procedures which are deemed to be necessary to the attainment of an objective.”

12.7.3. Self-Discipline and Control:

Behavioural scientists view discipline as self-control to meet organizational objectives. Megginson clarified the term thus- “By self-discipline we mean the training that corrects moulds and strengthens. It refers to one’s efforts at self-control for the purpose of adjusting oneself to certain needs and demands. This form of discipline is raised on two psychological principles. First, punishment seldom produces the desired results. Often, it produces undesirable results. Second, a self-respecting person tends to be a better worker than one who is not.”

12.7.4. Progressive Discipline:

The concept of progressive discipline states that penalties must be appropriate to the violation. If inappropriate behaviour is minor in nature and has not previously occurred, an oral warning may be sufficient. If the violation requires a written warning, it must be done according to a procedure. After written warnings, if the conduct of the employee is still not along desired lines, serious punitive steps could be initiated.

In case of major violations such as hitting a supervisor may justify the termination of an employee immediately. In order to assist a manager to recognize the proper level of disciplinary action, some firms have formalized the procedure.

12.7.5. The Red-Hot Stove Rule:

Without the continual support of the subordinates, no manager can get things done. But, disciplinary action against a delinquent employee is painful and generates resentment on his part. Hence, a question arises as to how to impose discipline without generating resentment? This is possible through what Douglas McGregor called the “Red Hot Stove Rule”, which draws an analogy between touching a hot stove and undergoing discipline.

According to the Red-Hot Stove rule, disciplinary action should have the following consequences:

(i) Burns Immediately:

If disciplinary action is to be taken, it must occur immediately so the individual will understand the reason for it. With the passage of time, people have the tendency to convince themselves that they are not at fault.

(ii) Provides Warning:

It is very important to provide advance warning that punishment will follow unacceptable behaviour. As you move closer to hot stove, you are warned by its heat that you will be burned if you touch it.

(iii) Gives Consistent Punishment:

Disciplinary action should also be consistent in that everyone who performs the same act will

be punished accordingly. As with a hot stove, each person who touches it is burned the same way.

(iv) Burns Impersonally:

Disciplinary action should be impersonal. There are no favourites when this approach is followed.

12.8 Process of Domestic enquiry during employee allegations of employee misconduct

The process of a domestic enquiry, also known as an internal disciplinary hearing, is conducted by an organization to investigate and address allegations of employee misconduct. The specific steps may vary based on organizational policies and legal requirements, but the following outlines a general process:

12.8.1. Initiation of the Enquiry: The process begins with the organization receiving a complaint or becoming aware of alleged misconduct by an employee. A formal complaint is lodged, or the organization initiates an investigation based on credible information or evidence.

12.8.2. Preliminary Investigation: Before proceeding with a formal domestic enquiry, a preliminary investigation may be conducted to gather facts, evidence, and statements from relevant parties involved. The investigation aims to determine whether there is sufficient evidence to proceed with a formal enquiry.

12.8.3. Serving a Charge Sheet: If the preliminary investigation suggests a prima facie case of misconduct, the employee is served with a charge sheet. The charge sheet outlines the specific allegations of misconduct, referring to relevant policies or rules that have been violated.

12.8.4. Response and Gathering Evidence: The employee is given a reasonable period to respond to the charges mentioned in the charge sheet. The employee can provide a written response or request a personal hearing to present their defence. During this stage, both the organization and the employee gather evidence, including documents, witness statements, and any other relevant information.

12.8.5. Formation of Enquiry Committee: An enquiry committee is formed, typically comprising of unbiased individuals, such as senior managers or members of the HR department. The committee members should have the necessary expertise and impartiality to conduct a fair enquiry.

12.8.6. Domestic Enquiry Proceedings: The domestic enquiry proceeds with a formal hearing. The employee is given an opportunity to present their defense, cross-examine witnesses, and challenge evidence presented against them. The enquiry committee may also examine other witnesses and review relevant documents.

12.8.7. Enquiry Report and Recommendations: Upon completion of the domestic enquiry proceedings, the enquiry committee prepares a report. The report summarizes the allegations, evidence, witnesses' statements, and the employee's defense. It may also include the committee's findings, conclusions, and recommendations regarding disciplinary action, if any.

12.8.8. Decision and Disciplinary Action: Based on the enquiry report and recommendations, the organization's management or disciplinary authority reviews the findings and makes a decision regarding the disciplinary action to be taken. The decision should be proportionate to the severity of the misconduct and consider any mitigating factors.

12.8.9. Communication and Appeals: The decision and disciplinary action are communicated to the employee. The employee may have the right to appeal the decision, following the organization's established appeal procedures.

12.9 Disciplinary Actions against employee misconduct

There are various types of employee discipline that organizations can employ depending on the nature and severity of the misconduct or performance issue. Here are some common types of employee discipline:

12.9.1. Verbal Warning: A verbal warning is the mildest form of discipline. It involves a one-on-one conversation between the employee and the supervisor or manager, where the concern or issue is communicated and discussed. Verbal warnings serve as a reminder of expected behavior and provide an opportunity for the employee to rectify their actions.

12.9.2. Written Warning: A written warning is a more formal disciplinary action. It typically involves documenting the issue, the specific behavior or performance concern, and outlining the consequences of further non-compliance. The written warning is placed in the employee's personnel file and serves as a record of the disciplinary action taken.

12.9.3. Performance Improvement Plan (PIP): A Performance Improvement Plan is utilized when an employee's performance consistently falls below expectations. It is a structured plan that outlines specific goals, timelines, and actions required for the employee to improve their performance. The plan includes regular monitoring and feedback sessions to track progress.

12.9.4. Suspension: Suspension involves temporarily removing an employee from work without pay as a disciplinary measure. It is typically used for more serious offenses or repeated misconduct. The duration of the suspension varies depending on the severity of the issue, and it is intended to give the employee time to reflect on their behavior and correct any deficiencies.

12.9.5. Demotion: Demotion involves moving an employee to a lower-ranking position, often with a corresponding reduction in salary and responsibilities. Demotion is usually used when an employee's performance does not meet the required standards, or in cases of significant misconduct. It serves as a strong disciplinary measure and a means to emphasize the need for improvement.

12.9.6. Termination: Termination is the most severe form of employee discipline and involves ending the employment relationship. It is typically used for serious offenses, repeated misconduct, or when other disciplinary measures have failed to yield improvement. Termination may be immediate or with a notice period, depending on the circumstances and employment laws.

12.10 Summary

Discipline is the backbone of healthy industrial relations. The promotion and maintenance of

employee discipline is essential for smooth functioning of an organisation. Employee discipline is essential for maintaining order, promoting compliance, and ensuring a productive work environment. By setting standards, addressing misconduct or performance issues, and promoting accountability, it contributes to the overall success and reputation of an organization. It is important to note that the domestic enquiry process should adhere to the principles of natural justice, ensuring that the employee is given a fair opportunity to present their defense, cross-examine witnesses, and respond to the allegations. The process should also maintain confidentiality, respect employee rights, and comply with applicable laws and regulations. It is important to note that the severity of the disciplinary action should be proportionate to the offense and should follow the organization's policies, procedures, and any legal requirements. Organizations should aim to administer discipline fairly, consistently, and with the intention of correcting behavior and improving performance rather than simply punishing employees.

12.11 Key Words

Positive Discipline: Positive discipline in a business is an atmosphere of mutual trust and common purpose in which all employees understand the company rules as well as the objectives and do everything possible to support them. Any disciplinary program has, as its base, that all of employees have a clear understanding of exactly what is expected of them. This is why a concise set of rules and standards must exist that is fair, clear, realistic, and communicated.

Negative Discipline: Generally, negative discipline is interpreted as a sort of check or restraint on the freedom of a person. Discipline is used to refer to the act of imposing penalties for wrong behaviour. If employees fail to observe rules, they are punished. The fear of punishment puts the employee back on track.

Self-Discipline and Control: Behavioural scientists view discipline as self-control to meet organizational objectives. Megginson clarified the term thus- "By self-discipline we mean the training that corrects moulds and strengthens. It refers to one's efforts at self-control for the purpose of adjusting oneself to certain needs and demands.

Progressive Discipline: The concept of progressive discipline states that penalties must be appropriate to the violation. If inappropriate behaviour is minor in nature and has not previously occurred, an oral warning may be sufficient. If the violation requires a written warning, it must be done according to a procedure. After written warnings, if the conduct of the employee is still not along desired lines, serious punitive steps could be initiated.

Serving a Charge Sheet: If the preliminary investigation suggests a prima facie case of misconduct, the employee is served with a charge sheet. The charge sheet outlines the specific allegations of misconduct, referring to relevant policies or rules that have been violated.

12.12 Self-Assessment Questions

1. What do you understand by employee discipline?
2. Explain the nature, objectives, and significance of employee discipline
3. What are the factors to be considered in employee discipline
4. Discuss the types of employee discipline in detail
5. Write the process of domestic enquiry during employee allegations of employee misconduct

6. What are disciplinary actions taken against employee misconduct?

12.13 Suggested Readings

1. H.L. Kumar, Law Relating to Disciplinary Proceedings in Industries (10th ed., 2019)
2. P.L. Malik's, Industrial Law (21st ed., 2008)
3. S.C. Srivastava (rev.), Labour Law and Labour Relations: Cases and Materials (7th ed., 2019)
4. [Margaret Mader-Clark](#), [Lisa Guerin](#). (2007) The Progressive Discipline Handbook: Smart Strategies for Coaching Employees. NOLO
5. A.K. Saxena (2022). DISCIPLINARY ACTION in BANKS/PSUs including Government Employees. Bharat Law House Pvt. Ltd.
6. [Carol Nielsen](#), [Donald Jarvis](#) (2018). Human Resources Guide to Discipline and Termination of Employment, 3rd Edition, Softbound book. Carswell
7. [Paul Falcone](#) (2017). 101 Sample Write-Ups for Documenting Employee Performance Problems: A Guide to Progressive Discipline & Termination Third Edition. AMACOM
8. [Lisa Guerin J.D.](#) (2022). Essential Guide to Workplace Investigations, The: A Step-By-Step Guide to Handling Employee Complaints & Problems Sixth Edition. NOLO

Dr. Madhu Babu Kavala

LESSON -13

INDUSTRIAL DISPUTES

Learning objectives

- ✓ To know the Cause of Industrial Disputes
- ✓ To Duties of the Conciliation officers
- ✓ To outline the Methods of Resolving Industrial Disputes
- ✓ To study the Code of Discipline and code of conduct

Structure

- 13.1 Introduction
- 13.2 Recognition
- 13.3 Causes of Industrial Disputes
- 13.4 Machinery for Settlement of Industrial Disputes
 - 13.4.1 Works Committee
 - 13.4.2 Conciliation Officers (Sec 4)
 - 13.4.3. Board of Conciliation (Sec.5)
 - 13.4.4. Court Of Enquiry (Sec. 6)
 - 13.4.5. Labour Courts (Sec.7)
 - 13.4.6. Tribunals (SEC. 7A)
 - 13.4.7 National Tribunals [Sec. 7 (B)]
- 13.5 Methods Of Resolving Industrial Disputes
 - 13.5.1 Negotiation
 - 13.5.2 Conciliation
 - 13.5.3 Mediation
 - 13.5.4 Arbitration
- 13.6 Code of Discipline and Code Of Conduct
- 13.7 Summary
- 13.8 Key words
- 13.9 Self Assessment Questions
- 13.10 Suggested Readings

13.1 Introduction

Industrialization in a country has always contributed to employment, contribution to national income, per capita income, exports and economic development on one side and industrial disputes on the other. It has always been the case of mixed blessing. The conflict of interest between management and labour is what leads to industrial disputes.

The management has a goal of profit maximization and on the other hand the workers expect rise in income, security of job, protection of their skills, improvement in their status and in the working conditions. Those who control the factors of production require strict administration, closer supervision, and maintenance of strict discipline and implementation of rules, code of conduct and code of discipline. Whereas the workers demand a share in capital, voice in management, freedom of expression, participation in management and dignity of employees. So the people that control the factors of production and people that produce always have different or conflicting interest which gives birth to industrial disputes.

According to the Industrial Dispute Act, 1947. Section 2 (K) “Industrial Disputes mean any dispute or difference between employers and employees or between employers and

workmen or between workmen and workmen, which is connected with the employment or non - employment or terms of employment or with the conditions of labour of any person”.

Industrial disputes can be classified into four major types, known as interest disputes, grievance disputes, unfair labour practices disputes and recognition disputes. Interest disputes are also called disputes of interest or economic disputes. In most cases the disputes arises from the demands or proposals for improvement in wages, benefits, job security or terms or conditions of employment. Interest disputes must be properly negotiated or bargained or compromised and test of economic power should be avoided as far as possible. These disputes should be settled through conciliation as far as possible.

Grievance or Rights Disputes are also called as conflict of rights or legal disputes. These disputes take place from day to day working relations in the undertaking. It is a protest by the workers against the act of management that deprives the rights of the employees. The grievance disputes arises out of payment of wages, fringe benefits, working hours, over time, promotions, demotions, seniority, safety, and health related aspects. If grievance dispute as are not sorted out in accordance with a procedure that is accepted by the parties it often results in disturbing the working relationship between the management and employees. The government also encourages voluntary arbitration for this type of dispute settlement.

The most common Labour type of dispute is the disputes over Unfair Practices in industrial relations. The management many times discriminates against workers on the ground that they are the members of the trade union and they participate in the activities of the union. Unfair labour practice includes pressure on employees when they exercise their rights to organize, take part in union activity, refusal to bargain, recruiting new employees during a strike which is not illegal, creating an environment or actually creating an act of force or violence or stop communication etc. Such disputes can be settled through conciliation or such disputes are settled according to the normal procedure laid down under the Industrial Disputes Act 1947.

13.2 Recognition

Disputes arises when the management of an organisation refuses to recognize a trade union for the purpose of collective bargaining or to represent its member employees in case of a conflict or dispute. When the management dislike a particular union it refuses to accept that trade union for the purpose of negotiations or bargaining and then it becomes a case of trade union victimization. This also happens when there is already an existing trade union or it is a case of multiple trade unions and each making a claim for recognition. Recognition Disputes also arises when a particular trade union does not have sufficient representatives. Recognition disputes are settled through the guidelines given by the government for recognition of trade union or with the help of Code of Discipline which has been voluntarily laid down by the government.

13.3 Causes Of Industrial Disputes

Industrial disputes are a common feature of all industrialized economies, whether it is a capitalist economy or socialist economy or mixed economy. Industry and industrial dispute always go hand in hand infact they are the two sides of the same coin. The employees who give their services and time to the industry are interested in higher wages, good working conditions and want to have a voice in management. The employers on the other hand are more interested in profits, productivity, quality and control of cost. With both these forces acting in opposite direction there is a maximum possibility of disputes and so industrial

disputes has become a major feature of industrialization.

Industrial disputes may arise out of economic, political, social or from socio – economic background. At the same time the attitude of the employers and employees is also responsible to a great extent. The factors leading to industrial disputes may be industry related, management related, government related or union related.

The most common causes of industrial disputes can be listed as:

1. Wages and Allowances
2. Personnel Policies
3. Retrenchment
4. Lay off
5. Leave and hours of work
6. Bonus
7. Indiscipline
8. Violence
9. Inter Union rivalry.
10. Non-implementation of awards or agreements
11. Non-fulfillment of demands
12. Workload
13. Work standards
14. Surplus labour
15. Working conditions
16. Change of manufacturing process
17. Violation of rules or codes
18. Shift working
19. Political motives
20. Closure or lockouts
21. Inability to communicate effectively
22. Refusal to recognize unions
23. Authoritarian or autocratic attitude of management.
24. Non-implementation of labour law.

Whatever may be the reason for an industrial dispute what disturbs the most is the amount of loss to the nation. A developing country with pressure of population, per capita income, poor infrastructure and low standard of living cannot afford to have such out of proportion disputes and loss of man days.

The Indian Labour Year Book states that in the year 1998 the number of disputes in India in the public sector were 283 and in the private sector it was 814 that means in total there were 1,097 disputes. The numbers of man days lost in the public sector were 7576000 and 14486000 in the private sector which means a total of 22062000 man days were lost in a single year 1998. The magnitude of industrial disputes and man days lost in public sector enterprises are less compared to the private sector. In many cases there is no direct action and so the man days are not lost but when trade unions adopt strategies like go slow, tools down, pen down, work to rule etc. productivity is lost.

13.4 Machinery For Settlement Of Industrial Disputes

The Industrial Disputes Act, 1947 provides an elaborate and efficient machinery for the peaceful and amicable settlement of the industrial disputes. They include:

1. Works Committees (Sec 3)
2. Conciliation Officers (Sec 4)
3. Board of Conciliation (Sec5)
4. Courts of Enquiry (Sec6)
5. Labour Courts (Sec 7)
6. Tribunals (Sec 7A)
7. National Tribunals (Sec 7B)

13.4.1 Works Committee

In case of an industrial establishment in which on hundred or more workmen are employed or have been employed on any day in the preceding twelve months, the appropriate Government may by general or special order require the employer to constitute in the prescribed manner, a works committee consisting of representatives of employers and workmen engaged in the establishment, so however that the number of representatives of workmen or the committee shall not be less than the number of representatives of the employers. The representatives of the workmen engaged in the establishment and in the consultation with their trade union, if any and registered under the Indian Trade Union Act, 1926.

Duties of the Works Committee

It shall be the duty of the works committee.

- a) To promote measures for securing and preserving amity and good relations between the employer and workmen.
- b) To comment upon matters of their common interest or concern and
- c) To endeavour to compose any material difference of opinion in respect of such matters.

13.4.2 Conciliation Officers (Sec 4)

The appropriate Government may appoint such number of persons as it thinks fit, to be conciliation officers, by notification in the Official Gazette.

A conciliation officer may be appointed for a specified industries in a specified area or for one or more specified industries and either permanently or for a limited period.

Duties of Conciliation Officers

1. In every industrial dispute, existing or apprehended, the conciliation officer shall hold the conciliation proceedings in prescribed manner.
2. The conciliation officer for settling the dispute without delay shall investigate the dispute and may do all such things to make the parties to come fair and amicable settlement of dispute.
3. The conciliation officer shall send a report on the settlement of the dispute to the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute.
4. If no such settlement is arrived at, the conciliation officer shall as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute, and bringing about a settlement thereof together with a full statement of such facts and circumstances and the reasons on account of which, in his opinion, a settlement could not be arrived at.
5. If, on a consideration of the failure report referred above the appropriate Government is satisfied, that there is a case for reference to a Board, Labour Court, Tribunal or National Tribunal it make such reference. Where the appropriate Government does not make such a reference it shall record and communicate to the parties concerned its reasons thereof

6. A report under Sec. 12 shall be submitted within 14 days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the appropriate Government.

Provided that subject to the approval of the conciliation officer. The time for the submission of the report may be agreed upon in writing by all parties to the dispute.

13.4.3. Board Of Conciliation (Sec.5)

The appropriate Government may as the occasion arises by notification in the Official Gazette constitute a Board of conciliation for promoting the settlement of an industrial dispute. A Board shall consist of Chairman and two or four other members, as the appropriate Government thinks fit.

The Chairman is an independent person and other members are representatives of the parties to the dispute in equal numbers.

Duties of Board of Conciliation (Sec 13):

1. Where the dispute has been referred to a Board under this Act, it shall be the duty of the Board to endeavour to bring about a settlement of the same and for this purpose the Board shall, in such manner as it thinks fit and without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as it thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute [Sec. 13(1)].

2. If a settlement of dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings the Board shall send a report thereof to the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute. [Sec. 13(2)]

3. If no such settlement is arrived at, the Board shall as soon as practicable after the close of investigation send to the appropriate Government a full report on the steps taken by the Board for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof. Report shall also contain a full statement of such facts and circumstances and the reasons on account of which, in its opinion a settlement could not be arrived at. [Sec. 13(3)]

4. The board shall submit its report within 2 months of the date on which the dispute was referred to it or within such shorter period as may be fixed by the appropriate Government. [Sec. 13(5)]. Thus, where conciliation fails, board of conciliation takes over. The functions of the Board of Conciliation are the same as those of the conciliation officers. The purpose of constituting boards of Conciliation is to bring about settlement of individual disputes.

The appropriate Government may as occasion arises by notification in the Official Gazette constitute a Court of Enquiry for enquiring into any matter appearing to be connected with or relevant to an industrial dispute. A court may consist of one independent person or of such number of independent persons as the appropriate Government may think fit and where a Court consists of two or more members, one of them shall be appointed as the chairman. Court shall not be able to act unless minimum number of members required to transact business i.e. quorum is present. Absence of chairman or any member or any vacancy

of its member will not affect the validity of the proceedings of the Court if they are otherwise valid and regular.

Duties of Court of Enquiry:

A court shall enquire into the matters referred to it and report thereon to the appropriate Government ordinarily within a period of 6 months from the commencement of its enquiry.

13.4.5. Labour Courts (Sec.7)

The appropriate Government may, by notification in the Official Gazette constitute one or more Labour Courts for the adjudication of industrial disputes relating to any matter specified in the second schedule and for performing such other functions as may be assigned to them under this Act. A Labour Court shall consist of one person only to be appointed by the appropriate Government.

Jurisdiction of Labour Courts [Sec.7(1)]

The Labour Courts adjudicate the following disputes relating to matters specified in the second schedule;

1. The propriety or legality of an order passed by an employer under the standing order,
2. The application and interpretation of standing orders ,
3. Discharge or dismissal of workmen including reinstatement of or grant of relief to workmen wrongfully dismissed.
4. Withdrawal of any customary concession or privilege.
5. Illegality or otherwise of strike or lock-out and
6. All matters other than those specified in the Third schedule.

Duties of Labour Court:

The Labour Court shall hold its proceedings expeditiously and shall as soon as practicable on the conclusion thereof submit its award to the appropriate Government. (Sec. 15)

13.4.6. Tribunals (SEC. 7A)

The appropriate Government may by notification in the Official Gazette, constitute one or more tribunals for the adjudication of industrial disputes relating to any matter, whether specified in the Second schedule or the Third schedule. A Tribunal shall consist of one person only to be appointed by the appropriate Government. It shall discharge judicial functions, though it is not a court.

Jurisdiction of Industrial Tribunals [Sec.7 (A)(1)]:

Industrial tribunals have a wider jurisdiction than a Labour Court. It has jurisdiction over any matter specified in Second or Third Schedule. The following matters are specified under the Third schedule:

1. Wages, including the period and mode of payment.
2. Compensatory and other allowances.
3. Hours of work and rest intervals.
4. Leave with wages and holidays.
5. Bonus, Profit sharing, Provident Fund and gratuity.
6. Shift working otherwise than in accordance with standing orders.
7. Classification by grades.

8. Rules of discipline.
9. Nationalization.
10. Retrenchment of workmen and closure of establishment, and
11. Any other matter that may be prescribed.

Duties of a Tribunal:

The duties of a tribunal are the same as those of a Labour Court.

13.4.7 National Tribunals [Sec. 7 (B)]

The Central Government may by notification in the Official Gazette, constitute one or more National Tribunals for the adjudication of industrial disputes which in the opinion of the Central Government, involve questions of national importance or are of such a nature that industrial establishments situated in more than one state are likely to be interested in, or affected by such disputes. A national tribunal shall consist of one person only to be appointed by the Central Government. The duties of a National Tribunal are the same as those of a Labour Court or an Industrial Tribunal. [Sec.7B (2)]

A Person shall not be qualified for appointment as the presiding officer of a National Tribunal unless he is or has been a judge of a High Court. [Sec. 7B (3)] The Central Government may, if it thinks fit, appoint 2 persons as assessors to advise the National Tribunal in the proceeding before it [Sec.7B(4)].

Duties of Labour Courts, Tribunals and National Tribunal:

Where an industrial dispute has been referred to a Labour Court, Tribunal or National Tribunal for adjudication, it shall hold its proceedings expeditiously and shall within the period specified in the order referring such industrial dispute or the further period extended under the second provision to sub-section (2-A) of section 10 submit its award to the appropriate Government (Sec. 15).

13.5 Methods Of Resolving Industrial Disputes

There are various methods of resolving industrial disputes like negotiations, conciliation, mediation and arbitration. Every organization or management or the trade union has the right and freedom to choose any one method to resolve the industrial disputes. What is important here is that Industrial disputes must be solved as early as possible, it must be settled at the level which it has occurred. Both the management and the union should change their attitude and keep their ego aside and resolve the disputes as early as possible. When disputes are not settled relations further become strained and complicated. There should be a WIN - WIN situation, if both management and unions are to be happy. If one wins and one loses relations do not and can never improve. Pending awards can lead to less productivity and losses for both employer and employees. Both the parties as far as possible should resort to negotiations instead of tribunals or conciliation.

13.5.1 Negotiation

For resolving industrial disputes one of the best methods is negotiation. It is in negotiation the two parties that is the employer or management and workers or their unions depend upon themselves for the settlement of disputes. Both the parties have faith and confidence in each other and do not feel the need of a third party. This method of resolving disputes gives importance to dialogue or bipartite dialogue without the government intervention. This method of resolving disputes shows a higher level of maturity in the relationship between management and unions. This is possible when both the parties are well

organized, having faith in each other, ready to recognize each other, ready to recognize each others position and dignity. Things become more easy for negotiations when both the parties are ready to adjust and accommodate each others point of view. To resolve disputes both the parties reach to a written agreement through dialogues backed by moral sanctions. The written agreement between management and the workers union gets more acceptance from both the sides, disputes are resolved and at the same time relations are intact. In the process of negotiations if the negotiation machinery breaks down the issues between the parties remain unresolved. In such situations both the parties come to a point of deadlock and then direct confrontation between the two parties begin, definitely resulting into conflict and disharmony. Such conflict and disharmony results into loss o f time, money, energy poor industrial relations, loss to the organization and a subject of greater concern for the society and the state.

13.5.2 Conciliation

In this method o f resolving disputes both the employer and the employees union take the help form outside such as the government agency. The government agency tries to bring the two parties the management and unions together for discussion and help them in their negotiations. The main objective of conciliation is to reunite the two conflicting groups in the industry to avoid further problems of production, disinterest and strained industrial relations. This method of resolving industrial disputes is adopted when the parties cannot reconcile their differences on their own and still want to avoid the problems of open conflict. Conciliation is a practice by which the services o f a neutral third party are used in the dispute, to make the disputing parties come to an amicable settlement. Conciliation process takes place under the guidance of a conciliator. Conciliation machinery consists of a conciliation officer and board of conciliation.

Under section 12(2) of the Industrial Dispute Act of 1947 the conciliation officer shall be involved for the purpose of bringing about a settlement o f the dispute. The conciliation officer plays the role of an innovator, protector, discussion guide, leader, advisor and communication link between the two parties. If the conciliation does not get results in the course of conciliation proceedings then the conciliation officer sends a report to the appropriate government a failure report informing that a settlement cannot be arrived at. To make conciliation more effective the National Commission on Labour has recommended that “Conciliation machinery should be a part o f the Industrial Relations Commission, which will make it free from other influences. The independent character of the machinery will alone develop greater confidence and will be able to evoke more cooperations from the parties.

13.5.3 Mediation

Many times when the two parties to the dispute start making negotiations cannot come to a consensus or when they are unable to find the right solution mediation becomes an important tool. Mediation is a method of settling industrial disputes with the help of an outsider. The mediator is very positive in its approach and also pays a positive role by collecting information from both the parties the management and the union, makes a proper assessment of their views and interest and on the basis o f this offers suggestions for arriving at a solution or for making a proper compromise.

Both in mediation and conciliation there is a role for an outsider and in both the cases a lot depends upon understanding between the parties involved in the dispute. In both the case conciliation and mediation a lot depends upon adjustments for common gains. Both mediation and conciliation are advisory and not judicial in nature. The mediator plays a role

of a guide and shows the parties to the dispute new areas of agreement which otherwise they themselves could not have discovered.

13.5.4 Arbitration

The word arbitration means settlement of industrial disputes between two or more parties by means of a decision of an impartial body when efforts in the process of conciliation and mediation have failed. Arbitration is judicial in nature whereas conciliation is advisory in nature. Arbitration is voluntary if the parties to the dispute have failed to settle their differences by negotiation and conciliation, agree to submit them to arbitration as prescribed under Section 10A of the Industrial Disputes Act, 1947. Compulsory arbitration or adjudication, the government requires the parties to the dispute to submit their differences to an arbitration tribunal which after considering the facts and arguments submitted to it, makes an award. In case of voluntary arbitration it does not necessarily follow the procedure adopted by the courts. The essentials of voluntary arbitration is that there should be voluntary submission of dispute to an arbitrator and the enforcement of an award may not be necessary and binding because there is no compulsion. Compulsory arbitration is used when the parties fail to arrive at a settlement through the voluntary methods. Compulsory arbitration may be at times and under certain circumstances, necessary and desirable. The objective of state intervention in the field of industrial relations should be to do social justice and make the weaker party equally strong to enable it to settle its differences through negotiations and collective bargaining. In compulsory arbitration the parties are forced to arbitration by the state when the parties to the dispute have failed to arrive at a settlement by voluntary method or when there is a situation of national emergency or when the country is passing through economic crisis or when the parties to the dispute are not well balanced or when the unions are weak and ill-organized or when the employers are very well-organized and more powerful or when industries of strategic importance are involved or when there is a general public dissatisfaction with the existing industrial relations.

In India where industrial disputes are concerned. The Industrial Disputes Act, 1947 is a very important one. The principle objectives of the Act are:

To promote measures for securing good relations between employers and employees.

To minimize the difference between the employer and employee and get the disputes settled through adjudicatory authorities.

- a. To provide suitable machinery for investigation and settlement of industrial disputes.
- b. To prevent illegal strikes and lockouts.
- c. To provide relief to workmen in matters of lay-offs, retrenchment, wrongful dismissals and victimization.
- d. To give the employees the right of collective bargaining and promote conciliation.
- e. The Industrial Dispute Act is a milestone in the historical development of industrial law in India. With the passage of time a number of new principles relating to industrial relations have been introduced in the country such as:
 1. A permanent machinery for speedy and amicable settlement of industrial disputes.
 2. To expedite the conciliation proceedings, maximum time limit has been prescribed within which the machinery must be set in motion.
 3. Compulsory arbitration in public utility services, including the enforcement of arbitration awards has been recognized.
 4. Prohibition of strikes and lockouts during the pendency of conciliation and arbitration proceedings.
 5. Specific time limit for various stages of conciliation and arbitration to eliminate delays.

6. An obligation on employers to recognize and deal with representative trade union has been imposed.

Works Committee to provide machinery for mutual consultation between employers and employees have been set up.

Industrial disputes may be referred to an Industrial Tribunal where both parties to the dispute apply for such reference or where the appropriate government considers it necessary to do so.

The Industrial Disputes Act, 1947 provides three - tier system of adjudication.

1. Labour Courts
2. Industrial Tribunal
3. National Tribunal

One or more labour courts may be constituted by the appropriate Government for adjudicating industrial disputes specified in the second schedule of the Act, and for performing any other function assigned to them. The duties of the labour court are to hold the adjudication proceedings and submit the awards to the appropriate Government after the conclusion of the proceedings. The labour court usually deals with matters arising in day to day working.

