INDUSTRIAL RELATIONS MANAGEMENT

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(MHRM)

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Lesson - 1

INDUSTRIAL RELATIONS CONCEPT, OBJECTIVES AND DETERMINANTS

OBJECTIVE

The objective of this lesson is to introduce concept, objectives determinants and scope of Industrial Relations.

STRUCTURE

1.1 INTRODUCTION

In an economic system, a person performs both as a producer of value and a user of value. He tends to exhibit a sort of a duality in regard to these two aspects of his situation. As a user of values which include items of day-to-day consumption, he expects that items like bread, milk, newspaper, bus transport, etc., should be easily, conveniently and regularly available. When the supply of these and other items is withheld for any reason, which he labels as “labour trouble” he-the common man – is annoyed and upset. Now, look at him as an employee of any productive organisation. He will consider it a matter of right and fight for the betterment of his earnings and other benefits. He will not hesitate to resort to any direct action, including a strike and other forms of protest, even though he knows that this will inconvenience others.

The field of industrial relations directly impinges on the life of the common man when the conflict arising out of it disrupts his day-to-day life. He begins to ask certain questions : Why do workers

refuse to work ? Why do they take out “morchas” ? What are trade unions ? Why do employers or managers keep their factories closed and resort to lockouts ? Why can they not have smooth relations so that everyone may get items of his needs without any difficulty ?

It is not easy to give straight and simple answers to such and other questions. In our country, rapid industrialisation has taken place particularly after Independence. Industrial activity in places like Bombay, Madras and Calcutta has considerably increased and, with the lead given by Government, a number of new centres of industrial manufacture have come up. Towards these centres of production, a large mass of people continues to be attached because of the opportunities for work offered by them.

This process of industrialisation has broken the ties of relationship between the earlier social groups which functioned on the basis of caste, religion, etc., and has disrupted even the earlier socio-economic relationships between the landlord and the tenant. A new way of life which is set to the discipline of the clock, and a new pattern of relationships which is collective, formal and structured, have developed in the industrial environment. Organisational structures like trade unions, the seats of authority like the managements and the regulative influence of the agencies of Government begin to influence the pattern of relationships very significantly.

It is quite human to point a blaming finger towards others. When unsatisfactory industrial relations disrupt the routine of life because of recurring open struggle and confrontation, everyone asks : What is wrong with “these” people ? “These” people, for the management, are the workers and their trade unions, and, for the workers, they are the employers or the managements who deny or reject their “just” demands. Each puts the blame for industrial unrest on the slow, ineffective nature of the machinery of government.

In short, the field of industrial relations is quite complex. The participants in it are mainly three-the workers, and their organisations, the employers/managements and their associations, and the agencies of Government. The participants should build up a stable, workable relationship among themselves and provide for the people a constant and improved flow of the items of consumption. Divergence does arise between the sectional interests of the different groups in society and the broader interests of the community as a whole. The broader interests are, however, safeguarded when industrial peace prevails and activities of production are conducted uninterruptedly. The sectional groups in society sacrifice its broader interests to further their own ends, and the conflict between the two assumes the shape of industrial unrest. The agencies Government, which is the custodian the interests of the community as a whole, play a significant role in regulating and shaping the pattern of relationships in the industrial setting.

In this lesson which follow, an attempt has been made to analyse and describe industrial relations, with particular reference to Indian conditions.

With the help of some definitions, the concepts of industrial relation has been detailed out. The core of any field is its theoretical base.

1.2 CONCEPTUAL FRAME WORK

1.2.1 Concept of Industrial Relations

The term *industrial relations* refers to *industry and relations.* “Industry” means “any productive activity in which an individual is engaged” and “relations” means “the relations that exist in the industry be-

tween the employer and his workmen". To observes like Kapoor, the concept of "industrial relations is a developing and dynamic concept, and does not limit itself merely to the complex of relations between the unions and management, but also refers to the general web of relationships normally obtaining between employees a web much more complex than the simple concept of labour-capital conflict".

1.2.2. Definitions

Different authors have defined industrial relations in a some what different way. Below are given some of quoted definitions.

"The term *industrial relations* explains the relationship between employees and management which stems directly or indirectly from union-employer relationship". – V.Agnihotri.

"Industrial relations are broadly concerned with bargaining between employers and trade unions on wages and other terms of employment. The day-to-day relations within a plant also constitute one of the important elements and impinge on the broader aspects of industrial relation". – C. B.Kumar.

"Industrial relations are an integral aspect of social relations arising out of employer-employee interaction in modern industries, which are regulated by the state in varying degree in conjunction with organised social forces and influenced by prevailing institutions. This involves a study of the state, the legal system, workers' an employers' organisations at the institutional level; and that of pattern of industrial organisation (including management) capital structure (including technology), compensation of the labour force and market forces at the economic level". – V. B. Singh.

"Industrial relations are the composite result of the attitudes and approaches of employers and employees to each other with regard to planning, supervision, direction and co-ordination of the activities of an organisation with a minimum of human effort and friction, with an animating spirit of co-operation and with proper regard for the genuine will-being of all members of the organisation." –Ordway Tead and Metcalfe.

"Industrial relations may be referred to as an art, the art of living together for purposes of production". –J. Henry Richardson.

"The subject of industrial relations deals with certain regulated and institutionalised relationships in industry". –Allan Flanders.

"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". – H.A.Clegg.

"Industrial relations involve attempts at workable solutions between conflicting objectives and values-between incentive and economic security, between discipline and industrial democracy, between authority and freedom, between bargaining and co-operation". –R.A. Lester.

"Industrial relations refer to the part of management which is concerned with the manpower of the enterprise-whether machine operator, skilled worker or manager". Bethel and others.

According to the ILO, “Industrial relations deal with either the relationships between the state and employers’ and workers’ organisations or the relations between the occupational organisations themselves”. The ILO uses the expression to denote such matters as “freedom of association and the protection of the right to organise; the application of the principles of the right to organise and the right of collective bargaining; collective agreements, conciliation and arbitration; and machinery for co-operation between the authorities and the occupational organisations at various levels of the economy”.

“The concept of industrial relations has been extended to denote the relations of the state with employers, workers and their organisations. The subject, therefore, includes individual relations and joint consultation between employers and work people at their work place; collective relations between employers and their organisations and trade unions and the part played by the state in regulating these regulations”. – Encyclopaedia Britannica.

The following points emerge from an analysis of the above definitions:

(i) Industrial relations are the relations which are the outcome of the “employment relationship” in an industrial enterprise. Without the existence of the two parties, the employer and the workmen, this relationship cannot exist. It is the industry which provides the setting for industrial relations.

(ii) This relationship lays emphasis on the need for accommodation by which the parties involved develop skills and methods of adjusting to, and co-operating with, each other.

(iii) Every industrial relations system creates a complex of rules and regulations to govern the work place and the work community with the main purpose of achieving and maintaining harmonious relations between labour and management by solving their problems through collective bargaining.

(iv) The government/state evolves, influences and shapes industrial relations with the help of laws, rules, agreements, awards of courts, and emphasis on usages, customs, traditions, as well as the implementation of its policies, and interference through executive and judicial machinery.

The term *industrial relations* may be conceptualized as: the relations and interactions in industry, particularly between labour and management, as a result of their composite attitudes and approaches to the management of the affairs of the industry for the betterment of not only the management and workers but also of the industry and the national economy as a whole.

1.2.3 Some Basic Facts About Industrial Relations

Industrial relations are concerned with the organisation and practice of multi-pronged relationships between workers and their union in an industrial enterprise. These relationships exist in both the orgasnised and unorganised sectors of industry.

These relations, however, do not constitute a simple relationship but are a set of functional interdependence involving historical, economic, social, psychological, demographic, technological, occupational, political, legal and other variables-needing an inter-disciplinary approach for their study. “If we make industrial disputes (the absence of positive industrial relations) the centre of a circle, it will have to be divided into various segments. A study of the conditions of work, mainly they level of wages and security of employment, comes under the purview of Economics; their origin and development

under History; the resultant social conflicts under Sociology; the attitudes of the of the combatants, government and the press under Social Psychology; their cultural interactions under Cultural Anthropology; state policies bearing on the issues involved in the conflict under Political Science; legal aspects of disputes under Law; issues involving international aids (to combatants) under International Relations; the degree of effectiveness with which labour policy is administered under Public Administration ; the technological aspects (*e.g.,* control of temperature, and introduction of rationalisation) of the disputes under Technology; and quantitative assessment of losses incurred by the parties and the country's economy under Mathematics.

1.3 DETERMINANTS OF INDUSTRIAL RELATIONS

Industrial relations do not function in a vacuum but are multi-dimensional in nature, and are conditioned with three sets of determinants, namely,

(i) Institutional factors;

(ii) Economic factors; and

(iii) Technological factors

(i) Under institutional factors are included such item as state policy, labour laws, voluntary codes, collective agreements, labour unions and employers' organisations, social institutions – the community, caste, joint family, creed, system of beliefs, etc. – attitudes to work, systems of power status, relative nearness to the centres of power; motivation and influence and industrial relations.

(ii) Under economic factors are included economic organisations (socialist, capitalist, communist, individual ownership, company ownership; government ownership) and the powers of labour and employers; the nature and composition of the labour force and the sources of supply and demand in the labour market.

(iii) Under technological factors come the techniques of production, modernisation and rationalisation, capital structure, etc.

Sometimes, external factors, such as international relations, global conflicts, dominant socio-political ideologies, and the operations of international bodies (such as the ILO) influence industrial relations in a country.

Industrial relations are therefore a *web of rules* formed by the interaction of the government, the business community and labour, and are influenced by the existing and emerging economic, institutional and technological factors. In this regard, the observations of Singh are noteworthy. He declares : "A country's system of industrial relations is not the result of caprice or prejudice. It rests on the society which produces it. It is a product not only of industrial changes, but of the preceding total social changes out of which the industrial society is built (and industrial organisation emerges).It develops and moulds to the institutions that prevail in a given society (both the pre-industrial and the modern) It grows and flourishes, or stagnates and decays, along with these institutions. The process of industrial relations is intimately related to the institutional forces which give shape and content to the socio- economic policies at a given time." The outward and invisible signs of the country's industrial relations are generally the reflexes of the nation's history and its political, historical and social philosophy and attitudes.

The development of industrial relations is not due to any one single factor but has rather been largely determined by the conditions existing on the eve of the Industrial Revolution in Western Europe, and the social, economic and political situations prevailing in different countries. The change which took place following this revolution did not follow a uniform pattern in different countries, but reflected such economic and social forces as had for a long time shaped the principles and practices of industrial relations in the countries of the West. Baljit Singh summarises these events succinctly in the following words: "From the earliest phase of industrialisation when workers, formerly working with their own tools, entered into power-driven factories owned by others to the minimisation of breakdown due to industrial conflicts of later days and further to industrial peace, and hence to the human-relations approach to raise productivity in an era of full employment when the threat of a sack would no longer be real; and, finally, to industrial democracy based on labour partnership not only for the sharing of profits, but of managerial decisions themselves, it has been a long journey indeed."

1.4 OBJECTIVES OF INDUSTRIAL RELATIONS

The primary objective of industrial relations is to bring about good and healthy relations between the two partners in industry-labour and management. It is around this objective that other objectives revolve. According to Kirkaldy, "the state of industrial relations in a country is intimately connected with the form of its political government, and the objectives of an industrial organisation may change from economic to political ends. "He divides these objectives into four :

(a) Improving the economic of workers in the existing state of industrial management and political government;

(b) Control by the state over industries to regulate production and industrial relations;

(c) Socialisation or nationalisation of industries by making the state itself an employer; and

(d) Vesting the proprietorship of industries in the workers.

It is found that political objectives are likely to bring about disunity in the trade union movement, then other safeguards and greater restraint are required to avoid conflict.

The Labour-Management Committee of Asian Regional Conference of the ILO has recognised certain fundamental principles as the objectives of social policy in governing industrial relations with a view to establishing harmonious labour-management relations . They are :

(i) Good labour-management relations develop when employers and trade unions are able to deal with their mutual problems freely, independently and responsibly.

(ii) Trade unions and employers and their organisations are desirous of resolving their problems through collective bargaining; and in resolving these problems, the assistance government agencies might be necessary in the public interest. Collective bargaining, therefore, is the cornerstone of good relations; and the legislative frame work of industrial relations should assist in the maximum use of the process of mutual accommodation.

(iii) The worker's and employer's organisations should be desirous of associating with government agencies in considering the general, public, social and economic measures affecting employer's and workers' relations.

In brief, the Committee laid stress on the need on the part of the management for acquiring a fuller understanding of the human factor in production.

1.4.1 The other objectives of industrial relations are

(i) To safeguard the interests of labour as well as of management by securing the highest level of mutual understanding and goodwill between all sections in industry which take part in the process of production;

(ii) To avoid industrial conflicts and develop harmonious relations, which are essential for the productive efficiency of workers and the industrial progress of the country;

(iii) To raise productivity to a higher level in an era of full employment by reducing the tendency to higher and frequent absenteeism;

(iv) To establish and maintain industrial democracy based on labour partnership, not only for the purpose of sharing the gains of organisation but also participating in managerial decisions so that the individuals' personality may be fully developed and he may grow into a civilised citizen of the country;

(v) To bring down strikes, lockouts and gheraos by providing better and reasonable wages and fringe benefits of the workers, and improved living conditions;

(vi) To bring about government control over such units and plants as are running at losses or where production has to be regulated in the public interest; and

(vii) To ensure that the state endeavours to bridge the gap between the unbalanced, disordered and maladjusted social order (which has been the result of industrial development) and the need for re-shaping the complex social relationships emerging out of technological advances by controlling and disciplining its members, and adjusting their conflicting interests-protecting some and restraining others-and evolving a healthy social order.

The most important fact to be noted is that the one thread which runs through the whole fabric of industrial relations and which is necessary for success is that "labour is not a commodity of commerce but a living being who needs to be treated as a human being, and that employees differ in mental and emotional abilities, sentiments and traditions".

Therefore, the maintenance of a good human relationship is the main theme of industrial relations, because in its absence the whole edifice of organisational structure may crumble. Employees constitute the most valuable asset of any organisation. Any neglect of this important factor is likely to result in increased costs of production in terms of wages and salaries, benefits and services; working conditions, increased labour turnover, absenteeism, indiscipline and cleavages; strikes and walk-outs; transfers on the ground of discontent and the like, besides deterioration in the quality of the goods produced and strained relations between employees and management.

On the other hand, a contended labour force would bring outstanding success, besides earning large profits and goodwill for the enterprise. Therefore, if the intrinsic abilities of employees are properly utilised, they would prove to be a dynamic motive force in running the enterprise at its optimum and ensure maximum individual and group satisfaction in relation to the work performed. The importance of industrial relations cannot, therefore, be over-emphasised.

1.5 SCOPE AND ASPECTS OF INDUSTRIAL RELATIONS

The concept of industrial relations has a very wide meaning and connotation. In the narrow sense, it means that the employer-employee relationship is confined to the relationship that emerges out of the day-to-day association of management and labour. In its wider sense, industrial relations include the relationship between an employee and an employer in the course of the running of an industry and may project itself into spheres which may transgress into the areas of quality control. However, the term *industrial relations* is generally understood in the narrow sense.

An industry is a social world in miniature. The association of various persons, women-supervisory staff management and employer-creates industrial relationships. This association affects the economic, social and political life of the whole community. In other words, industrial life creates a series of social relationships which regulate the relations and working together of not only workmen and management but also of the community and the industry. Industrial relations are, therefore, inherent in an industrial life. These include :

(i) Labour relations, *i.e.,* relations between union and management (also known as labour0management relations);

(ii) Employer-employee relations, *i.e.,* relations between management and employees;

(iii) Group relations, *i.e.,* relations between various groups of workmen; and

(iv) Community or public relations, *i.e.,* relations between industry and society.

The last two are generally not considered for study under industrial relations, but form part of the larger discipline-sociology. The two terms, *labour-management relations* and *employer-employee relations* are synonymously used.

The main aspects of industrial relations are :

(i) Promotion and development of healthy labour-management relations;

(ii) Maintenance of industrial peace and avoidance of industrial strife; and

(iii) Development of industrial democracy.

1.5.1 Development of Healthy Labour-management Relations

The promotion of healthy labour management relations pre-supposes:

(a) The existence of strong, well-organised, democratic and responsible trade unions and associations of employers. These organisations enhance the job security of employees, help in increased worker's participation in decision-making (affecting the terms and conditions of their employment) and give labour a dignified role in society. *These associations also tend to create vantage grounds for negotiations. Consultations on a mutual basis which ultimately lead to good labour-management relations;*

(b) The spirit of collective bargaining and willingness to take recourse to voluntary arbitration. Collective bargaining recognises equality of status between the two opposing and conflicting groups and prepares the ground, in an atmosphere of trust and goodwill, for discussions, consultations and negotiations on maters of common interest to both industry and labour. Collective bargaining, plant discipline and union relations are the principal items which form the core of industrial relation;

(c) Welfare work-whether statutory or non-statutory-provided by the state, trade unions and employers to create, maintain and improve labour-management relations and try to achieve peace in the industry.

1.5.2 Maintenance of Industrial Peace

Industrial peace pre-supposes the absence of industrial strife. It is essential for increased production and healthy relations between workers and employers. Such peace can be established when facilities for it are available from the government and when bipartite and tripartite consultations are held to resolve the difference between the two contending parties.

Machinery should be set up for the prevention and settlement of industrial disputes in the form of legislative and administrative enactments-Trade Unions Acts, the Disputes Act, Industrial Employment (Standing Industrial Orders) Act; Works Committees and Joint Management Councils; Conciliation Officer and Boards of Conciliation; Labour Courts, Industrial Tribunals, national Tribunals; Courts of Enquiry; and provisions for voluntary arbitration.

The Government should have the power to refer disputes to adjudication when the situation tends to get out of hand and industry is faced with economic collapse following continued stoppage of production due to long strikes/lockouts; or when it is in the public interest to do so during periods of emergency; or when there is fear of foreign attack; or when production needs to be carried on without interruption.

The government enjoys the power to maintain the status quo. This power is exercised when the government, after referring the dispute to arbitration, finds that either party is continuing the strike or lockout and that strike or lockout is likely to jeopardise the life of the community and to create chaos in industry.

The provision of the bipartite and tripartite forums for the settlement of disputes. These forums act on the basis the Code of Discipline in industry, the Code of Conduct, the Code of Efficiency and Welfare, Model Standing Orders, Grievance Procedure and the granting of voluntary recognised to trade unions by the employer. These non-statutory measures help to create satisfaction among employers and employees.

The creation and maintenance of implementation cells and evaluation committees which have the power to look into the implementation of agreements, settlements and awards and also into violations of statutory provisions laid down under various labour laws.

1.5.3 Development of Industrial Democracy

The idea of *industrial democracy* suggests that labour should have the right to be associated with the running of an industry. To achieve this objective, the following techniques are usually employed :

(a) *Establishment of the Shop Councils and Joint Management Councils at the floor and plant level,* which endeavour to improve the working and living conditions of employees, improve productivity, encourage suggestions from employees, assist in the administration of laws and agreements, serve as a channel of communication between manage and employees, create in the employees a sense of participation in the decision-making

process and a sense of belonging to the industry. These methods and activities provide the necessary climate for the development of industrial democracy in the country.

(b) *Recognition of Human Rights in Industry.* This implies that labour is not a commodity of commerce which can be purchased and disposed according to the whims and caprices of employers. Workers are to be treated as human as human beings whose sense of self-respect is to be fostered, and better understanding of their role in the organisation is to be brought home to them. Their urge for self-expression (through closer association with management) should be satisfied. These are the basic pre-requisites for achieving industrial democracy.

(c) *Increase in Labour Productivity.* The factors which contribute to higher productivity are; improvement in the level of efforts and skills of workers; improvement in production design, process, materials, equipment, layout, work methods which can be brought about by the ideas or suggestions received from the worker's research and development, including special studies and technological development elsewhere; improvement in the output flowing from capital intensification within the frame work of the same technology; and increasing the productivity of labour by adopting a proper motivational system which may lead to a satisfactory performance of job and maintenance of good industrial relations.

(d) *The available of proper work environment,* is necessary so that the worker may adjust and adapt himself at work. It is this environment which stimulates or depresses, improves or more the relations between labour and management.

According to Lester, "industrial relations involve attempts at arriving at solutions between the conflicting objectives and values; between profit motive and social gain; between discipline and freedom; between authority and industrial democracy; between bargaining and co-operation; and between conflicting interests of the individual, the group and the community.

1.6 SUMMARY

This lesson has attempted to explain the concept, objectives and determinants of industrial relations. The relations between the management and employees and the state interacting to establish rules governing their relationship in the work place are industrial relations. It has also tried to explain for you the scope of industrial relations in which, thereon- Management relations, prevention and settlement of industrial disputes, collective bargaining and workers participation in management are core areas, it has attempted to familiarise you with the importance of industrial relations which increase employee satisfaction, commitment, performance, productivity, profits, gain sharing etc.

1.7 SELF ASSESSMENT QUESTIONS

1. Explain the concept of industrial relations and delienate its scope.
2. Examine the importance of industrial relations in Indian industries.
3. Identify the factors determining industrial relations.
4. Define the following :

   a. Trade Unions b. Industrial democracy c. Industrial Relations.

5. Visit a factory (or look into your own organisation) analyse industrial relations situation in the organisation.

6. Explain the predominant aspects of industrial relations in Indian industry.

1.8 GLOSSARY

Industrial relations : Relations between employers and employees and their organisation or as regulated by the state.

Human relations : Relations between the persons which are mostly personal in character.

Trade union : An association of wage workers for the purpose of maintaining or improving the conditions of their working lives.

Collective Bargaining : Bilateral negotiations and joint discussions between the trade union and management on the terms and conditions of employment.

Working participation in management : A mechanism where workers have a say in the decision making process of an enterprise.

1.9 REFERENCES AND FURTHER READINGS

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Lesson - 2

PERSPECTIVES OF INDUSTRIAL RELATIONS

OBJECTIVE

The objective of the lesson is to introduce the sociological and psychological dimensions of industrial relations.

STRUCTURE

2.1 INTRODUCTION

Industrial conflicts are the result of several socio-economic, psychological and political factors. Various ideas have been expressed and approaches used to explain this complex phenomenon. One observer has stated: “An economist tries to interpret industrial conflict in terms of impersonal market forces and the laws of supply and demand. To a politician, industrial conflict is a war of different ideologies – perhaps a class war. To a psychologist, industrial conflict refers to the conflicting interests, aspirations, goals, motives and perceptions of different groups of individuals operating within, and reacting to, a given socio-economic and political environment”. The first to explanations only refer to the outer manifestations of conflict, for they attempt to interpret, conflict in impersonal terms. The last explanation underscores the importance of the other factors related to industrial conflict, namely, the individual and groups of individuals as also the role of the government. The government interferes by activating the executive and judicial machinery. Labour Courts, Industrial Tribunals and National Tribunals. The awards of courts and enquiry committees, laws, agreements, rules and regulations usages and practices are also pressed into service for the settlement of conflicts.

2.2 PSYCHOLOGICAL APPROACH TO INDUSTRIAL RELATIONS

According to psychologists, the problems of industrial relations have their origin in the perceptions of the management, unions and rank and file workers. These may be the perceptions of persons, of situations or of issues involved in the conflict. Mason Haire has conducted 25 experiments to show how environment and role behaviour influence one’s perceptions. He has selected two groups of union leaders and two groups of executives for his experiments. Two photographs of an ordinary middle-aged man served as the test materials. The same photograph was referred to as a “manager” of a small concern for one pair of union-and-management groups and as a “union leader” for the other pair of groups. Similarly, the other photograph also. Each group was asked to tick off some objectives in the list provided which they felt would describe that man. He found interesting differences. Haire offers the following generalisations in his study:

(i) The general impression about a person is radically different when he is seen as a representative of management from that of the person as a representative of labour.

(ii) Management and labour see each other as less appreciative of the other’s position than it is itself.

(iii) Management and labour see each other as less dependable.

(iv) Management and labour see each other as deficient in thinking regarding emotional characteristics and interpersonal relations.

The perceptions of situations and issues differ because the same position may appear entirely different to different parties. Some aspects of the situation are magnified, some are suppressed or distorted by either party. The perceptions of unions and of the management of the same issue may be widely different. Hence clashes and conflicts may arise between the two parties. Other factors also influence perception and may bring about clashes. The income, the level of education, the communications system, personal prejudices, motivation and goals of persons and groups are such factors. Economic motivators are not the only factors that may affect the work of persons / groups. Motives of gaining prestige, power, status, recognition, security of work are equally important.

2.3 SOCIOLOGICAL APPROACH TO INDUSTRIAL RELATIONS :

Industry is a social world in miniature. The workshop is in reality a community made up of various individuals and groups with differing personalities, educational background, family breeding, emotions, likes and dislikes and a host of other personal factors, such as attitudes and behaviour. These differences in individual attitudes and behaviour create problems of conflict and competition among the members of an industrial society. The complex interpersonal and inter-group relations maintained in an industrial society provide interesting material in terms of industrial relations.

At the operational level, industrial relations have been traditionally looked upon as an area of the economic problems of wages, working conditions and welfare facilities. But over and above the economic factors, social factors are also important. Management's goals, workers' attitudes, perceptions of changes in industry, are all, in turn, determined by such broad social factors as the culture of the society in which industrial relations develop, its value systems, institutions, customs, structural changes, status symbols, rationality, acceptance or resistance to change, tolerance, etc. An industry is, thus, of an industry is economic, its social consequences are also important. These are urbanisation, social mobility, housing and transport problems in Industrial areas, disintegration of the family structure, stress and strain, delinquency, gambling, drinking, prostitution and other social vices. As industries develop a new industrial-cum-social pattern emerges, and with it emerge new relationships, institutions and behavioural patterns and new techniques of handling human resources. These influence the adjustments in, the development of industrial relations.

In analysing industrial relations, the role of social change cannot be over-emphasised. The factors which assign importance to industrial relations are changes in an industrial society, in the workers and in the nature of management Industrial society, too, has undergone a profound change. The concept of management has changed; it is professional rather than traditional. The profile of the industrial worker has changed- instead of being a migrant, he has now been stabilised in industrial centres. In the words of the National Commission on Labour the worker "has become more urban in taste and outlook than his predecessor. He is no longer unskilled or neglected by society. He has a new personality and shares in the benefits offered by a welfare society. He is secure in his employment once he enters it. A process of the industrial culturisation of the working class has set in; social mobility today accounts for the emergence of a mixed industrial work force".

New values have been added to the roles of industry and unions in modern society. Industrial houses have now adopted clauses affirming their social responsibilities to workers, shareholders, consumers and the community at large. The concept of social audit has been recognised. Changes of a pervasive character have taken place in the outlook of employers and the thinking of the management. New institutions of welfare officers, personnel managers and professional social workers have emerged. The decision-making process has been relatively democratised. Ideas about authority, control and status have undergone a revolutionary change. The roles of the state and political parties have been redefined in the light of these changes. All these changes, complex as they are, have had a profound impact on industrial relations. "Industrial relations have been lifted from an ideological plane to the business plane, from an "idealistic and philosophical" base to a more pragmatic and 'matter of fact' base, from a relationship which was indirect and rather passive to a relationship which is direct, involved and perhaps more meaningful in terms to aspirations and achievements by both the groups – management and labour. "Social changes have altered the pattern of the inter-relationships between interest groups and the social bases of conflict and consensus. Concern for harmony in the wider society has been paralleled by a concern with co-operation and equilibrium in the factory.

The organisational behaviour of management and workers is of crucial importance in the pattern of industrial relations. The dynamics of the two conflicting groups in industrial relations tend to shape the behaviour patterns. It is now a power relationship. Union-management relationship problems are primarily determined by power. It is through mobilising power that each party tries to fight he other. A great deal of emphasis is, therefore, placed on the strategy and tactics employed by employers and unions. Conflict and co-operation are looked upon as an inter-related phenomenon. In this connection, Prof. Selekan has rightly observed : “Just as diplomacy and war are two phases of relations between nations, so conflict and co-operation are two interdependent phases of continuity in institutional relations between corporations and unions”.

If the relationship of union-management is presumed on a continuum, at one end of which is conflict and at the other co-operation, several stages may be recognised which gradually emerge and lead to various types of accommodation so that both employers and employees may stay together in business. These stages are :

2.3.1 Structure of Conflict

Employers do not recognise unions are do not accept their demands unless they are required to do so when a dispute is referred to conciliation / adjudication. Usually, unions are regarded as an unnecessary evil. Employers accept the relationship, not willingly but under the coercion imposed by law and not by union power alone.

2.3.2 Containment

Trade unions aggressively try to press for their demands, while management tries with equal determination to contain them within bounds. Legal obligation – through awards of courts, legal interpretations, insistence upon discipline and the observance of the award- govern the day-to-day administration.

2.3.3 Power of Bargaining

At this stage, the parties accept the existence of each other as well as economic realities. The bargaining process is determined by power. The stronger the union, the stronger is its bargaining power.

2.3.4 Accommodation

At this stage, each party tries to accommodate the other through collective bargaining on questions of wages, allowances bonus, fringe benefits, conditions, of work and employment and adjustments in daily affairs, tries to reduce conflict, and agrees to compromise wherever possible so as to conciliate.

2.3.5 Deal-Bargaining

A high degree of co-operation between management and union leaders is required. Deal – bargaining is a device used mainly by top leaders. “Package deals” are made in the fields of grievance settlement, arbitration and strike settlements.

2.3.6 Co-operation

At this stage, both parties extend their concerns beyond the familiar matters of wages, working conditions, etc. they recognise the importance of productivity, the profitability of business, the elimination of waste, adjustment to advances in technology, and other areas of common interest. The union

realises that employers have the right to run their business and earn profits and to main discipline in the plant, and that the union has to share and participate in these responsibilities. Problems are solved / disposed of by mutual consultation as and when they arise.

These types of structures, which represent different phases in a continuum of power relations, may be found in many situations at different stages. Accommodation and assimilation follow conflict and competition. Management and labour can be as much partners in industrial democracy as they are parties to industrial disputes. This process of workers sharing in management and social government in industry is again dependent upon many social factors- the value system, institutions, structural changes and development policy. The process of change and modernisation of industrial relations are complex in character from the sociological point of view, which can be useful in promotion understanding and appreciation of the diverse roles and predictable attitudes of interest groups. In Industrial relations.

2.4 FUNCTIONAL APPROACHES

The problems posed in the field of industrial relations cannot be solved within the limits of a single discipline, and hence it is bound to be inter-disciplinary in approach. It is an interdisciplinary field that includes inputs from sociology, psychology, law, history, politics, economics, accounting and other elements of management studies. Industrial relations, then, has a dual character, it is both an interdisciplinary field and a separate discipline in its own right (Adams 1988). It is much more of an art than it is a science. Industrial relations is largely an applied field concerned with practice and the training of practitioners rather than with theory and measurement. It is thus related to the basic social sciences as engineering is to the physical sciences or medicine is to the biological sciences.

Any problem in industrial relations has to be approached on a multi-disciplinary basis, drawing from the contributions of the above disciplines. The causes of an industrial dispute may be, by nature, economic, social, psychological or political or a combination of any of them. Labour economics provides an economic interpretation of the problems growing out of employer-employee relationship. Industrial sociology explains the social background of the workers, which is essential for the understanding of industrial relations. Industrial psychology clarifies certain concepts and provides empirical tools in areas such as recruitment, placement, training, fatigue and morale. For instance, attitudes and morale surveys are powerful tools to discover causes of industrial strife and to evolve methods for their prevention. Labour loss and their interpretation by tribunals and courts contributes to the growth of industrial jurisprudence. Application of quantitative analysis and labour statistics throws light on the exact state of importance in industrial relations during a particular period. Political aspects also assume importance in industrial relations, particularly in a developing economy dominated by centralised planning. In fact, the growth of industrial relations as a scientific discipline depends upon the extent to which it integrates the contribution of established disciplines in the social sciences.

2.5 THE SYSTEMS APPROACH

There is no country where industrial relations is entirely a matter of tradition or custom nor is there a country where the employees, the workers or their organisations and the government do not at all interact to build up the country's industrial relations system. It has been a mixture of traditions, customs and a web of action, reaction and interaction between the parties. The industrial relations may be conceived at different levels, such as national, regional, industrial and workplace. The concept of the system has been influential in establishing industrial relations as a discipline in its own right.

The concepts of the systems approach are operationally definable.

An industrial relations system may be defined as comprising the totality of power interactions of participants in a workplace, when these interactions involve industrial relations issues. It is viewed as an integral and non-separable part of the organisational structure and its dynamics. An industrial relation's system includes all the individuals and institutions that interact at the workplace. Regardless of the level at which the system exists, an industrial relations system can be viewed as having three components : (1) a set of individuals and institutions that interact ; (2) a context within which the interaction takes place; and (3) an output that serves to govern the future relationship of the parties.

2.5.1 The components of industrial relations system are

(i) ***Participants :*** The participants in the industrial relations sphere are composed of duly recognised representatives of the parties interacting in several roles within system.

(ii) ***Issues:*** The power interactions of the participants in a workplace create industrial relations issues. These issues and the consequences of power interactions find their expression in a web of rules governing the behaviour of the parties at a workplace.

(iii) ***Structure :*** The structure consists of all forms of industrialised behaviour in a system. The structure may include collective procedures, grievances settlement practices, etc. Legal enactments relevant to power interactions may also be considered to be a part of the structure.

(iv) ***Boundaries :*** In system analysis, it is possible to find an issue which one participant is totally indifferent to resolving while, at the same time, the order participant is highly concerned about resolution of the same. These issues may serve to delimit systems boundaries.

At least there are three marked features of the systems approach. They are :

(i) ***Inter-disciplinary Character :*** Some theorists regard the systems approach to be universally applicable to all human relationships, in small or large units. Its flexibility of application in the behavioural sciences has been aptly demonstrated.

(ii) ***Suitability to work Organisation and their Sub-systems:*** The adaptability of the systems approach to organisation is also a frequently discussed trait. This springs from the fact that organisations, and to some extent their sub-systems, are rational and purposeful.

(iii) ***Dynamic Aspects :*** A systems approach is oriented towards the study of interactions and changing relations.

2.5.2 Famous contributors to the systems approach in industrial relations

Robert Dubin : He is regarded as the harbinger of the systems approach in industrial relations. Writing in the early sixties, Dubin used concepts such as inter-group (union and management) power interactions, boundaries of the social system and performed by the system. According to him, union militancy is greatest when the union bargains for the minimum sources of attachment to work, such as wages, hours of work and working conditions. As the range of bargaining issues increases, union militancy decreases. Further, he observed that collective bargaining is a great social invention that has institutionalised industrial conflict.

Robert Cox : Perhaps the most detailed classification of the industrial relations systems is to be found in Robert W. Cox'x *Approaches to a Futurology of Industrial relations (1971).* Cox enumerates the following systems: (a) the peasant-lord system (purely paternalistic); (b) the primitive market system (where in the first generation industrial workers migrating to urban areas from rural communities); (c) the small manufactory system (workers getting organised, the government willing to intervene); (d) the life-time commitment system as in Japan; (e) the bipartite system of which collective bargaining is the main function; (f) the tripartite system where the government also plays an important role, as in India; (g) the corporatist-bureaucratic system in countries where employer's and worker's organisations are semi-autonomous as in the UK; (h) the mobilising system, where the elite in political power determines worker and employer behaviour, as in communist countries at the initial stages; and (I) the socialist system where a contractual employment relationship is established between the parties. He developed an interesting frame work in which different industrial relations systems are related to their specific environment.

Kenneth Walker: In his comprehensive review of the industrial relations literature (1964), Dr. Kenneth Walker proposed building of multi-dimensional, interactive models of industrial relations system. He argued that the basic barrier to more useful theorising has been the inadequacy of psychological models of human behaviour in work situations. He, therefore, proposed a more adequate model which views man as (a) calculating and emotional ;(b) cooperative and conflicting; and (c) expressive and instrumental. Such a model, according to Walker, lends itself of effective integration with the industrial relations theory and directs attention to many areas of needed research.

Herbert haneman: He made a plea for the application of the systems approach and systems model to the emergent discipline of industrial relations. His model (1960) contains stimulating insights concerning the components and variables to be included in a systems model of industrial relations. His main focus was on the workers and managers and their interaction and the workplace.

Richard Peterson : He explicitly relied on the systems approach for building a systems model of the industrial relations function in organisations. His model presented essentially a managerial view of the function of industrial relations in different organisations.

John. T. Dunlop : A number of writers have attempted to produce various models or designs for an industrial relations system. Among the contributions, the most outstanding has been that of Prof. Dunlop of Harvard University. His systems treatment deserves special mention in view of its wider applicability. His book *Industrial Relations Systems* (1958) was a pioneering volume in which he presented an analytical frame work of industrial relations. The stated purpose of this book is to present a general theory of industrial relations and "to provide tools of analysis to interpret and to gain understanding of the widest possible range of industrial relations facts and practices."

Dunlop's approach was designed to broaden the industrial relations horizon from collective bargaining to the full spectrum of present-day industrial relations. His analysis of industrial relations system could be viewed as a radical departure from previous approaches, which had tended to regard the subject a as specialised application of other disciplines such as economics, law, psychology, sociology, history and organisation theory. Unlike the earlier approaches which were largely historical and descriptive, his model was a pioneering attempt at evolving a theoretical core of industrial relations with a set analytical tools.

Dunlop has laid down a generalised industrial relations frame work which, according to him, “is designed to be applicable at once to three board areas of industrial relations experience, namely, (i) industrial relations within an enterprise, industry or other segment of a country and a comparison among such sectors; (ii) industrial relations within a country as a whole and a comparison among countries; and (iii) industrial relations as a totality in the course of economic development.” He was applied this frame work to the coal and construction industries and also gave an account of one national industrial relations system, namely, Yugoslavia.

2.5.3 Prof. John. T. Dunlop conceptualization of industrial relations system

An industrial-relations system at any one time in its developments regarded as comprised of certain actors, certain contexts, an ideology which binds the industrial-relations system together, and a body of rules created to govern the actors at the workplace and work community. There are three sets of independent variables : The ‘actors’, the ‘contexts’ and the ‘ideology’ of the system.

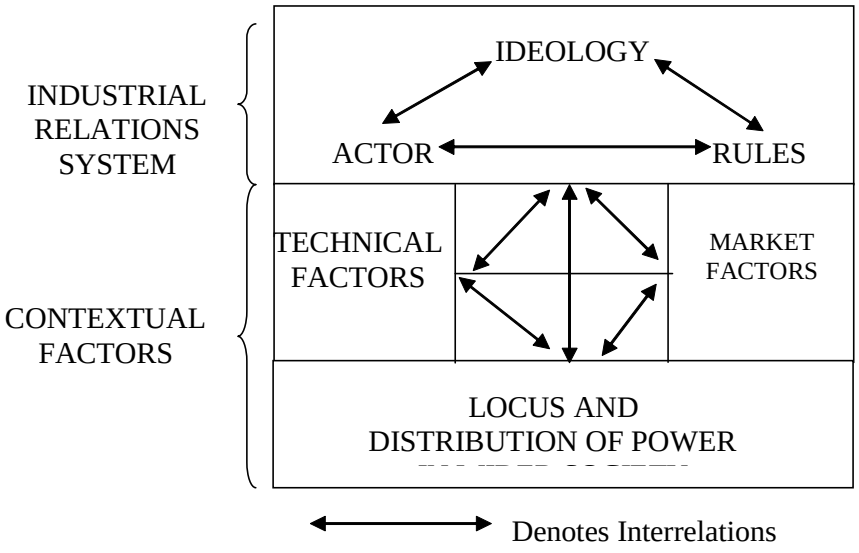

Fig 2.1: The conceptualization of an industrial relations system

Fig.1 depicts the main elements of the system and the environmental features, or contexts to which Dunlop draws attention. The broadest contextual category is clearly the locus and distribution of power in the wider society. It is the power context which is seen as defining the status of the actors in the industrial relations system. The principal groups identifiable in the system and which constitutes the structure of an industrial relations systems are as follows :

2.5.3.1 The Actors in a System

The actors are : (a) hierarchy of managers and their representatives in supervision, (b) a hierarchy of workers (non-managerial) and any spokesmen, and (c) specialised governmental agencies concerned with workers, enterprises, and their relationships. These first two hierarchies are directly related to each other in that the managers have responsibilities at varying levels to issue instructions (manage), and the workers at each corresponding level have the duty to follow such instructions. The hierarchy of managers need have no relationship to the ownership of the capital assets of the workplace, the managers may be public or private or a mixture in varying proportions. The formal hierarchy of workers

may be organised into several competing or complementary organisations, such as, works councils, unions, and parties. The specialised government agencies as actors may have functions in some industrial relations systems so broad and decisive as to override the hierarchies of managers and workers on almost all matters. In other industrial relations systems, the role of the specilised governmental agencies, at least for many purposes, may be minor or constricted.

2.5.3.2 The Contexts of a System

In an industrial relations system, the contexts or the determinants are of greater importance. The significant aspects of the environment in which the actors interact are the technological characteristics of the workplace and work community, the market or budgetary constraints which impinge on the actors, and the locus and distribution of power in the larger society.

The technological features of the workplace have a very far-reaching consequence for an industrial relations system influencing the form of management and employee organisation, the problems posed for supervision, many of the features of the required labour force and the potentialities of public regulation. For instance, the mining industry has a different technological context as compared to the manufacturing industry. Their place of work, the methods of work, the mode of living, etc. have profound influence on evolving a particular pattern of industrial relations system. The mining communities have frequently been isolated from important urban areas and create special problems in human relations. Historically, this raises a range of questions concerning housing, community services and welfare activities which are frequently beyond the rules of workplace in many other sectors. Apart from the characteristics of the workplace, the development of technology also affects industrial relations by way of not only disturbing the existing employment patterns, but also by determining the size of the work force employed.

The market or budgetary constraints are a second feature of the environmental context which is fundamental to an industrial relations system. These constraints often operate, in the first instance, directly upon the managerial hierarchy, but they necessarily condition all the actors in a particular system. The context may be a market for the output of the enterprise or a budgetary limitation or some combination of the two. The product market may vary in the degree and character of competition through the full spectrum from pure competition, monopolistic competition and product differentiation, to oligopoly and monopoly. These constraints are no less operative in socialist than in capitalist countries. The relevant market or budgetary constraints may be local, national, or international, depending on the industrial relations system.

The locus and distribution of power in the larger society, of which the particular industries relations complex is a sub-system, is a third analytical feature of the environment context. The relative distribution of power among the actors in the larger society tends to a degree to reflected within the industrial relations system. At this juncture, the concern is not with the distribution of power within the industrial relations system, the relative bargaining powers among the actors, or their controls over the processes of interaction or rule setting. Rather the reference is to the distribution of power outside the industrial relations system which is given to that system. It is, of course, possible that the distribution of power within the industrial relations system corresponds exactly to that within the contextual society. But that need not be so as there are numerous instances of conflict between economic power within an industrial relations system and political power within a society. The distribution of power in the larger society does not directly determine the interaction of the actors in the industrial relations system. Rather, it is a context which helps to structure the industrial relations system itself. The function of one of the actors in the industrial relations system, the specialised governmental agencies, is likely to be particularly influenced by the distribution of power in the larger society.

2.5.3.3 The Ideology of an Industrial Relations System

The ideology is a philosophy or a systematized body of beliefs and sentiments held by the actors. An important element which completes the analytical system of industrial relations is the ideology or a set of ideas and beliefs commonly held by the actors that helps to bind or to integrate the system together as an entity. Each industrial relations system contains its ideology or shared understandings. The ideology defines the role and place of each actor and the ideas which each actor holds toward the place and function of the others in the system. The ideology or philosophy of a stable system involves a congruence or compatibility among these views and the rest of the system. Each of the actors in an industrial relations system may be said to have its own ideology. An industrial relations system requires that these ideologies be sufficiently compatible and consistent so as to permit a common set of ideas which recognise an acceptable role for each actor.

2.5.3.4 The Establishment of Rules

The actors in a given context establish rules for the workplace and the work community, including those governing the contracts among the actors in an industrial relations system. This network or web of rules consists of procedures for establishing rules, the substantive rules, and procedures for deciding their application to particular situations. The establishment of these procedures and rules is the center of attention in an industrial relations system. Thus, the establishments and administration of these rules is the major concern or output of the industrial relations system of industrial society. The actors who set the web of rules interact in the context of an industrial relations system taken as a whole. These rules are broadly grouped into three categories (i) rules governing compensation in all its forms; (ii) the duties and performance expected from workers, including rules of discipline for failure to achieve these standards; and (iii) rules defining the rights and duties of workers. The rules change in response to change in the contexts and relative status of the actors. The actors who set the rules may be workers and their unions representing one category; employers, managers and their associations constituting a second category, and government in the third category consisting of civil servants concerned with the administration of labour matters.

In short, Dunlop's industrial relations system is an analytical enquiry into the structure and process of the dynamics of relations between management, workers and the government. It can be viewed as an analytical sub-system of the more general total social system of an industrial society. Such a society is affected by a number of external influences, international relations, global conflicts, dominant socio-political thoughts abroad, and operation of international bodies like the I.L.O. Within the country, economic, socio-political and technological factors, existing and emergent influence the inter-relationships between the parties. These interactions lead to a formulation of a web of rules (e.g., labour law, voluntary codes, collective agreements, etc.) which govern the behaviour of the actors in the industrial relations system. These interactions take place in an environment composed of economic constraints and opportunities and technological development and power relations in the social structure. The power relations determine from time to time the status of the employers in society, that of the workers within the social system and the relative dynamism or passivity of the governments role in regulating labour-management relations.

Dunlop's formulation and application of the concept of industrial relations system has been criticised on the grounds. (i) that it is essentially a non-dynamic model of industrial relations from which it is difficult to explain industrial relations change; (ii) that it concentrates on the structure of the system, ignoring the processes within it; (iii) that it tends to ignore the essential element of all industrial relations,

that of the nature and development of conflict itself; (iv) that it focuses on formal rules, to the neglect of important informal rules and informal processes; (v) that it may not be integrated, and it is problematic whether or not the actors share a common ideology; (vi) that it is fails to give an account of how inputs into the system are converted into outputs; (vii) that it is environmentally biased, and provides no articulation between the "internal" plant level systems and the wider systems; (viii) that it favours an analytical approach based on comparison rather than a problem solving approach built on description; and (ix) that it makes no special provision for the role of individual personalities in industrial relations as the actors are being viewed in a "structural" rather than in a "dynamic" sense.

The emphasis of the systems model on the diverse forms of industrial relations rulers which exist, the different rule-making methods and the ways in which rules are applied is a useful contribution not only to industrial relations theorizing, but also to an understanding of industrial relations practices. By focusing on the 'outputs' or rules of industrial relations systems, on their 'processes' such as collective bargaining and other types of rule making, and on their 'inputs' such as the actors involved in rule-making, the systems model provides a useful frame work for classifying and describing the elements within any industrial relations system.

2.6 THE OXFORD APPROACH

This approach has had a great deal of influence on the industrial relations thinking in the U.K. and has even been the theoretical base of the enquiry and the recommendation of the Donovan Commission (1965-68). According to it, the industrial relations system is a study of institutions of job regulations and the stress is on the substantive and procedural rules as in Dunlop's model. Flanders, the exponent of this approach, considers every business enterprise as a social system of production and distribution which has a structured pattern of relationships. The "institution of job regulation" is categorized by him as internal and external; the former being an internal part of the industrial relations system such as code of work rules, wage structure, internal procedure of joint consultation, and grievance procedure. He views trade unions as an external organisation and excludes collective agreements from the sphere of internal regulation. He observes that the growth of external job regulation was in response to market forces which could be controlled only externally. Therefore, the union's concern was and is mainly external regulation. According to him, collective bargaining is central to the industrial relations system. The rules of the system are viewed as being determined through the rule making process of collective bargaining, which is regarded as a political institution involving a power relationship between employers and employees.

The "Oxford Approach" can be expressed in the form of an equation :

$r = f(b)$ or $r = f(c)$

where, r = the rules governing industrial relations

b = collective bargaining

c = conflict resolved through collective bargaining

The "Oxford Approach" can be criticised on the ground that it is too narrow to provide a comprehensive frame work for analysing industrial relations problems. It over emphasises the significance of the political process of collective bargaining and gives insufficient weight to the role of the deeper influences in the determination of rules. Institutional and power the deeper influences in the determination of rules. Institutional and power factors are viewed as of paramount importance, while variables such as

technology, market, status of the parties, and ideology are not given any prominence. This narrowness of approach constitutes a severe limitation.

The difference between the "systems model" and the 'Oxford Approach" lies in the fact that whereas the former emphasises the role of wider influences on rule determination, the letter has stressed the process of rule making through collective bargaining. The Oxford approach to industrial relations has influenced not only public policy in the field but also many of the younger generation of scholars in industrial relations.

2.7 THE INDUSTRIAL SOCIOLOGY APPROACH

Although in the United Kingdom, there has been a growing acceptance of the rule determination approach, one industrial sociologist, G.Margerison, holds the view that the core of industrial relations is the nature and development of the conflict itself. Margerison argued that conflict is the basic concept that should form the basis of the study of industrial relations. The author criticised the prevalent approach to industrial relations which was more concerned with studying the resolution of industrial conflict than its generation; with the consequences of industrial disputes than on their causes. According to this school of thought, there are two major conceptual levels of industrial relations. One is the intra-plant level where situational factors, such as job content, work task and technology, and interaction factors produce three types of conflict-distributive, structural and human relations. These conflicts are being resolved through collective bargaining, structural analysis of the socio-technical systems and man-management analysis respectively. The second level is outside the firm and, in the main, concerns with the conflict not resolved at the intra-organisational level. However, this approach rejects the special emphasis given to rule determination by the "systems and Oxford models". In its place, it suggests a method of inquiry which attempts to develop sociological models of conflicts. However, the emphasis on the significance of conflict industrial relations is not a new one. The nature and importance of industrial conflict was extensively studied in the 1950s and 1960s by a number of writers.

2.8 THE ACTION THEORY APPROACH

Like the systems model, the action theory approach takes the collective regulation of industrial labour as its focal point. The actors operate within a frame work which can at best be described as a coalition relationship. The actors, it is claimed, agree in principle to cooperate in the resolution of the conflict, their co-operation taking the form of bargaining thus, the action theory analysis of industrial relations focuses primarily on bargaining as a mechanism for the resolution of conflicts. Where as the systems model of industrial relations constitutes a more or less comprehensive approach, it is hardly possible to speak of one uniform action theory concept.

2.9 THE MARXIST APPROACH

The class conflict analysis of industrial relations derives its impetus from Marxist social thinking and interpretation. Marxist is essentially a method of social enquiry into the power relationships of society and a way of interpreting social reality. The application of Marxist theory as it relates to industrial relations derives indirectly from later Marxist scholars rather than directly from the works of Marx himself. Industrial relations, according to Marxists, are in the first instance, market-relations. To Marxists, industrial relations are essentially politicized and part of the class struggle. For Marxists industrial and employee relations can only be understood as part of a broader analysis of capitalist society in

particular the social relations of production and the dynamics of capital accumulation. As Marx himself put it, “the mode of production in material life determines the general character of the social, political and spiritual process of life”.

The Marxist approach is primarily oriented towards the historical development of the power relationship between capital and labour. It is also characterised by the struggle of these classes to consolidate and strengthen their respective positions with a view to exerting greater influence on each other. In his approach, industrial relations is equated with a power-struggle. The price payable for labour is determined by a confrontation between conflicting interests. The capitalist ownership of the enterprise endeavours to purchase labour at the lowest possible price in order to maximise their profits. The lower the price paid by the owner of the means of production for the labour he employs, the greater is his profit. The Marxist analysis of industrial relations, however, is not a comprehensive approach as it only takes into account the relations between capital and labour. It is rather, a general theory of society and of social change which has implications for the analysis of industrial relations within Marxists would describe as capitalist societies.

2.10 THE PLURALIST APPROACH

Pluralism is a major theory in labour-management relations which has many powerful advocates. A pluralist approach ‘does not tackle the problem of the nature or the basis of conflict, and merely concentrates on what happens when organisational expressions of conflict have already been articulated. ‘The focus is on the resolution of conflict rather than its generation or, in the words of the pluralist, on ‘the institutions of job regulation’. Kerr is one of the important exponents of pluralist. According to him, the social environment is an important factor in industrial conflicts. The isolated masses of workers are more strike-prone as compared to dispersed groups. When industrial jobs become more pleasant and employees get more integrated into the wider society, strikes will become less frequent. Ross and Hartman’s cross national comparison of strikes postulates the declining incidents of strikes as societies industrialise and develop appropriate institutional frame work. They claim that there has been a decline in strike activity all over the world in spite of an increase in union membership. The theories on pluralism were evolved in the mix-sixties and early seventies when England witness a dramatic resurgence of industrial conflicts. However, the recent theorities of pluralism emanate from British scholars, and in particular from Flanders and Fox. According to Flanders, conflict is inherent in the industrial system. He highlighted the need for a formal system of collective bargaining as a method of conflict resolution. Industrial conflict is accepted by pluralists not only as being inevitable but also as requiring containment within the social mechanism of collective bargaining, conciliation and arbitration.

Fox distinguishes between two distinct aspects of relationship between workers and management. The first is the market relationship which concerns with the terms and conditions on which labour is hired. This relationship is essentially economic in character and based on contracts executed between the parties. The second aspect relates to the management’s dealing with labour, the nature of their interaction, negotiations between the union and management, distribution of power in the organisation, and participation of the union in joint decision making. The major critics of the pluralist approach are the Marxists according to whom exploitation and slavery will continue unabated in the institutional structure of pluralism. The only difference is that in such a social structure, the worker will be deemed to be a better paid wage slave.

For Marxists industrial and employee relations can only be understood as part of a line order analysis of capitalist society, in particular the social relations of production and the dynamics of capital accumulation.

2.11 WEBER'S SOCIAL ACTION APPROACH

The social action approach of Weber ha laid considerable importance to the question of control in the context of increasing rationalisation and bureaucratization. Closely related to Weber's concern related to control in organisations was his concern with "power of control and dispersal". Thus a trade union in the Weber's scheme of things has both economic purposes as well as the goal of involvement in political and power struggles. Some of the major orientations in the Weberian approach have been to analyse the impact of techno-economic and politico-organisational changes on trade union structure and process, to analyse the subjective interpretation of worker's approaches to trade unionism and finally to analyse the power of various components of the industrial relations environment-government, employer, trade unions and political parties. Thus the Weberian approach gives theoretical and opeartional importance to "control" as well as to the power struggle to control work organisations – a power struggle in which all the actors in the industrial relations drama are caught up.

2.12 THE HUMAN RELATIONS APPROACH

In the words of Keith Davies, human relations are "the integration of people into a work situation that motivates them to work together productively, cooperatively and with economic, psychological and social satisfactions". According to him, the goals of human relations are : (a) to get people to produce, (b) to corporate through mutuality of interest, and (c) to gain satisfaction from their relationships. The human relations school founded by Elton Mayo and later propagated by Roethlisberger, Whitehead, W.F. Whyte and Homans offers a coherent view of the nature of industrial conflict and harmony. The human relations approach highlights certain policies and techniques to improve employee morale, efficiency and job satisfaction. It encourages the small work group to exercise considerable control over its environment and in the process helps to remove a major irritant in labour – management relations. But there was reaction against the excessive claims of this school of thought in the sixties. Some of its views were criticised by Marxists, Pluralists, and others, on the ground that it encouraged dependency and discouraged individual development, and ignored the importance of technology and culture in the industry. Taking a balanced view, however, it must be admitted that the human relations school has thrown a lot of light on certain aspects such as communication, management development, acceptance of workplace as a social system, group dynamics, participation in management, etc.

2.13 THE GANDHIAN APPROACH

Gandhiji can be called one of the greatest labour leaders of modern India. His approach to labour problems was completely new and refreshingly human. He held definite views regarding fixation and regulation of wages, organisation and functions of trade unions, necessity and desirability of collective bargaining, use and abuse of strikes, labour indiscipline, workers participation in management, conditions of work and living, duties of workers, etc. Many of his ideas were implemented by the Ahmedabad Textile Labour Association, a unique and a successful experiment in Gandhian trade unionism.

Gandhiji had immense faith in the goodness of man and he believed that many of the evils of the modern world have been brought about by wrong systems and not by wrong individuals. He insisted

on recognising each individual worker as a human being. Her believed in non-violent communism, going so far as to say that “if commission comes without any violence, it would be welcome”.

He laid down certain conditions for a successful strike. These are : (a) the cause of the strike must be just and there should be no strike without a grievance; (b)there should be no violence; and (c) non-strikers or “blacklegs” should never be molested. He was not against strikes but pleaded that they should be the last weapon in the armoury of industrial workers and hence should not be resorted to unless all peaceful and constitutional methods of negotiations, conciliation and arbitration are exhausted.

His concept of trusteeship is a significant contribution in the sphere of industrial relations. According to him, employers should not regard them-selves as sole owners of mills and factories of which they may be the legal owners. They should regard themselves only as trustees, or co-owners. He also appealed to the workers to behave as trustees, not to regard the mill and machinery as belonging to the exploiting agents but to regard them as their own, protect them and put to the best use they can. In short, the theory of trusteeship is based on the view that all forms of property and human accomplishments are gifts of nature and as such, they belong not to any one individual but to society. Thus, the trusteeship system is totally different from other contemporary labour relations systems. It aimed at achieving economic society by non-violent means. He gave greater importance to the change in the attitudes and to regard themselves as co-equals and co-partners in a joint venture.

As early as August 1927, Gandhiji wrote in *Young India,* “In my opinion, the millhands are as much the proprietors of the mills as the shareholders and when the millowners realise that the millhands are as much millowners as they are, there will be no quarrel between them”. He further emphasized that “workmen should be regarded as equals with the shareholders, and they should have, therefore, every right to possess an accurate knowledge of the transactions of the mills” (*Harijan,* 13-2-1937).He recognised the need for higher productivity and pleaded that “the management should share with the workers the gains from higher productivity”. He also laid stress on the importance of job enrichment and observed. “A spinner may not dream of earning as much as the manager now, but he refuses to be ignored. If his work and talents are ignored and if his contributions to the industry are never to be measured by any other yardstick except of selling price at the lowest or static level, he will never give his best” (*Harijan*, 10-8-1947)”.

Further, Gandhiji realised that relations between labour and management can either be a powerful stimulus to economic and social progress or an important factor in economic and social stagnation. According to him, industrial peace was an essential condition not only for the growth and development of the industry itself, but also, in a great measure, for the improvement in the conditions of work and wages. At the same time, he not only endorsed the worker’s right to adopt the method of collective burgeoning but actively supported it. He advocated voluntary arbitration and mutual settlement of disputes. He also pleaded for perfect understanding between capital and labour, mutual respect, recognition of equality and strong labour organisation which are the factors essential for happy and constructive industrial relations.

Recent industrial relations trend in our country has added a greater meaning and dimension to the teachings of Gandhiji. We are painfully aware that in recent times an atmosphere of violence is being let loose in settling labour-management disputes. The solutions to labour-management problems of today lie in properly understanding the Gandhian approach to industrial relations. For Gandhiji, means and ends are equally important. Gandhiji strongly believed in the concept of selling industrial disputes

through mutual negotiations and arbitration without any ranocur between the parties. The system of trusteeship as viewed by the Gandhian theorists is of utmost relevance for resolving conflicts and for achieving co-operation in the organisational setting. Understanding each other better with respect for mutual rights and responsibilities is the surest way to settle all problems. The Gandhian philosophy of Ahimsa (non-violence) and peaceful conduct of relations and positive co-operation will lead us to the correct path of industrial relations.

2.14 MODELS/THEORIES

What happens in industrial relations and how it happens are its practices. Arising out of such practices is a language of industrial relations. These are its concepts. Although these concepts are abstract and analytic in their nature, they are useful in describing and classifying specific industrial relations phenomena. Closely related to the concepts of industrial relations are its principles. They identify and separate out the essential characteristics of industrial relations. A such, they have to be understood and applied by industrial relations practitioners. At a higher level of abstraction still why certain practices develop in industrial relations ate its theories. Theories depend on an individual's value judgements and they lay down what 'ought to be' in a given social situation. Compared with the practices, concepts and principles of industrial relations, however, its theories are more likely to be the subject of greater specilisation by individuals, whether they are essential since without theories of bahaviour, people can neither act out their own social roles nor understand their social environments. For ultimately, a social theory is a way of perceiving, of understood, and of predicting people's actions in practical and real-life situations. Those 'practical' people who insist that they are immune from abstract theory own usually unaware of the preconceptions or prejudices which determine their own views of the world in which they live. As John Maynard Keenness commented many years ago, "practical men, who believe themselves to be quite exempt from any intellectual influences, are usually the slaves of some defunct economists".

The different perspectives and theories enable us to understand industrial relations institutions, structure, processes and behaviour of individual. But a general criticism leveled against them is that they do not constitute industrial relations model/ theories. A model or a theory should attempt to explain why certain events happen and how and why the rules of the system change. The important tests for a model or theory are : (i) it should consist of a set of variables that are related in such a way that an input and an output can be identified; (ii) it should trace out the important inter-relationships between the component variables, both individually and collectively; (iii) it should generate testable hypothesis; and (iv) it should have predictive quality. However, the first initiative in favour of closer attention to theorization in the field of industrial relations could be attributed to Dunlop. In the preface to his *Industrial Relations Systems,* Dunlop places special emphasis on the fact that one of the principal objectives of his work was the development of a general theory for the examination of industrial relations.

Basically, there are two main stands in theorising industrial relations. One group (externalists) lays emphasis on environmental factors like state of technology, methods of production, supply and demand in the product market and in the labour market, legal-political relationships. Etc. the environmental theories have been primarily economists and to a smaller extent, lawyer, political scientists and sociologists. They lay emphasis on the nexus between broad environmental changes and employer-employee relations. Prof. John Dunlop is a noted exponent of the externalist theories. The other group (internalists) stress on cause and effect relationship stemming primarily from factors endogenous to the plant. The in-plant theories of internalists have their origin in the "human relations school" propounded

by Elton Mayo, Roethilsberger, Dickson, etc. These theories stress on employee motivation, attitudes and morale, styles of supervision and forms of management leadership. These theories have been significantly enriched by the additional dimensions provided by organisational behaviour theories whoa re customarily psychologists and sociologists. Both schools of thought have lengthy traditions in industrial relations literature. A full-fledged theory of industrial relations requires an integration of both the approaches of externalists and internalists.

The subject of industrial relations has undergone several changes because of vital contributions made by a number of discipline. In developing theoretical models in industrial relations, it becomes necessary to appreciate the contributions made by various social scientists. Such models can be used for analysing concrete situations and to build a systematic and comprehensive theory of industrial relations. A general theory of industrial relations must incorporate both the conflictive and consensus factors; must be able to force sequences of change over a period of time; must have some prospective application for outlining possible futures; and must focus attention on solving problems.

The practitioners of industrial relations consider theory as the opposite of practice. Nevertheless, any systematic practice implies some theory. Dunlop complied of the lack of theory in the field of industrial relations; many practitioners would applaud its absence. There is nothing so practical as a good theory. There are many instances of the influences of theories on practice. Ricardo's "iron law of wages" was used to argue against raising wages. Early in the 20th century, legal concepts relating to civil law and order were applied in the establishment of compulsory arbitration of industrial disputes in New Zealand and Australia. To be useful in practice, the industrial relations theory must go further than merely codifying practice and cope with the multi-dimensional character of industrial relations.

One of the major objectives of theorising industrial relations is to help the practitioners to understand what is taking place and causes for the same. Industrial relations theory might be useful to practitioners if it could help them in three respects. First, to understand the present industrial relations situation. Understanding what is happening is the first step in tackling a situation. If a theory can bring some degree of order into perceptions, of current events it can be helpful in promoting orderly thinking. For example, the Donovan Commission identified the malaise of British industrial relations to the existing gulf between the informal and formal systems of industrial relations. Whether the diagnosis was correct or not, it provided an organising idea for the consideration of action programmes and helped to clarify thinkings. Second, to forecast trends and to predict what will happen under specific given conditions.

A complete understanding of the present situation should make it possible in principle to forecast trends and foresee its probable evolution. The more industrial relations theory enables such forecasting, the more useful it will be to the practitioners. But, on the whole, industrial relations theory has had relatively little to say about the future. Third, to help the practitioners to bring about certain desired changes and to avoid certain other changes in the present or in the future state of industrial relations. The theory indicates what are the important factors to operate on, and what will be the effect of any specific set of operations on these factors.

One of the most difficult attempts in industrial relations is to build up a theory and to generalise on its activity which is highly dynamic. A host of factors, both internal and external, and conflict generating as well as conflict resolving, factors, influence the shape of industrial relations activity. The industrial relations system in an organisation works in the context of pressures, tensions and conflicts, and is

mainly related to power politics, economic, cultural and other differences. An intermix of such dynamic factors and key institutional variables is necessary in theorising industrial relations.

2.15 SUMMARY

Employee relations do not take place in a vacuum. They are situated within, influenced by, and in turn impact many other aspects of the work organization. Variables such as the size and structure of companies, the character of their product markers have increasing been recognized as influence on the processes and outcomes of employee relations. Important change have been occurring in the composition of the labor force, the types and location of industries that the labor force is employed in, and the patterns of ownership organization structure and inter-organizational linkages found in those industries. A system approach to industrial relations must fit-in with the specific needs and objectives of the particular enterprise. In this context industrial relations function must assume the responsibility for advising the chief executive in developing the organization rather than just maintaining it and doing fire fighting. Industrial relations is a major supporting sub-system of the overall management system and constitutes in integral part of human resource development activity of an organisation.

2.16 SELF ASSESSMENT QUESTIONS

1. Discuss the Dunlop's approach to industrial relations.
2. Explain the Human Relations approach to industrial relations.
3. Analyse the Gandhian and Marxian Perspectives of Industrial Relations.
4. Write short notes on the following
   a) Sociological approach
   b) Industrial Sociology approach
   c) Weber's social action approach

2.17 GLOSSARY

Perception	:	Person's own view of world in his own prime of reference.
Frustration goal	:	Out come of a motive being blocked to prevent one from reaching a desired
Grievance	:	A personal feeling of injustice that an employee has about his employment conditions.
Discipline	:	Conformity to the formal and informal rules and regulations.

2.18 REFERENCES

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Lesson - 3

EVOLUTION OF INDUSTRIAL RELATIONS

OBJECTIVES

The objective of this lesson is to review the evolution and growth of industrial relations in India and present an overview of Indian industrial relations situation.

STRUCTURE

3.1 INTRODUCTION

The ever-growing and fast changing scientific and technological development, industrial production techniques, and ideological values have brought forth in the industrial world a unique type of employer – employee relations replacing the traditional master-servant relationship. For a proper theoretical perspective of industrial relations, it seems essential to have a historical review of industrial relations in a few.

3.2 INDUSTRIAL RELATIONS IN INDIA

India was greatly advanced in the field of industry and commerce in the past, as evidenced from its ancient literature. In ancient times, the highest occupation in our country was agriculture followed by trading. Manual services formed the third rung of occupation. A large number of occupations was carried on by small manufactures in their cottages, mostly on hereditary basis. Ancient scriptures and laws of our country laid emphasis on the promotion and maintenance of peaceful relations between capital and labour. From the early days, 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 descriptions 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 Vikramadita (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. However, there were entirely dependent on their masters and forced work was taken from them. Historical evidence further shows the existence of rules of conduct and prescribed procedure for the settlement of disputes for promoting cordial relations between the parties. The working relations, however, in those days were more or less of a personal character and are very much distinguishable from the present-day industrial relations as have gradually developed with the growth of large-scale industries.

3.2.1 Evolution of Industrial relations

A study of modern industrial relations in India can be made in three distinct phases. The first phase can be considered to have commenced from about the middle of the nineteenth century and ended by the end of the First World War. The second phase comprises the period therefore till the attainment of the independence in 1947, and the third phase represents the post-independence era.

3.2.1.1 First phase

During the first phase, the British Government in India was largely interested in enforcing penalties for breach of contract and in regulating the conditions of work with a view to minimising the competitive advantages of indigenous employers against the British employers. A series of legislative measures were adopted during the latter half of the nineteenth century which can be considered as the beginning of industrial relations in India.

The close of the First World War gave a new twist to the labour policy, as it created certain social, economic and political conditions which raised new hopes among the people for a new social order. There was intense labour unrest because worker's earning did not keep pace with the rising prices and with their aspirations. The constitutional developments in India led to the election of representatives to the Central and Provincial legislatures who took a leading role in initiating social legislation. The establishment of International Labour Organisation (ILO) in 1919 greatly influenced the labour legislation and industrial relations policy in India. The emergence of trade unions in India, particularly the formation of All India Trade Union Congress (AITUC) in 1920 was another significant event in the history of industrial relations in our country.

3.2.1.2 Second Phase

The policy after the first World War related to improvement in the working conditions and provision of social security benefits. During the two decades following the war, a number of laws were enacted for the implementation of the above policy. The Trade Disputes act, 1929, sought to provide a condition machinery to bring about peaceful settlement of disputes. The Royal Commission on Labour (1929-31) made a comprehensive survey of labour problems in India, particularly the working conditions in the context of health, safety, and welfare of the workers and made certain recommendations of far-reaching consequences.

The Second World War gave a new spurt in the labour field. The exigencies of the war made it essential for the government to maintain an adequately contented labour force for maximising production. The Government of India had, therefore, to step in and assume wide powers of controlling and regulating the conditions of work and welfare of industrial workers. It embarked upon a two-fold action in this regard, namely, (i) statutory regulations of industrial relations through the defense of India Rules and the orders made there under; and (ii) bringing all the interests together at a common forum for sharing labour policy.

The Government of India took several for evolving measures conducive to industrial peace. It convened an All India Conference in January 1940. This conference and also the succeeding two conferences held in January 1941 and January 1942 included only government representatives from the centre, the provinces, and the then existing Indian States. It also held separate consultations with the representatives of employers and workers regarding post-war labour problems. The experience of these conferences showed that better results could be achieved only if the representatives of governments, workers, and employers meet on a common platform for resolving differences through discussions and mutual understanding. Accordingly, the 4th Labour Conference, held in August 1942, included the representatives of employers and workers in addition to officials from the centre, the provinces, and the states. the marked the beginning of tripartism in industrial relations on an all-India basis.

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 in 1931. But the first step in this direction was taken only in the year 1942, when the first triputite labour conference was held at New Delhi under the Chairmanship of Dr. B.R. Ambedkar. The conference (ILO) and the Standing Labour Committee (SLC). The ILC originally consisted of 44 members involving 22 government representatives, 11 employers' representatives, while the SLC consisted of 20 members comprising 10 government representatives, 5 employers' and 5 employees' representatives. In the state sphere, State Labour Advisory boards were also set up for consultation on labour matters. Gradually, tripartism developed into a full-fledged system, a kind of parliament for labour and management.

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 employee". The function of ILC, as viewed by Dr. Ambedkar, was to advise the Government of India on any matter referred to it advice, taking into account suggestions made by various State Government 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.

The national triputite system enabled the government to bring the parties together on important national issues. It provided a forum for trade unions and managements for offering their respective points of view to the government and influencing the latter's policy through constitutional means. The positive action of this new tripartite arrangement was in following four areas : (i) the discussions on the proposed legislation and amendments to existing enactments among the interested parties with a view to obtaining a consensus on principles for drafting legislation; (ii) the setting up of normative guidelines for resolving labour management disputes for voluntary adoption by the two parties; (iii) the codification of their rights and duties through mutual agreement, in regard to important matters pertaining to welfare and conduct; and (iv) advising the government on the ratification of ILO Conventions.

The ILC/SL have immensely contributed in achieving the objectives set before them. They facilitated enactment of central legislation and enabled discussion on all labour matters of national importance. Different social, economic and administrative matters concerning labour policies and programmes were discussed in the various meetings of ILC/SLC. 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 schemes (1950). Thus, it led to the passing of three important central labour laws, namely, the Minimum Wages Act, 1948, the Employees' State Insurance Act, 1948, and the Employees' Provident Funds Act, 1952. The 15th session of ILC (1957) prescribed over by Shri Gulzari Lal Nanda was instrumental in adopting two voluntary schemes, namely, worker's participation in management and workers' education scheme. It also laid down the wage policy to be pursued during the Second Five –Years Plan and the norms for fixing a minimum wage. The conference accepted the principle of appointed industry – wise tripartite wage boards to help in the process of wage determination within the broad frame work of the government's economic and social policy. The 16th session of ILC (1958) adopted a voluntary code of discipline as an instrument to regulate industrial relations on a peaceful basis. The 19th session of ILC (1961) suggested various measures for the welfare and other programmes in India, including consumer co-operatives, fair price shops, industrial housing schemes, etc. The ILC/SLC have also been subject to various criticisms.

According to the National Commission on Labour, their contribution to some labour matters has suffered, because certain far-reaching decisions were taken by them apparently without adequate internal consultation within the groups forming the tripartite. The distance between the spokesmen of employer's and worker's organisations at these forums, on the one hand, their affiliates illustrates the failure on the part of the other constituents of the tripartite. There is also a measure of dissatisfaction over the nature of consensus arrived at in these bodies. Increasing absence of unanimity in tripartite conclusions in recent years has been a cause of concern. The worker's organisations have criticised the procedure in reaching consensus as an exercise in semantics, leaving the basic contradictions unresolved. The employers have similarly held the view that the usefulness of tripartite bodies, will be enhanced if official conclusions are based not merely on the views summed up by the Chairman, but on the points emphasized by all the parties.

Even though the Defense of India Rules lapsed after World War II, Rule 81A which regulated industrial relations during the war was kept alive foe 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 States. the Act retained one of the principal features of the Defense of India rules, namely, compulsory adjudication of industrial disputes. However, a few Sates, e.g., Maharashtra (formerly Bombay), Madhya Pradesh, Uttar Pradesh, Rajasthan, and Gujarat, enacted their own legislations which were operative within their boundaries along with the Central legislation. This duality it by the of labour administration could not be mitigated by the Indian Labour Conference due to limitation set on inclusion of labour in the Concurrent List of the Constitution.

3.2.1.3 Third Phase

After independence, an Industrial Truce Resolution was adopted in 1947 at a tripartite conference which invited "the labour and management to assist the Government to secure, promote, and guarantee such agreements between the parties as will usher in a period of contented and orderly advancement towards a cooperative common wealth". The Conference emphasized the need for respecting the mutually of interests between labour and capital in industrial development and recommended to the parties the method of "mutual discussion of all problems common to both and the determination to settle all disputes without recourse to interruption in or slowing down of production". The Resolution also laid down the principles which should govern the relative share of labour and management in the product of industry.

The post-independence period of industrial relations policy aimed at the establishment of peace in industry, and grant of a fair deal to workers. These aims were sought to be achieved by the state through appropriate labour legislation, labour administration, and industrial adjudication. State intervention in industrial relations was justified on the ground that it "helped to check the growth of industrial unrest and brought for the working class a measure of advance and a sense of security which could not litigation grew and delays attendant on legal processes gave rise to widespread dissatisfaction. Hence, since 1958 a new approach was introduced to counteract the unhealthy trends of litigation and delays in adjudication. Its emphasis was based on the principles of industrial democracy, on prevention of unrest by timely action at the appropriate stages, and giving of adequate attention to root causes of industrial unrest.

While the ground work of labour policy was prepared during the forties, a superstructure in this groundwork was built in the fifties. It is the Constitution of India and the five-year plans which largely helped in raised the superstructure. The Preamble to the Constitution and the chapter on Directive Principles of State Policy enunciate the elements of labour policy. The essential feature of the Directive principles of State Policy is to prevent exploitation of the weaker sections by the stronger, to ensure fair distribution of national income, to provide social security in times of need, and to develop harmony and community of interests between workers and managements with the objective of building a co-operative structure based on the mutuality of interest. The successive five-year plans since 1951 clearly enunciated the directions of industrial relations policy. These entitled the building up of industrial democracy in keeping with the requirement of a socialist society which was sought to be establishes through a parliamentary form of government.

3.3. INDUSTRIAL RELATIONS POLICY DURING FIVE YEAR PLANS

A brief account of the industrial relations policy during five-year plans is given below.

3.3.1 First Five-Year Plan (1951-56)

The approach to labour problems in the First Five-Year plan (1951-56) was based on considerations which were related on the one hand, "to the requirements of the well-being of the working class", and on the other, "to its vital contribution to the economic stability and progress of the country". It considered the worker as "the principal instrument in the fulfillment of the targets of the Plan and in the achievement of economic progress, generally" as "his cooperation will be an essential factor in certain an economic organisation in the country which will best subserve the needs of social justice". Further, the plan stated that "harmonious relations between capital and labour are essential for the realisation of the Plan in the industrial sector" and this would be assured to a large extent, "if it were possible for management and labour to come to an agreement regarding the principles which should govern industrial relations". The basic approach in this regard is the realisation that "industrial relations are not a matter between employers and employees alone, but a vital concern of the community which may be expressed in measures for the protection of its larger interests" and that "the employer-employee relationship has to be conceived of as a partnership in a constructive endeavour to promote the satisfaction of the economic needs of the community in the best possible manner. The dignity of labour and the vital role of the worker in such partnership must be recognised". Further, industrial relations have to be so developed that the workers' fitness to understand and carry out the responsibility grows and he is equipped to take an increasing share in the working of industry. There should be the closest collaboration through consultative committees at all levels between employers and employees for the purpose of increasing production, improving quality, reducing costs and eliminating waste".

The Plan emphasised that the "workers' right of association, organisation and collective bargaining should be accepted without reservation as the fundamental basis of the mutual relationship" and the trade unions "should be welcomed and helped to function as part and parcel of the industrial system". It pointed out the need for avoiding disputes and, where they did arise, to settle them by conciliation and arbitration. Further more, special stress was laid in the Plan on setting up of Works Committees and Joint Committees for improving labour relations and promoting employer-employee collaboration in the interest of population and well-being of the workers.

3.3.2 Second Five year plan (1956-61)

Much of what had been said in regard to industrial relations in the First Plan was reiterated in the Second Five-Year Plan (1956-61). The Second Plan considered a strong trade union movement to be necessary both for safeguarding the interests of labour and for realising the targets of production. Multiplicity of trade unions, political rivalries, lack of resources, and disunity in the ranks of workers were, according to the Plan document, some of the major weakness in a number of existing unions. The Plan laid down that for the development of an undertaking or industry, industrial peace was indispensable, but this could best be acquired by the parties themselves. The importance of preventive measures for achieving industrial peace was particularly stressed and greater emphasis was placed on the avoidance of disputes at all levels. It also emphasised on the increased association of labour with management for (a) promoting increased productivity for the general benefit of the enterprises, the employees and the community, (b) giving employees a better understanding of their role in the working of the industry and of the process of production and, (c) satisfying the worker's urge for self-expression, thus leading to industrial peace, better relations and increased cooperation. During the course of the Plan period, a voluntary Code of Discipline was introduced (1958) to counteract, the unhealthy trends of litigation and delays in the legal processes which had created widespread dissatisfaction.

3.3.3. Third Five year plan (1961-66)

The Third Five-Year Plan (1961-66) expressed great hopes in the voluntary approach initiated during the Second Plan period to give a more positive orientation to industrial relations, based on moral rather than on legal sanctions. The Plan highlighted the need for increasing application of the principle of voluntary arbitration in resolving differences between workers and employers and recommended that the government should take the initiative in drawing up panels of arbitrators on a regional and industry–wise basis. Further, the Plan recommended that "works committees should be strengthened and made an active agency for the democratic administration of labour matters".

3.3.4 Fourth Five-Year Plan (1969-74)

The Fourth Five-Year Plan (1969-74) suggested no changes in the system of regulating labour relations by legislative and voluntary arrangements started from earlier Plans. It devoted a good deal of attention to employment and training . It also laid stress on strengthening labour administration for better enforcement of labour laws, research in labour laws, expansion of training programmes for labour officers, etc.

3.3.5 Fifth Five –Year Plan (1974-79)

The Fifth Five –Year Plan (1974-79) laid great emphasis on employment, both in rural and urban sectors. After the promulgation of emergency in June 1975, the government devised a new pattern of bipartite consultative process in an attempt to create a climate of healthy industrial relations, leading to increased production, by eschewing lay-offs, retrenchments, closures, strikes and lockouts. The new machinery sought to formulate policies at the national, state, and industry levels for the speedy resolution of industrial conflicts and for promoting industrial harmony. At the centre, a National Apex Body (NAB) was set up in July 1975 comprising representatives of three central employers' organisations and three central workers' organisations. Simultaneously, the National Industrial Committees (NICs) were set up for some of the major industries such as textiles, jute, chemicals, engineering, sugar, etc. During the emergency, a scheme of workers' participation in industry at shop and plant levels was adopted by the Government of India through a resolution on 30th October, 1975.

3.3.6 Sixth Five-Years Plan (1980-85)

The importance of cooperative attitude on the part of employers and employees for the maintenance of healthy industrial relations has been emphasised in the Sixth Five-Years Plan (1980-85). According to the Plan, "if the huge investments are to yield the desired results, certain important measures cannot be delayed for long; for example, the core sector including power, energy, coal, steel and transport needs to be insulted against uncertainties of the industrial relations situation to the maximum extent possible. Of adequate consultative machinery and grievance procedures are evolved and made effective, strikes and lockouts can become redundant in these industries. In other areas, also, strikes and lockouts should be resorted to only in the last stage. Effective arrangements should also be made for the settlement of inter-union disputes and to discourages unfair practices and irresponsible conduct. Relaying on the Industrial Policy Statement of the Government of India of July 1980, the Plan has laid stress on the steady induction and promotion of professional management and industrial culture in the public sector. It has reiterated the importance of collective bargaining and tripartite consultation for acceleration of production and for improving the working conditions. It has observed that the machinery as provided in the Industrial Disputes Act, 1947 for the settlement of disputes through mediation, conciliation, arbitration and adjudication, and the provision of a voluntary approach to industrial relations with the adoption of Codes have not proved very effective either in preventing

disputes or in promoting settlement. While suggesting the growth of trade unions on healthy lines, the Plan further stressed on their social obligations and roles in any areas of nation building activities and in improving the quality of workers. It suggested the unions to foster the interests of their members by organising family planning and recreational and cultural activities. Furthermore, it emphasized on necessary changes in the existing laws on trade unions, industrial relations and standing orders for promoting harmonious industrial relations.

The thrust of the Seventh Plan is on improvement in capacity utilisation, efficiency and productivity. Labour enters the production process from the supply side as well as from the demand side. The focal point for both aspects is higher productivity because it is through higher productivity that higher real wages can be ensured, cost of production can be brought down and higher demand for products can be generated, which would lead to further growth. The role of labour has to be perceived in this broad perspective.

3.3.7 Seventh Five year plan (1986-90)

The Seventh Plan Document states that "the success of labour policy has to be adjusted on the basis of the productivity standard that it helps the economy to achieve. While technical factors and the sate of technology are crucial in determining productivity levels, there is no gainsaying the fact that discipline and motivation of workers, their skill, the sate of industrial relations, the extent of effectiveness of participation of workers, the working climate and safety practices are also of great importance. While maximising employment generation, requisite attention has to be directed to the improvement of labour productivity through the adoption of up-to-date technology in productive process in major sectors and corrective measures for industrial sickness". One of the serious problems in the industrial sector is sickness. With greater competition, a large number of units may become unviable than in a protected market. There is the problem of chronically sick units both in the public and the private enterprises not only in the traditional industries like jute and textiles but also in enterprises established after Independence. Therefore, from time to time there arises the problem of rehabilitation of large numbers of workers in the organised sector. A sound policy of tackling industrial sickness in future has to be evolved which while protecting the interests of labour would also take into account the fact that Government cannot bear the huge burden of losses. There is considerable scope for improvement in industrial relations which would obviate the need for strikes and the justification for lockouts. In the proper management of industrial relations, the responsibility of unions and employees has to be identified and inter-union rivalry and intra-union divisions should be avoided.

3.3.7 Eighth Five-Year Plan (1992-1997)

According to the Eight Five-Year Plan (1992-1997) labour participation in management is a means of bringing about a state of industrial democracy. Ever since independence, the government has been stressing the need to introduce worker's participation in management and various schemes were notified from time to time. However, the results have fallen far short of expectations. The need to bring forward a suitable legislation for effective implementation of the scheme has been felt. Besides legislation, proper education and training of workers and cooperation from both employers and of trade unions and inter-union rivalry will go a long way in promoting the system of participate management.

The genesis of industrial relations in India shows that the state started with a laissez-faire policy, followed it up which protective labour legislation and paternal administration, actively interfered in the field of industrial relations treating it as a law and order problem, and subsequently, extended its

control over almost the entire labour field. While the basic contents of the industrial relations policy has practically remained unaltered throughout, the emphasis, if course, has changed from one aspect to the other, in the context of the contemporary social, economic and political factors.

3.3.8. The Nineth Five Year Plan (1997-2002)

This should have followed immediately in the wake of the Eighth, but was dogged by political uncertainty. Till 1999, only the approach document was ready, though this too was free from the earlier concerns with labour welfare. The government which came to power in 1998 finally announced that the Plan would be recast and become applicable from the year 2000 and the three years from 1997 to 1999 would be treated as annual plans. But that government itself was voted out of power in April 1999.

It is important to understand the background of this Plan, since this has implications for IR. The NEP did not achieve any spectacular growth during 1991 to 1997, although there was some improvement, particularly in two years- 1994 and 1995. At the same time, the adversities experienced by many, due to job losses in an already small-organised sector, caused a political reversal for the party perceived as having initiated the program. The new government was voted to power on a divided mandate and lasted for just two years. Significantly, the Economic Policy has not been reversed in any way, although it was recognized that it had adversely affected certain sections of the population. Part of the blame for a poor effect was also attributed to the fact that all the programs envisaged could not be carried out due to resistance from various quarters, the inevitability of democratic processes and the compulsions of vote banks. Trade unions have quite obviously been among the forces of resistance, though there are examples of innovations on their part as well.

The approach paper to the Plan thus began with the admission that growth pattern had not benefited the poor and underprivileged sections of society. The growth targets in employment generation of 2.6 per cent also had not been achieved. They were just 2.23 per cent. The unemployment based on current daily status continued to remain over 6 per cent annually for said that, it also targeted an overall growth rate of 7 per cent annually for the Ninth Plan period through a 15 per cent increase in seven basic minimum services such as education and health. It also promised rationalization of labour laws, which eluded the government during the first years of the SAP.

3.4 AMALGAMATIONS AND ACQUISITIONS

In amalgamation two or more existing companies go into liquidation and a new company is formed to takeover their business. Amalgamations are the result of takeover either hostile or friendly. The takeover may result into merger of the two entities or the two entities may exist independence under the same management.

An acquisition arises when there is a purchase by one company of the whole or part of the shares, or the whole or part of the assets, of another company in consideration for payment in cash or by issue of shares or other securities in the acquiring company or partly in one form and partly in the other. The process of amalgamation is the result of agreement and contract between the transferor and transferee companies.

The concept of mergers and acquisitions is very much popular in the current economic scenario. More so, it is a significantly popular concept after 1990s in India on the birth of economic liberalisation and globalisation. The basic premises for mergers and acquisitions, viz., consolidation process of

survival of existing undertaking, large groups absorbing the small entities. In absorption one or more existing companies goes into liquidation and another company takes over or purchases business of liquidated companies.

Globalisation can be conceptually explained as the process of economic or commercial integration of a company or a country with the rest of the world. The magnitude of such integration will determine at extent of globalisation accomplished by the company or the country as the case may be. It is important to note that globalisation is not as 'event' but a 'process'.

Winds of liberalisation blowing hard over Indian corporate sector which undergoes a process of restructuring to gain comparative strength. But to achieve this goal, unrestricted mergers and takeovers may prove counter – productive.

3.5 UNION COMPARISONS ACROSS COUNTRIES

There are substantial differences in union strength across countries. Sweden is most strongly unionised with about 85 per cent union membership. In the United Kingdom, Italy, Australia, and Germany the proportion is about 40 per cent. The United States, with about 16 per cent, is at the low end of the scale. In Japan about 25 per cent are union members. The most strongly unionised group in every country is government employees, with private blue-collar workers next, and white-collar workers the least organised.

The bargaining system varies from country. Consider, for example, the case of the United Kingdom. Traditionally, British Unions have been strictly private associations, operating with little support or restrain from agreement. Collective bargaining agreements are short and simple, usually specifying only minimum rates of pay, with employers free to pay more if market conditions warrant. Agreements are of indefinite duration, with either party free to demand changes at any time. There is usually no established grievance procedure, and grievances that cannot be adjusted by informal discussion often lead to walkouts by employees.

In British, craft unions predominate, while German unions are organised on an industrial basis to an even greater degree than in the United States. In Germany collective bargaining focuses on wage rates and hours of work. Many other issues are dealt with through works councils, where workers and management are equally represented. An important feature of collective bargaining in Germany is that agreements automatically apply to all firms in the industry unless the employer and the union reach a separate agreement. In Japan unions at the company level predominate. Many workers have lifetime employment with the firm. Strikes usually are short. There is considerable conflict, especially during the annual spring offensive but also much co-operation.

The Japanese labour system often is said to be based on three sacred treasures, lifetime employment, a seniority based wage system, and enterprise unions. Lifetime employment, *Shushin Koyo* in Japanese, is central to the Japanese labour system. Not all workers have such job security, however. For example, very few women have access to lifetime jobs. Lifetime employment leads to greater investment by firms in their workers because the firm gains a higher return on such investments. Wage differentials within a firm are relatively low as compared with many other countries and the payment takes care of employment seniority. The third pillar of the Japanese labour system is the enterprise union. The most distinctive feature of Japanese unions is the predomination of enterprise unions, unions based at an individual firm. Most large firms are unionised.

As the career paths are not very specialised, there is little resistance to technological change in Japan. Workers derive benefit from any new technology that makes the firm more competitive. With lifetime employment and with wages that depend mainly on seniority rather than on the particular job, there is no reason to fear the technological change will eliminate one's job or lead to a lower paying position.

The Japanese work hard and function well as members of a team. Lifetime employment of regular workers is one key element, but another is the structure of wages, promotions and job rotation. Team members rotate among tasks. There are several reasons for emphasis on job rotation. Primarily, it reduces boredom on the job and increases the flexibility of the group.

Japanese industrial relations differ from those in any other country, reflecting aspects of Japanese culture and a distinctive system of employment. Lifetime employment usually exists for many workers in the larger companies, but uncommon in smaller firms. The entire Japanese system produces considerable loyalty to the company and a concern with the company's economic performance. The loyalty is further strengthened by the fact that Japanese managers do not stand aloof from workers at lower levels but spend a lot of time mingling with them both at work and on social occasions. The dominant feature of the Japanese trade union world is the local union of workers in a particular company. The local includes manual and white-collar employees, without regard to occupation. Given this structure, collective bargaining is necessarily company-wide. Strikes are unusual and, if they do occur they are almost always of the one-day variety.

3.6 SUMMARY

Industrial systems has brought about a number of complexities which have rendered the management of people in an enterprise more difficult and complicated than ever before. Traditional industrial relations s gradually giving place to modern industrial relations posing a variety of complex and complicated problems covering both shop floor employees as well as executives at various levels of management. The employer-employee relationship is also subject to change. Obviously, the industrial relations scene in different countries have shown different characteristics and trends signifying dynamic relationship between the parties. The forces of change are operating with such intensity and velocity that it is indeed very difficult to predict the future, more so now than ever before.

3.7. SELF ASSESSMENT QUESTIONS

1. Give a historical review of industrial relations in India
2. What are the fundamental characteristics of American Industrial Relations?
3. Discuss the Industrial Relations policy during five year plans?

3.8. GLOSSARY

Company Union	:	An organisation of employees of a single plant or company not affiliated with any national organisation. It is sponsored, supported or dominated by an employer.
Closed Shop	:	A closed shop is a union-security arrangement where the employer is required to hire only employees who are members of the union. Membership in the union is also a condition of continued employment. The closed shop is illegal under federal labour statutes.

Union Shop : A union shop is a form of union security which lets the employer hire whomever he pleases but requires all new employees to become members of the union within a specified period of time, usually 30 days.

3.9. REFERENCES AND FURTHER READINGS

1. Stewart, Margaret, Trade Unions in Europe, Essex, England : Gower Press, 1974.
2. Sarma A.M. Industrial Relations conceptual and legal frame work, Himalaya Publishing House, Mumbai.
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Lesson - 4

INTERNATIONAL LABOUR ORGANISATION STRUCTURE, FUNCTIONS AND IMPACT ON INDUSTRIAL RELATIONS & ECONOMIC RESTRUCTURING AND INDUSTRIAL RELATIONS IN INDIA

OBJECTIVES

After going through the material the readers must understand.

* The objectives and structure of ILO and
* The role it plays in structuring labour policies and relations
* Economic Restructuring and Industrial Relations in India.

STRUCTURE

4.1 INTRODUCTION

The International Labour Organization symbolises social justice, universal peace and human dignity. India's polices and programmes, which she pursues in the fulfillment of her obligation towards her people, are also based on similar concepts, namely, social justice, universal peace and human dignity.

The ILO was set up on April 19, 1919. Its main objective is the improvement of labour conditions. The unique feature of the organization is that, the representatives of management, labour and government participate in its proceedings. In 1946, when the United Nations Organization came into being, the ILO became the first specialist agency of the organization.

The ILO was born as a result of the peace conference convened at the end of World War I at Versailles. As an original signatory to the treaty of peace, India became a member in 1919. The ILO is an international organization, a new social experimental institution trying to make the world conscious that world peace may be affected by the unjust conditions of its working population. It deals with international labour problems. It is like other inter-governmental agencies such as the FAO or WHO working for the universal cause but differing from them in one aspect, namely, in its tripartite structure. Representation at all the proceedings of ILO is given to workers and employers besides governmental agencies. This characteristic feature enables all three agencies to share in its (ILOs) control, supervision and execution of its policies and programmes. There are three groups namely, "the governments which finance it, the workers, for whose benefit it is created and the employers who share the responsibility for the welfare of the workers".

4.2 OBJECTIVES OF THE ILO

The objectives of the ILO are enunciated in the preamble to its constitution supplemented by Article 427 of the Peace Treaty of Versailles, 1919 as well as by the Philadelphia Declaration of 1944. The ideology of the ILO is defined by these three instruments in the following terms.

Whereas universal and lasting peace can be established only if it is based upon social justice.

And whereas conditions of labour exist involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled.

Whereas also the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the condition in their own countries….

Thus, the ILO has been "attempting to promote world-wide respect for the freedom and dignity of the working men and to create the conditions in which that freedom and dignity can be more fully and effectively enjoyed."

During the Second World War, in April 1944, a conference was convened at Philadelphia. As a result of these deliberations, the aims of the ILO were redefined. This was termed the Declaration of Philadelphia which was later incorporated into ILO's constitution. This conference reaffirmed the principles of ILQ, namely, that

(a) Labour is not a commodity

(b) Freedom of expression and of association are essential to sustained progress.

(c) Poverty anywhere constitutes a danger to prosperity everywhere.

(d) The war against want requires to be carried on with unrelenting vigour within each nation, and by continuous and concerted international effort in which the representatives of workers and employers enjoying equal status with those of governments, join with them in free discussion and democratic decision with a view to the promotion of the common welfare

The Declaration of Philadelphia set forth 10 objectives which the ILO has been “was to further and promote among the nations of the world. The theme underlying these objectives is social justice. The objectives are as follows:

(a) Full employment and the raising of standards of living

(b) The employment of workers in the occupation in which they can have the satisfaction of giving the fullest measure of their skill, and make their contribution to the common well being.

(c) The provision, as a means to the attainment of this end, and under adequate guarantees for all concerned, of facilities for training and the transfer of labour including migration for employment and settlement.

(d) Policies in regard to wages and earnings, bonus, and other conditions of work calculated to ensure a just share of the fruits of progress to all, and a minimum living wage to all employed and in need of protection.

(e) The effective recognition of the right of collective bargaining, the cooperation of management and labour in the continuous improvement of productive efficiency and the collaboration of workers and employers in social and economic measures.

(f) The extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care.

(g) Adequate protection for the life and health of workers in all occupations.

(h) Provision for child welfare and maternity protection.

(i) The provision of adequate nutrition, housing and facilities for recreation and culture.

(j) The assurance of equality of educational and vocational opportunity.

4.3 MEMBERSHIP

The constitution of the ILO provides simple rules and procedures regarding admission of a State to the membership of the ILO. It provides that all those States, who were members of the ILO on 1st November, 1945, and any original member of the UN can become member of the ILO, by accepting the obligations of its Constitution. Other States can also become members of the ILO by a vote concurred by 2/3of the delegates attending the session including 2/3 of the government delegates present and voting.

In 1945, the constitution of the ILO was amended and the ILO entered into a relationship with the United Nations. The new rules say that : (i) While membership of the UN does not mean membership of the ILO, any original member of the UN and any State Subsequently admitted to membership of the UN may become a member of the ILO by communicating to the Director General, its formal acceptance of the obligations of the ILO; (ii) if a State is not a member of the UN, the ILO confers on the ILC (Parliamentary wing of the ILO) the right to admit that State to membership, which it had assumed de facto during the period of the relationship of the ILO with the League.

There were 45 States who were members of the ILO in 1919. By 1973 the ILO’s membership had risen to 119.

4.3.1 Withdrawal of Membership

The Constitution of the ILO contains the specific right of the member state to withdraw by giving notice to the Director General of the ILO. Such notice will take 2 years after the date of its receipt of the Director General subject to the member having at that time fulfilled all its financial obligations.

Since the Second World War five members have given notice of withdrawal but in three cases the have returned to the ILO.

The withdrawal of a member has been regarded by the ILO "as a serious matter, much more serious than the simple subtraction of one numerical unit. For the ILO is not merely the mathematical total of its members but a living association of these States, organized for a common purpose- the attainment of balanced economic and social progress in an expanding world economy."

4.4 STRUCTURE OF THE ILO

The ILO is organized around 3sub-systems:

1. An International Labour Conference
2. A Governing Body and
3. An International Labour Officer.

The Conference is the supreme policy making and legislative body. The Governing Body is the executive council and the International Labour office is the secretariat, operational headquarters and information centre.

4.4.1 The International Labour Conference

It is the policy making body of the ILO. The Conference comprises 4 groups representing governments, employers and workers in the ratio of 2:1:1. The sessions of the ILO are held at least once a year and all delegates may be accompanied by advisors, not exceeding two for each item on the agenda.

The government delegates to the ILC are mostly ministers, diplomats or officials subject to government instructions. Under the Constitution of he ILO, employer's and workers' delegates are nominated by the Governments in agreement with the relevant industrial organizations.

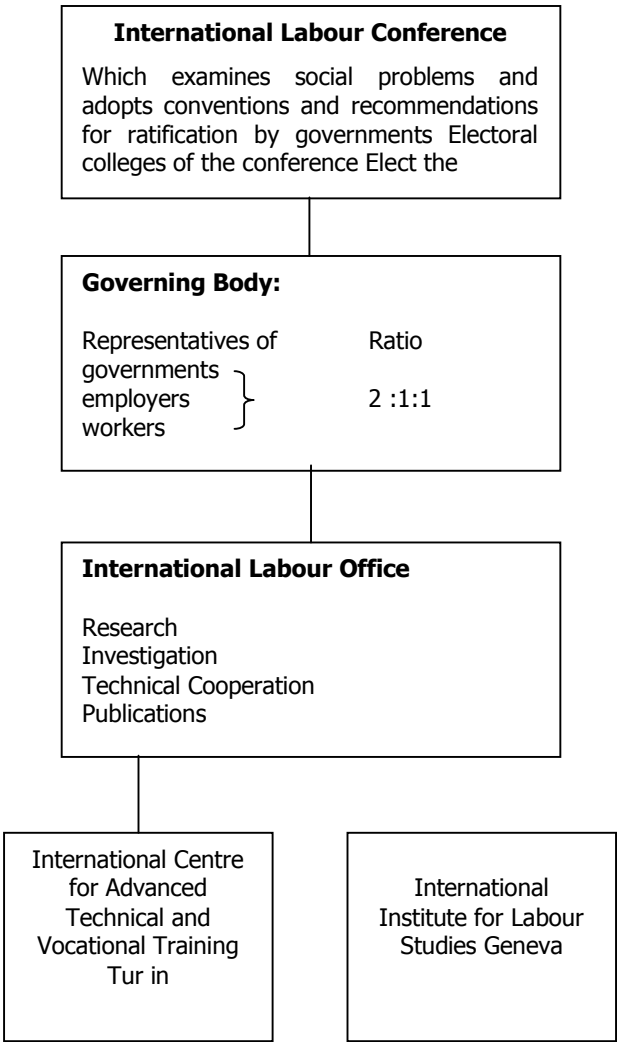


Fig 4.1 : Structure of the ILO

The voting system of the Conference on any issue is that every delegate has one vote. Table 4.1 gives the various functions performed by the ILC and the Governing Body. One of the primary powers of the Conference is to appoint committees to deal with different matters during each session. All the committees are tripartite in nature except the Finance Committee. The various committees are the Selection Committee, the Credential Committee, the Resolution Committee, a Committee for the Application of Conventions and Recommendations, the Drafting Committee, and the Committee on Standing Orders.

4.4.2 The Governing Body

This is another of the principal bodies of the ILO. It is a non-political, non-legislative, tripartite body. It carries out the decisions of the Conference with the help of the International Labour Office. It consists of 56 members of which 28 represent governments, 14 employers and 14 workers. Of the 28 member government contingent, 10 are appointed by the members of the States of Chief Industrial Importance and the balance are delegates of other governments. The criteria laid down forth the selection of members of Chief Industrial Importance is the strength of its total industrial population.

India is one of the ten States of Chief Industrial Importance. The period of office of this body is 3 years. It meets several times a year to take decisions as the programmes of the ILO. The functions of this body are given below.

Table 4.1

Functions of International Labour Conference and Governing Body of the ILC

	ILC		Governing body
1.	Formulates International Labour Standards	1.	Coordinates work of the organizatio
2.	Fixes the amount of contributions by the member states	2.	Draws up an agenda for each session and subject to the decision of the International Labour Conference, decides what subject should be included in the agenda of the International Labour Conference.
3.	Decides the expenditure budget estimates prepared by the Director General and submitted to the Governing Body.	3.	Appoints the Director General of the Office.
4.	Makes amendments to the constitution subject to subsequent ratification of the amendments by the 2/3 member states including 5 of the 10 states of industrial importance	4.	Scrutinises the budge
5.	Considers the report of the Director General giving labour problems and assists in their solutions	5.	It follows up the implementation by member states of the conventions and recommendations adopted by the conference.
6.	It appoints committees to deal with different matters during each session.	6.	It fixes the dates, duration and agenda of the Regional Conference.
7.	It is empowered to regulate its own procedures.	7.	It has the power to seek advisory opinions from the International Court of Justice with the consent of the International Labour Conference.
8.	Selects once in 3 years members of the Governing Body.		
9.	Elects its presidents		
10.	Seek advisory opinion from the International Committee of Justice		
11.	Confirms the powers, functions and procedures of Regional Conference		

4.4.3 The International Labour Office

This is the third major body in the ILO system. It functions as the Secretariat of the IL in Geneva. The Director General of the ILO is the Chief Executive of this office. The Director General is appointed by the Governing Body and he also acts as the Secretary General of the Conference. He is appointed for 10 years and his term may be extended by the Governing Body. The staff of this office is appointed by the Director General. He is assisted by two deputy director generals, six assistant director generals, one director of the International Institute for Labour Studies, one director of the International Centre of Advanced Technical and Vocational Training, advisors, chiefs of divisions, and other staff drawn from 100 nations.

The constitution of ILO describes the main functions of this office. They are:

1. To prepare documents on the items of the agenda of the Conference.
2. To assist governments in framing legislation on the basis of the decisions of the ILC.
3. To carry out its function in connection with the observance of the conventions.
4. To bring out publications dealing with industrial labour problems of international interest.
5. To collect and distribute information of international labour and social problems.

4.5 FINANCE AND BUDGET OF THE ILO

The ILC fixes the budget on the recommendations of the Governing Body and member states make contributions accordingly. Contributions are fixed on an ad hoc basis from year to year. India's contribution is 2.77% of the ILO annual budget and her contribution is 7th in order.

4.6 IMPACT OF THE ILO ON THE INDIAN LABOUR SCENE

The impact of the activities of the ILO on the Indian labour scene is two fold. Firstly, the ILO was the principal source for labour legislation in India through the ratification of the ILO standards. The principles of these standards are incorporated into the existing labour laws. Secondly the effect of Article 3 of the Constitution of the ILO which provides for the nomination of non government delegates and advisors to the international Labour Conference which is held every year is in furthering the process of organization among employers and workers in India.

4.7 THE ILO STANDARDS AND INDIAN LABOUR LEGISLATIONS

One of the main functions of the International Labour Conference (ILC) the legislative wing of the ILO is to formulate international labour standards. The ILC provides a forum for discussion and deliberation of international labour problems and then formulates the standards in the form of conventions and recommendations. These conventions and recommendations are collectively known as the International Labour Code.

A convention is a treaty, which when ratified by a member state, creates binding international obligations on that state whereas a recommendation creates no such obligations, but is essentially a guide to national action.

4.7.1 The Birth of a Convention

The conventions that come into being are, the result of international agreement on a given subject. To illustrate this point, equal pay for men and women will serve as a good example. Equal pay was

recognised as an objective of the ILO constitution. Following a request of the Economic and Social Counsil of the UN, in 1948, the Governing Body of the ILO decided to place the question on the agenda of the ILC. In choosing a question the Governing Body is guided by the wishes of governments, employers and workers' organizations of the member states. It is helped in its decision by surveys of the law in different countries, compiled by the office. The ILC in considering a question seeks the views of the governments by means of a detailed questionnaire. In the case of the issue of equal pay, there were two successive annual sessions of the ILC, the first reading covering the general principles and the second adopting the final text. In the deliberations of the ILC, workers' and employers' representatives participate on a basis of full equality with representatives of governments. The proposed standards are considered, firstly, by a technical committee, which are adopted later, after acquiring a 2/3 majority, the combined labour and management votes equalling the government votes.

The ILC discussed equal pay in 1950 and 1951 and in 1952 adopted a convention by 105 votes to 33 and a recommendation by 146 votes to 18. Thus a convention was born.

One of the salient features of these standards is their flexibility. The ILO has as its members countries with varying degrees of industrialisation and a divergent social structure. The ILO constitution contains provisions designed to meet this difficulty. While framing the standards, the Conference is required to keep factors like climatic conditions, industrial organizations, etc. in mind (Article 19.3 of the ILO Constitution). For example, the convention concerning minimum standards of social security permits ratification in respect of as few as 3 out of a list of 9 types of benefits (sickness, unemployment, old age etc) and also enables less developed countries to avail themselves of certain temporary exemptions in regard to the proportion of protected persons, the duration of benefits, etc. Such flexibility clauses help in making the ILO's standards applicable to the less industrialised countries too.

4.7.2. Ratification Procedures of ILO Standards

The ILO standards are analogous to treaties requiring ratification by a competent national authority within a period of 1 year or 18 months at the latest from the closing session of the ILC. In India, the treaty making power is within the competence of the Government of India. The power to enact and implement legislation lies in the hands of the Parliament. The Director General of the ILO sends a certified copy of the convention, once it is born, to all member States. Since in India labour is in the concurrent list of the Constitution, the Government of India dispatches the convention to the State Governments, to the Ministries of Labour of the Union, as well as to the All-India organizations of workers and employers inviting their views regarding the desirability and practicability of giving effect to these standards. A statement of action is drawn up, taking into account the comments received, is considered by the Union cabinet and is placed before Parliament, where the proposals are discussed from all aspects. Copies of the statements are forwarded to the International Labour Office, the Staff governments, and the worker's and employers organizations. Follow-up action, by way of ratification of conventions, is taken up subsequently.

The Tripartite Committee of India was set up to draw up a programme of implementation of the ILO conventions. This committee makes a detailed scrutiny of the ILO instruments. It is on the recommendation of this committee that India ratifies conventions and recommendation of this committee that India ratifies conventions and recommendations. In case where the committee has not ratified a particular instrument, it focuses on the reasons for non-ratification.

India has so far ratified 32 conventions of the 148 adopted by ILO. Again 31 recommendations were ratified by India out of the 156 adopted by ILO.

Out of the 32 conventions (Table 4.2) ratified by India, 11 were ratified before 1930, 3 between 1930-47 and 17 after 1947. The number of conventions ratified in terms of an average is 22%. The largest number of conventions relate to seafarers, general conditions of employment, and social security. Table 4.3 is an index of ratification by India of ILO conventions (subject-wise).

Information on measures taken in pursuance of the ratified conventions has to be conveyed through annual reports to be sent to the International Labour Office. These reports are examined by an Independent Committee of Experts to ensure compliance.

Some of the factors responsible for non-ratification of convention by India are constitutional and administration. Political difficulties sometimes prevent a formal ratification. For example, there are conventions dealing with agricultural labour which have not been ratified because of administrative problems involved in implementing legislation based on conventions. There are 15 such conventions. Indian villages have their own social systems and usages, existing for centuries, which cannot be replaced in a short time. Another example is in the case of a convention for the Abolition of Forced Labour. It was not ratified because its ratification prevents both the Central and State governments from requisitioning labour in emergencies like floods, famines, etc.

These are some of the constraints in the formal ratification of conventions.

Table 4.2 : ILO Conventions Ratified by India and Date of Ratificatio

Sl. No		Title	Date
1.	No. 1	Hours of work (industry) 1919	14-7-1921
2.	No. 2	Unemployment 1919	14-7-1921
3.	No. 4	Night work (women) 1919	14-7-1921
4.	No. 5	Minimum age (industry) 1919	09-09-1955
5.	No. 6	Night work of young persons (industry)	14-07-1921
6.	No. 11	Right of Association (Agr) 1921	11-5-1923
7.	No. 14	Weekly rest (industry) 1921	11-5-1923
8.	No. 15	Minimum age (trimmers, stockers) 1921	20-11-1922
9.	No. 16	Medical exam of young persons (sea) 1921	20-11-1922
10.	No. 18	Workmen's compensation (occupational dis). 1925	30-9-1927
11.	No. 19	Equality of treatment (acc. Com) 1925	30-9-1927
12.	No. 21	Inspection of equipment, 1926	14-1-1928
13.	No. 22	Seamen's articles of agreement, 1928	31-10-1932
14.	No. 26	Minimum wage fixing machinery, 1928	10-1-1955

15.	No. 27	Marking of weight (package, transport by vessel) 1929	7-9-1931
16.	No. 29	Forced labour, 1930	10-11-1954
17.	No. 32	Protection against accidents (docks) 1930	10-2-1947
18.	No. 41	Night work (women) 1935	22-11-1935
19.	No. 45	Underground work (women) 1935	25-3-1938
20.	No. 80	Final articles revision, 1946	17-11-1947
21.	No. 88	Employment service, 1948	24-6-1959
22.	No. 81	Labour Inspection, 1947	7-4-1949
23.	No. 89	Night work (women) revised 1948	27-2-1950
24.	No. 90	Night work of young persons (industry), revised, 1948	27-2-1950
25.	No. 100	Equal remuneration, 1951	25-9-1959
26.	No. 107	Indigenous and tribal policy, 1957	29-9-1959
27.	No. 111	Discrimination (employment and voc) 1968	3-6-1960
28.	No. 116	Final articles revision, 1961	22-6-1962
29.	No. 42	Workmen's compensation (occupational diseases), revised, 1934	13-1-1964
30.	No. 118	Equality of treatment (social security), 1962	19-8-1964
31.	No. 141	Rural working urbanisation	1975
32.	No. 115	Radiation protection	1960

Source : Agarwal, S.L., Labour Relations Law in India, New Delhi, Macmillan, New Delhi, 1978, p.p. 601-602.

ILO Recommendations and India's Ratification :

As mentioned earlier, India ratified 31 recommendations out of 156 adopted by the ILO (Table 4.2). This table gives the number of recommendations ratified by India and the date of ratification. Apart from this, many recommendations are being implemented without beings formally adopted (Table 4.3). The main criteria for adopting ILO's standards it is relevance to the immediate needs and conditions of society.

Table 4.3 Index of Ratification by India of the ILO Conventions Subject-wise

(As on 31 December 1947)

Sl. No.	Subject	Number Of Conventions adopted	Number of Conventions ratified
1.	Basic human rights	8	4
2.	Labour administration	4	1
3.	Human Resources Development	5	2
4.	Industrial Relations	-	-
5.	General conditions of employment	24	3
6.	Employment of children and young persons	12	3
7.	Employment of women	6	4
8.	Industrial Safety, health and welfare	8	2
9.	Social security	20	4
10.	Migration	3	1
11.	Seafarers	34	3
12.	Indigeneous and tribal population of non metropolitan territories	9	1
13.	Social security (general)	2	-
14.	Plantation	1	-
	Total	136	28 92)*

*Two conventions relating to revision of articles are not included here.

Source: Dhyani, S.N. International Labour Organisation and India in pursuit of Social Justice, New Delhi, National Publishing House, 1977, p. 146.

According to the National Commission of Labour “International Obligations which devolve on India as a result of our long association with the ILO have to be discharged in the following directions (i) adopting the aims and objects of the ILO for national action (ii) cooperation in the ILO’s programmes and (iii) progressive, implementation of the ILO’s standards”.

TABLE 4.4 RECOMMENDATIONS OF ILO WHICH HAVE BEEN FULLY IMPLEMENTED BY INDIA

Sl. No.	Recommen-dation No.	Title
1.	2	Reciprocity of treatment
2.	6	White phosphorous
3.	9	National seamen's code
4.	20	Labour inspectio
5.	24	Workmen's compensation (occupation disease
6.	25	Equality of treatment (accident compensation
7.	28	Labour Inspection (Seamen
8.	30	Minimum wage fixing machinery
9.	34	Protection against accidents (dockers) Consultation of organization
10.	35	Forced labour (indirect compulsion)
11.	36	Forced labour (regulate)
12.	40	Protection against accident (dockers) reciprocity
13.	48	Seamen's welfare in ports
14.	50	Public works (international cooperation)
15.	68	Social Security (Armed forces)
16.	78	Bedding, mess utensils, miscellaneous provisions (ship's crews
17.	81	Labour inspection
18.	82	Labour inspection (mining and transport)
19.	90	Equal remuneration
20.	92	Voluntary conciliation and arbitration
21.	94	Cooperation at the level of understanding
22.	96	Minimum age (coal mines)
23.	102	Welfare facilities
24.	104	Indigenous and tribal population
25.	105	Ship's Medicine
26.	106	Medical advice at sea
27.	107	Seafarer's engagement (foreign vessels)
28.	108	Social conditions and safety (seafarer)
29.	111	Discrimination (employment and occupation)
30.	113	Consultation (industrial and national levels)
31.	130	Examination of grievances.

Source: Dhyani, S.N. International Labour Organization and India, Delhi, National Publishing House, 1977, p.p. 294-295.

The influence of the International Labour Conventions and Recommendations on legislation in India is direct in some cases while in others the relation is not so obvious. After ratification takes place, a convention or a recommendation is given effect through a new enactment, a modification in the existing law, or a change in the administrative practices and procedures. The progressive amendments and changes in factory legislation, development of new labour legislation before 1931, are mainly due to the work of the ILO. The ILO conventions and recommendations have had an influence, on the following.

1. Factory and mines legislation with regard to aspects like hours of work, night work for women and young persons, weekly rest, etc. Accordingly, the relevant act, the Factories Act, 1911 was amended.
2. Promotion of human rights.
3. Wage legislation – India ratified Convention 26 on minimum wage fixing machinery in 1955. Later the Indian Government passed the Minimum Wages Act in 1958. Under the Act, the Government is to constitute an advisory committee to advise it on this matter.
4. Legislation concerning seamen. The conventions which are not ratified have indirectly shaped India's labour legislation. For example, India did not ratify the Maternity Protection Convention in 1952. Yet there was maternity legislation for the protection of women at the State level and now the Indian Maternity Benefit Act, 1961 provides for benefits of leave with wage, job security to working mothers, although the coverage under this Act is not as wide as under the convention.

"Thus the ILO standards have influenced Indian labour legislation. The ILO conventions have formed the sheet anchor of Indian labour legislation especially after 1946 when the Indian National Government assumed office at the centre and drew up a blueprint on labour policy based on the ILO standards. The Directive Principles of State Policy in Articles 39, 41, 42 and 43 of the Constitution lay down policy objectives in the field of labour having close resemblance and influence to the ILO Constitution and the Philadelphia Charter of 1944".

The activities of the ILO have influenced and strengthened labour, especially by helping the trade union movements gain momentum. Employers have also taken note of its conventions to introduce progressive measures for the working population. Thus the ILO both directly and indirectly has had a great influence on the Indian labour scene and labour legislation.

4.8. ECONOMIC RESTRUCTURING AND INDUSTRIAL RELATIONS IN INDIA

Today, the Indian economy has opened upto face global competition and there is already a rush of foreign capital and industry into this country. This change in the economic environment has affected the entire gamut of structures, styles, and contents of all those who have a stake in the economic firmament of this country.

The year 1991heralded for the entire Indian subcontinent change that were unprecedented and unheard of in post-independent India. Too many crucial economic decisions were pushed through the government by too few and too fast- decisions that had the greatest ever impact on the social, economic, industrial, political and even on the day-to-day life of the average Indian. There was a paradigm shift as depicted in Figure 1. From a CRP – controlled, regulated, and protected – economy,

India made a shift to the LPG- liberal, privatized, and global economy. This paradigm shift had its greatest impact on the Indian industry. All of a sudden, it had to face four hard realities of this shift. They were :

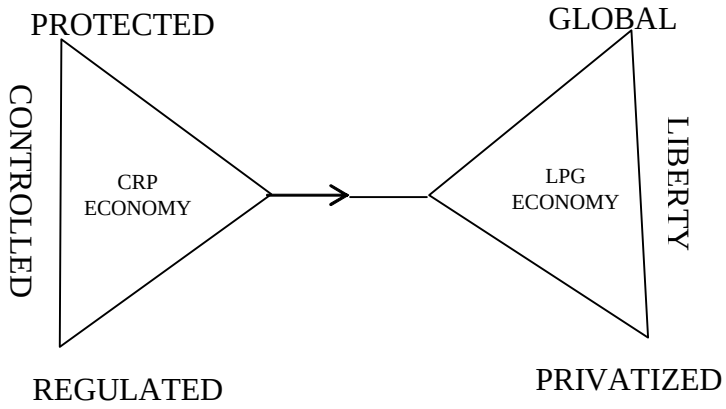
* First generation competition.
* Second Generation systems and procedures.
* Third generation technologies and technical know-how.
* Fourth generation in mindset.

For long, the Indian industry had enjoyed the parental, affection of the government under various pleas of socialism, welfare state, economic and industrial development, etc. Now it had to fight for itself for its very survival against the global giants on its own.

The Significance of the Topic

With the winds of change sweeping across the length and breadth of our country. The industrial relations (IR) situation cannot possibly remain a mute spectator to such nation – wide transition.

Figure 4.2 : The Great Paradigm Shift



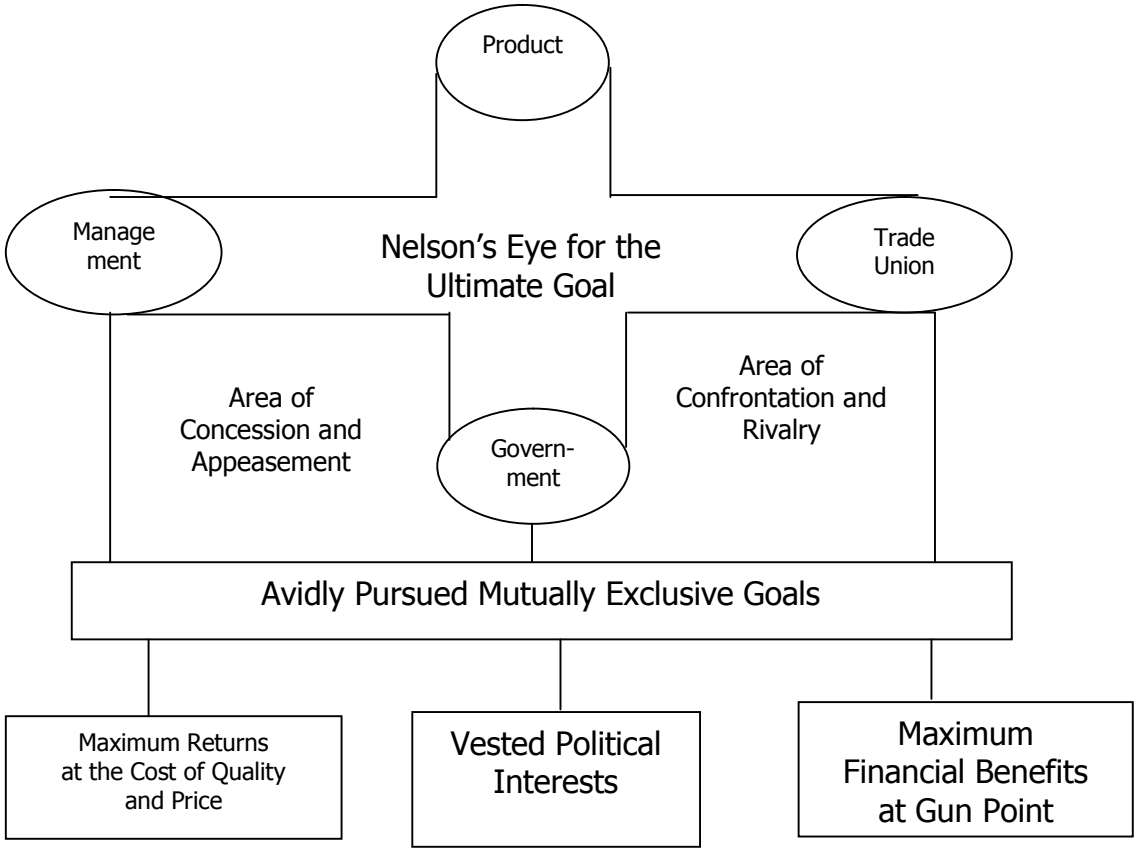
Here, it is important to mention that, “All approaches of analyzing industrial relations stem from the fact that there are two sections of people having divergent interests working for a common goal” (Chaudhuri, 1955). The interaction of these two section – management and trade union – is better known as industrial relations. To resolve the conflict between these two parties, the third party- the government – comes on the scene. Essentially, industrial relations is not the study of the presence or absence of conflict or cooperation, but the study of the parameters of conflict or cooperation, but the study of the parameters of conflict and cooperation. If the parameter of conflict and cooperation veer towards the ultimate goal of the organization, then the IR situation can be said to be healthy.

The Current Role of the IR Partners in India

The IR partners, over the years of the CRP economy, had fallen into a vicious trap that had kept their attention focused on things other than ultimate goal for which a business organization exists – the product. The then economic forces had not exerted pressure on the IR partners to keep their focus glued to the product. In the absence of competition, there was almost an assured market for whatever

was produced. Figure 4.3 depicts the goals pursued by the IR partners. The management, as seen in the figure, concentrated on maximum returns on its investment even at the cost of the quality and price of the product. It was a producers' market and as such the management knew that the customers had no choice. Whatever was produced, irrespective of the price, was bound to get sold. The trade unions, on the other hand, concentrated on securing maximum financial gains by a constant threat of strike, work to rule, go slow, and in many cases militancy. They had no concern, whatsoever, for the product and the production figures. The management on its part kept practically purchasing industrial peace which, more often than not, meant bartering away the company's future. The government, playing the role of a catalyst, expedited this process. With most unions having political affiliations, the vested political interests of the government made the labour machinery a storage in the hands of the ruling government. As depicted in Figure 2, the government kept on playing the role of a mediator whenever the area of concession and appeasement fell short of the expectations of the trade unions and whenever the area of confrontation and rivalry exceeded the acceptable limits of management. However, the mediation of the government was tempered with vested political interests because of which statutory support has failed to deliver the goods to the IR situation in India. Some of the glaring examples of irresponsibility on the part of our IR partners can be discussed as under :

Figure : 4.3



Management

Recently, the union and the management of Indian Rare Earth Ltd., Chatrapur, Orissa, have arrived at a long term settlement in the presence of the Regional Labour Commissioner (Central). As such, this company is in deep trouble and at any moment it may be referred to the Board for Industrial and Financial Reconstruction (BIFR). Even at this hour of almost irreversible crisis, the management has concerned the unions' demand of stenography allowance for the office staff. Another case in point is that of Bharat Gold Mines Ltd.In August 1995, the BIFR directed Bharat Gold Mines Ltd to sell its assets to raise funds to pay the wages of its workers. It is indeed a pity that the public sector companies which were set up by the government to serve a higher and will intended up by the government to serve a higher and well intended social purpose have now become social parasites. While this is one extreme instance of indulgence of the management, the other extreme is the blatant flouching of the labour legislation by many large and small private management resulting in the continued exploitation of the working class.

Trade Union

Trade unions cover less than 2 per cent of the total labour force and less than one third of the work force in the organized sector. Even at this minuscule scale, it is indeed a national disgrace that our trade unions are unable to manage themselves. The existing trade unions are characterized by fragmentation, divisiveness, internecine conflicts, rivalries, scramble for leadership within unions and, worst of all, dependence on political patronage and favours Needles to say, D. Thankappan, the union leader of Kamani Tubes became a legend in his life time when he fought and succeeded in the battle for taking over the management of Kamani Tubes. Since then, i.e., 1988, the BIFR has handed over five such sick companies to workers' co-operatives. However, the fact remains that none of these companies, including Kamani Tubes, has been able to arrive any where near to coming out of red, let alone revive themselves, thus defeating the very purpose for which they were turned into cooperatives. All of them are still being dogged by the same problems-Lack of funds, cost overruns, low capacity utilization, and, ironically, labour trouble, which they had earlier. Numerous examples of trade union irresponsibility towards the IR situation in the country can be cited. For example, in the case of the plantation industry in Kerala, the product and the productivity are at the receiving end. The Plantation Labour Committee (PLC) has been the official IR forum for the 400,000 plantation workers in the state for the last 40 years. The long-term settlement negotiated expired in Marchy 1995. Now, when the Planters Association wanted to link wage-hike to productivity, the PLC made it a point not to budge from the norms fixed almost 20 years ago. They have taken this stand even when they are aware that in the neighbouring state of Tamil Nadu, tappers tap up to 600 trees in an eight-hour working day, while the target for Kerala's stappers is a mere 300 trees per day. Similarly, on a national level, when there is boom in the tourist industry, the airlines industry is virtually being held to ransom by strong trade unions. Similar is the case with the banking industry where their federations are literally throwing the economy out of gear.

The Government

The role of the government in the entire scheme of IR situation in our country has been satisfactory. Take, for example, the by now famous, Employee Pension scheme. The government's best efforts to woo the vote of the workers in an election year have resoundingly backfired. Promulgation and re-promulgation has done little good to clear the maze of fundamental questions of basic economic significance. Not only have several employees moved various High Courts against this scheme, the trade unions are also in vehement opposition to it. Kiron Mehta of the Philips Employee's Union has

made an interesting point. He says, “You are liberalizing everything. Then why do you want to nationalize the worker’s money?” A similar lack of foresight was reflected when the government amended the payment of Bonus Act 1965. Raising the ceiling and the limit up to which it is mandatory to pay bonus was welcomed. However, the entire show was spoiled by attaching a retrospective clause to it. Not only were the employers forced to reopen their accounts of the previous year, a mammoth and time wasting act in itself, but also the monetary implication of the public sectors alone was put around Rs.200 crore. Another case in point is the abject failure of the government to amend the various labour laws in light of the New Economic Policy which has effected the great paradigm shift. There are 51 different central Acts on labour. To this we must add the various stage legislations. As yet, the government has done nothing to harmonize these Acts and make them industry friendly. The proposed IR Bill has simply been shelved for the last five years. When the IR situation in an LPG economy is viewed in the light of the outdated labour laws, it is clearly perceived as a contradiction in terms. Take, for example, the recent Supreme Court decision wherein three public sector units have been directed to absorb contract labour as regular employees. In this judgement, the Central Government has also been directed to appoint an industrial adjudicator to take up top case of direct employment of workers of ex-contractors (*Business Standard*, August 1, 1995, New Delhi). The irony is that this decision has come up at a time when the umbrella of protection has been taken away from the PSUs and the letter are expected to complete openly with the private sector without expecting the government to bear the losses.

4.9 SUMMARY

It is gratifying to note that apart from the fundamental rights, our constitution embodies within itself, in Part IV, Directive Principles of State Policy. The functions and duties of the States as contained in the Directive Principles have given rise to concept of social justice. The old idea of laissez faire has given place to a new idea of welfare state. The philosophy of social, economic and political justice have been given a place of pride in our constitution, as well as in the aims and objectives of ILO. The development and growth of industrial law presents a close analogy to the development and growth of constitutional law. A series of labour enactments covering labour welfare and social security were enacted for protecting and promoting the overall welfare of different categories of working class.

4.10 SELF ASSESSMENT QUESTIONS

1. ILO is in pursuit of social justice, comment
2. Discuss the structure of ILO
3. How does ILO help in betterment of industrial relations.

4.11 REFERENCES AND FURTHER READINGS

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Dr. Naga Raju Battu

Lesson - 5

TRADE UNIONS AND EMPLOYERS ORGANISATIONS

OBJECTIVES

After going through this lesson, you should be familiar with

* The Trade Unions Purpose, Types of Union, Union Security and Legislation;
* The Function of Trade Union and Characteristics / Weaknesses / Problems of Indian Trade Unions;
* The Nature and role of Employer's Organisations (EOs);
* The Structure, Finances, Membership, Activities and Services they provide;
* The Future Challenges Facing these organisations

STRUCTURE

5.1. INTRODUCTION

How are trade unions born? What do they do? Punekar et.al., (1990) provides a very simple answer – Through their collective action, workers ask for more wages, less hours of work, reasonable amenities and humane treatment. Thus, a trade union is born (p.203). Rege felt that unions developed spontaneously wherever the concentration of working class population in industrial areas led to the rise of an industrial proletariat (Labour Investigation Committee, 1944-46, p.8).

But industrialisation merely provides the context and the location for a union to form. It provides favourable conditions for workers to come into contract with each other, to share common perceptions and to feel solidarity and sympathy for each other. By itself, it is not responsible for the shape that union development takes. There are many industries where there are no unions, or where there are unions without there being any concentration of industrial activity, for instance, student's unions. Trade union development is necessarily related with and conditioned by the changes in the whole socio-economic set up, in which a very important part is played by the state of economic development (Ghosh, 1960, p.59).

The attitude of the government towards labour organisations, the degree of government patronage, the homogeneity of the labour force involved in unionisation and the timing of the emergence of a union, all lay very important role in the shape and structure and orientation of union movements in different countries, For instance, while American or Canadian unions have a pathological hatred towards government conciliation or adjudication, very little antipathy among Asian unions is found towards these institutions. At the same time, the latter makes less use of collective bargaining than the former. In China, students and nationalist leaders took a very active part in organising trade unions in foreign-owned industries after World War I and thus gave birth to unionism. But gain the advent of the Communist state in 1949 pushed China back many years in the development of its labour movement, compared to more democratic countries like India. The slow growth of the labour movement in Malaysia and Thailand have been to some extent due to the heterogeneity of the labour force in those countries and the lack of state encouragement for unionism.

The influence of nationalist movement is evident in many countries of the East. But it is not confined to this region. In West Africa and the West Indies, nationalism played a very significant role in the growth of the movement (Ghosh, 1960, pp. 60-62). At the same time, the history of unionism in all countries makes it clear that union organisations have close links not only with society but with industry, government, political parties employer's associations, and the consuming public. They influence each of these bodies and in turn are influenced by them.

Unions mean different things to different groups. For workers, they provide support, security and comradeship. But in multiple union situations, they may also mean rivalry and competition among workers. For employers, they may mean either a partner in difficult situations or an adversary for aggravating problems, or a means for controlling workers. For the government, unions could mean an agency for developing the worker, a social situation or where the government is an employer, a contestant. These differences depend not only on the perception of the viewer but also the nature of the union and its objectives.

5.2 UNION PURPOSE

What are trade unions for? There is, in fact, great confusion about the purpose of unions. As a result, a number of contradictory attitudes have developed about unions which it would be useful to discuss

at the outset. According to Flanders (1975), there are two common views, both of which are misleading (pp. 38-41). The first of them, he says, is the Marxist view which looks upon unions as revolutionary bodies for changing society. Flanders categorically repudiates this Left challenge of unions to the existence of society, based on the division of class. He finds the Marxist's contempt for pure and simple unionism highly objectionable and feels that workers do not join unions because they think alike and share the same political outlook. But this we shall later see is a major reason for workers to join unions, not only in India but in many other parts of the world as well. Anderson endorses Flanders view, s trade unions can never be viable vehicles of advance towards socialism in themselves; by their very nature they are tied to capitalism. They can bargain within society but not transform it. (pp. 264-65).

But Flanders (1975) goes on to condemn the views of the Right and their mistakes as well. This view looks upon unions as agencies for discharging special responsibilities. The operative word for its expression is responsible to the community at large. The essence of this view is that unions are there to act as a kind of social police force-to keep the chaps in order and the wheels of industry turning. To this there is only one answer.

The first and overriding responsibility of all trade unions is to the welfare of their own members. That is their primary commitment; not to a firm, not to an industry, not to the nation (pp.38-41).

If readers find this view rather narrow and irresponsible, Flanders (1975) goes on to qualify-'obviously trade unions cannot behave as if they were not part of a larger society or ignore the effects of their policies on the national economy and the general public. It is common sense that no social institution can ignore society and survive in it. Quite clearly, every social institution and unions are no exception, and must serve the interest of their members and also survive in society as an acceptable institution. What Flanders would like to assert is that the Left and the Right views do not take into account the democratic essence of unionism. This essence is that unions serve and reflect the interests opinions of their members. Thus, to reconcile the two views would be to state that unions exist essentially for their members. They are formed by workers and their existence is related to fulfilling some of the needs of those who formed them. In short, a union draws it is sustenance from below. At the same time, unions do have a responsibility towards their members in helping them to distinguish between short-term and long-term a union cannot be taken out of its social milieu, or be looked at an isolation from the larger society in which it exists. Society itself disciplines institutions, which get out of hand or could jeopardise its existence.

5.3 RESPONSIBLE UNIONISM

It is not only managers who voice a desire for responsible unions. Many lay people also try to link a union with a concept of responsibility and make it the criteria for its justification. In other words, they feel a union may be tolerated if it is responsible, but has no business to be there, if it is not so. Ramaswamy and Ramaswamy (1981) feel that the concept of *responsible unionism* has its origins in the problems confirming newly-independent societies upon the exit of their colonial rulers. These ideas have found widespread support in prominent Third World leaders like Nehru, Nassar, Nkrumah, Nyerere and Sukarno. In India, unions close to the ruling party, like the INTUC, have been more receptive to the idea of social responsibility of unions Ramswamy and Ramaswamy (1981).

Flanders himself concedes that unions cannot defy society. He admits that 'the public reputation of British trade unionism is under fire' because it was out-of-date and unresponsive. A period of resistance

set into British policy and practice after the decade of the 1970s due to the arrogance and power of the unions. In the USA too, the period of the World War II and the Wagner Act, which allowed unions to acquire tremendous power in the economy and in industry, led to a gradual shift in society's perceptions about unions and their utility. Once public opinion veered against unions, it becomes easy for governments in both the countries to strike back at unions and curb their powers.

But why has society accepted such a role or purpose for an instruction? A part of the reason is that they have come to stay and society is practical enough to know this. But this is not the only reason. Society knows that there are inequities in all organisations and that only trade unions can redress them (Ramaswamy and Ramaswamy, 1981). If workers cannot form a union to protest, their protest, which is inevitable, would become disorganised and that much more difficult to handle.

Unions then are social institutions which develop whenever and wherever certain conditions are fulfilled. They are the result of the felt needs of those who form them and have objectives assigned to them by their founders. What can be asserted is that any social institutions must be *compatible* with its environment or with society, since they are *interdependent.* Incompatibility leads to destruction or modification. This universal law applies equally to a union.

But unions can be subject to more scrutiny, for instance.

* What do members expert from their union?
* What methods do the unions adopt to realize their objectives?
* What is the nature of the relationship between the worker and his union?
* What kind of links obtain at the grassroots between the union and the party? (Ramaswamy and Ramaswamy, 1981).

These questions indicate that there are many more dimensions to union existence than their mere acceptability to society or even to management. Unions have to be acceptable to their own members first and satisfy them. There are also frequent instances (discussed later) where members become alienated from their unions or their leadership. The nature of unions can also lead to problems. For example, the powerful support for craft unionism in the American labour movement, personified in the conflict between the American federation of Labour (AFI) and the Confederation of Industrial Organisations (CIO), is common knowledge. At the same time, unions have been criticised for their sole concern for the maximisation of economic gains and their lack of idealism. This indicates that perceptions about unions are as varied as their purposes.

A very interesting point that Flanders (1975) makes about the nature of unions is the balancing of *movement and organisation* that they reflect. 'Movement implies a common end or at least a community of purpose which is real and influences men's thoughts and actions, even if it is imperfectly apprehended and largely unconscious,' according to Cole (1937). Organisation, on the contrary, means that the union must have effective means for ensuring that its members comply with its decisions. This means that like any other organisation, unions too must have rules for its members, must see that members do not violate these rules, must provide means for the administration of the union and so on. These two aspects of any unions create inherent problems. I order to create a movement or an upsurge in favour of against something, a union must inspire its members. At the same time, it cannot allow then to behave as one would in a street revolution. The purpose of unions cannot be services unless the union has an organisation and the organisation itself becomes dead unless the life of a movement

exists within it. At the same time, unions which insist too much on rules and propriety may soon lose their character as a labour body for protest.

5.4 TRADE UNIONS: TYPES, UNION SECURITY AND LEGISLATION

TRADE UNIONS: TYPES

Trade unions differ considerably in form and character. Their types and their differences arise out of a number of factors.

5.4.1 A. Types According to Motives

5.4.1.1 Paper Unions

These unions are established to get a platform or a voice in a political setting. In India, nearly 72 percent of t the registered trade unions submitting returns have a membership of less than 300, and many of them might be paper unions.

5.4.1.2. Ad Hoc Unions

These unions are established to secure some definite and immediate objective. They are like strike committees or action committees. They may command a large membership for some time and be of some use to workers, but they can hardly be called trade unions in the real sense.

5.4.2 B. Structural Types

As per their structure, trade unions are classified into three groups: craft unions, industrial unions and general unions. There are subcategories of these unions known as occupational unions, material unions, employment unions and factory unions.

5.4.2.1 Craft Union

A craft union is an organization of workers following a particular craft. It my also be called an occupational union. A variation of craft union is a material union organizes workers, not according to their crafts, but according to the material upon which they work; for example carpenters union, frame-makers union, etc.

5.4.2.2. Industrial Union

This kind of union is an organization of the workers in a single industry without any distraction as to occupation, skill and sex; for example, the Rashtriya Mill Mazdoor Sangh for all textile workers in Bombay. A variation of the industrial union is the employment union, which groups together workers under a common employer; for example, Simpson Group Employees Union, Madras. An industrial union organized only for a particular unit or factory may be called a factory union; e.g., Larsen & Tubro Employees' Union.

5.4.2.3 General Union

A general Union is an organization of workers, irrespective of their trade or craft. General unions are useful for employees in small concerns like hotels, commercial establishments, etc, for example, the Bombay Labour Union.

5.4.2.4 Craft Vs Industrial Unions

In the UK and the USA, where modern industry started, the craft/occupation/ trade union became the basis of organisation. In the USSR and in India, industrial unionism became the rule, partly for political and partly for industrial reasons. Royal Commission on Trade Unions and Employers' Associations observes:

"The present craft system can be very prejudicial to efficiency and to the needs and aspirations of workers out side the craft and the gathering speed of technological change will make it still more obsolete."

The National Commission on Labour mentions the following advantages of organising industry-wise unions:

(i) The facility that they can afford to have collective bargaining,

(ii) A measure of uniformity in the principles governing all the areas of working conditions.

(iii) Reconciliation of sectional claims of different levels of workers within an industry.

Accordingly, the Commission has made the following recommendations:

(i) Formation of craft/occupation unions should be discouraged; craft unions operating in a unit/industry should amalgamate into an industrial union:

(ii) Where there is already a recognized industrial union, it should set up a sub-committees for important crafts/occupations, so that the problems peculiar to the crafts receive adequate attention.

5.4.3. According to Geographical Area

5.4.3.1 Local Unions

The term local union may refer to a branch of a big union or a small union of local importance.

5.4.3.2 National Unions or Federations:

In India, there are national level unions or federations and their affiliated unions.

The British Royal Commission refers to the undesirable habit of the local unions not obtaining the sanction of the higher union for the conduct of its business. In a few cases, the local unions are more powerful than their federations. In India, however, there are not many conflicts between the national federations and their affiliated unions.

5.4.3.3. All India Federations of Trade Unions

The AITUC functions through its affiliated unions, delegates assembled at the general or special sessions, the General Council, including office-bearers., the working committee of the General Council and the provincial bodies. The INTUC consists of the central organisation, the affiliated unions, all-India industrial federations, regional branches and councils functioning under the direct control and supervision of the central organisation, the assembly of delegates, the General Council, the working committees and other committees. It has 24 national federations for industries such as textiles, plantations, mines, banks, railways, docks, cement, etc.

5.5 TRADE UNION SECURITY

The term union security refers to various ways in which the trade unions take up to secure their position in regard to membership, such as the closed shop, the union shop and the check-off system. The term union security is applied in the USA to the provisions in collective agreements which grant the closed or union ship or require the maintenance of membership of those who once join the union.

5.5.1 Closed Shop

This is an establishment in which the employer has agreed to keep only union men on his pay-roll and in which non-union men may be hired on the condition they join the union within a specified period of time. It presupposes an agreement between the employer and the union which requires all employees, immediately after they are hired or after a specified probationary period, to become and remain members of the union.

5.5.2 Preferential Union-Shop

This is a closed shop with open union, Here, men are hired whenever the union cannot supply workers of the required skills. The workers must become members of the union after they have been employed for a specified period.

5.5.3 Open Shop

In an open shop, union membership is not compulsory before or after recruitment or when both union an non-union members are employed. Union membership has nothing to do with employment. This open union is favoured by employees to keep unions and union members out of their plants.

5.5.4 "Check-Off"

Under the check-off system, the employer deducts union subscriptions or dues from the wages of his employees and hands over these deductions to the union. A procedure is laid down by which the employer collects the subscriptions for the trade union from members by withholding the necessary amount from the wages of union members. This practice is illegal in India because the deduction is unauthorised deduction under the Payment of Wages Act, 1936.

The National Commission on Labour discussed the advantages and disadvantages of union security measures and made the following recommendations:

(i) A closed shop is neither practicable nor desirable. A union shop may be feasible, though some compulsion is in-built in this system also;

(ii) Neither of the closed shop union or union shop should be introduced by statute. Union security measures should be allowed to evolve as a natural process of trade union growth:

(iii) An enabling provision, permitting check-off on demand by a racognised union should be adequate.

5.6 OBJECTIVES OF TRADE UNIONS

The idea of forming a trade union is to secure collective strength for :

(i) Protecting and setting terms and conditions of employment of its members.

(ii) Negotiating and setting terms and conditions of employment and remuneration.

(iii) Improving the status and interest of workers in relation to work and living and

(iv) Promoting economic and social interest of its members.

From the above objectives of trade unions it is obvious that the primary functions of a trade union are to promote and protect the interest of its members. The union draws its strength from the support provided by its members. It has, therefore, to strive to secure better wages and improve their terms and conditions of employment and generally to advance their economic and social interest so as to achieve for them a rising standard of living.

5.7 THE FUNCTIONS OF TRADE UNIONS

The Functions of Trade Unions May be discussed under the following heads, though there will be some overlapping.

5.7.1 Economic Functions : Originally the only function of trade unions was economic i.e., rescuing workers from exploitative employment and working conditions and use their collective strength to ensure workers adequate and fair wages, reasonable working hours, safe and healthy conditions at work, periodical rest and leave, some essential amenities at workplace like wholesome drinking water, first aid, washing and resting facilities. As a matter of fact, most of the early demands of the union which caused disputes resulting in strikes, were economic regarding wages, hours of working, safe and healthy working conditions and job security.

The unions started adding to the list of their demands such facilities as housing, medical aid, recreation, constitution of welfare funds and social security measures.

5.7.2 Social Functions : Besides the main economic functions, some unions have now started undertaking and organising welfare activities and providing variety of services to their members which may be grouped under the following heads :

5.7.2.1 Welfare activities provided to improve the quality of work life including organisation of mutual fund, cooperative societies for providing housing, credit, banking and medical facilities and training for women in various crafts to help them to supplement their family income.

5.7.2.2 Education : Education of members in all aspects of their working life including improving their civic life, awareness in the environment around them, enhancement of their knowledge, their statutory and other rights and responsibilities, worker's participation scheme central union organisations are also assisting the Government in implementing their worker's education scheme.

5.7.2.3 Publication: of periodicals, news letters or magazine for establishing communication with their members, making the latter aware of union policy and stand on certain principal issues and personnel matters concerning members such as births, marriages, promotion and achievements.

5.7.2.4 Research : Of late, this is gaining importance and is intended mainly to provide updated information to union negotiators systematically collected and analyzed at the bargaining table. Such research is to be more practical than academic concerning problems relating to day-to-day affairs of the union and its activities and union management relations. Some of the research activities are (a) collection and analysis of wage data including fringe benefits and other benefits and services through surveys of comparative practices, data on working conditions and welfare activities ; (b) preparation

of background notes for court cases and also position papers for union officials; (c) collection and analysis of macro data relating to the economy.

All the above mentioned activities and services are considered normal activities of unions in the Trade Unions Act, 1926, which stipulates the objectives on which general funds of the union can be spent.

5.7.3. Political Functions : For discharging the above functions unions have to operate not only on social, economic and civic fronts but also on political front. Unions have to influence Government policy decisions in the interest of workers. Legislative support which unions require for realizing some of their objectives and achievement of the long-term interest, taken them into the region of politics. Unions are not only contribute in the formulation of policies but have also to see that policies are implemented. In several countries political process of the Government and participation in it have been attracting the interests of unions increasingly. Whether a union gets directly associated with a political party or has its own wing, should depend upon circumstances in each country. Considering that such political action association is legitimate, Trade Unions Act, 1926 permits the constitution of separate political fund to facilitate political action by a union.

The extent of unions' participation in the political process of the Government depends largely upon the stage of economic and social development. It ranges from the joint consultation at the plant/industry level to work on bodies like the Economic and Social Council in France, Planning Commission in Sweden or the Economic Council in Denmark. In a number of countries law specifies and activities that union may engage. In Sweden and Netherlands unions are made responsible for the implementation of the labour and social security legislation. Thus, while a union functions in the interest of its members, it should also accept community responsibilities. Consciousness of this wider responsibility will vary from country to country, depending upon the extent of wage employment. In a country like India where self-employment is sizeable, unions have to make special effort in understanding the interest of the total community. This aspect of the role of unions in a developing economy has been emphasized in our successive five year plans. It is in recognition of this fact that the very first planning Advisory Board constituted in 1950, had two labour representatives on it. Since then the labour representatives have been associated with Development Councils set up for individual industries and other tripartite bodies like the Indian Labour Conference and Advisory Boards at the Central and State level in the formulation and implementation of labour programmes. This has enable trade unions to perform their primary function for meeting the basic needs of their members.

(i) Securing for workers fair wages; (ii) Safeguarding security of tenure and improvement in service conditions; (iii) Enlargement of opportunities for promoting and training; (iv) Improvement of working and living conditions; (v) Provision for educational, cultural and recreational facilities; (vi) Promotion of individual and collective welfare; (vii) Facilitation of technological advance by broadening the understanding of workers with their industry; (viii)Offering responsive cooperation in promoting levels of production and productivity, discipline and high standard of quality.

5.8. METHODS OF TRADE UNIONS

According to Webbs the objectives of trade unions are achieved through mutual insurance, collective bargaining and legal enactment.

5.8.1 Mutual Insurance : Mutual insurance involves the creation of a common fund to which every member should contribute. The fund is utilized for financing strikes, welfare activities and mutual benefit schemes.

From the very inception, trade unions have been spending a part of income for providing insurance and other welfare benefits for improving the conditions of their members, promoting the goodwill among them and maintaining solidarity within the organisation. The nature and extent of benefits provided has generally expanded during the course of years. The effectiveness of the method is directly dependent on the income of trade unions. Where trade unions are rich, they are in a better position to provide insurance or other benefits to their members. The funds for mutual insurance come from membership subscriptions and donations.

The British trade unions have a strong tradition of adopting mutual insurance for the benefit of their members. In UK it was mainly the craft unions which provided mutual insurance.

The American trade unions have also a similar tradition of providing, out of their funds, benefits to meet the economic uncertainties to which their members are exposed.

The Indian trade unions have lagged far behind their counterparts in UK and USA so far as mutual insurance is concerned. Only a few trade unions in India have been able to develop certain welfare activities against the more common risks of life.

It was the early trade unions that developed mutual insurance for improving the lot of their members. At that stage, they were not on a position to develop the method of collective bargaining owing to the legal handicaps and hostile attitude of the employers. Once trade unions obtained legal recognition, they started giving more importance to collective bargaining. Collective bargaining has how become the most important method of securing the objectives of trade unions.

***5.8.2. Collective Bargaining*:** As already mentioned collective bargaining has become the most important method used by trade unions for improving the conditions of their members. Collective bargaining involves concerted action on the part of the workers for improving terms and conditions of service.

The method of collective bargaining came to be emphasized after the trade unions secured recognition under law and became free from the criminal and civil disabilities which they had to suffer in their early stage. At that stage collective action on the part of workers for improving conditions of employment was illegal under the doctrine of restraint of trade. However, when the trade unions stood on legal footing, collective bargaining became the most important method of trade unions.

As a result of adoption of collective bargaining for the determination of terms and conditions of employment, trade unions were able to participate in the decision making process of an organisation. Collective bargaining has been fully discussed in a separate chapter.

5.8.3. Political Action/Legal Enactment: Legal enactment putting pressure on the Government for passing legislation for the realization of the objectives of trade unions.

Trade unions engage in political action for improving terms and conditions of employment. The main features of trade unions political action are-exerting pressure for protective or pro-labour legislations and setting up of labour parties or to develop allegiance to one political party or the other. Unlike mutual insurance and collective bargaining, which are designed to benefit only the trade union members or employees of a particular craft or industry, political action is mentioned to benefit the working class in general.

In the early days of the growth of union, when various legal disabilities prevented the trade unions from engaging in collectively bargaining with their employers, there was a strong pressure for protective labour laws for regulating terms and conditions of employment. The series of protective labour laws for labour laws that came to be adopted in UK during the 19th Century was essentially the outcome of the efforts of organised labour. Pressure for new labour legislations and improvement over the existing ones are still made by trade unions in many parts of the world.