In the three-tier system of adjudication provided by the Industrial Dispute Act of 1947 after Labour Court is the Industrial Tribunal. The appropriate Government may appoint one or more Industrial Tribunal for adjudication of industrial disputes relating to any matter whether specified in the Second Schedule or the Third Schedule. Industrial Tribunal may be for a limited period or permanent. The Industrial Tribunal has all the necessary attributes of a court of justice. It may create new obligations or modify contracts in the interest of industrial peace, to protect the rights of the trade union, prevent unfair practices and victimization. Industrial Tribunals have a wider jurisdiction than a Labour Court.

The third in the three tier system of adjudication of the Industrial Dispute Act of 1947 is the National Tribunal. The Central Government may by notification in the official Gazette constitute one or more National Tribunals for the adjudication of industrial disputes which in the opinion of the Central Government involves question of national importance or any matter which will affect the industrial establishment in more than one state. When a National Tribunal has been referred to, no Labour Court or Industrial Tribunal shall have any jurisdiction to adjudicate upon such a matter.

13.6 Code Of Discipline and Code Of Conduct

Code of Discipline forms the Gandhian philosophy to industrial relations to bring employees and trade union to a moral agreement for promoting peace and harmony. Shri Guljarilal Nanda the then Union Labour Minister, a true Gandhian took efforts to bring out a Code of Discipline in 1957 and 1958. It was at his instance that the code was formulated. The code was formally adopted in the 16th session of 1958 Indian Labour Conference. National representatives of both employers and trade unions were parties to it. This code was a special one formulated to voluntarily regulate Labour Management relations. The Code of Conduct was discussed to regulate the inter-union relations and a Code of Discipline was discussed at the Indian Labour Conference to regulate Labour Management relations. After a great deal of persuasion by Shri Guljarilal Nanda the inter union "Code of Conduct" was voluntarily adopted on 21st May 1958. The four central organizations of labour who were representing the Indian Labour Conference that is Indian National Trade Union Congress. All India Trade

Union Congress., Hind Mazdoor Sabha and United Council of Trade Unions agreed to comply with the code. The adoption of the “Code of Discipline” was announced in June 1958. The code of discipline is highly comprehensive and ethical in its approach to the industrial relations system. The “Code of Discipline” ensures that the employers and workers should utilize the existing machinery for the settlement of disputes and avoid direct action. It also explains that both labour and management should recognize the rights and responsibilities of each other. It also explains the obligations of employers and workers. The code does not support any unfair practices but support prompt action for settlement of grievances and implementation of settlements and awards.

The National Commission on Labour thinks that the code has only a limited success and thus it is not a solution to problems of industrial relations.

13.7 Summary

Industrialization in a country has always contributed to employment, contribution to national income, per capita income, exports and economic development on one side and industrial disputes on the other. It has always been the case of mixed blessing. The conflict of interest between management and labour is what leads to industrial disputes. The management has a goal of profit maximization and on the other hand the workers expect rise in income, security of job, protection of their skills, improvement in their status and in the working conditions. Those who control the factors of production require strict administration, closer supervision, and maintenance of strict discipline and implementation of rules, code of conduct and code of discipline. Whereas the workers demand a share in capital, voice in management, freedom of expression, participation in management and dignity of employees. So the people that control the factors of production and people that produce always have different or conflicting interest which gives birth to industrial disputes

13.8 Key words

Conciliation

In this method of resolving disputes both the employer and the employees union take the help from outside such as the government agency. The government agency tries to bring the two parties the management and unions together for discussion and help them in their negotiations.

Mediation

Many times when the two parties to the dispute start making negotiations cannot come to a consensus or when they are unable to find the right solution mediation becomes an important tool. Mediation is a method of settling industrial disputes with the help of an outsider.

Arbitration- The word arbitration means settlement of industrial disputes between two or more parties by means of a decision of an impartial body when efforts in the process of conciliation and mediation have failed. Arbitration is judicial in nature whereas conciliation is advisory in nature

Negotiation- For resolving industrial disputes one of the best methods in negotiation. It is in negotiation the two parties that is the employer or management and workers or their unions depend upon themselves for the settlement of disputes.

National Tribunals - The Central Government may by notification in the Official Gazette,

constitute one or more National Tribunals for the adjudication of industrial disputes which in the opinion of the Central Government, involve questions of national importance or are of such a nature that industrial establishments situated in more than one state are likely to be interested in, or affected by such disputes

Tribunals - The appropriate Government may by notification in the Official Gazette, constitute one or more tribunals for the adjudication of industrial disputes relating to any matter, whether specified in the Second schedule or the Third schedule

Court Of Enquiry-The appropriate Government may as occasion arises by notification in the Official Gazette constitute a Court of Enquiry for enquiring into any matter appearing to be connected with or relevant to an industrial dispute

13.9 Self Assessment Questions

1. Briefly Explain the causes of Industrial Disputes
2. Explain the Duties of Conciliation officers
3. Discuss the Methods of Resolving Industrial Disputes
4. Outline the Code of Discipline and code of conduct

13.10 Suggested Readings

1. Piyali Ghosh and Shefali Nandan (2015) Industrial Relations and Labour Laws, McGraw Hill.
2. MD Sinha P. R. N. (2018) Industrial Relations, Trade Unions, and Labour Legislation, Dorling Kindersley Pvt Ltd.
3. Kennedy, V.D Unions, Employers and Government, Manaktalas, Bombay .
4. John Niland, Chrissieverevis and Russell Lansburg, The future of Industrial Relations, Sage, Pub. London .
5. Poole Michael, Industrial Relations : Origins and Patterns of National Diversity; Routledge & Kegan Paul, London .
6. Keer, Clerk and Staudohar, Paul D., Industrial Relations in a New Age, Jossey – Bass publishers, San Francisco.
7. Bamber Greg J. and Lansbury, Russess D., International and Comparative Industrial Relations, Allen and Unwin, London .
8. Government of India , Report of the National Commission on Labour in India ; Government of India ; Government of India , New Delhi .
9. Government of India , Indian Labour yearbook, Labour Bureau, Government of India, New Delhi .
10. V.K. Kharbanda & Vipul Kharbanda, Handbook Of Industrial Disputes Act 1947 With Digest Of cases (1947-2018), Edition 2019, Law Publishing House's.

Dr.M.Rama Satyanarayana

LESSON -14

TRENDS OF INDUSTRIAL DISPUTE IN INDIA

Learning Objectives

- ✓ To study the concept of Industrial Disputes
- ✓ To Learn the Characteristics of Industrial Disputes
- ✓ To Identify the Types of Industrial Disputes
- ✓ To Learn the causes of Industrial Disputes
- ✓ To Identify the Impact of Industrial Disputes
- ✓ To Outline Measures taken by the Government for Prevention of Disputes

Structure

14.1 Introduction

14.2 Concept of Industrial Dispute

14.3 Characteristics of Industrial Disputes

14.3.1 Parties:

14.3.2 Relation

14.3.3 Forms

14.3.4 Oral or Written

14.3.5 Real:

14.3.6 Substantial Interest

14.3.7 Related to Industry

14.3.8 Clarification:

14.3.9 Origin

14.4 Types of Industrial Disputes

14.4.1. Interest Disputes

14.4.2. Disputes over Unfair Labour Practices

14.4.3. Grievance or Rights Disputes

14.4.4. Recognition Disputes

14.5 Causes of Industrial Disputes

14.5.1(a)Economic Causes

14.5.1(b) Dearness Allowance

14.5.1(a) Low Wages

14.5.1(c) Industrial Profits

14.5.1(d) Bonus

14.5.1(e) Working Conditions:

14.5.1(f) Working Hours

14.5.2. Managerial Causes:

14.5.2(a) Non Recognition of Unions

14.5.2(b) Violation of Agreements

14.5.2(c) Ill-Treatment by Managers and Supervisors:

14.5.2(d) Defective Recruitment Procedure and Employees Development Policies

14.5.2(e) Wrongful Retrenchment, Demotion and Termination

14.5.2(f) Selfish Leadership:

14.5.2(g) Violation of Accepted Code of Conduct

14.5.2(h) Collective Bargaining and Workers' Participation in Management

- 14.5.2(i) Political Causes
- 14.6 Impact of Industrial Disputes
 - 14.6.1 Disruption in Production and Services
 - 14.6.2 On Employers
 - 14.6.3. On Workers
 - 14.6.4. On Society/Public
 - 14.6.5. On National Economy
- 14.7 Measures taken by the Government for Prevention of Disputes
 - 14.7.1 Payment of Bonus Act
 - 14.7.2 Code of Discipline
 - 14.7.3 Industrial Truce Resolution
 - 14.7.4 Tripartite Machinery
- 14.8 Machinery for settlement of Disputes
 - 14.8.1. Establishment of Works Committees
 - 14.8.2. Grievance Settlement Authority
 - 14.8.3 Conciliation Officer
 - 14.8.4 Court of Inquiry
 - 14.8.5 Conciliation Board
 - 14.8.6 Labour Courts
 - 14.8.7 Industrial Tribunals
 - 14.8.8 National Tribunal
- 14.9 Important Provisions
 - 14.9.1a Restrictions on Strikes and Lock-Outs
 - 14.9.1b. Restriction of Layoff and Retrenchment:
 - 14.9.1c. Essential Services Maintenance (Ordinance) 1981
- 14.10 Summary
- 14.11 Key words
- 14.12 Self Assessment questions
- 14.13 Suggested Readings

14.1 Introduction

An industrial dispute as a conflict or a difference in opinion between management and workers regarding employment. It is a disagreement between an employer and employees representative i.e. trade union. The issue of disagreement is usually pay or other working conditions. During an industrial dispute, both the parties try to pressurize each other to agree to their terms and conditions. The industrial unrest manifests itself as strikes, lock-outs, picketing, gheraos and indiscipline on the part of workers. The causes of this unrest are either specific organizational problems such as insufficient pay, lack of benefit and assistance schemes, or the causes may be wider socio-economic problems such as poverty and unemployment etc.

The definition of Industrial disputes is as follows – According to Section 2(k) of the Industrial Disputes Act, 1947 “industrial dispute” is defined as, “Any disputes or differences between employers and employees, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person”.

Does this sound very confusing? Let me simplify this for you. Let us understand that the definition identifies three parties to disputes.

They are:

1. Employers
2. Employees
3. Workmen

Workmen Industrial dispute is disagreement and difference between two disputants, namely, labour and management. This disagreement or difference could be on any matter concerning them individually or collectively. It must be connected with employment or non-employment or with the conditions of labour. It should also be noted that, the subject-matter of an industrial dispute must be specific, i.e., which affects the relationship of employers and workers.

Let us now understand the severity of industrial disputes. It is self-evident that industrial disputes and industrial unrest are symptoms of a lack of co-operative spirit and of harmonious relations in industry. It is agreed that the manifestation of these symptoms causes stoppage of work or disruption of production and all consequential evils. The continued and prolonged industrial unrest also has serious consequences for the employees and also for the economy at large.

From the point of view of the employer, an industrial dispute resulting in stoppage of work means a stoppage of production. Please understand that this results in the increase in the average cost of production since fixed expenses continue to be incurred. It also leads to a fall in sales and the rate of turnover, leading to a fall in profits. The employer may also be liable to compensate his customers with whom he may have contracted for regular supply.

Apart from the immediate economic effects, loss of prestige and credit, alienation of the labour force, and other non-economic, psychological and social consequences may also arise. Loss due to destruction of property, personal injury and physical intimidation or inconvenience also arises. For the employee, an industrial dispute entails loss of income.

The regular income by way of wages and allowance ceases, and great hardship may be caused to the worker and his family, many times resulting in deprivation, malnutrition, even starvation or near-starvation. The ability of trade unions to provide for the needs of striking workers, particularly in India, is very limited. Employees also suffer from personal injury, and the psychological and physical consequences of forced idleness.

The threat of loss of employment in case of failure to settle the dispute advantageously, or the threat of reprisal action by employers also exists. Don't you think that the psychological effects can be more dangerous than the physical consequences? Prolonged stoppages of work have also an adverse effect on the national productivity, national income. They cause wastage of national resources. Class hatred may be generated resulting in political unrest and disrupting amicable social relations or community attitudes.

14.2 Concept of Industrial Dispute

In narrow sense industrial dispute means conflict between parties in industrial establishments. Dictionary meaning of 'dispute' is 'disagreement', 'mutual antagonism as of ideas, interests etc.' So, industrial dispute is disagreement/mutual antagonism as of ideas, interests etc. between parties in industry. In industrial setting parties are invariably workers and management.

In the process of working, workers express their need, expectation, desire for fulfilment and satisfaction. They want more money i.e., attractive wages, allowances, monetary incentive which the management may not be agreeable to pay. Workers demand of better fringe benefits, health benefits but management may provide less than that of their requirement.

They want recognition, status, power, advancement, higher quality of work life but management may be reluctant to give. Under such situation, a state of disagreement/mutual antagonism between workers and management develops which gives birth to industrial conflict. So, industrial dispute is a general concept, and this conflict gets the shape of industrial dispute in a specific dimensional situation. Basically, there is no difference between 'industrial conflict' and 'industrial dispute', variation lies only in scope and coverage.

Analysis of the provision of the Act reveals the following:

1. Industrial dispute is a dispute or difference –

- (i) Between employers and employers, or
- (ii) Between employers and workmen or
- (iii) Between workmen and workmen.

2. Industrial dispute is connected with –

- (i) Employment or
- (ii) Non-employment or
- (iii) Terms of employment or
- (iv) Conditions of labour of any person.

14.3 Characteristics of Industrial Disputes

Industrial Disputes have the following characteristics or essentials:

14.3.1 Parties:

Industrial disputes may be among different parties.

Ordinarily, it is among the following parties:

- (i) Employers and employers,
- (ii) Employers and workmen and
- (iii) Workmen and Workmen.

14.3.2 Relation

Matter of dispute may relate to worker or to employer or to both. Normally, it relates to an appointment or termination of a person; conditions of employment or conditions of work.

14.3.3 Forms

Industrial disputes may manifest themselves in different forms, such as strikes, lock-outs, Gheraos, go slow tactics, pens down strike, etc.

14.3.4 Oral or Written

Industrial dispute need not be written. It may be oral.

14.3.5 Real:

It should be real. It should relate to employment of the worker, termination of employment,

terms of employment, conditions of employment, etc. Matters relating to the personal life of the worker do not constitute industrial dispute.

14.3.6 Substantial Interest:

In matter relating to industrial dispute interest either of the employer or the worker must be involved.

14.3.7 Related to Industry:

A dispute can be included in industrial dispute when it concerns with industry. Usually, disputes must belong to an industry which is functioning. Disputes belonging to an industry that has since been closed down should not be included in it.

14.3.8 Clarification:

Industrial disputes should relate to matters which are clear. Unless, it is a transparent case its settlement is not possible. Matters which are clear find settlement easily. Concerned party can protect its interest when the issue is crystal clear.

14.3.9 Origin

Ordinarily, dispute arises when the workers or trade unions put up their demands before the employer and the latter refuses to consider them.

In short, it can be said that industrial dispute means lack of peace in industry. When in an industry, requirements of the two parties contradict each other industrial dispute raises its ugly head.

14.4 Types of Industrial Disputes

Industrial disputes can be classified on the following grounds:

14.4.1. Interest Disputes:

These conflicts are also called ‘conflicts of interest’ or ‘economic disputes’. Such disputes relate to the establishment of new terms and conditions of employment for the general body workers i.e., that affect the masses. Generally, such type of disputes originate from trade union demands or proposals for increase in wages or other emoluments, fringe benefits, job security or other terms of employment. These demands are put forth by the trade unions with a view to negotiate through collective bargaining and disputes when the parties fail in their negotiations to reach an agreement.

The terms ‘conflicts of interest’ and ‘economic disputes’ refer to the nature of issues involved. There are no set principles to arrive at a settlement of interest disputes, and recourse must be had to bargaining power, compromise, and sometimes a test of economic strength for the parties to arrive at an agreed solution. Such disputes are solved generally on ‘give and take’ basis.

14.4.2. Disputes over Unfair Labour Practices

Such disputes arise over the malpractices adopted by the management against a worker or trade union. The examples of such malpractices may be discrimination against workers for their being members of the trade union or their involvement in union activities; interference, restraint or coercion of employees from exercising their right to organise, join or assist a union; establishment of employer sponsored union and coerce the workers to join such union; refusal to bargain with the recognized union; recruiting new employees during a strike which is not declared illegal; failure to implement an award, settlement or agreement;

indulging in acts of violence. These practices are also known as ‘trade union victimization’. In some countries a procedure is given to settle such disputes. In the absence of any such procedure, the disputes are settled in accordance with the provisions of the Act relating to industrial disputes.

14.4.3. Grievance or Rights Disputes

These disputes are also known as ‘conflicts of rights’ or ‘legal disputes’. They involve individual workers or a group of workers in the same group. In some countries, such disputes are called ‘individual disputes’. Such disputes arise from the day to day working relations of the workers and management, usually, as a protest by the workers or workers against an act of management that is considered to violate his or their legitimate right.

Grievances typically arise on such questions as discipline, promotion, transfer or dismissal of a worker, payment of wages, fringe benefits, overtime, retirement benefits, seniority work-rules, leave rules etc., which are against the practice and affect their rights adversely. In some cases, disputes arise especially over the interpretation and application of collective agreements.

Such grievances, if not dealt with according to the practice, may embitter the industrial relations and may result in industrial strife, ‘conflict of rights’ refer to the disputes based on alleged violation of an existing right or an alleged unfair treatment by the management. There are, more or less definite standard for resolving a dispute i.e., the relevant provision of the Act or collective agreement, employment contract, works rules or law, or customs or usage.

14.4.4. Recognition Disputes:

Such type of disputes arises when the management refused to recognise a trade union for purposes of collective bargaining. Issues under this category differ according to the cause that led the management to refuse recognition. Here the problem is that of attitude.

However the management refusal may be on the ground that the union requesting for recognition does not represent a specific number of Workers. In such case, resolution of issue depends upon whether the rules for recognition of a trade union exist or not. Such rules may be laid down by law, for they may be Conventional or derived from prevailing practices in the country.

14.5 Causes of Industrial Disputes

There has always been contradiction between the interests of employers and workers. Employer class has always adopted an indifferent attitude towards workers. Their tendency has always been to exploit the workers. Lack of human behaviour with workers, lack of proper working conditions, low wages and over-looking the interests of the workers are the things not new for the employers. It is the constant endeavour of the employers to keep the lion’s share of the profit with them.

On the other hand, worker class wants good working conditions, more opportunities of development, participation in management and profit sharing. When employers do not adopt just and co-operative attitude towards labourers, there spreads discontentment among the latter. What follows is industrial conflict? When employers are more concerned with their vested interests and pay no attention to the reasonable and just demands of the workers then the latter indulge in such activities as aggravate industrial disputes.

14.5.1 Economic Causes:

Most of the Industrial Disputes are due to economic causes. Directly or indirectly economic causes are at the back of industrial disputes.

Main economic causes are as under:**14.5.1(a) Low Wages**

In industries wages are low. As a result, it becomes awfully difficult for the labourers to meet their minimum necessities. Labourers demand that wages should commensurate with the amount of work. Such a demand leads to industrial disputes. Demand for higher wage-rate is the most dominant cause leading to industrial disputes.

14.5.1(b) Dearness Allowance

Increasing cost of living is another factor responsible for industrial disputes. In order to neutralise it, workers demand additional remuneration in the form of dearness allowance. Rising prices are at the root of demand for dearness allowance and non-acceptance of this demand leads to industrial dispute.

14.5.1(c) Industrial Profits

Workers are an important part of production. Profits of the employers multiply because of the untiring labour of the workers. That they should not be treated as a part of machine is the persistent demand of the workers, rather they be considered as partner in production. On the basis of this concept, they demand share out of the increasing profit. When this profit-sharing demand is rejected by the employers, industrial dispute crops up.

14.5.1(d) Bonus

Demand for bonus is also a cause of industrial dispute. Workers consider bonus as deferred wage. Demand for payment of bonus constitutes cause of industrial dispute.

14.5.1(e) Working Conditions

In India working conditions of the workers are not satisfactory. Obsolescence of machines, lack of safety provisions, inadequate light arrangement, less moving space, lack of other necessary facilities, are the normal features of industrial units. Demand for better working conditions on the part of the workers also contributes to industrial disputes.

14.5.1(f) Working Hours

Hours of work is another matter of controversy between employers and workers. Despite legislation to this effect, it is always the intention of the employers to keep the workers engaged for long hours at low wages. It is opposed tooth and nail by the workers. Result is industrial dispute.

Other Causes:

- (i) Safety of work,
- (ii) Modernisation of machines,
- (iii) Pension, Gratuity, Provident Fund and other Beneficiary Schemes,
- (iv) Medical and accommodation facilities,
- (v) Leaves and Leaves with pay,
- (vi) Share in Profits.

14.5.2. Managerial Causes

Success of an organisation depends largely on its managerial capacity. Growth of the organisation is based on the policies of the management. If the management pursues appropriate policies, development of the industrial unit will be automatic. But many a time, due to wrong policies of the management, disputes get accentuated.

Managerial causes of industrial dispute are as under:**14.5.2(a) Non Recognition of Unions**

Employers' attitude towards trade unions has been antagonistic from the very beginning. They do not want that labourers should organise themselves. Hence, to prevent the workers from uniting, they refuse to recognise their unions. It leads to conflict between the employers and the workers. In order to create rift among the workers they deliberately recognise the rival union.

14.5.2(b) Violation of Agreements

Employers and workers do enter into agreements on various issues. On many occasions, the employers do not enforce these agreements nor do they strictly adhere to them. It also accounts for dispute between the two parties.

14.5.2(c) Ill-Treatment by Managers and Supervisors

Managers and supervisors consider themselves to be superior. It is under the influence of this superiority complex that they ill-treat the workers. The same is vehemently opposed by the trade unions.

14.5.2(d) Defective Recruitment Procedure and Employees Development Policies

Defective Recruitment system also gives rise to industrial disputes. Many a time, workers are recruited by the middlemen who get bribe from them. They take undue advantage of the helplessness of the workers. Defective development policies like favoritisms in promotion, unnecessary and biased transfer, casual approach towards training facilities, on the part of employers also contribute to industrial disputes.

14.5.2(e) Wrongful Retrenchment, Demotion and Termination

Sometimes on account of fall in production labourers are retrenched. Those workers who take active part in trade union activities are demoted. Sometimes employers terminate the services of the workers without assigning any reason. All these provocative acts of the employers are not only strongly opposed by the trade unions but also serve as good cause for industrial disputes.

14.5.2(f) Selfish Leadership

Lack of right and effective leadership weakens the trade unions and the employer class takes advantage of it. In order to serve their selfish ends, these leaders enter into unholy alliance with the employers against the interests of the workers. Often this also becomes cause of dispute.

14.5.2(g) Violation of Accepted Code of Conduct

Code of conduct refers to the terms accepted by both the parties and both the parties are required to abide by it. Employers agree to all the codes on paper but fail to carry them out in practice. As a result, workers oppose it.

14.5.2(h) Collective Bargaining and Workers' Participation in Management

In the modern industrial world, labour class is seized with new awakening and is influenced by new concept of management. Trade unions, therefore, insist on workers' participation in management. By collective management they try to protect their interests to the maximum. The employers oppose it. The inevitable result is industrial dispute.

14.5.2(i) Political Cause

Political causes are no less significant than economic and managerial causes in accounting for industrial disputes.

Chief among them are as under:

(1) Influence of Politics:

In a country like India, influence of politics on trade unions is clearly visible. Political parties have been using their influence on trade unions for their selfish ends. Parties mislead the unions and instigate industrial unrest.

(2) Trade Union Movement:

Ever since trade union movement got recognition, industrial disputes have multiplied. Many a time trade unions take undue advantage of their position and this results into industrial dispute.

(3) Strikes against the Government:

During the struggle for independence labour-class had taken leading part in it. Now this class directs its struggle against the government thereby adding fuel to industrial disputes.

Other Causes:

- (1) Government's inclination to support management.
- (2) Internal conflicts in Trade Unions.
- (3) Resistance to automation.
- (4) Influence of Communist thinking on labourers.
- (5) Effect of non-acceptance of Human Relations.

Percentage distribution of Industrial Disputes by causes between the period 2011 and 2012. In the recent years, indiscipline is major reason for industrial disputes. In 2011, the percentage of industrial disputes due to indiscipline was 41.6 while this percentage was reduced to 24.2 in 2013. Even that this is the only reason for industrial disputes.

After indiscipline, wages and allowances are the major factor of causing industrial disputes. In 2011 and 2012, the percentage of industrial disputes due to wages and allowances was 24.9 and 16.3 respectively. Beside this charter of demand, personnel, bonus etc. are important reasons of industrial disputes.

An industrial dispute can never be said to be a good choice. Consequences of industrial disputes are very far reaching, for they disturb the economic, social and political life of a country. They are no less than a war. In a war, casualties and sufferings are not confined to soldiers fighting on the front, so stoppage of work due to strike or any other mode resulting in stoppage of work does not affect the employees or the employers of the struck plant, but it affect the whole society or country.

Though it initially starts locally, a war has every possibility to engulf the entire

humanity, so, industrial disputes may and do occasionally assume proportion affecting the entire economy. Strikes etc., in basic industries are more harmful engulfing the whole economy. It is like a big stone thrown into a pond causing ever widening waves till the entire pond is engulfed.

14.6 Impact of Industrial Disputes

14.6.1 Disruption in Production and Services

The industrial disputes result in huge wastage of man-days and dislocation of production work. A strike in public utility concerns like water and electric supply units, posts and telegraph or telephone's services, railways or roadways, any system of public conservancy or sanitation, hospitals, defence establishments etc., disturbs the whole public life and throws the economy out of gear. Consumers are subjected to untold hardships. If the struck commodity happens to be used in other production operations, then other producers also suffer. When industrial dispute results in stoppage of work, supply position of the struck commodity becomes grim and prices of that commodity shoot up. The position becomes severe if the product is consumer goods of daily use.

14.6.2 On Employers

The employers also suffer heavy losses, not only through stoppage of work, reduction in sale and loss of market due to none or short supply of the product, but also in the form of huge expenditure on crushing down the strikes. They have to undertake publicity and propaganda to put their view point before the public.

14.6.3. On Workers

The workers are also badly affected in more than one ways. They lose their wages for the strike period. Sometimes, they lose their employment. They have to incur debts to meet their day-to-day expenses. Future prospects become dim. Disruption in family life, person hardship, mental agonies, tortures, and tensions develop and persist. The workers are prosecuted, often intimidated, even victimised or beaten mercilessly by goondas, repressed by police. If strikes etc., fail, the workers, besides inflicting financial loss, are demoralised, disappointed and shake their confidence in trade unions.

14.6.4. On Society/Public

The public/society too, is not spared. Industrial unrest creates law and order problem, ceasing a huge additional expenditures out of public exchequer. Further, even when the disputes are settled, strife and bitterness continue to linger endangering happy social and industrial relations.

14.6.5. On National Economy

The industrial disputes also affect the national economy adversely when labour and equipment in the whole or any- part of the industry are rendered idle by strike or lock-out, national dividend (income) suffers a lot. It may happen in two ways on the one hand, by impoverishing the workers indulging in the stoppage of work, it lessens the demand of goods produced by other industries on the other hand, if the struck industry is such that supply goods and services to other industries, it lessens the supply of them of raw material or equipment to work. The result is loss in production, ultimately reducing the national income. Consequently, public expenditure on welfare of public is reduced. Development activities cannot be undertaken for want of finances.

In nutshell, the impact of industrial disputes is not good irrespective of the fact that

succeeds—employer or employees. Each group employers, employees, consumers, society and the economy—suffers in one way or the other. So, industrial disputes should be avoided, by the interested parties, threshing out their differences through collective bargaining and voluntary arbitration.

14.7 Measures taken by the Government for Prevention of Disputes

Prevention is always better than cure, is the principle for the establishment of machinery for prevention of industrial disputes before they arise. Various measures have been taken by the Government for the prevention of industrial disputes.

14.7.1 Payment of Bonus Act

As payment of bonus is one of the major cause of industrial disputes, the Government of India on the recommendation of Mehar Committee, appointed to study the entire issue of bonus, enacted the Payment of Bonus Act 1965 which is applicable to workers earning wages upto Rs. 1,600 p.m. (Basic + D.A.). The Act is applicable to factories employing at least 20 or more workers. At present, the rate of bonus payable to industrial workers is minimum 8.33% and maximum 20% of their wages. Bonus Amendment Act 1980 also covers all banks and public sector undertakings not working for profits.

14.7.2 Code of Discipline

The Indian Labour Conference in 1958 evolved a Code of Discipline which was ratified by the central organizations of employers and workers. To ensure better discipline in industry, both the parties voluntarily agree to maintain and create an atmosphere of mutual trust and cooperation in the industrial unit/ industry and to settle all the disputes and grievances by negotiations, conciliation and voluntary arbitration. Both parties will try to avoid direct action.

The Code, inter alia, lays down that:

- (a) There shall be no strike or lock-out without giving proper notice to other party.
- (b) No unilateral action shall be taken in connection with any industrial matter.
- (c) No deliberate damage shall be done to plant and machinery.
- (d) Awards and agreements should be speedily implemented.
- (e) Any action which disturbs cordial relations should be avoided.

14.7.3 Industrial Truce Resolution

A joint meeting of the central organisations of employers and employees was convened on November 3, 1962, in the wake of Chinese aggression. The meeting adopted an Industrial Truce Resolution agreeing that there should be maximum recourse to voluntary arbitration and envisages that all complaints pertaining to dismissal, discharge, victimisation and retrenchment of individual workman, not settled mutually should be settled through arbitration. The Truce Resolution was aimed at the total elimination of work-stoppage, improvement in production and productivity, cost reduction etc., In accordance with the recommendation of the Indian Labour Conference held on July 1, 1963, a high level Standing Committee on Industrial Truce Resolution was set up under the chairmanship of the Labour Minister to review the implementation of Truce Resolution in all its aspects. The Standing Committee has since been amalgamated with the Central Implementation and Evaluation Committee in the Ministry of Labour.

14.7.4 Tripartite Machinery

A number of tripartite bodies have been set up for the promotion of industrial peace.

The Tripartite Machinery refers to various bodies composed of representatives of employers, employees and the Government.

The important tripartite bodies are the following:

(a) The Indian Labour Conference:

It is concerned with matters like promoting uniformity in labour legislations, procedures for the settlement of industrial disputes etc.

(b) The Industrial Committees:

These committees discuss the specific problems of industries for which they have been set up and submit their reports to the Indian Labour Conference (ILC), which coordinates their activities.

(c) The Central Implementation and Evaluation Committees:

These Committees are concerned with effective implementation of labour laws, awards, settlements etc.

(d) The Standing Labour Committee:

It considers all matters referred to it by the Indian Labour Conference or by the Central Government including the suggestions, by the employers, employees and State Governments concerning labour.

(e) The Committee on Conventions:

The Committee examines the ILO conventions and recommendations and explores the possibility or advisability of ratifying them to Indian conditions. When a dispute has arisen i.e., it could not be prevented on voluntary basis, the Industrial Disputes Act 1947 provides several provisions for settling the disputes. A dispute settlement machinery has been evolved under the Act.