In some countries, trade unions have also formed their independent labour parties or have come into relationship with other political parties of their choice. In UK, Trade Unions Congress established Independent Labour Party. Similar labour parties have come into existence in many other countries. In India, trade unions have allegiance to one political party or the other. Thus, the INTUC has a close relationship with the Indian National Congress, BMS with the Bharatiya Janata Party, AITUC with the Community Part of India and the HMS with the Socialist Party.

All over the word, trade unions are developing political wings and political links both for the purpose of securing reforms within the capitalist economic structure and for a fundamental reconstruction of the economic system by peaceful means, if possible and by violence, if necessary.

5.9 CHARACTERISTIC FEATURES/WEAKNESSES/PROBLEMS OF INDIAN TRADE UNIONS

The trade unions in India have undoubtedly improved the conditions of workers. This improvement has been brought about as much, by the changing economic conditions, the changing social standards, international conventions, as by the union movement. The scope for the development of the union movement is immense but it is severally handicapped by and beset with and suffers from a number of weaknesses. These weaknesses, which have become peculiar features of Indian trade unions, are :-

An attempt has been made in the following pages to critically discuss each of these.

5.9.1. Small size and how membership

An idea of the size of the Indian trade unions can be had by their average membership figures. A study of Appendix 3 shows that the average membership per union has been going down from year to year since 1927-28 to 1980-81. It has gone down from 3594 in 1927-28 to a party figure of 808 in 1981. When compared with U.K. (17,600) (U.S.A. 9500), erstwhile USSR (2.5 lakhs) the Indian situation presents a dismal picture.

Further, a look at the Table 3 and 4 shows an overwhelming preponderance of small sized unions. The data reveal that over 71% of the number of registered trade unions are small sized i.e. they have each a membership of less than 300 and that not even one per cent (1%) of the unions has a membership of more than 10,000. Over 71% of small sized unions have around 13% of the total membership, whereas 0.8% of the large sized unions claim 32% of the total membership.

The low membership and small sized unions tendency go to show, in terms of C.K. Johri, that are less viable, dependent, incoherent and weak.

First and primary factor responsible for small size of union is the structure of the trade union in the country where primary unit of union is the factory. Unionisation of the smaller and smaller units of employment has pulled unions.

Another factor for the decline in the average size of the Indian trade union is the small size of employment in a vast majority of factories in India, According to one estimate the average number of workers employed factory comes approximately to 47. If this be the average size, it is not surprising that the average membership of trade unions has been going down as more and more factories are unionised, Remedy again lies in the change primary unit of unionisation from on factory to industry.

Multiplicity of rival unions, finally, is also a contributing factor. Answer lies in the removal of rivalry among unions.

The most important consequence of small size unions, inter alia, is the pitiably poor financial position of the average union.

5.9.2. Weak Finances

The primary source of income of the unions is the membership subscription & other dues. It accounts for 70% of the total income. The other sources of income like donations, special collections etc. account for a very small contribution. With low membership, finances of union remain utterly inadequate.

To get a better view of the finances of an average union, let us have a look at the following Table depicting income and expenditure statistics for workers unions.

As shown by the above table, the average income of the steadily increased from Rs. 2000 to Rs. 18,800 annually over the period 1951 to 52 to 1983. But if this is studied the average income per member. (Total membership) which is roughly Rs. 23, the annual income of majority of trade unions would come down to Rs. 2000 what could be expected from a union in respect of carrying out its large number of functions with such a low income.

To have a more clear picture of the performance of its numerous functions, a look at the details of expenditure in the following Table 30 reveals that 40% of the total expenditure is incurred on salary and allowances and establishment, Misc. expending fluctuates around 40% and expenditure on trade disputes rarely goes above 6%.

Thus, the whole analysis reveals the utter inadequacy of the finance bordering on the poverty line.

Such a poorly state of finances adversely affects the entire functioning of the union, whether be it in the field of welfare activities or bargaining power or conduct of individual disputes, etc. It is a type of vicious circle. The quality of the services is poor because the contribution is poor and vice-versa.

Since the cause of poor finances lies in the poverty of the workers, therefore, the cure will also lie in mitigating this poverty.

5.9.3. Limited Area

Trade unionism in India is mostly confined to the organised sector, which is mainly urban in character. This sector comprises workers employed in registered factories, mines, plantations, govt. and quasi-govt. bodies, ports, insurance. Factory labour constitutes less than 2.5% of the labour force and the entire organised work force constitutes less than 10% of the labour force. According to 1971census, the total member of property less work force dependent upon wage/salary, both organised or potentially organisable, may be put at 113 to 115 million. The total membership of unions submitting returns in

1970 was about 5 millions. Thus, *hardly 5% of work force is unionised in India (It is 22% in USA, 40% in U.K).* Individually, industries with a high rate of unionism are : coal (61%) tobacco manufacture (75%); cotton textile (56%). Iron and Steel (63%) of bank (51%) : insurance (33%), etc. Thus, the trade union activities are mostly concentrated in large scale industry; and that too in regard to manual labour only. Another important feature of the unionism is that it is mainly concentrated in a few states and in bigger industrial centres there. Nearly 70% of the trade unions are located in 6(six) states. Uttar Pardesh, Tamil Nadu, Maharashtra, West Bengal, Kerala & Bihar. These, six states account for 66% of the total membership of 30 registered trade unions in the country.

Thus, trade unionism have taken roots and developed unevenly and in a limited area, both industry – wise and geographically.

NCL explained this inhibited unionisation of labour to constraints like casual nature of employment; ignorance and illiteracy; small size and scattered nature of establishments, etc. etc.

5.9.4. Political Unionism

Political unionism presumes subordination of trade union policy to political action. It also presumes that political action sets the pace for the entire labour movement. In India today, there is no fixed pattern of relationship between the unions (central federations) and the political pattern parties. Still the unions are said to practice political unionism. It is a known fact that most of the central federations are clearly identified with some political party, rather these are the labour wings of the political parties, like INTUC is identified with Congress, AITUC with rightist communists, that is CPI, CITU with leftist communists' (CPI (M), BMS with Bharatiya Janata Party, etc. etc.

According to Dr. S.M. Pandey, "the supreme consequence of political involvement of unions in India in general has been the simple fact that trade unions, formed to safeguard and promote the social and economic interest of workers have tended to become tools of party politics". Decisions in the trade unions fields are taken by the respective political parties and these change with the changing political changes. With the split in the political ideology, there develops factional splits in the same trade union (split of AITUC, INTUC, etc.) professing the same political ideology. And thus starts the fragmentation of the unions. It also results into unions becoming pawns in political fights and outsiders, that is, political leaders, assuming the control of the unions.

5.9.5 Outside Leadership

Political unionism bring in outsiders in the trade union movement. These outsiders are either those who are whole time trade union workers or those who look upon union work only as a part of their activities. While there is still need of the formers, the latter kind should be discouraged.

Dependence of unions on outsiders as their executives might have led to trade union rivalries but it must be recognised that outsiders have played a notable part in building up the trade union movement in India.

Inspite of great contributions made by outsiders and advantages repeated by the unions from these outsiders, the entry of the outsiders managing the affairs of the union need to be discouraged. This could be made possible, as observed by NCL, by making these outsiders as redundant by forces within rather than by a legal ban.

At present, the proportion of such outsiders have been fixed by the Trade Unions Act as 50% of the total number of office bearers. NCL recommended the proportion of outsiders in the union executive as follows :

Where the membership of a union is (1) below 1000, the number of outsiders should not be more than 10%, (2) between 1000-10,000, 20%; above 10,000-30%, for industry-wise union – 30%. It also suggested that no union office bearer will concurrently hold office in a political party.

5.9.6 Multiplicity of Unions and Inter and Intra-Union Rivalry

Outside leaders have looked upon unions as their bases of power, and in their struggle for more power, they have caused structural fragmentation of the Indian trade union movement. Multiplicity of unions and their (among) and intra (within) union rivalry in the same bargaining territory are widespread. Besides political rivalry among outsider leaders and political parties, the trade union law, conferring industrial relations rights upon unions with as few as seven members, is also responsible for this sorry state of affairs. Absence of statutory provision as also of managerial practice according recognition to the majority union with sole bargaining rights in a particular bargaining territory have also been responsible for multiplicity of unions. These weak unions not only weaken the bargaining leadership, organisational and financial resources. Small and weak unions, engaged in a continuous struggle for survival and stability are often responsible for the breach of industrial peace.

Remedy of multiplicity lies as observed by NCL, in increasing the minimum membership for the formation and registration of union the law. And for inter and intra union rivalries, statutory recognition for the compulsory recognition of the majority union, and workers education and training will go a long way in overcoming this malady.

5.9.7. Resistance to Recognition

In India, there is no statutory provision; except in some states, for compulsory recognition of majority union as sole bargaining agent in a particular bargaining territory, and employers have, by and large, been resistant to do so voluntarily. The result is the proliferation of large number of unions, mostly small sized, competing with each other for seeking recognition as a majority union. This causes intense inter-union rivalry, and consequently causes industrial strife.

One of the consequences of this resistance on the part of management and ambivalence on this issue on the part of govt., is that each competing union pitches its demands on the high side so as to gain and maintain member loyalty. Second, the management prefers the settlement of disputes through adjudication and this obstructs the development of collective bargaining.

Solution to the problem lies in statutory provision for the compulsory recognition of a majority union as a sole bargaining agent and also providing a well laid down procedure for determining this majority union.

5.9.8. Union Security

Union security provision involves agreement with the employer not to employ a non-member. Its two main variants are :

1. **Closed Shop :** by which employer will recruit only members this gives the union control over the supply of labour.
2. **Union Shop :** by which new entrants to employments, if they are not union members, must join the union within specified period.

There is no such provision in our statues nor is there any such practice in our country. Such a practice will add to the strength of a strength and state union, will eliminate interference by the employers in the union activities, will make members employment more secure and create conditions for internal leadership.

But it will also infringe the right of freedom and the union, therefore will lose his voluntary character. According to NCL, the practice of closed shop is neither practicable nor desirable. Moreover, it is against the fundamental Right of Freedom of Association guaranteed in our constitution.

Check-off : Another element of union security is check-off. Under this system the employer deducts union subscription or dues from the wages of his employees and hands over these deductions to the union. This practice is illegal in India because the deduction is unauthorised deduction under the Payment of Wages Act, 1936.

There are certain advantages of this system. Sustained and regular membership lends stability and strength to a union. It also eliminates the possibility of dual membership. According to NCL, an enabling provision, permitting check-off on demand, by a recognised union should be adequate.

5.10 MANAGEMENT AND EMPLOYER'S ASSOCIATION

INTRODUCTION

Employer's organisations (EOs) are "Formal groups of employers set up to defend, represent or advise affiliated employers and to strengthen the position in society at large with respect to labour matters as distinct from economic matters. They may conclude collective agreements but this is not a formal rule and cannot be an element of their definition. Unlike trade unions, which are composed of individual persons, employer's organisations are composed of enterprises. They can take any legal form and the expression 'employers' association' has been avoided for this reason. Most legal definitions of a trade union apply to them (Oechslim, 1990). The Trade Union Act, 1926 includes in its purview, both associations of workers as well as employers.

EOs are mainly concerned with matters relating to a wide range of employment issues including industrial relations. Chambers of Commerce are usually set up to defined the economic interests of employers. However, in some countries such as the U.K. Norway and Jordan, for former are set up the latter. Also, sectoral as definitions such as Confederation of Indian Industry (till 1991 it was a sectoral association mainly confined to engineering industry) and United Planter's Association of South Indian perform a combined role defending the interests of employers in both economic and labour matters.

5.11 ORIGIN AND GROWTH

The origin, growth and development EOs in India have three distinct phases: (i) The period up to–1993; (ii) The period between 1933 and 1946; and the post-independence period. Each phase reveals

its own structural and functional characteristics. In each phase the organisations had to undergo change because of contemporary economic, others. The periods referred to also coincided with important developments in the labour field, and these have had a great impact on the pattern and development of EOs and also on their functioning.

Pre - 1933 Period : Merchants associations (chambers of commerce) and industrial associations (jute, textiles, engineering, etc), come into being primarily to pursue the sectional interests of their constituents.

Until the First World War the chambers of commerce and trade associations did not consider it important to deal with labour problems, except in stray cases of employee / union militancy. By and large the attitude of employers was one of indifference and occasionally, aggression. Individual units had autonomy to deal with labour matters. But soon in jute and textiles employers began to regulate working hours and introduce standard of skilled labour. During this period unions also started gaining ground. Though the chambers of commerce took birth way back in 1830s when the East India Company withdrew from its trading activities, the British and giant Indian (mainly Parsi) industrial and business interests teamed up in 1920 under the umbrella of Associated Chamber of Commerce (ASSOCHAM). The big Indian trading and industrial interests who have long been in conflict with British business interests and supporting Swadeshi movement as a part of the struggle for political independence have played a major role in setting up the Federation of Indian chamber of Commerce and Industry (FICCI) in 1927. Certain other developments which occurred rapidly during 1920s had a bearing in providing the impetus for recognising the nature of the employer's role in dealing with industrial relations aspects. The first in the series of these developments was the formation of the International Labour Organisation (ILO) in 1919. The emergence of the trade union movement in the wake of First World War led to the enactment in 1926 of the Trade Unions Act. The Royal Commission on Labour (Whitely Commission) was set up in 1929 to enquire into the conditions of labour. Following the recommendations of the Whitely Commission, labour departments were set up to redress worker's grievances and improve their conditions. The existing chambers of commerce could not espouse effectively the interest of industrial employers, especially in the area of industrial relations and labour matters. With the result the need for greater coordination of employer's collective interest, resolving common policies for concerted action in labour matters and labour legislations was felt, necessitating the formation of separate EOs to deal with related problems in amore exclusive and specialised manner.

Among all the reasons mentioned above, the formation of the ILO had provided an explicitly rationale for the formation of Federation of Employers' Association during the years immediately following the First World War. India, as one of the original members of the ILO, set up the Treaty of Versailles in 1919, had the responsibility of sending a tripartite delegation to the International Labour Conference held every year. According to the constitution of the ILO, the Government of each Member State should nominate Employer's and Workers' Delegates and Advisors, in agreement with the industrial organisations which are most representative of the interests concerned.

This period a problem to both these parties in as much as there was no single organisation in existence at the time which was representative of their workers or employers on an all-India basis which could be entrusted with the tasks of selection of their respective Delegates. In the circumstances, when the Government of India resorted to the expedient of nominating these delegates on their own, trade unions and employer's oragnisations found the need acted specially and established the All – India Trade Union Congress in 1920, it took some years for the employer's organisations to iron out the

differences among different chambers and associations. Efforts to set up Employer's Federation of India at Bombay, though began in 1920 under the auspices of ASSOCHAM and a few other industry associations, could not materials during 1920s. Since the formation of the Federation of Indian Chamber of Commerce and Industry (FICCI) with headquarters at Delhi in 1927, the Indian Employer's delegate began to be nominated on the recommendation of FICCI. It was in 1931 that the Government of India informed the FICCI that in terms of Treaty of Versailles, the Chambers of Commerce could not be treated as an organisation of industrial employers which could be consulted by the member-governments in nominating employer's delegates. To overcome the difficulty, FICCI announced the setting up of the All India Organisation of Industrial Employers (subsequently, the term "industrial" was dropped from the name) (AIOE) on 12 December 1932. ASSOCHAM and others including Bombay Chamber and Bengal Chamber took the initiative to register Employer's Federation of India (EFI) with headquarters at Bombay in 1933 under the Indian Companies Act 1956.

1933-46 : Thus two EOs came into existence in 1933, with the AIOE representing mainly Indian and the EFI mainly the British and Parsi business and industrial interests in the large-scale, organised sector. The modest objective of these two organisations in the beginning was to facilitate the selection of employer's delegates for the meetings and conferences of the ILO.

Since the two bodies began to represent mainly the large scale industrial employers, the need for a third limb of EOs representing the medium and small size employers was felt. Under the inspiring leadership of M. Vishweswarayya, a renowned engineer, the All India Manufacturer's Organisation (AIMO) was set up in Bombay in 1941 to represent both the trade and labour interests of the member firms in the medium and small sectors. The AIMO could secure recognition from the Government of India for representation at the national level and in the 1980s for the International Labour Conference as any other EO.

1947- Present : In the wake of the independence of the country in 1947, a plethora of labour laws were enacted, the industrial fabric of the country began to change with the implementation of successive five-year plans, and the demographic profile and aspirations of the employees also began to undergo major changes. All these provided new opportunities and challenges for EOs. The growth of public sector consequent upon Government's endeavour to raise it to the "commanding height" of the economy led, eventually to the claim by the public sector to re[resent employer's interest. A representative organisation for public sector, called Standing Conference on Public Enterprises (SCOPE) was registered on 29 September 1970 as a society under the societies Act.

5.12. AIMS AND OBJECTIVES OF EOS

The main aims and objectives of EOs are similar though they may vary to an extent in matters of detail.

5.12.1. AIOE

The principal objective of the AIOE is said to be to educate employers as to how best they could maintain harmonious industrial relations. But the first objective listed in its rules and regulations reads as follows: "To take all steps which may be necessary to promote and protect the development of industry, trade and commerce of India".

The same point was emphasised differently in the list of objectives. To mention a few : (i) To take all steps which may be necessary for promoting, supporting or opposing legislative and other measures

affecting or likely to affect directly or indirectly, industry, trade and commerce in general, or particular interest; (ii) To take all possible steps for counteracting activities inimical to industry, trade and commerce of the country; (iii) To promote and protect the interests of employers engaged in industry, trade and commerce in India.

The principal objectives relating to the industrial relations aspects include : (i) To encourage the formation of EOs and to foster cooperation between EOs in India and abroad ; (ii) To nominate delegates and advises, etc., representing Indian employers at the International Labour Conference, International Chamber of Commerce and other Conferences and Committees affecting the interest of trade, commerce and industry, whether as employers or otherwise; (iii) To promote and support all well considered schemes for the general uplift of the labour and to take all steps to establish harmonious relations between capital and labour; (iv) To educate the public with regard to the character, scope, importance and needs of industry, trade and commerce represented by the Members.

The rules and regulations of the AIOE thus seen to provide for trader related activities as well, though the preoccupation of the AIOE has always been in influencing labour policy and legislation and disseminating information and news to members.

5.12.2. EFI

The main objectives of the EFI as embodied in its consideration are : (i) To regulate the relations between employers and workers; (ii) To promote and protect the legitimate interests of employers engaged in industries, trade and commerce; (iii) To maintain harmonious relations between managements and labour and to initiate and support all properly considered schemes that would increase productivity and at the same time vouch safe to labour a fair share of the increased return; and (iv) To collect and disseminate information affecting employers and to advise Members on their employer-employee and other ancillary problems.

Although consideration on broad economic problems is not excluded from its purview, the EFI usually likes to reserve commercial questions such as customs and taxation for Chambers of Commerce.

5.12.3. SCOPE

The objectives of the SCOPE cover a wider ambit : “SCOPE looks upon its tasks as both internal and external to the public sector. Internally, it would endeavor to assist the public sector in such ways as would help improve its total performance. Externally, it would help improve its total boundary role in conveying such information and advice to the community and the Government as would generally help the public sector in its role.

5.13 LEGAL STATUS

EOs could be registered in any of the following legal forms : The Trade Unions Act, 1926; The Union Companies Act, 1956; or the Societies Act, 1860. The AIOE remained a registered body till 1965 when it was registered under the Indian Trade Unions Act. The EFI came into being in March 1993 as a company under the Indian Companies Act. A quarter century later, it was reorganised as an unregistered Association, a position which continued till 1963 when it too was registered under the Indian Trade Unions Act.

The main reason for the AIOE opting for registration under the Trade Unions Act was to allow it to take up test cases before the courts and industrial tribunals. In the case of the EFI, the motivation was to overcome the burden of income-tax on its steadily rising income and surplus.

The SCOPE, however, continues to be registered under the Societies Act.

5.14 AMALGAMATION OF EOS

During the pre-independence era industry, trade and employer associations were divided the basis of swadeshi vs. foreign, large vs. small, and to an extent on regional basis. After independence the indigenous private industrialists began to train their guns against public sector which had witnessed a rapid growth (at least until 1990s when privatisation is becoming the "n-thing"). The small and medium sectors have formed their own associations. There is also a plethora of sectoral associations. With the proliferation of EOs the need for their unification began to find expression. After several initiatives and meetings, it was in 1956 that a super structure called the Council of Indian Employers (CIE), was formed to bring the AIOE and EFI, the two national level EOs together under one umbrella.

5.15 COUNCIL OF INDIAN EMPLOYERS (CIE)

The main object in setting up the CIE was to ensure closer co-operation and coordinating between the two bodies which together represent particularly the interests of large-scale industry in India. In the year 1973, the SCOPE joined the CIE.

The CIE, with its headquarters in the office of the AIOE in Delhi, consists of equal number of representatives of the AIOE, EFI and SCOPE. Its principal functions are : (i) To discuss generally problems confirming Indian employers, with particular reference to matters coming to before the ILO Conference and various Industrial Committees and to formulate, from time to time, the policy and attitude of Indian employers in the matter of collaboration with employers of other countries; (ii) To furnish and exchange information on problems relating to industrial relations with employers of other countries; (iii) To maintain a close contact with the International Organisation of Employers (IOE) with a view to study international trends in the employer-employee relations and to keep the two parties informed of such matters; and , (iv) To select the personnel of the Indian Employer's Delegation to the various Conferences and Committees of the ILO.

On behalf of the three organisations, the CIE also submit representations to the Government of India on matters involving important issues of labour policy on which a common approach is desired.

Under the Constitution of the ILO, its matter countries (India is a member of the ILO since its inception in 1919) should accord recognition to the most representative organisations of unions and employers. CIE is the organisation which represents the Indian employers.

5.16 INTERNATIONAL ORGANISATION OF EMPLOYERS (IOE)

Founded in 1920, the International Organisation of Employers with headquarters in Geneva is the only world organisation authoritatively representing the interests of employers of the free world in all social and labour matters at the international level. As of June 1992, it has a membership of EOs in 104 countries. One of the IOE's main tasks is to closely follow the activities of the ILO where, under its consultative status, it strives to preserve the principal of tripartism – according to which employers and workers are represented at all major ILO meetings on an equal footing with governments, from

whom they enjoy complete independence at all times, notable when it comes to voting. The IOE also acts as secretariat to the employer groups at almost all of its tripartite meetings and ensures continuous liaison with its members, worldwide, IOE membership is open to any national central federation of employers upholding the principles of free enterprise, which is independent of any control or interference from governmental authority or any outside body and whose membership is composed exclusively of employers. CIE is a member of the IOE.

5.17. ORGANISATION AND MANAGEMENT OF EOS IN INDIA

Membership : As in most countries in India to membership in EOs is voluntary. AIOE has two categories of members : individual (enterprise) and association (group of enterprises). EFI additionally has provision for honorary membership whereby individuals with special skill or experience, such as legal luminaries or professionals are cooped to serve on various committees of the federation. While the predominantly private sector EOs do not bar public sector enterprises becoming members and rather welcome their entry and indeed have a few, the SCOPE remains an EOs exclusively for the public sector that too mainly the public sector enterprises in the central sphere.

648 EOs were registered in 1986 under the Trade Unions Act. Of these, however, only 98 submitted returns. Several more were registered under the Companies Act and the Societies. Act whose number is not known. The definition of an EO under these three legal forms is much wider than the meaning assigned to EO in the ILO parlance and include industry associations, chambers of commerce, etc., various levels including national, regional, state, local, etc.

In 1986, the AIOE and the EFI had 59 and 31 association members respectively; even the strength of individual members (enterprises) was low at 130 and 247 respectively. Some members in both the categories are common for the AIOE and the EFI. The representative character of the AIOE and the EFI, even with regard to the large industry, is thus rather limited. The SCOPE, on the other hand, is the most representative organisation for the public enterprises in Central sphere (i.e., those established by the Union Government) with over 95 per cent of them being members of the SCOPE.

5.18 ORGANISATION STRUCTURE

The AIOE has a unitary type of organisation. It has no sub-organisation on an industrial or geographical basis. Even though there are important clusters of members in Calcutta and Bombay, there has been no attempt to create local committees or offices. The EFI, however, has federal type of organisation structure with its activities distributed over a central body and the regional committees. Both the AIOE and the EFI have a governing body, executive committee and the secretariat. The governing body is the supreme policy-making body, the executive committee is responsible for implementing the policies and objectives of the organisation and the secretariat with a permanent staff, is responsible for carrying out the decisions of the governing body. There is greater community in the leadership of the EFI than the AIOE. The EFI had only four presidents in over 50 years. The AIOE which used to elect a new president every two years is now electing a new president every year. The EFI constitution provides for setting special technical committees if need arises to provide special attention on any subject.

The SCOPE has two administrative organs, the Governing Council and the Executive Board besides the Secretariat with permanent staff. The Governing Council lays down policy and elects office-bearers, the Executive Board oversees implementing of policies. The Chief Executive of a member enterprise / organisation shall automatically be a member of the Governing Council. Additionally it has three

government representatives nominated by the Director-General, Department of Public Enterprises, as ex-officio members of the Governing Council with full voting rights.

5.19 FINANCE

EOs are referred to as rich men's poor clubs. The EFI's balance sheet for 1985-86 shows an income of Rs. 20 lakhs and that of AIOE Rs. 5 lakhs approximately. Nearly half of the income of the EFI and one-fourth of the income of the AIOE are from membership subscriptions. Other incomes include interest on corpus/deposits, conferences, publications, etc. Excessive dependence on income from subscription makes EOs financially vulnerable. The surest way for them to raise funds is to upgrade the quality, relevance and usefulness of services to their members and other constituents, including the community.

5.20 REPRESENTATION

EOs in India two types of roles in representing the interests of their members : One, they are called to nominate representatives of employers in voluntary or statutory bodies up not only to determine wages and conditions of employment of workers in a particular industry/sector, but also for consultation and cooperation on social and labour matters in national and global context (See Table for an indicative list of representation of EOs in various tripartite for a and public bodies/institutions). Secondly they seek to redress the grievances arising from legislative or other measures by making submissions to concerned authorities. It is difficult to recapitulate and synthesis the role played by EOs in representing the interests of employers in the ILO, various committees/institutions, bipartite and tripartite for a at the national level and on various issues such as legislation, voluntary codes, social security, bonus, etc. (For an indicative analysis, see: Venkata Ratnam, 1989).

Table 5.1

EOs Representative on Various Bodies

5.21 SUMMARY

A concluding assessment of Indian Trade Unions could be made in the context of legal rights that they have. This *legal frame work* depends on the following factors.

* Immunity of trade unions and the degree of such immunity.
* The rights and obligations of unions towards employers, the community, their members.
* The access trade unions have to
* Information
* Settlement machinery
* Consultation with management
* Relations of unions with their members and the rights of rank and file
* Procedures , regarding funds, financing, use of funds, elections and duties of office-bearers.
* Status vis-à-vis management or claims against management or against other unions (this is particularly important in a multi-union situation), and
* Limitations on industrial action such as restrictions on strikes or lockouts.

We have seen already that the right of association is a constitutional right in India and trade unions do have a number of immunities on organising and functioning and in the matter of industrial action. The main laws which either allow or restrict the unions are the Trade Unions Act, 1926 and the Industrial Disputes Act, 1947, which are discussed in detail in Chapter 7.

Under the latter, trade unions have considerable degree of freedom to call strikes in small organisations (employee strength below 100). For larger organisations, unions have to follow certain sets of procedures by giving due notice before a strike. There are also restrictions on strikes or direct industrial action during and for some time after conciliation or arbitration proceedings.

However, there are also several gaps in law. Where trade union relations with management are concerned, or where their status vis-à-vis other unions in the same organisation or industry is concerned, there are no clear guidelines. These gaps are discussed in subsequent chapters. There is also no provision or recognition of unions, or on the right to company information except in case of change of working conditions. There is no compulsion on the part of management to bargain with their unions.

There are no provisions in either of the two acts, which lay down guidelines for relations with their own members. Except for the need to call annual general meetings, which is common for any type of organisation in all types of situations, there is very little that union members can do against their own leadership. The procedures for removing a leader are so much a matter of political and group dominance, that members have little power to do anything. This may be one of the reasons why there is so much dissidence within unions, leading ultimately to splits and fragmentation. Political affiliation helps to fan dissidence. There is no provision on strike ballot, which is basic tool in many countries, which give rank and file members some control over the most decisive tool in the hands of unions. This implies that union leaders can take a decision on strike without really consulting many of its members.

5.22 SELF ASSESSMENT QUESTIONS –

1. Explain the Union Purpose and Responsible unionism
2. What are the types of trade unions? Discuss elaborately
3. What is the importance of trade union security
4. What are the functions of the trade unions
5. Critically evaluate the theories of the trade unionism
6. Discuss the weaknesses of the trade unions
7. Examine the aims and objectives of employers organizations (EOs)

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Lesson – 6

PUBLIC POLICY ON INDUSTRIAL RELATIONS IN INDIA, CONSTITUTION AND LABOUR, FIVE YEAR PLANS

OBJECTIVES

After reading the lesson, you should be able to understand:

* The basic thrust of public policies concerning labour matters that influence union-management relations; and
* The influence of our Constitution, international labour standards, five year plans and tripartite consultations on labour policy.

STRUCTURE :

6.1. INTRODUCTION

Industrial relations policies are formulated at several levels; international, national, enterprise and shop-floor/workplace, here we are concerned mainly with the public policy, i.e., the policies and role of the State in industrial relations. Industrial relations being a "concurrent" subject, both the Central and State government have jurisdiction over certain matters while on certain others either the Central or the State have jurisdiction.

The public policies on industrial relations are influenced by (a) the Constitution of India;(b) the instruments of the International Labour Organisation; (c) the policies announced and pursued during successive five year plans. The reports and recommendations of major commissions of inquiry such as the Royal Commission, National Labour Commission, Rural Labour Commission and tripartite institutions such as the Indian Labour Conference and the Standing Labour Committee, Industrial Committees, etc., also provide useful inputs in shaping the public policies. Before w3e examine the influence of the Constitution, International Labour5 Standards and the evolution of labour policy during the five-year plans, it is appropriate to consider the rationale for State intervention – or the role of the State – in union-management relations.

6.2. ROLE OF STATE IN UNION-MANAGEMENT RELATIONS

As the National Commission on Labour (1969) observed, "The concern of the State in labour matters emanates as much from its obligations to safeguard the interests of workers and employers as to ensure to the community the availability of their joint product/service at a reasonable price. The extent of its involvement in the process is determined by the level of social and economic advancement, while the mode of intervention gets patterned in conformity with the political system obtaining in the country and the social and cultural traditions of its people."

The role of the State in regulating union-management relations in a democratic country will be different from that with a different philosophy for the governance of the people. In a democratic set-up the emphasis will be on human freedoms and human freedoms and human rights and policies reflect, broadly, the choices and will of the people. Industrial relations policies are also influenced by the stages of development of an economy and industrialisation strategies. Social policies concerning job and earnings security, etc., are influenced by the economic health, employment-unemployment situation, etc. Such influence could be reciprocal too. In a sound economy with near full employment situation it would be possible to offer better job and earnings security. When economic conditions change significantly the industrial relations institutions and policies too will change.

The extent of the role of the State varies across the counties even though in all modern States, the State assumed powers to regulate union-management relations. This is done in some countries such as the USA, for instance, by merely laying down ground rules and procedures and establishing an independent agency such as the National Labour Relations Board to administer them. In others the State itself directly controls the industrial relations rules and procedures, processes and outcomes. For instance, in India the State can interfere and proceed to settle a dispute not only when there is a dispute but also when it apprehends there could be one.

In India State intervenes in procedural and substantive aspects of union-management relations. A variety of factors such as the following led the government to assign for itself a major and more direct role in labour matters:

a) concern for planned development and rapid economic growth, as envisaged in the successive five year plans;

b) requirements of a Welfare State envisaged in our Constitution, particularly the directive principles of State Policy and more importantly Articles 43A;

c) the socio-economic imbalances in the society, the depressed conditions of the working class as observed by the Royal Commission on Labour and the Labour Investigation Committee;

d) the imbalance in and between unions and employers and the weaknesses of both the social partners, leading to preference for adjudication despite avowed recognition and appreciation of the merits of free and fair collective bargaining.

e) the anxiety of the State concerning the adverse impact of industrial disputes and work stoppages, including strikes and lock-outs, led the government to prefer adjudication despite lip sympathy to the apparent merits of free and fair collective bargaining.

f) the role of the State as a major employer, with public sector being projected to "achieve the commanding heights of the economy as per the Industrial policy Resolutions". The new economic policy of 1991, however, seems to alter this position.

6.3. CONSTITUTION AND LABOUR POLICIES

The preamble to the Constitution of India provides the framework within which the labour policies can be formulated in India:

"We, the people of India, having solemnly resolved to constitute into a sovereign socialist secular democratic republic and to secure to all it citizen;

JUSTICE, social, economic and political:

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of thought, expression, belief, faith and worship:

FRATERNITY assuring the dignity of the individual and the unity integrity of the Nation."

The expression " socialist" was specifically introduced in the Preamble the Constitution by the Constitution (Forty-second Amendment) Act, 1976 to transform the country from " a wholly feudal exploitative slave to a vibrant, socialist welfare society." The new economic policies announced in mid-1991 constitute a marked shift towards market oriented economy thus raising doubts as to the continued relevance of socialism, be it Gandhian, Marxian, or a blend of both.

Part III of the Constitution lays down fundamental rights of the citizen which include:

RIGHT TO EQALITY, This right includes prohibition of discrimination on grounds of religion, race, caste, sex or place of birth: Equality of opportunity in matters of public employment and abolition of untouchability. The muliki rules constitutional provisions for reservations for scheduled castes and scheduled tribes, etc. provided in the Constitution are in the nature of affirmative action programmes for disadvantaged groups.

RIGHT TO FREEDOM, This includes protection of certain rights regarding freedom of speech, etc.; protection in respect of conviction for offences; protection of life and personal liberty; and, protection against arrest and detention in certain cases. Certain acts like Official Secrets Act, Maintenance of Internal Security Act (MISA) seem to restrict the right to some of the freedoms mentioned above.

RIGHT AGAINST EXPLOITATION, Prohibition of forced labour and prohibition of employment of children in factories, etc. are intended to minimise and eventually end such exploitations. *Subsequently, separate legislations have been promulgated to guard against such* exploitation. Legislations like the Bonded Labour (Abolition and Regulation) Act, and the Child Labour (Prohibition and Regulation) Act, are illustrative of legislative measures directed against prohibition and regulation of variety of exploitations.

Part IV of the Constitution lists directive principles of state policy. The provisions contained in this Part are not enforceable by any court, but the principles laid down therein are nevertheless fundamental in the governance of the country and it is the duty of the State to apply these principles in making laws.

The State is to secure a social order for the promotion of welfare of the people. Towards this end, the State shall, in particular direct its policy towards securing:

a) that the citizens, men and women equally, have the right to an adequate means to livelihood;

b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

c) that the operation of the economic system does not result in concentration of wealth and means of production to the common detriment;

d) that there is equal pay for equal work for both men and women;

e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;

f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

Some of the Directive Principles of State Policy relevant for a discussion on the labour policies of the State include the following:

The State shall secure:

Article 39A. Equal justice and free legal aid.

Article 41. Right to work (within the limits of its economic capacity and development) and to public assistance in certain cases.

Article 42. Just and humane -conditions of work and maternity relief.

Article 43. Living wage and conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities, etc.

Article 43A. Participation of workers in management of industries. **Article 44.** Uniform civil code for the citizen.

Article 45. Provision for free and compulsory education for children until they complete the age of fourteen years.

Article 46. Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections. Also protect them from social injustice and all forms of exploitation.

Article 47. Raising the level of nutrition and the standard of living of its people and the improvement of public health.

Article 48A. Protection and improvement of environment and safeguarding of forests and wildlife.

Part IVA of the Constitution lists the fundamental duties of every citizen of India. The fundamental duties of the citizen were listed in the Constitution, for the first time, through the Constitution (Forty-second Amendment) Act, 1976, during the Emergency. Article 51A says that it shall be the duty of every citizen of India:

a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;

b) to cherish and follow the noble ideals which inspired our national struggle for freedom;

c) to uphold and protect the sovereignty, unity and integrity of India;

d) to defend the country and render national service when called upon to do so;

e) to promote harmony and spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;

f) to value and preserve the rich heritage of our composite culture;

g) to protect and improve the national environment including forests, lakes, rivers and wildlife, and to have compassion for living creatures;

h) to develop the scientific temper, humanism and the spirit of inquiry and reform; i) to safeguard public property and to abjure violence;

j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.

6.4 INTERNATIONAL LABOUR ORGANISATION (ILO)

The International Labour Organisation (ILO) sets international labour standards by adopting International Labour Conventions and Recommendations at its Conference, held every year, after consultation with its member States. The International Labour Conference is a tripartite body composed of government, employers' and workers' delegates. When a member State ratifies a Convention, it becomes subject to legally binding international obligations. Recommendations lay down general or technical guidelines and often supplement the corresponding Convention, a country that has ratified a Convention must report regularly on its application in law and practice. Employers' and workers' organisations have the right to provide information. The ILO uses moral persuasion and itself does not have machinery to legally enforce the conventions and recommendations. An independent Committee of Experts on the Application of Conventions and Recommendations considers complaints against violations of international labour standards by member States. The Committee's findings are discussed each year at a tripartite committee of the International Labour Conference and the erring governments are persuaded to amend and report back.

The International Labour Conference has adopted 172 conventions on a variety of subjects (mentioned later) till 1st June 1992. India, which is a member of ILO since the inception of the latter in 1919 adopted 36 of the 172 conventions as of 1st June 1992.

The aims of some of the important conventions are briefly listed here to present an idea of the extent of coverage of subjects and the main purpose of the international labour standards. Juxtaposing these with the provisions of the Constitution of India discussed earlier and the legislations on a variety of labour and social policy matters will highlight the significant pervasive influence of international labour standards in guiding our philosophy and policy on the subject. The record of number of ratifications indicative of the difficulties developing countries like India face in realising the international labour standards in the wake of mounting problem of unemployment and underemployment and glaring poverty. The record of India's performance even with respect to conventions ratified may not be quite satisfying and indeed there have been quite a few complaints before the expert committees of the ILO. The gap between the legal provisions and the reality on the field, of which there is no proper assessment, is indicative of the shortcomings of the legal provisions and labour administration besides the attitudes and circumstances of the social partners including employers and managers, workers and unions, politicians and bureaucracy, and the community at large.

Subject	Convention	Aim of Standard
FREEDOM OF ASSOCIATION		
	C. 87, Freedom of Association and protection of the Right to Organise, 1948	The right, freely exercised, of workers and employers, without distinction, to organise for furthering and defending their interests.
	C. 98 Right to Organise and Collective Bargaining, 1949	Protection of workers who are exercising the right to organise; non-interference between workers' and employers' organisations; promotion of voluntary collective bargaining
	C. 135. Workers' Representatives, 1971	Protection of workers' representatives in the undertaking; facilities to be afforded to them.

C. Rural Workers' Organisations, 1975	Freedom of association for rural workers; encouragement of their organisations; their participation in economic and social development.
C. 151. Labour Relations (Public Service), 1978	Protection of Public employees exercising the right to organise; non-interference by public authorities; negotiation or participation in the determination of terms and conditions of employemnt; guarantees for settling disputes.

PROHIBITION OF FORCED LABOUR

C. 29. Forced Labour, 1930	Suppression of forced labour
C. 105. Abolition of Forced Labour, 1957	Prohibition of the recourse to forced or compulsory labour in any form to certain purposes.

EQUALITY OF OPPORTUNITY AND TREATMENT

C. 100. Equal Remuneration, 1951	Equal remuneration for men and women for work of equal value.
C. 111 Discrimination (Employment and Occupation), 1958	To promote equality of opportunity and treatment in respect of employment and occupation

EMPLOYMENT AND HUMAN RESOURCES

C. 122. Employment Policy, 1964	Full, productive and freely chosen employment.
C. 88. Employment Service Convention, 1948	Free public employment service
C. 142. Human Resource Development, 1975	The development of political and programmes of vocational guidance and vocational training, closely linked with employment.
C. 159, Vocational Rehabilitation and Employment (Disabled Persons), 1983	To ensure a suitable employment and social integration for disabled persons, in conditions of full participation and equality.
C. 158. Termination of Employment, 1982	Protection against termination of employment without valid reasons.

SOCIAL POLICY / LABOUR ADMINISTRATION

C. 117. Social Policy (Basic Aims and Standards), 1962	All policies shall be primarily directed to the well-being and development of the population and to the promotion of its desire for social progress.
C. 150. Labour Administration, 1978	The establishment of an effective labour administration with the participation of employers and workers and their organisations.
C. 160. Labour Statistics, 1985	The maintenance of regular series of labour statistics.
C. 144. Tripartite Consultation (International Labour Standards), 1976	Effective consultation between the representatives of the government, of employers and of workers on international labour standards.

INDUSTRIAL RELATIONS

C. 154. Collective Bargaining, 1981	To promote free and voluntary collective bargaining
C. 131. Minimum Wage Fixing, 1970 (read with earlier convertion No. 26 of 1928	Protection against excessively low wages.
C. 1949. Protection of Wages, 1949	Full and prompt payment of wages in a manner which provides protection against abuse.

WEEKLY REST AND PAID LEAVE

C. 14. Weekly Rest (Industry), 1921	At least 24 consecutive hours of rest per week.

OCCUPATIONAL SAFETY AND HEALTH

C. 155. Occupational Safety and Health; 1981	A coherent national policy on occupational safety, occupational health and the working environment. Communication and co-operation at all levels in this area.

SOCIAL SECURITY

C. 109. Social Security (Minimum Standards), 1952	To establish with the requisite flexibility, given the wide variety of conditions, obtaining in different countries minimum standards for benefits in the main branches of social security.

EMPLOYMENT OF WOMEN

C. 3. Maternity Protection, 1919 & C. 103. Maternity Protection (Revised), 1952	Twelve weeks of maternity leave with entitlements to cash benefits and medical care.
C. 89. Night Work (Women) (Revised), 1948, and Protocol, 1990	The prohibition of night work for women in industry, while allowing some flexibility under certain conditions.
C. 45. Underground Work (Women), 1935	The prohibition of the employment of women on underground work in any mine.

EMPLOYMENT OF CHILDREN AND YOUNG PERSONS

C. 138. Minimum Age, 1973	The abolition of child labour. The minimum age of completion of compulsory schooling (normally not less than 15 years). This does not apply to certain work as part of vocational / technical training and apprentices of the age of 14 years.

MIGRANT WORKERS

C.C. 97. Migration for Employment (Revised), 1949	Assistance, information, protection and equality of treatment for migrant workers.
C. 143. Migrant Workers (Supplementary Provisions), 1975	Equality of opportunity and the elimination of abuses.

INDIGENOUS AND TRIBAL PEOPLE PLANTATIONS

C. 169. Indigenous and Tribal People, 1989	To protect the rights of indigenous and tribal peoples in independence countries and to guarantee respect for their integrity.

C. 110. Plantations 1958 and Protocol, 1982	To expand the application of certain provisions of existing Conventions to plantations.
HOURS OF WORK	
R. 116 Reduction of Hours of Work Recommendation	Normal hours of work shall be progressively reduced when appropriate with a view to attaining the social standard of the 40-hours week without any reduction in the wages of the workers as at the time hours of work are reduced.

The above listing is illustrative, not exhaustive. Also, in most cases there is a long prior history. If one notes the usual gap between a convention is adopted and a national legislation is passed it would be possible to appreciate that the ILO Conventions must have had a decisive influence in shaping the public at the national level.

6.5. LABOUR POLICY AND THE FIVE – YEAR PLANS

Soon after India attained Independence in 1947, the Central Government convened a conference which was attended by the representatives of State governments, employers and workers with view to developing to increase industrial production. At this conference they adopted a resolution called the Industrial Truce Resolution, the object of which was to evolve measures to improve relations between employers and labour and ensure conditions that would not interrupt production. After this resolution was adopted, the Government of India set up two tripartite committees, namely, the Committee on Fair Wages and the Committee on Profit Sharing. The recommendations of these committees later formed the basis for the planned and orderly progress of industrialization.

The planning Commission was set up later in March 1950. The basis for formulating the five-year plans was an initial in-depth analysis by experts as to the priorities and the manner of utilising the scarce resources available in a developing country. The strategies for growth, the mix between industry and agriculture, generation of employment and improving the standards of living were to be chalked out and given as guidelines to the Central Government and then to the States for implementation. This would ensure a phased and balanced growth of the various sectors of the economy.

This study is, however, mainly concerned with the labour policy enunciated in the 5 Five-Year Plans which we shall discuss at length in the following pages.

For the Planning Commission's approach to labour, the first consideration is related to the well-being of the working class and, secondly, the plan's contribution to the economic stability and progress of the country.

6.5.1. First Five-Year Plan (1951-1956)

The recommendations of the Planning Commission with regard to policy, when accepted, form the basis of the labour policies of the and State Governments which it revises from time to time according: specific needs of industry and the requirements of a planned Labour policy was first formulated by the Commission in 1951.

The First Five-Year Plan concentrated on five aspects of labour (i) industrial relations; (ii) wages; (iii) working conditions; (iv) emp. and training; and (v) productivity.

6.5.1.1. Industrial Relations

The Planning Commission in consultation with the Ministries of and Commerce and Industry had worked out certain proposals to govern industrial relations. According to these proposals the industrial development committee composed of representatives of employers and workers agreed upon certain conclusions in respect of an industrial relations policy. The main features of this agreement are that the workers had a right to strike, to resort to direct action for the defence of their rights. At the same time the disruptive effects of a strike had to be considered and therefore curtailed as far as possible. Since India, soon after independence, was moving in the direction of planned production and distribution, realisation of social justice and welfare of the workers was of utmost importance. The plan thus recommended that the States arm themselves with legal powers to refer disputes for settlement when there was a deadlock between the two parties in a dispute, by arbitration or adjudication if other peaceful methods failed.

The stress was to be on avoidance of disputes and as far as possible on internal settlement of disputes. For this, the plan recommended that terms and conditions of employment and responsibilities of the employers and workers should be clearly defined, that a grievance procedure should be developed and standing orders laid down.

In order that there be harmonious labour-management relations there was to be close collaboration between employers and workers through consultative committees.

Works committees were to be set up for on-the-spot settlement of differences between the workers and management and the evolution of team spirit and a sense of belonging to the enterprise and its viability was to be forstered. The process of collective bargaining was to be encouraged for which there would be a single bargaining agent over as large an area of industry as possible. In other words, industry-wide agreements were to be encouraged.

Another point of agreement was the determination of norms to govern the relations between employers and workers. The machinery for this was to be tripartite in nature. When agreement was not possible the government was to decide unilaterally. These decisions were to be incorporated in legislation.

6.5.1.2. Wages

The recommendations in this regard were that there should be some control on wage increases, in fact some kind of regulation and monitoring. The Planning Commission felt that “advances to a living wage can be achieved through a fall in prices, an increase in the productivity of labour, or an improvement in the capacity of industries to pay, brought about by nationalisation of industry or modernizations of the plant etc.”[1]

The tripartite machinery for wages was to develop norms to guide wage boards in selling questions relating to wages. A suitable and proper basis had to be worked out by this machinery for awarding periodic bonus by the industrial tribunals and courts Wage boards has to be established in each State and the Centre in order to deal with the questions relating to wages. A statutory Provident Fund for industrial workers was to be instituted to provide for old age.

6.5.1.3. Working Conditions

The Plan emphasises that administrative measures are to be developed for the implementation of such pieces of legislation as the Factories. Act, 1948, the Mines Act, etc. which regulate conditions of

work. As suggested by the Plan, the action should take the following course. The Factory Inspectorate was to be strengthened for achieving standards of enforcement of these laws. In cases where lower standards prevailed those areas were to be I given greater attention. An inspection code for each industry regarding its working conditions was to be prepared and the provisions of this code were to be followed strictly; the employers were also to be concerned with workers' education, health, and other social needs. Finally, to promote the effective implementation of the provisions of the Factories Act, a national industrial health museum was suggested, to create awareness in the minds of the public at large.

6.5.1.4. Employment and Training

The recruiting arrangements of the individual concerns were to be improved so that the exploitation of the workers was avoided (collection of money for giving a job). An enquiry was recommended to examine the working of [the employment exchanges.

There was to be coordination in the provision and facilities for technical and industrial training between the ministry of labour and apprenticeship training schemes in industrial undertakings. It was suggested that an assessment be made of the requirements, short-term as well as long-term, of the different types of skilled manpower.

The process of rationalisation (installation of new machinery in industry) was to be facilitated, based on safeguards like fixing work loads, standardisation of working conditions, stopping fresh recruitment, offering work to surplus workers in other departments without causing a break in the continuity of service and offering of gratuity to induce voluntary retirement etc.

The Planning Commission pointed out that in fulfilling these recommendations there would be a progressive rise in the productivity of industry.

6.5.1.5. Productivity

Productivity studies were suggested to find out the productivity per worker-Methods were to be evolved to conduct these studies with a view to understanding the factors responsible for high or low levels of productivity m different industries.

Thus the First Plan was drawn up with awareness of one aspect, it. The importance of industrial labour in the national economy. Social security measures were implemented in the form of ESIS Act, 1948, Employees Provident Fund (EPF) Act, 1952, etc. A Central Labour Institute was planned to study the problems of production in relation to the health and safety of workers and State Governments opened welfare centres for industrial workers.

6.5.2. The Second Five-Year Plan (1956-1961)

The Second Five-Year Plan was framed in the light of the socialist pattern of society which was built not only on monetary incentives but on ideas if service to society.

Thus the labour policy of the Second Five-Year Plan set as its objective better discipline, increased production and improved productivity. Towards this objective the Planning Commission constituted a panel of labor that concluded certain agreements from which the recommendations in the Second Five-Year Plan have emerged.

These recommendations were as follows:

The Second Five-Year Plan continued the policy laid down in the First Plan with certain changes. In the matter of Industrial Relations the Plan stressed mutual negotiations, conciliation and voluntary arbitration. Where the cases were intractable there was to be recourse to government intervention to remedy this situation. Since inadequate implementation of awards and agreements led to friction between labour and management, an appropriate tribunal was to be constituted to enforce compliance with the directions of the awards. Penalties for violation, it was suggested, should be deterrent in nature. This plan recommended the setting up of a standing joint consultative machinery at the centre, in the states and in individual units for bringing about cooperation between labour and management and setting up of a council of management to discuss matters relating to an enterprise and to recommend steps for harmonious working.

6.5.2.1. Wages

The Second Plan identified the factors which could solve difficulties in the implementation of the principle of fair wages, namely, improvement of the working of marginal units. One way was to combine such units into larger ones consistent with the requirements of a decentralised economy. Surveys had to be made to determine which units fell in this category. The other recommendations for improvement of wages were : (I) improvement of working conditions; and (ii) introduction of payment by results. The plan also recommended the setting up of a wage commission to lay down the principle of an acceptable wage policy.

The wage commission was to examine the relevant data and formulate the principles for defining the relationship between wages, prices and profits, keeping in view the social objectives of the community. In order to have an adequate data base the Plan recommended “the wage census before formulating the principles”. Not only was the wage census to be taken into account but the causes of wage disputes were also to be considered.

This Plan recommended that a tripartite wage board, consisting of an equal number of representatives of employers and workers and an independent Chairman should be instituted for settlement of wage disputes since the industrial tribunals could not resolve issues satisfactory.

6.5.2.2. Social Security

The third aspect of labour policy emphasised by the Second Five- Year Plan was its recommendation for extension of social security measures like the EPF scheme. The EPF scheme was implemented on a statutory basis during the First Plan. The Second Plan recommended that the EPF be extended to cover industries and commercial establishments having 10,000 workers or more in the country as a whole.

The enhancement of the rate of contribution from 6 ¼ % to 8.33 % and extending the provision of medical benefits to workers’ families under the ESIS scheme was suggested. Another recommendation was to combine different social security measures into an overall social security scheme, to reduce overhead costs and to provide more benefits from the savings so effected.

The Second Five –Year Plan also recommended measures for certain groups of workers who needed separate treatment, agricultural labour and women workers. The suggested measures were regulation

of working conditions of contract labour, ensuring their continuous employment, region-wise determination of the level of minimum wages for agricultural labour and its effective enforcement, and effective implementation of various statutes for protection to women workers.

The Second Five –Year Plan aimed at provision of development programmes for the training of craftsmen (to provide 19,700 seats in addition to 10,300 seats available) to increase the period of training. The training schemes were to be implemented by the State Governments in collaboration with the Ministry of Labour, Government of India and a National Council for vocational Training. The introduction of an apprenticeship scheme for training skilled craftsmen, to increase the number of employment exchanges and extended the scope of their activities, expansion of the Central Labour Institute, setting up of a film unit for a Workers Education Programme, and housing programmes for industrial workers, etc. were a few of the improvements suggested by the Plan.

One of the points worth mentioning in this Plan was the development of the concept of workers' participation in management. Joint management councils were established in 23 units (Third Plan) on an experimental basis. These councils were given the responsibility for matters such as workers welfare, training and other related matters, to act as a link between the employers and workers in maintaining relations between them. In a seminar in March 1960, the work of the councils was reviewed and it was found satisfactory.

The Plan period witnessed significant advances in the area of workers education. It was found that such programmes have helped to "raise the confidence of the workers" and "increased their ability to take advantage of labour laws".

6.5.3. The Third Five – Year Plan (1961-1966)

This plan aimed at consolidating, stabilising and expanding the measures taken during the Second Plan. In the matter of industrial relations, the Third Plan emphasised the implementation of the Code of Discipline. This Plan mentioned that the principle of voluntary arbitration was to be followed for settlement of disputes in preference to adjudication. In this connection, it was suggested that the government should take the initiative in drawing up panels of arbitrators on a regional and industry – wise basis. The Plan strongly recommended that in order to improve their work efficiency the functions of the workers committees be demarcated so that they were distinct trade union activity. It also made recommendations for progressive extension of the scheme of joint management councils, and consequent to this step, undertaking of an intensive programme of workers' education in the establishments where such councils were set up to improve the rate of literacy among workers. Finally, the Plan recommended the need to recognise trade unions as a step towards recognising their role in the industrial and economic administration of the country.

6.5.3.1. Wages

The recommendation of the Second Plan to set up wage boards for the settlement of wage disputes was extended to many industries in the Third Plan, as in the iron and steel industry. On the question of payment of bonus it was decided to appoint a commission to study the problems connected with bonus claims and to evolve guidelines with principles and norms for the payment of bonus.

6.5.3.2. Social Security and Labour Welfare

The coverage of workers under the ESI scheme was 17 lakhs industrial workers at the end of the Second Plan and during the Third Plan period the scheme aimed at a total coverage of 30 lakhs. A scheme was also proposed to add 6000 hospital beds by building additional hospitals (Third Plan). The coverage of the EPF scheme was also to be extended. The EPF scheme which covered 58 specified industries/establishments was to be extended. The employment level for coverage was to be lowered from 150 to 20 persons.

To ensure the safety of mine workers, a National Mines Safety Council was proposed to be set up to familiarise those in the mining industry with safety rules and measures. The question of separate safety legislation for building and construction workers was also examined by this plan. As recommended by the Plan, special welfare funds were constituted for welfare measures for coal and mica mining workers. In some industrial centres workers' cooperative housing societies exist.

6.5.3.3. Employment and Training Schemes

By the Third Plan period it was intended to increase the number of industrial training centres, with adequate in –plant training facilities for training educated youth in the methods of business management. The capacity of the three central training institutes for craft instructor was to be raised. The apprenticeship training scheme which was carried out on a voluntary basis in the Second Plan was sought to be made compulsory. It was also intended to increase employment exchanges, especially rural employment exchanges.

Another aspect which was covered in this Plan was the need to develop a scheme to provide relief to retrenched workers on a contributory basis, with the assistance of the government. The relief was to be in the form of loans.

6.5.3.4. Productivity

The Third Plan also laid stress on raising the level of productivity for which the employer, the workers and the rest of the community were to work together.

6.5.3.5. Research

During this period one aspect which was given equal importance with the other routine aspects of planning was labour research in the areas of working conditions, family budgets, absenteeism, etc. It was decided to constitute a central committee, tripartite in character, for coordinating labour research.

6.5.4. *The Fourth Five -Year Plan (1969-1974)*

In the matter of Industrial Relations, continued emphasis was laid on measure recommended in the earlier plans. As a result many acts were enacted e.g., the Payment of Bonus Act, 1965, the Shops and Commercial Establishments Act and the Labour Welfare Fund Act in the States. The National Safety Council was set up in 1966 as per the recommendations of the Third Plan. All the wage boards of the 19 major industries had submitted their reports. Under the Minimum Wages Act, 1948, the minimum wages were fixed for agricultural and other trades. The Government of India set up the National Commission on Labour to study and make recommendations on various aspects of labour relations.

The coverage of social security measures as in the case of ESIS and EPF was extended.

The Fourth Plan laid great emphasis on employment and this idea was given wide coverage. Thus, in 1968, a committee of experts was set up by the Planning Commission to enquire into the estimates of unemployment worked out by other plans, the Census and the National Sample Survey to advise the Planning Commission on these issues. The committee submitted its report which recommended the collection of employemnt data in India.

The strategy developed by the Fourth Plan was unique in the sense that it emphasised labour intensive programmes through the development of agriculture and the rural infrastructure like electrification, water management, and so on. This plan laid stress on schemes such as roads, minor irrigation, housing and urban development.

Thus, many of the programmes launched during the Fourth Plan period were with the goal of increasing employment opportunities and providing unemployment relief in the rural areas.

During this Plan period the Maharashtra and Gujarat governments formulated employment schemes. Other schemes formulated for employment growth were in the mining and manufacturing industries, the transport sector, the construction industries etc.

6.5.5. *The Fifth Five-Year Plan (1974-79)*

The Fifth Plan document had a chapter on employment, manpower and labour welfare. The thrust was on a few themes, which are discussed below :

The need to generate more employemnt opportunities and help to reduce under employment, either in the wage employment category or in the self-employed category for which labour intensive projects were suggested. The need to examine more closely, in view of the changed economic environment, the linkage between current education systems and population growth was also highlighted. It was felt that given the population explosion, besides family planning to control this phenomenon, there was a need to reorient education towards practical skill formation.

There was an extensive review of the demand and supply for the various types of specialist manpower, such as, engineers, doctors, teachers, scientists, managers, agriculture specialists and craftsmen. It was suggested that craftsmen should be given training to improve and diversify their skills to meet the needs of the current environment.

The need for greater mobility of labour was also stressed, especially from labour surplus to labour starved areas. It was felt that geographic barriers would result in artificial shortages and excesses.

The government provides an employment service through employment exchanges. These services were to be expanded to cover a comprehensive package, consisting of career counselling and vocational guidance.

It was suggested that there was a need to improve labour welfare amenities already existing by integrating them into more comprehensive social security package and expand the coverage of the employees state insurance scheme and the family pension scheme.

Finally, a national labour institute was to be set up, to function as a coordinating agency for research in labour matters.

The plan allocation was Rs.57 crores for craftsmen training, employment service and labour welfare programmes.

6.5.6. The Sixth Five-Year Plan (1980-1985)

The Sixth Plan had a chapter on labour and labour welfare. After a brief overview of the labour situation in the country, which highlighted the wage and bonus issue, in terms of wage differentials, national minimum wage and the need for productivity-linked bonus, the document highlighted a few thematic concerns. The need to strengthen and revitalise scheme of workers' participation, according to the Sixth Plan :

It should be made a vehicle of transforming the attitudes of both employers and workers for establishing a cooperative culture which may help in building a strong, self- confident country with a stable industrial base.

A 21 Member Committee comprising the representatives of employees, trade unions, government and academicians has studied the matter in depth and recommended, among others, a legislative scheme of workers' participation providing three-tier participative forums at shop floor, plant level and corporate/board levels. An enlarged area of participation to cover matters relating o operational economic and financial, personnel, welfare and environment areas has also been recommended.

An effective agency for monitoring and evaluation would greatly help in making participative management a success.

Next, the role of trade unions, particularly in the organized sector, was examined. A recognition of the role of trade unions was suggested. It was estimate that the extent of unionisation in the organized sector as a whole was around 30%. Several factor like the proliferation of unions, inter-union rivalry and the role of outside leaders have combined to "undermine the effectiveness of collective bargaining and led to industrial unrest". (Sixth Plan, p.405). The trade union's role and orientation of attitudes needs to be changed, given the nation's priorities of growth and development. There needs to be a better identification of the worker's goal with that of the enterprise's viability. At the same time the trade unions have a major role to play in improving the quality of life of the workers, through education, health and family planning, recreational and cultural activities.

Expansion of two major social security measures was suggested : first that the employees' Provident Fund security should be extended to employees in smaller establishments and those in rural areas. The second was the need to extend the Employees State Insurance scheme to newer areas. In both the scheme, the coverage of employees was somewhat limited and these two important benefits could help ease the privations of many wage earners.

Concern was also expresses about safety and working conditions. A broader framework was suggested to include the effect of occupational diseases, the environment in which workers live and work. It was felt that these two factors had a direct bearing on increased production.

The document examined in detail, the problems of the rural and other special deprived categories of labour. It suggested the need for the proper oragnisation of rural labour, in order to protect their interests, either through existing trade unions or through their own efforts. The need to periodically revise the minimum wages of agricultural labour was high-lighted. Special problems of bonded labour, child labour, women labour, contract labour, construction labour and inter-state migrant labour were identified and steps that ought to be taken to mitigate their problems and the special care and attention that groups deserved was highlighted.

An outlay of Rs. 161.9 crores was proposed for labour and labour welfare the programme for the plan period.

6.5.7. The Seventh Plans Reiterated the earlier programmes, expressed concern over the shortcomings in realising the important goals of improving the conditions of working class, workers participation, productivity improvement, etc. During the period, important legislative amendments were made to enhance the protection to workers, besides the introduction of a 20-point programme, new schemes of workers' participation and vain attempts at radical overhaul of labour legislation. The period also saw the declaration of emergency during which period certain labour right were curtailed.

6.5.8. The Eight Plan echoed concerns raised in the earlier plans with particular reference to workers participation in management, skills training, productivity, equitable wage policy, informal sector, etc. It also, for the first time, expressed concern about the need to rationalise the regulatory framework with a view to "providing reasonable flexibility for workforce adjustment for effecting technological upgradation and improvement in efficiency". At the same time, the plan document emphasised the need to "ensure that earnings, conditions of work and social security".

The major problem with our five year plans is that the intentions are pious and noble. But there is little that the plans offer by way of providing guidance or clue as to how these shall be achieved, measured and monitored. The goals being abstract, the inspection and database being weak, the daunting tasks in each of the successive plans left more to be achieved.

6.5.9. Nineth Five Year Plan (1997-2002)

This should have followed immediately in the wake of the Eighth, but was dogged by political uncertainty. Till 1999, only the approach document was ready, though this too was free from the earlier concerns with labour welfare. The government which came to power in 1998 finally announced that the Plan would be recast and become applicable from the year 2000 and the three years from 1997 to 1999 would be treated as annual plans. But that government itself was voted out of power in April 1999.

It is important to understand the background of this Plan, since this has implications for IR. The NEP did not achieve any spectacular growth during 1991 to 1997, although there was some improvement, particularly in two years- 1994 and 1995. At the same time, the adversities experienced by many, due to job losses in an already small-organised sector, caused a political reversal for the party perceived as having initiated the program. The new government was voted to power on a divided mandate and lasted for just two years. Significantly, the Economic Policy has not been reversed in any way, although it was recognized that it had adversely affected certain sections of the population. Part of the blame for a poor effect was also attributed to the fact that all the programs envisaged could not be carried out due to resistance from various quarters, the inevitability of democratic processes and the compulsions

of vote banks. Trade unions have quite obviously been among the forces of resistance, though there are examples of innovations on their part as well.

The approach paper to the Plan thus began with the admission that growth pattern had not benefited the poor and underprivileged sections of society. The growth targets in employment generation of 2.6 per cent also had not been achieved. They were just 2.23 per cent. The unemployment based on current daily status continued to remain over 6 per cent annually for said that, it also targeted an overall growth rate of 7 per cent annually for the Ninth Plan period through a 15 per cent increase in seven basic minimum services such as education and health. It also promised rationalization of labour laws, which eluded the government during the first years of the SAP.

6.5.10. Tenth Five Year Plan

The tenth plan states: “The industrial slowdown is widespread covering all broad sectors, e.g., manufacturing, electricity and mining and all end use based groups such as capital goods, intermediate goals and consumer goals. The slowdown in domestic and global demand appeared to be a major factor constraining industrial growth. Another major reason has been the decline in investment, noticeably by the private sector”.

6.6. SUMMARY

We have briefly discussed the public policies concerning union-management relations. The role of the State on the subject and the influence of the provisions of our Constitution, International Labour Standards, Five year Plans and tripartite consultation were outlined. It is observed that while the public policy objectives may be laudable the institutional arrangements to ensure its implementation and evaluate its effectiveness are either weak or non-existing.

6.7. SELF-ASSESSMENT QUESTIONS

1. Trace out the role of state in Union-Management.
2. What relations are the constitutional provisions regarding labour policies.
3. Examine the Role of ILO.
4. A brief outline of the Industrial relations and the five year plans.

6.8. REFERENCE AND FURTHER READINGS

* Government of India, Five Year Plans (various Plan periods)
* Government of India, Report of the National Commission on Labour, New Delhi: The Author, 1969.
* Government of India, Constitution of India, Delhi : The Author, 1981.
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Lesson – 7

TRIPARTISM : INDIAN LABOUR CONFERENCE (ILC), STANDING LABOUR COMMITTEE (SLC) AND WAGE BOARDS

OBJECTIVE :

After goring through this lesson we should be familiar with Concept and Importance of Tripartism, Evolution of Bodies, Indian Labour Conference, Standing Labour Committee and wage boards.

STRUCTURE

7.1 INTRODUCTION

Industrial relations in India have been shaped largely by principles and policies evolved through tripartite consultative machinery at industry and national levels. The aim of the consultative machinery is "to bring the parties together for mutual settlement of differences in a spirit of co-operation and goodwill". The role of the tripartite machinery has been summarised by the Planning Commission thus:

7.2 IMPORTANCE OF TRIPARTITE BODIES

"Labour policy in India has been evolving in response to the specific needs of the situation in relation to industry and the working class and has to suit the requirement of planned economy. A body of principles and practices has grown up as a product of joint consultation in which representatives of government, the working class and the employees have been participating at various levels. The legislative and other measures adopted by government in this field represent the consensus of opinion of the parties vitally concerned and this acquire the strength and character of a national policy, operating on a voluntary basis".

7.3 EVOLUTION OF THE BODIES

The need for tripartite consultation on labour matters on the pattern set by the ILO was recommended by the Whitely Commission in 1931. It envisaged a statutory organisation which should be sufficiently large to ensure adequate representation of the various interests involved; but it should not be too large to prevent the members from making individual contributions to the discussions. The representatives of employers, of labour and of government should meet regularly in conference. The commission also recommended that labour members should be elected by registered trade unions and employer's representatives should be elected by their associations.

But the recommendation was not implemented and nothing could be done in this respect till the outbreak of the Second World War, which necessitated the need for maintenance of industrial peace. During the inter-war period, the Government of India had adopted a practice of holding consultations on important labour questions, principally those coming up before the legislature or before the International Labour Conference, with the representatives of the then provincial governments, employers and workers. These consultations were, however, held separate with representatives of each group. During the Second World War separate consultations with the representatives of labour and employers were held in 1941 and 1942 by the Government of India to finalise post-war labour programmes. The experience of these consultations has highlighted the necessity of holding joint meetings of the representatives of the government, workers and employers, thus, providing a common platform for the resolution of differences between the employers and workers by means of discussion and mutual understanding. Accordingly, the Fourth Labour Conference was held in August 1942. It set up a permanent tripartite collaboration machinery and constituted a Preliminary Labour Conference (Later named as the Indian Labour Conference – ILC) and the Standing Labour Advisory Committee (which subsequently dropped the word 'Advisory' from its title SLC). Initially the ILC consisted of 44 members, whereas the SLC was about half the size of the ILC. The pattern of representation was governed by that obtaining in the International Labour Conference. It ensured :

(i) Equity of representation between the government and the non-government representatives;

(ii) Parity between employers and workers;

(iii) Nomination of representatives of organised employers and labourers was left to the concerned organisations; and

(iv) Representation of certain interests (unorganised employers and unorganised workers), where necessary, on and *ad hoc* basis through nomination by government. The delegated are free to bring one official and one non-official adviser with them.

7.4 INDIAN LABOUR CONFERENCE AND STANDING LABOUR COMMITTEE

The objects of the Indian Labour Conference (ILC) are :

"(a) To promote uniformity in labour legislation;

(b) To lay down a procedure for the settlement of industrial disputes; and

(c) To discuss all matters of all- India importance as between employers and employees".

The function of the ILC is to "advise the Government of India on any matter referred to it for advise, taking into account suggestions made by the provincial government, the states and representatives of the organisations of workers and employers".

The Standing Labour Committee's (SLC) main function is to "consider and examine such questions as may be referred to it by the Plenary Conference or the Central Government, and to render advice taking into account the suggestions made by various governments, workers and employers".

The representatives of the workers and employers were nominated to these bodies by the Central Government in consultation with the all-India organisations of workers and employers.

The agenda for ILC/SLC meetings was settled by the Labour Ministry after taking into consideration the suggestion sent to it by member organisations. These two bodies worked with minimum procedural rules to facilitate free and fuller discussions among the members. The ILC meets once a year whereas the SLC meets as and when necessary.

The rules and procedures, which characterise the Indian tripartite consultative machinery, are largely in keeping with the recommendations of the ILO Committee on consultation and co-operation for the formulation of the ILO Recommendation No. 113. In this connection, the following guidelines have been suggested:

(i) Use of flexible procedures;

(ii) Calling a meetings only when necessary with adequate notice of the meeting and the agenda;

(iii) Reference of certain items to working parties, if necessary;

(iv) Dispensing with voting procedures in arriving at conclusions to facilitate consultations;

(v) Maintaining records of discussions in detail and circulating the conclusions reached to all participants;

(vi) Documentation of references; and

(vii) Provision of an effective secretariat and a small representative steering grant in case of more formal consultative machinery.

7.5 EVALUATION OF ILC AND SLC

According to the National Commission on Labour, these two bodies have immensely contributed to attainment of the objectives set before them. It observes: "The ILC/SLC have facilitated the enactment of Central legislation on various subjects to be made applicable to all the states and union territories in order to promote uniformity in labour legislation. Tripartite deliberations helped to reach a consensus, *inter alia*, on statutory minimum wage fixation (1944), introduction of a health insurance scheme (1945), enactment of the Standing Employment Order Act, 1946, the Industrial Disputes Act, 1947, enactment of the Minimum Wages Act, 1948, Dock Worker's Regulation of Employment Act, 1948, the Employees' State Insurance Act, 1948, Provident Fund Scheme 1950, the Mines Act, 1952, the Employees Provident Fund Act, 1952, and the making of legislation concerning payment of bonus, regulation and abolition of contract labour, etc. The tripartite deliberations also facilitated the formulation of comprehensive procedures for the settlement of disputes under the Industrial Disputes Act, 1947. Both the inception of Labour Appellate Tribunal in 1950 and its abolition in 1956 were the result of such deliberations. The range of subjects discussed at the forums of ILC/SLC has been large, and has included social, economic and administrative matters concerning labour policy".

Apart from these legislative proposals, the other important subjects processed by tripartite bodies include workers' education's, worker's participation in management, training within the industry, wage policy, wage boards, the Code of Discipline, criteria and procedures for the recognition of unions.

Though the recommendation of tripartite bodies are of an advisory nature, they carry considerable weight with the government, workers and employers. Each party is morally bound to give effect to the recommendations to the extent practicable. The general principle is that unanimous conclusions and agreed recommendations are treated as commitments by the parties to implement them. If any substantial difficulty, which a party could not anticipate at the time of accepting the recommendation, comes to light, the matter could be brought up again before the conference or the committee for reconsideration.

The ILC/SLC have also been subject to criticism. "*Firstly,* their contribution to some labour matters has suffered because certain far-reaching decisions were taken by them apparently without adequate internal consultation within the groups forming the tripartite. *Secondly*, a wide gap between the spokesmen of employer's and worker's organisations and the lack of control of the central organisations over their affiliates led to failure on the part of other constituents of the tripartite…. Further, there has been a measure of dissatisfaction over the nature of consensus arrived at in these bodies. Increasing absence of unanimity in tripartite conclusions has been a cause of concern… *Lastly,* the worker's organisations have criticized the procedures in reaching consensus as an exercise in semantics, leaving the basic contractions unresolved. The employers have similarly held the view that the usefulness of tripartite bodies will be enhanced if official conclusions are based not merely on the views summed up by the chairmen, but on the points emphasised by all the parties".

After analysing the evidence, the National Commission on Labour concluded :

"In order to make the process of reaching consensus more consultative, the government should restrict its influence on tripartite deliberation where it is likely to be considered as over-persuasive. Similarly, the worker's and employers' representatives have to continue their cautions attitude in reaching agreements which should be treated as deserving every consideration for implementation".

While pointing out that, “to give to all tripartite recommendations a statutory force will have serious difficulties”, the Commission suggested:

‘Tripartite could be taken in two stages. There should be a preliminary but detailed discussion on any subjects brought to the forum. The conclusions recorded at this preliminary discussion should be widely publicised and free comments on them encouraged. On the basis of these comments, the tripartite forum, in the second round of discussions, should frame its recommendations”.

The other suggestions, offered by the Commission, to make the two bodies more effective, are :

(i) To save time at the conference, the discussions should be well supported by a good deal of spade work in the committees of the Conference, and the duration should be longer.

(ii) Only those central organisation should be given representation which have a membership of at least 10 percent of the unionised labour force in the country.

(iii) There should be a review very three years to accord representation to organisations on the above basis, but with the object of weeding out weaker federations and to promote organisational solidarity. The employer’s representation at the tripartite forums should also be modified accordingly to maintain parity.

7.6 INDUSTRIAL COMMITTEES

The eight session of the ILC (1947) decided to set up Industrial Committees “to discus various specific problems special to the industries covered by them and submit their report to the conference, which would co-ordinate their activities”. These committees are tripartite bodies in which the number of worker’s representatives is equal to the number of employer’s representatives. They do not meet regularly, meetings are considered afresh each time a session is called.

The first Industrial Committee was constituted in 1947. So far eleven committees have been set up for plantations, cotton textiles, jute, coal mining, mines other than coal, cement, tanneries, and leather goods manufacturers, iron and steel, building and construction industry, chemical industries, road transport, engineering industries, metal trades, electricity, gas and power, and banking.

These committees provide a forum for the discussion of proposals for legislation and other matters connected with labour policy and administration before they are finally brought up before the legislature, so that the passage of the legislation may be facilitated.

The NCL is of the opinion that “The record of industrial committees which have met frequently has been definitely encouraging if judged in the light of the collective agreements arrived at and their implementation. The unfortunate part has been that the committees meet too infrequently”. In its analysis of evidence, the commission observed that majority of employers’ organisations were of the union that tripartite organisations could play a useful role in the federal structure, and it could be more effective if there were a better system of internal communication within each group and if they did not pressurise one group or the other. The worker’s representatives, on the other hand, pointed out that “the decisions were not implemented and demanded that the recommendations should be given the force of law or at least treated as conventions”.

The commission is of the opinion that "since third party intervention will continue for several years, the ILC/SLC, along with other tripartite consultative bodies, have an important role to play. Tripartite consultation has its value for setting uniform 'norms' to guide industrial relations. But they must remain advisory in character, and while the conclusion/ recommendations reached by them should be treated a deserving every consideration for implementation, they should not be given a statutory force.

7.7 OTHER TRIPARTITE BODIES

After Independence, the Government of India, with a view to evolving and implementing a uniform and co-ordinated labour policy throughout the country, has been calling annually a joint conference of the state and Central Labour Ministers.

7.7.1 Committee on Conventions This is a three-man tripartite committee set up in 1954. The object was "*(i)* to examine to ILO conventions and recommendations which have not so far been ratified by India; and *(ii)* to make suggestions with regard to a phased and speedy implementation of ILO standards".

7.7.2 Steering Committee on Wages It was set up in 1956 as a study group on wages and was subsequently reconstituted as the steering committee on wages. It consists of representatives of state governments, employers and workers and an economist. The functions of this committee are: "(i) to study trends in wages, production and prices; (ii) to plan collection of material for drawing up a wages, production and prices; (iii) to draw up reports from time to time for laying down principles which will guide wage fixing authorities".

7.7.3 Central Implementation and Evaluation Machinery The 18th session of the Standing Labour Committee in 1957 recommended the setting up of a special machinery at the Centre as well as in the states to ensure proper implementation of Labour awards, agreements and Code of Discipline. Such a committee was set up in 1958 "to assess the extent of non-implementation of labour laws, awards, etc, and to advise the parties which are anxious to implement the awards but are not able to do so on account of certain difficulties".

The implementation machinery at the Centre consists of an Evaluation and Implementative Division and a tripartite implementation committee, consisting of 4 representatives each of central employer's and worker's organisations with the union labour minister as chairman.

The important functions of the Central Evaluation and Implementation Division are :

(i) To ensure proper implementation of the code of discipline, the code of conduct, labour enactments, awards and agreements, etc., with a view to reducing, at the source, the main cause of industrial strike;

(ii) To take preventive action by setting disputes long before they become ominous or have defied settlement for long;

(iii) To evaluate major strikes, lockouts and disputes in order to fix responsibility for them; and

(iv) To evaluate the working of important labour legislation, awards, policy decisions, etc., in order to see how far they have produced the desired results, and to suggest measures for improving them.

For similar purpose, state governments have set up implementation units in their labour departments and tripartite implementation committees. The central implementation and evaluation division co-ordinates the activities of the state machinery to ensure uniform action.

7.7.4 Central Boards of Worker's Education CBWE was constituted to encourage the growth of strong and well-informed trade union movement conducted by the workers themselves on responsible and constructive lines. This consists of representatives of employers and workers, and of central and state governments.

7.7.5 National Productivity Council consists of representatives of the government, employer's associations, labourer's organisations and certain independent experts. It encourages the productivity movement in the country.

7.8 NEED FOR REGULATION OF WAGES

In unorganised industries, wages are fixed and revised under the Minimum Wages Act, 1948. In 1985, the government issued a notification listing 41 non-mining and 20 mining employments to which the Act was made applicable. But for their industrial workers, the wages are fixed by several well established procedures or regulating wage-fixation and wage revision. These are settlements in conciliation of wage disputes, collective bargaining at the plant level, bipartite wage revision committees in several industries, adjudication, and arbitration. Wage boards have determined the wages of workers in different sector of the economy. The main objectives of state regulation of wages have been:

(a) Prevention of sweating in industries with illiterate and unorganised workers;

(b) Promoting industrial peace;

(c) Speeding up the pace of economic recovery;

(d) Preventing inflationary pressure and maintaining economic stability ;

(e) Facilitating the formulation of a national income distribution policy and programmes of economic development; and

(f) Narrowing the gap between the marginal productivity of labour and the actual level of wages as the average.

A wage board is a tripartite body, with representatives of the employers and labour, besides independent members. The representatives of the former two interests are nominated by their central organisation; others are nominated by the government. The wage board is an important machinery of state regulations of wages.

7.9 GROWTH AND DEVELOPMENT OF WAGE BOARDS

The history of wage boards in India dates back to the 1930's. The Royal Commission on Labour recommended the setting up of tripartite boards in Indian industries. It said:

"We would call attention to certain cardinal points in the setting up of (wage-fixing) machinery of this kind. The main principle is the association of representatives of both employers and workers in the constitution of the machinery. Such representatives would be included in equal members, with an

independent element, chosen as far as possible in agreement with or, after consultation with, the representatives of both the parties".

"Take decisions regarding wage adjustments *suo motu* or reference from parties or from the government".

No action was taken during that period. However, the Second Plan emphasised the need for determining wages through industrial wage boards. It observed:

"The existing machinery for the settlement of wage disputes has not given full satisfaction to the parties concerned. A more acceptable machinery for settling wage disputes will be the one which gives the parties themselves a more responsible role in reaching decisions. An authority like a tripartite wage board, consisting of an equal number of representatives of employers and workers and an independent chairman, will probably ensure more acceptable decisions. Such wage boards should be instituted for individual industries in different areas".

This recommendation was subsequently reiterated by the 15th Indian Labour Conference in 1957 and various industrial committees. The government decision to set up the first wage board in cotton textile and sugar industries in 1957 was also influenced by the Report of the ILO.

The appointment of a wage board often results from the demands of labour unions. It has been reported: "The formation of wage boards in all industries has been the result of demands and pressure on the part of trade unions. In their efforts to secure the appointment of wage boards, trade unions have to pressure not only the government but also the employers whose formal or informal consent to their establishment must be obtained".

In India, the Bombay Industrial Relations (Amendment) Act of 1948 may be regarded as perhaps the earliest legislation included a provision for the establishment of wage boards in any industry covered by the Act. Accordingly, the first wage board was set up in Bombay for the cotton textile industry. The principal purpose of starting wage boards was to relieve the Industrial Courts and Labour Courts of a part of their adjudication work. The amending Act of 1953 has tired to avoid multiplicity of proceedings under the Act. It empowered Industrial Courts and Labour Courts wage boards to decide all matters connected with or arising out of any industrial matter or dispute.

7.10 INDUSTRIES COVERED

The first non-statutory wage board was set up for the cotton textile and sugar industries in 1957. Since then, 24 wage boards covering most of the major industries, have been set up by the Centre: cotton textiles, sugar, cement, working journalists and non-working journalists (twice each), jute, tea, coffee and rubber plantations; iron ore, coal mining, iron and steel, engineering, heavy chemicals and fertilizers electricity undertakings, road transportation, ports and docks, leather and leather goods, limestone and dolomite. On 17th July 1985, three wage boards were constituted – one each for working journalists, non-working journalists and the sugar industry. But no Central Act contains any provision for setting up wage boards. They are set up by a resolution of the government; and they come to an end with the submission of their reports.

7.11 COMPOSITION AND FUNCTIONS OF WAGE BOARDS

The wage boards is, as a rule, tripartite body representing the interests of labour, management and the public. Labour and management representatives are nominated in equal numbers by the government, after consultation with, and with the consent of major central organisations. Generally, the labour 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 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 :

(a) Determine which categories of employees (manual, clerical, supervisory, etc.) are to be brought within the scope of wage fixation;

(b) Work out a wage structure based on the principles of fair wages formulated by the Committee on Fair Wages;

(c) Suggest a system of payment by results;

(d) 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 payment 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 port 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.

(a) *The needs of the industry* in a developing economy including the need for maintaining and promoting exports;

(b) *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;"

(c) *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 taken into consideration such factor as the degree of skill required for his work, the fatigue involved, the training and experience of the worker, the responsibility undertaken, 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.

7.12 WORKING OF THE 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 organisations on the one hand, after the employer's formal or informal consent on the other. Pressure has been used for the appointment of wage boards for the jute industry by the jute worker's 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 pressure 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 employers' organisation and the worker's 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 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/items 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 board functions in three steps :

(i) The first setup 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, most desirable methods of measuring worker 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 labour unions, employer's association, interested individuals, academic organisations and government agencies.

(ii) The second step is to give a public hearing at which leaders of labour unions and employer's 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.

(iii) 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 case of failure to reach a unanimous decision on the issues, each party has the right to veto the other's 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 complied with by the parties. The government has no legal powers to enforce the board's recommendations. T tries to persuade the parties to narrow their differences and aim at unanimity.

Wage board take 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 finalisation of their deliberations varies from 3 years to 5 ½ years.

The main reasons for the delay in the completion of wage board's work have been :

(i) Routine delays in the recruitment staff; preparation and printing of questionnaires;

(ii) Getting replies to questionnaires;

(iii) Time involved in public hearings; and

(iv) Lack of accord among members in arriving at a decision.

7.13 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 following quotation point to the success of this institution:

"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 set up by the National Commission on Labour identified three major problems from which the wage boards suffer:

(i) A majority of the recommendations of the wage boards are not unanimous;

(ii) The time taken by the wage boards to complete their task has been rather unduly long; and

(iii) The implementation of the recommendations of the wage boards has been difficult.

But it concluded : “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.

Remedies

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

7.14 WAGE POLICY AND WAGE REGULATION MACHINERY

(1) The chairman of the wage board should be selected by common consent of the organisations of employers and employees in the industry concerned.

(2) In future, the wage board should function essentially as a machinery for collective bargaining and should strive for unity.

(3) Wage boards should be assisted by technical assessors and exports.

(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 other 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 organisations of employers and employees before taking a final decision.

(7) Wage boards should not be set up under any status, but their recommendations, as finally accepted by the government, should be made statutorily binding on the parties.

(8) For the industries covered by covered by wage boards, a permanent machinery should be created for follow-up action.

(9) Wage boards should complete their work in one year’s 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.

If these recommendations are accepted, the working of wage boards may b made more affective.

7.15 CONCLUSION

The institution of wage boards has come to be widely accepted in India as a viable wage determination mechanism. Both unions and employer’s organisations have supported it from its very inception, and have been willing to accept changes to make it more efficient and productive. It has succeeded in promoting industry-wise negotiations, as contrasted with enterprise-level decisions under adjudication, more acceptable agreements on wages and other conditions of employment of industrial peace. Furthermore, in addition to encouraging greater participation by the parties and freedom in decision-

making, the boards have functioned with responsibility and restraint, and their recommendations have not undermined the efficiency of the industry.

However, the delays involved in the actual working of the boards and the imperfect implementation of the recommendations have often been a cause of anxiety; but these can be reduced considerably if the collection and tabulation of basic information and relevant data on wage fixation are done on a running and continuing basis in respect of all major industries / employments.

7.16 SELF ASSESSMENT QUESTIONS

1. Explain the concept and importance of Tripartite bodies.
2. Discuss the Establishment of Indian labour conference and standing labour committee.
3. What are the Industrial Committee and Other Tripartite bodies.
4. Sketch the growth and Development of Age Boards.

7.17 REFERENCE AND FURTHER READINGS

1. Government of India, The Third Five-Year Plan, 1961.
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Lesson – 8

VOLUNTARISM : CODE OF DISCIPLINE AND CODE OF CONDUCT AND INDUSTRIAL TRUCE RESOLUTION

OBJECTIVE

Our Reading this lesson you will be able to understand about the evolution of code of discipline, code of conduct and industrial truce resolution in the promotion of positive industrial relation in India and the Union provisions in the code of discipline.

STRUCTURE

8.1 INTRODUCTION

Discipline may be defined as an attitude of mind which aims at including restraint, orderly behaviour and respect for and willing obedience to a recognised authority. In any industry, discipline is a useful tool for developing, improving and stabilising the personality of workers. Industrial discipline is essential for the smooth running of an organisation, for increasing production and productivity, for the maintenance of industrial peace and for the prosperity of the industry and the nation. It is a process of bringing multifarious advantages to the organisation and its employees.

8.2 THE CODE OF DISCIPLINE

In spite of the fact that a large number laws have been enacted, and the Indian labour scene crowded with various complex judicial formalities and legalities and the court has played a considerable role in rendering justice in industrial relations, the industrial relations scene has not been peaceful. Discipline has ceased to exist. Labour- Management relations have been shattered and the expected workers' involvement has not been adequately achieved. As one another has put it : 'While legislation itself has provided many substantive benefits to industrial workers, the delays of labour judiciary have reduced the effectiveness of these benefits". The need for some measures other than legislative was, therefore, felt both by the management and the workers. The Second Plan has stated; "The whole issue of industrial discipline in its various aspects should be examined and in the meantime the parties should see that tendencies to indiscipline are sternly discountenanced". It added: "While the observance of stricter discipline, both on the part of labour and management, is a matter which cannot be imposed by legislation, it has to be achieved by organisations of employers and workers by evolving suitable sanctions on their own-some steps, legislative or otherwise, in case of rank discipline require to be thought of".

8.3 PRINCIPLES OF THE CODE

In pursuance of his suggestion, the Fifteenth Indian labour Conference, held in July 1957, discussed the question of discipline in industry and laid down the following general principles :

(i) There should be no lock-out or strike without notice.

(ii) No unilateral action should be taken in connection with any industrial matter.

(iii) There should be no recourse to go-slow tactics.

(iv) No deliberate damage should be caused to plant or property.

(v) Acts of violence, intimidation, coercion or instigation should not be resorted to.

(vi) The existing machinery for the settlement of disputes should be utilised.

(vii) Awards and agreements should be specially implemented.

(viii) Any agreement which disturbs cordial industrial relations should be avoided.

The principles were later considered by a sub-committee and after certain modifications therein, the Code of Discipline was evolved. It came into force from June 1, 1958. It was accepted by the four Central national labour Organisations (INTUC, AITUC, HMS and UTUC) on behalf of the workers and by the Employer's Federation of India, the All-India Organisation of Industrial Employers and the All-India Manufacturer' Organisation on behalf of the employers.

8.14 CHIEF FEATURES OF THE CODE

The Code defines, in the first section, the duties and responsibilities of employers, workers and even of the government. In the second section are listed the common obligations of management and unions. The third section deals with the obligations of the management only, while the fourth section deals with those of the unions, only. There are two Annexures to the Code. Annexure A contains national level agreements on the criteria for the recognition of unions, while Annexure B deals with the rights of the recognised union.

1. The Code of Discipline is a government induced self-imposed and mutually agreed voluntary principle of discipline and relations between management and workers in industry.
2. It aims at prevailing disputes by providing for voluntary and mutual settlement of disputes through negotiation, conciliation, voluntary arbitration without the interference of an outside agency, or through adjudication.
3. It restrains both the parties from unilateral action, but it induces them to make the best use of the existing machinery for the settlement of disputes with the utmost expedition.
4. The Code compels the parties not to indulge in strike and lock-outs without notice and without exploring the avenues of voluntary, mutual settlement of any possible misunderstanding or disputes.
5. It requires that constructive co-operation should be encouraged between workers and managements at all levels. There should be no recourse to violence, demonstrations, intimidation, victimisation, coercion, discrimination, interference with union activities or normal work either by workers or by management. Neither party should adopt such unfair labour practices as go-slow, stay-in-strike, or sit-down strike tactics and litigation.
6. It requires upon the management to take prompt action for the settlement of grievances, and implementation of awards and agreements.
7. Any action that stands in the way of cordial relations and is against the spirit of the Code on the part of both managements and trade unions should be avoided.
8. Both the Central and State Governments should rectify any shortcomings in the machinery they constitute for the administration of labour laws.
9. Employers are required to recognise the majority union in an establishment or industry and set up a mutually agreed grievance procedure, which will ensure full investigation of disputes, leading to a settlement.
10. The Code of Discipline stipulates: “In order to maintain discipline in industry, both in the public and private sectors, there has to be: *(i)* Just recognition by employers and workers of the rights and responsibilities of either party as defined by law and agreements (arrived at all levels from time to time), and *(ii)* a proper and willing discharge by either party of its obligations consequent on such recognition”.

8.5 SANCTIONS UNDER THE CODE

Some sanctions have been incorporated in the Code of Discipline, namely:

1. The central employer’s and worker’s organisations shall take the following steps against their constituent units when they are guilty of branches of the Code :

(a) Ask the unit to explain the infringement of any of the provisions of the Code;

(b) Give notice to the unit to set right the infringement within a specified period;

(c) Warn, and in cases of a more serious nature censure the unit concerned for infringement;

(d) Impose on the unit any other penalties open to the organisation;

(e) Disaffiliate the unit from its membership, in case of persistent violation of the Code;

(f) Not give countenance in any manner, to non-members who did not observe the Code.

2. Grave, willful and persistent branches of the Code by any party should be widely published.

3. Failure to observe the Code would entail derecognition normally for a period of one year. This period may be increased or decreased by the concerned implementation committee.

4. A dispute may not ordinarily be referred to adjudication if there is a strike or lock-out without proper notice or in breach of the Code as determined by an implementation machinery unless such strike (or direct action) or lock-out, as the case may be, is called off.

8.6 OBJECTIVES OF THE CODE OF DISCIPLINE

The Code has been aimed at establishing cordial relations between managements and workers on a voluntary basis to promote harmony and to put an end to industrial unrest. The objectives, as stated in the Code, are :

(i) To ensure that employers and employees recognise each other's rights and obligations;

(ii) To promote constructive co-operation between the parties concerned at all levels;

(iii) To secure settlement of disputes and grievances by negotiation, conciliation and voluntary arbitration;

(iv) To eliminate all forms of coercion, intimidation and violence in industrial relations;

(v) To avoid work stoppages;

(vi) To facilitate the free growth of trade unions; and

(vii) To maintain discipline in industry.

According to the *Third Five - Year Plan,* "the Code lays down specific obligations for the management and the worker with the object of promoting constructive co-operation between their representatives at all levels, avoiding stoppages as well as litigation, securing settlement of grievances by mutual negotiation, conciliation and voluntary arbitration, facilitating the growth of trade unions and eliminating all forms of coercion and violence in industrial relations".

The Code is a comprehensive formulation providing for almost all the functions of an industrial relations system, as would be clear from the actual wordings in the Code reproduced below.

8.7 CODE OF DISCIPLINE IN INDUSTRY

8.7.1 To Maintain Discipline in Industry (both in public and private sectors)

There has to be: *(i)* a just recognition by employers and workers of the rights and responsibilities of either party, as defined by the laws and agreements (including bipartite and tripartite agreements

arrived at all levels from time to time); and *(ii)* a proper and willing discharge by either party of its obligations consequent on such recognition.

The Central and State Governments, on their part, will arrange to examine and set right any shortcomings in the machinery they constitute for the administration of labour laws.

8.7.2 To Ensure Better Discipline in Industry, Management and union (s) Agree

(i) That no unilateral action should be taken in connection with any industrial matter and that disputes should be settled at the appropriate level;

(ii) That the existing machinery for the settlement of disputes should be utilised with the utmost expenditure;

(iii) That there should be no strike or lock-out without notice;

(iv) That affirming their faith in democratic principles, they bind them-selves to settle all future differences, disputes and grievances by mutual negotiation, conciliation and voluntary arbitration;

(v) That neither will have recourse to *(a)* action of force, *(b)* make fear, *(c)* victimisation, or *(d)* go-slow;

(vi) That they will avoid *(a)* litigation, *(b)* sit-down and stay-in-strikes and *(c)* lock-outs;

(vii) That they will promote constructive co-operation between their representatives at all levels and as between workers themselves and abide by the spirit of the agreements mutually entered into;

(viii) That they will establish upon a mutually agreed basis a grievance procedure which will ensure a speedy and full investigation leading to settlement;

(ix) That they will observe the various stages in the grievance procedure and take no arbitrary action which would by-pass this procedure; and

(x) That they will educate the management personnel and workers regarding their obligations to each other.

8.7.3 Management Agrees

(i) Not to increase workloads unless agreed upon or settled otherwise;

(ii) Not to support or encourage any failure labour practice such as : *(a)* Not to interfere with the right of employees to enroll or continue as union members; *(b)* Nor to use discrimination, restraint or coercion against any employee because of the recognised activity of trade unions; and *(c)* Not to victimise any employee and not to abuse authority in any form;

(iii) To take prompt action for *(a)* settlement of a grievance, and *(b)* implementation of settlements, awards, decisions and orders;

(iv) To display in conspicuous places in the undertaking the provisions of this Code in local language (s);

(v) To distinguish between actions justifying immediate discharge and those which discharge must be preceded by a warning, reprimand, suspension or some other

form of disciplinary action, and to arrange that all such disciplinary actions should be subject to an appeal though normal grievance procedure;

(vi) To take appropriate disciplinary action its officers and members in cases where enquiries reveal that they were responsible for precipitate action by workers leading to indiscipline; and

(vii) To recognise the union in accordance with the criteria (Annexure A) evolved at the 16th session of the Indian Labour Conference held in May 1958.

8.7.4 Union (s) Agree

(i) Not to encourage any form of physical duress;

(ii) Not to permit demonstrations which are not peaceful and not to permit rowdyism in demonstrations;

(iii) That their members will not engage or cause other employees to engage in any union activity during working hours, except as provided for by law, agreement or practice;

(iv) To discourage unfair labour practices, such as : *(a)* negligence of duty, *(b)* careless operation, *(c)* damage to property, *(d)* interference with or disturbance to normal work, and *(e)* insubordination;

(v) To take prompt action to implement awards, agreements, settlements and decisions;

(vi) To display in conspicuous places in the union offices, the provision of this Code in the local languages (s); and

(vii) To express disapproval of, and to take appropriate action against, office bearers and members for indulging in any action which is against the spirit of this Code.

8.8 CODE HAS MORAL SANCTION

The Code does not have any legal sanction. But the following moral sanctions are behind it:

(1) The central employer's and worker's organisations shall take the following steps against their constituent units when they are guilty of breaches of the code:

(a) To ask the unit to explain the infringement of any provision of the Code;

(b) To give notice to the unit to set right the infringement within a specific period;

(c) To warn, and in case of a more serious nature to censure, the unit concerned for its actions persisting in the infringement;

(d) To disaffiliate the unit from its membership in case of persistent violation of the Code; and

(e) Not to give countenance, in any manner, to non-members who do not observe the Code.

(2) Grave, willful and persistent breaches of the Code by any party should be widely published.

(3) Failure to observe the Code would entail derecognition, normally for a period of one-year – this period may be increased or decreased by the concerned implementing committee.

(4) A dispute may not ordinarily be referred for adjudication if there is a strike or lock-out without proper notice or in breach of the Code as determined by an implementation machinery unless such strike or lock-out, as the case may be, is called off.

8.9 CRITERIA FOR RECOGNITION OF UNIONS

1. Where there is more than one union, a union laming 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 the union should cover at least 15 per cent of the workers in the establishment. Membership would be counted only of those 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 recognised 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 recognised, 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 be recognised.
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 percent or more of the workers of that establishment, it should have the right to deal with matters of purely local interest, such as, for instance, the handling of grievances pertaining to its own members. All other workers who are not members of that union might either operate through the representing union for the industry or seek redress directly.
7. In the case of trade union federations which are not affiliated to any of the four central organisations of labour, the question of recognition would have to be dealt with separately;
8. Only unions which observe the Code of Discipline would be entitled to recognition.

8.10 RIGHTS OF RECOGNISED UNIONS UNDER THE CODE OF DISCIPLINE

Unions granted recognition under the Code of Discipline should enjoy the following rights :

(i) To raise issues and enter into collective agreements with employers on general questions concerning the terms of employment and conditions of service of workers in an establishment or in the case of a representative union, in an industry in a local area :

(ii) To collect membership fees/subscriptions payable by members to the union within the premises of the undertaking :

(iii) To put up or cause to be put up, a notice board on the premises of the undertaking in which its members are employed and affix or cause to be affixed thereon notice relating to meetings, statements of accounts of its income and expenditure, and other announcements which are

not abusive, indecent, inflammatory or subversive of discipline or otherwise contrary to the Code;

(iv) For the purpose of prevention or settlement of an industrial dispute : *(a)* to hold discussions with the employees who are members of the union at a suitable place or places within the premises of office / factory / establishment as mutually agreed uproot; *(b)* to meet and discuss with an employer or any mutually appointed by him for the purpose, the grievances of its members employed in the undertaking; *(c)* to inspect, by prior arrangement in an undertaking, any place where any member of the union is employed;

(v) To nominate its representatives on the grievance committee constituted under the grievance procedure in an establishment;

(vi) To nominate its representatives on joint management councils; and

(vii) To nominate its representatives on non-statutory bipartite committees, e.g., production committees, welfare committees, canteen committees, house allotment committees, etc., set up by management.

The rights referred to above would be without prejudice to the privileges enjoyed by recognition unions at present by agreement or by usage.

8.11 FUNCTIONING AND REVIEW OF THE CODE OF DISCIPLINE

The Code reflects the policy of the government to build up an industrial democracy on voluntary basis and is the sheetanchor of Mahatma Gandhi's philosophy of industrial relations. It aims at preserving industrial peace with the help of employers and employees. It represents a voluntary moral commitment and is not a legal document. The Code, which aims at providing an alternative to conflict for the resolution of disputes, worked very well for some time after its adoption.

The machinery (Central Implementation & Evaluation Machinery) set up the central and state levels for the implementation of the Code receive reports of breaches, investigates and then reports the findings to the employer's or worker's national level organisations for taking suitable steps. It assists in the implementation of the Code of Discipline, labour enactments, awards, and agreements, and takes preventive action in order to avert strikes and lock-outs, settles long-pending, disputes, brings about out-of-court settlement of cases pending in the High Court and the Supreme Court, and ensures that the proposed labour appeals are screened by the screening committees set up by the central organisations of employers and workers before they are taken to the courts. The implementation machinery also persuades employees and unions to evolve grievance procedures for the reduction of day-to-day grievances of individual workers. It undertakes evaluation studies on the working of labour laws, awards, policies, programmes, major disputes, etc. It also exercise a restraining influence on employers and workers when they seen to be heading towards unilateral or direct action.

Apart from the central organisations of workers and employers, the Code was accepted by about 180 individual employers and 166 trade unions who were not members of any central organisation by 1975-76. With the exception of the Railways, Ports and Docks and undertakings under the Ministry of Defence, the Code applies to all public sector undertakings. In the latter undertakings it has now been applied to those units which are run as companies an corporations, after some minor modifications to suit their requirements. The LIC, State Banks and RBI have also accepted it.

In the early years, the Code focused the attention of the parties on their obligations under the various labour laws, and enjoyed upon them a stricter observance of these and other obligations associated with work in an industrial environment. The fact that the parties got together and openly accepted the need for stricter adherence to certain basic propositions was itself an achievement when breaches were enquired into and openly discussed in tripartite committees, the very process of discussion produced a restraining and sobering effect on the parties and instances of gross violations of law and repudiation of responsibilities declined.

A seminar on the working of the Code (held on August 21, 1965 and attended by representatives of the three parties) expressed satisfaction with the working of the Code. The Third Plan stated that the Code had stood the strain of test during the last 3 years of the Second Plan, and had become a living force in the day-to-day conduct of industrial relations.

But the National Commission on Labour thought that the Code had only a limited success and a limited use. It said : "The Code began acquired rust and the parties were none to eager to take it off: they developed an attitude of indifference. The factors responsible for this are :

(i) The absence of a genuine desire for, and limited support to self-imposed voluntary restraints on the part of employer's and worker's organisations;

(ii) Worsening economic situation which eroded the real wages of workers;

(iii) The inability of some employers to implement their obligations;

(iv) Disarray among law representatives due to rivalries;

(v) Conflict between the Code and the law; and

(vi) The state of indiscipline in the body politic".

As regards the future of the Code, the NCL observed : "Part of the Code, which enjoins stricter observance of obligations and responsibilities under the various labour laws may be left to the normal process of implementation and enforcement by the labour administration machinery, some need be formalised under the law". That is, the evidence has been overwhelmingly in favour of giving legal form to its important provision. These are :

(1) Recognition of unions as bargaining agents;

(2) Setting up a grievance machinery in an undertaking;

(3) Prohibition of strike / lock-out without notice;

(4) Penalties for unfair labour practices; and

(5) Provision for voluntary arbitration".

It is to be noted that item (5) has been included in the Industrial Disputes Act, 1947. Item (1), (2), (3) and (4) have been included in the Maharashtra Recognition of Unions and Prevention of Unfair Labour Practices Act, 1971.

8.12 INTER – UNION CODE OF CONDUCT, 1958

This Code of Conduct was voluntary adopted by the four central organisations of labour (INTUC, AITU, HMS and UTUC) at the sixteenth session of the Indian labour Conference held at Nainital on May 21, 1958.

The purpose of the Code was "to reduce inter-union rivalry, to achieve trade union amity, and to remove the ills which had developed in the labour-management relations and in the labour movement".

The four central organisations of labour agreed on the following issues for the purpose of maintaining harmonious inter-union relations. The Code says :

1. Every employee in an industry or unit shall have the freedom and right to join a union of his choice. No coercion shall be exercised in this matter.
2. There shall be no dual membership of unions. (In the case of representative unions, this principle needs further examination).
3. There shall be unreserved acceptance of, and respect for, the democratic functioning of trade unions.
4. There shall be regular and democratic election of executive bodies and office bearers of trade unions.
5. Ignorance and/or backwardness of workers shall not be exploited by any organisation. No organisation shall make excessive or extravagant demands.
6. Casteism, communalism and provincialism shall be eschewed by all unions.
7. There shall be no violence, coercion, intimidation or personal vilification in inter-union dealings.
8. All central organisations shall assist in the formation or continuance of company unions".

This Code was based on the policy of voluntarism rather than on legislation for removing inter-union rivalries. It did exercise some restraint on inter-union techniques of combat. But, since then, the Code has been honoured more in the breach than in the observance. It is unfortunate that every clause of the Code has been violated ion a large scale by practically every type of union.

8.13 INDUSTRIAL TRUCE RESOLUTION, 1962

With the Chinese attack in October 1962, an emergency was declared in the country, and it was realised that production should not be jeopardised in any way. Employer's and worker's representatives, in a joint meeting of their organisations held on November 3, 1962, at New Delhi, passed a resolution, saying that :

"No effort shall be spread to achieve maximum production, and management and workers will strive to collaborate in all possible ways to promote the defence efforts of the country".

It was also reaffirmed that they would take the pledge of unstinted loyalty and devotion to the country and agreed to create a favourable climate in pursuance of the aforesaid aim to promote constructive co-operation between management and workers, not to interrupted not to interrupted or slow down production, work an extra shift and extra hours, and make efforts to ensure price stability.

The Industrial Truce Resolution reinforce the precepts of the Code of Discipline. It embodies certain principles in regard to industrial peace, the stepping up of production, price stability and increase in savings. The Resolution is divided into five parts. Part I called upon both employers and employees to create and preserve the climate of sustained efforts to achieve maximum production with a view to promoting the defence efforts of the country. This called for restraint and forbearance on both sides.

Part II referred to the content of industrial peace, with particular reference to uninterrupted production, the need for acceptance of sacrifice in an equitable manner, settlement of disputes by arbitration, enlarge the schedule of public utilities, minimising complaints regarding dismissal, discharge, viticimisation, and streaming the industrial disputes machinery of the government.

Part III emphasised the need for increasing production by removing all impediments to the utilisation of men, machines and materials, running extra shifts, minimising absenteeism and turnover, utilising technical personnel to the maximum advantage, increasing the base of such personnel and adopting suitable measures for the well-being and health of the working class.

Part IV required that every effort should be made for price stability and ensuring supply of essential commodities at fair prices through consumer's co-operatives, if necessary.

Part V referred to the imperative need to increasing savings, and particularly to the quantum of contribution which the parties should make to the National Defence Fund and/or investments in Defence Bonds.

Labour should contribute to the defence fund and/or invest in Defence Bonds every month an amount equivalent to at least one day's earnings. Managements also agreed to contribute liberally to National Defence Fund and/or invest in Defence Bonds, the basis of their contribution to be settled in consultation with government.

As a result of the acceptable of this Resolution, there was a sharp decline in the number of disputes and in the number of mandays lost. Workers not only worked for extra hours but also contributed to the National Defence Fund. Emergency Production Committees were set up, both at the Centre and in the states to improve production and productivity. But the Resolution lost its importance when prices rose sharply and disputes erupted once again.

8.14 TEXT OF THE INDUSTRIAL TRUCE RESOLUTION

(Adopted at the joint meeting of the central organisations of employers and workers held in New Delhi on November 3, 1962).

Realizing that a grave emergency has overtaken the nation on account of Chinese aggression and the needs has arisen for taking urgent steps in every direction to prepare adequately for the defence of the country and repelling the invasion of its territory, the joint meeting of all central employer's and worker's organisations held today. November 3, 1962, resolves that "no effort shall be spared to achieve maximum production and that management and workers will strive in collaboration in all possible ways to promote the defence effort of the country, and reaffirms their pledge of unstinted loyalty and devotion to the country. Towards these ends, the following steps shall be taken :

8.14.1 Climate

It is important that a suitable climate should be created and preserved for ensuring sustained effort and resolute action in pursuance of the aforesaid aims. Both sides should exercise restraint and forbearance so that nothing is allowed to come in the way of their single-minded and concerted endeavours in support of the defence of the country. Positive steps should be taken to promote constructive co-operation between management and workers in all possible ways.

8.14.2 Industrial Peace

(i) Under no circumstances shall there be any interruption in, or slowing down of, the production of goods and services.

(ii) In respect of their economic interests, both workers and employers will exercise voluntary restraint and accept the utmost sacrifice, in an equitable manner, in the interest of the nation and its defence efforts.

(iii) There should be maximum recourse to voluntary arbitration, and adequate arrangements should be made for the purpose. If the need, for a reference to adjudication arises, the processes connected with it should be completed with the utmost promptness.

(iv) The industries mentioned in the First Schedule to the Industrial Disputes Act, 1947, and such other industries as may be considered necessary, e.g., petroleum and its products, chemicals, etc., may be declared 'public utility services' under Sub-clause *(vi)* of Clause *(n)* of Section 2 of the Act.

(v) All complaints pertaining to discharge, victimisation and retrenchment of individual workmen, not settled mutually, should be settled though arbitration. For this purpose, the officers of the conciliation machinery may, if the parties agree, serve as arbitrators. Dismissals and discharges of workmen should, however, be avoided as far as possible.

(vi) Labour administration at the Centre and in the state should be streamlined so that grievances and disputes are settled promptly, and cordial industrial relations are maintained.

8.14.3 Production

(i) All impediments in the way of better and fuller utilisation of men, machinery and materials should be removed. There should be no idle plant capacity or waste. Managements should exercise the maximum economy in their operations.

(ii) To maximize production, establishments should work, whenever possible extra shifts, extra hours, or on Sundays and holidays by mutual agreement. Full co-operation should be extended by all in this respect. All advantages according to industry out of the extra effort of the workers should go to the consumer and/or be made available for defence efforts.

(iii) Absenteeism and turnover should be discouraged and reduced to the minimum. Negligence of duty, careless operations, damage to property and interference with, or disturbance to normal wok should be denounced by the unions. Similarly, any lapse on the part of the management that contravenes the spirit of the defence effort should be condemned and put right forth with.

(iv) Technical and skilled personnel in short supply should be switched over to emergency work having a bearing on defence. Simultaneously, steps should be taken to increase the supply of technical and skilled personnel through apprenticeship and other training programmes.

(v) In the production drive, the well-being and health of the working lass should not be ignored.

8.14.4 Price Stability

(i) Every effort should be made to ensure that prices of industrial goods and essential commodities are not allowed to increase.

(ii) To ensure the supply of essential commodities at fair prices to the working class, steps should be taken whenever necessary, to organise consumer's co-operatives in each unit and in industrial areas.

8.14.5 Savings

(i) The imperative need for increasing savings in the larger interest of the country should be brought home to workers and management, and arrangements to facilitate greater savings should be made forthwith.

(ii) Workers may be persuaded to contribute liberally to the National Defence Fund".

8.15 SUMMARY

Absence of discipline tells upon the functioning of industries and the society. Importance of discipline has to be realised by all concerned and maintenance of discipline should be joint responsibility of both the workers and management. Discipline is a two-way traffic and a breach of discipline on the part of the either party in industry will cause unrest. The approach to managing discipline depends to a great extent upon managerial philosophy, culture and attitude towards the employees. A negative approach to discipline relies heavily on punitive measures and in line with the traditional managerial attitude of "hire and fire" and obedience to orders. On the other hand, a constructive approach stresses on modifying forbidden behaviour by taking positive steps like educating, counseling, and the like. The concept of positive discipline promotion aims at the generation of a sense of self-discipline and disciplines behaviour in all the human beings in a dynamic organisational setting, instead of discipline imposed by force punishment. The approach to the disciplinary action in most cases should be corrective rather than punitive. Further, the positive discipline maintenance should form an integral part of human resource development efforts of an organisation.

8.16 SELF-ASSESSMENT QUESTIONS

1. Trace the steps in the Evolution of Code of Discipline
2. What are the main features in the code of discipline.
3. The Importance of Industrial Truce Resolution.

8.17. REFERENCE AND FURTHER READINGS

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Lesson – 9

LABOUR – MANAGEMENT COOPERATION IN INDIA

OBJECTIVE

After reading the lesson, you should be able to understand:

* works committees as a form of Labour Management Co-operation
* joint Management councils as an idealogy of Labour Management Co-operation
* the composition of works committee and its procedure
* evaluation of the working of works committees and NCL recommendations
* and finally JMC's functions, NCL recommendations can be discussed.

STRUCTURE

9.1. INTRODUCTION

Labour-management cooperation in India is primarily a government sponsored movement. As early as 1947, the Industrial Truce Resolution adopted at the Industries Conference held at Delhi, recommended *inter alia* the formation of Unit Production Committees in industrial establishments for promoting the Committees in industrial establishments for promoting the efficiency of workers and improving production. The Central Government, under the Industrial Policy Resolution of the 6th April, 1948, also professed the setting up of bipartite Production Committees consisting of representatives of employers and workers. After a further discussion of the matter at the first meeting of the Central Advisory Committee on Labour held at Lucknow in November, 1948, the Central Government prepared a model constitution for the establishment of Unit Production Committees were to consult and advise on matters relating to production problems insofar as they pertained to specific problems of production in which labour had a direct interest.

In particular, the functions of the Committee included : (a) a better upkeep ad care of machinery, tolls instruments, etc; (b) efficient use of the maximum number of production hours; (c) elimination of defective work and waste; and (d) efficient use of safety precautions and devices.

The Committees were to consist of representatives of management and representatives of workers who were not to be less than those of the management. The representatives of the workers were to be elected from amongst the workers employed in the undertaking or factory. These Committees were prohibited from dealing with the problems of planning, development and production in their wider sense and functions which were purely managerial. They were further precluded from dealing with such issues as were normally taken by the trade unions.

9.2. WORKS COMMITTEES

Accordingly, works committees were set up in undertaking employing 100 or more workers. These committees have been regarded as the most effective social institution of industrial democracy and as a statutory body, established within the industrial units with representatives of the management and workmen, for preventing, and settling industrial disputes at the unit level. This is a purely consultative body and not negotiating body. This committee, by joint meeting of the management and the employees, try:

(i) to remove the causes of friction in the day-to-day work situation by providing and effective grievance-resolving machinery;

(ii) to promote measures securing amity and good relations;

(iii) to serve as a useful adjunct in establishing continuing bargaining relationship; and

(iv) to strengthen the spirit of voluntary settlement, rendering recourse to conciliation, arbitration and adjudication rather infrequent; for these are achieved by commenting upon matters of concern or endeavour to compose any material difference of opinion in respect of such matters.

These committees give labour a greater sense of participation and infuse a spirit of co-operation between the two parties without encroaching upon each other's sphere of influence, rights and prerogatives. They establish a channel of close mutual interaction between labour and management which, by keeping tension at a low level, generates a co-operative atmosphere for negotiation and settlement. The works committees are expected to open a door for trade unions to acquire a closer

knowledge of the working of the industry, inculcate a greater sense of responsibility in respect of discipline and efficiency, and assess their own strike in any endeavour for increasing productivity. These committees also aim at making the will of the employees effective in the management, ensure the operation of the private-owned concern in conformity with national interest and provide for a popular agency for supervising the management of nationalised undertakings. In brief, such committees try to promote industrial goodwill and harmonious relations through better understanding of employees by management and of management by workers. To accomplish this goal, the works committees are entrusted with a number of functions which are of benefit to management as well as employees.

9.2.1. Composition of the Works Committee

A works committee consists of representative of employer and work-men engaged in the establishment. The number of representatives of workmen shall not be less than the number of representatives of the employer.

The composition of the committee is so fixed as to give representation to the various categories, groups and classes of workmen, and to the sections, shops or departments of the establishments. The total number of members shall not exceed 20. The representatives of the employer shall be nominated from the technical, managerial or supervisory category, who should be in direct touch with the working of the establishment. The representatives of workers shall be elected from among the sections, shops or departments of the establishment. This list shall be referred to the conciliation officer, if it is suspected that wrong information has been supplied by the union. Where there is a union,. Half of the representatives would be elected by it, and the members of that union. The proportion of representation for the recognised and unrecognised unions thus shall be equal. However, there shall be no such division where more than half of the workmen are members of a union. If the unions fails to supply, within one month, they information required by the employer for the purpose of constitution committee is formed. If there is more than one month, central rules provide for the selection of representatives by secret ballot.

9.2.2. Qualification for Election and Voting

Any workman of not less than 19 years of age and with a service of not less than one year in the establishment may seek election on the committee. The service qualification shall not apply to the first election in an establishment which has been in existence for less than a year. All workmen who have put in not less than 6 months' continuous service shall be entitled to vote. A workman who has put in a continuous service of not less than one year (in case of the candidate) and 6 months (in case of the voter) in two or more establishments belonging to the same employer shall be deemed to have satisfied the service qualification for the purpose of seeking election and that of voting.

9.2.3. Procedure for Election

The employer shall fix the closing date for receiving nomination from candidates for election. He shall fix a date for holding the election which shall not be earlier than 3 days and later than 15 days after the closing date. The employer shall notify the closing date at least 7 days in advance to the workmen and the registered union or unions concerned. Such a notice is required to be given a wide publicity. The notice shall specify the number of seats for which each group is competent to elect members, the number to be elected by the members of the registered trade union/unions and by non-members.

Nomination papers should be submitted in a prescribed form. Each nomination paper shall be signed by the candidate and attested by two voters belonging to sections or departments which the candidate will represent. All nomination papers shall be delivered to the employer. The employer shall scrutinise these in the presence of the candidates on the day following the closing date. Any candidate, whose nomination paper for election has been accepted, may withdraw his candidature within 48 hours of the completion of the scrutiny of nomination papers. If the number of validity nominated candidates is equal to the number of seats, the candidates shall be considered forth with as duly elected. Voting shall take place if the number of candidates is more than the number of seats to be filled. Each voter shall be entitled to cast one vote in favour of any one candidate. The employer shall be responsible for making the necessary arrangements for elections.

9.2.4. Officers of the Committee and their Terms of Office

The committee shall have among its office-bearers a chairman, a vice-chairman, secretary and a joint secretary. The secretary and joint secretary shall be elected every year. The chairman shall be nominated by the employer; and he vice-chairman shall be elected by the members on the committee representing the workers from amongst themselves. In the event of equality of votes, the matters shall be decided by the draw of a lot. The committee shall elect one secretary and one joint secretary, each one representing either the employer or the workers.

The term of office of the representatives of the committee shall be two years, except for a member chosen for filling a casual vacancy. A member chosen to fill a casual vacancy shall hold office only for the unexpired term of his predecessor. A member who, without the permission of the committee, fails to attend three consecutive meetings of the committee shall forfeit his membership.

9.2.5. Meetings and Submission of Returns

The committee may meet as often as necessary but not less than once in three months. At its first meeting, the committee shall regulates its own procedure. It shall ordinarily meet during the working hours of the establishment and the representatives of workers shall be deemed to be on duty while attending the meeting.

The employer shall submit half-yearly progress reports on the constitution and functioning of the works committee in a prescribed form. These returns are to be submitted in triplicate to the concerned conciliation officer not later than the 20th day of the month following the half year.

9.2.6. Dissolution of the Works Committee

The central government or an appropriate authority on its behalf may, after making the necessary enquiry, dissolve any works committee at any time by an order in writing, provided that he or it satisfied that :

(i) the committee has not been constituted in accordance with the prescribed rules; or

(ii) not less than two-thirds of the members of representatives of workmen have, without any reasonable justification, failed to attend three consecutive meetings of the committee;

(iii) the committee has ceased to function for any other reason.

An employer shall constitute a new committee in place of the dissolved committee and shall take steps to reconstitute the committee in accordance with the rules, if required to do so by the appropriate authority.

9.2.7 Functions of the Works Committee

According to Section 3(1) (2) of the Industrial Disputes Act, the works committees "promote measures for securing and preserving amity and good relations between the employer and the workmen; and to that end, comment upto matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters".

In order to remove the vagueness in the exact scope and functions of the work committee, the 17th Session of the Indian Labour Conference at Madras drew up, in July 1959, an alternative list of items which the works committee could deal with and a list of items which they should not deal with.

The latter, which were beyond the scope of the works committees and were reserved for the collective bargaining process, including wages and allowances, bonus and profit-sharing; bonus, relationalisation; fixation of work-load; pay scales, retrenchment and lay-off; victimisation for trade union activities; leave and holidays; incentive schemes; housing and transport; provident fund, gratuity and other retirement benefits.

So actually what was left was to discuss conditions of work-lighting, ventilation, temperature, sanitation, etc.; amenities-supply of drinking water, rest-room, medical and health services, safe working conditions; administration of welfare funds, educational and recreational activities, encouragement of thrift and savings, etc.

These committees deal with day-to-day questions of interest to both the management and the employees. These questions cover a wide range, bear upon the daily life of the workers, and usually include all matters relating to production and employment. Until these questions are dealt with satisfactorily at the initial stages, they may lead to disputes. They provide opportunities to both the parties to discuss matters, and therefore they serve as an important machinery for both for the prevention and settlement of disputes.

9.2.8. Evaluation of the Working of Works Committees

The legal requirements and the encouragement given by the government led to the setting up of works committees in a number of undertakings. The pace of their progress has, however, been slow and uneven in different parts of the country.

The general feelings that though the committees have a statutory status under the Industrial Disputes Act, experience of the past 35 years indicated that, by and large, these have not been very effective except in isolated cases. This is borne out by several studies, though some have concluded that where there is enough understanding on both side about the need for consultation, the committees have achieved a measure of success. Where the committees have not succeeded, all assessment have pointed that they are statutory bodies and that, therefore, they are an imposition on the employer, and that the parties concerned have not evinced interest in them.

Some of the more important reasons for their failure are :

(i) The statutory compulsion regarding their establishment has not met with deserving success. Frequently, employers have shown their unwillingness and, at times, resistance of experiment with the committees. There has been no change in the outlook of either the employers or the workers.

(ii) The setting up of these committees has neither been a universal practice, nor, where they have been set up, has their working been always smooth or satisfactory. Too often, industrial firms have started them in a half-hearted and ill-considered way.

(iii) Many employers believe that the works committees are a substitute for trade unions. Trade unions, on the other hand, look upon these as their rivals. These attitudes of the management and workers have impeded the success of the working of the works committees.

(iv) One of the reasons for the failure of works committees is the vagueness and general manner in which their purpose had been stated. Sometimes the very propriety of their functions in the fields of collective bargaining and grievance settlement has been questioned.

(v) Many works committee do not function at all, for they exists only on paper. They do not meet at regular intervals and do not discuss matters of real importance.

(vi) The scope, functions and place of work committees in preventing industrial disputes have not been clearly defined under the Act. Consequently, these committees are frequently used as a negotiating body to settle outstanding differences “in the absence of unions and in place of them”. “The machinery is entirely consultative, its recommendations only suggestive and not building; so the recommendations are generally ignored by the employers”. This situation has also made the workers indifferent to these committees.

(vii) There has been a strong feeling of distrust among both the parties. Trade unions say that the attitude of the employers to the committees has been quite unhelpful, resentful and even instructive, while the management charges the trade unions o not lend their support and co-operation.

(viii) The committees were entrusted with a large number of functions and this created uncertainty and confusion in the minds of the management and the employees. The climate in which they were expected to function was vitiated.

(ix) The composition of the works committees was an elaborate procedure, involving the election of worker’s representatives without any provision for recognised unions under the Act. The election machinery was every cumbersome and acted as a hindrance rather than a help in the working of these committees.

(x) Continued disturbed atmosphere of industrial was an elaborate procedure, involving the election of worker’s representatives without any provision for recognised unions under the Act. The election machinery was cumbersome and acted as a hindrance rather than a help in the working of these committees.

(xi) Continued disturbed atmosphere of industrial unrest in industries has not been conductive to the efficient working of these bodies.

Giri has rightly observed : “Whatever may be the reasons, the fact remains that the hopes entertained in the works committees as a means of reducing industrial strife and misunderstanding and of resolving difference have not been fulfilled”.

The Study Group on Industrial Relations in the Southern Region has reported that in Andhra Pradesh, "works committees were a failure and that trade unions do not support this machinery. A grievance machinery would be more useful in setting day-to-day problems". About Madras, it says: "There are no signs of their usefulness". In Mysore, "works committees and workers participation in management are not in evidence". The general view about the Southern Region is that "There works committees have not been successful". Besides "These do not and cannot serve any useful purpose when a strong recognised union operates, a good communication system exists and a grievance procedure is used. There should be no compulsion by law in this regard".

The Study Group on Industrial Relations in the Northern Region reports : "In spite of the legal obligation to set up works committees in industrial establishments employing 100 or more workers, they have been set up only in 40 to 60 percent of the establishments concerned, and of these only a small proportion were said to have been effective; the majority existed only in name".

In the words of the National Commission on Labour: "The advisory nature of the recommendations, vagueness regarding their exact scope, their functions, inter-union rivalries, union opposition and reluctance of employers to utilise such media have rendered works committees ineffective. The employer's associations have attributed the failure of the works committees to such factors as inter-union rivalries, union antipathy and the attitude of members' (worker's) wing in trying to raise in the committee discussion on extraneous issues. According to unions, conflicts between union jurisdiction and the jurisdiction of the works committees and the unhelpful attitude of the employers have generally led to their failure".

9.2.9. Suggestions for Improvements

In spite of the number of difficulties in the working of works committees, their usefulness as a channel for joint consultation and the need for strengthening and promoting them has been recognised by the Planning Commission, which led it to observe in the First Plan that "works committees are the key to industrial relations and they deserve every support of the trade unions, the management and the government". The Third Plan also emphasised that "it is essential that works committees are strengthened and made an active agency for the democratic administration of labour matters". The Fourth Plan pointed out that "though works committees have made extremely limited progress so far, a large promotion of the grievances of workers and the difficulties encountered by them can be dealt with in the early stages through workers and the difficulties encountered by them can be dealt with in the early stages through works committees. It is hoped that within each industry, leaders of management and labour will do everything in their power to promote the establishment of such committees in all eligible units. Attention may here be drawn to the ILO Recommendation No. 94 (1952), which states that "consultations should be promoted between the employees and the employees and the employers at the level of the undertaking on matters of mutual concern within the scope of collective bargaining machinery or not normally dealt with by other machinery concerned with determination of terms and conditions of employment".

Therefore, works committees need be organised on an increasing scale in the country at the level of the undertaking. To achieve this goal, certain conditions will have to be fulfilled, namely :

(i) Works committee must work on the basis of mutual trust and co-operation. Brown has rightly observed: "Unless the atmosphere in the factory is good and a certain degree of mutual respect already exists, such committees are likely to prove dreary sessions during which the worker's

representatives rack their minds to produce all sorts of petty complaints but never get down to any of the more serious ones". Both the labour and the management must adopt the policy of "give and take". Only then with this innovation bring about amity and goodwill, besides accelerating industrial production.

(ii) The works committees should be the result of an evolutionary process and they should not be imposed from above.

(iii) The works committees should not merely be a recommendatory body but have some real power of influencing the decision-making process in the organisation.

(iv) To make the works committees popular among the workers, due attention must be paid to proper publicity of the committee's work.

(v) Trade unions must be strengthened to enable them to discuss matters with the management on an equal footing.

(vi) The decisions of the works committee should be honoured in all respects and implemented with a reasonable time.

(vii) Works committees should be organised under the Act in all establishments, irrespective of the number of workers employed.

(viii) Regular evaluation of its working should be undertaken.

(ix) There should be a change of heart and outlook on the part of the management. "Unless management is imbued with respect for its people as human beings and with a genuine desire to carry them with it, institutions and procedures will prove sterile".

(x) For the successful functioning of the works committee, consultation with it must be real and initiate. It should be allowed to deliberate on the actual problems of higher production, better safety provisions, improved administration, increased welfare amenities so as to give the workers a lively sense of participation in industrial administration.

9.2.10. National Commission on Labour- Works Committees

The National Commission on Labour has emphasised that the vital factor which should be recognised for the effectiveness of the works committees is the creation of an atmosphere of trust on both sides; and the basis of the success of a unit level committee is union recognition. It suggested that the works committees may be set up only in units which have a recognised union. Then the unions should be given the right to nominated the worker members of the works committees. A clear demarcation of the function of the works committees and the recognition unions, on the basis of mutual agreement between the employer and the recognised union, will facilitate a better working of the committees. In the opinion of the Commission, the effectiveness of these committees will depend on the following factors:

(a) A more responsible attitude on the part of management;

(b) Adequate support from unions;

(c) Proper appreciation of the scope and functions of the works committees;

(d) Whole-hearted implementation of the recommendations of the works committees; and

(e) Proper co-ordination of the functions of the multiple tripartite institutions at the plant level.

The Commission also recommended : "Until the concept of joint management council becomes an accepted practice, wherever the management and the recognised trade union in a unit so desire, they can by agreement enhance the power and scope of the works committee to ensure a greater degree of consultation/co-operation. The functions of the two in this latter situation can as well be amalgamated. A multiplicity of bipartite consultative arrangements at the plant level serves no purpose".

9.3. JOINT MANAGEMENT COUNCILS

9.3.1. Evolution and Growth

The philosophy of labour management co-operation has been succinctly, explained by the Second Five – Year Plan, although the foundation stone in union0management co-operation in TISCO is said have been laid in 1938, when the union signed an agreement with the management, both undertaking to co-operate with each other.

The Second Plan stated :

"A socialist society is built not solely on monetary incentives, but on ideas of service to society and the willingness on the part of the latter to recognise such service... The creation of industrial democracy is the prerequisite for the establishment of a socialist society… Increased association of labour with management is necessary. Thus can be achieved by providing for councils of management consisting of representatives of management, technicians and workers. It should be the responsibility of the management to supply such a council of management a fair and correct statement of all relevant information which would enable the council to function effectively. The council should be entitled to discuss various matters pertaining to the establishment and to recommend steps for its better working".

The concept of Joint Management Councils is implicit in the following statement in the Industrial Policy Resolution, April 1956:

"In a socialist democracy, labour is a partner in the common task of development and should participate in it with enthusiasm.. There should be joint consultation, workers and technicians should, whenever possible, be associated progressively in management. Enterprises in the public sector have to set an example in this respect".

9.3.2. Functions of the Councils

The Indian Labour Conference, at its 15th session in July 1957, after considering the report of a study team on worker's participation abroad, accepted in principle the idea of setting up joint management councils in India (1958-60). The scheme which was evolved by a sub-committee of the LIC contains the following features :

(1) Equal representation to workers and management.

(2) The council to be entitled :

(i) to be consulted on certain specific matters such as administration of Standing Order and their amendments, when needed; retrenchment, rationalisation, and closure; reduction in or cessation of operation;

(ii) to receive information, to discuss an give suggestions on such other matters, as the general economic situation of the concern, the state of the market, production and sales programmes, methods of manufacture and work, the annual balance sheet and profit and loss statements, long-term plans for expansion; and

(iii) to be entrusted with administrative responsibilities for the administration and supervision of welfare measures, safety measures, vocational training and apprenticeship schemes, provision of schedules for working hours, breaks and holidays, etc.

All matters, which are subjects for collective bargaining are to be excluded. The creation of new rights as between the employers and workers, which is a matter for negotiation or bargaining, was to kept completely outside the jurisdiction of the management council.

The Third Plan stressed that JMC should become a normal feature of the industrial system. It stated that the two methods for promoting these councils would be to set up representative unions and the worker's education programme.

9.3.3. Evaluation of the Council's Working

The approach to the setting up of the JMCs was a little cautions. Originally, the idea was to select about 50 enterprises for the experiment. Later, the target was raised to 150. But the country never had more than 140 JMCs in spite of the fact that promotional effort was mainly the responsibility of the central and the state governments. In the sixties, the councils lost favour gradually, both with the management and the trade unions, for reasons which have been discussed in the following paragraphs. Currently, there are hardly 80 JMCs; and out of these a good number are not effective.

Hindustan Aircraft, Neyveli Lignite, Bharat Heavy Electricals, Bharat Electronics, Hindustan Shipyard, the Reserve Bank of India, Air India, Indian Air Lines Corporation and the Life Insurance Corporation – all these have all kept themselves aloof from it and showed no inclination to introduce the scheme even on an experimental basis. However, the government set up a joint consultative machinery along the lines suggested by Whitely Councils at the apex regional and local levels in railways, posts and telegraphs and defence.

All major issues concerning remuneration, employment, conditions and service rules are discussed and determined by joint management councils. They are functioning successfully in Hindustan Insecticides (Delhi), Hindustan Machine Tools (Bangalore), Indian Air Lines Corporation and Air India International, and the Fertilisers and Chemical Industries Factory (Udyog Mandal, Kerala).

In the private sector, the scheme is in force in a large number of undertakings, such as the Simpson Group of Industries (Madras), the Indian Aluminum CO. Ltd., (Howrah), Panitola Tea Estate (Assam), Tata Iron and Steel Co. (Jamshedpur), Rajkumar Mills (Indore), Bombay Silk Rubber Works (Trivandrum), The Arvind Mills Ltd., (Ahmedabad), Hyderabad Allwyn Metal Works (Hyderabad), Sasson Spinning and Weaving Co. Ltd., (Bombay), Swadeshi Mills CO. Ltd., (Bombay) and many others.

The expert opinion has been that the JMCs have not done well. There was a kind of hot-house growth not suited to Indian soil. In this connection, Kannapan's remarks need to be noted:

"The Indian experience provides little encouragement to those who would like to see a greater and speedier development of participative management practices. The government's efforts to promote

such efforts by means of works committees have not been notably successfully and the same fate seems to have overtaken the more selective efforts to establish joint management councils".

In an article in the '*Indian Worker*', the view was expressed that "the works committees and the joint councils have failed. It is living in a fool's paradise to believe that labour will be an active partner in management". Kennedy has made the following comments on JMCs. He says: "A belief in the worker's participation in management is in conflict the avowed goals if independent unionism and free collective bargaining. Combining both goals would require union representatives simultaneously to perform two incompatible roles- sharing managerial responsibility and leading the opposition to management. The aim of worker's participation in management programme have been scaled sown to the more realistic purpose of joint consultation on subjects not vital to impress management. Workers, however, take little interest in discussing subjects like absenteeism, safety and welfare activities that tend to be brought up for consultation. Most employers do not believe that they have much to gain from such consultation as they are apprehensive of the larger entanglement it may get them into. As a programme for general adoption, workers' participation has failed".

J.L. Dholakia's study on the working of JMCs in eight units in Ahmedabad brought to light the fact, "inspite of a congenial atmosphere, the scheme has failed to fulfill the high hopes of its advocates. The experiment has not led to enhanced labour productivity, nor has it brought out a sense of social participation among the participants. Joint consultation has been prescribed only on a limited scale. Worker's participation in management has not proved a panacea for the complexities of the industrial relations system".

Zivan Tanic, after an elaborate study of all aspects of worker's participations in India, has reached to the conclusion:

"It appears that the experience is not only at the lowest level of evolution but also that the worker's unions, employers and the state have not taken any real interest in its success. It has reached only 'the initial step'; and the necessary social, economic, political and cultural conditions concomitant to the success of such an experiment are not ripe in India".

He further observes:

"Although the worker is recognised as a partner of management in joint bodies, consultative or decision-making, he is not an partner in reality. He cannot be so because he is subordinated to management by the entire system of responsibility, duty, control and obligation. He cannot have a dual status, as an operative subordinate to the organisation. In joint consultation, even if the workers get the right to criticise management and take an opposite stand, they do not get protection against the consequences of such attitude".

9.3.4. National Commission on Labour- JMC

The National Commission on Labour has been of the opinion that the performance of the JMCs for different reasons has been poor. They have failed to achieve their objectives of promoting joint consultation in industry. Even where the councils exist, they are reported to be ineffective, and their functioning has been unsatisfactory in many cases. The commission observed: "Although the representatives of the central organisations of employers and workers supported the scheme at national conference and committees, they have shown inadequate interest in making their affiliates

enthusiastic about it. In an undertaking where industrial relations are not cordial, and even arrangements like works committees, grievance procedure, and union recognition are absent, JMCs cannot be expected to function satisfactorily".

In a majority of cases, the councils are not working satisfactorily. "The worker's representatives are more concerned with the enlargement of amenities and facilities and the redressal of grievances, higher wages, better conditions of work and security of service than with the larger problems, such as increasing productivity, reducing absenteeism, effecting economies and suggesting methods for a more efficient utilisation of plant and equipment".

On the other hand, "employers do not take the councils into confidence in regard to amendments of Standing Orders, introducing of new methods of production, manufacturing processes involving re-deployment of men and machinery, and reduction in or cessation of operations, despite agreements to this effect. Communication or sharing of information with the workers has not been adequately developed, although managements have accepted the principle of transferring to the JMCs some administrative responsibilities. But in actual practice, there has been no real transfer of such responsibilities".

9.3.5. Private Sector - JMC

In the private sector, the reasons for unsatisfactory working of the JMCs have been:

(i) lack of interest on the part of workers;

(ii) attempts of the union to raise individual grievances and matters which properly belonged to the domain of collective bargaining;

(iii) the unfavourable attitude of the management;

(iv) the absence of agreement about the matters on which the JMCs should be consulted and those on which they have the right to receive information; and

(v) lack of proper information – sharing between labour and management.

9.3.6. Public Sector-JMC

In the *public sector,* the councils were hindered because of :

(i) rivalry between unions;

(ii) bureaucratic machinery of the government which delayed the implementation of the suggestions of the JMCs;

(iii) inadequacy of training facilities for both labour and management.

It may be pointed out that, by and large, industrial undertakings have not been enthusiastic about the setting up of JMCs. As a result, the speed of the progress has been painfully slow. In this connection, Gyan Chand ahs said :

"In India, active participation of labour with management has been introduced more as a concession to socialist tradition and as a frill of policy statement than a principle of basic social change. Inspite of the object of building a socialist society through it, the urge of self- expression has figured in the statement of measures, but there is no indication at all that there has been any earnest thinking on

this fundamental point or that its implications have been understood. The measures taken to bring about participation of labour in management are lacking in earnestness of purpose and determination and actual results".

9.3.7. Future of the Councils

A majority of the members of the National Commission on Labour did not appear to be very enthusiastic about the JMCs. Their recommendation reads as follows :

"When the system of union recognition becomes an accepted practice, both managements and unions will themselves gravitate towards greater co-operation in areas they consider to be of mutual advantage, and set up a JMC". More significantly it aided " "In the meanwhile, wherever the management and the recognised trade union so desire, they can, by agreement, enhance the powers and scope of the works committees to ensure a greater degree of consultation/co-operation, amalgamating, to the extent desired, the functions of the two. IN any case, the multiplicity of bipartite consultative arrangements at the plant level serves no purpose".

Worker's participation in management and for that purpose, in JMCs could well be useful in promoting industrial democracy. But this can materialise only if the following conditions are satisfied :

(i) There must be implicit faith / trust in the bonafides of the other party.

(ii) The rights and claims of both the parties are recognised.

(iii) There should be a strong trade union which has learnt the virtues of unity and self-reliance so that it may effectively take part in collective bargaining.

(iv) There should be a genuine desire to work together – each should whole-heartedly co-operate with the other in implementing decisions.

(v) Worker's education programme should be comprehensively developed well in advance.

9.4. CONCLUSION

We have observed that Labour- management cooperation is another connotation of works committee and joint management councils. Over a period of time ideological considerations, legislation, trade union pressure, modern management concepts have contributed for the growth of the concept of participation. However, as yet different people view participation differently. Participation can take not only different forms but can also occur at varying levels. Participation in India has been seen scheme introduced through voluntary means (JMC, participative schemes of 1975, 1983) and also through legislation (workers committee, participation of Board level). But by and large the over all performance of the schemes are not encouraging. There are obviously some impending problems which hinder the successful working of the schemes. There is need to overcome the problems which hinder the successful working of the schemes. There is need to overcome the problems of multiplicity of unions and generate a favourable attitudes and skills through education and training to make participation work.

9.5. SELF ASSESSMENT QUESTIONS

1. Explain the concept of works committee and its significance
2. NCL recommendations on works committee.

3. Discuss the Joint Management Councils and its functions.
4. Future of Joint Management Councils with reference to public and private sectors in India.

9.6. REFERENCES AND SUGGESTED BOOKS FOR FURTHER READING

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Lesson – 10

WORKER'S PARTICIPATION IN MANAGEMENT

OBJECTIVE

Workers participation as a form of labour-management cooperation emerged as an ideology by over the years have transformed into management process and strategy. A combination of social, political, cultural, economic and industrial pressures challenged the traditional unilateral form of management and demanded democratisation of the place. Presently workers participation has become an important aspect of the industrial relations system and has emerged as a management technique largely due to the democratic and socialistic ideology, desire to increase union power and the belief that participation enhances productivity efficiency, fosters industrial harmony and enriches human personality. The objectives of this unit are to

* Understand what Labour Management cooperations, its goals and forms
* Analyse how workers participation contribute for fostering a harmonious labour-management relations.
* Know what steps have been taken in India to implement workers participation and how they have worked.
* Realise the steps to be taken to make workers' participation successful.

STRUCTURE

10.1. INTRODUCTION

The concept of worker's participation in management (WPM) is considered as a mechanism where workers have a say in the decision-making process of enterprise formally. The concept of quality circles (QC) provides informal involvement of employees in the decision-making and implementation process.

10.2. CONCEPT

Within the last two decades in the realm of human relations, the worker's participation in management has been regarded as a powerful behaviour tool for managing the industrial relations system. This widely debated concept has evolved from the purely ideological and imaginative plank to an organisational reality. But the form and connotation of the team varies with the term varies with the socio-economic goals of a particular country.

The concept of worker's participation in management crystallises the concept of industrial democracy, and indicates an attempt on the part of an employer to build his employees into a team which works towards the realisation of a common objective.

In the words of Davis, "It is a mental and emotional involvement of a person in a group situation which encouragement him to contribute to goals and share responsibilities in them".

Within the orbit of these different definitions a continuum of men-management relationship can be conceived:

Worker place ⟶ Joint Management ⟶ Joint Consultation ⟶
⟶ Work Place Consultation ⟶ Management Supremacy

In this continuum, worker's control represents one extreme which suggests concentration of all powers in workers, and management supremacy represents the other extreme, which implies an zealous defence of managerial prerogatives.

The Industrial Revolution and the factory system divorced managerial and operative functions, authorising persons who occupied 'managerial' positions to exercise managerial functions while 'workers' performed their operational functions. Those who advocate worker's participation in management seek to bridge this gap, or even to remove it, by authorising workers to take part in

managerial functions. The participation, therefore, can be defined, in neutral terms, as 'taking part in', leaving the question whether such participation does produce a co-operative commitment to the enterprises, or involves a sharing of powers and status between the managers and the workers to be settled by evidence".

The essence of labour participation in management lies in the firm belief and confidence in the individual, in his capacity for growth and learning, in his ability to contribute significantly with his hands, head as well as his heart; and this implies discarding the narrow conventional outlook of antagonism of interests and substituting in its place a community of purpose and extending co-operation in promoting the well-being of labour and management in industry.

The principle of worker's participation in management affords a self-realisation in work and meets the psychological needs of works at work by eliminating, to a large extent, any feeling of futility, isolation and consequent frustration that they face in a normal industrial setting. In this connection, G.D.H. Cole's views are worth nothing. He observes: "Industrial democracy at the top, through nationalisation, is an inefficient condition to ensure workers' involvement in enterprises. Unlike in politics, in the case of industry, workers are connected mostly with shop floor issues. Better participation and greater responsibility in the develop in them organisational loyalty, confidence, trust, favourable attitude towards supervisors, and a sense of involvement in the organisation. Schemes of worker's participation in management, among other measures of industries reform, are expected to democratise the industrial milieu, and ensure egalitarianism in the process".

We may define worker's participation as a *systems of communication and consultation, either formal or informal, by which employees of an organisation are kept informed about the affairs of the undertaking and through which they express their opinion and contribute to management decisions.* It is a distribution of social power in industry so that it tends to be shared among all who are engaged in the work rather than concentrated in the hands of a minority. It is industrial democracy in action based on the principles of equity, equality and voluntarism. It gives to the employee's representatives the right to criticise, to offer constructive suggestions, and to become aware to the pros and cons of the decision made.

In other words :

* The participation enhances employees ability to influence, decision-making at different tiers of the organisational hierarchy with concomitant assumption of responsibility.
* The participation has to be at different levels of management : *(i)* at the shop level, *(ii)* at the department level, and *(iii)* at the shop floor level. The decision-making at these different levels would assume different patterns in regard to policy formulation and execution.
* The participation incorporates the willing acceptance of responsibilities by the body of workers. As they become a party to decision-making, the workers have to commit themselves to ensuring their implementation.
* The participation is conducted through them mechanism of forums and practices which provide for the association of worker's representatives.
* The board goal of participation is to change basically the organisational aspect of production and transfer the management function entirely to the workers so that management becomes "auto management".

10.3. EVOLUTION OF THE CONCEPT

"From the very beginning of the modern industrial era, social thinkers were concerned with the problems of the status of workers in the factory organisation and society, and they wanted protection of workers against capitalist and managerial exploitation. They pleaded that workers should have as much power as the managers. Thinkers like Comte and Owen advocated the participation of workers in management for achieving distributive social justice. The radicals advocated drastic changes. They were opposed to private ownership of the means of production, concentration of workers in a few hands and the capitalist controlled machinery of the state. Karl Marx strongly advocated complete control of the enterprise by workers and socialisation of the means of production. He wanted trade unions to be developed as an alternative for industrial self-government. The syndicalists favoured public ownership of the means of production, but joint control by producers and consumers. The Guild Socialists were of the union that guilds of all classes of workers should control under a charter from the state".

"Two other factors also influenced, besides the ideological attack from the radicals and the need for reforms in the capitalist system, the trend towards bringing about changes in the style of industrial management. *First,* the demands of continuous production during the two world wars prompted the managers to introduce such strategies as would ensure uninterrupted industrial activity. *Second,* the differentiation between management and entrepreneurs accelerated the pace of professionalisation in industrial management. These two factors set the tone for a series of experiments in management".

As time went on, it was found that complete control of industry by workers was neither feasible nor desirable, at least in political democracies where the representatives of the people had to curb the evils of capitalism, statism and bureaucracy. Socialists like the Webbs and Cole were of the view that participation of workers in management would be sufficient to meet the needs of social justice. Thus, the main concern of ideologists in advocating worker's participation in management was the sharing of a part of managerial power with workers. This type of thinking is referred to as on "ideological" view.

With the outbreak of the First World War, an acute industrial unrest was experienced in those countries where its impact was intense-countries like England, West Germany, France and the USA largely because labour was regarded as a "commodity of commerce" which was exploited to its maximum, replaced or scrapped when damaged or worn our, and even fired at the whims and fancies of the employer. "This unrest finally constrained industrialists to recognise the fact that "labour is not a commodity" to be sold at an arbitrary price; it is not to be treated as a pawn on the chess-board of the capitalist strategy and diplomacy; it should not be treated as a cog in the industrial machinery, but should be treated as human beings having the capacity to grow and accept responsibility as citizens. A worker wants to participate in the affairs of the industry and contribute to the effectiveness of the co-operative enterprise to which he belongs".

The human relations philosophy popularised by Elton Mayo *et.al.* underscored the importance of the human factor in organization. He pointed out: "Workers responded positively to a human approach compared to the use of punitive measures. Worker's attitudes significantly influenced their performance. Man is not purely an economic animal but a member of the group sharing its norms and goals."

Research conducted at the Tavistock Institute, London, revealed that autonomous and cohesive work groups committed to the holistic task were more efficient and healthier than the work groups without cohesiveness and responsibility.

The growing realisation of these facts led to the adoption of the Philadelphia Charter by the ILO in 1944. In this context, G.L. Nada observed: 'The scheme of worker's participation is the culmination of a series of steps aimed at giving the workers a feeling of having a place of their own in the industrial and social structure of the country, ultimately providing a social base for building up the country's industrial edifice". This humanitarian approach to labour brought about a new set of values, both for the workers and employers; *power* has been replaced by *persuasion, authoritarianism* by *democracy* and *compulsion* by *co-operation.*

The employer's realisation of the need for worker's participation in management was considerably influenced by the following factors :

(i) The increased use of technology in industry which has necessitated the growing co-operation of workers because of the complex operations of production;

(ii) The changed view that employees are no longer servants but are equal partners with their employers in their efforts to attain the goals of the enterprise;

(iii) The growth of trade unions which safeguard the interests of workers and protect them against possible exploitation by their employers;

(iv) The growing interest of the government in the development of industries and the welfare of workers; and

(v) The need for increased and uninterrupted prediction which can be achieved only when there is a contented labour class.

Empirical researches undertaken by Kurt Lewin, French and others have shows that democratically managed groups, in which rank and file also get an opportunity to participate in decision-making, are healthier and more efficient than groups managed in an authoritarian way. The findings of Rensis Likert, Blake and MacGRegor popularised the belief that if workers were given opportunities to participate in the management process, there would be positive gains for the organisation through higher productivity, on the one hand, and reduced negative behaviour on the other.

It is quite logical to believe that if people have the right to chose their own government, the workers have the right to chose the management of the enterprise to which they belong and to whose success they contribute substantially. It rests on the fundamental premises that the worker is not a slave who has no rights at all; he is a citizen employed in an industry and has opinions of his own which, he thinks, should be taken into account when decisions are taken and policies are formulated. "The factory is not a mechanical entity which is governed by mechanical principles and economic laws, but a social system which is subject to the democratic rights to those who are involved in it".

It is no wonder that "ever since the early days of industrialisation, the demand for democracy in a worker's life has been an important feature of the many political programmes."

It may therefore, be concluded that the concept of worker's participation has its deep roots not only in political and social norms and in the ethos of our times but also in the empirical studies on human behaviour at work.

10.4. OBJECTIVES OF WORKER'S PARTICIPATION IN MANAGEMENT

The objective of the worker's scheme vary from country to country, because they largely start from their socio- economic development to country, philosophy, industrial relations scene, and the attitude of the working class.

Accordingly, the objectives may be democratisation of management, eliciting worker's co-operation in the attainment of corporate goals, personalisation and humanisation of the management process, and behavioural approach to the management of workers-management relations, etc.

In the words of Gosep, worker's participation may be viewed as:

(i) *an instrument* for improving the efficiency of enterprises, and establishing harmonious industrial relations;

(ii) *a device* for developing social education for the purpose of portioning solidarity among the working community and for tapping latent human resources (by getting employee's suggestions and by improving attitudes towards work and the organisation);

(iii) *a means* for attaining industrial peace and harmony which lead to higher productivity and increased production;

(iv) *a humanitarian* act, giving the worker an acceptable status within the working community and a sense of purpose in his activity;

(v) *an ideological* point of view to develop self-management in industry.