14.8 Machinery for settlement of Disputes

14.8.1. Establishment of Works Committees

In every industrial establishment employing 100 or more workers, it is compulsory to establish a works committee at the plant level to promote the measures for securing and preserving unity and good relations between the parties. There are equal number of representatives of workers and employer on the committee.

The main function of the works of committee is to remove causes of friction between the two parties which concern the factory life of workers. No mention of functions of works committee have been made in the Act but however in 1960 a tripartite committee of Indian Labour Conference prepared two lists of functions one for works to be dealt with and the other for works not to be dealt with by the works committees.

The works committee is to discuss such problems relating to grievances, complaints, matter of discipline, welfare problems such as health, safety, training, education and other personal problems which vitally affect the interests of the workers in general. The functions of these committees are purely of advisory character and no legal obligation is imposed upon employers to carry out the decisions arrived at in the meeting of works committee. This body has not played any conspicuous role in the past.

14.8.2. Grievance Settlement Authority

The Industrial Disputes (Amendment) Act 1982 has provided for the setting up of a Grievance Settlement Authority and for reference of certain individual disputes to such authorities. Any employer employing one hundred or more workers on any day in the preceding twelve months, is required to provide for a Grievance Settlement Authority for settlement of industrial dispute relating to an individual. Where such dispute arises, the concerned worker or the trade union of which he is a member, may refer the dispute to the Authority for settlement. Any such reference shall not be referred to Board or Tribunal.

14.8.3 Conciliation Officer

The appointment of conciliation officer is made by the Central or State Government for a particular region or industries in the state. The main duty of these officers is to bring the two parties together and help them resolve their differences. They can do everything to settle the dispute between the two parties amicably. He is bound to take decision within 14 days or such period as extended by the State Government from the date of registration of dispute.

If the dispute is settled through his good offices and an agreement is reached, he should send a report to the appropriate Government along with a memorandum of settlement signed by the parties to the dispute. In case, the dispute is not settled he should inform the appropriate Government about his failure, steps taken and the reasons for not being successful.

14.8.4 Court of Inquiry

Where an industrial dispute remains unresolved by the efforts conciliation officer and the board of conciliation, the matter is referred to a court of inquiry. The court may consist of one or more independent persons. It will investigate the whole dispute and submit its report to the Government on the matters referred to it ordinarily within 6 months from the date of commencement of inquiry.

If settlement is not arrived at by the efforts of the above machinery, a three-tier machinery for compulsory adjudication is provided under the act. There are three types of semi-judicial bodies, i.e., labour courts, industrial tribunals and national tribunals.

14.8.5 Conciliation Board

In case, the conciliation officer fails to resolve the dispute, the Government appoints a board of conciliation on adhoc basis for a particular dispute consisting of a Chairman and two to four persons representing the employer and the employees to bring the parties of disputes to sit together and thrash out their differences as referred to by the Government. The board reports the Government about the success or failure of its efforts, steps taken and reasons for its failure to bring about a settlement within 2 months from the date of reference of the dispute.

14.8.6 Labour Courts

Such courts have been set up by the State Governments to go into the disputed orders of the employers dismissal, discharge and suspensions of employees by the management, legality or otherwise of any order passed by an employer under the standing orders, withdrawal of any concession or privilege, legality or otherwise or any strike or lock-out etc. These courts will award decision and send report to the Government.

14.8.7 Industrial Tribunals

The State Government has been empowered to appoint as many industrial tribunals as it thinks proper, for the adjudication of disputes relating to wages, hours of work and rest,

intervals, leave with pay, holidays, compensatory and other allowances, bonus, profit sharing, provident fund, gratuity, discipline, retrenchments closure of establishment etc. The tribunal will consist of a person of the rank of a high court judge. The adjudication of these tribunals is binding on both the parties.

14.8.8 National Tribunal

Such tribunals are set up by the Central Government for the adjudication of industrial dispute which involve questions of national importance or which affect industrial establishments situated in more than one state. It gives decisions on matters referred to it by the Central Government. If any matter is referred to the National Tribunal by the Central Government the labour courts and industrial courts are barred from entertaining such disputes and if any such dispute, is pending before labour courts or tribunals, shall be deemed to be quashed.

14.9 Important Provisions

14.9.1a Restrictions on Strikes and Lock-Outs

The Act prohibits strikes and lock-outs in public utilities without sufficient notice as specified in the Act. The Act also prohibits strikes and lock-outs during pendency of proceedings relating to the dispute before the concerned authority and certain specified period after that. Further prohibition will also apply during the period in which a settlement or award is in operation in respect of any of the matters covered by the settlement or award.

14.9.1b. Restriction of Layoff and Retrenchment:

The Industrial Disputes (Amendment) Act 1984 has provided that no industrial establishment employing 300 or more workers c-in layoff or retrench a worker without the prior permission of the Government at least three months before such layoff or retrenchment. The Act also lays down the conditions of layoff and retrenchment, the right of laid off workmen for compensation, procedure for closing down an undertaking, compensation to workmen in case of closing down of undertaking.

14.9.1c. Essential Services Maintenance (Ordinance) 1981:

The President of India has promulgated an ordinance on 26th July 1981, declaring a ban on strikes in essential services. These essential services are Railways, Post and Telegraph, Telephone, Ports, Air ports, Banks, units producing or refining petroleum products public conservancy services, defense establishments and hospitals etc. The Government has power to declare a service as essential by notification.

Thus, the Government has provided machinery for prevention and settlement of industrial disputes and also made certain other provisions to maintain industrial harmony.

14.14 Summary

The most common Labour type of dispute is the disputes over Unfair Practices in industrial relations. The management many times discriminates against workers on the ground that they are the members of the trade union and they participate in the activities of the union. Unfair labour practice includes pressure on employees when they exercise their rights to organize, take part in union activity, refusal to bargain, recruiting new employees during a strike which is not illegal, creating an environment or actually creating an act of force or violence or stop communication etc. Such disputes can be settled through conciliation or such disputes are settled according to the normal procedure laid down under the Industrial Disputes Act 1947.

14.15 Key words

Interest Dispute -These conflicts are also called ‘conflicts of interest’ or ‘economic disputes’. Such disputes relate to the establishment of new terms and conditions of employment for the general body workers i.e., that affect the masses

Industrial Dispute- An industrial dispute as a conflict or a difference in opinion between management and workers regarding employment

Code of Discipline- The Indian Labour Conference in 1958 evolved a Code of Discipline which was ratified by the central organizations of employers and workers.

14.16 Self Assessment questions

1. Briefly Explain the concept of Industrial Disputes
2. Discuss the characteristics of industrial Disputes
3. Outline the Types and Causes of Industrial Disputes
4. Explain the Impact and Measures taken by the Government for Prevention of Disputes

14.17 Suggested Readings

1. V.K. Kharbanda & Vipul kharbanda, Handbook Of Industrial Disputes Act 1947 With Digest Of cases (1947-2018), Edition 2019, Law Publishing House's.
2. Sodhi, J.S and Ahluwalia (ed), Industrial Relations : Coming Decades, Sri Rama Centre for Industrial Relations and Human Resources, New Delhi .
3. Verma, Pramod, Management of Industrial Relations, Oxford & IBH Pub. Co. New Delhi.
4. Pylee, M.V. and George, Simon, Industrial Relations & Personnel Management, Vikas Pub. House Pvt. Ltd., New Delhi .
5. Venkataratnam, C.S. and Varma, Anil, Challenge of Change, Allied Pub. Ltd., New Delhi .
6. Keer, Clerk and Staudohar, paul D., Industrial Relations in a New Age, Jossey – Bass publishers, San Francisco.
7. C.Srivastava , Industrial Relations and Labor Laws, Vikas Publishing House Pvt. Ltd, New Delhi.

Dr.M.Rama Satyanarayana

LESSON -15

STRIKES AND LOCKS OUTS

Learning objectives

- ✓ To Understand the Types of Industrial Disputes
- ✓ To Know the Prohibition of Strikes and Lockouts
- ✓ To Outline the Features of Lockout
- ✓ To Discuss the Conditions Essential for Lay off
- ✓ To study the Retrenchment Procedure

Structure of the Lesson

15.1 Introduction

15.2 Types of Industrial Disputes

15.2.1. Strikes

15.2.1(i). Economic Strike

15.2.1(ii). Sympathetic Strike

15.2.1(iii). General Strike

15.2.1(iv). Sit Down Strike

15.2.1(v). Slow Down Strike

15.2.1(vi). Sick-Out (Or Sick-In)

15.2.1(vii). Wild Cat Strikes

15.2.2. Lockouts

15.2.3. Picketing

15.2.4. Gherao

15.3 Prohibition of Strikes and Lockouts

15.4 Illegal Strikes and Lockouts

15.5 Penalty for Illegal Strikes and Lockouts

15.6 Strikes and Lockouts

15.6.1 Strikes

15.6.1(i). Primary Strikes

15.6.1(ii). Secondary Strikes

15.7 Prevention of Strike

15.8. Lockout

15.8.1 Features of Lockout

15.9 Lay Off

15.9.1 Conditions essential for a lay-off

15.9.2 The workman must not have been subjected to retrenchment

15.9.3 Section 25A of the Industrial Disputes Act, 1947: non-applicability of compensation on industries

15.9.4 Section 25B of the Industrial Disputes Act, 1947: continuous service

15.10 Conditions precedent for providing compensation to a laid-off workman

15.11 Conditions for non-applicability of compensation on workmen

15.12 Prohibition of lay-off under Industrial Disputes Act, 1947

15.13 Retrenchment

15.13.1 Section 25F of the Industrial Disputes Act, 1947: conditions precedent to retrenchment

15.13.2 Section 25G of the Industrial Disputes Act, 1947: procedure of retrenchment

15.13.3 Landmark Judgments regarding Retrenchment

15.13.4 Lay-off and retrenchment: a comparative analysis

15.14 Summary

15.15 Key words

15.16 Self Assessment Questions

15.17 Suggested Readings

15.1 Introduction

Everything you need to know about the types of industrial disputes. According to the Industrial Disputes Act, 1947, Section 2(k), “Industrial disputes means any dispute or difference between employers and employees, or between employers and workmen or between workmen and workmen, which is connected with the employment or non-employment or terms of employment or with the conditions of labour of any person.”

Industrial disputes, mean disputes relating to existing industry. It must be a real dispute and the person regarding whom the dispute is raised and the parties to a dispute must have a direct or substantial interest.

15.2 Types of Industrial Disputes

Industrial disputes are a part of organizational life and arise out of various economic or non-economic causes. The economic causes relate to compensation such as wages, bonus, allowances, conditions of work, working hours, leave, holidays without pay, unjust layoffs, and retrenchments. The non-economic factors include victimization of workers, ill-treatment by staff members, sympathetic strikes, political factors, indiscipline, etc.

Trade unions and other forums generally bargain for higher wages and allowances to meet the rising cost of living and to increase their standards of living. Differences of opinion in these issues lead to disputes. Retrenchment and layoffs also continue to be important factors that give rise to industrial disputes. Indiscipline, unruliness, disorderliness, disruptive behaviour, aggression, hostility, violence, etc., jeopardize the normal working in any type of organization. Industrial disputes also revolve around the number of leaves and working hours though they have not been so important causes.

15.2.1. Strikes

A strike is a very powerful weapon used by trade unions and other labour associations to get their demands accepted. It generally involves quitting of work by a group of workers for the purpose of bringing the pressure on their employer so that their demands get accepted. When workers collectively cease to work in a particular industry, they are said to be on strike.

According to Industrial Disputes Act 1947, a strike is “a cessation of work by a body of persons employed in an industry acting in combination; or a concerted refusal of any number of persons who are or have been so employed to continue to work or to accept employment; or a refusal under a common understanding of any number of such persons to continue to work or to accept employment”.

This definition throws light on a few aspects of a strike. Firstly, a strike is a referred to as stoppage of work by a group of workers employed in a particular industry. Secondly, it also includes the refusal of a number of employees to continue work under their employer.

In a strike, a group of workers agree to stop working to protest against something they

think is unfair where they work. Labours withhold their services in order to pressurize their employment or government to meet their demands. Demands made by strikers can range from asking for higher wages or better benefits to seeking changes in the workplace environment. Strikes sometimes occur so that employers listen more carefully to the workers and address their problems.

Strikes can occur because of the following reasons:

1. Dissatisfaction with company policy
2. Salary and incentive problems
3. Increment not up to the mark
4. Wrongful discharge or dismissal of workmen
5. Withdrawal of any concession or privilege
6. Hours of work and rest intervals
7. Leaves with wages and holidays
8. Bonus, profit sharing, provident fund and gratuity
9. Retrenchment of workmen and closure of establishment
10. Dispute connected with minimum wages

15.2.1(i). Economic Strike

Under this type of strike, labour stop their work to enforce their economic demands such as wages and bonus. In these kinds of strikes, workers ask for increase in wages, allowances like traveling allowance, house rent allowance, dearness allowance, bonus and other facilities such as increase in privilege leave and casual leave.

15.2.1(ii). Sympathetic Strike

When workers of one unit or industry go on strike in sympathy with workers of another unit or industry who are already on strike, it is called a sympathetic strike. The members of other unions involve themselves in a strike to support or express their sympathy with the members of unions who are on strike in other undertakings. The workers of sugar industry may go on strike in sympathy with their fellow workers of the textile industry who may already be on strike.

15.2.1(iii). General Strike

It means a strike by members of all or most of the unions in a region or an industry. It may be a strike of all the workers in a particular region of industry to force demands common to all the workers. These strikes are usually intended to create political pressure on the ruling government, rather than on any one employer. It may also be an extension of the sympathetic strike to express generalized protest by the workers.

15.2.1(iv). Sit Down Strike

In this case, workers do not absent themselves from their place of work when they are on strike. They keep control over production facilities. But do not work. Such a strike is also known as 'pen down' or 'tool down' strike. Workers show up to their place of employment, but they refuse to work.

They also refuse to leave, which makes it very difficult for employer to defy the union and take the workers' places. In June 1998, all the Municipal Corporation employees in Punjab observed a pen down strike to protest against the non-acceptance of their demands by the state government.

15.2.1(v). Slow Down Strike

Employees remain on their jobs under this type of strike. They do not stop work, but restrict the rate of output in an organized manner. They adopt go-slow tactics to put pressure on the employers.

15.2.1(vi). Sick-Out (Or Sick-In)

In this strike, all or a significant number of union members call in sick on the same day. They don't break any rules, because they just use their sick leave that was allotted to them on the same day. However, the sudden loss of so many employees all on one day can show the employer just what it would be like if they really went on strike.

15.2.1(vii). Wild Cat Strikes

These strikes are conducted by workers or employees without the authority and consent of unions. In 2004, a significant number of advocates went on wild cat strike at the City Civil Court premises in Bangalore. They were protesting against some remarks allegedly made against them by an Assistant Commissioner.

15.2.2. Lockouts

A lockout is a work stoppage in which an employer prevents employees from working. It is declared by employers to put pressure on their workers. This is different from a strike, in which employees refuse to work. Thus, a lockout is employers' weapon while a strike is raised on part of employees.

According to Industrial Disputes Act 1947, lockout means the temporary closing of a place of employment or the suspension of work or the refusal by an employer to continue to employ any number of persons employed by him.

A lockout may happen for several reasons. When only part of a trade union votes to strike, the purpose of a lockout is to put pressure on a union by reducing the number of members who are able to work.

For example, if a group of the workers strike so that the work of the rest of the workers becomes impossible or less productive, the employer may declare a lockout until the workers end the strike. Another case in which an employer may impose a lockout is to avoid slowdowns or intermittent work-stoppages. Occupation of factories has been the traditional method of response to lockouts by the workers' movement.

15.2.3. Picketing

When workers are dissuaded from work by stationing certain men at the factory gates, such a step is known as picketing. If picketing does not involve any violence, it is perfectly legal. Pickets are workers who are on strike that stand at the entrance to their workplace. It is basically a method of drawing public attention towards the fact that there is a dispute between the management and employees.

The purpose of picketing is

- a. To stop or persuade workers not to go to work
- b. To tell the public about the strike
- c. To persuade workers to take their union's side

15.2.4. Gherao

Gherao in Hindi means to surround. It denotes a collective action initiated by a group of workers under which members of the management are prohibited from leaving the industrial establishment premises by workers who block the exit gates by forming human barricades. The workers may gherao the members of the management by blocking their exits and forcing them to stay inside their cabins. The main object of gherao is to inflict physical and mental torture to the person being gheraoed and hence this weapon disturbs the industrial peace to a great extent.

15.3 Prohibition of Strikes and Lockouts

Employees are prohibited from striking according to the section 22 of Industrial Disputes Act, 1947. Employees, who are working in a public utility service, cannot go on a strike without giving a notice of strike within the six weeks before striking. They cannot go on strike either within fourteen days of providing the strike notice or before the expiry of the date of strike specified in any such notice.

The same rule applies to the employers. Employers who are carrying on a public utility service cannot lockout any of their employees without giving them a prior notice within six weeks before the lockout or within the fourteen days of giving such a notice. Moreover, the notice of strike or lockout is to be given in a prescribed manner showing the number of persons involved in the strike/lockout.

A notice should be issued on the day on which the lockout is declared just to intimate the appropriate authorities about the lockout. The employer is supposed to report the number of notices of strikes received by him to the appropriate government or the authority prescribed by the government within the five days of receiving such notices.

15.4 Illegal Strikes and Lockouts

A strike or a lockout is illegal if it is declared in noncompliance with the section 22 of Industrial Disputes Act 1947, that is, if the notice period is not served or if the strike is held within the fourteen days of issuing the notice of strike. If a strike or lockout has already taken place and is being referred to a Board, the continuance of such a strike or lockout is not illegal provided it is in compliance with the provisions of Act. Moreover, a lockout declared in consequence of an illegal strike or a strike declared in consequence of an illegal lockout shall not be deemed to be illegal.

15.5 Penalty for Illegal Strikes and Lockouts

A workman who is involved in an illegal strike can be penalized with imprisonment for a term extendable to a month or with a fine or fifty rupees or both. In similar way, an employer who initiates and continues a lockout is punishable with imprisonment extendable to a month or with a fine of one thousand rupees or both.

According to Section 25 of Industrial Disputes Act 1947, no person should provide any sort of financial aid to any illegal strike or lockout. Any person who knowingly provides such a help in support of any illegal strike or lockout is punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

15.6 Strikes and Lockouts

Industrial disputes are basically of two types:

1. Strike and
2. Lockouts.

15.6.1 Strikes

Strikes are the off-shoot of more fundamental maladjustments, injustice, and economic disturbances. According to Peterson, “Strike is a temporary cessation of work by a group of employees in order to express their grievances or to enforce a demand concerning changes in work conditions”.

According to Section 2(q) of the Industrial Dispute Act, 1947, “Strike is a cessation of work by a body of persons employed in any industry acting on combination, or a concerted refusal under a common understanding of a number of persons who are or have been employed to continue to work or to accept employment”.

Strikes are of two types, namely:

- i. Primary Strikes and
- ii. Secondary Strikes.

15.6.1(i). Primary Strikes

These are strikes against the management.

The different types are:

- a. Stay away strike – Workmen stay away from the work by organizing rallies, demonstrations etc.
- b. Sit down strike – Workmen come to work but sit idle.
- c. Tools/pens down strike – Strikers do not touch tools, put down pens in case of office workers and do not teach in case of teachers.
- d. Token strike – Strikers do not work for certain hours to warn the management of impending full scale strike in case of its persistent indifference to their demands.
- e. Lightening strike – Strike called out without any prior notice is lightning strike.
- f. Go slow strike – Workers reduce their pace of functioning.
- g. Work to rule – Workmen work strictly according to rule or job description without doing any extra work and not staying late even for a single minute after their stipulated work time.
- h. Boycott – Disturbing the normal functions of an enterprise is boycotting.
- i. Gherao – It is a physical blockage of a target area by encirclement intended to block the entry and exit from the premises.
- j. Hunger strike – Strikers abstain from food for a limited number of hours in a day to register their protest thereby drawing the attention of management to their demands.
- k. Picketing – It is an act of posting pickets or patrolling of workmen in front of the premises of the employer.

15.6.1(ii). Secondary Strikes

These are strikes against a third party. Hartals, political bandhs, etc., are examples of secondary strike.

Legal Strike or Justifiable Strike

The following requirements make strike a justifiable strike:

- i. Strike called for pressing economic demands like pay hike, DA, increments, leave, fringe benefits, etc.
- ii. Demands of workers are reasonable, for example, inhuman working environment, unsafe,

production process, lack of canteen or transport, housing facilities, etc.

iii. Summary withdrawal of existing facilities like closure of PR, ration benefit, education loan, healthcare benefit, insurance benefit, etc.

iv. Management pursuing unfair labour practices.

15.7 Prevention of Strike

The following measures prevent strike:

i. Progressive HR policy aimed at maintaining cordial industrial relation.

ii. Speedy grievance redressal system.

iii. Proper recognition given to union representatives.

iv. Timely implementation of HR policies.

v. Encouraging collective bargaining.

vi. Promoting joint consultation across various levels of the organization.

vii. Providing congenial work environment.

viii. Effective implementation of labour welfare measures.

ix. Putting in place sound incentive system.

x. Practicing participative management.

xi. Impeccable recruitment, selection and promotion policies.

xii. Ensuring effective two-way communication.

xiii. Sharing vital financial information with workers and increasing contact with workmen.

xiv. Sharing gains of participation with the workers.

xv. Arranging get-togethers and greeting workers on their anniversaries. ,

xvi. Rewarding and recognising the exemplary talents of workers.

xvii. Taking unions into confidence before putting in place any major change in the work method.

xviii. Conducting morale and job satisfaction survey to spot out grey areas of dissatisfaction and taking proactive measures to weed out cropping up resentment.

15.8 . Lockout

According to Industrial Disputes Act, 1947, lockout means closing of a place of business of employment or the suspension of work or refusal by an employer to continue to employ any number of persons employed by him. Thus, lockout means refusal of employer to give work to workmen with the intention of arm-twisting them to accept the will of the player or to force workers to withdraw their demands.

15.8.1 Features of Lockout

i. Closure of industrial undertaking when employer apprehends a destruction (or) damage to his property in the event of industrial dispute.

ii. As long as employer refuses to give work, there is suspension of employer-employee relationship.

iii. It is a weapon in hands of the employer to force them to give in to his demands. It is an antithesis of strike.

Following acts do not amount to lockout

i. Termination of employee by retrenchment.

ii. Termination of more than one person at a time.

iii. Prohibiting an employee from working.

iv. Declaration of lockout on the ground that workers have refrained from attending work.

Disputes according to the code of Industrial Relations introduced in the United

Kingdom in 1972, are of two kinds

- (a) Disputes of right, which relates to the application or interpretation of an existing agreement or contract of employment.
- (b) Disputes of interest, which relates to claims by employers or proposals by a management about the terms and conditions of employment. According to the Industrial Disputes Act, 1947 and the many judicial decisions which have been handled down by courts and tribunals, industrial disputes may be raised on any one of the following issues –
- (i) Fairness of the standing orders.
 - (ii) Retrenchment of workers following the closing down of a factory, lay off, discharge or dismissal, reinstatement of dismissed employees and compensation for them.
 - (iii) Benefits of an award denied to a worker; non-payment of personal allowance to seasonal employees; the demand of employees for medical relief for their parents.
 - (iv) Wages, fixation of wages and minimum rates, modes of payment and the right of an employee to choose, one of the awards when two awards on wages have been given.
 - (v) Lockout and claim for damages by an employer because employees resorted to an illegal strike.
 - (vi) Payment of hours, gratuity, provident fund, pension and travelling allowance.
 - (vii) Disputes between rival unions.
 - (viii) Disputes between employers and employees.

15.9 Lay Off

According to Section 25A of the Act, provisions relating to lay off, contained in 25C, to 25E, shall not apply to industrial establishments such as – factory, a mine and a plantation or – (a) to industrial establishments in which less than fifty workmen on an average per working day have been employed in the preceding calendar month or (b) to industrial establishments which are of seasonal character or in which work is performed only intermittently.

In the case of a factory, mine and plantation the Act has made special provisions relating to lay off. In the case of the other two types of establishments, however, the Act itself has made an exception. As such, in case a question arises whether an industrial establishment, is of a seasonal character or whether work is performed therein only intermittently the decision of the appropriate government shall be final.

According to Section 25C, a workman who is laid off is entitled to compensation equivalent to 50% of the total basic wages and dearness allowance for the period of lay off this right of compensation is, however, subject to conditions under the Act.

Section 2 (kkk) of the Industrial Disputes Act, 1947 defines the term ‘Layoff’ as the inability, failure, or refusal of the employer to provide employment to a workman whose name is mentioned in the muster roll of his industrial establishment and who is not retrenched due to the lack of power, coal, raw materials, accumulation of stocks, breakdown of machinery or natural calamity for any other relevant reason.

15.9.1 Conditions essential for a lay-off

There must exist an inability, failure or refusal from the employer’s side to provide employment to the workmen.

such inability, failure or refusal must be due to lack of power, coal, raw materials, accumulation of stocks, breakdown of machinery or natural calamity for any other relevant reason.

The name of the workman must be mentioned in the muster roll of the employer's industrial establishment.

15.9.2 The workman must not have been subjected to retrenchment

A layoff is a measure that is used only in continuing businesses. If the employer decides to permanently shut down his industrial establishment then layoff is of no use. Layoff must adhere to the conditions provided in Section 2 (kkk) of the Industrial Disputes Act, 1947 or else it will not be considered right as per the law. Layoff means there will be immediate removal of the employees, however, such unemployment is temporary in nature so it does not result in the termination of the already existing employer-employee relation and leads to no alteration of the terms of such employment.

A workman whose name is mentioned in the muster roll of the employer's industrial establishment and who is present for work during the working hours of any day is not employed within two hours of him being present for work is said to be laid-off for that particular day. Similarly, if the workman is asked to work during the second half of his shift and is employed then he is said to be laid off for half of the day. In case he is not employed even after being present for work during the second half of the day, then he is considered to be laid-off for the whole day.

15.9.3 Section 25A of the Industrial Disputes Act, 1947: non-applicability of compensation on industries

As per Section 25A, the compensation accrued from the layoff provisions mentioned in the said Act shall not apply to the following kinds of industrial establishments :

Such industrial establishments where less than 50 workmen worked on an average during each working day in the preceding calendar month.

An industrial establishment where work is done seasonally or occasionally.

An industrial establishment that comes under the aegis of chapter V-B as included by the Industrial Disputes Amendment Act of 1976.

15.9.4 Section 25B of the Industrial Disputes Act, 1947: continuous service

As per Section 25B, a workman is said to render continuous service if he has worked for at least one year without any interruption. He shall be eligible for compensation if he has rendered a minimum of one year of continuous service. The interruption of such continuous service is not affected by reasons such as an accident, authorized leave, sickness, legal strikes, a lock and the termination of work that is not due to the fault of the workmen.

There are two exceptions where even if a workman is not in continuous service shall be deemed to be in continuous service – they are –

If the workman was employed for the preceding 12 calendar months from the date on

which such calculation is being made.

If the workman during such 12 months had rendered his services for 190 days or more in the case of being employed in a mine and 240 days in any other employment.

15.10 Conditions precedent for providing compensation to a laid-off workman

As per Section 25C of the said Act, the workman who is laid off is entitled to compensation that is equivalent to half of the total wages and allowance given for the said period of lay-off.

However such compensation is subject to the following conditions –

The workman is not a badli or a casual worker.

The workman's name must be mentioned in the muster roll of the industrial establishment.

The workman must have rendered at least one year of continuous service under such an employer.

15.11 Conditions for non-applicability of compensation on workmen

Section 25E states when a workman shall not be entitled to layoff compensation –

If the workman is absent from the establishment during the required working hours at least once a day.

If the workman is laid off for slowing down the efficiency of workmen in another part of the establishment or due to the reason for a strike.

If the workman expresses his refusal towards the alternative employment being given to him, provided that:

Such employment is given in the same establishment he has been laid off from.

Such employment is given in any other establishment under the same employer within 5 miles radius from the establishment to which he belonged.

Such employment as per the employer does not require any previous experience or special skills as compared to the work that the workman can do

Such employment provides the same wages to the workman as his previous employment did.

15.12 Prohibition of lay-off under Industrial Disputes Act, 1947

An employer is subjected to certain restrictions while laying off workers as per Section 25M (Chapter VB added to the Industrial Disputes Act of 1947 by the Industrial Disputes Amendment Act of 1976). These restrictions apply to those industrial establishments which are not seasonal in nature and where there more than 100 workmen. An employer cannot lay off a workman whose name is mentioned in the muster roll of his industrial establishment except when the reason for such layoff is lack of power or a natural

calamity. If the work is regarding a mine then the reasons can also be fire, explosion, excess of inflammable gas or a flood.

An employer can lay off the workmen after acquiring the permission of the concerned authorities specified by the government or the government itself. For this purpose, an application shall be made by the employer stating the reasons for such lay-off and a copy of the same application shall be provided to the workmen who are subjected to such lay-off. After receiving an application, the concerned authority or the government can inquire about such lay off. After such inquiry, the order of the concerned authority or the government must be communicated to the employer and the employees being laid off. The order of the concerned authority or the government shall be considered as final and will be binding for a period of one year from the date of such order.

If the concerned authority or the government does not communicate its order regarding its grant or refusal to grant permission for such lay off within 60 days from the date of application then such application for permission shall be considered as granted. The order of the concerned authority or the government can be referred to a tribunal for adjudication or reviewed either in its own motion or through an application made by an employer or any workman.

In case any lay off occurs even after the permission to do so is refused then such lay off will be considered illegal and the workmen laid off will be entitled to the benefits of the law. However, an employer will not be considered to have laid off a workman if he provides alternative employment to such workman.

15.13 Retrenchment

Understanding the concept of retrenchment under the Industrial Disputes Act, 1947

According to Section 2(00) of the Act “retrenchment” means the termination of a workman for any reason whatsoever otherwise than as a punishment implicated by way of disciplinary action but does not include –

- (a) Voluntary retirement of the workman; or
- (b) Retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf, or
- (c) Termination of the service of workman on the ground of continued ill-health. As pointed out by the Supreme Court in *State Bank Vs N. Sunda Money*, 1976 the word ‘termination’ may refer either to termination by the notice or by efflux of time.

Accordingly, the employer may give a composite order; both for employment and termination this section does not explain the phrase, ‘for any reason whatsoever’. However barring the three circumstances, a workman may be retrenched for any reason such as – automation, rationalization, financial loss, etc.

Section 25G of the Act lays down the procedure to be adopted by the employer while retrenching workman. According to this section the employer has to follow the principle of ‘last come, first to go’ and retrench the workman who was the last person to be employed in that category of workman. This is the ordinary principle to be followed for the purpose of retrenchment or workmen belonging to different categories.

However, if the employer retrenches any other workman than the one who was employed last he has to record the reasons for doing so. This procedure need not be followed if there is an agreement between the employer and the workman to the contrary. Further, this procedure is applicable only to the citizens of India.

If after retrenchment the employer proposes to employ persons he has to according to Section 25H, give an opportunity to the retrenched workmen for re-employment and such retrenched workmen who offer themselves for re-employment shall have preference over other persons. Even this provision is applicable to citizens of India.