10.5. PARTICIPATION AND MOTIVATION

Participation results in greater autonomy for subordinated and often leads to increasing motivation for.

(a) Participation promotes a more balanced interaction pattern and, therefore, results in less resistance to innovation;

(b) It enables members of the group to unfreeze their attitudes and to engage in catharsis;

(c) It enables leaders to reinforce their position. They enhance their status, both by taking a leading part in making the decision and by inducing group members to abide by them;

(d) It enables the subordinate to feel that an exchange relationship has been set up, for the boss listens to his problems and facilities their solution;

(e) It may make the subordinate to feel that doing the job well will offer him with an opportunity to demonstrate skills which he values highly, *i.e.* it provides him an opportunity for achievement in his work;

(f) It subjects the individual to certain group pressures to implement the decision which the group has participated in making.

10.6. FORMS OF PARTICIPATION

The form or the way in which workers can and do participate in management varies a great deal. To some extent, this variation is related to the differences in management, the subjects or areas in which participation is sought, and the pattern of labour-management relations. It may also vary from organisation to organisation, depending upon the level of power or authority enjoyed by managers at different levels in different types of organisations.

The specific way in which different forms of participation may take place also varies from situation to situation. There may be formal organisational structure, such as the Works Committee, Plant Councils, Shop Councils, Production Committee, Safety Committee, Joint Management Council, Canteen Committee, P.F. Management Committee, etc. The participation may also take place through informal mechanisms and forums. A supervisor or a foreman may consult a worker before making a particular decision in which the latter is interested, such as granting or rejecting an application for leave, allotment of work on overtime, transfer from one section to another.

If workers participation in management either through formal mechanisms or through informal procedures, it should be considered as an instance of participative management. Whatever form it may take, it is necessary, for the effective functioning, to promote the interests of both the parties-management and labour. Management's primary interest lies in improving productivity, reducing cost, and thus improving profitability. Worker's interest lies in improving their earnings. When earnings improve through sharing gains in productivity, apparently a harmony of interests is promoted. If participation is to be effective as a process or device, it should be integrated with a scheme of improving productivity and gain-sharing.

Participation may be *ascending participation,* where works are given an opportunity to influence managerial decisions at higher levels through their elected representatives to Work Councils or the Board of the Enterprise (*i.e., integrated participation). In descending participation,* they may be given more power to plan and make decisions about their own work *(delegation and job enrichment).* They may also participate through collective bargaining *(i.e., disjunctive participation)*. They may also participate informally when a manager adopts a participative style of supervision, or when workers employ unofficial restrictive practices.

The important forms is which workers can participate in management are: collective bargaining, joint administration, joint decision-making, consultation and information sharing.

Issues over which the interests of workers and management are competitive, such as wage rates, bonus rates, working hours, and the number of holidays, are the usual areas for *collective bargaining.* On the other hand, the issues over which the parties are equally concerned, such as the efficient management of provident fund money, canteen, annual sports, worker's welfare facilities, etc., may from the subject of *joint administration, joint decision-making or consultations.* The difference between joint administration, joint decision-making and consultation is important, but narrow. In joint administration, workers and management share the responsibility and power of execution. In joint decision-making, even though two groups participate in deciding the policies, execution is generally effected by the management. In the joint consultative form, the management only consults workers-their desires, opinions, ideas, suggestions; but retains to itself the authority and responsibility of making decisions and executing them.

It may be useful to note that "the schemes in West Germany (outside of coal mining and iron and steel), France, the UK, Israel and Poland conform to the joint consultation model of participation in which the management takes the final decision but allows the worker's representatives to express their views. On the other hand, the co-determination scheme in coal mining and steel industry in West Germany and the Joint Management Plan in Israel approximate to the joint decision-making model in which worker's and management representatives sit together model in which worker's and management representatives sit together and take decisions jointly, though the worker's representatives may be in a minority. Yugoslavia provides the only example of the Worker's Control Model; and the USA the only example of the Collective Bargaining Model. These models often tend to merge into each other to some extent. Stray instances of every model can be found in all the countries.

In India, participation in management fall under the co-operative or joint management model, entailing a tempering of managerial power, but not basically altering the social system of production relations."

The systems of different countries differ in respect of the range of subjects handled by the participation machinery; in the degree of authority exercised with regard to these subjects; and in the methods of selection of worker's representatives.

G.L. Nada, after studying the scheme of worker's participation in management in some of the European countries concluded: "First, though there was a variety of forms in which consultation between the management's and worker was maintained: the in-built character of consultation is the single important factor in their success. Secondly, there was no attempt to bypass trade unions through the establishment of joint consultation machinery".

10.7. LEVELS OF PARTICIPATION

Participation is possible at all levels of management. It depends upon the nature of functions, the strength of the workers, and the attitudes of trade unions and the management. The areas and degrees may differ very considered at different levels of management. At one end, where the exercise of authority in decision-making is almost complete, participation will be negligible; while at the other end, where the exercise of authority is relatively small, participation will be maximum. In between these two extremes, the nature and extent of participation will vary, depending on a variety of factors, including the problems or issued, the attitudes and past experience of the management, and the development of human relations in general and labour management relations in particular. The fact is that worker's participation in management will have to be at different levels. Workers may be given an opportunity to influence or take part in managerial decisions at the higher level through their representatives on a supervisory board or on the Boards of Directors, or through works councils. Participation may also be at lower levels at which workers are given some authority to plan and take decisions about their work, like job enrichment, job enlargement, delegation, etc.

There are various stages of participation. Dorothea has given three stages of development of labour-management co-operation, *viz.,* 'information sharing', 'problem sharing', and 'idea sharing'. According to her, the *information sharing stage* is one in which an employer looks upon the joint committee as a means of informing employees about business conditions and the outlook of their company, as well as telling them about changes in operating methods before they are put into effect. The *problems sharing stage* is one at which the employer recognise that workers can make a contribution in such areas as material costs, and the quality of waste, and the management presents the facts and labour is requested to give its opinion or to make proposals for improving the situation. At the *idea sharing*

stage, the management indicates its willingness to have labour-initiated ideas in any kind of production and personnel activities and labour, with certain safeguard, is willing to contribute to the operation of the business.

Ernest Dale describes four kinds of co-operation:

(i) *Informal co-operation,* where the parties merely co-operate in gathering information. Pooled facts are then made available to both the parties for whatever use they care to make of them;

(ii) *Advisory co-operation,* where each side may consult with the other. The union gives advice on certain matters to the management and the management consults them before action is taken;

(iii) *Constructive co-operation,* where each party makes suggestions for improvement and the suggestions are acted upon; and

(iv) *Joint determination,* where policy matters are jointly decided by the union and the employer.

Broadly, speaking there are four stages of participation. At the initial stage, participation may be *informative and associative participation,* where members have the right to receive information, discuss and give suggestions on the general economic situation of the concern, the state of the market, production and sales programmes, organisation and general running of the undertaking, circumstances affecting the economic position of the concern, methods of manufacture and work, annual balance sheet and profit and loss account and connected, documents and explanations, long-term plans for expansion, redeployment, and such other matters as may be agreed to. There are the areas in which the members have the right to receive information and discuss these, and make suggestions which are binding on the management.

Consultative participation involves a higher degree of sharing of views of the members and giving them an opportunity to express their feelings. Members are consulted on canteen and welfare amenities, production and methods of work, safety, housing and other programmes of the company. Management may or not accept the suggestions.

Administration participation involves a greater degree of sharing in the authority and responsibility of the management's functions, and allows members a little more autonomy in the exercise of administrative and supervisory powers in respect of welfare measures and safety works, the operation of vocational training and apprenticeship schemes, the participation of schedules of working hours and breaks and holidays, payment of reward for valuable suggestions received, and any other matter that may be agreed to by the members.

In short, worker's participation in management can deal with and exercise supervisory, advisory and administrative function on matters concerning safety, welfare, etc., though the ultimate responsibility is vested in the management. However, all such matters as wages, bonus, etc., which are subjects of collection bargaining, are excluded from the purview of the worker's participation schemes. Individual grievances are also excluded from their scope. In short, the creation of new rights as between employers and workers should be outside the jurisdiction of the participation schemes.

10.8. WORKERS PARTICIPATION IN INDIA

The participation of workers in management is nothing new for India. In 1920, mahatma Gandhi had suggested this on the ground that workers contributed labour and brains, while shareholders contributed money to an enterprise, and that both should, therefore, share in its prosperity. He observed : "Employers should not regard themselves as sole owners of mills and factories of which they may be legal owners. They should regard themselves as trustees. There should be a perfect relationship of friendship and co-operation among them." As for the unions, he said: 'The aim should be to arise the moral and "intellectual height of labour and thus by sheer merit, make labour mater of the means of production instead of the slave that it is". He insisted that "capital and labour should supplement and help each other; they should be a great family, living in unity and harmony". The influence of Mahatma Gandhi bore fruit; and for the first time, the joint consultation model was adopted in the cotton textile industry. A few works committees were also set up in the printing presses of the government. TISCO had established joint committees in 1958 and the Delhi Cloth and General Mills CO. Ltd., accepted an elected representative on the Board of its Directors. In some railway companies and the Buckingham and Carnatak Mills of Madras, works committees were set up. The year 1920 may, therefore, be regarded as a landmark in the history of joint consultation in India.

10.8.1. Royal Commission on Labour –WPM

Of works committees in general, Royal Commission reported: "The Commission expressed similar views about working of joint committees on railways set up in 1923. There were several reasons for this state of affairs- illiteracy of the working class, unorganised labour unions, and defective recruitment systems. The Royal Commission reported that in the minds of some employers, there was a fear that works committees would encroach on their management rights. The opposition of the trade unions themselves was one of the reasons, for they looked upon works committees as rival institutions.

The Royal Commission on Labour suggested that, to promoting industrial harmony, to avoid misunderstanding and settle disputes, not only works committees be set up, but strong trade unions be developed and labour officers be appointed. It recommended that joint machinery should be set up exclusively for the settlement of disputes. It said: 'The broad lines of organisation should include not only some joint committee or council within the industrial establishment, but also a larger body representative of both sides of industry in the centre concerned. The similar body can be identical with the works committee where that is vigorous, or it can be separately constituted, and should deal with disputes affecting the single establishment. The larger body should deal with more general questions, and might also act as an advisory appellate body in respect of disputes which are confined which are confined to one establishment".

The main recommendation of the Committee were:

(i) It would be advised to have some permissive legislation empowering the government to set up joint management councils in selected undertakings.

(ii) The main function of the joint management councils might include the means of communication, improvements in working and living conditions, implementation of safety measures, improvements in productivity, encouragement of suggestions and assistance in the administration of laws and agreements; alternations, in the Standing Orders; planning and execution of welfare programmes; retrenchment, rationalisation, closures, reduction in or cessation of operations; introduction of new methods of

production and manufacture including re-employment of men and machinery; methods of manufacture and work operation of vocational training and apprenticeship schemes, rewards for valuable suggestions and procedures for engagement and punishment.

(iii) To reduce the danger of apathy, the councils of management may be entrusted with some administrative responsibilities- the administration of welfare measures, supervision of safety measures, operation of vocational training and apprenticeship schemes, and payment of rewards for valuable suggestions.

(iv) There should be a strong self-confident trade union, closely connected with the machinery of participation, which should have a reasonably clear separation of functions.

(v) The co-operation of junior managers, supervisors and foreman should be sought.

(vi) There should be a single council for an undertaking as a whole, provided that it is not made of units at different places. For undertakings spread over several places, there may be separate councils at local, regional or national levels.

(vii) The question of size, the existence of local demand and state of worker's organisation and of their preparedness for participation must be taken into consideration while deciding whether the law should be applied to a particular undertaking.

10.8.2. Sachar Committee on Workers' Participation

In June 1977, a high-powered Expert Committee on Companies and M.R.T.P. Acts was set up by the Government of India under the Chairmanship of Rajinder Sachar. The terms of reference for the Committee were: *(i)* to consider the provisions of the Companies Act and M.R.T.P. Act and *(ii)* to suggest measures by which worker's participation in the share capital and management of companies can be brought about". The Report was submitted in August 1978.

The main recommendations of the Committee were :

(a) Regarding Representation of Workers on Board of Directors

There were :

(i) To begin with, participation shall be limited to companies which employ 1,000 or more workers (excluded *badli* workers).

(ii) The definition of workmen is given in the Industrial Disputes, Act, 1947, would be appropriate for the scheme;

(iii) This participation at the Board level should be introduced if at least 51 percent of the workers vote in a secret ballot on favour of such participation. In that event, the company will be legally bound to fall in line with their wishes. However, any company can voluntary introduce this participation scheme.

(iv) Before fixing the proportion of Worker Directors on the Board, a more detailed consideration should be given to the issue by the Central Government.

(v) The Worker Director will be elected by all the workers at the company's premises by secret ballot with cumulative voting rights;

(vi) The Worker Director must be from amongst the workers employed by the company and not an outsider.

(vii) A pre-requisite of this scheme of participation is a programme of training designed to be in line with the business of company. It will be the responsibility of the government to organise this training programme. "An awareness of industrial relations and business techniques will certainty make the workers more aware of the actual problems faced by the companies in modern society. The training of the employees must, therefore, be immediately taken in hand".

(viii) The presence of the Worker Director on the Board would not lead to any breach in the confidentiality of the information.

(ix) The committee did not favour a two-tier representation, i.e. a Supervisory Board and the Smaller Management Board.

(b) Regarding Worker's Participation in Share Capital.

The committee failed to evolve any formula acceptable both to workers and employers. It did not, therefore, recommended any "mandatory participation in equity by the workers". The recommendation that employed was:

"There was, however, quite a majority in favour of the suggested that in all future issues of shares by companies, a portion of new shares, say about 10% to 15%, should be reserved exclusively for workers, called the workers' shares. These shares, in the first instance, must be offered to the employees of the company, and failing that only should they be offered to the existing shareholders or the public. For that purpose, Section 81 of the Act should be suitably amended. Section 77 of the Act should also be amended permitting the companies to give to the employees a loan up to 12 month's salary or wages not exceeding Rs. 12,000 for the purchase of the company".

10.8.3. Varma Committee on Worker's Participation in Industry

Under the Janata Government, a committee was set up in September 1977 under the chairmanship of Ravindra Varma, the then Union Minister for Laour. The terms of reference of the committee were:

(i) To study the existing statutory and non-statutory schemes;

(ii) To recommend on the outlines of a comprehensive schemes f worker's participation, especially keeping in view the interests of the national economy, efficient management and workers; and

(iii) To recommended the manner in which the concept of trusteeship in industry and the participation of workers in equity can be given a practical shape in a scheme of workers' participation.

The main recommendations of the Committee, which submitted its report in 1979, are:

(i) A three-tier system of participation, *viz.,* at the shop floor, plant and corporate or board levels, should be adopted.

(ii) Legislation on worker's participation covering all undertakings employing 500 or more workers, irrespective of the fact whether it is in public, private or corporate sector, should be introduced.

(iii) There should be provision for extending the scheme to unite employing at least 100 workers.

(iv) The representatives for the participative forms should be elected by secret ballot with a view to avoiding any possible friction between the collective bargaining agent and the representatives. The committee suggested that there should be parity between the representatives of employers and workers on the participation forums at shop and plant levels, but it could not agree on the number of worker's shares of the workers of that company.

(v) The issue of equity participation was recommended as optional. Not less than 10% of all new shares to be issued in future by a company should be reserved exclusively the worker's shares of the workers of that company.

Workers' representatives and some of the state government representation favoured the participation at the corporate, plant and shop floor levels; but employer's representatives were of the view that participation should be confined only to the shop floor level.

10.8.4. A New Comprehensive Scheme for Employees' Participation in Management (1983)

Based on a review of the working of the various schemes of worker's participation in management introduced in 1975 and 1977 and the experience so gained, the government in 1983 formulated a comprehensive scheme for worker's participation in the Central public sector undertakings. The main features of the scheme are :

(i) The scheme will not have any legislative backing to begin with;

(ii) It would cover all public sector undertakings, except those specifically exempted;

(iii) All the undertakings run on departmental lines by the Central government will be excluded;

(iv) It will operate both at the shop floor and the plant levels;

(v) The employees and employers shall have equal representation on all the participative forums; and

(vi) The functions of the participative forum would be as laid down in the scheme and can be modified with the consent of both the parties.

But a host of constraints – such as multiplicity of union, inter-union rivalry, lack of proper knowledge on the part of workers about the scheme-have acted as a stumbling block in the successful working of the scheme.

10.8.5. Second Meeting of Labour Minister's on Employees Participation in Management (1985)

The second meeting of the group of labour ministers held on the 27th July 1985 discussed the advisability of legislative backing to the scheme of worker's participation in management. It was proposed that the system should be implemented under the Participation in Management of Industry Act, or it, should from part of the Industrial Disputes Act, 1947, in a separate chapter. The salient features of the proposal were:

(i) The scheme shall have legislative backing;

(ii) In the first instance, it shall cover industrial establishments employing 500 or more persons in private, co-operative and public sector undertakings, but shall exclude the departmental undertakings of the Central and State Governments;

(iii) The scheme shall work at three levels, i.e., shop levels, the plant level and the corporate / board level;

(iv) Only employees of the establishment shall be eligible for representation in the participative forums. One-third of the employee's representatives shall be from amongst the supervisor;

(v) The functions of various participative forums shall be laid down in the frame work of the scheme. All the decisions of the shop and plant councils shall be arrived at by consensus. They shall be binding on both the parties and shall be implemented within a month. The unsettled matters shall be referred to the Board of Directors.

There was a broad consensus on the statutory arrangement to ensure that private and the co-operative sector units might not be left out. But the conference could not come to a decision on the issue of the mode of selection of the employees' representatives for the different participative forums because of differing views of the various parties.

However, in view of the complexity of the issues involved, the government has dropped the idea of providing any statutory backing to the participative schemes.

10.9. FORMS OF WORKER'S PARTICIPATION IN INDIA

Worker's participation has been introduced in three forma in Indian industries :

(i) The works committees (set up under the Industrial Disputes Act, 1947);

(ii) The joint management councils (set up a result of the Labour Management Co-operation Seminar, 1958); and

(iii) The scheme for workers' Representative on the Board of Management (under the Management and Miscellaneous Scheme, 1970) on some public and private sector enterprises, including industrial undertakings and nationalised banks.

Since July 1975, a two-tier participation model, namely, the shop council at the shop level and to joint council at the enterprises level, were introduced. On 7th January 1977, a new scheme of workers' participation in management in commercial and service organisations in public sector undertakings was launched with the setting up of unit councils. On 30th December 1983, a comprehensive scheme for worker's participation in public undertakings was introduced. It was decided that workers would be allowed to participate at the shop level, the plant level and the board level. As the scheme of shop council and workers' representation on the board of directors were already functioning, greater emphasis was placed on the setting up of unit councils.

At present the following participative forms are prevalent in India.

(i) Words committees;

(ii) Joint management councils;

(iii) Joint councils;

(iv) Unit councils;

(v) Plant councils;

(vi) Shop councils;

(vii) Worker's representative on the Board of Management; and

(viii) Worker's participation is share capital.

Of these schemes, the first two have already been discussed in detail in previous chapters. The remaining schemes are dealt within the following paragraphs.

10.9.1. Joint Councils

At every division / region / zonal level, or, as may be considered necessary in a particular branch of an organisation / service employing 100 or more people, there shall be a joint council. The main feature of the joint council shall be :

(i) Each organisation / service shall decide the number of councils to be set up for different types of services rendered by it in consultation with the recognised unions – registered unions or workers as the case may be, in the manner best suited to the local conditions.

(ii) Only such persons who are actually engaged in the organisation/service shall be members of the joint council. Each organisation/ service may decide the number of members in the manner suggested in item *(i)* but the membership should not be unwieldy.

(iii) The tenure of the council shall be two years. If, however, a member is nominated in the mid-term of council to fill a casual vacancy, the member nominated shall continue in office for the remaining period of the council's tenure.

(iv) The chief executive of the organisation/ service or of its divisional / regional/ zonal branch, as the case may be, shall be the chairman of the joint council. There shall be a vice-chairman who will be chosen by the worker-members of the council.

(v) The joint council shall appoint one of its members as its Secretary who will prepare the agenda, record the minutes of the meetings and report on the implementation of the decisions arrived at every meeting. The management shall provide the necessary facilities within the premises of the organisation/ service for the efficient discharge of his functions by the secretary.

(vi) The joint council shall meet whenever considered necessary, but at least once in a quarter. Every meeting shall review the action taken on the decisions of earlier meetings for an effective follow-up action.

(vii) Every decision of the joint council shall be on the basis of consensus and not only by a process of voting; it shall be binding on the management and workers and shall be implemented within one month, unless otherwise stated in the decision.

Functions

The following shall be function of the joint council :

(i) The settlement of matters which remain unresolved by unit level councils and arranging joint meetings for resolving inter-council problems.

(ii) Review of the working of the unit level council for improvement in the customer service and evolving for the best way of handling of goods traffic, accounts, etc.

(iii) Unit level of matters which have a bearing on other branches or on the enterprise as a whole.

(iv) Development of skills of workers and adequate facilities for trading.

(v) Improvement in the general conditions of work.

(vi) Preparation of schedule of working hours and holidays.

(vii) Proper recognition and appreciation of useful suggestions received from workers through a system of rewards.

(viii) Discussion of any matter having a bearing on the improvement of performance of the organisation/ service with a view to ensuring better customer service.

10.9.2. Unit Council

Encouraged by the success of the scheme in manufacturing and mining units, a new scheme of workers' participation in management in commercial and service organisations in the public sector, having large-scale public dealing, was announced on 5th January 1977. The scheme envisaged the setting-up of unit councils in units employing at least 100 persons. The organisation include hotels, restaurants, hospitals, air, sea, railways and road transport services, ports and docks, ration shops, schools, research institutions, provident fund and pension organisations, municipal and milk distribution services, trust and telegraph offices, the Food Corporation, State Electricity Boards, Central Warehousing, State Warehousing Corporations, State Electricity Corporation, Mines and Minerals Trading Corporation, irrigation systems, tourists organisations, establishments of public amusement and training organiations of Central and State Governments.

Features of the Scheme

The main features of the scheme are :

(i) A unit level council, consisting of representing of workers and management of the organsiation/ service, employing 100 or more worker, may be formed in each unit to discuss day-to-day problems and find solutions; but, wherever necessary composite council may be formed to serve more than one unit, or a council may be formed department-wise to suit the particular needs of an organisation/ service.

(ii) Every unit council shall consist of an equal number of representatives of the management and workers. The actual number of members should be determined by the management in consultation with the recognised union, registered union or workers in the manner best suited to the local conditions obtaining in a unit or an organisation; but their total number may not exceed 12. It would be necessary to nominate suitable and experienced workers from various departments, irrespective of their cadre, affiliation or status, and not trade union functionaries who may not be actually working in the unit.

(iii) The management's representatives should be nominated by the management and should consist of persons from the unit concerned.

(iv) The management shall, in consultation with the recognised union or the registered union or workers as the case may be, determine in the manner best suited to local conditions, the number of unit councils and the departments to be attached to each council of the organisation/ service.

(v) All the decisions of a unit council shall be on the basis of consensus and not only by a process of voting, provided that either party may refer the unsettled matters to the joint council for consideration.

(vi) Every decision of a unit council shall be implemented by the parties concerned within a month, unless otherwise stated in the decisions itself.

(vii) The management shall make suitable arrangements for the recording and maintenance of minutes of meetings an designate one of its representatives as a secretary for this purpose, who shall also report on the action taken on the decisions at subsequent meetings of the council.

(viii) Such decisions of a unit council as have a bearing on another unit of the organisation/service as a whole shall be referred to the joint council for consideration and decision.

(ix) A unit council once formed shall function for a period of three years. Any member nominated or elected to the council in the mid-term to fill a casual vacancy shall continue to be a member of the council for the unexpired period of the term of the council.

(x) The council shall meets as frequently as is necessary but at least once a month.

(xi) The chairman of the council shall be a nominee of the management. The worker members of the council shall elect a vice-chairman from amongst themselves.

Functions of Unit Council

The main functions of the unit councils are :

(i) To create conditions for achieving optimum efficiency, better customer service in areas where there is direct and immediate contact between workers at the operational level and the customer, higher productivity and output, including elimination of wastage and idle time, and optimum utilisation of manpower by joint involvement in improving the work system;

(ii) To identify areas of chronically bad, inadequate or inferior service and take necessary corrective steps to eliminate the contributing factors and evolve improved methods of operation;

(iii) To study absenteeism and recommend steps to reduce it;

(iv) To eliminate pilferage and all forms of corruption and to institute a system if rewards for his purpose;

(v) To suggest improvements in the physical conditions of working, such as lighting, ventilation, dust, noise, cleanliness, internal layout, and the setting up of customer's service points;

(vi) To ensure a proper flow of adequate two-way communication between management and workers, particularly about matters relating to the services to be rendered, fixation of targets of output and the progress made in achieving these targets;

(vii) To recommend and improve safety, health and welfare measures to ensure running of the unit;

(viii) To discuss any other matters which may have a bearing on the improvement of performance in the unit for ensuring better customer service.

10.9.3. Plant Council

The plant council is formed in pursuance of the recommendations of the second meeting of the Group Labour at New Delhi on 23rd September 1985. The scheme is applicable to all Central public sector undertakings, except those which are given specific exemption from the operation of the scheme by the government. The main features of the scheme are :

(i) There shall be one plant council for the whole unit;

(ii) Each plant council should consist of not less than six and not more than eighteen members. There should be parity between the representatives of employees and employers. One-third of the employees representatives should come from the supervisory staff level. If the number of women employees is 15 percent or more of the total work-force, at least one representative should be a women employee;

(iii) Only such persons as are actually engaged in the unit should be members of the plant council;

(iv) It's tenure shall be for a period of three years;

(v) The chief executive of the unit shall be the chairman of the plant council; the vice-chairman shall be elected from among the employees;

(vi) The plant council shall appoint one of its members as secretary who will be provided with adequate facilities for the effective discharge of his duties within the premises of the undertaking/establishment;

(vii) If a person quits the council for whatever reason, the number who is nominated to fill the mid-term casual vacancy shall serve on the council for the unexpired period of the term of the council;

(viii) The council shall meet at least once in a quarter;

(ix) Every decision of the plant council shall be on the basis of consensus and not by voting, and shall be binding on both the employees and the employer. The decisions so arrived at shall be implemented within a month, unless otherwise stated in the decision itself. All unsettled issues shall be placed before the board of directors for their decision.

Functions of Plant Council

The plant council shall normally deal with the following matters:

(A) Operational Areas

(i) Determination of productivity schemes taking into consideration the local conditions;

(ii) Planning, implementation, and attainment and review of monthly targets and schedules;

(iii) Material supply and preventing its shortfall;

(iv) Housekeeping activities;

(v) Improvement in productivity in general and in critical areas in particular;

(vi) Quality and technological improvements;

(vii) Machine utilisation, knowledge and development of new products;

(viii) Operational performance figures;

(ix) Encouragement to and consideration of the suggestion system;

(x) Matters/problems not stored out at the shop floor level or those that concern more than one shop;

(xi) Review of the working of shop level bodies.

(B) Economic and Financial Areas

(i) Profit and loss statements, balance sheet;

(ii) Review of operating expenses, financial results, and cost of sales;

(iii) Enterprises performance in financial terms, labour and managerial cost, and market conditions, etc.

(C) Personnel Matters

(i) Matters relating to absenteeism;

(ii) Special problems of women workers;

(iii) Initiation and administration of worker's programmes.

(D) Welfare Areas

(i) Implementation of welfare schemes, such as a medical benefits, housing and transport facilities;

(ii) Safety measures;

(iii) Township administration;

(iv) Control of the habits of gambling, drinking and indebtedness among the workers.

(E) Environmental Areas

(i) Environmental protection; and

(ii) Extension activities and community development projects.

10.9.4. Shop Councils

The main features of the shop council scheme are :

(i) In every industrial unit employing 500 or more workers, the employer shall constitute a shop council for each department or shop or one council for more than one department or shop, on the basis of the number of workers employed in different departments or shops.

(ii) *(a)* Each council shall consist of an equal number of representatives of employers and workers.

(a) The employers' representatives shall be nominated by the management and must consist of persons from the unit concerned.

(a) All the representatives of workers shall be from amongst the workers actually engaged in the department of the shop concerned.

(i) The employer shall, in consultation with the recognised union or the various registered trade unions or with workers, as the case may be determine in the manner best suited to local conditions, the number of shop councils and departments to be attached to each council of the undertaking or establishment.

(ii) The number of members of each council may be determine by the employer in consultation with the recognised union, registered unions or workers in the manner best suited to the conditions obtaining in the unit. The total number of members may not generally exceed.

(iii) All the decisions of the shop council shall be on the basis of consensus and not by voting, provided that either party may refer the unsettled matter to the joint council for consideration.

(iv) Every decision of the shop council shall be implemented by the parties concerned within a period of one month unless otherwise stated in the decision itself, and a compliance report shall be submitted to the council.

(v) Such decisions of the such council as have a bearing on another shop or department or the undertaking as a whole shall be referred to the joint council for consideration and decision.

(vi) A shop council, once formed, shall function for a period of three years. Any member nominated or elected to the council in the midterm to fill a casual vacancy shall continue to be a member of the council for the unexpired portion of the term of the council.

(vii) The council shall meet as frequently as is necessary but at least once a month.

(viii) The chairman of the shop council shall be a nominee of the management; the worker members of the council shall elect a vice-chairman from amongst themselves.

Functions of Shop Councils

Top achieve increased production, productivity and over-all efficiency of the shop department the shop council should attend to the following matters:

(i) Assist management in a achieving monthly/yearly production targets.

(ii) Improve production, productivity and efficiency, including elimination of wastage and optimum utilisation of machine capacity and manpower.

(iii) Specially identify areas of low productivity and take the necessary corrective steps at shop level to eliminate relevant contributory factors.

(iv) Study absenteeism in the shop/department and recommend steps to reduce it.

(v) Suggest safety measures.

(vi) Assist in maintaining general discipline in the shop/department.

(vii) Suggest improvements in physical conditions of working-lighting ventilation, noise, dust, etc., and reduction of fatigue.

(viii) Suggest welfare and measures to be adopted for efficient running of the shop/ department.

(ix) Ensure proper flow of adequate two-way communication between the management and the workers, particularly on matters relating to production schedules and progress in achieving the targets that have been set.

(x) Suggest technological innovations in the shop.

(xi) Assist in the formulation and implementation of quality improvement programme.

(xii) Determine and implement the work system design.

(xiii) Formulate plans for multiple skill development programme.

(xiv) Assist in the implementation of cost reduction programme.

(xv) Ensure a periodic review of the utilisation of the critical machines.

A recent report of the Ministry of Labour indicates that the scheme of worker's participation in management is in operation in as many as 94 Central public sector undertakings. Some of these have claimed that participative management is "working smoothly" at the shop floor level. These undertakings include the Steel Authority of India Ltd. (SAIL), the Rourkela Steel Plant, Bharat Heavy Electricals Ltd, (BHEL), Cement Corporation of India, Mineral Exploration Corporation, Hindustan Phortofilms Manufacturing Company, Bharat Gold Mines, Oil India and The National Textile Corporation.

One undertaking under the Department of Agriculture and Co-operation, five under the Department of Fertilizers, two under the Department of Atomic Energy, two under the Ministry of Commerce, two under the Department of Communications, and eight under the Department of Defence Production are reported to have claimed that they have implement the participative management scheme either at the shop floor or plant level.

The Department of Coal has claimed that NECL, SCL, NLCL, WCL, CCL, ECL, and BOCL have implemented the schemes of workers' participation in management. In the Department of Power, the National Hydro-Electrical Power Corporation and the National Thermal Power Corporation have implemented it.

The Union Ministry of Industry has put the participative management scheme into operation in five units under the Department of Chemicals and Petro-chemicals and fifteen units under the Department of Industrial Development.

The Ministry of Petroleum is also reported to be operating the participative management scheme in Madras Refinery, Oil and Natural Gas Commission and Indian Oil Blending Ltd., while the Ministry of Steel and Mines has claimed to have introduced the scheme in five companies under the Department of Mines and six under the Department of Steel.

According to the Department of Surface Transport, six companies have introduced the schemes, including the Shipping Corporation India, Hindustan Shipyard and the Delhi Transport Corporation (DTC). The Ministries of Welfare and Science and Technology, too, have one undertaking each where the scheme is in operation.

A noteworthy achievement in this regard is that of the Textile Ministry. As many as eleven textile corporations in Andhra Pradesh, Bihar, Delhi, Gujarat, Madhya Pradesh, Maharastra, Punjab, Tamil

Nadu, Uttar Pradesh and West Bengal, and the Cotton Corporation of India have implemented the scheme of worker's participation in management.

The Department of Public Enterprises has furnished a list of nine undertakings which have adopted the participative management culture. These include BHEL, Bharat heavy Plates and Vessels, Bharat Pumps and Compressors, Tungabhadra Steel Products, Triveni Structurals, HMT, Maruti Udyog, and Burn Standard Co.Ltd.

"The Labour Ministry claims that among the 94 public enterprises which have implemented the scheme, it is working quite smoothly at least in the coal fields. But according to some other sources, this claims is far from true. The sources say that in the last 10 years, when the Coal department introduced the participation forum in collieries to begin with, the experiment ended in a fiasco".

10.9.5. Workers' Representation of Board Of Management

On the recommendations of the Administrative Reforms Commission made in its report on public sector undertakings, the Government of India accepted, in principle, that representatives of workers should be taken on the Board of Directors of public sector enterprises. A few notable features of the scheme are :

(i) The representatives of workers on the board should be those actually working ion the enterprise.

(ii) To begin with, participation should be limited to companies which employ 1,000 or more persons (excluding casual and *badli* workers).

(iii) The definition of 'workmen', as given in the Industrial Disputes Act, 1947, would be appropriate for the scheme.

(iv) Participation at the Board level should be introduced if at least 51 percent of the workers vote in a secret ballot in favour of this participation. In that event, the company will be legally bound to fall in line with their wishes. However, any company can voluntarily introduce this participation scheme.

(v) Before fixing the proportion of Worker Directors on the Board, a more detailed consideration should be given to the issue by the Central Government.

(vi) The Worker Director will be elected by all workers of the company through secret ballot. Each voter will have cumulative voting rights.

(vii) The pre-requisite of this scheme of participation shall be training in the business of the company. It will be the responsibility of the government to recognise this training programme. An "awareness of industrial relations and of business techniques will certainly make the workers more aware of the actual problems faced by the companies in modern society. The training of the employees, must, therefore, be immediately taken in hand".

(viii) The presence of the Worker Director on the Board would not lead to any breach in the confidentiality of the information required by him.

(ix) The Reforms Commission did not favour a two-tier representation, *i.e.,* a Supervisory Board and the Smaller Management Board.

Functions Under the Scheme

The employee's representative/worker Director participates in all the functions of the Board. Besides this, he also reviews the working of shop and plant councils and take decisions on matters not settled by the Council.

Working of Schemes in Indian Industries

A few public undertakings in the country have introduced the scheme on a somewhat experimental basis. A great enthusiasm has been shown by the banking industry. One director on the Board of each nationalised bank is appointed by the Central Government from among the employees of that bank, who is a worker and is chosen out of a panel of three employees of that bank, who is a worker and is chosen out of a panel of three employees furnished to the government by the representative union within the prescribed period. Worker's representatives have been appointed on the Boards of Management of a few public undertakings on a trial basis- in Hindustan Antibiotics Ltd., the Hindustan Organic Chemicals Ltd., the National Coal Mines Development Corporation has always had a nominated worker's representative on the Board. In the Port Trusts, there have always been two worker's representatives as Trustees or Commissioners, while on the Dock Labour Board, the number of worker's representatives has been more. BHEL, National Newsprint and Papers Mills (Gujarat), National Textile Mills (South Maharashtra, West Bengal, Assam, Bihar and Orissa),and the Rashtriya Chemicals and Fertilizer Ltd., have trade union leaders on the Boards of Directors of these undertakings.

For want of empirical research in the working of the scheme, nothing can be said about the effectiveness of this schemes. A great deal of evaluative theoretical writing on the subject has questioned the advantage of the implementation of the scheme. It has been argued that when, in the absence of healthy labour-management relations, such schemes as the JMCs, WCs and shops councils have failed miserably it is futile to think of the scheme for the representation of workers on the Board of Management of an enterprise, which calls for a higher degree of participation. A study of the scheme in the nationalised banks conducted by the National Labour Institute has shown that it has failed in fostering a congenial relationship based on mutual trust, respect, understanding and co-operation. It has also been observed that it has had little impact on industrial relations or on decision-making.

10.9.6. Workers' Participation In Share Capital

The Sachar Committee had, in its report to the government, observed: "Quite a majority (was) inn favour of the suggestion that, in all their future issues of shares, the companies should reserve a portion of their new shares, say about 10% to 15%, exclusively for the workers, called the workers shares. These shares, in the first instance, must be offered to the employees of the company; failing that, they should be offered to the existing shareholders or the public. For that purpose, Section 81 of the Act should be suitably amended. Section 77 of the Act should also the amended, permitting companies to give to the employees a loan of the shares of the company". This scheme, however, has not found favour with the industries in India.

10.10.EVALUATION OF WORKER'S PARTICIPATION SCHEME IN MANAGEMENT

Though the concept of participative management is supported in principle by all the parties-government, employees and employers-no serious interest has been shown, it except, of course, by the government.

From time to time, the government has come out with a variety of schemes which best serve the national interest; but it is disheartening to note that all the schemes have failed miserably. This is evident from the following observations.

"The worker's representatives are concerned with the enlargement of their amenities and facilities and with the redressal of grievances, higher wages, better conditions of work and security of service than with such larger problems as reducing the rate of absenteeism, increasing productivity, effecting economies in the operations of the enterprise and suggesting better methods for a more efficient utilisaton of plant and equipment. In a majority of cases, the joint management councils are not functioning satisfactorily".

"Employers do not take the joint management councils into their confidence in regard to amendments of Standing Orders, the introduction of new and better methods of production and manufacturing processes, redeployment of men and machines, and reduction in, or cessation of, operation despite their agreement that they would do so. Communication with, or the practice of giving information to, the workers has not been adequately developed; and although the management has agreed to transfer some administrative responsibilities to joint management councils, there has been no such transfer in actual practice".

A variety of factors that have contributed to the failure of the scheme have been discussed in the following paragraphs.

1. *Ideological Differences Between Employees and Employers Regarding the Degree of Participation:* There is a fundamental difference between employees and employers regarding the level of participation by workers. Employers are of the opinion that worker's participation at the Board level should be introduced gradually in stages, while the employees feel that the scheme should be simultaneously at all levels. The result is that the various schemes have been accepted half-heartedly.
2. *Failure to Imbibe the Spirit of Participation by the Parties:* One of the major factor responsible for its failure is the inability of the parties to imbibe the spirit of participation. The employer looks upon bipartite bodies (the shop council, plant council and JMCs) as substitutes for trade unions, while employees regard it as their rival. This attitude has generated hostility or apathy, and at times even jealously, among them, with the result that the spirit of participation has suffered death *ab initio.*
3. *Multiplicity of Participative Forms :* The existence of a number of joint bodies-the works committees, joint-management council, shop council, unit council, plant councils, canteen committees, safety committees, suggestion committee etc., -each with an ill-defined role and functions has often created confusion, duplication of efforts and resulted in a waste of time and energy. The resultant effect has been improper functioning of the scheme.
4. *Lack of Strong Trade Unionism :* In comparison with trade unionism in such developed countries as the USA, UK, West Germany, Japan, etc., the movement in our country is fragmented, poorly organised, revenue by intense inter-union rivalry, and coloured and by various political philosophies. In such a state of affairs, it is failure to think that workers' participation in management through their own elected representatives would be satisfactorily.
5. *Unhappy Industrial Relations :* At no point in the economic history of the country has the industrial climate been free from labour unrest. It is a pity that the government has imposed participative

schemes on industries in such a climate where, its anticipated result has been its total failure. In fact, the schemes has turned out be a fiasco from its very inception.

6. *Illiteracy of Workers:* The workers' representatives on various participative bodies are, by and large, illiterate. In the absence of adequate knowledge on their part of the concept, rationale and benefit of the participative schemes, they are unable to actively participate meaningfully in their working. The result is that either they fail to arrive at any decision or bank on outsiders for guidance who invariably persuade them not to expect that forum to solve their problems. This fact is reflected in worker's inability to accept the scheme.

7. *Non-Co-operative Attitude of the Working Class :* The litigation-minded worker's representatives on the various participative forums quite often raise those issues which are beyond the scope of those forums or bodies. This attitude tempts employers not to use the schemes while dealing with worker's problems. This fact, therefore, has had a dampering effect on the working of the scheme.

8. *Delays in the Implementation of the Decisions of Participative Bodies :* One of the major handicaps in the effective working of the participative scheme is that are inordinate delays in the implementation of the decisions arrived at by the various participative forums. This often generates apathy or dissatisfaction and frustration among the workers- a fact which invariably leads to their waning interest in the participative scheme.

10.11. CONDITION NECESSARY FOR EFFECTIVE WORKING OF SCHEME

A fruitful and effective workers-participation in management is an important determinant of industrial prosperity. In India, where the schemes have failed miserably, attempts should be made to revitalise the whole system. This can be brought about by adopting the following measures :

(i) One of the important factors in the success of the scheme is that the work environment must be congenial enough to motivate workers to give whole- hearted co-operation with a view to ensuring its efficient operation. An environment of industrial conflicts flowing from bad interpersonal relations will generate frustration and alienation among workers, which will have a dampering effect on the working of system. Therefore, attempts be made to cultivate a healthy work environment.

(ii) There must be total identity of approach on the part of both the parties to the working of schemes at different levels. There must be complete agreement on the manner in which the various participative schemes should function. Once the areas are clearly spelt out and side-tracking the main questions is avoided, the scheme can yield desirable results.

(iii) Both the workers and management must have complete faith in the efficient of the system and should pool their talents and resources, and demonstrate their will to work for the reliasation of their goals.

(iv) The concept of labour participation in management must be given a wide publicity so that the idea of participation may take root in the minds of those who are to implement the scheme. Lecturers, discussions, film shows, conferences, seminars and other methods of propaganda may be fruitfully employed to create enthusiasm about the scheme among the management personnel as well as the workers.

(v) Participation should be real. The issues related to increase in production and productivity, the evaluation of costs, the development of personnel and the expansion of markets should also be brought under the jurisdiction of the participating bodies. These bodies should meet frequently and their decisions should be strictly adhered to and implemented in time.

(vi) Objectives to be achieved should not be unrealistically high, vague or ambiguous but capable of achievement and clear to all.

(vii) The form, coverage, extent and levels of participation should grow in response to specific environment capacity and interest of the parties concerned.

(viii) The system of participation must be complementary to the collective bargaining process.

(ix) The participative schemes should be evolutionary. Therefore, to begin with, each should be introduced at the shop floor and plant levels. Till these schemes get going the schemes of worker's involvements at the Board level should not be undertaken.

(x) The workers' participation scheme, to be effective, must be based on mutual trust and confidence. Therefore, attempts to enforce it by law or compulsion would defeat its basic purpose.

(xi) The trade union movement should be developed on submit lines, so that the workers may enjoy real involvement in the various participative forums. The proliferation of unions in industries should be restricted by legislative means.

(xii) Programmes for training and education should be developed comprehensively. For this purpose, "labour education should be concerned with not the lead alone, not the alone, not the hands alone, but with all the three; it should make workers think, feel and act". Labour is to be educated to enable them to think, clearly, rationally and logically; to enable them to deeply and emotionally; and to enable them to act in a responsible way. The management at different levels also need to be trained and oriented to give it a fresh thinking on the issues concerned.

(xiii) There must be a free flow of information between labour and management throughout the enterprise. This will help both labour and management to work in co-operation and not at cross-purposes and constructively, too, in the attainment of enterprise, goals, for distrust and suspicion, which often puts obstacles in the effective working of the participative schemes, will go by the board.

(xiv) The decisions taken at different participatory forums must be sincerely carried out in a stipulated period of time so as to generate faith in the utility of the scheme.

(xv) The management should design a proper system so that effectiveness of the scheme may be assessed periodically, and, if required, the necessary changes may be made to make the scheme more beneficial for all the parties.

10.12. CONCLUSION

Through the scheme of worker's participation in management has not shown satisfactory results, it should be made to work at least in the field of increasing the production and productivity of labour by giving the workers a feeling that he is an integral and important part of the organisation and so creating a climate in which he may get reasonable opportunities to show his worth in contributing his share to the production targets. Joint consultation should form a labour – management decisions an important issues affecting not only production but also the very working lives of the employees. Management

should have a constructive attitude and should regard trade unions not as an obstacle to be overcome but as a highly valuable and powerful instrument which, if properly handled, can be of very great help in increasing production and productivity. Both employers and unions should solemnly resolve to carry on the experiment in proper spirit. The government should take responsibility for the provision of a satisfactory worker's education programme so that they may be properly equipped for their tasks. The scheme seems to have a bright future.

10.13. SELF ASSESSMENT QUESTIONS

1. Participation of workers in management is claimed to usher in an era of industrial democracy-comment.
2. Discuss in detail the scheme of workers' participation in Industry launched in 1975.
3. Review the schemes of workers participation in India and suggest the preconditional to make the successful.
4. Discuss in brief the various forms and levels of workers participation in management.

10.14. REFERENCE AND SUGGESTED BOOKS FOR FURTHER READING

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In the present-day social context, especially in democratic systems, it is accepted that employees should be able to express their dissatisfaction, whether it be a minor irritation, a serious problem, or a difference of opinion with the supervisor over terms and conditions of employment. In respect of the latter, it could stem either from the interpretation of the contract, or in the absence of a negotiated collective contract between management and action.

In India, the government has been making a plea for grievance machinery at the plant level ever since 1956-58 when the standing committee of the Indian Labour Conference submitted a draft on the various aspects of a grievance procedure. The National Commission of Labour set up by the Government as a tripartite body in 1969 also spelt out the nature of grievance and a model grievance procedure. However, this remains a recommendation and is not a statue yet. In effect, government machinery can only recommend but it is up to the respective managements of each enterprise to formally adopt; or reject, the grievance procedure. It must be noted, though, that there are very many instances in India today where the corporate management and union, through the collective bargaining process, have adopted a grievance procedure.

The grievance procedure is one of the more important means available for employees to express their dissatisfaction. It also a means available to management to keep a check on relevant diagnostic data on the state of the organization's health. There are other means also for this, such as decline in production/output (other things being equal), change in an individual's work habits and approach to the job itself. Statistical indices taken together and analysed to determine a pattern could also be revealing-indices and as absenteeism rates, accident data, requests for transfer, number of disciplinary cases and separations or quits. Besides, there are some employees who by nature are not forthcoming and hence may not like to avail of the grievance machinery, in such cases these indices have an added justification. Nevertheless, rather than wait only for the grievance mechanism to indicate the state of the organization's health, the management could use the above indices in conjunction with the grievance procedure to anticipate problem areas and take corrective action, or introduce new policies, as the situation may demand.

Whether this channel of upward communication will, in the first instance, be implemented will depend on the management's approach, the extent of unionization, and the union's strength in each particular plant.

11.2 APPROACHES TO THE GRIEVANCE MACHINERY

Various approaches have been documented reflecting the attitude of management and employees to the grievance machinery. Management could take a legalistic view and follow the negotiated contract, or it need not have a contract but have a grievance machinery oriented towards a human relations approach to its workers. Or, alternatively, management could, with or without a contract, have an open-door policy. We shall now examine some of these approaches.

11.2.1 Labour Contract Approach

The labour contract approach is a wholly legalistic approach. The management and the worker, categories covered by the contract, follow the provisions therein. Grievances are those defined by the contract, and the process for dealing with the grievance is clear to all concerned and specified with the time span for each stage. The provisions and the interpretations thereon of the contract are of paramount importance, more than concern for specific exceptions depending on the circumstances of the case.

3. Continuity of service
4. Compensation
5. Disciplinary action
6. Fines
7. Increments
8. Leave
9. Medical benefits
10. Nature of job
11. Payment
12. Acting promotion
13. Recovery of dues
14. Safety appliances
15. Superannuation
16. Suppression
17. Transfer
18. Victimization
19. Condition of work

11.4 EMPLOYEE GRIEVANCE – ILO

The International Labour Organization (ILO) classified a grievances as a complaint of one or more workers with respect to wages and allowances conditions of work and interpretations of service stipulations, covering such areas as overtime, leave, transfer, promotion, seniority, job assignment and termination of service. The National Commission of Labour states that "complaints affecting one or more individual workers in respect of their wage payments, overtime, leave, transfer, promotion, seniority, work assignments, and discharges would constitute grievances". A point to be noted is that where the issue is of a wider or general nature, or of general applicability, then it will be outside the purview of the grievance machinery. Chandra found that policy issues relating to hours of work, incentives, wages DA, and bonus are beyond the scope of the grievance procedure-they fall under the purview of collective bargaining.

A grievance has a narrower perspective, it is connected with the interpretation of a contract or award as applied to an individual or a few employees.

11.5 CAUSES OF GRIEVANCES

Overt manifestation of a grievance by an employee taking recourse to the formal procedure may not in all cases solve the real problem. It is true that in many cases the grievance could be taken care of through the grievance possess, but there are instances and occasions when a much deeper analysis of the systems, procedures, practices and personalities in the organization need to be examined for the possible causal relationship between them and the grievance. It is well known that the formally stated grievance is not always the real grievance. There may be a hidden reason, such as a problem supervisor, for instance, or an individual may have difficulty in relating to a work group with a totally different value system.

there is a need to gain the support of workers. Under such circumstances the grievance machinery could be an important vehicle for them to show their undeniable concern for worker's welfare. The fact that a union can provide a voice for their grievances is a vital factor in motivating employees to join a union. Realising that members expect action and only active unions can generate membership, unions sometimes are inclined to encourage the filling of grievances in order to demonstrate the advantage of union membership. It makes the union popular by providing that it is a force to be reckoned with and headed by the management.

There are also situations when unions, because they are unsure of their strength vis-à-vis both management and workers, may want to encourage the filling of several grievances in order to assert their presence. This is especially so just before contract negotiations are to take place and the various unions are lobbying to represent the workers.

11.8 INDIVIDUAL PERSONALITY TRAITS

An individual's personality also has a bearing on the usage of the grievance machinery. Some are basically predisposed to grumble and find fault with every little matter, seeing and looking out only for faults. Sometimes mental tension, caused perhaps by ill health, also contribute to this, in the sense that a tense mind finds an outlet in voicing a spate of grievances. On the other hand, there are employees who are willing to overlook minor issues and discomforts and get on with the job.

Not withstanding personality traits, the atmosphere or the culture that prevails could also contribute to this phenomenon. An antagonistic atmosphere could result in even a trivial matter being blown out of proportion, which in more cooperative times would have been noticed.

11.9 THE GRIEVANCE PROCEDURE

There are several substantial reasons for having a formal grievance procedure. Grievance mechanisms operate on the basis of sifting and establishing facts by raising probing questions such as Who? Why ? When? Where ? and What? Emotional attitudes are pushed to the background though they could, in the first instance, have caused the grievance. The facts are collected and analysed before an impartial decision is reached. This process could cover one or several levels in the organization including reference to outside institutions/individuals, if so desired or provided in the contract.

AN important aspect of the grievance machinery is the reassurance given to an individual employee by the mere fact that there is a mechanism available to him which will consider his grievance in a dispassionate and detached manner, and that his point of view will be heard and given due consideration. Built into this are safeguards against victimisation if, for instance, the grievance concerns a superior's action.

Putting forward grievances and discussing them, even if they are not ultimately settled in the employee's favour, gives a worker the satisfaction of having communicated with, and been heard by, the management. An employee's conception of his problem(s) may be quite biased. Venting his grievance and being heard gives him a feeling of being cared for. He gets it "off his chest", so to say, and it does a lot of good for his morale as illustrated by the famous Hawthorne studies.

The supervisor is the first level in the grievance machinery. If there is no formal procedure and the firm announces an open-door policy, then it is possible that the supervisor may get by passed by the

and one for the non-factory staff (departments are clustered together and are covered by one committee). Each zonal works committee consists of five management and five union representatives and they work on the basis of a unanimous decision which is final and binding on both parties. The zonal works committee considers individual grievances pertaining to promotion, suspension, discharge, dismissal and disciplinary matters.

If the zonal works committee cannot reach a unanimous decision, the grievance is referred to the central works committee which consists of representatives of top management and union officials. Again, the unanimity principle operates here and a decision is binding on both parties. If, how-ever, no unanimous decision is reached in this committee either, the matter is referred to the chairman of the company for the final decision.

11.10. NATIONAL COMMISSION ON LABOUR : MODEL GRIEVANCE PROCEDURE

The National Commission on Labour has suggested a model grievance procedure.

The Commission also suggests that the formal conciliator machinery, i.e. the offices of the state labour department's conciliation officers should not be availed of till all the steps in the procedure are exhausted. Evidently, if the grievances is referred to voluntary arbitration, which would also be one of the suggestions of the conciliation officers failing conciliation, then both the parties proceed with the understanding that the arbitration decision is final and binding. A grievance becomes a dispute only when all the steps have been gone through and the final decision of the management is unacceptable to the employee concerned.

The level at which settlement takes place is an index of the climate or the spirit that prevails in the firm. The lower the level of settlement, the quicker the redressal or a grievance. The concerned supervisor or manager also would be in a position to "give and take" at stage, I but at subsequent stages when he comes under the glare of publicity and the notice of his superior, his position is likely to harden, if only to vindicate his stand.

From the grievant's point of view, the delay would only increase his frustration and anxiety, perhaps affecting his morale and productivity which in turn would influence his colleagues. The social cost in delay is a loss of goodwill and camaraderie that might have been built up.

The personnel department has a substantial role to play advising the particular manager appointed to consider the grievance – and in a plant there would be many officers in various departments at several levels. Not only will the personnel officers be giving advice on technical aspects of the problem, if within their competence, but more so on the human aspects or the implications of various decisions and their impact on the grievance and the industrial relations situation in the plant.

A grievance procedure is necessary in a large organization which has numerous personnel and many different levels with the result that the manager is unable to keep a check on each individual, or be involved in every aspect of the working of the organization. In a small organization, communication, knowledge and contact is possible to a much greater extent, thus reducing the need for a formal grievance procedure.

is concerned with the individual and his peculiar problems. Admittedly, there are occasions when, either individual grievances of a severe magnitude which have policy implications, or those which concern only a few employees, are considered in the collective bargaining arena – which generally considers issues of a much broader nature-and a settlement reached which is applicable for the entire workforce. Such settlements would cover terms and conditions of employment, rules for working at the plant and finally pay and allowances for various jobs. There is also the area of worker's participation in management where there is much more of commonality in terms of discussion and joint participation on key issues which are situationally established between management and workers. This is a general framework to provide an understanding. In fact, there are several refinements, including consideration of collective bargaining as a form of worker's participation, but these are issues of another kind. The point to note and understand is that if there is a grievance machinery then many of the smaller and less important issues are settled, by it, leaving the collective bargaining process to work in a harmonious atmosphere.

One of the roles of the union is to aid and protect the individual worker in terms of his interest and problems. By joining a body such as a trade union the worker hopes, in fact, to get this kind of protection because in collective bargaining lies strength and protection for the individual. For instance, the worker realise that as an individual grievance he would be given less attention than if it had the backing of the union, which in its larger representational and organizational strength could get more attention for his grievance. An individual would not have the weight of the collective body or the organizational back-up to deal effectively with managerial actions such as victimization, callousness and favoritism. If he acted as an individual worker, he would most probably jeopardise his continued employment-management could terminate an individual worker's services with less repercussions than if he were a member of a union. The union can build up pressure on management for grievance not attempted to through withdrawal, or stoppage of labour either for short or prolonged spells.

Worker's rights, particularly with regard to grievances , are protected through the intervention of the union at each step. For instance, if an employee is asked to do a task which he thinks or perceives as being unfair, the union will advise him to carry on with the job and then file a grievance, for non-observance of the supervisor's order would constitute indiscipline on the part of the worker making him liable to charges of indiscipline. Subsequently the union would go into action and collect all the facts for a strong and proof case by asking questions and gathering data – who ? Why ? When ? What ? Grievances are best resolved on the basis of facts and not perceptions. There are grievances though which may not always be verifiable by recreating the situation and where, to some extent, the subjective element enters, thus giving way to perceptions. For instance, if management talks of an uncooperative attitude, this charge would remain a managerial perception as far as the worker/union is concerned, unless of course, it is substantiated by written notices issued to the employees over a time span.

A feature of Indian trade unionism is the multiplicity of unions. These unions may be vying for the same membership –the proliferation in numbers may not necessarily be due to craft or skill specialization which alone would justify separate unions. In order to enhance their respective standing vis-à-vis the workers, each of the minority unions would tend to make a major issue an employee grievance thus enabling them to sit with management and discuss policy matters. This approach arouses the worker's expectations. Management, on the other hand, is also faced with the dilemma of decision as being partial with a minority union, and if so, what the decision as being partial or may want similar benefits for one of their supporter, particularly if the issue is based on an interpretation of

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Lesson – 12

DISCIPLINE, DOMESTIC ENQUIRY AND GRIEVANCE PROCEDURE

OBJECTIVE

At the end of lesson the student is expected to understand

* Concept and objectives of discipline
* Approaches to discipline
* Disciplinary proceedings and
* Types of disciplinary actions.
* How to frame a proper charge sheet.

STRUCTURE

12.1. INTRODUCTION AND CONCEPT OF DISCIPLINE

Discipline is an important aspect of man management. Personnel management is far more important when people are being fired rather than hired. Employee indiscipline is both the cause and effect of the state of industrial relations. Other indications of indiscipline in a plant may be the high rates of absenteeism, labour turnover, accidents and sickness, multiple unresolved grievances, low and faulty turnout, increasing wastage, low motivation and morale of work force and greater number of interruptions and conflicts.

In the wider sense, discipline means orderliness – the opposite of confusion. In the military circle, the term discipline is synonymous with regimentation. In the industrial context, it does not mean strict and technical observance of rigid rules and regulations. It simply means working and behaving in a normal and orderly way, as any reasonable person expects an employee to do. It is as much a basic necessity for the people working in a plant as in other segments of society.

12.2. IMPORTANCE

Importance of discipline in industry can hardly be overemphasized. Orderly behaviour is essential for achieving the organization's objective. Without discipline no enterprise would prosper. If discipline is necessary even in a family which is a compact, homogeneous unit, how can an industrial organization with heterogeneous people, work smoothly without discipline? What the management has to do when the employee is fault, is to take disciplinary action. Discipline should be directed against an act and not against an act and not against the person. Discipline is said to be good when employees follow

willingly the rules of their supervisors and the various rules of the company. Discipline is said to be bad when employees either follow rules and regulations unwillingly or actually disobey them. Poor disciplinary suggests the need of correction. The fundamental reason for taking disciplinary action is to correct situations that are unfavourable to the company. 'Basically discipline is a form of training. When disciplinary problems arise, it may be as much management's fault as the workers'. Many disciplinary problems grow out of management's failure to inform employees what is expected of them'.

The word 'discipline' has unpleasant associations with punishment but with the addition of the "just cause" concept involving a limitation on the employer's right to discipline and discharge, the word been extended to embrace a system of training and education of both the employee and his supervisor, designed to achieve orderly conduct.

The keystone of just cause is the principle of 'corrective' or "progressive discipline" that is, the misconduct must be handled under a system of warnings and graduated penalties which gives the employee time to reflect upon his errors and mend his ways before the final act of discharge, when efforts at correction have failed.

12.3. OBJECTIVES OF DISCIPLINE

Discipline is essential for the smooth running of an organization, for the maintenance of industrial peace which is the very foundation of industrial democracy. Without discipline, no enterprise would prosper.

The aim of discipline is to obtain a willing acceptance of rules and regulations of an organization so that organizational goals may be attained.

As a system of orderly conduct, modern industrial discipline has many benefits for the employer and the employee alike. It enhances efficiency and reduces costs. Absenteeism and employee turnover are minimized. Equipment is given better care and scrap losses decline. The employees gain a sense of security and safety. They work without fear of unfair penalty for misconduct which they could not reasonably be expected to prevent. Their self-respect and respect for the company is preserved.

Two different attitudes towards discipline are in action today-the autocratic and democratic. Autocratic type of discipline is enforced by constant supervision by the superior and threats of punishment. The trouble with this type of discipline is that it does not take into account the desires of those commanded, it appeals only to the fear motive and not to other positive motives and also requires constant supervision.

The new method of discipline is defined as an orderly conduct of affairs by members of an organization who adhere to its necessary regulations even if they desire a harmonious cooperation with the ends of the group and willing recognition that to their own wishes must be brought to reasonable union with the requirements of group in action.

The statement that "discipline is what the leaders make it" is the observation of Fayol in managerial responsibility for discipline. A manager who shirks this responsibility is failing in his duty to manage. In many cases indiscipline stems from the managerial faults and lapses. Even where indiscipline results from the faulty attitudes and behaviour of subordinates, the responsibility lies with the manager because

of his power of influencing and controlling of eliminating their attitudes. The Government of India has prescribed model Standing Orders to cover disciplinary procedures.

12.4. SELF –DISCIPLINE

The best discipline is self-discipline. Generally, if workers feel that the rules by which they are governed are reasonable, they will willingly observe them. Rules are respected not for fear of punishment of the human-relations approach in industry, increasing attention is being given to employees as individuals. The human-relations approach is being given to employees as individuals. The human-relations approach lay emphasis on developing sanctions from within, in contradistinction to the traditional viewpoint which believes in controlling the worker from outside. According to the new approach a sense of responsibility is inculcated amongst the employees by means of increased participation, delegation and job enlargement.

Discipline is required only when all other measures have failed. Management should ideally try to establish what has been called “positive discipline”, an atmosphere in which subordinates willingly abide by rules which they consider fair. In such an atmosphere the group may well exert social pressure on wrong-doers and reduce the need for ‘negative’ (i.e., punitive) discipline.

Since disciplinary action involves penalties and since dealing out penalties has dangerous implications, management must fully know when, why, how and to whom the disciplinary action should be taken. Only then this action will gain its purpose with a minimum loss of employee goodwill. Even when the conduct of an employee deserve punishment he accepts it with some amount of ill-feeling. However, to forgo punishment when it is due is o invite and to inflict punishment when it is not due is doubly dangerous.

Most people prefer an orderly atmosphere in which to work, if management does not deal effectively with those who violate rules, the disrespect for order will spread to the employees who would otherwise prefer to comply.

Disciplinary action in most companies is taken by line-executives. Personnel people are not the “axe men”. Occasionally the personnel department is made responsible for taking final action on such serious penalties as discharge of workers. In any case, the personnel department has heavy responsibility to aid all executives in taking disciplinary action.

12.5. NEGATIVE DISCIPLINE

Traditionally supervisors have thought of discipline in a negative sense, i.e., only as punishment. Many executives still see discipline primarily as a means to enforce external demands for responsible behaviour. They do not place any reliance on spontaneous self-discipline. Instead they expect orderly behaviour to depend primarily on fear of penalties. Thus, they exercise discipline as punishment partly as deterrent and partly as a retributive justice. However, the idea of discipline is to supplement and strengthen self-discipline within each individual and within the work group. Any act of clear disobedience shall be considered ground for disciplinary action. The type of correction depends upon the cause of poor discipline. If the attitude is unfavourable because the company is at fault, the action to be taken involves the removal of the cause and convincing the employee of the desire of the company to be fair. As already said, when the unfavourable attitude of the worker is due to his fault, the action to be taken is known as “disciplinary action”. Now the question is how severe should the

penalty be? Many companies have provided what is called ‘progressive’ or corrective discipline which calls for increasingly severe penalties each time a man is disciplined.

Disciplinary action has two major aspects-the employees is at fault because of some failing of his own and some from of penalty is to be? Applied. In handling disciplinary cases the two major aspects-the steps to be taken and the principles to be followed in each step-should be carefully observed.

12.6. APPROACHES TO DISCIPLINE

Management cam make five possible approaches to any act of indiscipline-

12.6.1. Judicial Approach

Under this approach the nature of offence in a particular situation is determined by carefully weighing the evidence and taking all the steps prescribed for disciplinary procedure. The law of natural justice is followed, i.e., the offender is given an opportunity to defend himself, cite mitigating factors and to plead for clemency. This is a fair process but it is time-consuming and leads to delays. In India we are more accustomed to this approach than to any other. This approach is best exemplified by domestic enquiry.

12.6.2. Human Relations Approach

Under this approach the offender is treated as a human being. If he has violated the rules, the human relations approach would ask the question, why did he violate the rule? For example, sleeping during the night- shift might be due to the fatigue caused by factors over which the man has no control, e.g., illness in the family. In such a case an attempt should be made to help the worker to get over such a personal difficulty or to change the shift of duty or to shift him to a job which he can conveniently handle rather than take an extreme view and punish him severely.

12.6.3. Human Resources Approach

Under this approach every employee is looked upon as a resource is the important factor of production. This resource has to be trained, motivated and brought up to the level of efficiency required by the organization. Indiscipline on the part of workers due to *(a)* failure of the training and motivating system and *(b)* the individual’s own failure to measure up to the requirements of conduct prescribed as the prevailing norm in the organization. In the latter case, it is violation of the prevailing norm. The disciplinary authority has to look into two objectives of the disciplinary process : *(a)* Is the violation so serious as to jeopardies the functioning of the organization, if the offender is allowed to continue ? *(b)* Can the offender be reformed by disciplinary action ? In this context form of penalty like discharge or dismissal will be rarely resorted to as the offending human resource will have to be trained and motivated to work within the requirements of the organizations’ norm of behaviour. This approach would naturally attach a good deal of importance to discipline being more a matter of self-control or self-discipline than a matter of external control.

12.6.4. Group Discipline Approach

If the organization has well-established norms of conduct it should try to involve groups of employees in the process of discipline. If the management succeeds in making the group accept the organization’s norms as their norms by virtue of such involvement, then the main function of discipline will be a delegated function than a management task. The group as a whole can control an individual worker who is its member much more effectively than the management can through penalties.

12.6.5. Leadership Approach

Every manager has to develop a leadership quality as he has to guide, control, train, develop and lead a group of men and act as a leader whatever may be his position in the organizational hierarchy. He can administer discipline among the men whose work is under his direct supervision much more than even the top management can. He has a day-to-day relationship with his men and the worker listens to him. Again they would listen to him all the more if his own behaviour is disciplined.

12.7. STEPS IN DISCIPLINARY ACTIONS

Disciplinary action involves the following steps. 1. Statements of disciplinary problems; 2. Collection of full information on the case; 3. Types of penalties; 4. Choosing among the alternative penalties; 5. Application of the penalty; and 6. Follow up of the case.

12.7.1. Statement of Problems

This most important step in the whole process of discipline action is to make sure about the problem that demands discipline. Five points must be answered in arriving at a statement of a disciplinary problem; *(i)* Determining the nature of the violation. The executive should very carefully proceed so that the chance of falsely including a case under disciplinary action is eliminated. If an employee is falsely accused the executive has to face unfortunate consequences of his foolish action. *(ii)* Stating the violence. When the executive is sure that a violation has occurred, he should state objectively the character of violation. The specific rule, regulation, or order that was broken must be determined. *(iii)* Determining the circumstances. A violation may be excusable or not, depends upon the circumstances. Any extenuated or accentuating circumstances should be considered. *(iv)* Individuals involved. In case of violation the executive must ascertain which individual or individuals were involved in a violation. If a single individual has broken a rule he should along be taken to task but if other people are involved in the case, they should also be punished. *(v)* Nature of Repetitions. Lastly, it is significant to state when or how often the alleged violations occurred. The frequently of violation determines its seriousness. An employee who has been absent without excuse several times in a month, deserves a more serious reprimand than one who has been absent but once. The above mentioned steps will reduce the dangers of false accusations.

12.7.2. Collection of Full Information on the Case

Gathering facts is essentially supplementary to the preceding step as well as others to follow. When an employee breaks a rule or fails to meet established standards of work or of conduct, the executive cannot afford to ignore such unsatisfactory conduct. But instead of taking hasty action, he should make a through investigation into the case. The supervisor has to make sure if there are any extenuating circumstances, such as ill-health, family troubles, etc. In the process of fact gathering, the executive should not confuse opinions with facts. If opinions are mistaken for facts, it is easy to reach wrong conclusions.

12.7.3. Types of Penalties

The sequence of penalties are as follows : *(a)* Oral Warning; *(b)* Written Warning; *(c)* Disciplinary Lay-off and Suspension (temporary removal from service); *(d)* Demotion in Rank; *(e)* Withholding of Increments; *(f)* Fines; *(g)* Adverse Remark in Service Book; *(h)* Dismissal (removal from service for misconduct with a stigma) and *(i) Discharge* (removal from service without any stigma).

When a man breaks a rule or fails to maintain standard, an oral warning that repetition may eventually call for discipline is in order. At this stage disciplinary action remains unofficial because it does not become a matter of written record. The aim of oral warning is to help the employee correct his behaviour by telling him that his undesirable conduct cannot be tolerated.

Written warnings are the first formal stage of corrective discipline. If an employee does not respond to oral or unofficial warning, then a formal written warning containing a statement of the offence is called for. In an unionised concern such an official document should be issued in the presence of the supervisor. Written warnings are often prepared in four copies-one for the personnel department, one for the supervisor, one for the foreman and one for disciplined employees.

Disciplinary lay-off or suspension are next in severity. Disciplinary lay-off may be for several days or weeks. Many companies skip over this stage of discipline because it is too cumbersome to replace an employee for a few weeks. To whom written warnings fail, lay-off involving a loss of income, may be a shock that serves to bring them back to their sense of responsibility. Since suspension is a form of lay-off it should not be used unless the offence calls for at least a lay-off.

Demotion in rank or down-grading is a preliminary step to discharge. The usefulness of demotion as a disciplinary measure is questioned as it suffers from a number of disadvantages. Losing pay over a period of time is a long form of constant humiliation as compared with the sharp slap of a lay-off. Again, if a company is to retain a man in any capacity, it makes more sense to use his highest skill. Moreover, demoted employee will be constantly dissatisfied and that his dissatisfaction may spread to co-workers affecting adversely morale, productivity and discipline of the work force. Withholding of increments as a form of punishment is seldom used these days.

There is a provision for lines for certain acts of omission and commission as per Section 8 of the Payment of Wages Act, 1936. Fines can be imposed only for certain acts of omission and commission specified in notices approved by the competent authority. The total amount of fine which may be imposed in any wage-period on any employed person is not to exceed an amount equal to half an anna in the rupee (i.e. 3 paise) of the wages payable to him in respect of that wage period. No fine shall be imposed on any employed person who is under the age of 15 years. All fines shall be recorded in a prescribed register and credited to Fines Fund and the said fund is to be utilized only for such purposes beneficial to the workers as are provided by the competent authority.

All major cases of indiscipline / misconduct are recorded in the service book which serves as an index of evaluation when promotion or some other employee benefits are given. When lay-off is inevitable, those which adverse remarks are to be penalised first.

Discharge remains the ultimate penalty. It is generally referred to as “industrial capital punishment”. It is such a drastic form of action that it should be reserved only for the most serious offences or for people who will respond to no lesser penalty. For the employee, discharge is a serious. Setback. It makes difficult for him to secure a new job if the prospective employer comes to know that he was discharged by his employer. Since it reduces his chances of earning a livelihood, it may affect his mental equilibrium. For the organization also discharge involves serious waste and losses. They represent time and money spent in hiring, training and supervising an employee who now leaves the firm. Considerations of such costs as well as pressure from unions have greatly reduced the number of discharge as compared with earlier times. The only plus factor in discharge is that it is clearcut, forceful and final action.

However, sometimes discharge for “just cause” is necessary. It is such a serious step that correct procedure for management is important. The executive should be able to prove that he followed “due process”. The dismissal notice should state and explain all charges against the employee. Adherence to “just cause” requires that management should be in a position to establish the employee’s guilt, thereby justifying disciplinary action.

12.7.4. Choosing the Penalty

After a case calling for disciplinary action has been properly examined and alternative penalties considered, the particular penalty to be applied should be chosen. This should be done fairly and fearlessly. To overpenalise the employee is unfair but leniency may encourage more and more violations. Every effort should be made to prevent the occurrence of disobedience, but it drastic action is necessary, it should be taken without hesitation. Infractions of rules that go without penalty encourage the rule-breaker to continue on his way. In the choice of a penalty, it should be remembered that it will serve as a precedent if a similar case has never been handled. Employees will compare current decisions with what has gone before.

12.7.5. Applying Penalties

The next step is the application of the penalty. It involves a positive attitude on the part of management. If the disciplinary action is a simple reprimand, the executive should calmly dispose of the matter. When drastic action is called for, a serious attitude should be taken. Reprimands and penalties are always unpleasant to handle, hence the quicker and more impersonally the matter is handled, the better. Penalties are most effective when the punishment is closely associated in the mind of the wrong-doer with the act that brings it. If the penalty is delayed, the employee may have forgotten the wrong doings and think that the company is picking on him.

12.7.6. Follow-up of Disciplinary Action

The ultimate aim of disciplinary action is to help develop good discipline. Its aim is to make sure that employees do not willingly break rules or disobey orders. The disciplinary action cannot repair the damage done. Hence, disciplinary action must be evaluated in terms of its effectiveness after it has been applied. Disciplinary action has been effective so long as there is no recurrence of bad discipline. It is wise practice to check the performance and attitude of employees who have been subject to disciplinary action.

12.8. PRINCIPLES OF DISCIPLINARY ACTION

In taking disciplinary action, it is wise to follow certain principles and to assume certain attitudes towards employees in general.

12.8.1. Announced Disciplinary Policy with Advance Warning

Management should consistently follow an announced disciplinary policy. An executive is in an unassailable position if the record shows that his action was based on established facts, that he has made a genuine effort to help the wrongdoer, given ample advance warnings and finally put a hardened offender on notice that his unsatisfactory behaviour would no longer be tolerated.

The employee, in turn, is responsible for the timely and proper exercise of his right to protest against any disciplinary action that is unjustified. However, he must do so in an orderly and peaceful manner.

Any resort to direct action is in itself a recognition ground for discharge.

Discipline is regarded as fair by workers if it is accepted without resentment. And unexpected discipline is universally considered unfair. This means that (i) there must be advance warning that a given offence will lead to discipline and (ii) there must be advance warning of the amount of discipline that will be imposed for a given offence.

12.8.2. Consistency

If two men commit the same offence and one man is more severely disciplined than the other, naturally there will be cries of favouritism. Supervisors lose the respect of this subordinates if they impose discipline in a whimsical and inconsistent manner. Consistent discipline is fair and is far more likely to be accepted by the workers involved.

12.8.3. Impersonality

It is very difficult discipline without causing the person disciplined to feel resentful and aggressive. But the supervisor can minimize the danger by imposing discipline in as impersonal a way as possible. 'Discipline is most effective and has least negative effect on individuals, if the individual feels that his behaviour at the particular moment is the only thing being criticized and not his total personality.

Once the supervisor has decided what discipline is appropriate, he should impose it quietly and impersonally. After disciplining a subordinate the supervisor must not tend to avoid him or to alter his attitude towards him. Shifts in attitude are dangerous for they generate corresponding changes in the subordinate's attitude and ultimately the whole relationship may be destroyed. The supervisor should make him feel that bygones are bygones and that the act was punished, not the man. It is essential to believe that employees can be trusted even though they occasionally break rules. After all, even the best workers make mistakes of omission and commission.