Section 2(oo) of the Industrial Disputes Act, 1947 talks about retrenchment. As per the said section, retrenchment refers to the termination of a workman for any reason except for a form of punishment in furtherance of imposing disciplinary action. However, retrenchment does not include voluntary retirement of a workman, workman retiring upon reaching the age of superannuation as mentioned in the employment contract, removal of a workman on basis of continued ill-health, and removal of the workman because the employment contract is terminated or is non-renewed after its expiry.

15.13.1 Section 25F of the Industrial Disputes Act, 1947: conditions precedent to retrenchment

As per this Section, the employer must give one month's written notice to the workman that includes the reasons for retrenchment, or in lieu of such notice, the workman must be paid wages for the period of the notice.

The employer at the time of retrenchment must pay the workman the compensation which is equal to the average pay of 15 days for each year of continuous service provided by such workman.

The notice regarding retrenchment must be served to the appropriate Government as well.

15.13.2 Section 25G of the Industrial Disputes Act, 1947: procedure of retrenchment

The procedure of retrenchment as per this Section is as follows:

If an employer decides to retrench a workman belonging to a certain class of workmen working in the establishment of such employer, he must ensure to retrench such a workman who was considered as the last candidate to be employed for such work at the time of employment. Usually, the rule followed during retrenchment is that it must start with beginners or new workmen and then progress towards the experienced or senior workmen.

However, the exceptions to the above-mentioned method are if a contract exists between the employer and the workmen that is contrary to the rule or if the employer states the grounds to retrench any other workman. The employer in good faith is allowed to continue the employment of those workmen who possess special skills and whose service is imperative for the establishment's proper functioning.

15.13.3 Landmark Judgements regarding Retrenchment

Byram Pestonji Gariwala v Union Bank of India and Others

In this case, the Apex court restricted the definition of 'retrenchment' as defined under Section 2(oo) (bb) of the Industrial Disputes Act, 1947. It held that only when 'discharge of excess of labour' is done by the employer then retrenchment is said to occur.

State Bank of India v N. Sundaramony

In this case, the Supreme Court put an end to its earlier decision expressed in Byram Pestonji Gariwala v Union Bank of India and Others by expanding the definition of retrenchment as defined under Section 2(oo) of the Industrial Disputes Act, 1947. It held that any retrenchment done as per Section 2(oo) shall mean that the termination of a workman is done by the employer for any reason whatsoever other than as a punishment in furtherance of imposing disciplinary action and those explicitly excluded by clauses (a), (b) and (c) of the said definition.

G. Jagadishwar Reddy v Railways, Guntakal Division

In this case, it was held that retrenchment compensation can also be claimed by casual workers under the provisions of Section 25F of the Industrial Disputes Act, 1947 if such casual worker had rendered continuous service for a period of one year.

Delhi Cloth and General Mills v Union of India

In this case, it was held by the Supreme Court that if the name of any workman is removed from the muster roll of an industrial establishment then it would automatically be deemed as the retrenchment of such workman.

15.13.4 Lay-off and retrenchment: a comparative analysis

A layoff basically means the temporary termination of a workman at the disposal of an employer while retrenchment means the removal of excess workmen to increase the efficiency of the industrial establishment, provided that such removal is done for any reason whatsoever other than as a form of punishment in furtherance of imposing disciplinary action. The termination in a layoff is temporary while termination in retrenchment is permanent. The employer-employee relationship does not cease to exist in the former and it ceases in the latter. In a layoff, the industrial establishment stops functioning or operating after the declaration. However, in retrenchment, the industrial establishment continues its functions or operations. A workman who had been laid off is appointed back as soon as the layoff period ends. In the case of retrenchment, the employment of the workman is immediately terminated, there is no further relation between the employer and the workmen.

15.14 Summary

Any company doing business banks upon various aspects for the purpose of its operation, gaining profits and reducing losses. It is also required to look after its employees well enough so that they work efficiently for the development of such a company. However, in order to survive in the market, these companies are required to take accurate and expeditious decisions. Terminating the employees or workers by means of lay-offs or

retrenchment may be beneficial to the company as both methods follow certain protocols to make sure that the employees or workers are not subjected to unfair conditions.

15.15 Key words

Strike

A strike is a very powerful weapon used by trade unions and other labour associations to get their demands accepted. It generally involves quitting of work by a group of workers for the purpose of bringing the pressure on their employer so that their demands get accepted.

Economic Strike

Under this type of strike, labour stop their work to enforce their economic demands such as wages and bonus. In these kinds of strikes, workers ask for increase in wages, allowances like traveling allowance, house rent allowance, dearness allowance, bonus and other facilities such as increase in privilege leave and casual leave.

Sympathetic Strike

When workers of one unit or industry go on strike in sympathy with workers of another unit or industry who are already on strike, it is called a sympathetic strike

General Strike

It means a strike by members of all or most of the unions in a region or an industry. It may be a strike of all the workers in a particular region of industry to force demands common to all the workers

Slow Down Strike

Employees remain on their jobs under this type of strike. They do not stop work, but restrict the rate of output in an organized manner. They adopt go-slow tactics to put pressure on the employers.

According to Industrial Disputes Act 1947, lockout means the temporary closing of a place of employment or the suspension of work or the refusal by an employer to continue to employ any number of persons employed by him.

Gherao

Gherao in Hindi means to surround. It denotes a collective action initiated by a group of workers under which members of the management are prohibited from leaving the industrial establishment premises by workers who block the exit gates by forming human barricades

Lay Off

According to Section 25A of the Act, provisions relating to lay off, contained in 25C, to 25E, shall not apply to industrial establishments such as – factory, a mine and a plantation or – (a) to industrial establishments in which less than fifty workmen on an average per working day have been employed in the preceding calendar month or (b) to industrial establishments which are of seasonal character or in which work is performed only intermittently.

15.16 Self Assessment Questions

1. Briefly Explain the Types of Industrial Disputes
2. Outline the Prohibition of Strikes and Lockouts

3. Discuss the Features of Lockout
4. Explain the Conditions Essential for Lay off
5. Explain the Retrenchment Procedure?

15.17 Suggested Readings

1. Kerr, C., Dunlop, John T., Harbison, F and Mers, C.A Industrialism and Industrial Man, Penguin, Harmondsworth.
2. Myers, C.A and kannappan, S., Industrial Relations in India , Asia Pub. Mumbai;
3. Johri C.K Industrialism and Industrial Relations in India , Oxford University , Delhi .
4. Richardson , J.H. An Introduction to Industrial Relations, George Allen & Unwin, London .
5. B.D.singh 2008 Industrial Relations Excel Books New Delhi
6. PL Rao and PRK Raju (2010) Industrial Relations in India, Excel Books, New Delhi
7. B.D.singh (2010) Industrial Relations Emerging Paradigms Excel Books, New Delhi
8. P.C. Tripathy and C.B. Gupta, Industrial Relations and Labour Laws, Sultan Chand and Sons, New Delhi.
9. P.Ghosh and Santosh Ghosh , Labour Relations In India, Sudha Publications Pvt. Ltd.
10. Yoder Dale, Personnel Management and Industrial Relations, Prentice Hall, New York, P.8.

Dr.M.Rama satyanarayana

LESSON -16

UNFAIR LABOR PRACTICE & DISPUTE SETTLEMENT

Learning objectives

- ✓ To Know the Prohibition of Lay off
- ✓ To Understand the unfair Labor Practice
- ✓ To outline the Procedure of Dispute Settlement

Structure of the lesson

- 16.1 Introduction
- 16.2 Prohibition of lay-off
- 16.3 Conditions precedent to retrenchment of workmen
- 16.4 Procedure for closing down an undertaking
- 16.5 Penalty for lay-off and retrenchment without previous permission
 - 16.5.1 Penalty for closure
- 16.6 Unfair Labour Practices
 - 16.6.1 Penalty for committing Unfair labour practices
 - 16.6.2 Penalty for illegal strikes and lock-outs
 - 16.6.3 Penalty for instigation
 - 16.6.4 Penalty for breach of settlement or award
 - 16.6.5 Penalty for disclosing confidential information
 - 16.6.6 Penalty for closure without notice
- 16.7 Penalty for other offences
- 16.8 Power to transfer certain proceedings
- 16.9 Recovery of money due from an employer
- 16.10 Cognizance of offences
- 16.11 Protection of persons
- 16.12 Representation of parties
- 16.13 Power to remove difficulties
- 16.14 Power to exempt
- 16.15 Protection of action taken under the Act
- 16.16 Power to make rules
- 16.17 Delegation of powers
- 16.18 Power to amend Schedules
- 16.19 Dispute Settlement
- 16.20 Summary
- 16.21 Key words
- 16.22 Self Assessment Questions
- 16.23 Suggested Readings

16.1 Introduction

The provisions of this Chapter shall apply to an industrial establishment (not being an establishment of a seasonal character or in which work is performed only intermittently) in which not less than [one hundred] workmen were employed on an average per working day for the preceding twelve months.

Definitions

For the purposes of this Chapter,-

(a) “industrial establishment” means-

(i) a factory as defined in clause (m) of Section 2 of the Factories Act, 1948 (63 of 1948);

(ii) a mine as defined in clause

(j) of sub-section (1) of Section 2 of the Mines Act, 1952 (35 of 1952); or

(iii) a plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951 (69 of 1951);

(b) notwithstanding anything contained in sub-clause (ii) of clause (a) of Section 2,

(i) in relation to any company in which not less than fiftyone per cent of the paid-up share capital is held by the Central Government, or

(ii) in relation to any corporation not being a corporation referred to in sub-clause (i) of clause (a) of section 2] established by or under any law made by Parliament, the Central Government shall be the appropriate Government.

16.2 Prohibition of lay-off

(1) No workman (other than a badli workman or a casual workman) whose name is borne on the muster rolls of an industrial establishment to which this Chapter applies shall be laid-off by his employer except [with the prior permission of the appropriate Government or such authority as may be specified by that Government by notification in the Official Gazette (hereafter in this section referred to as the specified authority), obtained on an application made in this behalf, unless such lay-off is due to shortage of power or to natural calamity, and in the case of a mine, such lay-off is due also to fire, flood, excess of inflammable gas or explosion].

(2) An application for permission under sub-section (1) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended lay-off and a copy of such application shall also be served simultaneously on the workmen concerned in the prescribed manner.

(3) Where the workmen (other than badli workmen or casual workmen) of an industrial establishment, being a mine, have been laid-off under sub-section (1) for reasons of fire, flood or excess of inflammable gas or explosion, the employer, in relation to such establishment, shall, within a period of thirty days from the date of commencement, of such lay-off, apply, in the prescribed manner, to the appropriate Government or the specified authority for permission to continue the lay-off.

(4) Where an application for permission under sub-section (1) or subsection (3) has been made, the appropriate Government or the specified authority, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen concerned and the persons interested in such lay-off, may, having regard to the genuineness and adequacy of the reasons for such lay-off, the interests of the workmen and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.

(5) Where an application for permission under sub-section (1) or subsection (3) has been made and the appropriate Government or the specified authority does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.

(6) An order of the appropriate Government or the specified authority granting or refusing to grant permission shall, subject to the provisions of subsection (7), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order.

(7) The appropriate Government or the specified authority may, either on its own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under sub-section (4) or refer the matter or, as the case may be, cause it to be referred, to a Tribunal for adjudication:

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(8) Where no application for permission under sub-section (1) is made, or where no application for permission under sub-section (3) is made within the period specified therein, or where the permission for any lay-off has been refused, such lay-off shall be deemed to be illegal from the date on which the workmen had been laid-off and the workmen shall be entitled to all the benefits under any law for the time being in force as if they had not been laid-off.

(9) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order, direct that the provisions of sub-section (1), or, as the case may be, sub-section (3) shall not apply in relation to such establishment for such period as may be specified in the order.

(10) The provisions of Section 25-C (other than the second proviso thereto) shall apply to cases of lay-off referred to in this section. Explanation.- For the purposes of this section, a workman shall not be deemed to be laid-off by an employer if such employer offers any alternative employment (which in the opinion of the employer does not call for any special skill or previous experience and can be done by the workman) in the same establishment from which he has been laid-off or in any other establishment belonging to the same employer, situate in the same town or village, or situate within such distance from the establishment to which he belongs that the transfer will not involve undue hardship to the workman having regard to the facts and circumstances of his case, provided that the wages which would normally have been paid to the workman are offered for the alternative appointment also.

16.3 Conditions precedent to retrenchment of workmen

(1) No workman employed in any industrial establishment to which this Chapter applies, who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until,-

(a) the workman has been given three months' notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such

notice, wages for the period of notice; and

(b) the prior permission of the appropriate Government or such authority as may be specified by that Government by notification in the Official Gazette (hereafter in this section referred to as the specified authority) has been obtained on an application made in this behalf.

(2) An application for permission under sub-section (1) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended retrenchment and a copy of such application shall also be served simultaneously on the workmen concerned in the prescribed manner.

(3) Where an application for permission under sub-section (1) has been made, the appropriate Government or the specified authority, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen concerned and the person interested in such retrenchment, may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the workmen and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.

(4) Where an application for permission has been made under sub-section

(1) and the appropriate Government or the specified authority does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.

(5) An order of the appropriate Government or the specified authority granting or refusing to grant permission shall, subject to the provisions of subsection (6), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order.

(6) The appropriate Government or the specified authority may, either on its own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under sub-section (3) or refer the matter or, as the case may be, cause it to be referred, to a Tribunal for adjudication:

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(7) Where no application for permission under sub-section (1) is made, or where the permission for any retrenchment has been refused, such retrenchment shall be deemed to be illegal from the date on which the notice of retrenchment was given to the workman and the workman shall be entitled to all the benefits under any law for the time being in force as if no notice had been given to him.

(8) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order, direct that the provisions of sub-section (1) shall not apply in relation to such establishment for such period as may be specified in the order.

(9) Where permission for retrenchment has been granted under sub-section (3) or where permission for retrenchment is deemed to be granted under subsection (4), every workman who is employed in that establishment immediately before the date of application for permission under this section shall be entitled to receive, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed

year of continuous service or any part thereof in excess of six months.

16.4 Procedure for closing down an undertaking

(1) An employer who intends to close down an undertaking of an industrial establishment to which this Chapter applies shall, in the prescribed manner, apply, for prior permission at least ninety days before the date on which the intended closure is to become effective, to the appropriate Government, stating clearly the reasons for the intended closure of the undertaking and a copy of such application shall also be served simultaneously on the representatives of the workmen in the prescribed manner:

Provided that nothing in this sub-section shall apply to an undertaking set up for the construction of buildings, bridges, roads, canals, dams or for other construction work.

(2) Where an application for permission has been made under sub-section (1), the appropriate Government, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen and the persons interested in such closure may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the general public and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.

(3) Where an application has been made under sub-section (1) and the appropriate Government does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.

(4) An order of the appropriate Government granting or refusing to grant permission shall, subject to the provisions of sub-section (5) be final and binding on all the parties and shall remain in force for one year from the date of such order.

(5) The appropriate Government may, either on its own motion or on application made by the employer or any workman, review its order granting or refusing to grant permission under sub-section (2) or refer the matter to a Tribunal for adjudication: Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(6) Where no application for permission under sub-section (1) is made within the period specified therein, or where the permission for closure has been refused, the closure of the undertaking shall be deemed to be illegal from the date of closure and the workmen shall be entitled to all the benefits under any law for the time being in force as if the undertaking had not been closed down.

(7) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the undertaking or death of the employer or the like it is necessary so to do, by order, direct that the provisions of sub-section (1) shall not apply in relation to such undertaking for such period as may be specified in the order.

(8) Where an undertaking is permitted to be closed down under sub-section (2) or where

permission for closure is deemed to be granted under sub-section (3), every workman who is employed in that undertaking immediately before the date of application for permission under this section, shall be entitled to receive compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months.]

Special provisions as to restarting of undertakings closed down before commencement of the Industrial Disputes (Amendment) Act, 1976.

If the appropriate Government is of opinion in respect of any undertaking or an industrial establishment to which this Chapter applies and which closed down before the commencement of the Industrial Disputes (Amendment) Act, 1976 (32 of 1976),-

(a) that such undertaking was closed down otherwise than on account of unavoidable circumstances beyond the control of the employer;

(b) that there are possibilities of restarting the undertaking;

(c) that it is necessary for the rehabilitation of the workmen employed in such undertaking before its closure or for the maintenance of supplies and services essential to the life of the community to restart the undertaking or both; and

(d) that the restarting of the undertaking will not result in hardship to the employer in relation to the undertaking, it may, after giving an opportunity to such employer and workmen, direct, by

order published in the Official Gazette, that the undertaking shall be restarted within such time (not being less than one month from the date of the order) as may be specified in the order.

16.5 Penalty for lay-off and retrenchment without previous permission

Any employer who contravenes the provisions of Section 25M or Section 25-N shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

16.5.1 Penalty for closure

(1) Any employer who closes down an undertaking without complying with the provisions of sub-section (1) of Section shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

(2) Any employer who contravenes an order refusing to grant permission to close down an undertaking under sub-section (2) of Section 25-O or a direction given under Section 25-P] shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five thousand rupees, or with both, and where the contravention is a continuing one, with a further fine which may extend to two thousand rupees for every day during which the contravention continues after the conviction.

Certain provisions of Chapter V-A to apply to an industrial establishment to which this Chapter applies.- The provisions of Sections 25B, 25D, 25FF, 25G, 25H and 25J in Chapter V-A shall, so far as may be, apply also in relation to an industrial establishment to which the provisions of this Chapter apply.]

16.6 Unfair Labour Practices

Prohibition of Unfair Labour Practice.

No employer or workman or a trade union, whether registered under the Trade Unions Act, 1926 (16 of 1926) or not shall commit any unfair labour practice.

16.6.1 Penalty for committing unfair labour practices

Any person who commits any unfair labour practice shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

16.6.2 Penalty for illegal strikes and lock-outs

(1) Any workman who commences, continues or otherwise acts in furtherance of, a strike which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

(2) Any employer who commences, continues, or otherwise acts in furtherance of a lock-out which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

16.6.3 Penalty for instigation

Any person who instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for giving financial aid to illegal strikes and lock-outs.- Any person who knowingly expends or applies any money in direct furtherance or support of any illegal strike or lock-out shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

16.6.4 Penalty for breach of settlement or award

Any person who commits a breach of any term of any settlement or award, which is binding on him under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both 2[and where the breach is a continuing one, with a further fine which may extend to two hundred rupees for every day during which the breach continues after the conviction for the first] and the Court trying the offence, if it fines the offender, may direct that the whole or any part of the fine realised from him shall be paid by way of compensation, to any person who, in its opinion, has been injured by such breach.]

16.6.5 Penalty for disclosing confidential information

Any person who wilfully discloses any such information as is referred to in Section 21 in contravention of the provisions of that section shall, on complaint made by or on behalf of the trade union or individual business affected, be punishable with imprisonment for a term which may extend to six months, or with fine, which may extend to one thousand rupees, or with both.

16.6.6 Penalty for closure without notice

Any employer who closes down any undertaking without complying with the provisions of Section 25FFA shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

16.7 Penalty for other offences

(1) Any employer who contravenes the provisions of Section 33 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) Whoever contravenes any of the provisions of this Act or any rule made thereunder shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine which may extend to one hundred rupees.

Offences by companies, etc.

Where a person committing an offence under this Act is a company or other body corporate, or an association of persons (whether incorporated or not), every director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

Conditions of service, etc. to remain unchanged under certain circumstances during pendency of proceedings

During the pendency of any conciliation proceedings before a conciliation officer or a Board or of any proceeding before 2[an arbitrator or] a Labour Court or Tribunal or National

Tribunal in respect of an industrial dispute, no employer shall,

(a) in regard to any matter connected with dispute, alter, to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceedings; or

(b) for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any workmen concerned in such dispute, save with the express permission in writing of the authority before which the proceeding is pending.

(2) During the pendency of any such proceeding in respect of an industrial dispute, the employer may, in accordance with the standing orders applicable to a workman concerned in such dispute [or, where there are no such standing orders, in accordance with the terms of the contract, whether express or implied between him and the workman]-

(a) alter, in regard to any matter not connected with the dispute, the conditions of service applicable to that workman immediately before the commencement of such proceeding; or

(b) for any misconduct not connected with the dispute, discharge or punish whether by dismissal or otherwise, that workman:

Provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.

(3) Notwithstanding anything contained in sub-section (2) no employer shall, during the pendency of any such proceeding in respect of an industrial dispute, take any action against any protected workman concerned in such dispute-

(a) by altering, to the prejudice of such protected workman, the conditions of service applicable to him immediately before the commencement of such proceeding; or (b) by discharging or punishing, whether by dismissal or otherwise such protected workman, save with the express permission in writing of the authority before which the proceeding is pending.

Explanation.- For the purposes of this sub-section, a “protected workman” in relation to an establishment, means a workman, who being 4[a member of the executive or other office bearer] of a registered trade union connected with the establishment, is recognized as such in accordance with rules made in this behalf.

(4) In every establishment, the number of workmen to be recognized as protected workmen for the purposes of sub-section (3) shall be one per cent of the total number of workmen employed therein subject to a minimum number of five protected workmen and a maximum number of one hundred protected workmen and for this aforesaid purpose, the appropriate Government may make rules providing for the distribution of such protected workmen among various trade unions, if any, connected with the establishment and the manner in which the workmen may be chosen and recognised as protected workmen.

(5) Where an employer makes an application to a conciliation officer, Board, an arbitrator], a Labour Court, Tribunal or National Tribunal under the proviso to sub-section (2) for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass, within a period of three months from the date of receipt of such application] such order in relation thereto as it deems fit]:

[Provided that where any such authority considers it necessary or expedient so to do, it may, for reasons to be recorded in writing extend such period by such further period as it may think fit: Provided further that no proceedings before any such authority shall lapse merely on the ground that any period specified in this sub-section had expired without such proceedings being completed.

Special provision for adjudication as to whether conditions of service etc. changed during pendency of proceeding

Where an employer contravenes the provisions of Section 33 during the pendency of proceedings [before a conciliation officer, Board, an arbitrator, a Labour Court, Tribunal or National Tribunal] any employee aggrieved by such contravention, may make a complaint in writing [in the prescribed manner,-

(a) to such conciliation officer or Board, and the conciliation officer or Board shall take such complaint into account in mediating in, and promoting the settlement of, such industrial dispute; and

(b) to such arbitrator, Labour Court, Tribunal, or National Tribunal and on receipt of such complaint, the arbitrator, Labour Court, Tribunal or National Tribunal as the case may be, shall

adjudicate upon the complaint as if it were a dispute referred to or pending before it, in

accordance with the provisions of this Act and shall submit his or its award to the appropriate Government and the provisions of this Act shall apply accordingly.]

16.8 Power to transfer certain proceedings

(1) The appropriate Government may, by order in writing and for reasons to be stated therein, withdraw any proceeding under this Act pending before a Labour Court, Tribunal, or National Tribunal and transfer the same to another Labour Court, Tribunal or National Tribunal, as the case may be, for the disposal of the proceeding and the Labour Court, Tribunal or National Tribunal to which the proceeding is so transferred may, subject to special directions in the order of transfer, proceed either de novo or from the stage at which it was so transferred: Provided that where a proceeding under Section 33 or Section 33A is pending before a Tribunal or National Tribunal, the proceeding may also be transferred to a Labour Court.

(2) Without prejudice to the provisions of sub-section (1), any Tribunal or National Tribunal, if so authorized by the appropriate Government, may transfer any proceeding under Section 33 or Section 33A pending before it to any one of the Labour Courts specified for the disposal of such proceedings by the appropriate Government by notification in the Official Gazette and the Labour Court to which the proceeding is so transferred shall dispose of the same.

16.9 Recovery of money due from an employer

(1) Where any money is due to a workman from an employer under a settlement or an award or under the provisions of 2[Chapter V-A or Chapter V-B], the workman himself or any other person authorised by him in writing in this behalf, or, in the case of the death of the workman, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the appropriate Government for the recovery of the money due to him, and if the appropriate Government is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue:

Provided that every such application shall be made within one year from the date on which the money became due to the workman from the employer : Provided further that any such application may be entertained after the expiry of the said period of one year, if the appropriate Government is satisfied that the applicant had sufficient cause for not making the application within the said period.

(2) Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Act, be decided by such Labour Court as may be specified in this behalf by the appropriate Government 3[within a period not exceeding three months:

Provided that where the presiding officer of a Labour Court considers it necessary or expedient so to do, he may, for reasons to be recorded in writing, extend such period by such further period as he may think fit.

(3) For the purposes of computing the money value of a benefit, the Labour Court may, if it

so thinks fit, appoint a Commissioner who shall after taking such evidence as may be necessary, submit a report to the Labour Court and the Labour Court shall determine the amount after considering the report of the Commissioner and other circumstances of the case.

(4) The decision of the Labour Court shall be forwarded by it to the appropriate Government and any amount found due by the Labour Court may be recovered in the manner provided for in sub-section (1).

(5) Where workmen employed under the same employer are entitled to receive from him any money or any benefit capable of being computed in terms of money, then, subject to such rules as may be made in this behalf, a single application for the recovery of the amount due may be made on behalf of or in respect of any number of such workmen.

Explanation.- In this section “Labour Court” includes any Court constituted under any law relating to investigation and settlement of industrial disputes in force in any State.

16.10 Cognizance of offences

(1) No Court shall take cognizance of any offence punishable under this Act, or of the abetment of any such offence, save on complaint made by or under the authority of the appropriate Government.

(2) No Court inferior to that of 1[a Metropolitan Magistrate or a Judicial Magistrate of the first class] shall try any offence punishable under this Act.

16.11 Protection of persons

(1) No person refusing to take part or to continue to take part in any strike or lock-out which is illegal under this Act shall, by reason of such refusal or by reason of any action taken by him under this section, be subject to expulsion from any trade union or society, or to any fine or penalty, or to deprivation of any right or benefit to which he or his legal representatives would otherwise be entitled, or be liable to be placed in any respect, either directly or indirectly, under any disability or at any disadvantage as compared with other members of the union or society anything to the contrary in the rules of a trade union or society notwithstanding.

(2) Nothing in the rules of a trade union or society requiring the settlement of disputes in any manner shall apply to any proceeding for enforcing any right or exemption secured by this section, and in any such proceeding the Civil Court may, in lieu of ordering a person who has been expelled from membership of a trade union or society to be restored to membership, order that he be paid out of the funds of the trade union or society such sum by way of compensation or damages as that Court thinks just.

16.12 Representation of parties

(1) A workman who is a party to a dispute shall be entitled to be represented in any proceeding under this Act by-

(a) 3[any member of the executive or other office bearer] of a registered trade union of which he is a member;

(b) [any member of the executive or other office bearer] of a federation of trade unions to which the trade union referred to in clause (a) is affiliated;

(c) where the worker is not a member of any trade union, by [any member of the executive or other office bearer] of any trade union connected with, or by any other workman employed in the industry in which the worker is employed and authorized in such manner as may be

prescribed.

(2) An employer who is a party to a dispute shall be entitled to be represented in any proceeding under this Act by-

(a) an officer of an association of employers of which he is a member; an officer of a federation of associations of employers to which the association referred to in Clause (a) is affiliated;

(b) where the employer is not a member of any association of employers, by an officer of any association of employers connected with, or by any other employer engaged in, the industry in which the employer is engaged and authorised in such manner as may be prescribed.

(3) No party to a dispute shall be entitled to be represented by a legal practitioner in any conciliation proceeding under this Act or in any proceeding before a Court.

(4) In any proceeding [before a Labour Court, Tribunal or National Tribunal] a party to a dispute may be represented by a legal practitioner with the consent of the other parties to the proceedings and 2[with the leave of the Labour Court, Tribunal, or National Tribunal as the case may be.

16.13 Power to remove difficulties

(1) If, in the opinion of the appropriate Government, any difficulty or doubt arises as to the interpretation of any provision of an award or settlement, it may refer the question to such Labour Court, Tribunal or National Tribunal as it may think fit.

(2) The Labour Court, Tribunal or National Tribunal to which such question is referred shall, after giving the parties an opportunity of being heard, decide such question and its decisions shall be final and binding on all such parties.

16.14 Power to exempt

Where the appropriate Government is satisfied in relation to any industrial establishments or undertaking or any class of industrial establishment or undertakings carried on by a department of that Government that adequate provisions exist for the investigation and settlement of industrial disputes in respect of workmen employed in such establishment or undertaking or class of establishments or undertakings, it may, by notification in the Official Gazette, exempt, conditionally or unconditionally such establishment or undertaking or class of establishments or undertakings from all or any of the provisions of this Act.

16.15 Protection of action taken under the Act

No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

16.16 Power to make rules

(1) The appropriate Government may, subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the powers and procedure of conciliation officers, Boards, Courts Labour Courts,

Tribunals, and National Tribunals] including rules as to the summoning of witnesses, the production of documents relevant to the subject-matter of an inquiry or investigation, the number of members necessary to form a quorum and the manner of submission of reports and awards;

(aa) the form of arbitration agreement, the manner in which it may be signed by the parties, the manner in which a notification may be issued under sub-section (3-A) of section 10A] the powers of the arbitrator named in the arbitration agreement and the procedure to be followed by him;

(aaa) the appointment of assessors in proceedings under this Act;

ab) the constitution of Grievance Settlement Authorities referred to in Section 9C, the manner in which industrial disputes may be referred to such authorities for settlement, the procedure to be followed by such authorities in the proceedings in relation to disputes referred to them and the period within which such proceedings shall be completed:

(b) the constitution and functions of and the filling of vacancies in Works Committees, and the procedure to be followed by such Committees in the discharge of their duties;

(c) the allowances admissible to members of Court 4[and Boards and presiding officers of Labour Courts, Tribunals and National Tribunals] and to assessors and witnesses;

(d) the ministerial establishment which may be allotted to a Court, Board, 5[Labour Court, Tribunal or National Tribunal] and the salaries and allowances payable to members of such establishment;

(e) the manner in which and the persons by and to whom notice of strike or lock-out may be given and the manner in which such notices shall be communicated;

(f) the conditions subject to which parties may be represented by legal practitioners in proceedings under this Act before a Court, Labour Court, Tribunal or National Tribunal]; (g) any other manner which is to be or may be prescribed.

(3) Rules made under this section may provide that a contravention thereof shall be punishable with fine not exceeding fifty rupees.

(4) All rules made under this section shall, as soon as possible after they are made, be laid down before the State Legislature or, where the appropriate Government is the Central Government, before both the Houses of Parliament.

(5) Every rule made by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in 9[two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modifications in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

16.17 Delegation of powers

The appropriate Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act or rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also,--

(a) where the appropriate Government is Central Government, by such officer or authority

subordinate to the Central Government or by the State Government, or by such officer or authority subordinate to the State Government, as may be specified in the notification; and (b) where the appropriate Government is a State Government by such officer or authority subordinate to the State Government as may be specified in the notification.

16.18 Power to amend Schedules

(1) The appropriate Government may, if it is of opinion that it is expedient or necessary in the public interest so to do, by notification in the Official Gazette, add to the First Schedule any industry, and on any such notification being issued, the First Schedule shall be deemed to be amended accordingly.

(2) The Central Government may, by notification in the Official Gazette, add to or alter or amend the Second Schedule or the Third Schedule and on any such notification being issued, the Second Schedule or the Third Schedule, as the case may be, shall be deemed to be amended accordingly.

(3) Every such notification shall, as soon as possible after it is issued, be laid before the Legislature of the State, if the notification has been issued by a State Government, or before Parliament, if the notification has been issued by the Central Government.

16.19 Dispute Settlement

According to the section 2(k) of this act, the industrial disputes means any dispute or difference between employers and employee or between workman or employer or between workman or workman, which is connected with the employment or non employment or with the condition of labour, or of any person.

Under section 2(j) of the act defines industry it mean any business, trade undertaking manufacture or calling of employers and includes any calling service, employment, handicraft or industrial occupation or avocation of worker from the above definition, industry appears to mean

A business, such as merchant designing.

A trade, such as cutler

A manufacturer, such as flour milling

A undertaking such as electricity company.

A calling such as architect.

A service such as transporter or

An employment, which is a general term covering perhaps the rest of the vocations.

Under section 2(s) of the act defines workman and section 2 (Q) of the act defines strike.

Two types of industrial disputes

There are basically two type of industrial disputes :-

Interest disputes

Right disputes

Interest disputes relate to determination of new wage level and other matter of employment. Whereas right disputes relate to the rules made for the workers and they have not been treated in accordance with that.

There are various major industrial dispute settlement machinery which are as follow: -

Concillation

Concillation is one of the non binding procedure where a impartial third party known as concillator , assist the parties to a dispute in reaching a mutually agreed settlement of dispute.

Concillation under the Industrial dispute act section 4 of the industrial dispute act , 1947 states the Concillation officers :-

- 1) The appropriate Government may, by the notification in the Official Gazette , appoint such number of persons as it thinks fit, to be conciliation officers , charged with the duty of mediating in and promoting the settlement of industrial disputes.
- 2) A Concillation officer may be appointed for a specified area or for specified industries in a specified area or for one or more specified industries and either permanently or for a limited period .

Section 12(A) of this act states the duties of conciliation officers:-

- 1) If the industrial disputes exists or is apprehended, the conciliation officer may hold the conciliation proceedings if the dispute relates to a public utility service and a notice under section 22 has been given.
- 2) The conciliation officer shall investigate the matter for the purpose of bringing amicable settlement of the dispute.
- 3) If the settlement is arrived at , the conciliation officer shall send a report to the appropriate government or the officer authorised by the appt government , with the memorandum of the settlement signed by the disputed parties .
- 4) If no such settlement is arrived at , the conciliation officer shall send a report to the appropriate government mentioning the reasons on account of which in his opinion a settlement could not be arrived at.
- 5) The report shall be submitted within 14 days of the commencement of the conciliation proceedings or within such shorter period as maybe fixed by the appropriate government .

Arbitration under the Industrial dispute act

Arbitration is a mechanism in which a dispute is resolved by a impartial third party whose decision is final and binding upon the parties.

There are two types of arbitration :-

Voluntary arbitration

Compulsory arbitration

Voluntary Arbitration

In this , the parties themselves agreed on their own to use an outside party , to settle their

disputes . It is non binding in nature.

Compulsory Arbitration(Adjudication)

Compulsory arbitration is one where the parties are required to accept arbitration without any willingness on their party .It is also non binding in nature .

Tier of Adjudication

Labour Courts
Industrial Tribunals
National Tribunals

Under the section 10 of this act states the , Reference of disputes to Boards , Courts or Tribunals

If the appropriate Government is of opinion that any industrial dispute exists or is apprehended , it may at any time by order in writing refer the dispute to Court , Tribunal or Board

Section 11 of this act states the procedures and powers of conciliation officers , Boards , Courts and Tribunals

Section 18 of this act states that on whom settlements and awards are binding between the workman and employer otherwise than in the course of Concillation proceeding shall be binding on the parties to the agreement.

Subject to the provision of subsection (3) an arbitration award which has become enforceable shall be binding on the parties to the agreement who referred the dispute to arbitration.

Also the settlement arrived at in the course of Concillation proceeding and an award of a Labour court , Tribunal or National Tribunal shall be binding on all parties to the industrial dispute.

16.20 Summary

Industrial Relations Dispute is a difference of opinion resulting in a dispute between employers or an association of employers with workers or trade unions. There may be a disagreement on rights, conflicting interests, a dispute over termination of employment, or a dispute among trade unions within one enterprise that could be caused by differences in implementation or interpretation concerning the laws and regulations, work agreements, company regulations, or the collective bargaining agreement.

16.21 Key words

Prohibition of lay-off

No workman (other than a badli workman or a casual workman) whose name is borne on the muster rolls of an industrial establishment to which this Chapter applies shall be laid-off by his employer except [with the prior permission of the appropriate Government or such authority as may be specified by that Government by notification in the Official Gazette.

Penalty for closure

Any employer who closes down an undertaking without complying with the provisions of sub-section (1) of Section shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

Unfair Labour Practices

Prohibition of Unfair Labour Practice No employer or workman or a trade union, whether registered under the Trade Unions Act, 1926(16 of 1926) or not shall commit any unfair labour practice.

Penalty for instigation

Any person who instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Cognizance of offences

No Court shall take cognizance of any offence punishable under this Act, or of the abetment of any such offence, save on complaint made by or under the authority of the appropriate Government

16.22 Self Assessment Questions

1. Define Lay off? Explain the Prohibition procedure of Lay off?
2. Discuss the Unfair Labor practices
3. Outline the Procedure of Dispute Settlement?

16.23 Suggested readings

1. Dunlop, John t., Industrial Relations System, Host, New York .
2. Monappa, Arun, Industrial Relations, Tata McGraw Hill Pub.Comp. Ltd., New Delhi .
3. Chaterjee, N.N Industrial Relations in India 's Developing Economy, Allied Book Agency, New Delhi .
4. Joseph, Jarome, Industrial Relations, Global Business Press, New Delhi .
5. Sharma, A.M. Industrial Relations, conceptual and Legal Framework, Himalaya Publishing House, Mumbai.
6. Kochan, Thomas A., Katz.,; Harry C. and Mc Kesie, Robert B., the Transformation of American Industrial Relations, Basic Books inc., Pub. New York .
7. Hare, A.E.C. The First Principles of Industrial Relations, Macmillan, London .
8. Dunlop, John T., Dispute Resolutions : Negotiation and Consensus Building , Aubure House, Dover M.A.
9. C.Srivastava , Industrial Relations and Labor Laws, Vikas Publishing House Pvt. Ltd, New Delhi.
10. Venkata Ratnam , "Globalisation and Labour Management Relations - Dynamics of Change", Sage Publications, P. 46.

LESSON -17

TRADE UNION MOVEMENT IN INDIA

Learning Objectives

- ✓ To study the Organization Structure of Unions
- ✓ To Learn the Measures For Strengthening Trade Unions In India
- ✓ To Understand the Problems Of Trade Union Movement In India
- ✓ To Outline Measures To Minimize The Evil Effects Of Outside Leadership
- ✓ To focus on the Measures to Improve the Financial Position

Structure

- 17.1 Introduction
- 17.2 Organization Structure Of Unions
 - 17.2.1 General Union
 - 17.2.2 Trade Union In India Compared With England, U.S.A., Germany And Russia
- 17.3 Measures For Strengthening Trade Unions In India
 - 17.3.1 Financial Stability
 - 17.3.2 One Union in One Industry
 - 17.3.3 Internal Leadership
 - 17.3.4 Recognition of Unions
 - 17.3.5 Paid Officials
 - 17.3.4 Recognition of Unions
- 17.4 Problems Of Trade Union Movement In India
- 17.5 Measures to Minimize The Evil Effects Of Outside Leadership
 - 17.5.1 Union Rivalry
- 17.6 Affects of Union Rivalry On Union Strength
- 17.7 Measures to Minimize Union Rivalry
- 17.8 Measures to Improve the Financial Position
 - 17.8.1 Rise in size of membership
 - 17.8.2 Category-wise Unions
- 17.9 Early Period
- 17.10 Modest Beginning
- 17.11 Summary
- 17.12 Key words
- 17.13 Self Assessment Questions
- 17.14 Suggested Readings

17.1 Introduction

Trade Union Movement in India started quite late. Bombay Millhands association found in 1890 by Shri N.M. Lokhanday, a factory worker, is said to be the first trade union in India. In subsequent years a number of unions were formed such as the Amalgamated Society of Railway Servants of India and Burma (1897). The Printers' Union (1905), The Bombay Postal Union (1907), the Kampar Hitwardhak Sabha (1909), and the Social Service League (1910). These unions, were loose and, sectarian organizations set up by social reformers rather than by workers. They were friendly societies or welfare bodies. There was a remarkable growth in labour movement between 1904 and 1917 and several strikes were organised. But trade unions remained confined by and large to the upper ranks and educated sections of the working class. Political developments like the partition of Bengal and the Swadeshi movement helped the trade union movement. However, the unions were largely local and loose dependent on external philanthropy.

At the end of World War I, growing economic hardships the Russian Revolution, the establishment of the ILO and other factors gave Philip to trade union movement. As a result, many unions were formed. The Textile Labour Association (1920), the All India Trade Union Congress (AITUC) (1920). Indian Seaman's Union, Railway Workers Union, the Indian Colliery Employees' Association, the Madras Textile Union were some of these unions. The All India Trade Union Congress a loose federation was given authority for selecting delegates to represent Indian labour at the ILO Conference. Workers' Unions sprang up in jute, cotton, textiles, railways and port industries all over the country. The Trade Unions Act 1926 gave legal status to registered trade unions and conferred on them special privileges. Therefore, this law was an important landmark in the history of trade union movement in India. The Great Economic Depression, failure of the Bombay Textile Strike of 1929 and one Royal Commission on Labour (1929) brought a lull in trade union activity. Communists acquired a hold in the working class movement and the AITUC emerged as the sole representative of the working class in India. Several major strikes were organised. A section of the leaders separated and formed the Red Trade Union Congress (RTUC). The All Indian Railway man's Federation emerged another major body of workers. The labour movement remained divided. Thirties was a period of unity in trade union movement. The National Federation of Labour was formed in 1933 to facilitate unity. The AITUF and the railway unions amalgamated to form the National Trade Union Federation (NTUF). The RTUC merged into the AITUC. In 1940 the NTUF merged with the AITUC. In 1941 radicals in the AITUC formed a new central federation called Indian Federation of Labour.

After independence, there was speedy growth in trade unions due to support from both the Government and the society at large. However, several splits occurred in central organizations of labour. In 1947, moderates in the AITUC separated and formed the Indian National Trade Union Congress (INTUC). Hindustan Mazdoor Sevak Sangh (HMSS) and Ahmedabad Textile Labour Association (ATLA) became very active. Socialists broke away from INTUC and formed the Hindustan Mazdoor Panchayat (HMP). HMP and Indian Federation of Labour came together and formed the Hind Mazdoor Sabha (HMS). A section of HMS later on formed the United Trade Union Congress (UTUC) in 1949. A few unions receded from the HMS in 1959 and established the Hind Mazdoor Panchayat. In 1962, a new organisation called the Confederation of Free Trade Unions (CFTU) was formed. A section of the communists (CPM) formed in 1970 The Centre Indian Trade Unions (C1TU). Old Congress men severed themselves from the INTUC and formed the National Labour Organization (NLO).

Representatives of the AITUC, INTUC and HMS established a National Council of Central Trade Unions (NCCTU) to provide a common platform for trade union activities. The basic aim was to isolate the C1TU which retaliated by setting up a United Council of Trade Unions (UCTU). At present there are about 48000 registered trade unions and ten central labour organizations in India. Some important features of these unions are given below:

- (i) Workers in India are unionized mainly on the basis of plants (industrial unions) rather than on the basis of crafts (craft unions). Craft unions are formed among non-industrial and professional workers e.g. taxi drivers, journalists, teachers, bank employees, etc. On the basis of hierarchy there are three types of unions: (a) primary unions which operate at the plant level (b) regional federations which work at the regional level, and (c) central labour organizations which function at the national level.
- (ii) The extent of unionization is not uniform in all industries. Workers in some industries are better unionized than in others. For instance, about 70% of the workers in textile industry are unionized whereas only 21% of the workers in chemicals are unionized.

Similarly, there is heavy concentration of unions in some States but in others there exist only a few unions.

- (iii) Most of the unions in India are small in size as they are of the 'one shop' type. Due to small size, the financial condition of unions is weak.
- (iv) Unionization is not limited to blue collar employees. White collar workers are also unionized.
- (v) The primary unions are affiliated to a number of central unions.
- (vi) There is very close link between trade unions and political parties. Most of the central labour organizations are under the control of one political party or the other. Traditionally, trade unions in India have been playing the role of bargainers and agitators. But in future they will have to play new roles to meet the changing aspirations of the working class. These new activities are:
 - (a) counselling
 - (b) education and training
 - (c) communication
 - (d) employee welfare
 - (e) family and vocational guidance
 - (f) research and publications (g) human resource development, and
 - (h) employee ownership.

17.2 Organization Structure of Unions

Labour organizations in our country are of the following types: **Craft Union:** It is an organization of workers employed in a particular craft, trade or occupation. Therefore, such unions tend to be well knit and cohesive. Due to their identical training and skills, members of a craft union tend to develop similar outlook and unity among them is easier. Members are generally craft conscious rather than class conscious. A craft union has strong bargaining power because its workers possess a specialized skill, which cannot be easily replaced in a strike. But a craft union lacks a clear perspective of the working class as a whole. Due to different agreements in different crafts, joint action by workers belonging to different crafts is not easy. Craft unions tend to oppose technological advancements which destroy distinction between crafts and thereby the very basis of a craft union. Craft unions are horizontal in character because their members belong to a single process or group of process. In India, craft unions are found largely among White collar workers and professionals such as Government employees, bank employees, doctors, lawyers, teachers, etc. There are very few craft unions of industrial workers.

Industrial Unions: An industrial union is organized upon an industry-wise rather than a craft-wise basis. Its members belong to different crafts within the same industry. Ahmedabad Textile Labour Association, the Rashtriya Mill Mazdoor Sangh and the Gini Kamgar Union, Bombay are examples of industrial unions in India. These unions are vertical in nature because they consist of all types of workers in an industry. Industrial unions are more powerful because they consist of both skilled and unskilled workers. Such a union cuts across skill and craft distinctions of workers. It is easier for the employer to bargain with one union to cover all workers of a particular industry. He is saved of the trouble of bargaining with a number of unions established on a craft basis. However, skilled workers may feel swamped by unskilled workers and their specific demands may not be met. In these days, technology and mass production have obliterated the craft distinctions and therefore,

industrial unions are the need of the hour.

17.2.1 General Union

This type of union consists of workers employed in different industries and crafts within a particular city or region. The Jamshedpur Labour Union is one example. In India there are several industry cum region unions due to the concentration of some industries in particular regions. Federations: These are national level bodies to which plant level unions, crafts unions, industrial unions, and general unions are affiliated. Federations are the apex organizations of workers. They act as coordinating agencies. These are also called central trade unions.

17.2.2 Trade Union In India Compared With England, U.S.A., Germany And Russia

A comparative study of trade union movement in England and India gives the following points of comparison and contrast. It should, however, be mentioned that the trade unions developed in India and England in different economic and social conditions. In England, U.S.A, Germany and Russia there is, however, no problem of unemployment and hence, it can be said that there is no surplus labour, while in India, there has always been a problem of large scale unemployment and surplus labour.

Secondly, in India the wages are much lower than in countries like U.S.A. and England. –

Thirdly, working, living and service conditions are better in these countries than in India. - For the welfare of the workers, a comprehensive scheme of social insurance covers the entire industrial working class, however, in India a beginning has been made in this direction but the Indian scheme of social insurance does not cover all the working classes and is not so comprehensive as that of England.

The workers in the U.S.A, Russia, Germany and England are far more literate and enlightened than that of India.

In England and U.S.A. permanent industrial population has been established which is properly committed to industry, however, a beginning has been made in this direction and migratory character of Indian labour has been loosened, but the Indian labour is not so much committed to industry as that of these countries.

In these countries, trade unions grew out of craft guilds and are organized mostly on the basis of crafts. In India, the trade unions have been mostly industry wise while in England, USA, Germany and Russia, they have been organized on national basis.

In India, the trade unions are financially weak, while they are financially strong in those countries. The unions in England, USA, Germany and Russia have huge funds and often possess their own buildings with an efficient secretariat and well organised office, are publishing labour journals and daily newspapers, while such are not the conditions in India.

In India, the unions adopted an agitation attitude and have not developed the constructive side, while in these countries, the trade unions have developed the constructive side along with their agitation approach. For instance, in USA a union is seen running an insurance company of its own and some unions have got their own country houses where members can go and stay.

In these countries, the political functions of the trade unions have been developed and

are very significant. Trade union provide a common platform for one party viz. the labour party in England. While in India, different unions are dominated by different political ideologies. for instance, INTUC believes in negotiations and conciliation, while the AITUC has always insisted on strikes. Therefore, trade union rivalry is a serious problem in India whereas it is not in U.K., U.S.A., Germany and Russia. Hence, it is suggested that suitable measures should be taken to strengthen the trade union movement in India so that it may justify its role in the economy.

17.3 Measures For Strengthening Trade Unions In India

Some of the steps that can be taken to make trade unions successful are given below:
Strong Base: In order to develop a strong trade union movement, it is essential to widen the unionism to unorganised sector and small towns. Workers in household, small scale and domestic sectors should form trade unions. The membership of unions should also be increased. For this purpose, a rigorous membership campaign should be launched. 8

17.3.1 Financial Stability

To improve the financial condition of the unions, the minimum subscription should be raised from 25 paise to Re 1 per month. National Commission on Labour suggested the check off system under which each worker would individually authorize the employer to deduct membership fee from his wage/ salary and the employer pay the collections to the union. This will reduce the chances of defaults in payments by members and thereby improve the financial position of unions.

17.3.2 One Union in One Industry

The principle of one union in one industry should be adopted to avoid multiple unions and inter union rivalry. A provision may be made in the Trade Unions Act that where more than one set of persons claims to be the office bearers of the same union, the matter should be decided by the Central Organization to which the union is affiliated or by Labour Courts.

17.3.3 Internal Leadership

Leaders of union should be developed from within the rank and file of the workers. This will help to eliminate party politics and outsiders. There should be no ban on non-members holding executive positions in a union but the limit of outsiders in the executives of the unions should not exceed 25 per cent. Ex employees should be treated as insiders. Arrangement should be made for education and training of workers and penalties should be imposed for victimization of union leaders. A convention that no union office bearer will concurrently hold an office in a political party should be established and adopted. Unions should throw away the control of political parties and politicians.

17.3.4 Recognition of Unions

It should be made obligatory for employers to recognise the union in all undertakings employing 100 or more workers. A trade union seeking recognition as a bargaining agent should have a membership of at least 30 per cent of workers in the establishment. The minimum membership should be 25 per cent if recognition is sought for an industry in a local area. The representative character of a union maybe, decided through secret 9 ballot and/or examination of membership ballot and/or examination of membership records. The recognised union should be statutorily given certain exclusive rights and facilities. The minority union should be given only the right to represent workers only in cases of dismissal or discharge.

17.3.5 Paid Officials

Full time paid officials should be appointed to manage the affairs of trade unions. These officials should be competent and sincere. They should be men of integrity, able to evaluate workers' aspiration and strong enough to negotiate with employers on equal basis. They should be paid well.

17.4 Problems Of Trade Union Movement In India

Though Trade Unions developed in India, they face several problems. Infact, Indian Trade Unions face several problems. Outside Political Leadership: The leadership of most of the Trade Unions in India has been outside leadership mainly drawn from political parties. As the labour movement in India is deeply involved in the policies and politician, most of the political leaders are also drawn from Trade Unions. For example, Lok Nayak JayprakashNarain, former President of India, V.V. Giri, Former Governor of A.P., Khandubhai Desai, Former Union Minister, A.P. Sharma, George Femandes, all worked as Trade Union Leaders. Infact, political parties invented Trade Unions in India. Reasons for Outside Political Leadership: Outside political leadership is prevalent in Unions due to the following reasons:

(i) The rank and the file are largely illiterate as such they cannot effectively communicate with the management;

(ii) Men in managerial positions are generally members of castes, which are higher in hierarchy than those of the rank and file unionist. Therefore, in any dealings with the management, particularly of the face to face variety, the psychological advantage lies with the management;

The union's lack of formal power tends to put a premium on the charismatic types of the leader, usually a politician, who can play the role of the defender of the worker against his enemies;

(iv) For ensuring a measure of equation of power in collective bargaining where the workers are generally uneducated and have a low status;

(v) For avoiding victimisation of worker office bearers of the trade unions and;

(vi) At times for lack of financial resources to appoint whole time office bearers. The evil effects of the outside leadership analysed by National Commission on Labour are as follows
Outside leadership undermined the purpose of Trade Union and weakened their authority. Personal benefits and prejudice sometimes weigh more than unions.

Outside leadership has been responsible for the slow growth of Trade Unions.

Internal leadership has not been developed fully. - Most of the leaders cannot understand the workers problems as they do not live the life of a worker.

17.5 Measures To Minimise The Evil Effects Of Outside Leadership

In view of the limitations of outside leadership, it is desirable to replace the outside leaders progressively by the internal leaders. The National Commission on Labour, 1969, also stated that outsiders in the Trade Unions should be made redundant by forces from within rather than by legal ban. Both the management and Trade Unions should take steps in this direction. These steps may be
Management should assure the workers that the victimisation will be at the zero level, even if the Trade Unions are led by the insiders. - Extensive training facilities in the areas of leadership skills, management techniques and programmes should be provided to the workers and - Special leave should be sanctioned to the office bearers.

17.5.1 Union Rivalry

The formal basis for Trade Union Organisation is provided by the Indian Trade Union Act, 1926. The relevant article reads as follows : Any seven or more members of the Trade Unions may be subscribing their names to the roles of the Trade Union and by otherwise complying with the provisions of this Act with respect to the registration, apply for registration of the Trade Union under this Act." This provision in law has led to the formation of multiplicity of unions and resulted in Inter union rivalry in different industries. But inter union rivalry breaks the very purpose of Trade Unions by weakening the strength of collective bargaining. On the other hand, the existence of a single, strong union not only protects the employee interests more effectively but also halts the various unproductive activities of the unions and forces the leaders to concentrate on the strategic issues. Further, it helps to bring about congenial industrial relations by bringing about system of orderliness in dealing with the employees and by facilitating expeditious settlement of disputes.

Union rivalry has been the result of

- The desire of political parties to have their basis among the industrial workers;
- Personal cum factional politics of the local union leaders;
- Domination of Union by outside leaders;

Attitude and policy of the management, i.e. divide and rule policy; - The legal framework of the Trade Unions and the nature of industry and workers.

17.6 Affects Of Union Rivalry On Union Strength

Union rivalry affects the union strength in the following ways

- (i) Because of the multiplication of trade unions at the plant level, each union commands only a negligible proportion of workers of an establishment and does not enjoy the confidence of most of the employees.
- (ii) These splinter unions have assumed only a limited range of functions. Instead of diverting members energies to constructive and co operative channels, they have encouraged strife, disloyalty and non co operation.
- (iii) Most of the trade unions have failed to realise the importance of mutual help and welfare activities. Catlin rightly observes, "the greater the number of phases of the workers life which the unions serve, the more secure, presumably, will be its hold on his allegiance and the more effective its control of the trade."

17.7 Measures To Minimise Union Rivalry

In view of the evil effects of Inter union rivalry and the problem of formation of one union in one industry, it may be necessary to consider the recommendations of National Commission on Labour (NCL) 1969.

- a. The recommendations of NCL to minimise union rivalry are:
 - b. Elimination of party politics and outsiders through building up of internal leaders;
 - c. Promotion of collective bargaining through recognition of sole bargaining agents; - Improving the system of union recognition;
 - d. Encouraging union security, and;
 - e. Empowering labour courts to settle inter union disputes if they are not settled within the organisation.
- Small Size of Union Membership Size of membership of trade unions determines their strength and financial soundness which in turn determines the activities undertaken by them and their ability to protect employees interest. The size of membership and successful functioning of trade unions are interrelated and interdependent. The size of membership of trade unions in India over the years has

been declining and consequently the unions face the problems of small size. The small size of the unions is due to the following causes:

- (i) The fact that any seven workers can form a union under the Trade Union Act of 1926, and get it registered, as a result, large number of small unions have grown.
- (ii) The structure of the trade union organisation in the country, which is in most cases the factory or the unit of employment so whenever employees in a particular factory or mine are organised, a new union is formed.
- (iii) Unionisation in India started with the big employers and gradually spread to smaller employers. This process is still continuing and has pulled down the average membership. Though the number of unions and union membership are increasing, average membership is declining,

Rivalry among the leaders and central organisations has resulted in multiplicity of unions, thereby reducing the average membership. Financial Position Sound financial position is an essential ingredient for the effective functioning of trade unions, because in the process of rendering services or fulfilling their goals, trade unions have to perform a variety of functions and organize programmes which require enormous financial commitments. Hence, it is imperative on the part of a trade union to strengthen its financial solvency. Most of the trade unions in India suffer from excess of expenditure over income. This unsound financial position is mostly due to low membership and low rate of membership fee. Trade Union Act, 1926, prescribed the membership fee at 25 paise per member per month. But the National Commission on Labour recommended for the increase of rate of membership subscription from 25 paise to Re. 1/- in the year 1990. But the Government did not accept this recommendation. Reasons for the Financial Weakness of Trade Unions Some of the reasons for the financial weakness of trade unions are - One reason for this state of affairs may be that the workers are apathetic towards the trade unions and do not want to contribute out of their hard earned money. The National Commission on Labour observed that, union organisers generally do not claim anything higher nor do workers feel like contributing more because the services rendered by the unions do not deserve a higher fee.

The members instead of making regular payment to the union, make ad hoc payment if a dispute arises which shows a lack of commitment to the union. - Under conditions of multiplicity of union, a union interested in increasing its membership figures, usually keeps the subscription rate unduly low and does not collect even that subscription regularly.

17.8 Measures to Improve the Financial Position

The financial position of trade unions can be improved through: - Increase in rate of membership subscription;

17.8.1 Rise in size of membership

Regular collection of subscriptions, and; - Collection of donations.

17.8.2 Category-wise Unions

Certain categories of employees particularly the skilled, view that their interests are not protected by the industrial unions. They argue that increasing complexity of the modern industry makes category wise unions essential to protect their interests. Hence, many categories of employees formed category-wise unions like Drivers Association in Indian Railways. But category-wise unions narrow down the trade union functions and weaken the bargaining power by disrupting the unity. Hence, National Commission on Labour

recommended that the formation of Centre cum industry Unions and industry-wise national unions should be encouraged and tripartite, they should be developed into national federation.

Trade unions in India, as in most other countries, have been the natural outcome the modern factory system. The development of trade unionism in India has chequered history and a stormy career.

17.9 Early Period

Efforts towards organising the workers for their welfare were made, during the early period of industrial development by social workers, philanthropists and other religious leaders mostly on humanitarian grounds. The first Factories Act, 1881, was passed on the basis of the recommendations of the Bombay Factory Commission, 1875. Due to the limitations of the Act, the workers in Bombay Textile Industry under the leadership of N M Lokhande demanded reduced hours of work, weekly rest days, mid-day recess and compensation for injuries. Bombay Mill owners' Association conceded the demand for weekly holiday. Consequently, Lokhande established the first Workers' Union in India in 1890 in the name of Bombay Mill hands Association. A labour journal called "Dinabandu" was also published.

Some of the important unions established during the period are: Amalgamated Society of Railway Servants of India and Burma (1897), Management the Printers Union, Calcutta (1905) and the Bombay Postal Union (1907), the KamgarHitavardhak Sabha (1910) and the Social Service League (1910). But these unions were treated as ad hoc bodies and could not serve the purpose of trade unions.

17.10 Modest Beginning

The beginning of the Labour movement in the modest sense started after the outbreak of World War I in the country. Economic, political and social conditions of the day influenced the growth of trade union movement in India. Establishment of International Labour Organisation in 1919 helped the formation of trade unions in the country. Madras Labour Union was formed on systematic lines in 1919. A number of trade unions were established between 1919 and 1923. Category wise unions, like Spinners' Union and Weavers' Union, came into existence in Ahmedabad under the inspiration of Mahatma Gandhi.

These unions were later federated into an industrial union known as Ahmedabad Textile Labour Association. This union has been formed on systematic lines and has been functioning on sound lines based on the Gandhian Philosophy of mutual trust, collaboration and non-violence. All India Trade Union Congress The most important year in the history of Indian Trade Union movement is 1920 when the All India Trade Union Congress (AITUC) was formed consequent upon the necessity of electing delegates for the International Labour Organisation (ILO). This is the first all India trade union in the country. The first meeting of the AITUC was held in October, 1920 at Bombay (now Mumbai) under the presidentship of Lala Lajpat Rai. The formation of AITUC led to the establishment of All India Railwaymen's Federation (AIRF) IN 1922. Many Company Railway Unions were affiliated to it. Signs of militant tendency and revolutionary ideas were apparent during this period.

a) Period of splits and mergers

The splinter group of AITUC formed All India Trade Union Federation (AITUF) in

1929. Another split by the communists in 1931 led to the formation of All India Red Trade Union Congress. Thus, splits were more common during the period. However, efforts were made by the

Railway Federation to bring unity within the AITUC unity. These efforts did bear fruit and All India Red Trade Union Congress was dissolved. Added to this, All India Trade Union Federation also merged with AITUC. The unified AITUC's convention was held in 1940 in Nagpur. But the unity did not last long.

The World War II brought splits in the AITUC. There were two groups in the AITUC, one supporting the war while the other opposing it. The supporting group established its own central organisation called the Indian Federation of Labour. A further split took place in 1947, when the top leaders of the Indian National Congress formed another central organisation.

b) Indian National Trade Union Congress

The efforts of Indian National Congress resulted in the establishment of Indian National Trade Union Congress (INTUC) by bringing the split in the AITUC, INTUC started gaining membership right from the beginning.

c) Other Central Unions

Socialists separated from AITUC had formed Hind Mazdoor Sabha (HMS) in 1948. The Indian Federation of Labour merged with the HMS, Radicals formed another union under the name of United Trade Union Congress in 1949. Thus, the trade union movement in the country was split into four distinct central unions during the short span of 1946 to 1949. Some other central unions were also formed. They were Bharatiya Mazdoor Sangh (BMS) in 1955, the Hind Mazdoor Panchayat (HMP) in 1965 and the Centre of Indian Trade Unions (CITU) in 1970. Thus, splinter group of INTUC formed Union Trade Union Congress, the split in the Congress Party in 1969 resulted in the split in INTUC and led to the formation of National Labour Organisation (NLO).

17.11 Summary

The trade union movement (trade unionism) consists of the collective organisation of working people developed to represent and campaign for better working conditions and treatment from their employers and, by the implementation of labour and employment laws, from their governments. The standard unit of organisation is the trade union. The political labour movement in many countries includes a political party that represents the interests of employees, often known as a "labour party" or "workers' party". Many individuals and political groups otherwise considered to represent ruling classes may be part of, and active in, the labour movement.