12.8.4. Give Employee an Opportunity to Explain

Disciplinary action should not be taken without giving the employee an opportunity to explain his action. This is an important part of the supervisor's investigation. If he gives an explanation it should be investigated to find out whether what he says is true.

12.8.5. Decide What Action to Take

The supervisor must know the principles of "Corrective Discipline". It means the purpose of discipline is to correct improper conduct. It should not be punitive in nature; it should not be used solely for the purpose of punishment. Discharge is disciplinary action which is not corrective in nature. So discharge should be resorted to only when previous efforts to bring about correction have failed. The application of the principle of Corrective Discipline consists of an initial reprimand or short disciplinary lay-off depending upon the nature of the offence. If this action does not bring action correction, a more stringent penalty should be given. If this action does not still him sufficiently, a still more severe penalty is given, as a final warning. If the employee continues to engage in misconduct, then discharge is the right remedy.

The disciplinary action must not to be too severe but it must be severe enough to constitute a reasonable attempt to bring about correction. In deciding hat disciplinary action to take, the employee's prior

misconduct record should be checked. The employee's length of service as well as the period of time which has elapsed since the employee's last disciplinary action is also an important factor. Lastly, disciplinary action must be recorded. This will give an idea of happenings to any manager who might need it.

12.8.6. Disciplinary Action as a Tool

An executive must consider disciplinary action as a tool and not as a weapon of supervision. He should see reprimands and penalties in the same light as breaks on a car. They "slow down" employees when needed, they act as a preventive but they cannot cure an accident. Therefore, when a penalty is applied, it should be in the manner of using a tool and not as a threatening gesture.

Executives must be convinced that disciplinary action is needful and effective. Disciplinary action is a tool that must be used for the company's benefits. Executives should not shrink from taking disciplinary action when it is needed. They must feel that penalties assigned in a given case were not only justified but also beneficial to employees. At the moment an employee may dislike to be penalised but it may be good for him in the long run. It is a general rule that nobody should be penalised publicly.

In taking disciplinary action it is essential to remember that disciplinary action has its after-effects. This comes about in two ways- *(i)* a given penalty does or does not serve to change the employee's attitude towards company rules; *(ii)* a given penalty in a given case is considered as a precedent. In the future when similar wrongdoers are to be disciplined, the penalty should not be changed.

12.8.7. New Concept of Discipline : The Hot-Stove Rules

Inflicting discipline puts the supervisor in an anomalous position. He expects his subordinates to continue to help him even when discipline is painful. The question, "can he impose discipline without generating resentment?" Douglas McGregor thinks that it can be done by what he called the "hot-stove rule". This rule draws an analogy between touching a hot-stove and undergoing discipline. When you touch a hot-stove your discipline is immediate, with warning, consistent and impersonal.

Let us look at these four characteristics as applied to discipline. When Mr. X burns his hand he is angry with himself. Sometimes he is angry with the stove too, but not for long. He learns his lesson quickly because :

* The burn is immediate
* He had warning
* The discipline is consistent and anyone who touches the stove is burnt
* The discipline I impersonal- a person is burnt not because of who he is but because he touched the stove.

The person is disciplined not because he is bad but because he has committed a Particular act. The discipline is directed against the act, not against the person. There will still be resentment against the source of the discipline, but the more automatic the discipline becomes, the more the resentment is reduced.

2.9. ROLE OF THE UNION

Discipline is properly a management function in which the union does take part. The union's true role here is that of a protagonist in protecting its members against unjust management action. Unions rarely object to discipline provided it is applied consistently and provided the rules are clearly publicised and considered reasonable. Management should not expect the union to discipline members who violate the rules. When the union does impose discipline, it is abandoning its traditional role as worker's defender and management is failing to assume its responsibilities.

Most union contracts require *(a)* that the company may discipline employees only for "just cause" *(b)* and that any employee who feels he has been unjustly disciplined may appeal to higher management through the grievance procedure and if management's answer is unsatisfactory, to arbitration. The arbitrator makes the final decision on whether the discipline was for just cause.

12.10. STATUTORY LAW ON DISCIPLINE

Under the Industrial Employment (Standing Orders) Act, 1946, every industrial establishment, employing 100 or more workmen (50 in West Bengal) is required to define with sufficient precision the conditions of employment including the rules of discipline and procedure for punishment for indiscipline.

12.10.1. Acts of Indiscipline / Misconduct

Every act of Indiscipline is called a misconduct. Under the model Standing Orders suspension upto 4 days and dismissal forvarious acts of Indiscipline have been provided for. These acts of discipline include the following :

Disobedience and insubordination

Theft, fraud, dishonesty in connection with employer's business or property. Wilful damage/loss of employer's goods, taking or giving any brides/illegal gratification, habitual absence/unauthorized absence for more than 10 days , habitual late attendance, habitual breach of any law applicable to the establishment; riotous or disorderly behaviour during working hours at the establishment or any act subversive of discipline; habitual negligence or neglect of work; frequent repetition of any act of omission, for which fine may be imposed and; striking work or inciting others to strike in contravention of any law.

Under the model standing orders prescribed under the rules made by the West Bengal Government the following misconduct have been added.

Drunkenness, intoxication, engaging in trade within the establishment, disclosing secrets, habitual breach of rules for maintenance of any department, allowing unauthorized person to operate machines, unauthorized collection of funds, smoking where prohibited, holding meetings without authority, convention for offence involving moral turpitude, refusal to accept charge-sheet, sleeping while on duty, participation in illegal strike or wilful go-slow tactics, gambling within premises and money-lending or borrowing within the premises.

12.11. PROCEDURE FOR DOMESTIC ENQUIRIES

Domestic enquiry is the expression used in industrial employment while departmental enquiry is the expression used in Government employment. Both imply an enquiry into an allegation of misconduct

against an employee of the organization. It embodies judicial approach to discipline. All such enquiries are guided by two principles of natural justice (1) No man shall be the judge in his own case and (2) Hear the other side. The *first* principle precludes the appointment of a person for conducting the enquiry who himself is interested in the outcome. The *second* principle places upon the authorities the obligation of affording every opportunity to the offender to defend himself.

The procedure for domestic or departmental enquiry by an employer into the misconduct of hid own workman is as follows :

12.11.1. Charge – sheet

If a *prima facie* case has been established and the offence is quite serious, a charge-sheet may be prepared on the basis of the allegations made. It should be in writing detailing the allegations of misconduct. It should also indicate the time within which the workmen charge-sheeted should submit his explanation. The charge made in the charge-sheet must be clear and precise. A proforma of charge-sheet is given here.

12.11.2. Suspension

Where, in the interest of discipline, the shutting out of the charge-sheeted workman is necessary, the employee should be suspended. He is to get wages for the period of suspension if so provided in the standing order.

12.11.3. Service of Charge-sheet

If the workman is present, it should be handed over to him in the presence of witness after explaining the content of the charge-sheet in a language known to him. If the delinquent workman is absent or refuses to accept the charge-sheet, it should be sent to his last address under registered post with acknowledgement due. If he refuses to accept it or if it comes back undelivered otherwise, the charge-sheet has to be published in a local newspaper with wide circulation.

12.11.4. Explanation

The explanation given by the worker within the given time has to be considered.

12.11.5. Notice of Enquiry

If the explanation is found unsatisfactory, a notice giving the time, place and date of the enquiry together with the name of the enquiry officer has to be served on the worker. The enquiry officer must not be one who has issued the charge-sheet because it is a principle of Natural Justice that a person is disqualified to act as a judge if he is a party to the dispute.

12.11.6. Enquiry

At the appointed time on the approach data and place the enquiry will commence by the enquiry officer in the presence of charge-sheet workman. At the commencement of the enquiry, the enquiry officer should explain the charge-sheet to the worker. If the charge-sheeted workman pleads not guilty, the enquiry should be proceeded. If he pleads guilty in writing, the enquiry need not be proceeded.

12.11.7. Fact-Findings

On completion of the enquiry, the enquiry officer is required to submit his findings to the authority authorised to take disciplinary action. He should state in his report, the Proforma of Charge-sheet, charges as well as the explanation given to them. The enquiry officer should not recommend any punishment in his findings.

12.11.8. Decisions

The higher management, such as works manager or director, for taking disciplinary action shall consider the findings and if he accepts the findings of guilt, he should inflict appropriate punishment in accordance with the standing orders.

12.11.9. Service of the Order

Any order of punishment should be served on the charge-sheet workman and this completes the procedure for domestic enquiry.

12.12. HOW TO FRAME A PROPER CHARGE SHEET

In a disciplinary action the charge-sheet is of great importance. The domestic enquiry commences as soon as a charge-sheet is issued to a delinquent employee. In many cases the action of the employer was declared void by the third party forum like a High Court because the faulty charge-sheet was issued by an incompetent person.

The object of charge-sheet is derived from the principle of natural justice that a person charged with an offence should know his guilt so that he may state his view in reply to the charges. It thus provides an opportunity to a person to give explanation for his conduct and to defend himself.

The ordinary law is that any person having they power of appointment has also the power to terminate the service and obviously such person can ask his employee to show cause. Therefore, the established practice is that the appointing authority has the right to issue a charge-sheet. The Supreme Court has accepted the principle that the power to terminate is a necessary adjunct of the power of appointment.

It may happen that an employee was appointed by a person in a department and subsequently he was transferred to other department where ii has become necessary to issue him a charge-sheet. But consequent upon his departmental transfer the appointing authority has been changed. The court opined that in such a situation the head of the latter organization and not the earlier one may initiate a disciplinary action.

Appointing authority is the disciplinary authority. A charge-sheet should be signed and issued by the appointing authority. A mere delegation of power does not make anybody a disciplinary authority. In the absence of any statutory provision permitting delegation of disciplinary authority, any authority other than disciplinary authority has no power to initiate action.

The disciplinary authority must itself frame charges and hold enquiry into them or direct another to hold the enquiry on those charges. An authority other than the disciplinary authority has no power to frame, on its own initiative charges and hold enquiry.

The *second* important matter is that the charges of misconduct should not be vague. The charge-sheet must be very specific and particular. A charge-sheet will be vague if it does not give any indication of charges against any employee. The charges which a person is called upon to meet must be clear, precise and accurate. To avoid vagueness, the charges should be specifically mentioned. There are some misconduct which have been termed under specific names, such as theft, disobedience, negligence of duty, misappropriation, go-slow, strike, violence in the work-place under the service rules or standing order, while drafting a charge-sheet, if the misconduct falls within those specifications, it should be mentioned clearly.

A charge-sheet is not expected to be a record of evidence when it gives the necessary particulars of the misconduct alleged and it cannot be characterized as imprecise.

The *third* important consideration is that the time and date if incident should be mentioned in the charge-sheet. If the charge does not contain particulars of time and place, he charge-sheeted person cannot put up proper defence.

It is always advisable that while mentioning the time of the incident, it should accompany the word, 'about'. It may be that in an enquiry it is found that the incident was committed not exactly at the time but 5 minutes before or after. Although such inaccuracies do not vitiate the charges, it makes the charge-sheet technically defective.

If the charge is of using abusive language towards anybody, then it should be specific as to the language used. Similarly, without giving the particulars of the language, the charge of behaving rudely is also vague. As far as possible, the charge-sheet should not be verbiage. The abbreviations 'etc'. or "any other document" should not be used. Reference should be to a specific person or thing. Nothing should be left implied.

It is always desirable that the charge-sheet is given in a language which can be easily understood by the workman concerned. Considering the low level of educational attainment of workers in our country, it is advisable that when a charge-sheet has been written in English, it should also enclose a translation in the language of the workman concerned. Unless it is done, it will be denial of an opportunity to the employee to defend himself. The Court held that the above demand was very reasonable. The management issued charge-sheet to the workers in English which they cannot understand. In order that workers must know correctly the charges levelled against them, it is necessary that charge-sheet should be given to them in a language which the worker understands.

The *fourth* important consideration is the manner of writing the charge-sheet. It should not show that the employee is guilty of misconduct. The charge-sheet is merely a description of misconduct alleged against the employee which requires further proof by evidence. So it must not show that the management has already reached a conclusion. If it is so, the whole process becomes an empty formality.

It is also not necessary to mention penalty in the charge-sheet. As the charge-sheet is the beginning of the process and the punishment is the end of the process, it is naturally uncalled for that the end should be mentioned at the beginning.

The delinquent himself would know that punishment would follow if the enquiry went against him. From the frame if the charge itself no prejudice can be inferred. Further, in departmental enquiries the enquiry officer is different from the punishing authority and the enquiry officer only records the evidence at the enquiry.

The *fifth* important consideration is time for rendering explanation to the charge. Reasonable time should be given to the delinquent worker for giving explanation to the charge. What is reasonable or not is a question should be called in writing, if possible, in the handwriting of the delinquent workman.

Last important point about a charge-sheet is that there is no particular form of a charge-sheet. The law has not prescribed any form so far.

The practice followed normally is either to get the signature of the workman concerned on the office copy of the charge-sheet or get his signature in the peon book. The service of the charge-sheet should also be directly to the alleged person and not to anybody else. When a peon was sent to the charge-sheet employee and in his absence, a minor child of his received the same, the Court held it does not prove conclusively the identify of the communication.

If the workman is not available to serve the charge-sheet directly, generally, the standing order provides the procedure to be followed. The first step is to send the charge-sheet by registered post. The refusal to accept a charge-sheet is misconduct. In the Tractor India case, when orders were sent to workers in English they refused to receive the same.

The industrial tribunal held that this amounted to insubordination and gross misconduct. But the labour appellate tribunal held that employees could not be held guilty of refusal to accept the office orders without knowing the contents thereof. The Supreme Court held that the refusal to receive the office orders was deliberate since the workers had been receiving charge-sheets and therefore it constituted a misconduct.

A charge-sheet is sent by registered post and it is returned with the endorsement “not found” or ‘left’ When the letter is returned with such remark, it is wise, as advised by the Supreme Court in the Bata Shoes Company Case, A notice should be published in the name of the workman concerned in the regional language newspaper with wide circulation. But this principal will not apply if the letter comes back with the remark ‘refused’ To put up the charges-sheet on the company notice board in case he has refused to take it will not be an excuse. The only remedy available is through publication of the same in the local newspaper.

12.13. CONCLUSION

Absence of discipline tells upon the functioning of industries and the society. Importance of discipline has to be realised by all concerned and maintenance of discipline should be joint responsibility of both the workers and management. Discipline is a two-way traffic and a breach of discipline on the part of the either party in industry will cause unrest. The approach to managing discipline depends to a great extent upon managerial philosophy, culture and attitude towards the employees. A negative approach to discipline relies heavily on punitive measures and in line with the traditional managerial attitude of “hire and fire” and obedience to orders. On the other hand, a constructive approach stresses on modifying forbidden behaviour by taking positive steps like educating, counseling, and the like. The concept of positive discipline promotion aims at the generation of a sense of self-discipline and

disciplines behaviour in all the human beings in a dynamic organisational setting, instead of discipline imposed by force punishment. The approach to the disciplinary action in most cases should be corrective rather than punitive. Further, the positive discipline maintenance should form an integral part of human resource development efforts of an organisation.

12.14. SELF ASSESSMENT QUESTIONS

1. What is discipline explain the difference between positive and negative concepts of discipline.
2. Explain the different forms of indiscipline and examine the factors leading to indiscipline.
3. What are the various approaches in managing discipline in an organisation.
4. What is domestic enquiry discuss the importance principles of natural justice in conducting domestic enquiry.
5. Is discipline essential and comment.

12.15.REFERENCE AND SUGGESTED BOOKS FOR FURTHER READING

1. Pramod Verma : Management of Industrial Relations.
2. Arun Monappa – Industrial Relations
3. A.S. Mathur – Labour Policy and Industrial Relations in India.
4. Chakravarthi of Discipline, Law agency, Allahabad
5. Magre, John F; “Decision true for decision – making “Harvard business Review, July – August 1964.

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Lesson – 13

INDUSTRIAL DISPUTES : SOME DIMENSIONS

OBJECTIVE

At the end of this lesson the student learner is enable to understand the disputes, forms of disputes, causes of industrial disputes and Trends in industrial disputes. The measures of disputes also understand by the students.

STRUCTURE

13.1. INTRODUCTION TO CONFLICT AND DISPUTE – DISTINCTION

Conflict and Dispute-Distinction

Conflict as one of the features of industrial relations is a general concept, when it expresses itself on concrete from it becomes a dispute i.e., industrial conflict is general whereas industrial dispute is specific.

Going still deeper, the term 'industrial disputes' in the literature including government publications, write Johri, is used to denote work-stoppages as well as those differences between labour and management that are settled through the Industrial Relations Machinery. Further, when issues of conflict are submitted to the management for negotiation, they take the form of industrial dispute. To avoid any further confusion, the term 'strikes' has been used in this book to denote work-stoppages whereas "Industrial Disputes" for those differences that are settled through the industrial relations machinery although strike is a form of industrial dispute.

The term "industrial dispute" is defined by Section 2(k) of the Industrial Disputes Act, 1947 as, "any dispute or difference between employers and employers, 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. This definition is very wide and covers all possible contingencies that may result in work stoppages / strikes. In a strict judicial sense it would not exclude strikes in support of workers in another industry; or, for that matter, in some other country. Summing up, industrial dispute could lead to work stoppages, for which the terms strikes has been used here; or they may be referred to the industrial relations machinery for settlement.

13.2. MEANING

Meaning 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 but must be connected with employment or non-employment or with the conditions of labour. The definition of industrial dispute as per Section 2(k) of the Industrial Disputes Act, 1947 given in the para above could be divided into four parts:

1. Factum of Dispute
2. Parties to dispute
3. Subject matter of dispute
4. Industry

Factum of dispute denotes the fact of existence of dispute. That the dispute or difference or disagreement must be some thing fairly definite and of real substance, not a mere personal quarrel and should not be existing only in the minds of the parties. Further, the term connotes a real and

substantial difference having some element of persistency, and likely, if not adjusted, to endanger the industrial peace of the community.

The second element, parties to dispute, identify that following parties:

i) Employers and employers.

ii) Employers and workmen

iii) Workmen and workmen

The data to be presented in the following pages would however, relate to dispute between employers and workmen. Dispute relating to first category of parties have been dealt already in the preceding chapter whereas dispute relating to category (iii) shall be covered only when employer also comes into picture and is identified as one of the disputants. The use of plural number for the disputant parties in the definition raise doubt whether there can be an industrial dispute between an employer and an individual workman. This doubt is, however, removed by Section 2A which was added to the Act by an amendment in 1965. This section considers an individual dispute as an industrial dispute if it relates to discharge, dismissal, retrenchment or termination of a worker's services.

The third part of the definition says that only specific types of disputes, that is, those which bear upon the relationship of employers and workers and the terms of employment and conditions of labour, are included under the term industrial dispute.

Lastly, the adjective 'industrial' relates the disputes to an industry as defined in Section 2 (j) of the Act.

13.3. TYPES / FORMS OF DISPUTES

Under the Industrial Disputes Act, 1947 two main types of disputes are identified, one being raised under Section 2 (k) and Section 2A, the other under Section 2(j) and (2I), that is, strikes and lockouts.

Disputes relating to Sec. 2 (k) and Sec. 2(j)/ 2(i) involve a group of workers / union, thus, could be called as Collective Disputes; whereas disputes under Section 2 A are Individual Disputes since these concern an individual workman and his employer, the issue relating to discharge / dismissal / termination retrenchment of the concerned workman.

13.4. CONSEQUENCE / RESULTS OF DISPUTES

Since industrial dispute exists wherever a difference exists, and a difference can exist long before the parties become locked in combat, therefore, it is not necessary that they should have come to blows. It is sufficient that they should be sparring for an opening. Thus, whether it is overt type of dispute like strikes lockouts or of covert types like referred to the industrial relations machinery for settlement, the discontentment whether simmering or open is reflected in the behaviour of the workers. A discontented labour force, nursing in its heart mute grievances and resentments, cannot be efficient and will not possess a high degree of industrial morale. Under such conditions absenteeism and labour turnover increase, plant discipline break down, both the quality and quantity of production suffer and costs escalate to the detriment of all concerned-workers, employers, consumers and consequently the whole society. In the end, accumulation of these individual and collective resentments and dissatisfactions finds expression in violent strikes, lockouts and gheraos, etc.

As industrial disputes have adverse effects on industrial production, efficiency, costs, quality, human satisfaction, discipline, technological and economic progress and finally on the welfare of the society, therefore, preventive and curative measures have to be urgently taken.

13.5. CAUSES OF INDUSTRIAL DISPUTES

Industrial disputes, whether raised before industrial relations machinery or involving strikes, arise due to variety of causes, which may broadly be termed as economic and non-economic, though it is a matter of controversy whether the prominent factors underlying industrial disputes are economic or non-economic. The studies by Mayo and his associates, emphasise the importance of non-monetary factors such as supervisory attitude and behaviour, work-satisfaction, morale, and group membership. Houser, showed that financial frustration ranked 10th in the list. Moore held that money was an important work-incentive in industrial societies, reason being that there are so few other types of interests directly consistent with the industrial mode of division of labour, and also that money was such a useful thing to secure the fruits of production. Katz concluded that so long as income remained the all important means for satisfying human wants and needs, wage would continue to be a major consideration in industrial conflict. Contrary to earlier studies, Deherandorf suggested that to foist economic and non-economic approaches in the explanation of industrial conflict is misleading. Eldridge showed, through various case studies, that political, economic, reformist and revolutionary goals might coexist in the proceedings. Samelser summarised the major explanations of conflict leading to strikes as follows.

1. The 'economic advantage' school which maintains that the labour unions are in business and attempt to maximise the wage gains of their members.
2. The 'Job Security' school focuses its attention on the decision of workmen to protect their interests and conditions of service in the long run rather on the short-term wage gains.
3. The 'Class warfare' school which attributes the worker unrest to the fact that the working class suffers from systematic exploitation at the hands of the capitalists.
4. The 'political school' which emphasises political conflict between unions and management over the recognition of unions, and collective bargaining, jurisdictional disputes among unions and internal leadership rivalries.
5. The 'Human relations' school is associated with the industrial sociology of Mayo and his followers. Broadly speaking, this school traces basic dissatisfaction among workers and the lack of communication and understanding between management and workers.

13.6. ECONOMIC CAUSES

An individual in the industrial setting is essentially an economic man. He craves for fulfillment of the basis economic needs like that of food, thirst, hunger, clothing, roof, security, etc. Non-fulfillment or partial fulfillment of these some or all, may arise discontentment in him which may eventually snow ball into an industrial dispute.

Wages including dearness and other allowances and bonus form the core of the economic causes of industrial disputes.

13.6.1. Wages and Other allowance

As shown by Table 10 given earlier, around 30% of all work-stoppages occur on account of wage factor One reason for this could be a general philosophical dissatisfaction with the prevailing industrial wage levels. Workers and unions' leaders feel that the money wage paid to the workers is not enough to ensure a decent living.

Also in recent years the real wage in Indian industry has declined or stagnated causing employees and unions to demand for an increase in their money wages.

Employers, both in private and public sectors, have resisted this demand because they want to keep wages down in order to increase the competitiveness for their products in international and domestic markets. Studies have shown that during 1960s and early 1970s real earnings did not improve at all. Further , during the late 1970s and early 1980s average money earning rose at an annual rate of 4.4 per cent but inflation as measured by the consume price index Increase at twice the rate. This erosion of the value of money has forced workers to protest. They system of dearness allowance to compensate this erosion has always been neutralized at below 100 per cent still leaving the scope for struggle in the maintenance of the real wage.

The wage issue is further aggravated by inter-union rivalry. When a proposed wage settlement is found acceptable by one union speaking for a ground of workers, other union/s claiming to represent the same group may reject it. Such rejection is not always based on merit, but may simply reflect union's political consideration and a strong presence of outside leadership. This precipitates a work-stoppage and generated the troublesome expectations of additional improvements in wage gains.

13.6.2. Bonus

The term bonus implies a payment made to workers at the pleasure of the management, in our country, it is a working class right supported by legislation, namely, Payment of Bonus Act, 1965. It regulates the awarding of bonus incomes in India. Besides the statutory minimum of 8.33 percent, over and above this minimum can be claimed, of course, depending on the company's profits as reflected in the allocated surplus. The Act also provided that the maximum liability of the management should not exceed 20 per cent of the workers annual wages.

Moreover, the availability of a significant guaranteed bonus earning as a permanent feature, largely independent of the employing organizations economic performance, must be seen by unions and workers as a positive achievement in its own right. And the ceiling of 20 percent provides a comfortable cushion against which unions could negotiate and use their bargaining power.

13.6. NON-ECONOMIC CAUSES

Royal Commission on Labour observed that there are, of course, some strikes, which are not due to economic causes though while they are short lived, they cause the dislocation of industry. National Commission on Labour also observed that a study of the disputes show that on a majority of occasions industrial disputes were based on claims pertaining to the terms and conditions of employment…and on occasions were caused by purely political motives.

Non-economic causes, thus, form a vast majority of percentage, on an average 63 percent, of the total disputes. A brief explanation of these non-economic causes is presented below.

13.7.1. Personnel and Retrenchment

The proliferation of personnel disputes, occurring on an average 24 percent of all disputes, is a direct consequence of tremendous importance workers attach to permanent employment. With widespread and continuously increasing in-employment, those who are already in employment fiercely resist being thrown out. Trade unions take a serious view of fines, suspension, dismissal and retrenchment which constitute the core causes of personnel disputes. Dismissal and retrenchment amount to an industrial death penalty. Fine and suspension are significant not so much in themselves as because they can help build up a dossier against a worker, leading to his eventual dismissal.

Even though there are legal safeguards as available through Industrial Employment (Standing Orders) Act, 1946 and the appended model standing order against whimsical treatment at the hands of the employer, victimization is by no means uncommon. And the best hope by a victimized worker consists in a strike by his union. Even when the management does not want to dismiss a worker, it can cause him serious economic hardship and loss of reputation through repeated charge-sheets, enquired and suspensions, all covered under the heading personnel and Retrenchment.

While it is true that there is considerable victimization of workers under the garb of disciplinary action, it is equally true that trade unions rigidly oppose all disciplinary action as motivated, since they (union leaders) are of the view that there is practically no offence which merits dismissal. Apart from the humanitarian aspect of the difficulties arising from dismissal, a far more important reason for raising revolt against dismissal is fear of rival union propaganda. A union which accepts the punishment awarded to a defaulter is certain to be dubbed as management stooge. It is very probable that worker concerned will then transfer his loyalty to a rival union which will take up his case.

13.7.2. Industrial Indiscipline and Violence

Industrial work, being group work, cannot be carried on without discipline. Strict observance of discipline by both the parties has become an exception rather than the rule, the cause of which might lie in political instability, autocratic style of the management, etc. This spoils the cordial atmosphere between the labour and the management which ultimately give rise to industrial disputes.

Indiscipline and violence have figured as a separate cause in official statistics since 1968. It is said, and rightly so, that the workers do not engage in violence for its own case. It is over substantive issues such as wages, bonus or retrenchment that they turn violent. The number of disputes shown as having been caused by violence has been steadily on the increase (it increased from 3.2 percent in 1968 to 14.5 in 1984. This only indicates the worsening of labour-management relations.

13.7.3. Others

The most problematic of all the causes of disputes is the category ‘others’. The common tendency is to cursorily dismiss this category as a resident and unimportant one. Included in this category are causes such as physical amenities, dispute over allotment of machines, refusal of workers to do their normal work, trade union recognition and inter-union rivalry.

It is not the trivial reasons like demand for physical amenities, disputes over allotment of work/machines etc., which could cause 20 to 30 percent of all strikes. Surely, it is issues relating to trade union recognition and inter-union rivalry which account for a major portion of this percentage.

In the absence of statutory union recognition and a universally accepted mode of ascertaining the membership of a union, the only unions which the employer is compelled to take seriously are the one which can prove that they can shut down the plant.

Inter-union disputes also contribute their share of strikes. Fear of rival propaganda often impels unions to seriously pursue issues which they might well have ignored. A union has to call an occasional strike to show that it is active in the cause of its members. Without such a periodic display of militant action, it may find it difficult to preserve its following.

13.7.4. Psychological and Social Causes

Roethlisberger and his associates showed that worker's contentment does not depend so much up on the physical conditions under which they work or the amount of money they earn as on physical and social relationships they build up specially with fellow workers. That is, the behaviour of the worker in industrial unit cannot be understood merely in terms of his urge to earn but as a product of various mental factors such as attitude of the management, the family and the wider community as well as his personal ambition.

Disequilibrium caused in his behaviour by any of these factors renders the worker emotionally maladjusted and such a person/s always carry the potent danger o industrial peace. Thus, the dispute may occur on account of clash of personalities, shaped by psychological and social factors, between labour and management.

13.7.5. Political Factors

Resorts to strikes for political purposes have been frequent in India and also in the hitherto colonial countries. During the struggle for freedom, strikes had taken place on account of dismissals or disciplinary action against the workers for attending political meetings, taking part in political demonstrations, etc. The party opposite to the party in power has reflected tendency to encourage its labour union to go on what is called political strikes/sympathetic strikes.

13.6. TRENDS IN INDUSTRIAL DISPUTES

Industrial disputes indicate the quantum of and trends in industrial unrest. As such the occurrence of such disputes in terms of frequency of occurrence including state and sector-wise, duration, results-wise, affiliation-wise, etc. attempted to be pursued in the following pages.

13.6.1. Extent of Disputes

The quantum of industrial disputes in terms of work stoppages, with number of workers involved and mandays lost has been presented in following.

Industrial activity on modern lines started in India by the middle of the nineteenth century, when first cotton mills were started in Bombay and Calcutta. Problems of labour-employer relations might have begun with it but there were few cases of labour protests. According to the Royal Commission on Labour. "Before 1918, strikes were rare". This does not mean that the workers were not having problems or they were satisfied with the work-setting. But, since practically the entire labour class was illiterate, ignorant of their rights, and suffered from class-consciousness, there being no organisation among them, suffered from class-consciousness, there being no organisation among them, the grievances of workers could not be fully expressed and, hence, there were no signs of industrial unrest as such.

Reflects the growth and development of industrial unrest during the pre-independence 1921-1947 period. In this period the number of work stoppages increased by roughly five times, workers involved by three times and mandays lost by 2.5 times. On an average, 407 work-stoppages took place during this period, resulting in, on an average, 67.3 lakhs of mandays lost.

The important work-stoppages during this period were : strike in cotton industry in Bombay city in 1924 causing a loss of 7.75 million working days, the cause was the decision of the Millowners Association to withhold the annual bonus, which had been granted for 5 years and which had become part of the wages: in 1925, workers of 500 textile mills of Bombay and 150 jute mills of Bengal observed strike against reduction of dearness allowance by 20 per cent. It caused a loss of 11 million working days. In 1928, this figure touched to 31.5 millions. In 1926, a general strike in Bombay textile mills lasted for 6 months.

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The Great Depression of the 1930, appointment of the Royal Commission on Labour, Swadeshi Movement, second world war, promulgation of 81A of the Defence of India Rules were some of the important factors which affected industrial peace and resulted into industrial unrest.

After independence, the incidence of disputes reflected an increase of roughly two times in number, 1.5 times in number of workers involved and six times increase in mandays lost during the period 1948-1986.

As compared to the earlier period, that is 1921-1947, the frequency of the occurrence of disputes has declined in the period 1948-86. But looking at the 50% increase in mandays lost in 1948-86. But looking at the 50% increase in mandays lost in 1948-1986 as compared to 1921-47, one can say that though the strike were fewer, but these were bitterly fought.

As the data in there is a clear upward trend of mandays lost for almost the entire period with the exception of minor oscillations in a few individual years. Also, the frequency of industrial disputes, inspite of occasional dips in individual years, also shows, an unmistakably upward tendency.

However, the trend of the worker involvement in strikes and lockouts was much less than the trend of the mandays lost and there was hardly much annual correspondence between the two.

Subratesh Ghosh while analysing the trends in industrial conflicts in India during the period 1950-1984 based his observations on the following indexes.

Ghosh observed that the trend of mandays lost for the years 1975-84 has a continuous upward trend, which is steeper than the trend of the period for 1950-1974. With occasional dips in individual years the frequency of disputes and the number of workers involved also rose with an unmistakable rising

trend over the entire period. Thus, the trends of the mandays lost in industrial disputes in 1950-1974 as well as 1975-1984 in India, clearly disprove the Ross-Hartman thesis of 'withering of strikes' in the long run. Similarly, these trends also disprove the thesis of Kerr, Dunlop et.al., regarding the decline of labour protest with the growth in structuring of the labour force and increased stability of industrial relations.

These findings of Ghosh also disprove the thesis of Charles Myers who argued, on the basis of study of industrial conflicts for the period 1947-60 and then comparing it with industrial unrest in the preceding period, that independent India has witnessed a steady decline in the incidence of industrial conflict.

There are certain depressors of conflict in certain years, e.g. in 1959, number of mandays lost declined to 5.6 million from 7.7 million in 1958; This drop followed the Code of discipline. Again in 1963, there was a drop. The number of mandays lost declined from 6.12 millions in 1962 to 3.26 millions in 1963. The reason for this was that the labour and management pledged themselves to the Industrial Trace Resolution after the Chinese invasion in 1962. Again, there was a decline in mandays lost in 1976, 12.74 millions from 21.90 millions in 1975. This was because of the emergency declared in the country.

Now, at least have a look at the volume of Industrial employment because it is reasonable to expect conflict to increase with the expansion of the country's industrial base and increase in industrial employment.

13.7. MEASURES OF DISPUTES

Ross and Hartman used certain measures in the form of relative indicators in order to compare the trends of industrial conflict in different countries. Out of these measures, the following have been presented here :

13.7.1. Duration of Strikes

It is measured by mandays lost divided by workers involved in strikes. It indicates the time lost per striker. It indicates to some extent the intensity of the work-stoppage and the striking workers capacity to sustain it. Here L stands for Mandays Lost and W stands for workers involved.

13.7.2. Breadth of Strike

It is measured by the number of work-stoppages in relations to the total industrial employment. It is also termed as workers involvement ratio or participation ratio.

$$\text{and is calculated as} = \frac{\text{Workers involved (W)}}{\text{Total Industrial Employment (N)}}$$

It reflects the impact of strike on the economy.

13.7.3. Employee Loss Ratio

It measures mandays lost in proportion to the total industrial employment and is represented as L/N where N stands for total non-agri… / industrial employment.

13.7.4. Membership Involvement Ratio

It measures the involvement of workers in work stoppages as a proportion of total number of union membership. Here U stands for Union members.

13.7.5. Frequency of Strikes' Ratio

It measures frequency of industrial disputes leading to work-stoppages per 10,000 workers (i.e.f = F/ N x 10000) when F stands for frequency of industrial disputes.

13.6.1. Breakdown Rate

According to Johri, it measures the percentage of disputes referred to the industrial relations machinery developing into work-stoppages. It indicates not only the failure of the industrial relations machinery to prevent strikes but is also measure of the non-fulfillment of a purpose for which such machinery was consisted.

The duration ratio, employee-loss ratio, frequency of conflict ratio, union membership involvement ratio has been rising continuously over the period 1975-84 with some exceptional years. That the employee-loss ratio indicates absence of excessive strike proneness of the average Indian worker may be established with reference to the employee involvement ratio during the same period, which did not show any alarming *situation.* For the nine years (1975-1983), the ratio of workers involved in industrial disputes to the total non-agricultural employment is by no means excessive indicating that only around 8 percent of the total employed work force were involved in strikes or lockouts. However, when this ratio consideration together with duration ratio per striker it is understandable that *although the average worker in India is not excessively strike-prone, when he is engaged in a work-stoppage he strikes to it for a considerable period.* The same indication of the absence of excessive conflict proneness of Indian workers is given by the conflicts frequency ratio, which over the nine-year stretch remained fairly stable and had the average value of 1.18 per 10,000 employees in the country per year (1975-1983).

However, as the union members involvement ratio indicates, the dispute participation rate of union members is quite high, on an average, about 38 percent of the membership of the employee's union submitting returns were involved industrial disputes. In fact, in certain years (e.g. in 1979 and 1980) strike involvement varied between 60 and 70 per cent of union membership.

That the breakdown rate has ranged 4 to 13 per cent and the average for all the years come to 6.91. It may be said that considering the overall magnitude of disputes handled by the industrial relations machinery, the break down rates is not abnormally high rather it is showing a declining tendency except for the abnormal year 1970 when it touched 13.43. It indicates two possible reasons. First, the industrial relations machinery is no longer able to resolve disputes and may be developing symptoms of organisational fatigue. Second, the two parties concerned, whether unilaterally or together, are showing diminishing inclination to have the disputes settled peacefully. This may, of course, be in past due to the intractable nature of the issues in dispute.

13.10. FURTHER ANALYSIS OF INDUSTRIAL DISPUTES.

13.10.1. Industrial Disputes in States

To get a better understanding of thee extent of industrial disputes, an analysis of the disputes state-wise is required. Broadly speaking, that the most industrialised states; i.e., West Bengal, Maharashtra, Bihar, Tamil Nadu and Kerala together account for 73 per cent of the total number of disputes, 81 per cent of the workers involved and 83 per cent of the total mandays lost. All the regions except for Delhi shows a rising graph over the 20 years period in all the spheres except for a few dips here and there.

13.10.2. Industrial Disputes by Industries

Manufacturing industries account for number one position in terms of mandays lost per 1,000 workers and, thus, highly conflict-prone, and the tendency over the period is rising except for a few dips. This might be because of the fact, as shown by Table 40 also, that manufacturing Industry has the largest employment among all the other non- agriculture sectors. Mining and quarrying comes next. Transport, communication show fluctuating trends. Studies conduct by Pandey and Pathak (1972) and Subratesh Ghosh (1988) also place manufacturing sector as high conflict – prone and plantation as least conflict-prone.

13.10.3. Industrial Disputes by Duration

Since occurrence of industrial disputes leading to work-stoppages does take place indicating to a great extent the failure/incapability of the industrial relation machinery, then one must consider whether it is at least capable of expeditiously terminating disputes after they have broken out.

Table 41 shows that over 40 per cent of the disputes in the early fifties lasted no more than one day. However, this percentage declined to less than 25 percent during the mid-seventies. Close to 70 per cent of all disputes in early fifties were terminated within five days, this figure declined to 80 in sixties and to less than 50 per cent in seventies. Disputes over minor issues or for drawing attention of the management or the state to some important grievance are not likely to last for a longer period and these disputes seem to dominate, though with a declining tendency, the industrial conflict in our country.

Disputes leading to work-stoppages for 6 to 20 days ranged between 18.9 per cent in 1951 to 22.1 in 1961, to 30.1 in 1971 and 24.9 in 1981 and 26.8 in 1986.

Approximately three fold increase between the early fifties to mid seventies defied solution for thirty days or more. The percentage was 10.7 in 1951, 13.9 in 1961, 19.4 in 1971 and 28.1 in 1981 and 38.0 in 1986. Further, while no more than 6 or 8 per cent of the disputes lasted for more than a month from 1951 until 1964, the proportion of such disputes had shot up to 20.8 per cent by 1981 and to 29.5 in 1986. Not only this, it shows an increasing tendency also. Taking the absolute figures, the number if strikes lasting more than a month was 72 in 1951, 102 in 1961, 363 in 1971 and rose to 538 in 1981. It is clear that strikes and lockouts tend to last much longer now than before and are resolved much more slowly.

Of the many strikes that are launched everyday, a few succeed in achieving their objectives; some are partially successfully, and some miserably fail and strikes return to work unconditionally.

Prior to 1970, the number of successful strikes including the parties successful seldom reached 50 per cent and after 1970, 55% of the total number of strikes. The unsuccessful strikes, along with those with indefinite results, have generally constituted more than the 50 percent of the total strikes prior to 1970 and 45 per cent after 1970.

The overall average of the entire period comes to 47.7 per cent for successful and partially successful and 52.3 for unsuccessful and indefinite category. Thus, it is clear that in recent years the largest proportion of work-stoppages result in defeat to the workers and only in one fifth to one third of the cases in various years covered, the workers had been successful. This may be compared with the past data. For the period 1921-1950, the percentage of successful strikes was 16%, and of unsuccessful was 47%; and during 1950-63, the average of the successful strikes was 24%, the average of partially successful had been 15% while 37% of the disputes were unsuccessful in average.

13.10.4. Industrial Disputes by Results

Thus, it is evident from the large percentage of unsuccessful strikes that the weapon of strike has not been very effective in producing results for the workers. One reason could be trade union rivalry. Many strikes in India have become successful because of the leg-pulling and strike breaking efforts of the rival unions; other reasons are : financially weak and small size of the unions, prevailing economic and political environment, policy of the govt., and public opinion.

13.10.5. Industrial Disputes by Affiliation

How are work-stoppages related to union affiliation? In this, respect, C.K. Johri observes “It is normally to be expected that a union regardless of its political affiliation, will act in the interest of the workers and the organisation. It is possible, however that in respect of either interest unions may act differently in similar situations due to their ideology as well as the fact of inter-union rivalry. Some unions affiliated to a political centre with militant ideology, may try to embarrass and outwit rivals through higher than average recourse to work-stoppages. On the other hand, it is also possible, indeed probable, that despite revolutionary beliefs a union centre is generally weak may proceed continuously and exhibit marked conservatism in forcing shut downs”.

The AITUC is the most conflict – prone centre in India. However, despite its Marxist ideology and its split into left and right groupings, its strike proneness is going down. Its place in the latter years has been taken by extreme left ideology union, CITU (Centre of India Trade Unions) though data is not available in this respect. The share of AITUC in the total mandays lost has come down to 27.8% in 1964 from 53.8% in 1959. With the share of the AITUC in the total union membership at 23% (1962-63), AITUC-associated conflicts appears to be moving closer to its relative weight in the trade union movement.

The share of INTUC, labour wing of the Congress Party, has gone up from 24.6 per cent in 1959 to 45.2 percent in 1963, and again fell down to 38.6 percent in 1964 in the mandays lost in work stoppages. It is intriguing to find that the growth in militancy in INTUC has followed a period of decrease in its share of the total membership of the four centres.

In case of HMS and UTUC, there are no clear cut indications of either an increase or decrease in conflict proneness. The conflicts associated with multiple unions can be treated as the most significant affirmation of the theory generally held in India, that inter-union revelry is a cause of strikes.

13.10.6. Industrial Disputes-Methods of Termination

The percentage of industrial disputes leading to work-stoppages being terminated through govt. intervention has increased from 41.8 per cent of the 1961 to 49.05 per cent in 1986; only about 25 to 33 percent of the disputes are resolved through mutual settlement, over the period 1961-86 the percentage has decreased from 28.6 to 23.43. In around 30 percent of disputes, the workers' unions have resumed work without getting their demands conceded. *The machinery for the settlement of industrial disputes by Govt. intervention is often pressed is often pressed into action in preference to the bipartite negotiations.*

Coming to the disputes raised before the industrial relations machinery, the percentage of industrial disputes failing at the conciliation level has increased from 20.1 percent in 1967 to 29.0 percent in 1975. That is confirmed by the number of disputes settled at conciliation level. This has declined from 79.8 per cent in 1967 to 72 per cent in 1975 calculated. The percentage of reference to adjudication by the govt. has increased from 57.6 per cent in 1967 to 66.9 per cent in 1975. And termination by reference to Voluntary Arbitration decreased from 2.9 to 1.1 per cent during the same period. The decreasing effectiveness of conciliation machinery, increasing involvement of adjudicatory machinery and declining preference of voluntary arbitration.

13.11. SUMMARY

Post-independent India has seen remarkable growth in the economy. The rapid increase in number of factories and consequently in employment, problems in industrial relations naturally arose. This was more noticeable in organised industries. The incidence of disputes, both raised before the industrial relations machinery of the govt., and the other leading to work-stoppages (strikes, lockouts) has shown manifold increase in terms of number of workers involved and mandays lost. Industrial disputes leading to work- stoppages have increased by 2.5 times, workers involved by 2.7 times and mandays lost by 4.5 times over the period 1950-1984. Thus, the severity of overt conflict has increased. It may also reflect greater organisational strength of the workers.

Wage and bonus taken together continue to take a heavy toll of industrial disputes. Next to wages and related issues, second highest proportion is occupied by personnel and retrenchment. While the percentage of dispute caused by wages and other allowances and bonus has been around 35 to 40% over the period of study (1950-1984), personnel and retrenchment contributed around 25 to 30 per cent of all the disputes.

Industrialising states of Maharashtra, West Bengal, Bihar, Tamil Nadu, Madhya Pradesh and Kerala accounted for more than 70 per cent of all disputes in all the states. Among the sectors of industrial economy, manufacturing sector continues to be more conflict-prone, and plantation to be the least conflict-prone.

The percentage (52.3) of unsuccessful and indefinite strikes have shown an upward trend as compared to the percentage (47.7) o successful and partially successful strikes.

Although over 50 percent of all disputes were terminated within five days, yet there were three fold increase in the number of disputes which defied solution for 30 days or more. The increasing number of disputes taking such a longer period reflect the organisational strength of the workers, the hardened attitude of the employers, and the apathy of the Govt. CITU and AITUC are the most conflict-prone

union of the workers. An increasing number of work-stoppage and industrial disputes are being terminated through govt. intervention.

Thus, the whole analysis present not so good picture of the industrial relations scene in India. To stem it, measures have to be taken by the parties themselves and also by the Govt. both to prevent it and settle it expeditiously. This takes us to the next chapter, that is, prevention and settlement of industrial disputes.

13.12. SELF ASSESSMENT QUESTIONS

1. Distinguish the concepts of Industrial conflict – Industrial disputes?
2. What are the different types / forms of the Industrial disputes?
3. Explain the causes of Industrial disputes in India?
4. Discuss the measures of Industrial disputes?

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Lesson – 14

RECENT TRENDS IN INDUSTRIAL RELATIONS

OBJECTIVE

At the end of this lesson the student is expected to understand the trends in industrial disputes in India, it traces the trends in Industrial disputes in the present competitive environment. Adjustment strategies to promote industrial relations also discussed.

STRUCTURE

14.1. INTRODUCTION

There are so many variations in India's industrial profile and in management styles and mind-sets that it is inconceivable that any one method or strategy should be used in exclusion. Obviously, this multi-dimensional handling of IR may be best suited to the Indian context, and the ad holism in government labour policy may have been in hindsight a useful thing. The growth of collective bargaining is a response to the changing situation, particularly in the context of technological variations are plant-specific and require plant-level bargaining. At the same time, the adaptation of India IR systems of multi-level bargaining may also be best suited given its industrial diversity. Sengupta (1993), however, argues that 'in a situation where the balance of power in industry is decisively against the workers, government intervention in disputes, despite being dilatory, may prove to be more beneficial to the workers than collective bargaining' But we find many changes.

14.2. SIGNIFICANT CHANGES IN INDUSTRIAL RELATIONS

There have been significant changes in industrial relations patterns all over the world and India is not an exception. The only difference is that while these trends started in the developed countries in response to the oil price shocks in the 1970s, the process started in India considerably later and the really major changes came in the 190s due to the Structural Adjustment Programmes (SAP). The common pattern of changes are declines in trade union membership and strength, a reassertion of managerial power in the workplace. More specifically, there have been declines even in the importance of collective bargaining, a decline in the number of unionised workplaces, a decline in the coverage of unions, with more casual employment, and a shifting of industrial relations away from the centres of political or administrative discourse. Simply put, employers and governments are concerned with economic survival in the market place and there appears to be little room for welfare or labour issues. Survival of the fittest seems to be the motto of the day.

In India, these general changes have been taking place in the organised sector from the 1980s, as already observed. In 1998, with the installation of a new government, the reforms process, which had been in the doldrums for the previous two years, got a new impetus. The opening up of the insurance business to the private sector, so long resisted by the unions, was finally done. It has been opened up further to foreign investors too. There were strikes on both issues in 1997-98. Public sector disinvestment too has been stepped up substantially and the only response of the unions to it appeared to be to plan a few strikes in December 1999 and mid-2002.

The unions gave a joint strike call from what is now called the Platform of Union Organizations. But the government's stand became very clear. Taking a leaf out of Reagan's book, the government sacked six air traffic controllers (including the general secretary of the ATC Guild) on 18 February 1999, on charges of disrupting air traffic movement and inciting others (*Business Telegraph,* 19 February 1999). Criminal proceedings were started against them under the Essential Services Maintenance Act. Navy and Air Force Personnel were out on standby duty in case of a retaliatory wild-cat strike, in an almost exact replica of what happened in the USA 18 years earlier.

At the enterprise level, reorganisation and employment restructuring have become marked features. The voluntary retirement scheme has become a powerful tool to reduce workforce substantially (Noronha, 1996) and to keep unions under control. The milder doses of surplus reduction of the 1980s have been accentuated from the 1990s, with major restricting in many companies. The number of mergers/acquisitions, which used to be a handful in 1991, increased to nearly a flood by 1995-96, with larger degrees of technologically induced changes in employment relations.

14.3. TYPOLOGIES OF CHANGE

However, there is a major difference between industrial relations in India and those in other countries, notably the developed countries. While in the later, the changes have been in one direction, towards greater homogeneity in the patterns or what is referred to as convergence (uniformity), in India, a large variety of patterns have been emerging. The reasons for this are inherent in the divergences in India industry. We have already noted that there are differences in ownership pattern, size, age, technology, management styles and so on in different sectors of the economy. The fundamentally bipartite nature of industrial relations, which is being emphasised now, enhances these divergences. One of the roles of government had been to introduce some measure of uniformity in IR patterns and methods. But as the government now withdraws from aggressively interventionist role.

The diversities, we are talking about, are not the same for all the three actors in the IR process. If the government has shown some change managements have gone further, with unions showing the latest changes. In fact, the unions have primarily reacted to the changes introduces by the government or the managements.

14.4. CHANGES IN IR IN DEVELOPED COUNTRIES

If the changes in IR in developed countries are identified first, it is possible to list three major types (Millward, 1994).

(a) A model followed by Japanese companies in Japan and in the West, where the focus is on a single union as sole bargaining agent, a high degree of union accountability, particularly for productivity clauses, supplemented with consultative forums, a no-strike agreement and the complete freedom of the management to organise work. This is more a follow-up of earlier. American practices where managements sought to west from unions the *rights to manage,* so common in the automobile industry agreements in the mid-1980s.

(b) A type of complete and continuing avoidance of trade union involvement.

(c) A third type has been emergence and use of human resource management techniques and its variations, offering a prospect to some employers of *avoiding union by kindness* and the replacement of collective bargaining with individual relations.

14.5. CHANGES IN IR IN INDIA

The Indian scenario is not restricted to these three types and is much more varied, depending on the nature of the industry, the size of the organisation, the ownership pattern and other factors. For instance, strategies like sub-contracting are applicable to consumer, pharmaceutical or electrical goods producers but are not compatible with heavy engineering, steel making or crore sector manufacturing. Service industries exhibit other patterns. The fear psychosis of workers, who have already burnt their fingers on reduction of manpower and successful VRS schemes, is also being put to use. Thus, we can place all the variations along a continuum as depicted in Fig. 11.1, with numbers indicating the various types. Each types represents a decrease or increase in managerial power vis-à-vis union strength.

14.5.1. Unions avoidance

Is a common strategy, particularly among small and medium enterprises which have com up in the 1990s. Many of them have either located in relatively non-unionised regions, or have actively

prevented union formation by victimising activists. Although unfair labour practices are forbidden under the Industrial Disputes Act, many employers do victimise employees with impunity, since the enforcement of labour legislation is lax. Most units in the small and medium sectors do not have any unions, and they did not have relocated their new projects in backward or non-union regions, have also been following these practices. This type corresponds to the second category of practices in developed countries.

14.5.2. Proactive Unions

However, union avoidance strategies are not successful in all regions or in all types of industries. Unions have been proactive in some areas, particularly in the construction and seafood industry, where they have built up workers' organisations despite employers' efforts at avoidance. If the usual channels for organisation are denied, they have taken recourse to court decisions, if not to unionise workers at least to get compensation for health or occupational hazards, or minimum wages. In the construction industry, they are actively working for favourable legislation. In enterprises where unions have been formed despite employer resistance, employers have developed a relationship of *least capitulation,* giving in only in terms of statutory wages or statutory welfare, but rarely both.

14.5.3. Prolonged Periods of Lockouts

Patterns of *exploitation* within traditional industries like jute or cotton textiles or tea, which have conventional institutionalised industrial relations systems, but which are using threats of closure or an atmosphere of crisis to deny even statutory dues or withholding dearness allowance and retirement benefits to keep unions and labour under tight control. These organisations also impose unequal and one-sided productivity agreements to extract the maximum from workers. But in these organisations, industrial relations are traditionally bad, and shop floor dissent frequent. Continuous small skirmishes rather than major strikes charaterise these organisations. Many of them have had prolonged periods of lockouts or have been permanently closed.

14.5.4. Sub-Contracting

A fourth strategy is *sub-contracting*, and reorganisation of work to acquire total control over the labour process, unions and the labour market. The commonest examples are consumer goods industries, pharmaceuticals, electrical goods and cosmetics. Many of these organisations are also multinationals, with well-known industry names the world, over. The strategy is combines with discriminatory practices against certain groups of employees, or replacing unionised with non-unionised categories like casuals, contract workers. Unions are kept on their toes by summarily changing the recognised status of a union, or threatening closure, or stoppage of expansion programmes to keep workers under control. The latest tool seems to be to by-pass unions if they resists change of any kind and go directly to workers to obtain their assent. This is particularly suitable in regions, which have already experienced large numbers of closures or even seen major lay-offs via VRS.

14.5.5. Collective Bargaining with a Single Union

The use of *collective bargaining with a single union* to achieve much greater managerial control over the labour process and the work organisation (referred to in the first type of practices in developed economies). Holding the union to account for lapses on the part of workers is not a new strategy, as was apparent from the TISCO model discussed before, but is now being applied with few fervour. Some others are adopting it as a successful model. The main method used in these cases is, of

course, collective bargaining, particularly productivity bargaining, supplemented with a very superficial type of consultations or participation. This is probably due to the fact that the unions already entrenched in these enterprises cannot be got rid of.

14.5.6. Combination of both hard and soft approaches

The next type is a mixture or *combination of both hard and soft approaches,* where poor work ethics, over-manning, low productivity, wastage and poor quality are sought to be handled through tough measures. These measures include large cuts in workforce and a substantial degree of work reorganisation, combines with strengthening of collective bargaining. But consultative practices and institutions, and favourable production incentives and welfare benefits are used to soften the hard positions. Many units adopting this strategy are public sector units which have been put under considerable pressure due to the New Economic Policy.

14.5.7. Introduction of HRM Practices

The next pattern observations is the gradual introduction of *HRM practices* as seen in the third type in developed countries. The major thrust in this type is of de-institutionalisation of industrial relations systems and creating maximum flexibility for managements to manage. Labour policies are strictly subservient to business policies. Collective bargaining is not replaced, but diluted. Its scope has been reduced to just wages and benefits. It no longer remains the chief instrument of IR. This is accompanied by centralising decisions in IR at the top management level. It is not as if IR is reduced in importance, but is made part of the wider business strategies and integrated into top management policy-making. The Bata standoff indicated that union appeals had to go straight to the chief executive and the problem that erupted subsequently was dealt with by the managing director. In any case, the authority for change in IR usually has to come from top levels. The new MNCs or even some of the older MNCs, which have been through bad times, appear to have favoured this strategy. The strategy includes extensive training for employees, more detailed performance appraisal and career growth avenues for key managerial personnel.

14.5.8. Consultative and participative approach

A more *genuinely consultative and participants approach* has been adopted by several public sector units in recent years, supplementing bargaining with participative forums. A few public sector steel plants, which faced acute crises as a result of the New Economic Policy, or had turned sick and needed to modernise, now belong to this type. Some separations have been achieved through favourable VRS schemes. Training has been emphasised. But the emphasis in IR methods has been on improving communication, changing attitudes on both sides, a more tolerant joint union approach rather than seeking out one and holding it accountable, and phase by phase implementation of IT changes to coincide with changes in systems and technology.

14.5.9. Placatory approaches

At the extremes are the *placatory approaches* of some companies, both in the public and private sectors which have not paid serious attention to IR, but have taken the easiest way out. These organisations are now extending the olive branch to unions, reinstating discharged union leaders in some cases in order to obtain union cooperation for modernisation efforts. Some of these organisations are those which had earlier adopted hard stances towards unions are those which had earlier adopted hard stances towards unions and are now finding that modernisation is not possible without cooperation. This is a type of response to the need for change in production processes and products.

But the results have not always been as desired and have led to violence or failure. But the approach is one of appeasement rather than a search for consultation.

14.5.10. Management capitulation

The last identifiable type, or rather the lack of any strategy at all, is in *management capitulation* to unions, where complete helplessness characterises employer approaches to demanding and table-thumping unions. While not very common, since the economic conditions are too hard to allow such types to exists easily, this approach has been observed mostly with respect to certain sections of employees in a favourable labour market. Unable to induce subservience among its employees through a particular union, this type of employer accepts whatever the union says. Fortunately, this is not common any longer even among the public units and is confined to those industries which had failed to devise any kind of bilateral forms of industrial relations other than conventional forms of collective bargaining. The service sector units in airlines, banking and insurance have been dependent for far too long on political relative distance created by government. Needles to say these companies have not been put to too much financial pressure up to now as a result of SAP.

These typologies are primarily dependent on management positions and strategies adopted, and vary according to the degree of force exerted by management and its nature. Obviously, union responses vary according to the management's positions, being more militant where managements are weaker or being submissive where managements are assertive. Union response have not been as varied as management approaches. But there are nevertheless variations in union positions, depending upon the source and composition of union leadership or the environmental factors.

Of these types, the extreme strategies are not stable, in the sense that they cannot be sustained for long in the face of changes. They are at best temporary phases in the evolution of different types and are likely to merge into one or other of the types. For instance, the first or union avoidance strategy may not be sustainable. If unions can build up a sufficiently strong movement. For example, airlines are already facing major problems and will have to either change and adopt the fifth, sixth or eight strategies to survive. Thus, in the long run the strategies would reduce to about six or seven.

In most cases, unions have been on the retreat, compromising with managements or accepting whatever benefits they can get. With major job losses in the textile industry in western India, in jute in eastern strikes in the intermediate industries, unions have perforce had to become more careful about their demands and their weapons. But the recent changes have also helped in some measure to consolidate the labour movement. On the one hand, unionisation is being promoted in the small, medium and informal sectors, or even in the unorganised pockets of organised industry. On the other there are greater efforts at union unity, with a corresponding shift from isolated plant-level union resistance to major political initiatives. For example, instead of plant or unit – level movements, unions may ultimately legislation. Unions are also attempting education of members, creating awareness and establishing joint forums in crisis situations, such as in IISCO and DSP. But they have also been hampered in their efforts at real consolidation because of major differences in perceptions on crucial issues like the SAP, itself, on the pension scheme, on methods of cooperation within organisations, and on disinvestment of PSUs. A recent Supreme Court decision has strengthened this process. In the State Bank of India Association and another vs State Bank of India and others cases, the court held that an ordinary or temporary member of a union may be an office-bearer, but this office-bearer shall not have a right to negotiate with the management, or the management have any obligation to negotiate with him.

The profile of the union leader is also under change. Younger, more educated or dynamic elements, who are acquiring a greater knowledge about their own industry and the environment, are keener to play in the management's half of the field, matching the managements in knowledge and ability to plan strategies. They are more interested in the performance of the organisation itself, rather than remaining confined merely to bread and butter issues. They have a clearer understanding of industrial processes, markets, and efficiencies. Some of them are adept at SWOT analysis not only of their own enterprises but also of their unions. But they are also more vigilant, able to detect management fraud or mismanagement or blunders. Their concerns range from reasons for margers to product pricing, in short, the entire domain of management decision-making.

This has not necessarily led to better IR, since management are likely to resist this playing in their half. In a few cases, this kind of approach has even led to takeover of units through worker-managed system. Another type of approach has been to challenge management action in courts on several issues which have emerged out of the changes in economic policy. For instance, in case of court orders for closure of enterprises causing pollution, the question of workers' wages remained hazy. This has been challenging in court. Unions have also challenged mergers or acquisitions.

Some unions are also bringing changes in their internal functioning with a greater emphasis on internal democracy, regular elections, consultation and communication with ordinary members. But the one major issue which appears to be eluding them still is the question of political affiliation. While many new unions, particularly under the new type of leadership, have openly declared their lack of connections with political centres, they are on the whole still part of the political set up. On the one hand, the common forums have bridged political divides, but on the other, unions are unable to surmount the political positions of their respective parties. At the other extreme are unions stuck in their narrow responses, particularly in those industries, which have been favourably affected by the SAP.

14.6. ADJUSTMENT STRATEGIES

Some of the common trends among many companies, especially private sector enterprises coping or adjusting to the changed economic environment, are becoming clearer after several years of economic reforms. One of the most common responses, of course, have been to reduce labour costs, mostly by cutting employment. The most popular tool has been the voluntary retirement scheme, which is being discussed in detail later. But VRS or labour force reductions are part of a general scheme or company strategy. For instance, the strategy may have been to cut all costs and become more competitive. By and large, the strategies that companies have adopted in the years under review can be identified as follows:

14.6.1. Specialisation

A company specialisation in a small range of products, in the process honing its skills to such an extent that it can become a world leader in that product. A good example is Sundaram Fasteners, which recently outbid six global companies and became the worldwide supplier for radiator caps to all plants of General Motors. Against a world average of 150 defective units per million, Sundaram has reduced its defectives to just six per million. It has also perfect its other skills like never missing a delivery schedule. The focus is on cost, quality, reliability and value addition. Such a strategy not only requires improving labour productivity, but all-round efficiency, productivity and quality. It is expanding market may not require or lead to major employment cuts, but is bound to require selective pruning,

retraining, technological upgradation, introduction of quality circles, stringent quality standards or what is popularly known as Total Quality Management or TQM.

14.6.2. Downsizing Downscoping

This is another major strategy adopted by many companies. Years back, in the 1960s and 1970s, diversification was a popular concept an practice, where companies devised new business lines to increase their profits, use surplus capital and spread their risks. ITCs, a cigarette giant, diversifies into hotels, seafoods, etc. Today, the reverse is taking place. Companies are returning to their core business, concentrating in the area of their specialisation. Competition has forced this reversal. Competitive production and cost requires focus on the business where the company has or had its original expertise. Subsidiaries or divisions are now being closed, or sold off to those who are in that line of business.

In IR, this means that unions in the diversified product/service lines will have to reorient themselves to new owners, new service terms and conditions and perhaps even new job locations. The Tatas have shed quite a few of their business lines like cosmetics and body oils, or cement, or even their power generation units. These major organisational restructurings are happening all over the country and both managers and employees might find themselves changing owners, though not their basic jobs. However such changes require reorientation on the part of all employees who are affected, both managerial or unionised.

14.6.3. Reorganisation and Technologies Changes

Changes have been taking place in not just companies, but even in government departments, like the postal services. For IR managers, this requires careful handling of personnel who have to be persuaded on the need for change and the consequent changes like transfers lack of promotional opportunities, training and workload requirements, changes in job description, etc.

14.6.4. Amalgamations, Mergers, Takeovers

More and more companies are changing hands, as some companies sell and others buy. Hindustan Lever, for instance, has been buying up most of the smaller units in lines of business in which it specialises. There have been major takeovers in the cement industry a well. These takeovers are aimed at consolidation and a greater market share in the main product line. These require the integration of IR systems and practices of different companies either with the parent company or introduction of flexibility in allowing the coexistence of several parallel systems. For instance, when Lipton was taken over by Hindustan Lever, it was suggested that collective bargaining be continued on two tiers – unit – level to accommodate the units taken over, and are at the corporate level to maintain uniformity in basic service terms.

14.7. DEVELOPMENTS IN INDIAN INDUSTRY

In addition to those common trends, some major changes or developments in Indian industry today with implications for industrial relations are :

14.7.1. Public Sector disinvestment

Public Sector disinvestment is part of the reforms process and has been continuing. The 1998-99 *Economic Survey* states that budget proposals envisage overall government holding in all central

PSUs, except in strategic/defence industries to be reduced to 26 per cent. Subsequently, the government has sold Modern Foods to Hindustan Lever and Bharat Aluminum to Sterlite Industries. It also relinquished management control in VSNL in favour of the Tata group in 2002 by divesting 26 per cent stake. While there has been no dramatic disinvestment, the process is slow but steady. National capital market are not able to absorb wholesale privatisation and as a result PSU disinvestment can only be done in stage. Also, sometimes there are just not enough buyers to take up the PSU stocks offered for sale. The reduction in government control over the state sector also means reduction in government funding. This has had serious efforts on industrial relations, with managements driving harder bargains during wage negotiations. This has also to be combined with cost cutting measures of various kinds. In some cases, unions have cooperated. But in other, where worker pressure has prevented willing cooperation, IR problems have surfaced.

Table 14.1
Number of Central PSUs

Government Holding	As on 1.7.91	As on 31.3.93	As on 31.3.96
100% holding	29	7	0
90 to 99%	3	13	17
80 to 89%	1	11	8
70 to 79%	1	6	5
60 to 69%	1	2	6
50 to 59%	0	1	4

Source : *Economic Survey, 1996-97,* Government of India.

At the same time, closure of certain units is not possible in the context of India's unemployment , poverty and the expectations of the workforce. Making the organisation more efficient is a very important strategy. There are already good examples of greater efficiency among PSUs. For instance, Coal India reported a net profit of over Rs. 900 crore in 1997-98, which was a record in an otherwise bleak history of accumulating losses. Such efficiency drives will require more training, more joint forums within the plants. It will also required greater appreciation on the part of unions of the real problems facing Indian industry, especially the PSUs.

14.7.2. Multi National Corporations

MNCs are here to study as they are the ones with large capital surpluses, able to fill the needs of quick investment. Their presence is growing. A need for integration of IR styles, especially in the joint ventures in which these MNCs are co-partnering with Indian industrialists, is felt. For insurance, the MNCs very often come to Indian with their own perceptions on how unions should behave and be treated. Faced with the very different systems prevailing here, the requirement of IR managers of these joint ventures would be to try and dovetail the differences and similarities and create new systems for such ventures. Thus, collective bargaining may also have to be supplemented with adjudication or conciliation, or even participation of workers in the management. Attitudes towards unions may have to be adopted to multi-union situations and government or political intervention. At the same time, employees and unions would also have to adopt to different work practices in the MNC culture, especially the standards of efficiency, reduced wastage, quicker decision – making and so on.

14.7.3. Commoner work practices

Some of the *commoner work practices,* which are being introduced or have already been adopted in private and public sector units, or indigenous and foreign units, are :

(a) Multi-skilling

(b) Work pools or substitute pools,

(c) Training and retraining,

(d) Job enlargement and enrichment, and

(e) Group processes such as team-building

14.8. COMMUNICATION

The role of employee communications in any IR situation cannot be overemphasised. Every organisation, which has faced IR problems and its now facing challenges posed by the environment, is taking recourse to elaborate communication programmes. The forms can be many-information sharing, team briefings, employee reports, general meetings- and at almost every level. Opinion / attitude surveys and suggestion schemes are also very popular. For insurance, public sector Bhilai Steel Plant, which faced a down turn from the 1980s, began making HRD changes, but found that this was not going to be successful without extensive communication programmes. The conventional approach to communication boards and house magazines was found to be inadequate. Face-to-face communication became a major HRD intervention from the 1990s, with the challenges of the liberalisation policy.

The communication programme adopted in Bhilai was two-pronged :

Shop Communication Programme, in which gifted employees are selected and trained to communicate to fellow employees by making presentations on production, productivity, techno-economics, quality, cost control and customer satisfaction. Senior managers then sit and answer questions from employees on aspects of the presentation.

The *Comex* is executive communication programme, wherein the managing director and senior managers sit with groups of 200 executives to inform on company proprietors, concerns and problems issues, and to answer questions. Apparently, this programme has helped reduce IR problems and the company has not lost a single manday in work stoppages since 1992, when the programme was launched.

Britannia Biscuits, renamed Britannia Industries Ltd. reached a nadir in 1994 for various reasons. The turnaround had to de achieved through extensive discussions with their unions in Delhi. The process used was *open-house* discussions. Workers/union leaders in batches of 25 were invited to discuss anything with the management. They could ask questions as they liked and the management would answer immediately. Even rewards to individual workers and managerial remuneration were discussed. Among the workers, opinion leaders from the shop floor were identified and invited. The process was initiated before every change, howsoever minor. The management did not balk at discussing dismissal cases in open-house sessions, although after the dismissals. The process adopted strengthened trust different means.

In the various case studies discussed in the foregoing chapters too, it was found that communication played a major role in change in IR practices. Every new step had to be preceded by extensive and intensive commination programmes. It was not enough to merely elaborate existing practices or give them a face-lift. It was necessary to think of communication as a major strategy or even method in IR. Regular interaction with employees and an openness to ideas, no matter what their source, became crucial to implementing change. It was also found necessary to improve not just commination with unions but with employees directly. The substance of communication programmes were varied, but the objectives were more or less consistent. They were :

(a) To improve face-to-face transactions between the management and
(b) To introduce communication channels at various intermediates,
(c) To use communication as a demonstration of transparency and trust.

We thus see that communication is the newest and surest step in improving industrial relations in almost any kind of situation. The ILO has always emphasised the need for dialogue within enterprises and within the larger tripartite system.

Hindustan Motors recently started an intensive communication programme to tide over the industrial recession and fall in demand it suffered during 1998-99. Already faced with acute competition from new automobile manufacturers after liberalisation, capacity utilisation deteriorated to just 35 percent in that period. The communication programme was directed at supervisors, junior managers, shop floor unionists and senior/ key workers. However, the programme was structured in the sense that the issues were restricted to four areas :

* The nature of the market and business prospects
* The nature of the current competition
* Customer's preferences/ requirements
* Consequent quality requirements (example : Euro II emission norms)

The meetings or tools used for improving communication can be classified into two-periodic or regular and one-time or sporadic. The former is built into the IR system and can take place at any level. The periodicity should be determined by each company in association with the employees, depending on the objectives and past practices. Sporadic communication measures are usually in response to specific crises or sudden developments or one time changes. But no matter what the type, transparency and openness should be a common characteristics of such meetings. Trust needs to be built into the system. If information is withheld on one side, it will be withheld on the other side as well. Communication also needs to be timely and prompt.

14.9. CONCLUSION

The 1990s, we find, brought several changes in industrial relations in India. However, it has to be remembered that the changes were not structural in terms of the IR system, or replacement of existing methods by other methods. If at all, the changes were more in attitudes and in government positions. This has brought greater heterogeneity in IR practices even within sectors.

The one abiding change is the greater reliance on bilateral methods and bipartite solutions, rather than reliance on government intervention to resolve disputes. There is also greater consolidation in

strategies among certain groups of industrial organisations, especially from the employer's point of view. The NEP has certainly given the IR initiative to employers.

14.10. SELF ASSESSMENT QUESTIONS

1. Briefly explain the trends in Industrial Disputes in India?
2. What are the changes IR in India?
3. Discuss the adjustment strategies in present scenario?

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Lesson –15

UNFAIR LABOUR PRACTICES AND VICTIMISATION

OBJECTIVE

When you have completed this lesson you should be able to understand the following

i) Unfair labour practices on the part of employers.

ii) Unfair labour practices on the part of Trade Union.

iii) Unfair labour practices on the part of Workmen

iv) Scope of interference by industrial tribunal.

STRUCTURE

15.1. INTRODUCTION

The main concept of unfairness in labour practices relate to management interference in the relations between a union and its members or between two unions, or the freedom of employees to choose a union. In the USA, unfair labour practices list a long line of do nots for unions, and Indian managers feel heartened to read about these. For instance, the primary unfair labour practices to be avoided are refusal of a recognised union to bargain in good faith, coercive activities, union instigation or active support for an illegal strike, physical prevention of willing employees from joining work during a strike, intimidation of employees or managerial staff during a strike go-slow or squatting on work premises

after working hours, forced confinement of managerial staff and demonstrations at the residence of employers The reason why US unfair labour practices hardly list any management transgressions is that unions have clear rights and privileges, not requiring Separate listing. Most of these have so far been denied to Indian unions.

15.2. UNFAIR LABOUR PRACTICES ON THE PART OF EMPLOYERS

The expression "unfair labour practices" has not exhaustively been defined in any of the enforced legislative enactments in India. However, Section 28(*k*) of the Trade Unions (Amendment) Act, 1947 enumerated the following to be an unfair labour practice on the part of the employer:

(a) To interface with, restrain, or coerce his workmen in the exercise of their rights to organise, form, join or assist a Trade Union and to engage in concern activities for the purpose of mutual aid or protection;

(b) To interface with the formation or administration of any Trade Union or to contribute financial or other support to it;

(c) To discharge, or otherwise discriminate against any officer of a recognised Trade Union because of his being such officer;

(d) To discharge, or otherwise discriminate against any workman because he has made allegations or given evidence in any inquiry or proceeding relating to any matter such as referred to in sub-section (i) of Section 28 F;

(e) To fail to comply with the provisions of Section 28F.

15.3. UNFAIR LABOUR PRACTICES ON THE PART OF TRADE UNIONS

Section 28 J of the Trade Unions (Amendment) Act, 1947, (which is unforced) dealt with the unfair labour practices by Trade Unions:

(a) For a majority of the members of the Trade Union to take part in an irregular strike;

(b) For the executive of the Trade Union to advise or actively to support or to instigate an irregular strike;

(c) For an officer of the Trade Union to submit any return required by or under this Act containing false statements.

15.4. DEFINITION OF "UNFAIR LABOUR PRACTICE"

In the absence of any enforced statutory definition the courts have tried to fill this gap. The judicial interpretation of the expression "unfair labour practice" has given rise to two main views, viz., the narrow and the extensive.

15.4.1. Narrow View

Some of the early adjudicators confined the expression "unfair labour practice" to trade union activity. In other words "no trade union activity, no unfair labour practice". This view was evidently supported by the provisions of section 28 K of the Trade Unions (Amendment) Act, 1947. However, later decision-makers refused to accept the narrow interpretation on at least two grounds. *First,* if unfair labour practice is confined merely to trade union activities, then the worker who is not the member of any

union and as such, having no trade union activities will not be entitled to any relief under the Industrial Disputes Act, 1947 when they are discharged. The result will be that either the employer would try to engage non-union men or that non-union will be forced indirectly to join a union. This will be in the words of the narrow interpretation limits the scope of Tribunals' jurisdiction to incharged workmen for the trade union activities.

15.4.2. Extensive Views

A few of the earlier decisions and later decisions generally emphasise extensive view. For instance, Shri A.G. Gupta in *Alexandra Jute Mills Ltd. v. Their Workmen* illustrated unfair labour practice:

Any order made in bad faith with an ulterior motive arbitrarily or with harshness is an instance of unfair labour practice.

There are other illustrations, *e.g.,* hasty action of company without giving the employee any notice or holding an inquiry provide that the refusal by an employer to permit his workmen to engage in Trade Union activities during their hours of work shall not be deemed to be unfair practice on his part. And Section 32-A of the Trade Unions (Amendment) Act, 1947 prescribed the penalty for committing unfair labour practices. Thus it provides that "(1) any employer who commits any unfair practices set out in Section 28 K shall be punished with fine which may extend to one thousand rupees. (2) Where a Criminal Court impose a fine, or confirms in appeal, revision or otherwise a sentence of fine imposed on an employer for committing an unfair practice set out in clause (c) or clause (d) of Section 28 K, it may when passing judgement, order the whole or any part of the fine to be applied in the payment to any person of compensation for loss or injury caused by the unfair practice".