17.12 Key words

General Union- This type of union consists of workers employed in different industries and crafts within a particular city or region

Internal Leadership- Leaders of union should be developed from within the rank and file of the workers. This will help to eliminate party politics and outsiders

One Union in One Industry- The principle of one union in one industry should be adopted to avoid multiple unions and inter union rivalry.

Recognition of Unions- It should be made obligatory for employers to recognise the union in all undertakings employing 100 or more workers. A trade union seeking recognition as a bargaining agent should have a membership of at least 30 per cent of workers in the establishment

17.13 Self Assessment Questions

1. Describe the Trade Union Movement in India.
2. Discuss the Growth of Trade Unions in India after Independence.
3. Discuss the organizational structure of Trade Unions.
4. What do you mean by registration of Trade Unions? What are the advantages of their registration?
5. Make comparison between Trade Unions in India and Trade Unions in England and U.S.A.
6. What measures should be taken to strengthen Trade Unions in India?
7. Discuss the problems of Trade Union Movement in India

17.14 Suggested Readings

1. PRN Sinha, Indu Bala Sinha, Seema Priyadarshini Sekhar (2002) Industrial Relations, Trade Unions, and Labour Legislation Dorling Kindersley Pvt Ltd
2. MV.Pylee & A.Simon George (2007) Industrial Relations and Personnel Management 2nd Edition Vikas Publishing House Pvt Ltd
3. V. Kubendran, K. Kodeeswari(2011) Industrial Relations and Labour Laws 1st Edition Himalaya Publishing House.
4. A. M. Sarma(2015) Industrial Relations Conceptual and Legal Framework 10th Edition English, Himalaya Publishing House
5. Sarma A.M.(2016) Industrial Relations Conceptual legal Framework, Himalaya Publishing House.
6. Bean R. (2020) Comparative Industrial Relations Taylor & Francis Ltd
7. Dr. F. C. Sharma(2020) Industrial Relations 1 Edition SBDP Publications
8. Avtar Singh & Harpreet Kaur(2021) Introduction to Labour and Industrial Laws Forth Edition, Lexis Nexis Publications.
9. S.C. Srivastava(2022) Industrial Relations and Labour Laws 8edition, S Chand And Company Ltd
10. Dr. Satish Kumar Saha, Dr. Anju Agarwal(2022) Industrial Relation & Labour Law Latest Edition Prescribed by Industrial Dispute Act, 1947 and The Factories Act, 1948 1st Edition

Dr.V.Naga Nirmala

LESSON -18

PROBLEMS AND CHALLENGES OF TRADE UNION

Learning Objectives

- ✓ To study the Characteristics of Trade unions
- ✓ To Learn the Essentials of Trade Unions
- ✓ To Know the Objectives and Need of Trade Unions
- ✓ To Understand the Functions and Role of Trade unions
- ✓ To Discuss the challenges and Problems of Trade Unions

Structure

- 18.1 Introduction
- 18.2 Definition of Trade Union
- 18.3 Characteristics of Trade Unions
- 18.4 Essentials of Strong Trade Union
 - 18.4.1 Compulsory Membership
 - 18.4.2 Strong economic base
 - 18.4.3 Freedom from External pressure
 - 18.4.4 Spirit of unity and sacrifice
 - 18.4.5 Capable leadership
 - 18.4.6 Practical outlook
 - 18.4.7 Democratic outlook
 - 18.4.8 Constructive outlook
 - 18.4.9 Freedom from politics
 - 18.4.10 Aim of welfare
- 18.5 Objectives of Trade Unions
- 18.6 Need of Trade Unions
- 18.7 Functions And Role Of Trade Unions
- 18.8 Advantages
- 18.9 Disadvantages
- 18.10 Understanding the Complexity of Trade Unions
- 18.11 Challenges faced by Trade Unions in India
 - 18.11.1. Leadership
 - 18.11.2. Financial Troubles
 - 18.11.3. Small Size of Union
 - 18.11.4. Multiplicity of Unions
 - 18.11.5. Intra Union Rivalry
 - 18.11.6. Politicization
 - 18.11.7. Illiteracy
 - 18.11.8. Apathy of workers and Role of management
- 18.12 Problems of Trade Unions
 - 18.12.1. Small Size
 - 18.12.2. Poor Finance
 - 18.12.3. Politicisation
 - 18.12.4. Multiplicity of Unions
 - 18.12.5. Lack of Enlightened Labour Force

- 18.12.6. Miscellaneous Problems
- 18.13 Summary
- 18.14 Key words
- 18.15 Self Assessment Questions
- 18.16 Suggested Readings

18.1 Introduction

The need of safeguarding the interests of the employees has everywhere led to the formation of trade unions, which organise the employees and bargain for better working conditions on their behalf.

18.2 Definition Of Trade Union

1. R.A. Lester : Trade union is an association of employees designed primarily to maintain or improve the conditions of employment of its members.
2. G.D.H. Cole : In common parlance a trade union means an association of workers in one or more occupation, carried on mainly for the purpose of protecting and advancing the member's economic interests in connection with their daily work.
3. Webb : Trade Union is a continuous association of wage earners for the purpose of maintaining and improving the conditions of their working lives.

Thus, a labour union or trade union is an organisation of workers to promote, protect and improve, through collective action the social, economic and political interests of its member. The workers form an association in order to protect and safeguard their economic interests and put up a united resistance against exploitation by the industrialists. The most outstanding feature of the trade unions is their own accord. Generally, all workers in a particular occupation are the members of the trade union representing their occupation. But there is no element of compulsion in membership. If a worker desires he can stay away from the trade union.

18.3 Characteristics of Trade Unions

- a. An analysis of the above definitions on trade unions reveal the following characteristics of trade unions:
- b. The trade union may be an association either of the employers or employees or of independent workers.
- c. Trade unions are relatively permanent combination of workers and are not temporary or casual.
- d. Trade union is an association of workers who are engaged in securing economic benefits for their members.
- e. The character of trade unions has been constantly changing.
- f. The origin and growth of trade unions has been influenced by a number of ideologies.

18.4 Essentials Of Strong Trade Union

18.4.1 Compulsory Membership

In order to make trade unions forceful instruments of labour welfare, it is essential that the workers should compulsorily become its members. It must be borne in mind in this connection that a nominal membership is not enough. In order to render a trade union useful all workers should be actively associated with the work of the trade union. Every worker should consider the trade union as his or her own organisation and work relentlessly for its

success.

18.4.2 Strong economic base

The trade unions need large funds to support their members in emergency and during protracted strikes and lockouts. The trade unions have to support their members in the event of accident, disablement or in the event of suspension of workers by the employers. The trade unions have no special means of collecting funds. It is necessary therefore that each member must make his contribution regularly.

18.4.3 Freedom from External pressure

The trade unions must function as independent organizations they should not be under any external pressure or control. The various political parties try to bring trade unions under their domain by extending various baits.

18.4.4 Spirit of unity and sacrifice

The true basis of a trade union is the spirit of unity and sacrifice in its members. It is on the strength of unity that trade unions are able to function. Besides general problems, the members of a trade union also have personal problems. For the redress of personal problems, unity among workers is most essential. Besides unity, the spirit of sacrifice is also needed.

18.4.5 Capable leadership

It is very necessary that the leadership of trade unions should be in the hands of selfless workers and persons genuinely interested in the welfare of workers. Besides that, it is also very necessary that the leadership of workers should be in the hands of workers and not professionals. Only a worker is capable of understanding fully the problems of workers; a professional has not firsthand knowledge of their difficulties. Above all, a labour leader should be fully conversant with labour laws and bye laws.

18.4.6 Practical outlook

The main task of trade unions is to defend the interest of labour and to promote their economic and social welfare. But while trying to achieve these laudable aims it should also be borne in mind that these aims can be achieved only in the context of overall industrial prosperity. Therefore, the economic and monetary conditions prevailing in the industry have to be taken into account while trying to achieve economic propriety and the social well being of workers. Thus, a trade union should adopt a practical and pragmatic attitude to all problems.

18.4.7 Democratic outlook

The success of trade union requires democratic structure. By democratic structure what is meant is that in all crucial matters the opinion of each and every member of the trade union should be taken into account. This has another purpose. The worker in a vast industrial complex comes to look upon himself as a nonentity and feels sense of humiliation, whereas by exercising the privilege of vote in trade union affairs etc, he develops a sense of dignity and feels his importance.

18.4.8 Constructive outlook

The trade union try to have the demands of workers fulfilled and this is their real aim. But it is essential that the trade unions should adopt constructive outlook for achieving this goal. Indeed the workers need not deem their industrialist bosses to be enemies but should try to settle their problems by mutual consultation in an amicable way.

18.4.9 Freedom from politics

The utility of trade unions is greatly undermined by outside political interference. At times trade union leaders forget their true aims and indulge in politics. Such leaders deliver no benefit to workers, indeed they harm their interest. Thus, trade unions have limited resources and these should not be frittered away in politicking.

18.4.10 Aim of welfare

The welfare of workers should be the primary aim of trade unions. They should refrain from all such activities as are detrimental to the welfare of workers. The trade unions should spend their money on projects which are likely to contribute to the workers welfare and help to raise their standard of living.

18.5 Objectives Of Trade Unions**To increase the cooperative feeling**

The first and foremost task of the trade unions is to promote friendliness among workers and bind them in the thread of fellowship and brotherhood. The trade unions provide a forum for the workers to come together and know each other. All common problems are discussed in one form. Besides discussing problems connected with jobs, the trade unions also provide opportunity for play, relaxation and entertainment to workers. Thus, trade unions promote intimacy of relations among workers make them sweet, personal and informal.

To secure facilities for workers

The majority of industrialists are indifferent to the comforts and needs of the workers. They pay no attention to making the working conditions healthy and hygienic to mental and physical relaxation of the workers. They are interested only in getting maximum work from the workers. Under these circumstances trade unions agitate for the provision of various facilities and see to it that these are provided for. To establish contact among workers and employers: The industrial complexes today have grown into giants. A single unit may employ hundreds of workers. Under these circumstances the line between employers, high managerial cadre and employees gets broken down. Many a time workers may not have seen even the face of their employer. Under these conditions the workers are not in a position to express their grievances before their employers nor do the employers have any means to know the difficulties being faced by their employees. The trade unions play the important role of bringing to the notice of employers the grievances and difficulties of the employees

To work for the progress of employees

The trade unions try to improve the economic conditions of workers and remove their hardships and handicaps. For increase in their wages, the unions represent their case before the employers and also try to get adequate bonus for the workers. The unions also try to get overtime wages to the workers.

To safeguard the interests of workers:

Under ordinary conditions the employers tend to exploit the workers to the maximum. They care nothing for the employees; they do not give them any paid leaves and if a worker goes on leave the wages for the period of leave are deducted from the monthly wage bill of the workers. Besides, workers are denied all chances of promotion. The trade unions see to it that the workers under their aegis are not shunted out summarily and that they receive all the benefits due to them.

To provide for labour welfare

It is the task of trade unions to promote the social and economic welfare of the labourers. The trade unions try to get them housing facilities and also try to arrange for the education of the children of workers. The trade unions also try to protect workers from evil habits

18.6 Need Of Trade Unions

- a) Workers join trade unions to achieve their objectives, which they could not achieve individually. Specifically, workers join trade unions due to the following reasons:
- b) To attain economic security. In other words, securing permanent employment with higher salary and benefits.
- c) To improve their bargaining power and balance it with that of the management. Workers would like to restrain or resist the management's irrational, illogical and discriminatory actions.
- d) Workers can resist the management by improving their bargaining power which in turn requires joining in trade unions. Management's decisions regarding promotions, transfers, work assignment, grievance redressal and disciplinary issues can be challenged by a group of workers rather than any individual worker.
- e) To ventilate the workers' grievances to the management.
- f) To inform workers' views, aims, ideas and dissatisfaction/frustrations to the management.
- g) To secure protection from unexpected economic needs like illness, accidents, injury etc..
- h) To satisfy their social needs.
- i) To satisfy their psychological needs.
- j) To satisfy their needs for belongingness and
- k) To secure power.

18.7 Functions And Role Of Trade Unions

- i. The basic functions of unions is to protect and promote the interest of the workers and conditions of their employment. The other factors are:
- ii. Achieving higher wages and better working and living conditions for the members;
- iii. Acquiring the control of industry by workers;
- iv. Minimising the helplessness of the individual workers by making them stand collectively and increasing their resistance power through collective bargaining; protecting the members against victimization and injustice of the employers;
- v. Raising the status of the workers as partners of the industry and citizens of society by demanding increasing share for the workers in the management of industrial enterprises;
- vi. Providing a worker self-confidence and a feeling that he is not simply a clog in the machine;
- vii. Imbibing sincerity and discipline in workers;
- viii. Taking up welfare measures for improving the morale of the workers and;
- ix. To protect the right of to be consulted on all the matters affecting the worker's interest.

The National Commission on Labour has pointed out the following basic functions on which the trade unions have to pay greater attention:

- a) To secure for workers fair wages;
- b) To safeguard security of tenure and improve conditions of service;
- c) To enlarge opportunities for promotion and training;

- d) To improve working and living conditions.
- e) Advantages And Disadvantages Of Trade Unions

18.8 Advantages

In view of the above functions of the trade unions, it is thus, obvious that trade unions are very beneficial to the working classes. A strong trade union gives a guarantee of industrial peace and brings stability in the industry. Any decision agreed upon collectively by workers is bound to command obedience and respect among the general body of workers and it cannot be ignored by employers totally. They bring about improvement in the conditions of work, employment and wages of workers and lead to greater efficiency among labourers. They also inculcate a feeling of self respect and confidence among them. The significance of trade unions to the workers can well be imagined by the fact that in the absence of such an organisation, the workers had been ruthlessly exploited by the employers.

18.9 Disadvantages

But, inspite of these advantages, the trade unions activities have been criticised on the ground that they create misunderstandings between the workers and employers and disturb industrial peace and bring instability in the industry. They generally adopt a hostile attitude towards rationalisation or improved methods of production, which may reduce the quality of industrial production, and retards technical progress. Sometimes, intoxicated with their strength or misled by others, they launched strikes on flimsy grounds and done incalculable harm to themselves, to the producers, and to the community in general as this ultimately leads to reduce national dividend. They also create artificial scarcity of labour by demanding that their members alone should be employed.

However, it should be noted that this sort of criticism is due to the defective or improper policies and working of the trade unions, rather than the basic objectives of the trade unionism itself. It is now a generally agreed fact that trade unionism is beneficial not only to the working class but also to the industry and the economy as a whole. Thus, trade unions have to play an increasingly important role in the economic development of the country and they must be prepared to undertake that role. Hence, the trade unions can help the process of economic development in the following ways

- i. They may help in recruiting and disciplining the work force.
- ii. The work force becomes committed to the industrial life. It becomes possible to settle the industrial disputes in a rational rather than erratic chaotic manner.
- iii. The trade union is a part of the modern as opposed to the traditional society and as such helps social adjustments.

18.10 Understanding the Complexity of Trade Unions

Trade unions are organizations formed by workers from related fields that work for the common interest of their members. These unions aid the workmen in issues related to payment of income, good working environment, working hours, employment benefits, etc.

Section 2(h) of the Trade Unions Act, 1926 (hereinafter referred to as the "Trade Unions Act") reads "Trade Union" means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions: Provided that this Act shall not affect—

- (i) any agreement between partners as to their own business;
- (ii) any agreement between an employer and those employed by him as to such employment;

or

(iii) any agreement in consideration of the sale of the good will of a business or of instruction in any profession, trade or handicraft.”

These trade unions, also referred to as labour unions, create a link between the management and workers. They form an essential component of the industrial work-frame. Generally, in order to form a trade union, it is necessary to first associate yourself with your ‘bargaining unit’. The bargaining unit must then hold elections in order to decide whether they want to form a trade union. And once that is conducted, they must go ahead and form a collective bargaining agreement which can contain a list of mandatory subjects, permissive subjects and maybe even forbidden or illegal subjects. But the registration of the same in India is a different process altogether. The right to form an association or union is a guaranteed fundamental right under Article 19 (1)(c) of the Indian Constitution.

Managing a Trade Union in India is not as easy as it sounds. It deals with several complications on a daily basis. At times, this results in inefficient and inadequate functioning of such Trade Unions. Some problems may seem quite petty, but in reality, if such complications are not eradicated from the root, they may hamper the Trade Union’s efficacy or worse, it might even contribute to turning the Trade Union obsolete. Hence, before forming a Trade Union, the member/s of the prospective Trade Unions must take certain factors into consideration.

18.11 Challenges faced by Trade Unions in India

Trade Unions in India have never had an easy way around anything. It has been an endless battle to simply get their voices heard let alone have them be acknowledged. The constant pressure that entails this vicious circle of the life of workmen is almost never-ending. These unions are clouded by challenges that are discussed in detail below:

18.11.1. Leadership

It is a larger known fact that some Trade unions are politically influenced. The trade unions in India are often controlled by politicians and lawyers. Consequently, this acts as a major deterrent as these individuals often have zero to least experience when it comes to physical work. They do not relate to the plight of the workers, due to which it gets difficult for them to run these unions with honesty. Their driving force is quite different from that of the workers as they are usually politically driven. The primary reason for these unions being led by these intellectuals is that the members of the unions are usually illiterate. They have a poor command over language which expressly deems them to be bad orators, which is a hindering factor as one of the requirements of being a leader would be this. Another crucial drawback is that the Trade Union Act does not curtail ‘outsiders’ from being a part of trade unions, promoting outside leadership. This can seriously hamper internal growth.

18.11.2. Financial Troubles

As with every other body or association, the trade unions require funds to work smoothly and effectively. This often poses a problem because the unions need to conduct events and programs related to the services promised to the members. A union that is interested in increasing its membership often has a low subscription rate and may not even collect regular subscriptions. It was observed by the National Commission of labour that union organisers often do not claim anything higher nor do the workers feel like contributing more because the services rendered by the unions do not deserve a higher fee. The unions must bear the payment of salaries to office staff, allowances to office bearers, expenditure of

annual meeting/convention expenses, rents, printing, stationery and postage etc. It gets hard to balance the expenditure and income.

18.11.3. Small Size of Union

Despite the significant increase in the number of unions in India, it was not accompanied by an increase in membership. In fact, a trend of decline in membership has been observed. The formation of new unions has become inversely proportionate to its size. The average membership per union is still at 800, while it is quite large in other nations like the USA and the UK. A contributing factor to the timid size of the unions would be Trade Unions Act. According to the act, a minimum requirement of seven members is sufficient for the establishment and registration of the trade unions. This can prove to be fatal to the existing trade unions comprising of a smaller number of members as they might not have an impact on the management when it would come to put forth their grievances. It is also pertinent to note that the smaller the size of the union, the harder it is to generate funds for legal assistance or union activities.

18.11.4. Multiplicity of Unions

The leaders who pledged for the formation of these unions must've dreamt of an India where the formation of the unions would multiply gradually leading to better efficacy in collective bargaining. On the contrary, the formation of multiple trade unions at a rapid pace has only proved to be a curse to the Indian Society as comes with it is the politics and the main objective i.e., the welfare of the workers have gotten sidelined. The scenario encircling the trade unions has simply resulted in 'the survival of the fittest'. The trade union movement is becoming weak due to the constant fight for securing managements support and wider recognition. A humungous problem that cannot be ignored with respect to this is that most unions have always been under the shadow of political parties. And when the parties break up, the unions split too causing a multiplicity of parties. Due to the change in leadership of these parties, there are frequent changes in the leadership and functioning of the unions as well. All these factors may prove detrimental to the growth of these unions as there's no opportunity for consistency to prevail.

18.11.5. Intra Union Rivalry

As discussed above, multiple unions can do no good to the Trade Union movement. Apart from the abovementioned reasons, a grave problem created due to the multiplicity of unions is intra union rivalry. This rivalry shatters the objective behind the formation of unions. They might adopt various approaches which may not prove to be beneficial for the workmen. They might contest strikes by a rival union on baseless and vague grounds just to hinder their activities. This is a potent cause for the weakening of the trade union movement. The employers benefit greatly from intra union rivalry as it is easier to pit one union against the other due to the preexistence of feud. By doing so the crux of the matter is sidelined and the bargaining is either prolonged or put to a halt. This hinders the concept of portraying a united front and instead aids the employers to play divide and rule.

18.11.6. Politicization

The political influence on Trade Unions is affluent in India and has been intertwined with politics since the Indian struggle for freedom. Initially, the unions benefited under the effectual and beneficial guidance of the political leaders, but in the long run, it defied the purpose of trade unions, the unity amongst the working class. A split in the parent political party due to ideological differences would instantly result in the split in the corresponding trade union. This had been observed several times in the past. This was first observed when

the oldest trade union in India, the All India Trade Union Congress (AITUC) split into the All India Trade Union Federation (AITUF) towards the end of the 1920s. A primary cause for the fragmentation and formation of multiple trade unions is the lack of interest by the political leaders associated with their respective trade unions in the primary goal of the union. Frequent fragmentations cannot be considered healthy as they instantly give rise to intra union rivalry and exploitation of the disunity among workers by the employers.

18.11.7. Illiteracy

A major problem that setbacks not just the progress of workers, but that of the entire nation is illiteracy. A large proportion of the Indian workers are illiterately resulting in exploitation by the union leaders. Due to their ignorance, they are often manipulated into working for the benefit of the political parties even if it jeopardizes worker unification. They are turned into mere political puppets in hands of outside leadership which not only deters their goal but defeats the purpose of the formation of the trade union. When illiteracy and ignorance of the workers are coupled, they are divided on the grounds of caste, race, religion, gender, etc. by the leadership for their personal political gains. The image of the trade unions will be shattered in the eyes of the masses if their primary goal of formation would be to work for the political parties behind the scenes. It would ultimately lead to the weakening of their bargaining power and not being taken seriously by the employers.

18.11.8. Apathy of workers and Role of management

The workers often juggle between their jobs and working effectively for the trade unions. They are often torn between working diligently either for the trade unions or at their place of work. This is due to the fact that the employment earns them a living while the trade union is an opportunity for them to voice their problems. Due to this, the workers lack showing interest in the union work unless the matter is of grave importance. Many times, the management exploits the workers' dilemma to their own advantage. The management is of the opinion that the presence of the union simply drives a wedge between the management and the employees. They tend to blame the union for low productivity or efficiency on part of employees, deferment of work, lack of goodwill amongst customers, etc.

Some of the major problems faced by trade unions in India are as follows: 1. Small Size 2. Poor Finance 3. Politicisation 4. Multiplicity of Unions 5. Lack of Enlightened Labour Force 6. Miscellaneous Problems.

18.12 Problems of Trade Unions

18.12.1. Small Size

According to the veteran trade union leader V.V. Giri, "the trade union movement in India is plagued by the predominance of small sized unions". To quote there were 9,023 trade unions submitting returns during the year 1992. The total membership of these unions was 57.4 lakhs, with an average membership of 632 per union. Nearly three-fourths of the unions have a membership of less than 500. Smallness in size of the union implies, among other things, weakness in bargaining power.

18.12.2. Poor Finance

Small size of unions has its direct bearing on its financial health. Total income and total expenditure of 9,073 trade unions with a membership of 57.4 lakhs were Rs. 3,238 lakhs and Rs. 2,532 lakhs respectively in 1992. The per member income and expenditure, thus, come to Rs. 56.4 and Rs. 44.1 respectively". These are, by all means, very low. It is the small size of trade unions accompanied by small subscriptions; the trade unions cannot undertake welfare activities.

18.12.3. Politicization

A serious defect of the trade union movement in India is that the leadership has been provided by outsiders' especially professional politicians. Leaders being affiliated to one or the other party, the unions were more engrossed in toeing the lines of their political leaders than protecting workers' interests.

Ironically, in many cases, the political leaders possess little knowledge of the background of labour problems, fundamentals of trade unionism, the techniques of industry, and even little general education. Naturally, unions cannot be expected to function efficiently and on a sound basis under the guidance of such leaders.

18.12.4. Multiplicity of Unions

Of late, trade unionism in India is also characterised by multiplicity of unions based on craft, creed and religion. This is well indicated by the socio-political realities after the mandalisation of polity and heightened sectarian consciousness after the demolition of the disputed structure of Ayodhya.

As noted earlier, the multiplicity of unions is mind-boggling in the DTC (50), the SAIL (240) and the Calcutta Corporations (100). The implication of multiplicity of trade unions is that it leads to union's rivalry in the organization. Obviously, multiplicity of unions contributes to fragmentation to workers leading to small-sized unions.

18.12.5. Lack of Enlightened Labour Force

The lack of an enlightened labour force capable of manning and conducting the movement efficiently, purposefully and effectively has been a major problem in the development of trade unions in the country. Lack of education, division by race religion, language and caste, migratory nature, lack of self consciousness, and non-permanent class of workers have been attributed as the causes for the lack of enlightened labour force in India.

18.12.6. Miscellaneous Problems

The other problems from which trade union movement has suffered include:

(i) The majority of registered unions are independent unions as only 16,000 units out of 50,000 registered unions are affiliated to the Central Trade Unions (CTUs). One possible reason for this is the educated workers' preference to the independent unions,

(ii) It is also found that about 90% of workers in the public sector are unionized while in case of the private sector only 30 % workers are unionized". This is a World-Wide trend, not only featuring in India. But it has a serious implication for trade union movement in India as more and more public sector undertakings are privatized. In turn, the trade union membership is to decline, a trend already visible by now.

(iii) Given the fast changing industrial scenario, jobs are moving from the organized formal sector to informal sector. However, the unorganised sector which constitutes about 90% of the total work force does not come under the purview of the trade unions.

The Second Five-Year Plan scanned the defects of the trade union movement in India as follows:

"Multiplicity of trade unions, political rivalries, lack of resources, disunity in the ranks of

workers etc., are some of the major weaknesses in a number of existing unions”

18.13 Summary

The growth of trade unions in India with respect to development is not proportionate to its growth in terms of size. It's far from reaching its utmost goal of securing unity, peace and harmony amongst the unions and simultaneously battling for their rights, problems and development. A common trend of non-registration of trade unions has been observed in many nations especially in India. This may prove to be a hindrance in the path of achievement of goals of the unions as registration may be considered a bare minimum. Registration has drastic impacts on the working of a union that is still not fully understood by workers. It was held that an unregistered trade union may not have any rights under Trade Unions Act or even the Industrial Disputes Act. Therefore, it is the need of the hour to make workers aware of this criterion as the entire existence of the trade unions depends on their mere existence. Collective bargaining is the primary means of the trade unions to resolve issues amicably with the employers must be laid emphasis on in the coming times. As with the changing laws and constant amendments, this basic 'tool' of the workmen must not be forbidden.

18.14 Key words

Inter union Rivalry- This rivalry shatters the objective behind the formation of unions. They might adopt various approaches which may not prove to be beneficial for the workmen.

Politicization- The political influence on Trade Unions is affluent in India and has been intertwined with politics since the Indian struggle for freedom. Initially, the unions benefited under the effectual and beneficial guidance of the political leaders, but in the long run, it defied the purpose of trade unions, the unity amongst the working class

Multiplicity of Unions- the formation of multiple trade unions at a rapid pace has only proved to be a curse to the Indian Society as comes with it is the politics and the main objective i.e., the welfare of the workers have gotten sidelined.

18.15 Self Assessment Questions

1. Briefly Discuss the characteristics of Trade Unions?
2. Explain the Essentials of Trade Unions ?
3. Examine the Objectives and Need of Trade Union?
4. Describe the challenges and Problems of Trade Unions?

18.16 Suggested Readings

1. PRN Sinha, Indu Bala Sinha, Seema Priyadarshini Sekhar (2002) Industrial Relations, Trade Unions, and Labour Legislation Dorling Kindersley Pvt Ltd
2. MV.Pylee & .Simon George (2007) Industrial Relations and Personnel Management 2nd Edition Vikas Publishing House Pvt Ltd
3. V. Kubendran, K. Kodeeswari(2011) Industrial Relations and Labour Laws 1st Edition Himalaya Publishing House.
4. A. M. Sarma(2015) Industrial Relations Conceptual and Legal Framework 10th Edition English, Himalaya Publishing House
5. Sarma A.M.(2016) Industrial Relations Conceptual legal Framework, Himalaya Publishing House.
6. Bean R. (2020) Comparative Industrial Relations Taylor & Francis Ltd
7. Dr. F. C. Sharma(2020) Industrial Relations 1 Edition SBDP Publications

8. Avtar Singh & Harpreet Kaur(2021) Introduction to Labour and Industrial Laws Forth Edition, Lexis Nexis Publications.
9. S.C. Srivastava(2022) Industrial Relations and Labour Laws 8edition, S Chand And Company Ltd
10. Dr. Satish Kumar Saha, Dr. Anju Agarwal(2022) Industrial Relation & Labour Law Latest Edition Prescribed by Industrial Dispute Act, 1947 and The Factories Act, 1948 1st Edition

Dr.V.Naga Nirmala

.

LESSON -19

TRADE UNION STRUCTURE

Learning objectives

- ✓ To study the registration of trade unions
- ✓ To understand the Incorporation of Registered Trade unions
- ✓ To learn the Penalties and procedure in Trade Unions

Structure

- 19.1 Introduction
- 19.2 Definitions
- 19.3 Registration Of Trade Unions
 - 19.3.1 Appointment of Registrars
 - 19.3.2 Mode of registration
 - 19.3.3 Application for registration
 - 19.3.4 Power to call for further particulars and to require alteration of name .
 - 19.3.5 Certificate of registration.
 - 19.3.6 Appeal
 - 19.3.7 Registered office
- 19.4 Incorporation of registered Trade Unions.
- 19.5 Rights and Liabilities Of Registered Trade Unions
- 19.6 Constitution of a separate fund for political purposes
- 19.7 Immunity from civil suit in certain cases
- 19.8 Enforceability of agreements
- 19.9 Right to inspect books of Trade Union
- 19.10 Rights of minors to membership of Trade Unions
- 19.11 Disqualifications of office-bearers of Trade Unions
- 19.12 Proportion of office-bearers to be connected with the industry
 - 19.12.1 Change of name
 - 19.12.2 Amalgamation of Trade Unions
 - 19.12.3 Notice of change of name or amalgamation
 - 19.12.4 Effects of change of name and of amalgamation
- 19.13 Dissolution
- 19.14 Returns
- 19.16 Power to make regulations [appropriate Government]
- 19.17 Publication of regulations
- 19.18 Penalties and Procedure
 - 19.18.1 Failure to submit returns
 - 19.18.2 Supplying false information regarding Trade Unions
 - 19.18.3 Cognizance of offences
- 19.19 Summary
- 19.20 Key words
- 19.21 Self Assessment questions
- 19.22 Suggested Readings

19.1 Introduction

This Act may be called the 3 Trade Unions Act, 1926.

It extends to the whole of India

It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

19.2 Definitions

In this Act, the appropriate Government” means, in relation to Trade Unions whose objects are not confined to one State, the Central Government, and in relation to other Trade Unions, the State Government, and] unless there is anything repugnant in the subject or context,—

- (a) “executive” means the body, by whatever name called, to which the management of the affairs of a Trade Union is entrusted;
- (b) “[office-bearer]”, in the case of a Trade Union, includes any member of the executive thereof, but does not include an auditor;
- (c) “prescribed” means prescribed by regulations made under this Act;
- (d) “registered office” means that office of a Trade Union which is registered under this Act as the head office thereof;
- (e) “registered Trade Union” means a Trade Union registered under this Act;
- [f) “Registrar” means—
 - (i) a Registrar of Trade Unions appointed by the appropriate Government under section 3, and includes any Additional or Deputy Registrar of Trade Unions; and
 - (ii) in relation to any Trade Union, the Registrar appointed for the State in which the head or registered office, as the case may be, of the Trade Union is situated;]
 - (g) “trade dispute” means any dispute between employers and workmen or between workmen and workmen, or between employers and employers which is connected with the employment or non-employment, or the terms of employment or the conditions of labour, of any person, and “workmen” means all persons employed in trade or industry whether or not in the employment of the employer with whom the trade dispute arises; and
 - (h) “Trade Union” means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions:

Provided that this Act shall not affect—

- (i) any agreement between partners as to their own business;
- (ii) any agreement between an employer and those employed by him as to such employment; or
- (iii) any agreement in consideration of the sale of the goodwill of a business or of instruction in any profession, trade or handicraft.

19.3 Registration Of Trade Unions

19.3.1 Appointment of Registrars.

[The appropriate Government] shall appoint a person to be the Registrar of Trade Unions for [each State].

The appropriate Government may appoint as many Additional and Deputy Registrars of Trade Unions as it thinks fit for the purpose of exercising and discharging, under the superintendence and direction of the Registrar, such powers and functions of the Registrar

under this Act as it may, by order, specify and define the local limits within which any such Additional or Deputy Registrar shall exercise and discharge the powers and functions so specified.

Subject to the provisions of any order under sub-section (2), where an Additional or Deputy Registrar exercises and discharges the powers and functions of a Registrar in an area within which the registered office of a Trade Union is situated, the Additional or Deputy Registrar shall be deemed to be the Registrar in relation to the Trade Union for the purposes of this Act.

19.3.2 Mode of registration

Any seven or more members of a Trade Union may, by subscribing their names to the rules of the Trade Union and by otherwise complying with the provisions of this Act with respect to registration, apply for registration of the Trade Union under this Act.

Where an application has been made under sub-section (1) for the registration of a Trade Union, such application shall not be deemed to have become invalid merely by reason of the fact that, at any time after the date of the application, but before the registration of the Trade Union, some of the applicants, but not exceeding half of the total number of persons who made the application, have ceased to be members of the Trade Union or have given notice in writing to the

Registrar dissociating themselves from the applications.

19.3.3 Application for registration

(1) Every application for registration of a Trade Union shall be made to the Registrar, and shall be accompanied by a copy of the rules of the Trade Union and a statement of the following particular's, namely:—

- (a) the names, occupations and addresses of the members making the application;
- (b) the name of the Trade Union and the address of its head office; and
- (c) the titles, names, ages, addresses and occupations of the [office-bearers] of the Trade Union.

Where a Trade Union has been in existence for more than one year before the making of an application for its registration, there shall be delivered to the Registrar, together with the application, a general statement of the assets and liabilities of the Trade Union prepared in such form and containing such particulars as may be prescribed.

Provisions to be contained in the rules of a Trade Union.—A Trade Union shall not be entitled to registration under this Act, unless the executive thereof is constituted in accordance with the provisions of this Act, and the rules thereof provide for the following matters, namely:—

- (a) the name of the Trade Union;
- (b) the whole of the objects for which the Trade Union has been established;
- (c) the whole of the purposes for which the general funds of the Trade Union shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Act;
- (d) the maintenance of a list of the members of the Trade Union and adequate facilities for

the inspection thereof by the [office-bearers] and members of the Trade Union;

(e) the admission of ordinary members who shall be persons actually engaged or employed in an industry with which the Trade Union is connected, and also the admission of the number of honorary or temporary members as [office-bearers] required under section 22 to form the executive of the Trade Union;

[(ee) the payment of a subscription by members of the Trade Union which shall be not less than

twenty-five naye paise per month per member;

(f) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on the members;

(g) the manner in which the rules shall be amended, varied or rescinded;

(h) the manner in which the members of the executive and the other [office-bearers] of the Trade Union shall be appointed and removed;

(i) the safe custody of the funds of the Trade Union, an annual audit, in such manner as may be prescribed, of the accounts thereof, and adequate facilities for the inspection of the account books by the [office-bearers] and members of the Trade Union; and

(j) the manner in which the Trade Union may be dissolved.

19.3.4 Power to call for further particulars and to require alteration of name .

The Registrar may call for further information for the purpose of satisfying himself that any application complies with the provisions of section 5, or that the Trade Union is entitled to registration under section 6, and may refuse to register the Trade Union until such information is supplied.

(2) If the name under which a Trade Union is proposed to be registered is identical with that by which any other existing Trade Union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either Trade Union, the Registrar shall require the persons applying for registration to alter the name of the Trade Union stated in the application, and shall refuse to register the Union until such alteration has been made. 8. Registration.—The Registrar, on being satisfied that the Trade Union has complied with all the requirements of this Act in regard to registration, shall register the Trade Union by entering in a register, to be maintained in such form as may be prescribed, the particulars relating to the Trade Union contained in the statement accompanying the application for registration.

19.3.5 Certificate of registration.

The Registrar, on registering a Trade Union under section 8, shall issue a certificate of registration in the prescribed form which shall be conclusive evidence that the Trade Union has been duly registered under this Act.

Cancellation of registration

A certificate of registration of a Trade Union may be withdrawn or cancelled by the Registrar—

(a) on the application of the Trade Union to be verified in such manner as may be prescribed, or

(b) if the Registrar is satisfied that the certificate has been obtained by fraud or mistake, or that the Trade Union has ceased to exist or has wilfully and after notice from the Registrar contravened any provision of this Act or allowed any rule to continue in force which is inconsistent with any such provision, or has rescinded any rule providing for any

matter provision for which is required by section 6: Provided that not less than two months' previous notice in writing specifying the ground on which it is proposed to withdraw or cancel the certificate shall be given by the Registrar to the Trade Union before the certificate is withdrawn or cancelled otherwise than on the application of the Trade Union.

19.3.6 Appeal

(1) Any person aggrieved by any refusal of the Registrar to register a Trade Union or by the withdrawal or cancellation of a certificate of registration may, within such period as may be prescribed, appeal,—

(a) where the head office of the Trade Union is situated within the limits of a Presidency-town 2 ***, to the High Court, or

(b) where the head office is situated in any other area, to such Court, not inferior to the Court of an additional or assistant Judge of a principal Civil Court of original jurisdiction, as the 3 [appropriate Government] may appoint in this behalf for that area. (2) The appellate Court may dismiss the appeal, or pass an order directing the Registrar to register the Union and to issue a certificate of registration under the provisions of section 9 or setting aside the order for withdrawal or cancellation of the certificate, as the case may be, and the Registrar shall comply with such order.

(3) For the purpose of an appeal under sub-section (1) an appellate Court shall, so far as may be, follow the same procedure and have the same powers as it follows and has when trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), and may direct by whom the whole or any part of the costs of the appeal shall be paid, and such costs shall be recovered as if they had been awarded in a suit under the said Code.

(4) In the event of the dismissal of an appeal by any Court appointed under clause (b) of sub-section (1), the person aggrieved shall have a right of appeal to the High Court, and the High Court shall, for the purpose, of such appeal, have all the powers of an appellate Court under sub-sections (2) and (3), and the provisions of those sub-sections shall apply accordingly.

19.3.7 Registered office

All communications and notices to a registered Trade Union may be addressed to its registered office. Notice of any change in the address of the head office shall be given within fourteen days of such change to the Registrar in writing, and the changed address shall be recorded in the register referred to in section 8.

19.4 Incorporation of registered Trade Unions.

Every registered Trade Union shall be a corporate by the name under which it is registered, and shall have perpetual succession and a body common seal with power to acquire and hold both movable and immovable property and to contract, and shall by the said name sue and be sued.

Certain Acts not to apply to registered Trade Unions.—The following Acts, namely:—

(a) The Societies Registration Act, 1860 (21 of 1860),

(b) The Co-operative Societies Act, 1912 (2 of 1912),

[(e) The Companies Act, 1956 (1 of 1956),] shall not apply to any registered Trade Union, and the registration of any such Trade Union under any such Act shall be void.

19.5 Rights And Liabilities Of Registered Trade Unions

Objects on which general funds may be spent.

The general funds of a registered Trade Union shall not be spent on any other objects than the following, namely

- (a) the payment of salaries, allowances and expenses to 3 [office-bearers] of the Trade Union;
- (b) the payment of expenses for the administration of the Trade Union, including audit of the accounts of the general funds of the Trade Union;
- (c) the prosecution or defence of any legal proceeding to which the Trade Union or any member thereof is a party, when such prosecution or defence is undertaken for the purpose of securing or protecting any rights of the Trade Union as such or any rights arising out of the relations of any member with his employer or with a person whom the member employs;
- (d) the conduct of trade disputes on behalf of the Trade Union or any member thereof;
- (e) the compensation of members for loss arising out of trade disputes;
- (f) allowances to members or their dependant on account of death, old age, sickness, accidents or unemployment of such members;
- (g) the issue of, or the undertaking of liability under, policies of assurance on the lives of members, or under policies insuring members against sickness, accident or unemployment;
- (h) the provision of educational, social or religious benefits for members (including the payment of the expenses of funeral or religious ceremonies for deceased members) or for the dependants of members;
- (i) the upkeep of a periodical published mainly for the purpose of discussing questions affecting employers or workmen as such;
- (j) the payment, in furtherance of any of the objects on which the general funds of the Trade Union may be spent, of contributions to any cause intended to benefit workmen in general, provided that the expenditure in respect of such contributions in any financial year shall not at any time during that year be in excess of one-fourth of the combined total of the gross income which has up to that time accrued to the general funds of the Trade Union during that year and of the balance at the credit of those funds at the commencement of that year; and
- (k) subject to any conditions contained in the notification, any other object notified by the [appropriate Government] in the Official Gazette.

19.6 Constitution of a separate fund for political purposes

(1) A registered Trade Union may constitute a separate fund, from contributions separately levied for or made to that fund, from which payments may be made, for the promotion of the civic and political interests of its members, in furtherance of any of the objects specified in sub-section (2).

(2) The objects referred to in sub-section (1) are:—

(a) the payment of any expenses incurred, either directly or indirectly, by a candidate or prospective candidate for election as a member of any legislative body constituted under 2 [the Constitution] or of any local authority, before, during, or after the election in connection with his candidature or election; or

(b) the holding of any meeting or the distribution of any literature or documents in support of any such candidate or prospective candidate; or

(c) the maintenance of any person who is a member of any legislative body constituted under [the Constitution] or of any local authority; or

(d) the registration of electors or the selection of a candidate for any legislative body constituted under 2 [the Constitution] or for any local authority; or

(e) the holding of political meetings of any kind, or the distribution of political literature or political documents of any kind.

[(2A) In its application to the State of Jammu and Kashmir, references in sub-section (2) to any legislative body constituted under the Constitution shall be construed as including references to the Legislature of that State.

(3) No member shall be compelled to contribute to the fund constituted under sub-section (1); and a member who does not contribute to the said fund shall not be excluded from any benefits of the Trade Union, or placed in any respect either directly or indirectly under any disability or at any disadvantage as compared with other members of the Trade Union (except in relation to the control or management of the said fund) by reason of his not contributing to the said fund; and contribution to the said fund shall not be made a condition for Admission to the Trade Union.

Criminal conspiracy in trade disputes [office-bearer] or member of a registered Trade Union shall be liable to punishment under sub-section (2) of section 120B of the Indian Penal Code (45 of 1860), in respect of any agreement made between the members for the purpose of furthering any such object of the Trade Union as is specified in section 15, unless the agreement is an agreement to commit an offence.

19.7 Immunity from civil suit in certain cases.

(1) No suit or other legal proceeding shall be maintainable in any Civil Court against any registered Trade Union or any 1 [office-bearer] or member thereof in respect of any act done in contemplation or furtherance of a trade dispute to which a member of the Trade Union is a party on the ground only that such act induces some other person to break a contract of employment, or that it is in interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

(2) A registered Trade Union shall not be liable in any suit or other legal proceeding in any Civil Court in respect of any tortious act done in contemplation or furtherance of a trade dispute by an agent of the Trade Union if it is proved that such person acted without the knowledge of, or contrary to express instructions given by, the executive of the Trade Union.

19.8 Enforceability of agreements

Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a registered Trade Union shall not be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade:

Provided that nothing in this section shall enable any Civil Court to entertain any legal proceeding instituted for the express purpose of enforcing or recovering damages for the breach of any agreement concerning the conditions on which any members of a Trade Union shall or shall not sell their goods, transact business, work, employ or be employed.

19.9 Right to inspect books of Trade Union

The account books of a registered Trade Union and the list of members thereof shall be open to inspection by any [office-bearer] or member of the Trade Union at such times as may be provided for in the rules of the Trade Union.

19.10 Rights of minors to membership of Trade Unions

Any person who has attained the age of fifteen years may be a member of a registered Trade Union subject to any rules of the Trade Union to the contrary, and may, subject as aforesaid, enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given under the rules.

19.11 Disqualifications of office-bearers of Trade Unions

(1) A person shall be disqualified for being chosen as, and for being, a member of the executive or any other office-bearer of a registered Trade Union if—

- (i) he has not attained the age of eighteen years;
- (ii) he has been convicted by a Court in India of any offence involving moral turpitude and sentenced to imprisonment, unless a period of five years has elapsed since his release.

(2) Any member of the executive or other office-bearer of a registered Trade Union who, before the commencement of the Indian Trade Unions (Amendment) Act, 1964 (38 of 1964), has been convicted of any offence involving moral turpitude and sentenced to imprisonment, shall on the date of such commencement cease to be such member or office-bearer unless a period of five years has elapsed since his release before that date.

[(3) In its application to the State of Jammu and Kashmir, reference in sub-section (2) to the commencement of the Indian Trade Unions (Amendment) Act, 1964 (38 of 1964), shall be construed as reference to the commencement of this Act in the said State.

19.12 Proportion of office-bearers to be connected with the industry

Not less than one-half of the total number of the [office-bearers] of every registered Trade Union shall be persons actually engaged or employed in an industry with which the Trade Union is connected:

Provided that the [appropriate Government] may, by special or general order, declare that the provisions of this section shall not apply to any Trade Union or class of Trade Unions specified in the order.

19.12.1 Change of name

Any registered Trade Union may, with the consent of not less than two-thirds of the total number of its members and subject to the provisions of section 25, change its name.

19.12.2 Amalgamation of Trade Unions

Any two or more registered Trade Unions may become amalgamated together as one Trade Union with or without dissolution or division of the funds of such Trade Unions or either or any of them, provided that the votes of at least one-half of the members of each or every such Trade Union entitled to vote are recorded, and that at least sixty per cent. of the votes recorded are in favour of the proposal.

19.12.3 Notice of change of name or amalgamation.

(1) Notice in writing of every change of name and of every amalgamation, signed, in the case of a change of name, by the Secretary and by seven members of the Trade Union changing its name, and, in the case of an amalgamation, by the Secretary and by seven members of each and every Trade Union which is a party thereto, shall be sent to the Registrar, and where the head office of the amalgamated Trade Union is situated in a different State, to the Registrar of such State.

(2) If the proposed name is identical with that by which any other existing Trade Union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either Trade Union, the Registrar shall refuse to register the change of name.

(3) Save as provided in sub-section (2), the Registrar shall, if he is satisfied that the provisions of this Act in respect of change of name have been complied with, register the change of name in the register referred to in section 8, and the change of name shall have effect from the date of such registration.

(4) The Registrar of the State in which the head office of the amalgamated Trade Union is situated shall, if he is satisfied that the provisions of this Act in respect of amalgamation have been complied with and that the Trade Union formed thereby is entitled to registration under section 6, register the Trade Union in the manner provided in section 8, and the amalgamation shall have effect from the date of such registration.

19.12.4 Effects of change of name and of amalgamation

(1) The change in the name of a registered Trade Union shall not affect any rights or obligations of the Trade Union or render defective any legal proceeding by or against the Trade Union, and any legal proceeding which might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.

(2) An amalgamation of two or more registered Trade Unions shall not prejudice any right of any of such Trade Unions or any right of a creditor of any of them.

19.13 Dissolution

(1) When a registered Trade Union is dissolved, notice of the dissolution signed by seven members and by the Secretary of the Trade Union shall, within fourteen days of the dissolution, be sent to the Registrar, and shall be registered by him if he is satisfied that the dissolution has been effected in accordance with the rules of the Trade Union, and the dissolution shall have effect from the date of such registration.

(2) Where the dissolution of a registered Trade Union has been registered and the rules of the Trade Union do not provide for the distribution of funds of the Trade Union on dissolution, the Registrar shall divide the funds amongst the members in such manner as may be prescribed.

19.14 Returns

(1) There shall be sent annually to the Registrar, on or before such date as may be prescribed, a general statement, audited in the prescribed manner, of all receipts and expenditure of every registered Trade Union during the year ending on the 31st day of 1 [December] next preceding such prescribed date, and of the assets and liabilities of the Trade Union existing on such 31st day of 1 [December]. The statement shall be prepared in such form and shall comprise such particulars as may be prescribed.

(2) Together with the general statement there shall be sent to the Registrar a statement showing all changes of 2 [office-bearers] made by the Trade Union during the year to which the general statement refers, together also with a copy of the rules of the Trade Union corrected up to the date of the despatch thereof to the Registrar.

(3) A copy of every alteration made in the rules of a registered Trade Union shall be sent to the Registrar within fifteen days of the making of the alteration.

[(4) For the purpose of examining the documents referred to in sub-sections (1), (2) and (3), the Registrar, or any officer authorised by him, by general or special order, may at all reasonable times inspect the certificate of registration, account books, registers, and other documents, relating to a Trade Union, at its registered office or may require their production at such place as he may specify in this behalf, but no such place shall be at a distance of more than ten miles from the registered office of a Trade Union.]

19.16 Power to make regulations [appropriate Government]

It may make regulations for the purpose of carrying into effect the provisions of this Act.

In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

- (a) the manner in which Trade Unions and the rules of Trade Unions shall be registered and the fees payable on registration;
- (b) the transfer of registration in the case of any registered Trade Union which has changed its head office from one State to another;
- (c) the manner in which, and the qualifications of persons by whom, the accounts of registered Trade Unions or of any class of such Unions shall be audited;
- (d) the conditions subject to which inspection of documents kept by Registrars shall be allowed and the fees which shall be chargeable in respect of such inspections; and
- (e) any matter which is to be or may be prescribed.

19.17 Publication of regulations

(1) The power to make regulations conferred by section 29 is subject to the condition of the regulations being made after previous publication.

(2) The date to be specified in accordance with clause (3) of section 23 of the General Clauses Act, 1897 (10 of 1897), as that after which a draft of regulations proposed to be made will be taken into consideration shall not be less than three months from the date on which the draft of the proposed regulations was published for general information.

(3) Regulations so made shall be published in the Official Gazette, and on such publication

shall have effect as if enacted in this Act

19.18 Penalties And Procedure

19.18.1 Failure to submit returns

(1) If default is made on the part of any registered Trade Union in giving any notice or sending any statement or other document as required by or under any provision of this Act, every 1 [office-bearer] or other person bound by the rules of the Trade Union to give or send the same, or, if there is no such [office-bearer] or person, every member of the executive of the Trade Union, shall be punishable with fine which may extend to five rupees and, in the case of a continuing default, with an additional fine which may extend to five rupees for each week after the first during which the default continues:

Provided that the aggregate fine shall not exceed fifty rupees.

(2) Any person who wilfully makes, or causes to be made, any false entry in, or any omission from, the general statement required by section 28, or in or from any copy of rules or of alterations of rules sent to the Registrar under that section, shall be punishable with fine which may extend to five hundred rupees.

19.18.2 Supplying false information regarding Trade Unions

Any person who, with intent to deceive, gives to any member of a registered Trade Union or to any person intending or applying to become a member of such Trade Union any document purporting to be a copy of the rules of the Trade Union or of any alterations to the same which he knows, or has reason to believe, is not a correct copy of such rules or alterations as are for the time being in force, or any person who, with the like intent, gives a copy of any rules of any unregistered Trade Union to any person on the pretence that such rules are the rules of a registered Trade Union, shall be punishable with fine which may extend to two hundred rupees.

19.18.3 Cognizance of offences

(1) No Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

(2) No Court shall take cognizance of any offence under this Act, unless complaint thereof has been made by, or with the previous sanction of, the Registrar or, in the case of an offence under section 32, by the person to whom the copy was given, within six months of the date on which the offence is alleged to have been committed.

19.19 Summary

Trade Unions Act, 1926 provides for the registration of the Trade Unions with the Registrars of Trade Unions of their territory. Any seven or more members of a trade union by submitting their names to the registrar of trade unions and otherwise complying with the provisions of the Act with respect to registration may apply for the registration of the Trade Union under the Trade Unions Act. The Act gives protection to registered trade unions in certain cases against civil and criminal action.

19.20 Key words

Mode of registration- Any seven or more members of a Trade Union may, by subscribing their names to the rules of the Trade Union and by otherwise complying with the provisions of this Act with respect to registration, apply for registration of the Trade Union under this Act.

Registered office- All communications and notices to a registered Trade Union may be addressed to its registered office.

Incorporation of registered Trade Unions- Every registered Trade Union shall be a corporate by the name under which it is registered, and shall have perpetual succession and a body common seal with power to acquire and hold both movable and immovable property and to contract, and shall by the said name sue and be sued.

Criminal conspiracy in trade disputes -[office-bearer] or member of a registered Trade Union shall be liable to punishment under sub-section (2) of section 120B of the Indian Penal Code (45 of 1860), in respect of any agreement made between the members for the purpose of furthering any such object of the Trade Union as is specified in section 15, unless the agreement is an agreement to commit an offence.

Amalgamation of Trade Unions- Any two or more registered Trade Unions may become amalgamated together as one Trade Union with or without dissolution or division of the funds of such Trade Unions or either or any of them, provided that the votes of at least one-half of the members of each or every such Trade Union.

19.21 Self Assessment Questions

1. Briefly Explain the Registration of Trade unions ?
2. Explain the Procedure for Rights to Inspect of Books in Trade unions ?
3. Briefly discuss the Certification, Cancellation, Appeal of Trade unions?

19.22 Suggested Readings

1. PRN Sinha, Indu Bala Sinha, Seema Priyadarshini Sekhar (2002) Industrial Relations, Trade Unions, and Labour Legislation Dorling Kindersley Pvt Ltd
2. MV.Pylee & A.Simon George (2007) Industrial Relations and Personnel Management 2nd Edition Vikas Publishing House Pvt Ltd
3. V. Kubendran, K. Kodeeswari(2011) Industrial Relations and Labour Laws 1st Edition Himalaya Publishing House.
4. A. M. Sarma(2015) Industrial Relations Conceptual and Legal Framework 10th Edition English, Himalaya Publishing House
5. Sarma A.M.(2016) Industrial Relations Conceptual legal Framework, Himalaya Publishing House.
6. Bean R. (2020) Comparative Industrial Relations Taylor & Francis Ltd
7. Dr. F. C. Sharma(2020) Industrial Relations 1 Edition SBDP Publications
8. Avtar Singh & Harpreet Kaur(2021) Introduction to Labour and Industrial Laws Forth Edition, Lexis Nexis Publications.
9. S.C. Srivastava(2022) Industrial Relations and Labour Laws 8edition, S Chand And Company Ltd
10. Dr. Satish Kumar Saha, Dr. Anju Agarwal(2022) Industrial Relation & Labour Law Latest Edition Prescribed by Industrial Dispute Act, 1947 and The Factories Act, 1948 1st Edition

Dr.V.Naga Nirmala

LESSON -20

EMERGING TRENDS IN TRADE UNIONS

Learning Objectives

- ✓ To study the Trade Union structure
- ✓ To understand the Functions of Trade Unions
- ✓ To Know the Emerging trends in the trade unions
- ✓ To Discuss the Emerging of Trade Union in New sectors

Structure

- 20.1 Introduction
- 20.2 Trade Union in India – Structure
 - 20.2(i). Primary Unions of the Industrial Type
 - 20.2(ii). Primary Unions of the Craft Type
 - 20.2(iii). Primary Unions of the General Type
- 20.3 Industrial Federations
- 20.4 Central Federations of Trade Unions/Central Trade Union Organisations
- 20.5 Trade Union in India – Functions
- 20.6 Trade Unions in India – Changing Role
- 20.7 Emerging trends in Unionism in India
- 20.8 Liberalisation Model, Change in the Nature of the State and Labour
- 20.9 Reduction of Employment in the Public Sector
- 20.10 Labour Flexibility permitted by the State in Practice
- 20.11 Repression of the Working Class by the State
- 20.12 Role of Judiciary
- 20.13 Contracting Base of the Trade Unions
- 20.14 Rise of Independent Industry Unions
- 20.15 Absence of Cooperation and Consolidation among Major Unions
- 20.16 Trade Unions and Emerging New Sectors
- 20.17 Is the Response of the Trade Unions to New Challenges Adequate?
- 20.18 Summary
- 20.19 Key words
- 20.20 Self Assessment Questions
- 20.21 Suggested Readings

20.1 Introduction

Trade union movement in our country has a century-long history. The first quarter of the present century saw the birth of the trade union movement, but the seeds of the movement were sown much earlier. The All India Trade Union Congress (AITUC) was set-up in 1920 with the objectives of representing workers' interests, to co-ordinate the activities of all labour organizations in the country, and to spread the message about the need for union movement.

Then a landmark in the history of labour movement was the enactment of the Trade Unions Act, 1926 unlike 1920s, the 1930s were not favorable to the trade union movement. By 1924, there were 167 trade unions with a quarter million members.

Then the aftermath of Independence was not good for unions. The hopes of workers to secure better facilities and wages from the national government were not realized. There was large-scale unrest and strikes and lock-outs multiplied.

The disunity in the trade union ranks was aggravated by the starting of three central labour organizations, namely, the Indian National Trade Union Congress (INTUC) in 1947, the Hind Mazdoor Sabha (HMS) in 1948, and the United Trade Union Congress (UTUC) in 1949. As years went by, more unions and central organizations came into being. The movement became deeply entrenched.

As of today, there are 50,000 registered unions and most of them are affiliated to one or the other central trade union. It may be observed that the union movement is now more widespread, has taken deep roots, and is better organized. Thus, the origin and growth of trade union movement in India is riddled with fragmented politicisation.

Development of modern industry, especially in the Western countries, can be traced back to the 18th century. Industrial development in India on Western lines however commenced from the middle of the 19th century. The first organized Trade Union in India named as the Madras Labour Union was formed in the year 1918.

Since then a large number of unions sprang up in almost all the industrial centers of the country. Similarly, entrepreneurs also formed their organizations to protect their interests. In 1926, the Trade Unions Act was passed by the Indian Government. The Act gave legal status to the Registered Trade Unions.

The Registrars of Trade Unions in different states were empowered to register the Trade Unions in their respective states. These registered Trade Unions (Workers and Employers) are required to submit annual statutory return to the Registrar regarding their membership, General Funds, Sources of Income and Items of Expenditure and details of their assets and liabilities, which in turn submit consolidated return of their state in the prescribed proforma to Labour Bureau.

20.2 Trade Union in India – Structure

The basic unit of trade union organisation in India is an establishment or a plant. Most unions in the country are of the industrial type. Craft unions in the country have been formed only in a few isolated cases. General unions in the country are confined mainly to particular localities. The hierarchy of trade union organization in the country in an ascending order is primary unions (industrial craft, or general) at the bottom, state or regional level industrial federations and industry-level federations in the middle and central federations of trade unions/central trade unions organisations at the apex.

a. Primary Unions:

Primary unions are the basic units of organisation in the country.

These are broadly of three types:

- i. Industrial,
- ii. Craft and
- iii. General.

20.2(i). Primary Unions of the Industrial Type

Majority of trade unions in India are industrial unions formed at the plant or establishment level. Most of them get themselves registered under the Trade Unions Act, 1926. Many of them become affiliated to some regional, state or industry level federations, and through them or independently, to a central federation of trade unions. However, a vast bulk of them prefers to maintain their independent existence.

It is the primary level industrial unions which play the most significant role in negotiations with the employers and in reaching agreements/settlements covered under the Industrial Disputes Act, 1947. Even where a collective agreement is reached at the industry or other higher levels, it has to be formally re-contracted in the form of settlement with the plant level union to ensure its legal enforceability.

20.2(ii). Primary Unions of the Craft Type

Craft unions of the type having wide coverage, as have been in existence in the USA or the UK, are a rare phenomenon in India. Craft unions have been formed only in a few industries or employments such as railways and heavy engineering industries where crane and railway engine drivers have set up their own unions. The Indian Pilots' Guild is an example of craft union at the industry level. The government's policy in the country has been to discourage the formation of craft unions.

Of late, a number of unions based on particular occupations such as those of salesmen, teachers, physicians, engineers and soon have increasingly come into existence. Employees of some locally concentrated occupations such as auto, bus and truck drivers, scavengers and binders have also formed their unions in different parts of the country. Most of these unions are not registered under the Trade Unions Act, 1926 and generally do not come under the coverage of the Industrial Disputes Act, 1947.

20.2(iii). Primary Unions of the General Type

Local workers engaged in a variety of establishments, shops, crafts and other employments and facing common basic problems have also combined to form general unions in different towns and cities of the country. Such unions have been formed mainly at the local level and under common leadership.

In many cases, employers of these establishments or employments also combine to form a united platform to deal with these unions. In India, there is absence of general unions at higher levels of the types prevalent in the USA and the UK. These unions often organise strikes and demonstrations for pressurising not only their employers but also the government and local authorities in pursuance of their demands.

20.3 Industrial Federations

In certain organised and developed industries such as iron and steel, cotton textiles, railways, banking, insurance, plantations, cement and engineering, and ports and docks, federations of trade unions have, come to be set up at the industry level. Examples of such unions are as follows – Indian National Iron and Steel Workers' Federation, All India Railway men's Federation, All India Bank Employees' Federation and Indian National Textile Workers' Federation.

The number of industrial federations submitting returns under the Trade Unions Act, 1926 was 29 in 2007, while a number of registered federations fail to submit returns in time,

and some of them do not submit returns at all. A few industrial federations have also been set up at the regional and state levels. Examples of such unions are as follows – Rashtriya Mill Mazdoor Sangh in Maharashtra and Chini Mills Workers' Federations of Bihar and U.P. Most of the industrial federations are affiliated to one central federation or the other, but some of them have preferred to remain independent.

Establishment of central wage boards for quite a few organised industries during the 1960s gave a boost to the formation of such federations in the country. Formation of industrial federations has contributed to the growth of industry-wide negotiations, but in a limited manner.

Agreements reached at the industry level are usually endorsed and re-contracted at the plant/establishment level in the form of settlements in order to secure their legal enforceability. Besides, when the question of representation of unions at an industry level tripartite forum arises, the government generally consults the central federation having the largest membership in that industry and not the relevant industrial federation. Industrial federations generally have loose control over their affiliates.