15.5. CODE OF DISCIPLINE IN INDUSTRY

The Code of Discipline, 1958 contained a reference to unfair labour practices to be avoided by unions and management :

(i) Management agree…not to support or encourage any unfair labour practice such as :
   - (a) Interference with the rights of employees to enroll or continue as union members;
   - (b) Discrimination, restraint or certain against any employee because of recognise activity of trade unions; and
   - (c) Victimisation of any employee and abuse of authority in any form.

(ii) Unions agree to discourage unfair labour practices such as :
   - (a) Negligence of duty;
   - (b) Careless operation;
   - (c) Damages to property;
   - (d) Interference with or disturbance to normal work; and
   - (e) Insubordination.

15.6. RESPONSE OF THE NATIONAL COMMISSION ON LABOUR

The National Commission on Labour has also recommended that "the law should enumerate various unfair labour practices on the part of employers and on the part of workers' unions; and provide for

suitable penalties for committing such practices. Complaints relating to unfair labour practices will be dealt with by the Labour Courts. They shall have the power to impose suitable punishment/penalties which may extend to de-recognition in case of unions and heavy fine in case of an employer found guilty of such practices".

15.7. UNFAIR LABOUR PRACTICES ON THE PART OF EMPLOYERS AND TRADE UNIONS OF EMPLOYERS UNDER THE INDUSTRIAL DISPUTES (AMENDMENT) ACT, 1982

Section 2(ra) read with the Fifth Schedule of Industrial Disputes (Amendment) Act, 1982 defines and enumerates unfair labour practices on the part of employers to mean:

1. To interfere with, restrain from, or coerce, workmen in the exercise of their right to organise, form, join or assist a trade union or to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, that is to say :
   (a) Threatening workmen with discharge or dismissal, if they join a trade union;
   (b) Threatening a lock-out or closure, if a trade union is organised;
   (c) Granting wage increase to workmen at crucial periods of trade union organisation, with a view to undermining the efforts of the trade union at organisation.
2. To dominate, interference with or contribute support, financial or other wise, to any trade union, that is to say-
   (a) AN employer taking an active interest in organising a trade union of his workmen; and
   (b) AN employer showing partiality or granting favour to one of several trade unions attempting to organise his workmen or to its members, where such a trade union is no a recognized trade union.
3. To establish employer-sponsored trade unions of workmen.
4. To encourage or discourage membership in any trade union by discriminating against any workman, that is to say:
   (a) Discharging or punishing a workman, because he urged other workmen to join or organise a trade union;
   (b) Discharge or dismissing a workman for taking part in any strike (not being a strike which is deemed to bean illegal strike under this Act);
   (c) Changing seniority rating of workmen because of trade union activities;
   (d) Refusing to promote workmen to higher posts on account of their trade union activities;
   (e) Giving unmerited promotions to certain workmen with a view to creating discord amongst other workmen, or to undermine the strength of their trade union;
   (f) Discharging office-bearers or active members of the trade union on account of their trade union activities.
5. To discharge or dismiss workmen :-
   (a) By way of victimisation;

(b) Not in good faith but in the colourable exercise of the employer rights;

(c) By falsely implicating a workman in a criminal case on false evidence on concocted evidence;

(d) For patently false reasons;

(e) On untrue or trumped up allegations of absence without leave;

(f) In utter disregard of the conduct of domestic enquiry or with undue haste;

(g) For misconduct of a major or technical character, without having any regard to the nature of the particulars misconduct or the past record or service of the workman, thereby leading to a disproportionate punishment.

6. To abolish the work of a regular nature being done by workmen, and to give such work to contractors as a measure of breaking a strike.

7. To transfer a workman *mala fide* from the one place to another, under the guise of following management policy.

8. To insist upon individual workmen, who are on a legal strike to sign a good conduct bond, as a pre-condition to allowing them to resume work.

9. To show favouritism or partiality to one set of workers regardless of merit.

10. To employ workmen as “badlis”, casuals or temparises and to continue them as such for years, with the object of depriving them of the status and privileges of permanent workmen.

11. To discharge or discriminate against any workman for filling charges or testifying against an employer in any enquiry or proceeding relating to any industrial dispute.

12. To recruit workmen during a strike which is not an illegal strike.

13. Failure to implement award, settlement or agreement.

14. To indulge in acts of force or violence.

15. To ensure to bargain collectively, in good faith with the recognised trade unions.

16. Proposing or continuing a lock-out deemed to be illegal under this Act.

And Section 25 T of the Act prohibits employers (whether registered under the Trade Unions Act, 1926 or not) to commit any of the aforesaid unfair labour practices. Violation of the provision 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.

A perusal of item 7 of the Fifth Schedule read with Section 25 T of the Act reveals that there is a statutory prohibition engrafted in the Industrial Disputes Act prohibiting transfer of a workman *mala fide* from one place to another under the guise of the management policy. thus, a valued right has been created by the statue in favour of the workman from being subjected to by his employer to transfers *mala fide* under the guise of following the management policy. This is a right which has been created by the Industrial Disputes Act in favour of the workmen restricting the unfettered right of the management in the matter of effecting transfer of his employees. The obligation not to transfer a workman *mala fide* from one place to another under the guise of management policy was not recognised under common law. That right it now created by the statue. The remedy has been provided in Section 10 of the Act. There are several conditions which are to be satisfied for invoking the remedy

provided under Section 10 of the Act. When the statue prescribes a remedy and also prescribes the conditions for availing of that remedy, if the conditions for invoking the remedy cannot be complied with, it does not mean that the statue has not provided the remedy. Thus, the right as well as the remedy has been provided by the Industrial Disputes Act in the matter of transfer by the management. In such a case the jurisdiction of the Civil Court is by necessary implication barred.

15.8. UNFAIR LABOUR PRACTICES ON THE PART OF WORKMEN AND TRADE UNIONS OF WORKMEN UNDER THE INDUSTRIAL DISPUTES (AMENDMENT) ACT, 1982

Similarly, Section 2*(va)* read with the Fifth Schedule of the Amendment-Act also enumerates the following unfair labour practices on the part of workmen and their trade unions:

1. To avoid or actively support or instigate any strike deemed to be illegal under this Act.
2. To coerce workmen in the exercise of their right to self-organisation or to join a trade union or refrain from joining any trade union, that is to say-
   (a) For a trade union or its members to picketing in such a manner that non-striking workmen are physically debarred from entering the work places;
   (b) To indulge in acts of force or violence or to hold out threats of intimidation in connection with a strike against non-striking workmen or against managerial staff.
3. For a recognised union to refuse to bargain collectively in good faith with the employer.
4. To indulge in coercive activities against certification of a bargaining representative.
5. To stage, encourage or instigate such forms of coercive actions as willful “go slow”, squatting on the work premises after working hours or “gherao” of any of the members of the managerial or other staff.
6. To stage demonstrations at the residence of the employers or the managerial staff members.
7. To incite or indulge in willful damage to employer’s property connected with the industry.
8. To indulge in acts of force or violence or to hold out threats of intimidation against any workman with a view to prevent him from attending work.

The commission of aforesaid unfair labour practices are prohibited under Section 25 T and whosoever commits any such unfair labour practice is punishable under Section 25 U of the Industrial Disputes (Amendment) Act, 1982 with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

15.9. VICTIMIZATION

Victimization and unfair labour practice are “like twins who cling together”. According to some, unfair labour practice can stand by itself, but victimization must always keep company with unfair labour practice. For instance, where the employer interferes with employees’ right to self organisation or with the formation of any labour organisation, right to self organisation or with the formation of any labour organisation, or where the employer bangs the door to any settlement by negotiation, there may be unfair labour practice. In such cases no punishment need be inflicted on any employee. It cannot be

said that there is any victimization. Thus, separate existence of unfair labour practice is conceivable. "In other words the dividing line between victimization and unfair labour practice is very thin and what is unfair labour practice may also be a victimization and *vice versa…*"

Like the unfair labour practice the word "victimization" has not been defined either in the Trade Unions Act, 1926 or in the Industrial Disputes Act, 1947. The Supreme Court in *Bharat Bank Ltd. v. Employees of Bharat Bank Ltd.,* has, however, defined the word "victimization" to mean :

A certain person has become a victim, in other words, that he has been unjustly dealt with.

The aforesaid meaning was followed in *Bharat Iron Owrds v. Bhagubhai* where in the Supreme Court observed that a person is victimized, if he is subjected to persecution, prosecution or punishment for no real fault or guilt of his own, in the manner, as it were a sacrificial victim.

The Supreme Court in Workmen of *M/s. Williamson Magor and Co. Ltd., v. M/s. Williamson Magor and Co. Ltd.,* accepted the normal meaning of "Victimization", namely, being victim of unfair and arbitrary action, and held that there was "victimization of the superseded workmen. The tendency of the Court to safeguard the interest of workmen, is also evident from the observation of the court, that whenever, the word 'victimization' can be interpreted in two different ways, the interpretation which is in favour of the labour should be accepted as they are the proper section of the people compared to that of management.

Justice Dhawan in *L.H. Sugar factories Oil Mills (P) Ltd.,* expressed the view that what id unfair labour practices or victimizations is a question of fact to be decided by the Tribunal upon the circumstance of each case. However, from the mere fact that the concerned workmen were office-bearers of the unions it cannot be interred that the company was actuated by any improper motive to victimize them when the charge of misconduct was proved against them.

Ludig Teller has enumerated and given seven instances where the employees may be held guilty of unfair labour practice. These are, for instance, sit down strikes, to compel members to join the union, strikes in violation of collective bargaining agreement, strike during "cooling-off", obstruction of lawful works, the commission of misdemeanors in connection with labour disputes, unlawful picketing, etc.

In *R.B.S. Jain Rubber Mills* the Tribunals listed the following as outward manifestation to be taken into account for victimization or unfair labour practice:

(1) Discrimination between workers.
(2) Singling out union leaders or members.
(3) Anti-union statement made at a time of discharge or shortly prior thereto.
(4) Relative significance of the alleged infraction.
(5) Whether others ever committed the same infraction without similarly being punished to the context of discharge.
(6) Failure without explanation to introduce specific evidence in support of a general accusation or reason for discharge or to call witnesses who have personnel knowledge of the basis of denial.
(7) Failure of the employer to hold an investigation.

(8) Failure to afford an employee the opportunity to defend himself.

(9) Uneven application of the Company's rule.

In *Bharat Iron Works v. Bhagubhai* the Supreme Court said that it may partake various types. For example, pressurising an employee to leave the union or union activities; treating an employee unequally or in an obviously discriminatory manner for the sole reason of his connection with union or his particular union activity; inflicting a grossly monstrous punishment which no rational person would impose upon an employee and the like.

15.9.1. Proof of Victimization

Victimization "is a serious charge by an employee against an employer and, therefore, it must be properly and adequately pleaded giving all particulars upon which the charge is based to enable the employer to fully meet them. The charge must not be vague or indefinite being, as it is an amalgamation of facts as inferences and attitudes. The fact that there is a union espousing the cause of the employees in legitimate trade union activity and an employee is a manner or active office-bearer thereof, *is per se* no crucial instance.

15.9.2. Burden of Proof

The onus of establishing a plea of victimization will be upon the person pleading it. Since a charge of victimization is a serious matter reflecting, to a degree, upon the subjective attitude of the employer evidenced by acts and conduct these have to be established by safe and sure evidence. Mere allegations, vague suggestions and institutions are not enough. All particulars of the charge brought out, if believed, must be weighted by the Tribunals and a conclusion should be reached on a totality of the evidence produce".

It must be directly connected with the activities of the concerned employee inevitably leading to the penal action without the necessary proof of a valid charge against him…A proved misconduct is antithesis of victimization as understood industrial relations.

15.10. SCOPE OF INTERFERENCE BY INDUSTRIAL TRIBUNAL

It was established in *Indian Iron and Steel Co. v. Their Workmen* that Industrial Tribunals can interfere, *inter alia,* in management's order when there was victimization or unfair labour practice.

Again in *Ananda Bazar Patrika v. Their Employees,* the Supreme Court dealt with the extent of jurisdiction of a Labour Court or an Industrial Tribunals and observed as follows:

If on the other hand, in terminating the services of the employee, the management has acted maliciously or vindictively or has been actuated by a desire to punish the employee for his trade union activities, the Tribunal would be entitled to give adequate to the employees by ordering his reinstatement, or directing in his favour the payment of compensation? But if the enquiry has been proper and the conduct of the management in dismissing the employee is not *mala fide,* then the tribunal cannot interfere with the conclusions of the enquiry officer, or with the orders passed by the management after accepting the said conclusions.

In *Bengal Bhatdee Coal Co. v. Singh* the Supreme Court ruled that :

There is no doubt that though in a case of proved misconduct, normally the imposition of a penalty may be within the discretion of management, there may be cases where the punishment of dismissal for the misconduct proved may be so unconscionable or so grossly out of proportion to the nature of offence that the Tribunals may be able to draw an inference of victimization merely from the punishment inflicted.

The Supreme Court in *Hind Construction and Engineering Co. Ltd. v. Their Workmen* has put the position of law as follows :

It is now settled law that the Tribunal is not examine the finding or the quantum of punishment because the whole of the dispute is not really open before the Tribunal as it is ordinarily before a court of appeal. The Tribunal's powers have been stated by this court in a large number of cases and it has been ruled that the Tribunal can only interfere if the conduct of the employer shows lack of *bona fides* or victimization of employee or employees or unfair labour practice. The Tribunal may in a strong case interfere with a basic error on a point if fact or a perverse finding, but it cannot substitute its own appraisal of the evidence for that of the officer conducting the domestic enquiry though it may interfere where the principles of natural justice or fair play have been followed or where the enquiry is so perverted in its procedures as to amount to no enquiry at all. In respect of punishment it has been ruled that the award of punishment for misconduct under the standing orders, if any, is a matter for the management to decide and if there is any justification for the punishment imposed, the Tribunal should not interfere. The Tribunal is not required to consider the propriety or adequate of the punishment or whether it is excessive or too severe. But where the punishment and the past record are such, as no reasonable employer would ever impose in like circumstances, the Tribunal may treat the imposition of such punishment as itself showing victimization or unfair labour practice.

15.11. CONCLUSION

The Industrial Disputes Act, 1947, which aims at investigation and settlement of industrial disputes does not make any provision for recognition of unions as the sole bargaining agent, nor does it define what are unfair labour practices. The Bombay Industrial Relations Act, 1946, however, provides for statutory recognition of a representative union for the local area in an industry. To qualify for the representative status, a union should have in its membership at least 25 per cent of the total number of employees in an industry. The B.I.R. Act also provides for penalties if an employer indulges in any of the unfair labour practices mentioned therein.

Industrial Tribunals and the Supreme Court, however, have developed case law on unfair labour practices mainly on the part of employers while dealing with cases of discharge / dismissal or other forms of punishments meted out to workmen.

The Code of Discipline which was adopted at the 16th session of the Indian Labour Conference was a voluntary effort to provide for recognition of unions on a voluntary basis. The Code provided for recognition of a union having 15 per cent of membership of workmen in an establishment. It also provided for a voluntary code of conduct for employers and unions whereby both parties agreed to refrain from certain unilateral actions or activities or unfair labour practices.

In February 1968, the Government of Maharashtra set up a tripartite committee called the Committee on Unfair Labour Practices, under the chairmanship of Justice V.A. Naik, the then President of the Industrial Court. Bombay. The Committee submitted its unanimous report in July, 1969. It defined certain activities on the part of employers and trade unions as unfair labour practices and listed them in three separate lists. The Committee was of the opinion that unfair labour practices could not be considered in isolation, except in the context of collective bargaining and hence recommended legislation for the purpose of granting recognition to unions as sole bargaining agents and also to legally prohibit certain unfair labour practices. It recommended an independent machinery for realising the objectives of granting recognition to unions and enforcing the provisions relating to unfair labout practices.

15.12. SELF ASSESSMENT QUESTIONS

1. What are the unfair labour practices on the part of employer.
2. What are the unfair labour practices on the part of Trade unions.
3. What are the unfair labour practices on the part of workmen.
4. List the NCL recommendations on unfair labour practices in India.

15.13. REFERENCES AND SUGGESTED BOOKS FOR FURTHER READINGS

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Lesson – 16

INDUSTRIAL DISPUTES PREVENTION AND SETTLEMENT

OBJECTIVE

At the end of this lesson the student is expected to understand the categories of disputes, prevention of industrial disputes and also enlighten on Industrial relations Machinery in detail.

STRUCTURE

16.1. INTRODUCTION

The prompt and equitable of labour disputes is an important basis for sound industrial relations, and it is essential that the appropriate dispute settlement machinery exists to facilitate such settlement. The absence of effective dispute settlement systems and procedures can result in widespread industrial conflict with adverse effect on worker-employer relations and also on the collective bargaining process itself. On the other hand, it is widely recognised that excessive third party intervention in the settlement of labour disputes can also undermine collective bargaining as an institution for the joint regulation between employers and trade unions or their workers. In many developed and developing countries today, there is a growing concern that the industrial dispute settlement machinery has become too legalistic, expensive and slow.

An important challenge facing many countries including India is the large backlog of industrial disputes before labour courts/tribunals. All those concerned about industrial peace and social justice are stressing

the need to identify ways and means to increase the efficiency and effectiveness of industrial adjudication. The number of industrial disputes and claim applications disposed off and pending before various labour courts/ tribunals reveal quite a dismal picture. In order to be meaningful, justice ought to be delivered on time, and this can be made possible only when tendencies in labour courts / tribunals come down and the disposal rate of industrial disputes goes up.

At the outset, it must be borne in mind that the role of the dispute settlement mechanism must be seen in the overall context of industrial relations in the country concerned. Any reform in the labour adjudication system or in the conciliation frame work will be largely cosmetic unless greater attention is paid towards developing a human resource oriented culture in the enterprise level.

16.2. CATEGORIES OF DISPUTES

Industrial disputes are broadly categorised into “interest disputes” and “rights disputes”. This distinction is virtually made all over the industrialised western world. Broadly speaking, interest disputes relate to the establishment or modification of the existing terms and conditions of employment, which constitute the rights and obligations of the contracting parties, i.e., the worker and employer. Most interest dispute relate to determination or revision of existing wage levels or matters related to them. Rights dispute, on the other hand, relate to the application or interpretation of existing clauses in an employment contract, the collective bargaining agreement, and so on. Most rights disputes usually relate to termination of a worker’s services by the employer. Interest disputes are usually settled through negotiation, failing which it involves threatening of industrial action in the form of strikes and lockouts. On the other hand, rights disputes are usually settled by labour courts or arbitrator.

In India, however, even a semblance of such a distinction is not made between the two terms for the purpose of dispute resolution. Both conciliation and adjudication services are available for both types of disputes.

Although any negotiable item can lead to a labour dispute, a large portion of such disputes has been directly related to salaries and other forms of remuneration. Increasingly, the question of termination of employment has been an important factor in dispute settlement. In India, where the definition of industrial disputes has a wide coverage, all disputes relating to employment, terms of employment and conditions of labour between workers and employers have been conferred with the status of industrial disputes and are legally adjudicable under the Industrial Disputes Act, 1947.

16.3. RELEVANT ILO STANDARDS ON INDUSTRIAL DISPUTES SETTLEMENT

The International Labour Organisation has set up international standards related to labour matters including industrial dispute settlement. The ILO Conventions and Recommendations which are relevant to industrial dispute settlement, are as follows :

1. The freedom of association and protection of the right to organise convention, 1948 guarantees to all workers and employers, without distinction whatsoever, the right to establish and join organisations of their own. These organisations have the right to draw up their own constitution and rules to elect the representatives freely to organise their administration and activities. The Convention also provides for the right to affiliate with international organisations.

2. The right to organise collective bargaining convention, 1948 gives to workers' and employers' organisations protection against acts of interference by each other. It also gives to workers adequate protection against anti-union discrimination of employers.

3. The tripartite consultation (International Labour Standard) Convention, 1976 requires that the member country on ratification shall establish effective means of tripartite consultation on all matters concerning labour issues.

4. The collective bargaining convention, 1981 envisages provision of measures aimed at ensuring rules and procedures for the settlement of labour disputes so that they contribute to the promotion of collective bargaining.

5. Voluntary conciliation and arbitration recommendation, 1951 contemplates that voluntary conciliation machinery appropriate to national conditions be made available to assist in the prevention of industrial disputes. It is provided that this service should be made available free of charge and should lead to expeditious resolution of industrial disputes.

6. The examination of grievance recommendation, 1967 deals with grievances of one or several workers against certain measures or situations concerning labour relations or employment conditions. Where the grievance is not resolved within the undertaking, the recommendation states that there should be possibility of final settlement through agreed procedures.

7. The termination of employment convention, 1982 provides for an appeal against a decision to terminate the employment to an impartial body such as court, labour tribunal and arbitration.

16.4. PREVENTION OF INDUSTRIAL DISPUTES

It has been widely recognised that the best way of preventing and resolving industrial disputes is through strengthening bilateral relations between labour and management and the development of a more collaborative and co-operative relationship.

The new of globalised business has been marked by the adoption of the practice of human resource management by most corporate organisations. This policy is pursued as individuals in the new dispensation and the need for maintaining industrial peace. All over the globe, there is talk of eliminating the basis of workplace conflict and promoting co-operation. More emphasis is being placed on cost-cutting and quality improvement. Newer ways of promoting employee commitment, motivation and satisfaction are being developed. HRM has come to form part of a new style of strategic industrial relations, also labelled as new industrial relations. There is greater focus on enterprise-based conflict resolution rather than industry based issues. Furthermore, great attention should be paid towards developing more efficacious grievance redressal procedures and also towards developing participatory structures. Greater attention has to be paid towards developing a human resource oriented culture at the enterprise level.

The prompt and equitable settlement of labour disputes is an important basis for sound industrial relations. Industrial conflict resolution has traditionally been the central concern of industrial relations; and this scenario will continue to be so in the globalised economic environment.

Whatever be the central concern of the entrepreneur in the new economic scenario, a professional approach to labour relations would essentially involve development of an efficacious system of industrial dispute prevention and resolution. The paradigm shift that is taking place in labour relations postulates

that proactive policies have to be pursued by management for securing commitment of workers. The labour administration institutions and industrial relations executives will have to give tremendous importance to prevention and settlement of labour disputes.

A still greater importance would have to be given to grievance redressal of employees at the enterprise level so that they do not get converted into industrial disputes in a big way. In fact, industrial relations scholars believe that an ideal industrial relations policy involves a judicious mix of mechanisms to promote effective grievance redressal, collective bargaining and joint consultation – these three issues being intimately intertwined with each other.

There is now a growing recognition for greater imagination and experimentation to find new and effective means to resolve disputes, and governments are showing a greater concern for effective labour dispute resolution as the success of economic refers would depend on ensuring industrial peace and harmony.

16.5. INDUSTRIAL RELATIONS MACHINERY

Broadly speaking, rules or procedures dealing with industrial disputes in our country have evolved mainly two types of machinery. They are, first, machinery for direct settlement of industrial disputes and second, machinery for third party settlement. While the former comprises both statutory and voluntary measures such as mediation, works committees, grievance procedure, collective bargaining, etc., the latter consists of purely statutory measures like conciliation, adjudication and voluntary arbitration. Both the methods are followed in settling industrial disputes. Similarly, the machinery set-up for ensuring industrial harmony consists of (i) consultative machinery, and (ii) conciliation or arbitration machinery. The consultative machinery now exists at almost every level, i.e., at the level of undertaking, industry, state and the national. It aims at bringing the parties together for mutual settlement of differences in a spirit of cooperation and goodwill. At the undertaking level there are the wage boards and industrial committees; at the state level there are the labour advisory boards and at the national level there are the Indian Conference and the Standing Labour Committee. The Bombay Industrial Relations Act, 1946 and the Industrial Disputes Act, 1947 have provided three important statutory methods for settlement of industrial disputes, namely, conciliation, adjudication and voluntary arbitration.

16.5.1. Mediation

Mediation is a process available to the parties involved in contract negotiations by which an outside party is called in by union and management to help them reach a settlement. The neutral mediator does not ultimately resolve the dispute, but instead tries to move the parties toward agreement by maintaining commination and suggesting alternative solutions to dead-locked issues. The mediator's function is to provide a positive environment for dispute resolution by drawing on extensive professional experience in the field of labour management interaction. The mediator must possess thorough knowledge of the issues, and an ability to innovate solutions to problems. The mediator must be an effective communicator, know the importance of timing and most of all, have the confidence and trust of the parties. A mediator must possess attributes such as integrity, impartiality and fairness.

16.5.2. Conciliation

Statutory provision for the conciliation machinery in the country was made for the first time in the Table Disputes Act of 1929, which provided for the setting up of Boards of Conciliation by the government

for settling industrial disputes. On the recommendation of the Royal Commission on Labour, the Trade Disputes Act of 1929 was amended in 1938 to provide for the appointment of conciliation officers. The Industrial Disputes Act and other state enactments authorise the government to appoint conciliators (sometimes called mediators) charged with the duty of mediating in and promoting the settlement of industrial disputes. A conciliation officer may be appointed for specific area or for specific in a specific area or for one or more industries either permanently or for a limited period.

The appropriate government may also constitute a board of conciliation for promoting the settlement of industrial disputes. Such a board consists of an independent chairman and two or four other members, representing the parties to the dispute. The appointment of the conciliation officer has become a normal feature whereas the constitution of the boards have rarely been resorted to. The conciliation machinery can take note of the existing as well as apprehended disputes either on its own or on being approached by any party to the dispute. While conciliation is compulsory in all public utility services, it is optional in non-public utility services. In conciliation, the ultimate decision rests with the parties themselves but the conciliator may offer a solution to the dispute acceptable to both the parties and serve as a channel of communication. The parties may accept his recommendation for settlement of any dispute or reject it altogether.

If conciliation fails, the next stage may be compulsory adjudicator or the parties may be left to their own choice. Broadly speaking, the conciliators bring the contending parties to a conference table and endeavour at least to narrow the gulf of difference between them by removing the sources of friction and tension, and help them to find common areas of agreement. They have no power to decide the disputes or pass a final or binding order on the parties. In cases where a settlement is arrived at, they can record the settlement and incases of failure of the conciliatory negotiations, they can only send a failure report to the appropriate government. It should be noted that they are required under the Act to conclude their proceedings within 14 days while boards are allowed two months, unless the parties agree for a further extension of the time limit. A memorandum of settlement will be binding on the parties for six months from the date of its signing or for such period as may be agreed to between the parties. Even after the expiry of such period, the agreement remains in operation until one of the parties, which is unwilling to continue it, gives a notice for its termination. Under Section 22(1), they Act prohibits a strike or a lock-out during conciliation proceedings and also seven days after the conclusion of such proceedings. Settlement can also be arrived at by the partied when a dispute is pending before the labour court or industrial tribunal. Moreover, such settlements can be included in the awards of the labour court/industrial tribunal in order to give them a legal status. These are called “consent awards”.

Undoubtedly, conciliation has brought about a successful resolution of a large number of conflicts. But it has been subjected to several criticisms. First, considerable delays are usually involved in conciliation proceedings. Second, the parties to the dispute many times do not attend conciliation meetings on the prescribed dates. Third, it is alleged that most conciliation officers lack training and competence in conciliation work. Fourth, conciliation is treated as a preliminary step leading to adjudication through the labour court or tribunals. In such a state of affairs, the parties do not feel strong urge to arrive at a settlement. The national Commission on Labour was in favour of a more basic rearrangement of conciliation work in order to bring about a qualitative change in the set-up. It observed that conciliation can be more effective if it is freed from outside influence and the conciliation machinery is adequately staffed. The independent character of the machinery will inspire greater confidence and will be able to evoke more cooperation from the parties. The conciliation machinery

should, therefore, be a part of the proposed Industrial Relations Commission. This transfer will introduce important structural, functional and procedural changes in the working of the machinery as it exists today. There is need for certain other measures to enable officers of the machinery to function effectively. Among theses are : (1) Proper selection of personnel; (2) Adequate pre-job training; (3) Periodic in-service training.

Other suggestions which may be considered to facilitate speedy disposal of cases are : (i) The conciliation officer should hold conciliation proceedings in the concerned factory instead of calling the parties of his office; (ii) He should have the statutory power of enforcing attendance of the parties before him on the prescribed date; and (iii) He should dispose of the cases within the time limit as far as possible.

Conciliation Machinery in Maharashtra : The conciliation machinery as existing at present in the State of Maharashtra is heated by the State Commissioner of Labour, who is the chief conciliation officer Commissioners of Labour, 15 Deputy Commissioners of Labour, 71 Assistant Commissioners of Labour Commissioners have state-wide jurisdiction along with the Commissioner of Labour, the Deputy Commissioner of Labour and the Assistant Commissioners of Labour have powers to conciliate between parties to disputes arising in their respective regions. Under the Bombay Industrial Relations Act the Deputy Commissioner of Labour at Nagpur has also been notified as Additional Chief Conciliator having jurisdiction throughout the Vidarbha and Marathwada areas. Similarly, the Deputy Commissioner of Labour, Pune, has been notified as Additional Chief Conciliator having jurisdiction throughout the Pune Division. All Assistant Commissioners of Labour have been notified as Conciliators for their respective areas. The government labour officers act as conciliation officers for industrial disputes raised under Section 2-A of the Industrial Disputes Act.

For resolving both individual and collective disputes between the management and the workmen, statutory conciliation machinery both under the Industrial Disputes Act, 1947 and the Bombay Industrial Relations Act, 1946, as the case may be, as well as informal mediation machinery under the Personnel Management Advisory Service Scheme are available to the parties. In addition to individual disputes and disputes of general nature, the informal mediation machinery also deals with disputes resulting in strikes and lockouts, which cannot normally be processed by the statutory conciliation machinery.

During the period of three financial years (1992-93 to 1994-95) on an average, about 203 cases per year were handled by the conciliation machinery, out of which 84 per cent were disposed of by the machinery. The percentage of settlement brought about by the machinery ranged about 23 percent during this period. Likewise, during the same period of 3 years, on an average out of about 8964 cases, dealt with under the PMAS Schemes, as many as 7728 (93 percent) were disposed off finally by this informal mediation machinery.

The procedure followed by the conciliation machinery in Maharashtra is the same as the one provided by the Industrial Disputes Act and its subsequent amendments. A typical conciliation procedure consists of three major parts: (i) the preliminaries; (ii) the mediation process; and (iii) the reporting. The preliminary investigation conducted by the conciliation officer consists of an examination whether the union referring the dispute to him is a registered one or not, whether the workmen or a sufficient number of them represented by the union are members of the union or not. If he decides to commence proceedings, the conciliation officer requires the party seeking conciliation to send a statement of its demands to him prior to the date set with an adequate number of copies. He sends a copy of the

statement when received to the opposite party for its preliminary comments. Their comments convey the views of that demands are bona fide or merely vexatious or frivolous. Generally, the time taken for the preliminary investigation ranges from 15 to 30 days.

After examining the demands of the complaining party and the comments of the opposite party, the conciliation officer decides whether he should intervene or not. Once he decides to intervene he intimates to the parties the date of commencement of the proceedings and request them to attend a joint conference. On the date fixed for the commencement of conciliation proceedings, the representatives of both parties meet at the place fixed by the conciliation officer. He may hold a meeting with each party separately. If the dispute admitted in conciliation is not resolved during the conciliation proceedings, the conciliation officer submits a failure report to the competent authority. The authority after scrutinising the failure report and the confidential note submitted by the conciliation officer, may refer or reuse to refer the dispute to the industrial tribunals or labour court, as the case may be, for adjudication. If the parties at the time of conciliation proceeding so desire, the industrial dispute is referred for voluntary arbitration to the persons unanimously agreed to by them.

16.5.3. Adjudication

Adjudication means a mandatory settlement of industrial disputes by labour court or industrial tribunals or national tribunals under the Industrial Disputes Act or under any other corresponding state statutes. The government generally refers an industrial dispute for adjudication on failure of conciliation proceedings. By and large, the ultimate legal remedy for the settlement of an unresolved dispute is its reference to adjudication by the appropriate government. The Industrial Tribunals and labour Courts set up by the State Governments and Union Territory Administrations are also utilised by the Central Government far adjudication of industrial disputes and disposal of applications under Section 33c (2) of the Industrial Disputes Act, 1947 in the central sphere. Section 10 of the Industrial Disputes Act lays down the conditions and circumstances under which the appropriate government can make or refuse to make a reference of an existing or an apprehended industrial dispute to the respective tribunals or courts for adjudication. There are two requirements to be adhered to by the government before exercising its discretionary power. Firstly, it has to arrive at a subjective opinion as to whether an industrial dispute exists or is apprehended. Secondly, even after it has come to such a conclusion, it has to consider the expediency of making such reference. In other words, the existence of, or the apprehension about, the existence of an industrial dispute does not necessarily follow that the government is bound to refer it. The decision or the act of making reference is purely an administrative act and not judicial or quasi-judicial. This principle is firmly established by several cases decided so far.

The adjudication machinery has exercised considerable influence on several aspects of conditions of work and labour management relations. “The adjudication has been one of the instruments for improvement of wages and working conditions and for securing allowances for maintaining real wages, for standardisation of wages, bonus, and introducing uniformity in benefits and amenities. It has also helped to avert many work stoppages by providing an acceptable alternative to direct action and to protect and promote the interests of the weaker sections of the working class, who were not well organised or were unable to bargain on an equal footing with the employer”. As against advantages, various criticisms leveled against the system of adjudication are :

(i) Considerable delay is caused in the termination of adjudication proceedings which generally makes the proceedings ineffective;

(ii) Adjudication is sometimes discriminatory as the power of reference vests in the government;

(iii) Adjudication is quite expensive because in cases of failures in tribunals, the employees invariably prefer a writ in the High Court and/or an appeal to the Supreme Court; and

(iv) Adjudication has inhibited the growth of trade unions, prevented voluntary settlement of industrial disputes and growth of collective bargaining; and

(v) Adjudication has failed to achieve industrial peace.

The court may adopt any procedure that it deems fir. It has all the powers conferred upon the civil courts under the Civil Procedure Code, 1908 in respect of enforcing the attendance of any person and examine him or her on oath, compel the production of documents. Section 36 of the I.D. Acts does not allow the appearance of legal practitioners before conciliation officers but permits them before the adjudicating authorities with the consent of the opposite party and permission of the adjudicator. When a case is referred by the government, the parties involved can submit their respective written statement of claims. The power to determine who pays the costs of the proceedings for appeals or revisions against the order of the adjudicatory authorities. The aggrieved parties, therefore, have to seek constitutional remedies.

The courts or tribunals are expected to hold proceedings expeditiously, and where a matter has been referred by the government, it shall, within the period specified in the order, submit its award to the appropriate government. Incase of proceedings against dismissal and discharge, if the labour court grants reinstatement of any worker and the employer prefers an appeal, the employer shall be liable to pay full wages last drawn by the worker during the pendency such proceedings. What is important to note is although there is a provision for a labour court, it is government which refers the matters to this forum. Individuals are not in a position to directly approach the court except in cases of contravention of provisions of Section 33 providing for non-alternation of conditions of work during the pendency of proceedings. In such cases, the worker may approach the adjudicatory authority directly.

However critical one may be about the system of industrial adjudication, the fact remains that its contribution to the development of industrial jurisprudence and industrial harmony in our country has been remarkable. Apart from the adjudicatory authorities under the Act, different High Courts and also the Supreme Court of India have laid down definite principles and broad guidelines on industrial matters. Adjudication has, by and large, succeeded in bringing out some measure of industrial peace. Industrial adjudication has endeavoured to resolve the disputes with a pragmatic approach keeping in view the socio-economic requirements of society, and also the social welfare philosophy of industrial relations enshrined in the Directive Principles of the Constitution of India.

There are twelve Central Govt. industrial tribunals-cum-labour courts dealing with industrial disputes in respect of which the Central Government is the appropriate Government. The industrial tribunals and labour courts set by the state governments and union territory administration are also utilised by the Central Government for adjudication of industrial disputes and applications under Section 33 C(2) of the I.D. Act, pertaining to the central sphere.

Adjudication Machinery in Maharashtra : In Maharashtra, like in any other state, the reference of the disputes from conciliation to adjudication is subject to the discretion of the government and often depends on the report of the conciliation officer. The Deputy Commissioner of Labour (Administration),

Bombay and Deputy Commissioner of Labour at Nagpur and Pune have been delegated the powers of the government for reference of certain disputes to adjudication. The adjudication apparatus of the state consists of the court of industrial arbitration, labour courts and wage boards.

The Court of Industrial Arbitraton, commonly referred to as the Industrial Court, constituted under Section 10 of the Bombay Industrial Relations Act, consists of a president and seven members. They are also designed as Industrial Tribunals under the Industrial Disputes Act. At present there are 27 Industrial Courts/ Tribunals in the State of Maharashtra, out of which 9 are in Bombay, 4 each at Pune and Nagpur, 3 at Thane, 1 each at Amravathi, Nashik, Kolhapur, Aurangabad, Solapur, Ahmednagar, and Jalna. The Industrial Court has jurisdiction to decide industrial disputes arising in the cotton textile, silk and woolen industries, textile processing, sugar industries, electricity industries, etc. It decides the disputes referred to it by the government, the representative union, employers and employees. Under its appellate jurisdiction, it hears and decides appeals preferred over the orders and decisions of the Labour Courts, Wage Boards, Commissioner of Labour and the Register. It is also empowered under Section 7-A of the Industrial Disputes Act to hear and decide the industrial disputes referred to them by the government, and the Deputy Commissioner of Labour (Administration), Bombay. The Industrial Court has the power to exercise superintendence over the Labour Courts, Wage Boards and the Commissioner for the Workmen's Compensation in the State of Maharashtra.

The Labour Courts are constituted under Section 9 of the Bombay Industrial Relations Act and under Section 7 of the Industrial Disputes Act to hear and decide the disputes referred to them under with both these Acts. The Labour Courts decide the disputes in respect of the orders passed under the standing orders governing relations between the employers and employees. They are also empowered to decide the legality or otherwise of a strike, lock-out, closure, stoppage, etc, and cases under Section 6 of the M.R.T.U. and P.U.P.P. Act, 1971. The Labour Courts also function as ex-officio authorities under the Workmen's Compensation Act, 1923, payment of Wages Act, 1936, E.S.I. Act, 1948, Minimum Wages Act, 1948, Bombay Labour Welfare Fund Act, 1953, and Payment of Gratuity Act, 1972. Out of 40 Labour Courts in the State, 12 are at Bombay, 3 each at Nagpur and Pune, 4 at Thane, 2 each at Solapur and Ahmednagar, and one each at Kolhapur, Akola, Nashik, Aurangabad, Dhule, Amaravathi, Sangli, Bhadara, Jalgaon, Latur, Chandrapur, Jalna, Satara, Yavatmal. The constitution of separate Industrial Courts and Labour Courts is one of the unique features of the adjudication machinery in Maharashtra. The total number of cases pending before the Industrial Tribunals/ Courts at various places in the State as on 31.3.95 are 41093.

16.5.4. Voluntary Arbitration

Voluntary arbitration in India was introduced and experimented for the first time in the textile industry of Ahmedabad as far back as 1920 under the initiative and guidance of Mahatma Gandhi. He said: "We should not resort to law courts but should have all disputes settled by private arbitration". Since then this has been followed by the Millowners' Association and Textile Labour Association of Ahmedabad. There are other firms such as Bata Shoe Company, TISCO at Jamshedpur, Alumium Industries at Kerala, etc. Which provide for voluntary arbitration for settlement of differences arising out of their agreements. The BIRA Act recognised arbitration and the machinery was set up by the state. IN various five year plans, there has been specific mention of voluntary arbitration. The Industrial Disputes Act, 1947 as originally passed, did not contain any provision for voluntary arbitration. In 1956, this Act was amended and a new section (Section 10-A) was inserted in the Act, providing for voluntary reference of disputes to arbitration.

The main ingredients of voluntary arbitration are :

(i) The industrial dispute must exist or be apprehended;

(ii) The agreement must be in writing;

(iii) The reference to voluntary arbitration must be made before a dispute has been referred to under S.10 to a labour court, tribunal or national tribunal;

(iv) The name of arbitrator/ arbitrators must be specified; and

(v) The arbitrator or arbitrators shall investigate the dispute and submit to the appropriate government the arbitration award signed by the arbitrator or all the arbitrators, as the case may be.

The principles of voluntary arbitration was incorporated in the Code of Discipline, Industrial Truce Resolution of 1962, and also in the various five year plan. The National Arbitration Promotion Board (NAPB) was set-up by the Government of India in 167 to strengthen the system of voluntary arbitration in our country. The Board consists of representatives of employer's and worker's organisations, public undertakings and central and state governments. Model principled broadly lay down the circumstances under which individual as well as collective disputes can be referred to voluntary arbitration. In 1972, the Board decided that voluntary arbitration would form the next step for resolving industrial disputes when mutual negotiation and conciliations have failed. Many state governments and union territories also have set-up Arbitration Promotion Boards.

Voluntary arbitration is one of the recognised and democratic ways for settling industrial disputes. It is the best method for resolving industrial conflicts and is a close supplement to collective bargaining. It not only provides a voluntary method of settling industrial disputes, but is also a quicker way of settling them. It is based on the notion of self-government in industrial relations. Furthermore, it helps to crutail the protracted proceeding attendant on adjudication, connotes a healthy attitude and a developed outlook; assists in strengthening the trade union movement; and contributes for building up sound and cordial industrial relations. Thus, it is the functioning of democracy in industry and inculcates some degree of union-management accommodation.

Despite the utmost significance of voluntary arbitration, it is unfortunate that this system could not make significant progress in our country due to several reasons. As observed by the NCL, "voluntary arbitration has not taken root in spite of the influential advocacy for it in different policy making forums. Factors which have contributed to its slow progress are :

(i) Easy availability of adjudication in case of failure of negotiations;

(ii) Dearth of suitable arbitrators who command the confidence of both the parties;

(iii) Absence of recognized unions which could bind the workers to common agreements;

(iv) Legal obstacles;

(v) The fact that in law no appeal was competent against an arbitrator's award;

(vi) Absence of a simplified procedure to be followed in voluntary arbitration; and

(vii) Cost to the parties, particularly workers.

With the growth of collective bargaining and the general acceptance of recognition of representative unions and improved management attitudes, the ground will be cleared, at least to some extent, for wider acceptance of voluntary arbitration. The NAPB may then have a better chance of success in the task of promoting the idea. The NAPB should pay special attention to preparing and building up suitable panels of arbitrators. Moreover, the success of this enlightened approach depends upon the faith and trust, and will and dignity, which employers and employee lend to its implementation. Hence, all participants in the process, viz., trade unions, employers, personnel executives, and the arbitrators themselves, have an equal stake in an orderly, efficient and constructive arbitration procedure. Certain impediments which come in the way of effective implementation of arbitration practices are to be removed.

Voluntary Arbitration in Maharashtra : A Voluntary Arbitration Promotion Board was formed in February 1968 to take steps as may be necessary to popularised voluntary arbitration amongst the parties to settle their industrial disputes. There is an increasing tendency of the parties to rely more on adjudication in preference to voluntary arbitration. Constitution of a panel of arbitrators, growth of collective bargaining and general acceptance of recognition of representative unions, change in the attitude of management as well as the union may promote voluntary arbitration and help to check the tendency towards litigation.

16.6. CENTRAL INDUSTRIAL RELATIONS MACHINERY (CIRM)

CIRM headed by the Chief Labour Commissioner (Central) is entrusted with the task of maintaining good industrial relations in the central sphere. The machinery has a complement of officers at the headquarters and regional and unit level (Assistant Labour Commissioners and Labour Officers). Functions of CIRM broadly consists of settlement of industrial disputes, enforcement of labour laws in central sphere and verification of membership of trade unions. The specific functions of CIRM are :

* Prevention and settlement of industrial disputes in industries for which the Central Government is the 'appropriate Government' under Industrial Disputes Act, 1947.
* Enforcement of labour laws in industries and establishments in respect of which the Central Government is the 'appropriate Government' under the relevant labour laws.
* Verification of membership of trade unions under the Code of Discipline.
* Adhoc verification of membership of trade unions in major ports.
* Verification of membership of registered trade unions.
* Enforcement of awards and settlement.
* Conduct of enquiries into the breached of Code of Discipline.
* Promoting of works committees and worker's participation in management.
* Collection of statistical information in the central sphere pertaining to industrial disputes, work stoppages, wages, labour situation and labour regulations.
* Defence of court cases and writ petitions arising out of implementation of labour laws.

16.7. SUMMARY

One of the main factors which acts as a hurdle to the maintenance and promotion of industrial peace at present is the increasing resort to adjudication machinery in preference to voluntary arbitration and

conciliation. The State Government should talk all necessary measures to encourage settlement of disputes through voluntary arbitration and conciliation. There should be a clause in every settlement and agreement for reference of disputes arising over their interpretation or violation, to arbitration. It should also provide that there will be no strike or lockout over the question of interpretation of collective agreements. It is now increasingly felt in certain circles that there is too much intervention by the government machinery which prevented certain of a proper atmosphere for meaningful collective bargaining. But to quote the NCL, "The requirements of national policy make it imperative that state regulations will have to co-exist with collective bargaining" However, it has recommended for a shift in emphasis in favour of collective bargaining.

16.8. SELF ASSESSMENT QUESTIONS

1. Disputes are inevitable but agreement is possible comment with you stand.
2. Explain the preventive measures of industrial disputes.
3. Discuss the following

   a) Voluntary arbitration b) ILO Standards on Disputes

   c) Categories of Industrial Disputes

16.9. REFERENCES AND SUGGESTED BOOKS FOR FURTHER READING

1. Arun Monappa – Industrial Relations
2. Pramod Verma – Management of Industrial Relations
3. V.B. Karnik – Strikes in India
4. Govt. of India – Report of the National Commission on Labour.

Dr. Nagaraju Battu

Lesson – 17

COLLECTIVE BARGAINING

OBJECTIVE

At the end of this lesson the student is enable to understand the meaning, concept, types and theories of collective bargaining. The conditions for the success of collective bargaining, CB process and strategies in collective bargaining also could be understood by the learners.

STRUCTURE

17.1. INTRODUCTION

The term “collective bargaining” originated in the writings of Sidney and Beatrice Webb, the famed historian of the British labour movement, towards the end of the nineteenth century. It was first given currency in the United States by Samuel Gompers. Collective bargaining is a process of joint decision-making and basically represents a democratic way of life in industry. It established a culture of bipartism and joint consultation in industry and a flexible method of adjustment to economic and technical changes in an industry. It helps in establishing industrial peace without disrupting either the existing arrangements or the production activities.

17.2 MEANING AND DEFINITIONS

Collective bargaining has been defined in the Encyclopaedia of Social Sciences as “a process of discussion and negotiation between two parties, one or both of whim is a group of persons acting in concert. The resulting bargains is an understanding as to the terms or conditions under which a continuing service is to be performed. More specially, collective bargaining is the procedure by which an employer or employers and a group of employees agree upon the conditions of work”. The Webs described collective bargaining as an economic institution, with trade unionism acting as a labour cartel by controlling entry into the trade. Prof. Allan Flanders has argued on the other hand, that collective bargaining is primarily a political rather than an economic process. He describes collective bargaining as a power relationship between a trade union organisation and the management organisation. The agreement arrived at is a compromise settlement of power conflicts. In Flander’s view collective bargaining is joint administration, synonymous with joint management. Marxists contend that collective bargaining is merely a means of social control within industry and an institutionalised expression of the class struggle between capital and labour in capitalist societies. It is a method by which management and labour may explore each other’s problems and viewpoints, and develop a framework of employment relations and a spirit of cooperative goodwill for their mutual benefit. It has been described as a civilised bipartite confrontation between the workers and the management with a view to arriving at an agreement. In brief, it can be described as a continuous, dynamic process for solving problems arising directly out of the employer-employee relationship.

Collective bargaining serves a number of important functions. It is a rule making or legislative process in the sense that it formulates terms and conditions under which labour and management may cooperate and work together over a certain stated period. It is also a judicial process for in every collective agreement there is a provision or clause regarding the interpretation of the agreement and how any difference of opinion about the intention or scope of a particular clause is to be resolved. It is also an executive process as both management and union undertake to implement the agreement signed.

17.2.1. Concepts of CB

There are three concepts of collective bargaining with different emphasis and stress, namely, marketing concept, governmental concept, and the industrial relations or managerial concept:

The **marketing concept** views collective bargaining as the means by which labour is bought and sold in the market place. In this context, collective bargaining is perceived as an economic and an exchange relationship. This concept focuses on the substantive content of collective agreements, i.e., on the pay, hours of work, and fringe benefits which are mutually agreed between employers and trade union representatives on behalf of their members. The **governmental concept** of collective

bargaining, on the other hand, regards the institution as a constitutional system or rule-making process which determines relation between management and trade union representative. Here collective bargaining is seen as a political and power relationship. The **industrial relations or managerial concept** of collective bargaining views the institution as a participative decision-making between the employees and employers, on matters in which both parties have vital interests.

17.2.2. Characteristics of C.B.

Joseph Shister has opined that collective bargaining can best be analysed by listing its principal characteristics. He lists five characteristics: (1) collective bargaining involves group relationships; (2) it is both continuous and evolutionary; (3) it interacts with the socio-economic climate; (4) it is private, but at times involves government action; and (5) it varied from setting to setting.

17.2.3. Functions of CB

John Dunlop and Derek Book have listed five important functions of collective bargaining: (i) establishing the rules of the workplace; (2) determining the form of compensation; (3) standardizing compensation; (4) determining priorities on each side; and (5) redesigning the machinery of bargaining.

17.3 TYPES OF BARGAINING

Collective bargaining is among other things a rule – making or norm-creating process of a bilateral kind. Collectively bargaining rules are of two kinds, namely, procedural and substantive, Procedural rules, as the term implies, set out the procedures that govern the behaviour of the employer and the union. They cover all procedural matters relating to negotiation of contracts, their modification, renewal or treatment. It also includes in it the facilities to be extended to the union officials in order to enable them to bargain. Substantive rules, on the other hand, do not concerned with the substance of the agreements which the union and managements work out. The three different kinds of relations which are regulated by substantive rules are : (i) economic or market relationship; (ii) government relationship; and (iii) work-place relationship.

There are two types of bargaining exercises. One is known as **conjunctive or distribute bargaining** and the other **integrative or cooperative bargaining**. Though both aim at join decision making, their processes are dissimilar. **Destructive bargaining** has the unction of resolving pure conflicts of interest. It serves to allocate fixed sums of resources and hence often has a “win-lose” quality. In distributive bargaining, the relationship is a forced one, in which the attainment of one party’s goal appears to be in basic conflict with that of the other. It deals with issues in which parties have conflicting interest and each party uses its coercive power to a maximum extent possible. In such a situation, one party’s gain is the other’s loss. Wage bargaining is an obvious example of distributive conjunctive bargaining. In contrast to the win-lose syndrome of distributive bargaining, integrative bargaining is concerned with the solution of problems confronting both parties. It is a situation where neither party can gain unless the other gains as well. Integrative bargaining has the function of finding common or complementary interests and solving confronting both partners. It serves to optimise the potential for joint gains and hence often has a “win-win” quality. It makes a problem – solving approach in which both the parties make a positive joint effort to their mutual satisfaction. Productivity bargaining is an instance of integrative bargaining.

17.4. BARGAINING THEORIES

A number of bargaining models have their roots in social psychology. Some theories or models range from descriptions of what occurs at the bargaining tables to complex theories that make extensive use of mathematical and economic models. A brief description of simple collective bargaining models is as follows:

17.4.1. Walton and Mc Kersie Theory

Walton and Mc Kerise view collective bargaining as four subprocesses- distributive bargaining, integrative bargaining, attitudinal structuring, and intraorganisational bargaining. Distributive bargaining applies to situations in which union and managements goals are in conflicts. Integrative bargaining, on the other hand, refers to bargaining issues that are not necessarily in conflict with those of the other party. Attitudinal strutting is the means by which bargaining parties cultivate friendliness, trust, respect and cooperation. The final subprocess in Walton and McKerise's Theory is intraorganisational bargaining where in the focus is on interaction between the union and management. These four subprocesses interact to help shape the final outcome of collective negotiations as well as the long-term relationship between union and management.

17.4.2. Bargaining Range Theory

Bargaining range theory has its roots with the late Professor A.C. Pigou. Pigou's bargaining range theory explains the process by which labour management establish upper and lower wage limits within which a final settlement is made. The Unions' upper limit represents the union's ideal wage. Management will offer a wage that is well below that acceptable to the union. From these two extremes, the union and management teams will normally proceed through a series of proposals and counterproposals. The union will gradually reduce its wage demands while the employer will raise its wage offer. Both sides, however, have established limits as to how far they are willing to concede, and in the process establish a sticking point. According to this theory, the exact settlement point will depend on the bargaining skills and strengths of the union and management negotiators.

17.4.3. Chamberlain Model

A conceptually simple, but very insightful of bargaining was developed by Chamberlain. This model focuses upon the determinants of bargaining power and the ways in which changes in these determinants lead to settlement in the majority of collective bargaining situations. Chamberlain defined bargaining power as the ability to secure your opponent's agreement to your terms. Thus a union's bargaining power van be defined as management's willingness to agree to the union's terms or demands. But what determines the willingness (or willingness) of management to agree to the union's terms? The answer, according to Chamberlain, depends upon how costly disagreeing will be relative to how costly agreeing will be. That is :

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$$\text{Union's bargaining power (UBP)} = \frac{\text{Management's perceived cost of disagreeing with the union's terms (MCD)}}{\text{Management's perceived cost of agreeing with the union's terms (MCA)}} \quad (1)$$

If management estimates that it is more costly to agree than to disagree (that is, if the union's bargaining power is less than one), management will choose to disagree and thereby reject the union's terms. If, however, management judges that it is more costly to disagree than to agree (that is, if the union's bargaining power is greater than one), management will choose to agree.

Management's bargaining power can b similarly defined:

$$\text{Management's bargaining power (MBP)} = \frac{\text{Union's perceived cost of disagreeing with management's terms (UCD)}}{\text{Union's perceived cost of agreeing with management's terms (UCA)}} \quad (2)$$

Once again, if the union believes it is more costly to agree than to disagree, the union will disagree with management's offer. Whenever the denominator is greater than the numerator ion equation (2) – that is, when ever the management's bargaining power is less than one – the union will choose to reject management's offer. Conversely, if the union judges it to be more costly to disagree than to agree, the union will choose to agree. In other words, when management's bargaining power is greater than one, the union will be willing to accept management's offer. The union's costs of disagreeing and agreeing can be defined similarly to those of management.

The Chamberlain bargaining power model has a number of salient implications: (a) atleast one party must perceive disagreement to be more costly than agreement in order for agreement to occur; (b) one's bargaining power is relative in that it depends upon the size of the wage increase one is asking for or offering; (c) misjudgment of the maximum offer the employer will make (or the minimum offer the union will accept) or the commitment of the parties to irreconcilable positions may results in a strike even though a range of mutually acceptable settlement exists; (d) compromise offers (and demands) and the approach of the bargaining deadline both tend to move the parties toward agreement; (e) the model allows for coercive tactics (which increase your opponent's costs of disagreeing) and for perusals tactics (which reduce your opponent's costs of agreeing); (f) the economic environment, involving both the state of the macro economy and industry structure can affect the bargaining power of the two parties.

17.4.4. The Hicks Bargaining Model

The Hicks bargaining model focuses on the length and costs of work stoppages. Professor Sir John Hicks of Oxford proposed that union and management negotiators balance the costs and benefits of a work stoppage when making concessions at the bargaining table. Each side makes concession to avoid a work stoppage. The central idea party is that there is a functional relation between the wage that one or the other party will accept and the length of strike that would be necessary to establish that wage. There is a particular wage that the employer would prefer if the union were not in the picture. He will concede more, however, in order to avoid a strike and upto a point, his concessions will rise with the length of strike he anticipates. A primary difference between the Hicks model and bargaining range theory is that the Hicks model pinpoints a precise wage settlement while the range theory does not.

17.5. CONDITIONS FOR THE SUCCESS OF COLLECTIVE BARGAINING

The success of collective bargaining depends upon the following factors:

(i) The union participating in the collective bargaining process must be strong, democratic and enlightened. The weak and fragmented state of the unions, smallness and instability of their membership, rivalries, company-formed and dominated trade unions are some of the reasons for the undeveloped state of collective bargaining. Collective bargaining cannot become fully effective if management continuous to regard the union as an alien outside force.

(ii) One of the principles for establishing and promoting collective bargaining is to give voluntary recognition to trade unions as one of the contracting parties. It may also have the positive benefit of improving industrial relations, production and productivity.

(iii) There should be willingness to give and take by both the parties and genuine interest on the part of both to reach an agreement and to make collective bargaining work. The trade unions should refrain from putting forward exaggerated demands. Both the parties must realise that collective bargaining negotiations are by their very nature a part of compromise process. An emphasis on accommodation than conflict is necessary.

(iv) The whole atmosphere of collective bargaining gets vitiated, related become bitter and strained and negotiations more difficult, if one or both the parties engage in unfair practices. Both the union and the management, therefore, must desist from committing unfair practices and must have a healthy regard for their mutual rights and responsibilities. Trust and openness are very essential for meaningful discussion.

(v) Collective bargaining usually takes place when there are differences between the parties on certain issues. But in order to make the collective bargaining process more successful, it is essential on the part of the representatives of employers and unions to hold meetings at regular intervals to consider matter of common interest. Such an o-going process would enable them to understand one another's problem better and make it easier to find solutions to questions on which their interests conflict.

(vi) Effective collective bargaining presupposes and intelligent understanding of both management and union of the needs, aspirations, objectives and problems of the other party. Union leaders must have full knowledge of the economics of the plant or industry concerned. Management must have a developed awareness of the nature of the union as a political institution operating in an economic environment.

(vii) The effectiveness of collective bargaining cannot be attained without maturity of leadership on both sides of the bargaining table. The negotiators should have such qualities as experience, skill, intelligence, resourcefulness, honesty and technical know-how. They must have the capacity to distinguish between basically and trivial issues. They must know when it is wise or necessary to compromise and went it may be fatal to concede the demands.

(viii) Intelligent collective bargaining demands specialised training. The increasingly technical complexity of the collective bargaining agenda requires expert professional advice, expedience and skill on the part of the negotiators.

(ix) Both management and the union often it difficult to locate the men on the other side of the table who are authorised to negotiate. For proper negotiations, it is necessary to know the persons empowered to act for the company and the union respectively.

17.6. COLLECTIVE BARGAINING PROCESS

Collective bargaining is a two-edged sword; what is won may also be lost. Today's collective barraging process is based upon statutory law. What makes collective bargaining possible in this context is that both labour and management have an ultimate harmony of interest; that is, the desire to assure that the firm for which they work – and from which they are both paid- will remain in business. In order to stay in business, it must be competitive with other firms.

The bargaining process includes preparation of initial demands, negotiations, and settlement. Adequate preparation for bargaining is often the key to success- preparation for negotiations is a comprehensive ongoing job for both the management and the union.

Preparation allows each bargaining team to determine their bargaining objectives; a negotiating team to defend its proposals; and to anticipate the opponent's demands. Among the more important steps to prenegotiation preparations are the following :

1. Coordinating preparations among persons responsible for gathering and analysing information relevant to the bargaining process.
2. Selection of a chief negotiator and bargaining team members.
3. Reviewing previous negotiations because it provides insights into the opponent's bargaining tactics and probable demands.
4. Gathering data on internal operations and policies of comparable firms through wage and salary surveys.
5. Formulate proposals and priorities.
6. Select a suitable site for negotiations.
7. Organise the relevant information in a bargaining book for easy access at the bargaining table.
8. Notify the opponent of an intent to bargain by serving required notice.

One of the most difficult aspects of the collective bargaining process is to determine appropriate bargaining units. The principle to be followed is that there should exist a community of interest among the employees to be represented. Otherwise, a single bargaining agent would find it impossible to represent all of their interest equally well.

The first step in the collective bargaining process is establishing a relationship for on going negotiations and formulation of agreements covering conditions in the workplace. It is obvious that a great deal to effort can go into the process of establishment a collective bargaining relationship. It is an anxiety producing process and that each step may involve bitter conflict between the parties. Sometimes this conflict escalates to litigation; and sometimes it even spills over to violence. Hence, one of its objectives should be promotion of rational and harmonious relations between employers and unions.

The second step in the bargaining process relates to the scope of bargaining, i.e., the matters on which to bargain. It consists of three broad categories of items- subjects over which bargaining is mandatory, subjects considered illegal or prohibited, and subjects on which bargaining is permitted but not required. In case of subjects which are mandatory, the relevant statue or common law makes it unfair labour practice or breach of good faith to refuse to bargain over them. The second category of

items in the scope of bargaining are practices considered illegal or prohibited. These are the matters which cannot be bargained under law. Falling between these two categories are items upon which bargaining is permitted, but not required. Either side may refuse to discuss such a matter. To do so is not considered a breach of fair labour practice or good faith.

The third step in the bargaining process is careful structuring. Many observes agree that some structural aspects are crucial in facilitating the ability to reach agreements. The personnel department should take the initiative of forming a negotiating team consisting of two or three members, besides the industrial relations expert. The management team should include representatives of the departments, a personalist, and some one competent teams should also be balanced in terms of number of individuals present. Both the sides should agree in advance on the timing, location and length of the bargaining sessions. An agenda should be prepared indicating which items are to be taken up first – economic or non-economic. A decision must be made as to whether to treat each item separately, or to seek to bargain must be made as to whether to treat each item separately, or to seek to bargain an entire package at once. The task of management team should range from formulation of management's charter of demands to the full participation in the actual bargaining sessions, and above all, the preparation of the draft of the settlement and, then, the reading to negotiate.

Steps to improve the process of collective bargaining are :

(i) Begin the process of negotiations with proposals, not demands.

(ii) Avoid taking public positions for or against certain proposals in advance of negotiations.

(iii) Avoid taking strike votes before the process of negotiation begins.

(iv) Give negotiators proper authority to begin.

(v) Avoid unnecessary delays in beginning negotiations and in conducting them.

(vi) Insist on offering facts and arguments.

(vii) Make plenty of proposals to enhance the opportunities to find compromises.

(viii) Be prepared to compromise.

(ix) Be prepared to get results gradually.

(x) Preserve good manners and keep discussion focuses on relevant issues.

(xi) Be prepared to stand a long and hard strike or lockout (as the case may be) in order to face a settlement justified by facts and arguments.

17.7. NEGOTIATIONS

Negotiating plays a central role over a wide range of human activity. There are two primary purposes to negative in the industrial relations context. First, to reconcile differences between managements and unions and second, to devise ways of advancing the common interest of the parties. Among managements and trade unions that deal with each other on an ongoing basis, negotiating may at the outset take the character of mutual problem-solving. The process involves the recognition of the common interests of the parties, the areas of agreement and disagreement and possible solutions, to the mutual advantage of both sides.

Many influential writers have argued that negotiating is art. Dunlop states that, 'I am inclined to believe that the art of negotiation can only be learned by experience-often hard experience. Successful

negotiations learned upon the knowledge and skill of the negotiators. They must, through careful preparations, become knowledgeable about their own and other side's positions on the bargaining issues. They prepare and propose workable, attainable, and realistic issues within the framework of the negotiations. A negotiator must cultivate the technique of listening skills and the ability of communicate clearly. A thick skin may be helpful as the other side may engage in personal attacks at some point in the negotiations. A negotiator in personal attacks at some point in the negotiations. A negotiator realizes that such attacks are often necessary in satisfying a constituency.

Dunlop and Healy have pointed out that the labour contract negotiations process can be depicted as (a) a pocker game, with the large pots going to come up with a strong hand on the occasions on which they are challenged or seen by the other side; (2) an exercise in power politics, with the relative strengths of the parties being decisive; (3) a debating society, marked by both rhetoric and name calling; and (4) a "rational process", with both sides remaining completely flexible and willing to be persuaded only when all the facts have been dispassionately presented.

The attributes of a successful negotiator include the following :

(1) Sets clear objectives

(2) Does not hurry

(3) When in doubt, calls for a caucus

(4) Is prepared

(5) Remains flexible

(6) Continually examines why the other party acts as it does

(7) Respects face-saving tactics employed by the opposition

(8) Attempts to ascertain the real interest of the other party by the priority proposed

(9) Actively listens

(10) Builds a reputation for having fairness and firmness

(11) Controls emotions

(12) Remembers to evaluate each bargaining move in relation to all others

(13) Measures bargaining moves against ultimate objectives

(14) Pays close attention to the working of proposals

(15) Remembers that compromise is the key to successful negotiations; understands that no party can afford to win or lose all

(16) Tries to understand people

(17) Considers the impact of present negotiations on the future relationship of the parties.

One of the most influences models used in analysing negotiating was proposed by Walton and Mckercise. They distinguished the following four systems of activity or sub processes in labour negotiations, each having its own functions for the interacting parties.

Distributive bargaining – The function of which is to resolve conflicts between the parties.

Integrative bargaining – The function of which is to find common or complementary interests.

Attitudinal structuring – The function of which is to influence the attitudes of the participating toward each other.

Intra-organizational bargaining – The function of which is to achieve consensus within each of the interacting groups.

While the subprocess are related and can occur simultaneously, particularly the integrative and distributive subprocess, conceptually they are quite different.

17.8. NEGOTIATION MANTRA

* Don't be afraid to negotiate. "Let us never negotiate out of fear. But let us never fear to negotiate." (John F. Kennedy).
* Don't negotiate when you have nothing to bargain with, or when broader objectives might be prejudiced.
* Mutual respect and trust are fundamental requirements, especially with a win-win strategy.
* The style of negotiation will depend in part on the qualities and skills of the parties involved. Skilled negotiators will conclude better deals.
* Identify the decision-maker on the other side.
* Identify the concessions you might offer and extend maximum benefit to the other side with the least cost to you.
* Remember, concessions should always be traded, not donated. Encourage the other side to give you concessions by setting deadlines.
* Recognise that a win-win outcome can never be assumed until the other side also signals its compliance.
* Be firm but fair. Do nor make ' unreasonable' demands.
* Select your team carefully, allocate the key tasks, and specify authority levels.
* Leave the other side thinking that they have won a good deal.
* In order to win best result from a negotiation, a blend of three important attributes is necessary : skill, aspiration, and power.
* Power is the capacity to influence another party. It is vital to build up a power-base, whether it is real or apparent.
* You have nothing to lose by asking for a better deal. Most things are negotiable.
* Make specific proposals, solutions or remedies. Don't just complain.
* Prepare fully, and with care. Preparation and planning lie at the heart of a successful negotiation. Don't negotiate if you are not prepared.
* Don't negotiate unless you have something to gain. Make initial concessions small and tentative.
* Listen carefully to the music behind the words.
* Be prepared for a deadlock. If necessary, change the timing, the tempo, the topic and even the team.
* Negotiating skills can be taught.

17.9. PRINCIPLED NEGOTIATIONS

A process called principled negotiations was developed by the Harvard Negotiations Project and published in a book titled *Getting to Yes.* The essential element of the process is to be “hard on the merits, soft on the people”. The goal is to decide the issues presented at the negotiating table on their merits. Under the principal negotiations model, the first objective is to separate the people from the problem. Attacking the problem is the second objective of principled bargaining. The parties are to focus on interests, not positions. Once interests are identified, the third objective is for both parties to seek as many options as possible is solving their conflicting interests. The fourth objective in principled negotiating is to have the validity of each party’s proposals judged by objective criteria.

17.10. PREPARATION FOR LONG-TERM SETTLEMENT

The preparation for the long-term settlement should start from the same date when the last agreement was signed. Continuous collection of data on work practices, norms of productivity, grievances, and their analysis to identify the causes, are necessary for preparing for the next settlement. The following may serve as a checklist :

17.10.1. Internal Data

* Analysis of previous charter of demands and previous agreements.
* Analysis of the charter of demands raised for the current agreement.
* Collection and analysis of the record of the freivances and classifying them.
* Number of persons stagnating at various levels, payscales and slabs, category-wise, age-wise and shift-wise.
* Details of existing allowances and the employees covered under each.
* Details of existing facilities and employees covered.
* Details of the labour cost and break-up of the expenditure one each item like basic pay, D.A., incentive, overtime, fringe benefits, and so on.
* Incentive plan and incentive earnings.
* Mandays data and indicating the break-up in
    - Mandays worked
    - Mandays lost due to absenteeism
    - Mandays lost due to strikes
    - Mandays lost due to sickness
    - Mandays lost due to political bandhs
    - Mandays lost due to slow-down
    - Mandays lost due to lockouts
* Details of overtime incurred department wise.
* Production and productivity data
    - Labour cost per tonne of product
    - Labour cost as percentage of wages

- Labour cost as percentage of production per man/year
- Capacity utilisation of plants/ departments
- Labour cost as percentage of sales
- Value added per rupee of wages

* Financial Data
  - Wages to salary ratio
  - Profitability
  - Expansion / diversification programme
  - Cost implications of demands

17.10.2. External Data

* Details of wages and allowances etc. of comparable public and private sector.
* Trend of cost of living index.
* Production and productivity data for similar organisation in India and abroad.

A collective bargaining manual may be prepared incorporating all the above information and kept undated from time to time.

17.10.3. Composition and Traits of Negotiating Team

* Negotiating team should consist of 3 to 4 persons.
* Leader of the team must have a good command on the language because an extra word here and there can do irreparable damage.
* The team must have complete knowledge of the operations, material flow and processes of the company.
* The team must know the details and implications of all the demands.
* The team must know the total historical perspective of the company, what happened in the previous last agreement, union dynamics etc.
* The team must have the confidence of facing any eventuality which may come up during negotiations.
* The team must have power of taking decisions.
* The team must consist of people who have confidence of the workforce and unions. Credibility is the must important asset it must process in abundance.

17.11. TACTICS OR STRATEGIES IN COLLECTIVE BARGAINING

The tactics or strategies to be adopted in any collective bargaining situation varies depending upon the culture of the organisation and different environment factors, particularly the type of union operating in an industrial establishment. But the following are more some of the common strategies to make collective bargaining exercise more meaningful :

(i) The management has to anticipate the demands and also understand the main directions in which the demand are going to be placed. Grant or rejection of demands cannot be decided upon in a vacuum; it is very much relative to the time and place of the bargaining. An adequate area survey of what the comparable organisations in the region have already conceded / or in the process of conceding is most essential. An adequate questionnaire must be drawn up, and care must be taken on identify the organisation that are truly comparable. Generally speaking, negotiations are best done if both the parties do their home work well. The representatives must come to the bargaining table equipped with the necessary information and supportive data regarding the company'' economic status and prospects, the prevailing rates of pay and conditions of employment in comparable industries in the local areas. The management team should take into consideration the financial liability involved, the past agreements, and the impact if present negotiations in future years.

(ii) It is essential that a real team spirit is maintained throughout the negotiations. For this purpose, it is necessary that the roles to be played by each member of the team are properly pre-assigned, and each member knows when to take over the discussion. The team must have the confidence of facing any eventuality which may come up during negotiations. The team must have the power if taking decisions. The team must consist of people who have confidence of the workforce and unions. It is good to have a rehearsal among the team members on such points which can be anticipate to be made forcefully by the opposite team.

(iii) Any collective bargaining strategy firstly separate the personalities from the problems for arriving at a workable and desirable agreement and secondly, explore the possibilities for harmony and compatibility. Although labour and management are adversarial in some respects, it is also important to avoid concluding that they are adversaries in all respects.

(iv) Collective bargaining is a two way traffic. The management as well as the union must gain out of collective bargaining. Hence, the management team should also present their counter-proposals. For instance, the union pressure for a wage-hike may be matched by a counter-demand for an increase in production, reduction in absenteeism, avoidance of wasteful/restrictive practices, industrial peace, and so on.

(v) There is a greater necessity on the part of the management representatives to give a patient hearing to the demands of the union and not to react even if there is a threat of strike or work-stoppage. In our country, the trade unions often take a militant stand and it is poor strategy on the part of the management representatives to be equally aggressive or impatient or take what the union say initially at the face value. A rational well- reasoned approach can achieve better results than an emotionally charged loud-mouthed approach.

(vi) It is also a bad strategy to depute persons of low rank without authority to commit the management on the negotiating table. Such a step may give an impression to the union that the management does not take the bargaining process with all the seriousness that it deserves.

(vii) It is a good practice always to classify the various demands raised by labour representatives the real from the unreal. A through analysis and understanding of different items in the charter of demands will enable negotiators to arrive at a proper judgement.

(viii) It is a good tactic to total the cost of all the union proposals and to take up the non-cist items first or items on which it is easy to come to an agreement so that a suitable collective bargaining atmosphere is created for negotiating on more serious items which have financial implications.

(ix) Sometimes, the management instead of announcing its concessions at the bargaining table, announces them before the conciliation officer as the starting point for further negotiations. This is not bargaining in good faith.

(x) The public opinions is to be built up by publishing the company's position vis-à-vis the union's only in cases where the union has taken recourse to illegal strikes and violence. Even if a charter of demands is prefaced with a strike threat, the right strategy is not to give publicity to it in any newspaper.

(xi) The "principled negotiations" approach is highly desirable in ongoing labour relations. Unfortunately, however, it is difficult to apply principled negotiations where a party maintains a "hard bargaining posture". Principled negotiation is a characteristics of more mature bargaining relationship unlike the hard bargaining approach which is frequently found in the lesson matured relationship.

(xii) Any collective bargaining strategy must result in a good agreement or settlement, the characteristics of which are : (a) It must strike a proper balance between the various factors that go into its making in order to ensure its workability; (b) It must be viewed as a show and the interrelation of its parts must be balanced one against the other; (c) It must be based upon experience, logic and principled rather than on coercive tactics, propaganda and force; (d) It must be fair and reasonable to the workers as regards their emoluments and service conditions; and to the management in terms of improved production and productivity; and to the consumers in respect of better quality goods and services; and (e) It must be complete and coherent in all respects without any ambiguity. In any event, it is enforcement that is the crucial test of a contract's workability.

(xiii) As a measure of follow up: (a) evaluate prevailing environmental changes and cultivate a healthy pragmatic approach; (b) train and develop rank and file of working group to inculcate in them individual effectiveness and professionalism in collective bargaining; and (c) develop specific action-plans for collective bargaining based on prevailing situations.

17.12. COLLECTIVE AGREEMENTS AND THEIR IMPLEMENTATION

The term "collective agreement" means all agreements in writing regarding working conditions and terms of employment concluded between an employer, a group of employers or one or employers' organisations, on the one hand, and one or more representatives of the workers duly elected and authorised by them in accordance with national laws and regulations, on the other (I.L.O Recommendations No. 91).

The collective bargaining agreement may be described in a number of ways. It is a compromise between the self-interests of the two parties that they have agreed upon as a guide to their relationship on certain matters for a specified period of time.

Collective agreement patterns may vary from country to country depending upon: (i) the scope of legislation of the country where the agreement is signed; (ii) the level at which the agreement is negotiated and the industry to which it is to apply; and (iii) the government policy towards labour and industrial relations and propensity of the parties to bargaining with each other.

The negotiators have to decide at which level the collective agreement has to be applied: (i) to the undertaking, plant or work site; (ii) to a particular place or an area; or (iii) to the whole country. In some

countries, negotiations at the level of a single undertakings are considered to be more appropriate in view of the special conditions prevailing there. The advantage of negotiating at the level of the industry is that it tends to harmonise working conditions and provides uniform benefits to all concerned.