20.4 Central Federations of Trade Unions/Central Trade Union Organisations

Central federations of trade unions/central trade union organisation are at the apex of union organisation in the country. The first central federation of trade unions, namely the All India Trade Union Congress (AITUC), was formed in 1920 on the initiative of eminent Congress leaders active in the nationalist movement. However, as the federation subsequently came under full control of the communists, the leaders of the Indian National Congress established the Indian National Trade Union Congress in 1947.

Subsequently, quite a few central federations of trade unions came to be set up at intervals. These included Hind Mazdoor Sabha (HMS, 1948), United Trades Union Congress (UTUC, 1948), Bharatiya Mazdoor Sangh (BMS, 1955), Centre of Indian Trade Unions (CITU, 1970), National Labour Organisation (NLO, 1972), followed by UTUC-LS, NFITUC, TUCC, AICCTU and AIUTUC during years to follow. Most of these central federations are affiliated to a national-level political party of their preference.

Most of the central federations, except the AITUC and INTUC, were formed as a result of formation of new political parties, and splits and mergers among them. The federating unions often change their allegiance from one central federation to another.

The central federations do not ordinarily directly intervene in industrial relations matters concerning their affiliates. They are concerned primarily with the broad national and important issues affecting the interests of labour. They recommend the names of their representatives/nominees at the Indian Labour Conference, Standing Labour Committee, and other tripartite forums at the national and industrial levels established statutorily or otherwise such as ESI Corporation, Minimum Wage Advisory Board, EPF Board of Trustees, Central Board for Workers' Education, Industrial Committees, and Board of Directors of certain PSUs.

The central government also nominates workers' representatives as delegates to the International Labour Conference from amongst these central federations. With the advent of globalisation and initiation of governmental measures of economic reforms, even the rival central federations often come together to organise general strikes and bandhs for the

withdrawal of alleged anti-labour policies and programmes.

Trade Union in India – Recognition According to Annexure I of Code of Discipline in Indian Industry

There is multiplicity of trade unions in many organizations and each of these claims to be the sole representative of workers. Therefore, the management is in dilemma as to which union should be recognized as representative of workers for the purpose of collective bargaining and other types of consultation. The Trade unions Act does not have any provisions in this regard.

1. Where there is more than one union, a union claiming recognition should have been functioning for at least one year after registration. Where there is only one union, this condition would not apply.
 2. The membership of a union should be at least 15 per cent of the workers in the establishment concerned. Only those should be counted as members who have paid their subscriptions for at least three months during the period of six months immediately preceding the reckoning.
 3. A union may claim to be recognized as a representative union for an industry in a local area if it has a membership of at least 25 per cent of the workers of that industry in that area.
 4. When a union has been recognized, there should be no change in its position for a period of two years.
 5. Where there are several unions in an industry or establishment, the one with the largest membership should be recognized.
 6. A representative union for an industry in an area should have the right to represent the workers in all the establishments in the industry; but if a union of workers in a particular establishment has a membership of 50 per cent or more of the workers of that establishment, it should have the right to deal with matters of purely local interest; for example, the handling of grievance pertaining to its own members.
- All the other workers, who are not members of that union, may operate either through the representative union for the industry or seek redressal directly.
7. In case of trade union federations which are not affiliated to any of the four central organizations of labour, the questions of recognition would have to be dealt with separately.
 8. Only unions which observe the Code of Discipline would be entitled to recognition.

20.5 Trade Union in India – Functions

The functions of trade union can broadly be divided into two categories – protective or militant and positive or ministrant. The protective functions aim at securing certain benefits from the employer through collective bargaining, strikes, go-slow tactics or work-to-rule. 'Gheraos' may also be included in this category. The positive functions include the support given to members during strikes, temporary unemployment and some benefits such as educational facilities, recreational and other services.

The functions of trade unions are again classified into intramural and extramural. The former regulate hours of work, provision of rest houses, continuity of employment, safety, sanitation and other welfare facilities within the factory premises whereas the extramural look after the welfare of the workers in respect of their education, recreation, housing etc. It seems that the functions of trade unions are both militant and fraternal in nature.

Trade Unions secure better wages for their workers and a part of the increased prosperity of industry for their members in the form of bonus. They ensure stable employment for workers and attain better conditions for the workers. Unions train up their workers to facilitate understanding of technological advances.

It is no mean function for a trade union to foster a sense of self-respect and dignity among its members. Trade unions promote national integration, influence the socio-economic policies of the community through active participation in their formulation at various levels. Thus, they instil in members a sense of responsibility towards industry and the community.

The functions of trade unions are not identical in all the countries. In advanced countries problems confronting labour are different than those of developing countries. As such, trade unions, too, are to change their functions to suit the needs of the workers of that country.

In the capitalist system, it is a truism that trade unions are friends, philosophers and guides of the workers. No system – rather, nothing – in this world is an unmixed blessing; trade unions are no exception but, on the whole, the role they play is commendable.

20.6 Trade Unions in India – Changing Role

The role of trade unionism in India has been significantly changing over the years. One example that could be cited is that of the case in Mumbai, where almost all the textile mills in the city closed because of the unreasonable demands made by trade unions under Datta Samant.

India has the advantages of- (a) growing both long staple and short staple cotton and (b) a huge domestic market. But battling militant trade unions, on the one hand, while coping with price controls imposed by unimaginative governments and textile quotas imposed by foreign governments, on the other, proved too much for our textile industry.

The textile industry did not have the necessary financial and managerial resources, and it failed to modernize and remain competitive in terms of quality and cost. So ultimately it declined and became terminally ill.

Trade unions are a legitimate system for organizing workers and to voice their rights and grievances. Without them companies would become either too paternalistic or too dictatorial. Responsible unions help to create a middle path in the relationship between management and labour while maintaining the responsibilities of the former and the dignity of the latter.

Fortunately today, workers have become better informed and aware of the economic forces that impact their industry. The media has helped to create much greater economic

awareness. So it is not so easy to mislead them. Managements too have become more sensitive and skilled in handling relationships with employees.

This is true of even family-owned and managed businesses. TVS in the South is a prime example of how a large family-managed industrial group has successfully managed its relationship with employees through enlightened management. There are more such examples in other parts of the country.

As the skill levels and educational qualifications of employees advance, the role and significance of trade unions tend to diminish. This is because-

- (a) employees are able to represent their own case and
- (b) managements are more sensitive to the needs of individual employees, whose intellectual skills become almost uniquely valuable.

This is already happening in the sunrise industries based on brainpower such as IT and telecommunications. Another phenomenon in these modern industries is that employees have greater opportunity and tendency to move from one company to another, not only because of better terms of employment but also because of their yearning to learn new skills.

This phenomenon is facilitated by the fact that there are plenty of employment opportunities in IT and it is a young industry. That is why one does not notice any union flags in the Silicon Valley of India/Bangalore's Electronic City.

The privatization or corporatization of many public services such as electricity and water supply has accelerated this shift. Hopefully the same shift in the character and role of trade unions will happen in India — even in places like Kerala and West Bengal, as employment starts to move to more intellect-based activities and public sector industries are privatized. Responsible trade union leaders with a long-term vision will adapt their policies to suit the new realities.

Trade unionism suffers from certain weaknesses in general. To be a worthy and effective institution for furtherance of the cause of labour, conditions must be favourable. A trade union can only be a friend and a guide of workers if the work environment and other conditions so warrant.

Trade Unions become weak and suffer if they fail to secure wide membership support without which sound financial position cannot be ensured. A prolonged fight against the employer may entail huge funds, the lack of which may render a trade union ineffective. As we find today, trade unions are mostly engaged in the propagation of the political ideologies of a particular political party. This sort of activity weakens a trade union as, to these trade unions, economic and industrial issues are pushed to the back-ground.

Many trade union leaders feel that militancy is the main stay of a trade union and waging a war against the employer is the function of the trade union. If this policy is pursued, a trade union is sure to be weak.

The history of the development of trade unions in India goes back to the outbreak of the First World War. The grave economic difficulties created by the war gave birth to trade unionism. No doubt, there were sporadic labour movements prior to this formal growth of trade unions.

Indian trade unions have been led by very eminent leaders of the country. Mahatma Gandhi, Lala Lajpat Rai, G. S. Deshpande, B.T. Ranadive, N.M. Joshi and many more eminent personalities of the country have contributed to the growth of trade union movement in our country.

But Indian trade unions have some weaknesses.

They are:

1. Limited Membership

Many workers do not enroll themselves as members of any trade union. Membership is mostly confined to urban area and there also it does not cover all the workers of the organisation. Even in the organised sector, membership is not satisfactory to the desirable extent. Trade unionism, it is rightly said, has only touched a fringe of the working class in India.

2. Domination of Political Parties

Political parties today dominate the trade unions in India. To achieve their narrow and selfish political motives, the real character of trade unions cannot be adhered to. Political rivalry strikes the true spirit of trade unionism and, unfortunately, the workers suffer.

3. Small Size of Trade Unions

The size of trade unions in India is not satisfactory; it is rather small and thus it does not possess, in many organisations, the strength necessary to bargain with the employers. With limited membership and small size, they do not have the required manpower and financial strength to continue their struggle against the oppression of the employer.

4. Lack of Unity:

The trade unions not only have limited membership and small size but also there is multiplicity of unions working in a particular industrial undertaking. This leads to division among workers; unity which is the core of trade unionism, suffers seriously.

5. Attitude of Employers

Taking advantage of the political rivalries, small size and lack of unity of the trade unions existing in an organisation, the employers take apathetic and unbecoming attitude towards workers. They regard establishment of trade unions as “an act of treachery, disloyalty and ingratitude”. Taking advantage of the ignorance, poverty, illiteracy and weakness of the worker, the employers try to disrupt the unity among them.

6. Outside Leadership

Leadership of trade unions rests not with the worker but with the outside leaders for whom it is very difficult to feel the pangs of sufferings of the workers. Most of these leaders are professional persons like lawyers and social and political leaders who do not really feel for the workers, nor do they actually understand their problems.

It does not need any elucidation to say that anyone who did not suffer from any of the difficulties to which a worker is put, will not appreciate the difficulty of the worker to the desirable extent. This is a serious weakness of Indian Trade Unionism.

7. Faulty Method of Labour Recruitment

The method of labour recruitment that is usually followed in India, weakens trade unions. Majority of the workers are recruited through intermediaries and they remain at the mercy of these intermediaries. The intermediaries themselves bargain with the employers to the detriment of the interest of the workers.

The workers mostly come from villages and, being unable to adjust themselves with the new environment of the urban areas, many of them leave. So, this type of recruitment stands in the way of the growth of strong and continuous labour organisations.

8. Lack of Interests on the Part of the Workers

Workers themselves do not take active interest in the activities of trade unions. This phenomenon is attributable to the migratory character of the workers, their illiteracy, poverty etc. The implication of strengthening trade unions in their interests are not intelligible to many of them; they are simply interested in earning daily wages to send them to their village-families and live contented with the meagre surplus they keep with them.

Their standard of living is too low. They do not think about 'higher level' living. All these peculiar characteristics of Indian workers are obstacles to the growth of healthy unions.

9. Inadequacy of Finances

Another weakness of the trade unions in India is the inadequacy of finances. Funds are limited because of low membership fee, many are defaulters; so when needs arise, unions cannot fight for want of funds. A continuous fight against management to bargain something needs funds since the workers may have to go on strike during which period they will have to be maintained out of the funds of the trade unions.

10. Lack of a Common Goal

Trade unions in India today suffer from the lack of a common goal. Since the workers are controlled by the labour wings of different political parties, oneness of mind among the workers cannot be expected. Workers are themselves divided, the rivalry among the trade unions is more severe than their hatred and opposition against the employer. This is a situation highly deplorable which causes a trade union to be weak.

11. Absence of Craft Unions:

This is a unique feature of the trade unions in India. There is no craft-wise trade union. All workers of different crafts belong to the same trade union and this naturally stands in the way of their coming close to one another. There always remains a distance between workers specialised in different crafts. Thus, the trade unions with such members become weak.

Besides the above causes, we may mention that changing work environment, composition of labour, social and economic status of labour, change in labour management relations, change in government attitude and also change in public attitude are factors that have bearing on the strength or otherwise of trade unions in India.

The trade unions in India with leaders from outside the industrial workers are very often accused of striking deals with the employers against the interest of the workers. It is alleged that when workers, after a sustained struggle, come to a bargaining point with the employers, the leaders behave in such a manner and arrive at agreement with the employers on such terms which are not always conducive to the interests of the workers.

Politics is dominating the unionism and though membership strength is now on the increase, fight with the employers for the interest of the workers is found to be lacking in sincerity and compassion for the workers. Personal ambitions of leadership and multiplicity of trade unions are two major obstacles facing Indian Trade Unionism.

In the background of socio-economic and political changes, the entire attitude of trade unions should be changed. From militancy, unions should better develop fraternal aspect, they should realise that workers' interests can be best served and protected on mutual understanding and better relationship between labour and capital.

In public enterprises, trade unions should have the sense of belonging for the undertakings and in private enterprises, too, a change in the attitude of many trade unions affiliated to various political parties can go a long way in solving problems of workers. Trade unions are not meant for trade unions sake only.

They are for betterment of workers' lot. It is the feeling of conciliation and not of confrontation that can better solve problems of industrial relations. There are examples in the functioning of trade unions in foreign countries where we find the objectives of the unions are achieved without conflicts and problems are solved across the table.

Industrial peace is of urgent necessity now in India and Trade Unions have a big role to play. The present economic crisis in India has all the more necessitated the trade unions to come forward with national outlook to help the governments in the rehabilitation of the economy of the country.

Strikes and lockouts leading to the closure of a large number of industrial units are a definite reflection on trade unions. Definitely there are problems leading to the closure of the industrial units but solutions are also there for the employers and the employees to find out with the active intervention of the government concerned.

The weaknesses of trade unions in India can be removed with earnestness, sincerity, selflessness and with a better co-ordinating and understanding among all the parties involved – the workers unions, the employer and the governments.

The National Labour Commission on Labour recommended certain actions for strengthening trade unions. They are –

- 1) Elimination of party politics
- (2) Building up of internal leadership

- (3) Encouragement to collective bargaining schemes
- (4) Improvement of the system of recognition of the unions
- (5) Extension of security to union and encouragement thereof, and
- (6) Conferment of powers to labour courts to settle labour disputes.

20.7 Emerging trends in Unionism in India

Before understanding the emerging trends in Indian trade union movement, it would be of interest to understand the historical context in which unions functioned during the first four decades in the post-independence period.

During the freedom movement, trade unions were patronized by political parties and the freedom movement helped trade unions to be recognized as legal labour organizations to promote the interests of the working class, more especially in the organised sector of the economy. Trade unions during the post-independence period preferred state-led planned industrialization.

The national government also passed a number of Acts with which they codified the roles of trade unions as instruments of collective bargaining on behalf of the workers. Tripartite structures of consultation were created like the Indian Labour Conference, wage boards, Central

Industrial Relations Machinery, joint management councils etc. The entire idea was that these institutions should be used to reduce the areas of conflict by dialogue, rather than resort to strikes. In case of failure by dialogue, the government used the instrument of compulsory adjudications, by appointing state as well as national level tribunals. The result was that trade unions felt that the state has given them a respectable place to voice their concerns and thus they were able to extract with the help of the state good amount of power to protect and promote the interests of labour. In other words, this period was marked by a social cohesion between the state and the trade unions to improve the miserable conditions of the working class. The arm of the state was in favour of the working class.

20.8 Liberalisation Model, Change in the Nature of the State and Labour

HOWEVER, the economic reform process initiated by Rajiv Gandhi, and later strengthened in 1991, adopted the Liberalisation, Privatization and Globalization, popularly referred to as the LPG, model of development. In other words, the country accepted the market-based strategy to accelerate development with least amount of state intervention. This had an impact on the trade unions. The arm of the state started strengthening the capitalist class and they were considered as the chief instrument to promote development. Globalization added strength to the Indian capitalist class. Thus, capital—Indian as well as foreign—argued for labour reform. A new meaning was given to the term ‘labour reform’ which implied the power to ‘hire and fire’ workers, freedom to determine wages according to the market demand and supply. Although the state did not undertake ‘labour reforms’ by introducing a new legislation to legitimize the demand of the capitalist class, it silently worked to reduce state intervention. Consequently, the employers used different methods to reduce the size of the labour, by decentralizing production and even sub-contracting for various operations to small businesses. This led to reduction in the growth of jobs in the organized sector and increase in the share of the informal sector in industrial employment. Regular workers were replaced by contract workers to reduce wage costs, so that business firms could compete in the market. This started the process of weakening the trade unions. Lockouts were used by the employers to retrench workers and prolonged lockouts were used

as the instruments of pressurizing labour to accept humiliating conditions of work before lifting lockouts. This process gathered momentum in all States—whether ruled by the Left or the Right or moderates in India. This further weakened the trade unions.

20.9 Reduction of Employment in the Public Sector

THE state itself started the process of ‘shedding the load of surplus workers’ by adopting various methods like freeze on fresh recruitment, by offering workers voluntary retirement schemes (VRS). During the last decade, the public sector accounted for 60 per cent of reduction in employment in the organised sector. The process of privatisation of state enterprises, by the instrument of disinvestment, further led to a decline in employment, dilution of collective bargaining, worsening in working conditions and reduction in wages. This emboldened capital to raise the demand for reduction of workers in the private sector, by using a sophisticated term—the provision of ‘labour flexibility’.

20.10 Labour Flexibility permitted by the State in Practice

THE capitalist class has been pressurising the state to permit labour flexibility in business, which implies the right to retrench labour, to permit business firms to replace regular workers with either temporary or contract labour so that the benefits of provident funds, gratuity, paid leave etc. are denied to a part of the working class. All this is being argued with a view to reduce costs so that firms can face competition while earning reasonably good profits. Though the state, due to strong resistance by the trade unions, did not amend section VB of the Industrial Disputes Act, in practice, it only winked at downsizing the labour force as also increasing the percentage of workers employed as contract workers. Data provided by the Annual Survey of Industries indicates that the total number of workers employed by factories declined from 62.8 lakhs in 1999-00 to 60.8 lakhs in 2003-04. However, the proportion of contract workers increased from 19.7 per cent in 1999-2000 to 24.6 per cent in 2003-04. During 1999-2000 to 2003-04, total profits increased from Rs. 47,334 crores to Rs. 92,366 crores—an increase of 95 per cent. Obviously, the benefits of growth were appropriated by the capitalist class at the cost of labour. Not only that, the Labour Department has been granting permission for closures more liberally in recent years, thus facilitating labour flexibility.

20.11 Repression of the Working Class by the State

DURING the last few years, cases of repression by the state of the working class have further weakened the trade unions. A few instances are being mentioned. The Government of Haryana unleashed ruthless violence by the State Police against striking workers in Honda Motorcycles. In this respect, the Left Government of West Bengal also used both the police and CPM cadres to repress people in Singur so that the Tata Motors can establish their small car factory. The government promised compensation to displaced farmers, but provided pretty little compensation to displaced tenants whose livelihood was destroyed. The UP Government used ESMA (Essential Services Maintenance Act) and the National Security Act (NSA) in the UP Electricity Board’s strike in January 2000. The Tamil Nadu Government enacted Tamil Nadu ESMA in September 2002 to suppress the State Government employees’ strike. It also armed itself with radical powers to deal with another strike by its employees and teachers in 2003.

20.12 Role of Judiciary

WHEREAS during the sixties and the seventies, the judiciary played a very progressive role in protecting the rights of labour, there is a sea-change in its role after the introduction of reforms. The Supreme Court judgment in 2003 declared that the government

employees have “no fundamental, legal, moral or equitable right to go on strike.” The judiciary had also reversed its own judgment on contract labour absorption in the case of SAIL. This was a big blow to the trade unions who were opposing flexibility of labour. All these judgments indicate that whereas the workers and trade unions could seek redress of workers’ abrogation of labour rights from the judiciary earlier, in recent years, there appears to be a compact between the state and judiciary to promote the LPG model of development.

20.13 Contracting Base of the Trade Unions

WITH increasing demands for more skilled workers, especially in the IT sector, a new class of managers and skilled workers are being recruited by business firms. These workers place individual interest at a higher level than group interest. Business firms offer high wages and perks to these knowledge workers and further promise frequent promotions on performance or merit basis. Consequently, a new class of highly paid workers is emerging—they do not like to be members of trade unions, but form their own associations to seek larger benefits.

Closures, retrenchments, increasing proportion of casual/contract workers have further led to contraction of the union-base. The unions, in order to increase their penetration are now to organise the unorganised workers in the informal sector.

20.14 Rise of Independent Industry Unions

IN recent years, instead of getting affiliated to unions supported by political parties, the employees are organising independent industry-wise unions, for example, the United Forum of Bank Employees, the National Co-ordination Committee of Electricity Employees and Engineers (NCCOEE), unions formed in banks, insurance companies and financial institutions. The rise of independent unions have also weakened the role of politically affiliated unions.

20.15 Absence of Cooperation and Consolidation among Major Unions

Politically affiliated unions have shown a change in attitude with the change in the ruling party. For instance, the INTUC cooperated with the Congress Government during the Emergency, and reversed its attitude towards the government when Janata Party came to power. Similarly, the CITU, an affiliate of the CPI-M, does not force the West Bengal Government to check the rampant phenomenon of lockouts, but is very vocal in other States as a defender of labour rights. The Left unions play a different role in States ruled by the Congress or BJP, but connive with the governments in Left-ruled States.

Moreover, attempts of merger among major politically affiliated unions have not succeeded. The CITU and AITUC, while they believe in “workers of all lands unite” as suggested by Marx, have failed to come together. The Left unions treat the BMS, the biggest trade union, as an untouchable and would not cooperate with it in any struggle. There are occasions when unions have come together “for some struggle” but parted ways as soon as the struggle came to an end.

All these tendencies show absence of unity among trade unions which are politically affiliated. This is exploited by both the government and the employers.

20.16 Trade Unions and Emerging New Sectors

NEW sectors, such as Information Technology (IT), Business Process Outsourcing (BPO) and Retail Sector, with large potential for increasing employment opportunities, are

emerging. They engage a large number of blue-collar workers. The knowledge sector employees get hefty pay packets which give them a certain kind of arrogance not to be a part of trade unions with other industrial workers. Individual bargaining is the key mode of determining rules of employment relationship. These employees of the IT and BPO sectors are called 'cyber coolies' since they have to work for long hours and always suffer from tension arising out of the attitude of the employer to 'hire and fire' at any time. They also become victims of emotional stress resulting in nervous and physical disorders. The government wants to declare the IT and BPO sectors as 'public utilities'. The trade unions are making efforts so that workers in IT and BPO sectors are permitted to become members of unions. Other additions to the list are Retail Sector and Special Economic Zones (SEZs). The strategy of the government is to exempt the Retail Sector from the purview of Shops and Establishment Act. In the name of promotion of exports, earlier Free Trade Zones were exempted from the application of labour laws. Now several Ministers are in favour of SEZs being also declared 'public utilities' so as to provide them the exemption from labour laws. It is really strange that without providing any social basis of its decisions, the government intends to use its discretion to declare any activity as public utility. Such an anti-labour attitude must be resisted by the trade unions. The unions are faced with two sets of challenges: first, they have to convince blue-collar workers to shed their class arrogance and be part of the broad labour movement; second, the trade unions have to force the government not to go ahead declaring any sector as 'public utility'. Both challenges are quite formidable in the new business environment.

20.17 Is the Response of the Trade Unions to New Challenges Adequate?

The liberalisation, privatisation and globalisation model has generated an anti-labour economic environment in the post-reform period as against the pro-labour environment in the pre-reform period. The manifestation of new ideology can be observed in a number of ways: Firstly, the collective bargaining power of the unions has been weakened. As against it, employer militancy has increased in the form of lockouts, retrenchments and closures which lead to shrinkage of employment in the organized sector. As things stand today, the share of the organized sector has declined to seven per cent and that of the unorganized/informal sector has gone up to 93 per cent. The Eleventh Plan Approach Paper states: "The wage share in our organized industrial sector has halved after the 1980s and is now among the lowest in the world. One reason for this is increasing capital intensity in organized sector, another is outsourcing." Obviously, the benefits of growth are being appropriated to a much larger extent by the capitalist classes, and the real wages of workers indicate a decline; however, the remuneration of managerial and technical staff has been increasing at the astounding rate of 15 per cent per annum. Capital has made a strong compact with the state. Even the judiciary has been pronouncing judgments castigating labour as happened in the Tamil Nadu workers' strike and reversal of its own judgment regarding absorption of contract labour.

Labour flexibility measures have either replaced regular jobs with contract labour or have at least created 'bad jobs'. Flexible labour laws are likely to lead to less hiring and more firing. The argument that more jobs might be created in the medium and long-term has not gone down the throat of the working class. It is considered only a mirage.

Labour penetration by the union in the unorganised sector is only at the stage of infancy and needs to be fostered at an accelerated pace.

In this grim scenario, it was incumbent on the part of the trade unions to close their ranks so as to meet the offensive of the capitalist class working in collusion with the state.

But alas! The response of the trade unions is rather disappointing. Unity moves initiated by the CPI were brushed aside by the CPM. No effort has been made to foster even a loose federation of trade unions to put up a joint front. The INTUC or BMS or the Left unions like CITU and AITUC have been pulling in different directions to suit the interests of political parties. The duplicity exhibited by the Left unions of their behaviour about issues pertaining to labour like SEZ at the State level in favour of the ruling party and diametrically opposite behaviour against the Central Government has confused the working class. Moreover, to extend cooperation to the state when their affiliate political party is in power and have an attitude of confrontation when a rival political party is in power, has created the impression that political affiliations rather than genuine response on labour issues is the touchstone of cooperation or confrontation.

Very little efforts have been made to organise the informal workers by the all-India trade unions. It was extremely disgusting to find the application of SEWA, a genuine trade union working among women in the unorganised sector, for giving a status to SEWA at the National Centre for Labour was rejected by the Standing Committee of twelve Central Trade Union Organisations on the specious plea that it was not a registered trade union. From all this, it becomes evident that the trade unions have not realised the grim realities and continue to move in grooves of their own making.

Since the bargaining power of the trade unions has weakened, it is relevant for trade unions to shed the old strategy of confrontation and conflict and shift to cooperation and collaboration. The BMS President, Hansubhai Dave observed in this connection: "These Leftist unions always resort to a 'Bharat Bandh' and call for a strike." But the BMS wants to utilise other options of dialogue, negotiations and presentation of convincing analysis of the prevailing situation. The INTUC has also come round to the view of Gandhian philosophy of cooperation to secure benefits for the working class.

The independent unions, though non-political and strong, have not become very effective in labour penetration and do not have a large following.

20.18 Summary

Trade Unions Act, 1926 provides for the registration of the Trade Unions with the Registrars of Trade Unions of their territory. Any seven or more members of a trade union by submitting their names to the registrar of trade unions and otherwise complying with the provisions of the Act with respect to registration may apply for the registration of the Trade Union under the Trade Unions Act. The Act gives protection to registered trade unions in certain cases against civil and criminal action. In this atmosphere of mutual distrust among trade unions and their weakening bargaining power, the capitalist class is able to push through its agenda of economic reforms, knowing fully well the hard reality that unions will only bark and not bite. It is high time that the unions realise the prevailing social and economic scenario buttressed by the forces of globalisation so as to bring about a change in their strategy, rather than getting sidelined by the state and capitalist class.

20.19 Key words

Trade Union- an organized association of workers in a trade, group of trades, or profession, formed to protect and further their rights and interests.

Code of Discipline- It specifies various obligations for the management and the workers with

the objective of promoting cooperation between their representatives. The basic objectives of Code of Discipline are to: Maintain peace and order in industry.

Liberalization- The basic aim of liberalization was to put an end to those restrictions which became hindrances in the development and growth of the nation. The loosening of government control in a country and when private sector companies' start working without or with fewer restrictions and government allow private players to expand for the growth of the country depicts liberalization in a country.

Privatization- This is the second of the three policies of LPG. It is the increment of the dominating role of private sector companies and the reduced role of public sector companies. In other words, it is the reduction of ownership of the management of a government-owned enterprise.

Globalization- It means to integrate the economy of one country with the global economy. During Globalization the main focus is on foreign trade & private and institutional foreign investment. It is the last policy of LPG to be implemented

20.20 Self Assessment Questions

1. Briefly Discuss the Trade Union Structure
2. Discuss the Functions of Trade Unions
3. Explain the Emerging Trends in Trade Unions
4. Examine the Emerging of Trade Unions in New sectors

20.21 Suggested Readings

1. PRN Sinha, InduBala Sinha, Seema Priyadarshini Sekhar (2002) Industrial Relations, Trade Unions, and Labour Legislation Dorling Kindersley Pvt Ltd
2. MV.Pylee & A.Simon George (2007) Industrial Relations and Personnel Management 2nd Edition Vikas Publishing House Pvt Ltd
3. V. Kubendran, K. Kodeeswari (2011) Industrial Relations and Labour Laws 1st Edition Himalaya Publishing House.
4. AM. Sarma (2015) Industrial Relations Conceptual and Legal Framework 10th Edition English, Himalaya Publishing House
5. Sarma A.M. (2016) Industrial Relations Conceptual legal Framework, Himalaya Publishing House.
6. Bean R. (2020) Comparative Industrial Relations Taylor & Francis Ltd
7. Dr. F. C. Sharma (2020) Industrial Relations 1 Edition SBDP Publications
8. Avtar Singh & Harpreet Kaur (2021) Introduction to Labour and Industrial Laws Forth Edition, Lexis Nexis Publications.
9. S.C. Srivastava (2022) Industrial Relations and Labour Laws 8 edition, S Chand And Company Ltd
10. Dr. Satish Kumar Saha, Dr. Anju Agarwal (2022) Industrial Relation & Labour Law Latest Edition Prescribed by Industrial Dispute Act, 1947 and The Factories Act, 1948 1st Edition

Dr.V.Naga Nirmala

MODEL QUESTION PAPER
MA(HRM) DEGREE EXAMINATION
Second Year, Semester- III
Paper-II
INDUSTRIAL RELATIONS

Time : Three Hours

Maximum: 70 marks

SECTION A- (5x4= 20 marks)

Answer any FIVE of the following

- 1(a) Industrial Relations
- (b) Constitution and labor
- (c)Code of conduct
- (d)Wage Board
- (e)Employee Grievance
- (f) Domestic Enquiry
- (g) Joint Management Council
- (h) strike
- (i) Lock-out
- (j) Union Rivalry

SECTION B- (2 x 10=20 marks)

Answer any TWO of the following

- 2) Discuss the Origin and Development of Industrial Relations?
- 3) Describe the Economic Restructuring Industrial Relations in India?
- 4) Explain the Worker Participation in Management?
- 5) Outline the Trends in Industrial Disputes in India?

SECTION B- (2 x 15=30 marks)

Answer any TWO of the following

- 6) Explain the Growth of Trade Unions in India?
- 7) Describe the Retrenchment, Closure, Unfair Labor Practice?
- 8) Discuss the Problems of Trade Union in India ?
- 9) Elaborate the National Trade Union Federations ?