The contents of collective agreements vary considerably from plant to plant and from industry to industry. Usually, they cover items relating to wages, working conditions, working hours, fringe benefits, and job security. Legally, a collective agreement binds only the parties to it and the persons on behalf of whom they were acting. If often happens that all workers in a given undertaking may not belong to the union which signed the agreement, or that they are non-unionised. Therefore, in a member of countries the law provides for compulsory coverage of agreements or settlements on the employers and all the employees in an establishment. The implementation and supervision of collective agreements, in some countries, depends o the good faith of the parties. They are “gentlemen’s agreements” without any legal sanction, for instance, in the United Kingdom. In some countries, in case of breach of an agreement, the observance of the same can be secured through action for damages in the courts. In France, the labour inspectors in addition to their usual duties of enforcing labour laws, also supervise the application of collective agreements. In Australia, the conciliation and arbitration courts and tribunals ensure the application of collective agreements and arbitration awards through their own inspectors. In some countries, works councils, factory committees, shop stewards or other representatives of the workers are entrusted with supervisory responsibilities and may report breaches of agreements to the trade unions or to be labour inspectors. In India, the collective bargaining contracts can be enforced under Section 18 of the Industrial Disputes Act, 1947, as a settlement arrived at between the workers and the employers. The appropriate government may refer the dispute over a breach of contract to a labour court or to an industrial tribunal.

17.13. SUMMARY

Currently, there is no uniformity as to the level at which collective bargaining is customarily conducted. Enterprise or workplace bargaining is common practice in most of the countries. In Japan and India, bargaining is mainly at the enterprise level. German collective bargaining remains basically at the national or regional industry level, although workplace negotiations has been increasing steadily over the years. Moreover, the works councils in Germany also play an important role in collective bargaining. Across the countries, the most clearly perceived shift in collective bargaining has been from industry-wide to enterprise or workplace. Possibly, the bargaining shift results from increased competitions which induces demands for more flexible and efficient workplace practices, This also draws negotiations to the enterprise or workplace level. At the same time, the concern towards the national economy compels government attention and sometimes intervention.

17.14. SELF ASSESSMENT QUESTIONS

1. What is the meaning and concept of collective bargaining ?
2. What are the tactics or strategies in negotiations ?
3. What are the essential conditions for the success of collective bargaining in India?
4. Collective bargaining in India got some impetus from various statutory and voluntary measures. Discuss?
5. “Without the strike threat in the background, real collective bargaining cannot exist”. Discuss.

6. Successful collective bargaining should no longer be viewed as an ‘art’. It is far more appropriate today to refer to it as a “science”. Discuss.
7. A large nation wide company is negotiating settlement at the present time. What economic, legal and social factors might be likely to extent some influence upon these negotiations?

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Lesson - 18

CONCILIATION, VOLUNTARY ARBITRATION AND ADJUDICATION

OBJECTIVE

At the end of this lesson the student is expected to understand the conciliation, court of enquiry, voluntary arbitration and adjudication process as a comprehension methods of industrial disputes settlement air to promote harmony in the industry.

STRUCTURE

18.1. CONCILIATION : AN INTRODUCTION

Conciliation is a persuasive process of settling industrial disputes. It is a process by which a third party persuades disputants to come to an equitable adjustment of claims. The third party, however, is not himself a decision maker: he is merely a person who helps the disputants through persuasion to amicably adjust their claims. The ultimate decision is of the disputants themselves. For this purpose the Industrial Disputes Act, 1947, provides for the appointment of conciliation officers and constitution of Board of Conciliation by the appropriate Government for promoting settlement of industrial disputes. For the successful functioning of the conciliation machinery, the Act confers wide powers and imposes certain duties upon them.

The conciliation as a made of settling industrial disputes has shown remarkable success in many industrialised countries. It is said that it has proved to be a great success in Sweden.

18.2. CONCILIATION AUTHORITIES

18.2.1. Constitution of Conciliation Authorities.

(a) *Appointment of Conciliation Officer.* One of the authorities under the conciliation officer. Under section 4 of the Act, appropriate Government is empowered to appoint conciliation officers for promoting settlement of industrial disputes. These officers are appointed for a specified area or for specified industries in a specified area or for one or more specified industries, either permanently or for a limited period.

(b) *Constitution of Board of Conciliation.* Under the Act where dispute is of complicated nature and require specified handling the appropriate Government is empowered to constitute a Board of conciliation. The Boards are preferred to conciliation officers. However, in actual practice it is found that Boards are rarely constituted.

Under Section 10(1) *(a)* the appropriate Government is empowered to refer the existing or apprehended dispute to a Board. The Board is constituted on an *ad hoc* basis. It shall consist of an independent person as Chairman and one or two nominees respectively of employers and workmen. The Chairman must be an independent person. A quorum is also provided for conducting the proceedings.

18.2.2. Qualifications and Experience

Unlike the adjudicating authorities the Act does not prescribe any qualification and/or experience for conciliation officer or member of a Board of Conciliation. A report of the study committee of National Commission on Labour, however, reveals that one of the causes of failure of conciliation machinery is lack of proper personnel in handling the dispute. The officer is sometimes criticised on the ground of his being unaware of industrial life. He is also criticised on the ground of his not having received the requisite training. It has been suggested that the Act should prescribe a qualification for conciliation officer. Further, he should be subject to proper and adequate training. Moreover, he should have adequate knowledge of handling labour problems.

18.2.3. Filling of Vacancies

The provisions to Section 5(4) require that where the services of the chairman or any other member have ceased to be available, the Board shall not function until the appointment of Chairman or member, as the case may be. Section 8 deals with the manner in which the vacancy in the office of chairman or other member of a Board will be filled.

18.2.4. Jurisdiction

Conciliation Officers are appointed by the Central and State Government for industries which fall under their respective jurisdiction.

18.2.5. Powers of Conciliation Authorities

(a) *Powers of conciliation officer.* The Act confers certain powers upon the conciliation officer to conciliate and mediate between the parties. The conciliation officer is deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code. He is empowered to enforce the attendance of any person for the purpose of examination of such person or call for and inspect the documents which he has ground for considering *(i)* to be relevant to the industrial dispute or *(ii)* to be necessary for the purpose of other duty imposed on him under the Act. For this purpose he enjoys the same as are vested in the Civil Court under the Code of Civil Procedure, 1908. The conciliation officer is also empowered for the purposes of enquiry into any existing or apprehended industrial dispute to enter the premises occupied by any establishment to which the dispute relates to, after reasonable notice. Failure to give any such notice does not, however, affect the legality of condition proceedings.

(b) *Powers of the Board of Conciliation.* The Board of Conciliation acts in a judicial capacity and enjoys more powers than conciliation officers. Under the Act, every Board of Conciliation enjoys the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, when trying a suit. It can enforce the attendance of any person and examine him on oath, compel the production of documents and material objects, issue commission for examination of witness, make discovery and inspection, grant adjournment; and receive evidence taken on affidavit. Every enquiry by a Board is deemed to be judicial proceeding within the remaining of Sections 193 and 228 of the India Panel Code and *Sections 345, 346 and 348 of the Code of Criminal Procedures, 1973.* The proceedings are normally held in public but the Board may at any stage direct that any witness be examined or proceedings be held in camera.

The Board is empowered subject to the rules in this behalf to follow such procedures as it may think fit. The rules provide for the place and time of hearing of the industrial dispute by the adjudication or arbitration authorities as the case may be, administration of oath by the adjudication or arbitration authorities, citation or description of the parties in certain cases, the issuance of notices to the parties, the circumstances when the Board can proceed *ex-parte* and correction of clerical mistake or errors arising form accidental slip or omission in any award. The Board also have to keep certain matters confidential in the award. The Board can accept, admit or call for evidence at any stage of the proceedings before it in such manner as it thinks fit. The representatives of the parties have the right of examination, cross- examination and addressing the Board when any evidence has been called. The witnesses who appear before a Board are entitled for expenses in the same ways as witnesses in the civil court.

18.2.6. Duties of conciliation Authorities

(a) Duties of conciliation Officers. The Industrial Disputes Act provides for the appointment of Conciliation Officer, "charged with the duty of mediating in and promoting the settlement of industrial disputes". Where an industrial dispute exists or is apprehended, the conciliation officer ma, or where the dispute relates to a public utility service and a notice under Section 22 has been given, he shall hold conciliation proceedings in the prescribed manner. He is empowered to "do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the disputes". Further Section 12(2) directs the conciliation officer to investigate "without delay" the dispute and all matters affecting merits and right settlement thereof. If the settlement is arrived at, the conciliation officer shall send a report together with memorandum of settlement signed by the parties to the dispute, to the appropriate Government. If no settlement is arrived at, the conciliation officer is required to send a report to send a report to the appropriate Government containing *(i)* a full report setting forth the steps taken by him for ascertaining the facts and circumstances of the dispute and for bringing about a settlement, thereof *(ii)* a full settlement of facts and circumstances leading to the dispute, and *(iii)* the reasons why a settlement could not be arrived at. Sub-section 6 of Section 12 provides that the report "shall be submitted" either within 14 days of the commencement of the conciliation proceedings or earlier if required by the appropriate Government, or later if all the parties to the dispute agree in writing.

The Industrial Disputes Act 1947, draws a distinction between public utility services and non-public utility services. Thus while in a public utility service the conciliation officer is bound to hold conciliation, he is not bound to do so in a non-public utility service. The procedure before him is that if the settlement is arrived at in the course of conciliation proceedings he is bound to send a report to the appropriate Government together with a memorandum of settlement signed by the parties to the dispute in the prescribed form. If the parties do not agree to a settlement, then the conciliation officer has to submit a failure report to the appropriate Government, setting forth *(i)* the steps taken by him for bringing about a settlement. *(ii)* the facts and circumstances relating to the disputes and *(iii)* the reasons on account of which the settlement could not be arrived at. It is mandatory duty on the part of Conciliation Officer to submit the failure report. His omission to do is culpable, if not motivated. Be that as it may, it is for the appropriate Government to consider whether on the basis of the failure report and other relevant materials, it should refer the dispute for adjudication or not.

The powers of the conciliation officer is not adjudicatory but is intended to promote a settlement of dispute. However, a special responsibility has been vested in conciliation officer to see that the

settlement arrived at is fair and reasonable and he has satisfy himself that it so and then give his concurrence accordingly. This is so because the settlement arrived at in the course of conciliation proceedings is binding on:

(a) all parties to the industrial dispute;

(b) all other summoned to appear in the proceedings as parties to the dispute unless the Board, Orbitrator, Labour Court, Tribunal or National Tribunals, as the case may be, records the opinion that they were so summoned without proper cause;

(c) where a party referred to in clause *(a)* or clause *(b)* is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;

(d) where a party referred to in clause *(a)* or clause *(b)* is composed of workmen, all persons who were employed in the establishment or part of the establishment, as the case may be to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.

(b) Duties of Board of Conciliation. A Board to which a dispute is referred must investigate the duties and all matters affecting the merits and the right settlement thereof and do all things for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute without delay.

If a settlement is arrived at, the Board should send a report to the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute. If no settlement is reached, the Board must send a full report together with its recommendation for the determination of the dispute.

In case of failure of settlement by a Board, the “appropriate Government may refer the dispute to a Labour Court, Tribunal or National tribunal. The Government is however not bound to make a reference. But where the Government does not make a reference in a public utility service after receiving a report from a Board it must record and communicate to the parties concerned its reasons for not doing so.

A Board is required to submit its report within two 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. The time-limit for the submission of a report can be extended by the appropriate Government or by agreement in writing by all the parties to the dispute.

18.2.7. Conciliation Proceedings

The study of conciliation proceedings requires the examination of : when and how conciliation machinery is set in motion and what is the duration of conciliation proceedings? The study is of a great practical significance. It is important because the management is prohibited from exercising its prerogative during the pendency of conciliation proceedings before a conciliation officer and Board of Conciliation in respect of an industrial dispute. Further, workmen and employers in a public utility services are prohibited from declaring strike or lock-out as the case may be during the pendency of any conciliation proceedings before a conciliation officer. In non-public utility services management and workmen are prohibited to declare lock-out or strike during the pendency of conciliation proceeding before a Board of conciliation and seven days thereafter.

Let us now turn to examine when a conciliation machinery is set in motion and the duration of conciliation proceedings before the conciliation officer and Board of Conciliation.

(i) Cognizance. (a) By Conciliation Officer. Incase of public utility services where a notice of strike o lock-out has been given under Section 22 it is mandatory for the conciliation officer to intervene under the Act. But in non-public utility services where an industrial dispute exists or is apprehended conciliation officer may exercise his discretion to conciliate or not. In practice, it has been found that the optional provision is acquiring compulsory status in non-public utility service also. The officer may take note of an existing or apprehended disputes either *suo motu* or when approached by either of the parties, as laid down in the Act. The conciliation officer's power under the Act is essentially confined to investigation and mediation of industrial dispute.

(b) By Board of conciliation. The Board assumes jurisdiction over the existing or apprehended dispute when it is referred to it by the appropriate Government.

(ii) Pendency of conciliation proceeding before a conciliation officer. The opening clause of Section 22(1) (d), 22 (2) (d) and 33, namely, during the pendency of any conciliation proceeding before a conciliation officer.

Prescribes the period of prohibition of strikes and lock-outs in public utility services as well as on the exercise of management's prerogative. These critical words, however have to be read with other provisions of the Act and the Rules framed thereunder.

(a) The commencement of proceedings. Sub-section (1) of Section 20 provides that in the public utility services the starting point of the prohibition is the date on which the conciliation officer receives a notice of strike or lock-out under Section 22.

(b) The termination of proceedings. Sub-section (2) of Section 20 provides the other terminus of the period of prohibition :

A conciliation proceed in shall be deemed to have concluded-

- *(a)* where a settlement is arrived at, when a memorandum of the settlement is signed by the parties to the disputes;
- *(b)* where no settlement is arrived at, when the report of the conciliation officer is received by the appropriate Government or when the report of the Board is published under Section 17, as the case may be; or
- *(c)* where reference is made to a Court, Labour Court, Tribunal or National Tribunals under Section 10 during the pendency conciliation proceedings.

18.2.8. Settlement in conciliation

After having discussed the proceedings in conciliation it is necessary to examine the settlement in conciliation. The settlement in conciliation requires consideration of several aspects such as concept and nature of settlement, form of settlement, publication of settlement, period of operation of settlement, persons on whom settlement is binding and enforceability of settlement.

(a) Concept of settlement. Section 2 (p) defines "settlement" to mean: a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding, where such agreement has been

signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate Government and the conciliation officer.

An analysis of the aforesaid definition reveals that there are two modes of settlement of industrial disputes: (i) settlement arrived at in the course of conciliation proceedings i.e., one which is arrived at with the assistance and concurrence of the conciliation officer, who is duty bound to promote a settlement and to do everything to induce the parties to come to a fair and amicable settlement of the dispute, and (ii) a written agreement between employer and workmen arrived at otherwise than in the course of conciliation proceedings.

18.3. COURT OF INQUIRY

18.3.1. Constitution

A procedure similar to the constitution of a Board of Conciliation is provided for bringing into existing a Court of Inquiry as well. While a Board of Conciliation may be" constituted for promoting the settlement of an industrial dispute the purpose for which a Court of Inquiry may be constituted is "for enquiring into any matter appearing to be connected with or relevant to an industrial dispute". The idea of a Court of Inquiry is borrowed from the British Industrial Courts Act, 1919. This Act enables the minister on his own motion and irrespective of the consent of the parties to a dispute, to set up a Court of Inquiry- to enquire into the report on the causes and circumstances of any trade dispute, together with such recommendations as the Court may make for the resolution of the dispute. Perhaps because of the extended field of operation of the Court of Inquiry the Legislative thought fit to allow the parties to use instruments of economic coercion during pendency of proceeding before it.

18.3.2. Jurisdiction of the Court of Inquiry

The Act empowers the appropriate Government to constitute a Court of Inquiry to inquire into any matter appearing to be connected with or relevant to an industrial dispute.[106] The Court of Inquiry consists of one or more independent persons at the discretion of the appropriate Government. Where a Court consists of to or more members, one of them shall be appointed as the Chairman.[107] The Court having the prescribed quorum, may act notwithstanding the absence of the Chairman or any of its members or any vacancy in its number. However, if the appropriate Government notifies the Court that the services of the Chairman have ceased to be available, the Court shall not act until a new Chairman bas been appointed.[108] Court can inquire into matters "connected with or relevant to an industrial dispute" but non-into the industrial dispute.

18.3.3. Duties of the Court

It is the duty of the Court of Inquiry to inquire into matters referred to it and submit its report to the appropriate Government ordinarily within six months from the commencement of its inquiry. This period is, however, not mandatory and the report even after the said period would not be invalid.

18.3.4. Publication of the Report

The Act requires that the report of Government shall be published within thirty days of its receipt.

18.4. VOLUNTARY ARBITRATION

Voluntary arbitration is one of the effective modes of settlement of industrial dispute. It supplements collective bargaining. When negotiation fails, arbitration may prove to be a satisfactory and most enlightened method of resolving industrial dispute. It provides "a new focus for pent-up animosities." It has been found that in "many arbitration cases, in which the parties start out angry at each other, they end up less so. The winning party is satisfied, and the losing party is likely to feel aggrieved,' not at the other party, but at the arbitrator". Further informal arbitration offers an opportunity to dissipate hard feeling which the industrial dispute may have aroused.

It is important because it is (i) expected to take into consideration the realities of the situation; (ii) expected to meet the aspiration of the parties; (iii) based on voluntarism; (iv) without compromising the fundamental position of the parties, and finally; (v) expected to promotes mutual trust.[112]

However, it is unfortunate that despite Government's stated policy to encourage collective bargaining and voluntary arbitration, India adopted only compulsory adjudication system ever since independence and did not give legal sanctity to voluntary arbitration till 1956. The severe criticism[113] of conciliation and adjudication led to the introduction of Section 10 A relating to voluntary arbitration through the Industrial Disputes (Amendment) Act, 1956. The 1956 Amendment to some extent bas tied to give legal force to voluntary arbitration but still it stands on a lower footing than the adjudication as it permits the parties to adopt recourse to arbitration prior to reference to adjudication. Further, 1956 Amendment also did not place an arbitrator on the same footing as that of adjudicators. The 1964 Amendment did try to bridge the gap but still the disparity lies in several respects.

18.5. PROCESSES INVOLVED IN REFERENCE OF DISPUTE TO VOLUNTARY LABOUR ARBITRATOR

18.5.1. Choice of Dispute Settlement

Section 10A (l) of the Industrial Disputes Act, 1947 authorises the parties to make reference to the voluntary arbitrator. But, before the reference may be made to the arbitrator four conditions must be satisfied:

1. The industrial dispute must exist or be apprehended.
2. The agreement must be in writing.
3. The reference must be made before a dispute has been referred under Section 10 to a Labour Court, Tribunal or National Tribunal.
4. The name of arbitrator/arbitrators[115] must be specified.

18.5.2. The Conditions-Precedent

A perusal of the aforesaid provision may conveniently be delineated with reference to:

1. **Parties to Arbitration.** Under the Industrial Disputes Act, 1947, a reference to the voluntary arbitrator under Section 10 A can only be made if a dispute arises between employers and employers, or between employers and workmen, or between workmen and workmen.

2. Street-Matter of Reference. The Industrial Disputes Act, 1947 seeks resolve the industrial disputes. The parties can only make a reference of an "industrial dispute" to an arbitrator. If, for instance, parties refer a dispute, which is not an "industrial dispute" the arbitrator will have no jurisdiction to make a valid award.[116]

3. Time for Making the Agreement. Section 10 A of the Industrial Disputes Act, inter alia, provides that the reference to the arbitrator should be made at any time before the dispute has been referred under Section 10 to a Labour Court, Tribunal or National Tribunal.

18.5.3. Selection of Arbitrator

The next phase is the selection of the arbitrator. The parties acting under Section 10 A are required to select any person or persons including the presiding officer of a Labour Court, Tribunal or National Tribunal to arbitrate in a dispute. Further, the parties may select or appoint as many arbitrators as they wish. However, where a reference is made to an even number of arbitrators the parties by agreement should provide for appointment of an umpire who shall enter upon the reference, if the arbitrators are equally divided in their opinion, and the award of umpire shall prevail and be deemed to be the "award". However, Section 10 A unlike the "procedure for voluntary arbitration of labour disputes" as approved by the National Arbitration Promotion Board or Section 7. (1) of the Industrial Relations Bills, 1978 does not provide for any agreement if the parties on their own fail to agree to an arbitrator or arbitrators.

18.5.4. Arbitration Agreement

1. Agreement must be in Writing. Once the parties agree to refer the dispute to arbitration it is required to make such arbitration agreement in writing.

2. Form of the Agreement. The other requirement of Section 10 A(2)(d) is that the arbitration agreement should be in the prescribed form and Rule 7 of the Industrial Disputes (Central) Rules, 1957, provides that it should be in Form C. How far and to what extent the aforesaid requirement should be complied with formed the subject-matter of dispute in 'North Orissa Workers' Union v. State of Orissa. The Court held that it was not necessary that the agreement must be made in the prescribed form "C". It would be enough if the requirements of that form are substantially complied with.

3. Signature of the Parties. Section 10 A (2) further requires that an arbitration agreement shall be signed by the parties thereto in such manner as may be prescribed in the rules framed by the appropriate Government. However, decided cases reveal that the validity of the award or arbitration agreement has often been questioned on the basis of non-compliance of signature of all parties on the arbitration agreement. This has been a ground for not issuing the notification by the appropriate Government and enabling the Government to refer such dispute to labour tribunals. This tendency of appropriate Government has, however, been scrutinised by the judiciary.

4. Consent of Arbitrator(s). Even though the Act does not expressly require that the arbitration agreement must be accompanied by the consent of arbitrator. The Industrial Disputes (Central) Rule, 1957 provides that the arbitration agreement must be accompanied by consent, in writing, of the arbitrator or arbitrators. But for the purposes, it is enough if there is a substantial compliance of this rule.

5. Submission of the Copy of Arbitration Agreement. Once an arbitration agreement has been entered into and executed in the prescribed form under Section 10 A, a copy of the arbitration agreement shall be for warded to the appropriate Government and the conciliation officer.[120] Non-submission of a

copy of the arbitration agreement to the appropriate Government would make the award made thereon outside the purview of Section 10A of the Industrial Disputes Act, 1947 because Section 10A (4) is interlinked with Section 10A (3) and only on satisfaction of the mandates of Section 10A (3), that there would be an investigation into the dispute and the award would be made by the Arbitrator and then forward to the appropriate Government.

6. Publication of Arbitration Agreement. The appropriate Government comes into picture in the process of reference to arbitrator only after the receipt of a copy of a valid arbitration agreement. If this is done:

The appropriate Government shall, within one month from the date of the receipt of such copy publish the same in the official Gazette. The aforesaid provision raises a question whether the publication of the agreement is mandatory or directory? A corollary of this issue is: whether the appropriate Government can override the wishes of the parties to refer the matter to the arbitration by making a reference to Labour Court, Tribunal or National Tribunal? This issue may be discussed under two heads: i) Publication of arbitration agreement, and (ii) time of publication.

(a) Publication of Arbitration Agreement. In Karnal Leather Karamchari Sangtohaji v. Liberty Foot Wear Co., the Supreme Court was invited to consider whether the publication of arbitration agreement under Section 10A(3) is obligatory. The Supreme Court answered the question in affirmative and observed:

“The voluntary arbitration is a part of the infrastructure of dispensation of justice in the industrial adjudication. The arbitrator thus falls within the rainbow of statutory tribunals. When a dispute is referred to arbitration, it is therefore, necessary that the workers must be made aware of the dispute as well as me arbitrator whose award ultimately will bind them. They must know what is referred for arbitration who is their arbitrator and what is in store for them. They must have an opportunity to share their views with each other and if necessary place the same before the arbitrator.”

The Court held that the arbitration agreement must be published before an arbitrator considered the merits of the disputes. Non-compliance of this requirement will be fatal to the arbitration award.

(b) Time for Publication. The High Courts are divided on the issue: whether the requirement of publication of agreement within one month is mandatory or directory? While the Division .Bench of the Madhya Pradesh High Court in K.P. Singh V. S.K. Gokhale and the Orissa High Court in North Orissa Workers’ Union v. State of Orissa has taken the view that the requirement is mandatory, the High Court of the Punjab and Haryana in Landra Engineering and Foundry Workers v. Punjab State, the Delhi High Court in Mineral Industrial Association v. Union of India, Madhya Pradesh High Court in Modern Stores Cigarettes V. Krishnadas Shah and Aftab-e-Jadid, Urdu Daily Newspapers v. Bhopal Shramjivi Patrakar Sangh has taken the opposite view and held that the requirement is only directory. The decisions of these three High Courts which held that provisions to be directory said:

On the true construction of... Section 10-A(3) that the other requirement namely, its notification within one month from its receipt is only directory and not imperative.

18.5.5 Voluntary Labour Arbitrator

1. Nature of Voluntary Arbitrator: (a) Statutory versus private arbitrator. It is exceedingly difficult to maintain a distinction between statutory and private arbitrator on the basis of nomenclature because both are the product of statute: the former is made under the Industrial Disputes Act, 1947 while the latter under the Arbitration Act, 1940. But such distinction has not come to stay through a series of judicial decisions. Thus, in R. v. National Joint Council for the Craft of Dental Technicians, Chief Justice Goodard tried to draw such a distinction when he said:

There is no instance of which I know in the books, where Certiorai or prohibition has gone to any arbitrator, except a statutory arbitrator, and a statutory arbitrator is a person to whom by statute, the parties must resort.

The aforesaid distinction found favour of the Supreme Court i.e. Engineering Mazdoor Sabha v. Hind Cycles Ltd?- wherein Justice Gajenderagadkar introduced the concept of "statutory arbitrator" in India by holding that:

Having regard to several provisions contained in the Act and rules framed thereunder, an arbitrator appointed under Section 10-A cannot be treated to be exactly similar to a private arbitrator to whom a dispute has been referred under an arbitration agreement under the Arbitration Act. The arbitrator under Section 10-A is clothed with certain powers. His procedure is regulated by certain rules and the award pronounced by him is given by statutory provisions a certain validity and a binding character for a specified period. Having regard to these provisions, it may perhaps be possible to describe such an arbitrator as in a loose sense, a statutory arbitrator.

2. Conduct of the Arbitrator. The Industrial Disputes Act, 1947 does not prescribe how the conduct of the arbitrator be regulated. However, the decided cases of the Supreme Court and High Courts reveal that an arbitrator should be impartial and he must build up a relationship of confidence with both the parties. Thus, he or any of his near relatives should not accept any hospitality or favour from any party to the disputes before him, because justice should not only be done but it must be seen to be done. If he does so that would be quality of misconduct. similarly, if he does not hear the party or exceeds his jurisdiction or fails to determine an important question referred to him his decision is liable to be interfered.

3. Jurisdiction of the Voluntary Arbitrator. An arbitrator under Section 10 A comes into existence when appointed by the parties, and he derives his jurisdiction from the agreement of the parties. If the arbitrator decides matters not referred to him by the parties, he acts beyond his jurisdiction. For instance Raza Textile Labour Union v. Mohan, three disputes upon which the arbitrator gave the award were not covered by 167 matters of disputes which were referred to him. The Court quashed the award as these matters were beyond the jurisdiction of the arbitrator. Similarly, in Rohtas Industries Ltd. v. Workmen[13] the Patna High Court held that the award regarding deamess allowance was vitiated by the fact that it was not in accordance with the term of agreement. Likewise the Madras High Court in Vaikuntam Estate v. Arbitrator quashed the interim award of arbitrator where he exceeded the terms of reference. Further unlike the jurisdiction of adjudicatory bodies the arbitrator cannot arbitrate upon matters "incidental to" or "any matter appealing to connected or relevant" to the dispute. But unlike adjudicatory authorities under the Act the arbitrator has a wider power to decide upon all "industrial dispute" referred to him under an arbitration agreement irrespective of the fact whether it fails either under schedule II or III of the Industrial Disputes Act, 1947.

4. Powers of Arbitrator. Section 11-A merely provides:

Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or Tribunal for adjudication and, in the course of the proceedings, the Labour Court, Tribunal or National Tribunal, as state case may be, is satisfied that the order of discharge or dismissal was act justified, it may, by its award, set aside the order of discharge are dismissal and direct reinstatement of the workman on such terms sat conditions, if any, as it thinks fit, or give such other relief to me workman including the award of any lesser punishment in lie if discharge of dismissal as the circumstances of the case may require

It does not specifically mention "arbitrator". It, therefore, raises a whether the arbitrator has the power to interfere with the punishment awarded by the management under Section 11 A. Justice Krishna Iyer in Gujarat Steel Tubes Ltd. v. Gujarat Steel Tubes Mazdoor Sabha anrs the question in affirmative. He stated:

Section 11 did clothe the arbitrator with similar power as tribe despite the doubt created by the abstruse absence of specific men "arbitrator" in Section 11 A.

In Rajinder Kumar V. Delhi Administration, the Supreme Cc explained the powers of the Arbitrator and the Supreme Court:

"In exercise of the jurisdiction conferred by Section 11-A of the Disputes Act, 1947 both arbitrator and ... (Supreme Court) can reappraise the evidence led in the domestic enquiry and satisfy themselves whether the evidence led by the employer established misconduct a the workman. It is too late in the day to contend that the arbitrator only the power to decide whether the conclusions reached by the e officer were plausible one deducible from the evidence led in the e and not to re-appreciate the evidence itself and to reach the conclusion whether the conduct alleged against the workman has been established or not."

The Court added:

"Where the findings of misconduct are based on no legal evidence aril the conclusion is one to which no reasonable man would come. arbitrator appointed under Section 10-A or this court in appeal under 136 can reject such findings as perverse. The industrial tribunal arbitrator or a quasi-judicial authority can reject not only such but also the conclusion based on no legal evidence or if it is merely based on surmises and conjectures unrelated to evidence on the ground that they disclose total non-application of mind.

18.5.6. Signing of an Award

Sub-Section (4) of Section 10 A requires that the arbitration award shall be by the arbitrator or all the arbitrators, as the case may be. The of the section are mandatory. The award of arbitrator shall be void inoperative in the absence of signature in view of mandatory term of the section.

18.5.7. Submission of an Award

section 10A (4A) of the Act enjoins the arbitrator to investigate the dispute and submit its award to the appropriate Government. The non-submission would render the award in-operative.[146]

18.5.8. Power of Superintendence of the High Court Article 227 of the Constitution over Voluntary Arbitrators

In addition to Article 226, Article 227 confers upon the High Court a power of superintendence over all Lower Courts and Tribunals within its jurisdiction. A question, therefore, arises whether a High Court can interfere under Article 227 with an award of an arbitrator (under Section 10A). The Supreme Court in Engineering Mazdoor Sabha v. Hind Cycles Ltd. answered it in negative and placed Article 227 at par with Article 136. It held:

Like Art. 136, Art. 227 refers to Courts and Tribunals and what we have referred to the requirements of Art. 136 may prima facie apply to the requirements of Art. 227.

The net effect of the aforesaid statement was that the High Court was not competent to have power of superintendence over voluntary arbitrators under Section 10 A because the "arbitrator" was not a "Tribunal".

But, in Rohtas Industries Ltd. V. Rohtas Industries Staff Union Justice Krishna Iyer even though agreed that the position of arbitrator under Section 10A (as it then stood) vis-a-vis Article 227 might have been different but in view of the changed situation after the amendment in the Industrial Disputes Act by XXXVI of 1964, observed:

Today, however, such an arbitrator has power to bind even those who are not parties to the reference or agreement and the whole exercise under Section IOA as well as the source of the force of the award on publication derive from the statute. It is legitimate to regard such an arbitrator now as part of the methodology of the sovereign's dispensation of -justice, thus falling within the rainbow of statutory Tribunals amenable to judicial review.

The aforesaid view was reiterated in the majority judgement in Gujarat Steel Tubes.

However, one is tempted to ask if the Court's decision would have been different if the Government does not issue a notification under sub-section 3A of Section 10A on the ground that persons making a reference does not represent the majority of each party. An answer in affirmative would receive the view stated in Engineering Mazdoor Sabha (supra). Under the circumstances it is suggested that Parliament may clarify the position by legislative amendment.

In Association of Chemical Workers v. B.D. Borude, the Bombay High Court ruled:

"If the findings of an arbitrator are perverse and not based on the evidence available on record or contrary thereto or no reasonable person would come to such a conclusion, while interpreting and applying the provisions of S. 11A of the Industrial Disputes Act, this Court can always interfere with the Award passed by an Arbitrator appointed under S. IOA of the I.D. Act."

18.5.9. Relief Under Article 136 of the Constitution from Arbitration Award

The question that arose before the Supreme Court was whether an appeal would lie to it under Article 136[153] of the Constitution from a arbitration award under Section IOA of the Industrial Disputes Act? The Supreme Court in Engineering Mazdoor Sabha V. Hind Cycles answered the question in negative. It stated:

The arbitrator is not a tribunal because the State has not invested him with its inherent judicial power and the power of adjudication which he exercises is derived by him from the agreement of the parties. His position thus, may be said to be higher than that of a private arbitrator and lower than that of a tribunal.

Accordingly, the Court held that the decision of arbitrator would not amount to “determination” or “order” for the purposes of Article 136. But, this position appears to have been changed through Rohtas Industries V. Rohtas Industries Staff Union. The Court in view of the amendment in 1964 of the Industrial Disputes Act appears to have extended the application of Article 136 to an award of an arbitrator under Section 10A. This view was reiterated in Gujarat Steel Tubes Ltd. v. Gujarat Steel Tubes Mazdoor Sabha.

The aforesaid view removes one of the stated hurdles in the progress of arbitration, namely, that in law no appeal is maintainable against the award of the arbitrator.

18.6. ADJUDICATION

The final stage in the settlement of industrial disputes (which the parties are unable to settle either through bipartite negotiations or through the good offices of the conciliation machinery or through voluntary arbitration) is compulsory arbitration which envisages Governmental reference to statutory bodies such as Labour Court, Industrial Tribunal or National Tribunal. Disputes are generally referred to adjudication on the recommendation of the conciliation officer who had dealt with it earlier. However the appropriate Government has discretion either to accept or not his recommendation and accordingly to refer or not the case for adjudication. The percentage of disputes referred to adjudication varied from State to State.[157]

The system of adjudication by Labour Court, Tribunal and National Tribunal has perhaps been one of the most important instruments of regulating the rights of the parties in general and wages, allowances, bonus, working conditions, leave, holidays and social security provisions in particular. Such norms setting, which in advanced countries is done through the process of collective bargaining between the employers and the trade unions, had to be done by in India by adjudication system because tire trade union movement was weak and in no position to negotiate with the employer on an equal footing. However, this system has been criticised for its unfavourable effects on the trade union movement. Further, undue dependence on compulsory adjudication has deprived the trade unions of the incentive to organise itself on a strong and efficient basis and has rendered

The unions mere petitioning and litigant organisations arguing their cases before tribunals, etc. The system of adjudication has also been criticised because of the long delays involved in the final settlement of disputes, particularly where one or the other party chooses to go in appeal against an award. Such delays, it is argued, are themselves responsible for much industrial strife.

18.6.1. Origin and Growth of Adjudication System

In the era of laissez faire employees enjoyed unfettered right to “hire and fire”. They had vastly supervisor bargaining powers and were in a position to dominate workmen in every conceivable way. They preferred to settle terms and conditions of employment of workmen and abhorred statutory regulation thereof, unless, of course, it was to their advantage. However, this tendency coupled with rise in the incidence of the strikes and lock-outs made it necessary for the Government to intervene in labour

management relations. While voluntary and persuasive processes had been playing their role in settling the industrial disputes since 1929, World War II marked the beginning of compulsory adjudication. Rule 81A of the Defence of India Rules, 1942 empowered the Government inter alia, to refer any trade dispute to adjudicators and to enforce their awards. After the end of hostilities these measures with a number of innovations and modifications were incorporated in the Industrial Disputes Act, 1947. The Act "substitutes for free bargaining between the parties a binding award by an impartial Tribunal". The Tribunal is not bound by contractual terms between the parties but can make a suitable award for bringing about harmonious relations between the employer and the workmen. "The Industrial Tribunal is not fettered by any limitation on its power. The only limitation on its power is to bring about harmonious relationship between the employer and the workmen." In the original Act only one constituting body, namely, Industrial Tribunal was designated for the compulsory settlement of industrial dispute. Within a short span of nine years of its working it was found that a large number of cases were referred to it. This led to the introduction of three tier system, viz., the Labour Court, Tribunal and National Tribunal in 1956.

18.6.2. Composition of Labour Court, Tribunal and National Tribunal

The issue of composition of the Labour Courts and Tribunals has an important bearing on their working. The present system of reference to adjudication is, however, open to several criticism. First, from "the workers' side it is often urged that with various restrictions placed on strikes, the recourse to judicial determination of disputes should not be barred by the Government." Second, the decision to refer disputes or to withhold reference is sometimes not made on any strict principle and the system is open to pressurisation.

The Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956 introduces a three tier system for industrial adjudication. The machinery provided under the Act consists of Labour Courts, Industrial Tribunals and National Tribunals. The appropriate Government is empowered under Section 7 and 7A to constitute one or more Labour Courts and Industrial Tribunal with limited jurisdiction, to adjudicate "industrial disputes", and the Central Government is authorised under Section 7B to constitute National Tribunal. The Labour Courts, Industrial Tribunals and National Tribunals are ad hoc bodies and consist of a single member called presiding officer. The appointment of the tribunal may, however, be for a limited duration.

There is no provision for the appointment of assessors in Labour Courts, but in case of Industrial Tribunal or National Tribunal the appropriate Government may appoint two persons as assessors to advise the Tribunal in the proceedings before it.[162] The assessors are supposed to be experts and can be appointed only when the dispute involves technical matters and requires expert knowledge for its settlement. This provision has never been used and for all practical purposes this is defunct.

18.6.3. Qualifications of Presiding Officer of Labour Court, Tribunal and National Tribunal

In case of Labour Courts there is a wider range of alternatives in the qualifications for appointment. They are as follows: fa) he is, or has been, a Judge of a High Court; or (b) he has, for a period of not less than three years, been a District Judge or an Additional District Judge; or (c) he has held any judicial office in India for not less than seven years (d) he has been the presiding officer of a Labour Court constituted under any Provincial Act or State Act for not less than five years.

Qualifications for appointment to Tribunals are the same as prescribed for Labour Courts in Section 7, clauses (a) and (b). Thus, the range of alternatives is narrower.

For National Tribunals the range of alternative qualifications for appointment is further narrower. One qualification that the person is or has been a judge of a High Court is common to all the Tribunals.

The requirements of Section 7C are applicable to all the three bodies i.e., Labour Courts, Tribunals and National Tribunals. Section 7C lays down disqualifications in regard to age and independence of persons appointed. It requires that the person to be appointed must be (a) an independent person and (b) has not attained the age of sixty-five years.

In actual practice it is, however, found that insistence is made on judicial qualification in the appointment of presiding officer of Labour Court and Industrial Tribunals. Further generally retired personnel are choosen to serve as a presiding officer. It is submitted that the appointment should be made in consultation with the Chief Justice of High Court. This will ensure the appointment of independent persons by the appropriate Government as Presiding Officer of Labour Courts and Industrial Tribunals.

18.6.4 Jurisdiction of labour Court, Tribunal and National Tribunal

The Labour Court has jurisdiction to adjudicate industrial disputes which may be referred to it under Section 10 of the Act by the appropriate Government and which relates to: (1) The propriety or legality of an order passed by an employer under the standing orders; (2) the application and interpretation of standing order; (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.

The Industrial Tribunals have jurisdiction to adjudicate industrial disputes referred under Section 10 which relates to: (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) rales of discipline; (9) rationalisation; (10) retrenchment of workmen and closure of establishment; and (11) any other matter that may be prescribed.

The National Tribunals have jurisdiction to adjudicate industrial disputes which, in the opinion of the Central Government, involves 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 and which may be referred to them by Central Government.

Under the Industrial Disputes Act, 1947, the Labour Court, Tribunal and National Tribunal can acquire jurisdiction only when there is in existence or apprehension of an industrial dispute and a reference of such dispute has been made by the appropriate Government, under Section 10. The Labour Courts, Tribunals and National Tribunals are also required to deal with complaints. Labour Court are also required to decide the question of amount of money due under Section 33(C) (2) of the Industrial Disputes Act, 1947.

18.6.5. Powers and Functions of the Labour Court, Tribunal and National Tribunal

The Labour Court, Tribunal and National Tribunal have a statutory duty to hold the proceedings expeditiously and shall, “as soon as it is practicable on the conclusion[166] thereof submit its award to the appropriate Government. They are empowered, subject to the rules in this behalf, to follow such procedure as they may think fit.[167] The rules provide for place and time of hearing of the industrial dispute by the adjudication or arbitration authorities as the case may be.[168]

Even though there is no provision either in the Industrial Disputes Act or in the rules framed thereunder to empower the Labour Tribunals to set aside an ex pane award, the Supreme Court through the process of judicial legislation have invested in them such powers. Further, Tribunals may cancel the promotion order passed by the management where it finds that persons were superseded on account of malafide or victimisation. In this regard the Tribunal may also frame rules of promotion in consultation with, the management and union and direct the management to give promotions or upgradation in accordance with those norms/rules. Moreover, Industrial Tribunal deciding upon the wage scales of the employees of an establishment have full liberty to propose ad hoc increase of salaries as a part of the revision of wages. Further, figment into the revised scale is a part of revision of pay scales. However the Tribunal under Section 36A has no power to determine the question about propriety, correctness or validity of any provision or the powers conferred under any statute. Further the Tribunal has no power to amend or modify its award after it became final except to correct clerical mistakes and the powers under Section 11(3) could be exercised by the tribunal after the proceedings pending before it have terminated.

Where it .is found that the domestic enquiry held by the employer is, due to some omission or deficiency, not valid, the employer may adduce additional evidence in order to prove the misconduct of the concerned workmen. However, not only the High Courts but even the Supreme Court have expressed conflicting opinion on the issue whether Labour Court or Tribunal is under an obligation to inform the management about the improper enquiry and give an opportunity to the management to adduce additional evidence.

But “where a quasi-judicial Tribunal or arbitrator records findings based on no legal evidence and the findings are either his ipse dixit or based on conjectures and surmises, the enquiry suffers from the additional infirmity of non-application of mind and stands vitiated. The Industrial Tribunal or the arbitrator or a quasi-judicial authority can reject not only such findings but also the conclusion based on no legal evidence or... on surmises and conjectures unrelated to evidence on the ground that they disclose total non-application of mind.”

18.6.6. Filling of Vacancies

Section 8 authorises the appropriate Government to fill vacancies when the presiding officers of Labour Courts and Industrial Tribunals cease to be available. If for any reason a vacancy occurs it is open to the Government to fill the same whether the vacancy is permanent or temporary. In the case of a National Industrial Tribunal only the Central Government is empowered to fill the vacancy by appointing any person in accordance with the provisions of the Act. The High Court cannot examine whether the service of a Tribunal have ceased to be available. It is for the appropriate Government to say so.[192] Section 8 does not apply to such Tribunals which are constituted for a limited period and so the proceedings could not be continued by the new Tribunal from the stage at which the same was left by the previous Tribunal.

18.6.7. Response of the National Commission on Labour

The National Commission on Labour set up by the Government of India in 1966 found the working of the industrial relations machinery under the Industrial Dispute Act, 1947 unsatisfactory. It, therefore, emphasised the need for “a formal arrangement which is independent in character, expeditious in its functioning and which is equipped to build up the necessary expertise.” The Commission, therefore, recommended: (i) the setting up of a National Industrial Relations Commission by the Central

Government to deal with disputes which involves question of national importance or which are likely to affect establishments situated in more than one State, (ii) The setting up of an Industrial Relations Commission at the state level for settlement of disputes for which the State Government is the appropriate Government. (Hi) The proposed National and State Industrial Relations Commission would be presided over by a person having prescribed judicial qualifications and experience appointed by the Union and State Government respectively in consultation with the Chief Justice of India or Chief Justice of the High Court concerned as the case may be, and the Union Public Service Commission or the State Public Service Commission as the case may be. The Commission shall also constitute two non-judicial members, who will be officers in the field of industry, labour or management. The main functions of the proposed machinery are three-fold: (i) adjudication of industrial disputes; (ii) conciliation; and (Hi) certification of unions as representative unions. However, no step has yet been taken to implement these recommendations.

18.6.8. Re presentation of Parties

Section 36 of the Industrial Disputes Act deals with the representation of a party to a dispute. Under sub-section 1 of Section 36, a workman who is a party to a dispute shall be entitled to be represented in any proceeding under the Act by (a) any member of the executive or other office-bearer of a registered trade union of which he is a member; or (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 authorised in the prescribed manner.

18.7. SUMMARY

One of the main factors which acts as a hurdle to the maintenance and promotion of industrial peace at present is the increasing resort to adjudication machinery in preference to voluntary arbitration and conciliation. The State Government should take all necessary measures to encourage settlement of disputes through voluntary arbitration and conciliation. There should be a clause in every settlement and agreement for reference of disputes arising over their interpretation or violation, to arbitration. It should also provide that there will be no strike or lockout over the question of interpretation of collective agreements. It is now increasingly felt in certain circles that there is too much intervention by the government machinery which prevented creation of a proper atmosphere for meaningful collective bargaining. But to quote the NCL, “The requirements of national policy make it imperative that state regulation will have to co-exist with collective bargaining”. However, it has recommended for a shift in emphasis in favour of collective bargaining.

18.8. SELF ASESSMENT QUESTIONS

1. What is the legal procedure for settlement of industrial disputes in India.
2. Prompt and equitable settlement of labour disputes is an important basis for sound industrial relations. Discuss.
3. Write a short note on the following

   a) Conciliation b) Court of enquiry c) Voluntary arbitration d) Adjudication

18.9. REFERENCES AND SUGGESTED BOOKS FOR FURTHER READING

1. SRIVASTAVA S.C., Industrial Relations and Labour Laws, Vikas Publishing House Pvt. Ltd., New Delhi. 1995.
2. Report of the NCL, p.323.
3. Report of the National Commission on Labour, p.325.
4. Report of the NCL, p.324.

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Lesson – 19

INDUSTRIAL RELATIONS IN PUBLIC SECTOR

OBJECTIVE

At the end of this lesson the student is enable to understand the industrial relations in public sector understandings. The other aspects are wage administration, state intervention, industrial disputes, workers participation and INTUC public sector unions conference also discussed.

STRUCTURE

19.1. INTRODUCTION

Most of the developing countries of the world have resorted to state enterprise with a view to bringing about rapid economic development and social change. In India, the public sector came into being with the adoption of Industrial Policy Resolution of 1948, which laid down that industries of basic and strategic importance or in the nature of public utility service shpild be in public sector. It emphasised on production and distribution of national wealth. Prior to independence, government's activity was mainly confined to sectors like railways, ports and docks, posts and telegraphs, and ordnance factories. The government of those days had no intention of entering the industrial field as an employer; it was mostly left to private entrepreneurs. With the attainment of independence, industrial development became one of the major objectives of government policy. The public sector was viewed as an instrument for creating resources for plan finance and development. Gradually, it has come to occupy an important place in our national economy with a distinct philosophy of social control and social purpose. Though the philosophy of public sector is different, operationally it similar to that of the private sector.

The public sector is mainly advocated for three reasons, namely; (i) to gain control of the commanding heights of the economy; (ii) to promote critical development in terms of social gain of strategic value rather than primarily on considerations of profit; and (iii) to provide commercial surplus with which to finance further economic development. Contrary to expectations, the performance of public sector enterprises has been far below plan targets. Many enterprises, have accumulated deficits over a

period of time causing considerable drain on the exchequer. There cannot be two opinions about the necessity of public enterprises to operate efficiently and economically. But while pursuing their immediate goals of productivity and profitability, they have to serve the national objectives and contributions made by the public enterprises has been the development of a very impressive reservoir of managerial talent in this country. They have also helped in bringing about reduction in disparities in income through the process of generating employment and by pushing up the wage level of the lower income groups. But taking the public sector enterprises as a group one has to concede that although there have been achievements, a great deal still remains to be done in the areas of capital management, project implementation, marketing, personnel selection and industrial relations.

Basically, there are three types of undertakings which fall within the ambit of the public sector, namely: (a) undertakings directly run by the government departments such as railways, posts, and telegraphs telecommunications, defence production, printing presses; (b) undertakings run by statutory corporations responsible to Central and state Governments and also companies registered in accordance with the provisions of the Companies Act; and (c) undertakings which were once with the private sector and are now nationalized such as insurance, banks, oil companies, coal mines and units in the textiles industry run by the National Textile Corporation. The public sector as a whole has grown over the years to an enormous extent and cover a wide spectrum of production, mining, manufacturing, marketing, trading and financial institutions.

Public sector outlay for the Eighth Plan is placed at Rs. 434,100 crores, at 1991 – 92 prices. Public sector investment would amount to 45.2 per cent of aggregate compared to 47.8 per cent as originally envisaged and 45.7 per cent as realized in the Seventh Plan.

The public sector undertakings are generally larger in size and use more advanced technology. Capital investment in the public sector today is much more than the investment in all the private sector enterprises put together. There were only 5 central public sector enterprises at the commencement of the first plan with investment amounting to only Rs. 29 crores. As on March 31, 1994, the number had risen to 240 with total capital employed in them touching the staggering figure of Rs. 1,59,307 crores. Gross profit of these enterprises rose from Rs. 2,654 crores in 1980 – 81 to Rs. 18,438 crores in 1993 – 94. In the same period, net profits increased from Rs. 445 crores to Rs. 4,435 crores. This shows that the profitability of public sector enterprises is not all that bad as many critics seem to suggest.

The industrial sectors which have a sizeable number of employees in the public sector include coal, steel, textiles, heavy engineering, and medium and light engineering. In terms of employment generation, the contribution of the public enterprises during the seventies had been very impressive. Between 1970 – 71 and 1979 – 80 there had been almost a three – fold increase in the total work force employed by the central public enterprises. As against 0.66 million persons employed in 1970 – 71, the figure reached 22.11 lakhs as on March 1993. The government policy in the public sector is to provide maximum satisfaction to employees by improving their working and living conditions and to ensure that the wage and welfare amenities in the public sector should in no way be inferior to those in the private sector. In fact, it is expected to be a progressive model employer. These objectives were pronounced in different five – year plans.

Over a period of years, public sector has played a vital role in the industrialisation of the country by establishing the basic and heavy industries and providing for necessary infrastructure facilities. It has

enabled the growth of innumerable light industries, and also provided the vital imputs for ushering in a "Green Revolution". Also it has played a pioneering role in dispersing industries in various regions of the country particularly in the backward area. Inspite of its phenomenal growth in terms of number of undertaking, investment, and employment and above all its monopolistic position, it has failed to achieve desired results.

In the changed economic milieu, the ailing public sector can no longer be crowned with adjectives like "epitome of economic activity", "model employer", "peoples enterprises", and so on. On the contrary, they earned reputation for "loss-making units", "liability on public exchequer" and the like. In fact, the adverse circumstances has forced most of such enterprises to delimit the area of their operation or to go for privatisation. This has led the management of public sector undertakings to undertake the exercise of corporate restructuring to optimise their effectiveness in the changed environment.

19.2 INDUSTRIAL RELATIONS IN PUBLIC SECTOR

Industrial relations in the public sector may be discussed with reference to the actors involved therein, namely, the trade unions, the managements and the Government and their interaction with each other. There are no special handicaps for workers in the public sector to organise themselves into unions. Of course, certain administrative restrictions exist for forming unions by public servants. Many of the public sector units are plagued with multiplicity of trade unieas and inter-union and intra-union rivalries. By and large, the environment is which the public sector managers have to operate is one where multiple unions are the rule. Internal trade union leadership does not seem to have developed to a stage where it can operate without undue fear. The same is the case with workers employed in the private sector and there is no difference in the mental attitude of workers in the two sectors. Further, the public sector enterprises are a fertile ground for trade unions owing allegiance to political parties. The overtones of political infighting is imported into the functioning of the unions. Sometimes, even simple issues are politicised hampering straightforward solutions. While private sector enterprise can effectively deal with such unions and meet their demands, the management in the public sector enterprises can only take recourse to constitutional and conventional methods open to them. The trade unions functioning in the public sector enterprises encourage excessive demands from workers by exploiting the concept of model employer. By and large, there is lack of belongingness or deeper concern with productivity among the public sector employees. Thoughitis provider best welfare facilities, yet one does not find a relatively high morale among the employees.

Due to lack of autonomy in the public sector, the chain of command has gone on lengthening in the shape of board of directors, the ministry, the minister, inter-ministerial committees, planning authorities, committees set up by representatives of the people and people themselves. Thus, there is no delegation and decentralisation of authority on important decision-making powers to the public sector management to the extent desirable. Such a thing makes the man on the spot less initiative. This happens particularly in matters of collective bargaining where if the agreement is to be reached in an establishment of large size, it is the minister concerned who would like to be involved in the final settlement. In the day-to-day performance of a public sector organisation, the power/decision centre is located on the top. But in certain matters, such as wages, allowances, strategies etc. there is no enterprise level power/decision centre. Moreover, the question is who should take decisions on industrial relations matters — the management or the ownership of the organisation? In fact, the workers and managers in the public sector, individually and collectively, face the basic problem of identifying the power-decision centres. Furthermore, there is no proper co-relationship between authority and responsibility in the public sector, in which every officer has a huge load of responsibility but practically no authority.

Organisational climate in the private sector is more responsive to managerially induced change, since managers at all levels are" expected to think in terms of initiative, risk, and potential personal rewards. In contrast, in the public sector, and especially in the non-market part of it, decision-making takes place in a very different atmosphere. In general, the function is one of administration rather than management, with actual decisions often not being clearly made by single individuals or groups short of the cabinet.

Decisions are generally made at the highest levels and are merely interpreted lower down. A further factor is the diffusion of goals in the public sector. Whereas the private sector manager can often easily appreciate what will advance the goal of profit or sales or output to which he works, goals in the public sector are more difficult to determine and evaluate.

In the public sector there is vast range of policies with aims which are complex and frequently difficult to establish, performance in achieving them is usually a matter of judgement and is rarely measurable. Moreover, most goals are set through political means rather than any internal process, and to permit too much flexibility would be to substitute executive for political judgement. The tendency is therefore to play safe at both personal and organisational level because avoidance of error is more important than initiative for the individual manager. There is also the tendency to centralise financial decision-making within the sector. In total, the system is one of bureaucracy, in which rules are paramount, individual decision-making plays a relatively small role, and the primary objective is consistency. There is practice of transfer of personnel regularly and periodically, even technical personnel in specialist cadres, within the public sector enterprises without due appreciation of the consequences of, or even the need for transfers affecting the efficiency adversely. In the private sector, it is not resorted to as a routine. Because of the absence of long tenures, senior managers do not commit themselves to long-term solution of problems and also do not own responsibility for events. Thereby we have developed in the public enterprises, mediocrity rather than initiative, conformity rather than innovativeness and procedure-oriented instead of result-oriented performance.

Standing Orders

Several attempts were made within the government to sort out differences and make the standing orders uniform to the extent possible and at the same time, responsive to changes mutually agreed between parties. When standing orders have to be made uniform in the public sector, there is usually a claim from workers for the best of what obtains in individual units. Overemphasis on uniformity in the standing orders is out of place in a situation where there is such a diversity in public sector undertakings. Uniformity can be thought of only in procedural matters.

Collective Bargaining

In all literature on industrial relations, collective bargaining is considered as a central place around which other topics comprising industrial relations seem to revolve. There is hardly any qualitative difference between the collective bargaining techniques adopted by the workers in the public sector enterprises and their counterparts in the private sector. But the crux of the problem in the public sector is with whom do the trade unions negotiate with? The owner of the enterprise is the government. The manager is as much as an employee as any worker and bound by a whole set of rules and regulations and unable to take any decision in the area of personnel management. Further, the atmosphere for collective bargaining gets fouled up by the accumulation of unattended individual grievances.

Grievance procedure in certain units is a part of collective bargaining agreement; and in some others, it is agreed to by the parties separately. In the public sector, the issues taken up for collective bargaining include revision of wage and pay scales, dearness allowance, house rent allowance, other allowances, loans and advances, medical, residential and other facilities, welfare measures, service conditions and so on. Prior to negotiations, preparations are made in advance, at least a year ahead of the date of expiry of wage agreement. Exercises are carried out to collect voluminous data from within the organisation and many other undertakings. Hike in annual expenditure on account of increase in pay, dearness and other allowances, and fringe benefits are assessed. The organiasation's prospects and financial positions are reviewed. Thereafter, a tentative allocation of resources for the ensuing wage revision is made and modalities of extending the benefits are worked out. Attention is then paid to plan the overall strategy and tactics to be employed in conducting the negotiations. In the course of collective bargaining, various pressures develop, sometimes powerful external forces intervene. The negotiations drag on and there is a compulsion to compromise in order to settle the issues by a deadline. The demand for higher wages is seldom made on the basis of higher productivity. In fact, usually, a reference to productivity is made only in a paragraph towards the end of an agreement, where both parties make a solemn pledge to initiate measures to raise productivity. Availability of resources and the capacity to pay receive scant consideration. Liberal terms secured by unions in the neighbouring or similar industries are uppermost in the mind of the bargaining agent.

19.3. WAGE ADMINISTRATION

The salient features of wage and salary administration in the public sector undertakings are as follows:

(i) A wage structure having two components, namely, basic wage and dearness allowance, in all the units and some special pay allowance in a few units;

(ii) Inter-unit disparities in the existing wage structure including the fringe benefits;

(iii) Co-existence of time and piece rate systems of wage payments in the same units;

(iv) Existence of a variety of incentive schemes under different names and with different objectives, both within a unit and in different units;

(v) An annual minimum bonus (as per the provisions of the Payment of Bonus Act, 1965) unrelated to profits and up to 20 per cent if there are reallocable surpluses at the unit level; and

(vi) Provision of periodic wage revision (usually four years) mainly on the basis of collective bargaining and more or less unrelated to profits, production and productivity. In some organisations, wages are revised and restructured even at shorter intervals and in some others at longer ones, say around five years.

The main contention of the unions is that while the management in different public sector undertakings may differ, the ownership remains the same. The existing disparities in the wages/salaries/fringe benefits, etc. amongst the public sector undertakings have become causes of industrial disputes. These intra-enterprise wage differentials could be attributed to their size, turnover, profits, skills of the employees, and nature of jobs performed.

The Bureau of Public Enterprises (BPE) has been instructed by the Finance Ministry that the wage structure in public sector should be linked to the productivity of the workmen and the performance of the concerned unit. The BPE has drawn up a set of guidelines to cover wage revision in public sector.

Wage hikes are also required to be approved by the concerned administrative machinery in consultation with the BPE.

19.4. STATE INTERVENTION

With regard to third-party intervention in labour disputes, there is no difference in the practices followed between the public and private sectors. The legislation which provides for state intervention in industrial disputes makes no distinction between the two sectors; the distinction is rather on the basis of what are known as public utility services. Where disputes have arisen and parties have failed to reach settlement, the good offices of the central/state industrial relations machinery, as appropriate, are made available at the request of either party.

The trade unions allege that the public sector enterprises, specially those under the Central Government, receive some preferential treatment which adversely affect the interests of labour. There is a feeling that public sector undertakings must receive a soft treatment. While there is no provision in law to this effect, in practice the State Governments could not prosecute a public sector unit of the Central Government for any breach of law without the permission of the latter. There is a convention that the State Government should not refer any dispute of central public sector undertakings to a tribunal without the prior permission of the Central Government. However, the Supreme Court observed in the case *of Hindustan Antibiotics Ltd. vs. The Workers* (19671LLJ. 114) that "the same principles evolved by industrial adjudication in regard to private sector undertakings will govern those in the public sector undertakings having a distinct corporate existence. The fact that the disputes between the employers and employees irrespective of the character of the employer are made the subject of industrial adjudication is indicative, though not decisive, of the legislative intentions to treat workers, similarly situated, alike in the matter of wage structure and other conditions of service. The constitutional directive provided in Articles 39 and 43 of the Directive Principles of State Policy will be certainly disobeyed if the State attempts to make a distinction between the same class of labourers on the ground that some of them are employed by companies financed by it and the others by companies floated by private enterprise."

19.5. INDUSTRIAL DISPUTES

Many public sector undertakings have adopted collective bargaining techniques to settle the industrial disputes that arise from time to time. But no uniformity is maintained in the levels of collective bargaining in public enterprises. In several public enterprises, levels of collective bargaining range from shop level to national level. However, in majority of the public enterprises, collective bargaining techniques are limited to plant and corporate levels only.

Table 19.1

Number of Industrial Disputes and Mandays Lost in Public and Private Sector

Year	Number of Disputes		Total	Number of Mandays Lost		
	Public	Private		Public (in '000)	Private (in '000)	Total (in '000)
1981	707	1882	2589	10066	26518	36584
1982	799	1684	2483	10360	64254	74614
1983	884	1604	2488	4453	42406	46859
1984	592	1502	2094	7871	48154	56025
1985	401	1354	1755	3202	26037	29239
1986	389	1503	1892	2572	30176	32748
1987	442	1357	1799	5237	30122	35358
1988	564	1881	1745	6633	27314	33947
1989	615	1771	1786	5740	26924	32663
1990	628	1197	1825	5736	18351	24086
1991	653	1157	1810	4145	22284	26428
1992	617	1097	1714	1924	29334	21259
1993	359	1034	1393	2292	18009	20301
1994	316	885	1201	1316	19667	20983
1995	343	723	1066	4794	11496	16290
1996	381	785	1666	3151	17134	20285
1997	448	857	1305	2181	14791	16971
1998	283	814	1097	7576	14486	22062

Source : Indian Labour Year Book 1992 and 1998.

Table 19.1 shows that the magnitude of industrial disputes and mandays lost in the public sector enterprises are less as compared to its counterparts in the private sector. Although mandays lost were less, productivity has been lesser in many public sector units as compared to the private sector enterprises. As a matter of fact many of them are running on a loss. There are certain other variables that affect production potentialities. Trade unions in the public sector adopt strategies like go slow, tools down, pen down, work to rule, etc. instead of direct action. Many of them, being in essential services, are highly vulnerable to threats of strike as this will totally dislocate national economy. Being in strategic and essential industries, the work force in this sector is in a crucial position to hold the society to ransom.

There was a general strike among the five Bangalore based Government of India undertakings in 1981. The affected companies were Indian Telephone Industries, Hindustan Aeronautics, Hindustan Machine Tools, Bharat Electronics and Bharat Earth Movers involving about 1,25,000 workers. The major issue for the strike was the demand by the unions in these companies for parity in minimum and other wage standards with Bharat Heavy Electricals Ltd., where a settlement was signed in January 1980. The strike was characterised by a number of features worth noting. First, the strike was not unit-wise, nor industry-wise, but a general strike of all public sector undertakings. Second, the strike lasted for 77 days. In the public sector, general strikes usually do not last for such a long time as they cover workers of many

diverse industries with different industrial cultures. Third, the extraordinary aspect of the strike is the reversal of roles between the Central Government and the striking unions. In the public sector industries, irrespective of the nature of industries or profitability, the normal approach of the government is to have a civil service type of standardised and uniform compensation systems and work conditions. This was the approach with which the Bureau of Public Enterprises was set-up. But, however, the government made a departure from its usual approach. The unions, on the contrary, insisted on parity in wage scales with that of the BHEL employees.

19.6. WORKERS' PARTICIPATION

The scheme of workers' participation in management is functioning in certain public sector enterprises. The steel industry is a shining example of workers' involvement in different tripartite bodies. Each steel plant has worked out its own pattern and implements it in close cooperation with the recognised union and other unions. There are orientation programmes for the members of the joint committees to make participation more effective and meaningful. There is a permanent secretariat in each plant headed by a senior officer of the personnel department to assist the joint committees. The gamut of participation falls broadly into two categories such as, work-based and welfare-based. A review of the working of the system is undertaken in each quarter. Besides plant level arrangements, the steel industry has a joint consultative committee at the national level.

In most public sector undertakings, however, it has been found that the communication between workers and management has been, by and large, not satisfactory and that the machinery for joint consultations and joint councils of management had either not been organised adequately or were not functioning effectively.

19.7. INTUC PUBLIC SECTOR UNIONS' CONFERENCE

The fourth National Conference of the INTUC affiliated public sector unions was held in Bombay on September 2 and 3, 1981. It pleaded for further expansion of the public sector and criticised the motivated propaganda against the non-profitability and inefficiency of the public sector". The Conference adopted a declaration "the Nation's Stake in the Success of Public Sector," some excerpts of which are given below:

The success of the public sector undertakings cannot be measured by a mere profit index. Several of them are in the core sector providing necessary infrastructure for the other industries in the country. If these embark on showing profits, cost of production in the other industries might have to go up. Nevertheless, the huge investment in the public sector should yield satisfactory return and prices of all commodities manufactured in the public sector must ensure a reasonable return of the capital employed. There were losses of Rs. 74 crores in 1979-80. The proposed investment in the public sector during the Sixth Plan period is Rs. 97,500 crores and it is imperative that this colossal investment has to be made fully productive. Towards this end, steps must be taken to ensure considerable improvement in the performance of all the undertakings in the sector. There can be no two opinions that the public sector has been, by and large, successful in fulfilling its social objectives like development of backward regions, generation of additional employment and protection of the employment already existing. But in the context of its poor corporate performance, there is the imperative need for a complete reorientation in our approach to the management of the various public enterprises. Considering the large investment to be made during the Sixth Plan period, the nation's stake in ensuring all-round success of the public sector has gone very high.

There is complete absence of intellectual commitment to the philosophy of public sector among most of the existing management personnel. The top executives are either drawn from the administrative services or larger private sector establishments. The top executives from the administrative services generally evince no adequate interest in the performance of the units they are in charge of and conduct themselves as birds of passage. Their approach to discipline management is bureaucratic and not result- oriented. Those recruited from the private sector are devoid of any awareness of the philosophy of or the need for public sector. Many of them continue to own their loyalty to the private sector which views the public sector as a rival. Besides, they import private sector practices in the public sector. A few top executives drawn from the police or armed forces or retired persons are included in top positions in the public sector units and they find themselves in strange waters. There is need, therefore, for imparting education to the management personnel on the philosophy and role of public sector in a developing economy like ours. The Conference would appeal to the Government of India to take immediate steps for the establishment of a National School of Public Sector Management. There may be in-house training programmes in several large public sector units, but they deal largely with the problems at the macro level and do not deal with the basic culture.

The main task of the Bureau of Public Enterprises is to give broad guidelines and assistance to the managements in the operation of public enterprises. Unfortunately, the Bureau too is manned by bureaucrats with the result that the entire sector is more of a bureaucratic show. There is also the widespread complaint that there is increasing interference from the Bureau in the administration of the enterprises, including in collective bargaining. The Bureau needs to be reorganised so as to comprise experts in different disciplines of management such as material management, financial management, personnel management, etc. Labour representatives should also be included so that the Bureau may be effective in guiding and assisting the enterprises to achieve maximum productivity.

In order to make the public sector less bureaucratic it is desirable to revert to the old practice of appointing eminent public men as chairmen of public enterprises. This will help the chief executive to be properly guided and oriented. The combination of the office of both the chairman and the managing director in the same person is proving the charge that public sector is becoming a bureaucratic sector. While the public sector units necessarily have to be large in size, we must see to it that no public sector enterprise becomes too large to be too unwieldy.

There is a marked deterioration in the industrial relations in the public sector as a whole. Indiscipline, hooliganism, vandalism and violence seem to have crept into industrial relations of late in some of the units. The approach to industrial relations remains the same as in the private sector that nurtures only mutual distrust. Some of the managements in the public sector are also responsible for the rapid deterioration in this regard. In an attempt to cover their own failures, these managements have been extending encouragement to those trade unions who indulge in avoidable direct action and agitations to the detriment of production. Unless immediate steps are taken to put an end to this unhealthy trend, the situation may turn to be disastrous. Some of the trade unions are also partly responsible for this rapid deterioration in industrial relations. The rivalry arising out of multiplicity of unions is harming the public sector as a whole.

Very often strikes in the public sector are politically motivated. Labour in the public sector is being utilised to fight political battles. This section of trade union movement strives to convert the public sector unions as an anti-government sector. There is a great responsibility on the unions operating in the public sector to realise that more than a half of the population is below the poverty line and it is the

successful working of public sector that can avoid the answer to the expectations of the vulnerable sections of our population.

One union in one industry is not a complete-slogan. What is needed is one good union in one industry. The controversy whether a union should be recognised on the basis of result found through secret ballot or verification of membership has missed the real point. What is required is not mere numbers, for numbers without quality will not deliver the goods. There is, therefore, need for giving stress on quality. In other words, just as we have quality control in all other fields, we should have quality control for trade unions also. It is high time for the people of the country to decide as to what sort of trade unions the country needs and ensure that quality among trade unions which pass the qualification test. This will also reduce the mischief from multiplicity of trade unions (Industrial Relations Letter, India Press Agency, Vol. XVIII No. 61, September 29, 1981).

The first ever special conference of the Centre of Indian Trade Unions (CITU) covering public sector trade unions was held at Bangalore on May 27-28, 1987. It expressed strong disapproval of the recent pronouncements of the Union Government. The conference declaration said: The indications of government policy is reflected in the Planning Commission's drastically curtailing of public sector outlay, the refusal of the Government to take over the sick units and run them in the public sector, the decision to liquidate the public sector undertakings which have been stamped as "not viable", freedom given to foreign monopolies to dump their products in India which can be produced indigenously by the public sector in the name of import liberalisation, open facilities given to private sector tycoons to compete with the public sector and similar other measures by the Government of India.

Over and above this, the reckless drive for the modernisation, mechanisation and computerisation of public sector undertakings without objectively finding out whether they are required at all, has not only added to the outflow of foreign exchange resources but has posed serious threat to the job security of existing 21 lakh employees working in the public sector all over India.

The declared objective of the public sector to build a self-reliant economy is being given a go-bye by the Government of India which is increasingly yielding before conditionalities of the International Monetary Fund and the World Bank. There is no wonder that several spokesmen of Regan Administration and Thatcher Government have welcomed with open hand the recent economic measures taken by Rajiv Gandhi's government.

This meeting is of the opinion that the public sector is being run in the most unpublic sector-like manner in India due to bureaucratic handling by the unconcerned top heavy administration, non-accountable management, bad planning, wasteful expenditure, pilferage of huge funds and prevalence of corrupt practices. The over reliance on contractors who mint money at the cost of public sector funds, results in exploitation of lakhs of workers by denying them adequate wages, and social security benefits. The Bureau of Public Enterprise, under the Ministry of Finance, instead of taking measures against these malpractices has issued idiotic fiats which have only added to the bungling in the public sector undertakings.

All this has resulted in emboldening the big business houses in India to launch a ferocious offensive against the very concept of public ownership and to claim its economic superiority over public sector units. The meeting wants to make it clear that the private sector is indulging in several malpractices such as tax evasion, misuse of government machinery by unabashed bribing of officials, resorting to

unscrupulous business practices and ruthlessly exploiting the workers. The growth of black money to the tune of Rs. 37,000 crores as per official estimation, excluding the amount generated in smuggling operations, speaks volumes for the anti-social nature of private sector in the country. The Government's economic policies only give grist to the mill of the private sector. The admission of the Government spokesmen that over 80000 units are either sick or closed down at the end of 1983 also underlines the incapacity of the private sector to meet the social needs.

The working class of India, despite its strong criticism of the public sector, wants it to grow and work more efficiently. Despite the cooperation offered by the trade union movement in public sector the government did not take it and relied more on bureaucracy who always pass on the blame for the bad performance of the public sector to the trade union movement and the workers in the public sector.

The new scheme of workers' participation in the management is an eyewash and does not give any powers to the workers. Moreover, since the representatives of the workers are not elected through secret ballot, it becomes only participation of the "yes-men" by keeping managements' prerogatives intact. Without any participation on the basis of equality and ensuring full democratic rights to the workers no scheme of participative management can be successful.

The use of CISF against workers, the promulgation of ESMA and NS A during strikes, draconian amendments in the industrial relations legislation has evoked strong resentment among the workers of public sector undertakings.

The valuable help, given by the socialist countries to India through public sector undertakings, is being misused by the capitalist landlord government to suit their class interest. The working class of India therefore, wants proper use of this aid so that the country will go in the direction of building a self-reliant economy.

The working and living conditions of the workers in the public sector are far from satisfactory. There is vast difference between wage levels in different undertakings, and working conditions vary from unit to unit depending on the organised strength of trade union movement. Absence of proper recruitment and promotion policies is causing demoralisation among the workers, while the reservation policy is implemented by the Government in a manner that pits one section of the workers against the other. The ceiling of Rs. 1600 in the Payment of Bonus Act is depriving a large section of workers from the purview of bonus. The incentive schemes in public sector have become misnomer and there is strong resistance from the management to revise them upwards. With next round of wage negotiations on the corner, the workers are expecting wage rise to protect their real standard of living.

This meeting warns the working class in the public sector of the recent steps being considered by the Government of India to scuttle the bipartite wage negotiations machinery and impose a discarded wage board mechanism on the workers in the public sector undertakings as per recommendations of Arjun Sen Gupta Committee. The meeting appeals to the trade union movement to defeat this constituency in the same manner as it had defeated the BPE guidelines during the recent phase of wage negotiations and to maintain the hard-won right of collective bargaining for the public sector workers.

This meeting, therefore, calls upon the working class and the trade union movement in India to close up their ranks and to join the countrywide movement to achieve the following demands:

(1) Withdraw all the concessions given to multinational companies and big business houses by the Government of India. (2) Stop imports of all products and equipments which can. be produced indigenously and development of indigenous production to achieve self-reliance. (3) End all bureaucratism and malpractices in public sector and introduce genuine scheme of workers' participation in the management through elected representatives with full powers and status of equality. (4) Develop more public units by taking over all the sick and closed units and save lakhs of workers from starvation. (5) Nationalisation of cotton textile, jute and other industries and running them efficiently in public sector. (6) Unhindered trade union rights to the public sector workers and withdrawal of all anti-working class measures taken by the Government of India. (7) Development of employment-oriented projects in public sector and withdrawal of ban on recruitment. (8) Abolition of contract system in the public sector undertakeings. 9) Accept the legitimate demands of the workers relating to further improvement in their working and living conditions. (10) Full protection of job security of women workers in public sector. (11) Scrap the Bureau of Public Enterprise in its present form (IRL-IPA, June 15, 1985).

19.8. NCL SUGGESTIONS

The National Commission on Labour has suggested the following measures to improve the industrial relations in public sector enterprises:

(i) Government should clearly determine the special responsibilities to improve the industrial relations in public enterprises.

(ii) Managers in public enterprises should take an active interest in implementation of labour welfare schemes and adopt such labour policies which would increase the efficiency and productivity of workers.

(iii) Managers and workers of public enterprises should be given sufficient training with regard to industrial relations and managerial styles.

(iv) Public enterprises should take effective actions regarding enforcement of labour laws and fulfil the duties assigned to them under different labour laws.

(v) Managers of public enteprises should not encourage carelessness and indiscipline in workers to prove that they are Model Employer.

(vi) Managers in public enterprises should be appointed on permanent basis.

(vii) There should be a separate department of industrial relations under the control of personnel department in public enterprises.

(viii) Officers responsible for industrial relations should not be assigned the duties of personnel functions, viz., appointment, promotions, disciplinary proceedings, etc.

(ix) Labour officers appointed in the personnel department should be professionally trained and experienced in industrial relations.

(x) Industrial Relations Commission should be constituted at central and state level to formulate effective industrial relations policies.

19.9. SUMMARY

Appropriate handling of industrial relations in the public sector will always remain a challenge for managers. The overall responsibility for a national coordinated labour policy will naturally rest with the government. The middle level managers and the first line supervisors need to be helped and made to exercise their supervisory and managerial functions more effectively. There must be suitable delegation

of authority to ensure speedy decisions and effective action at appropriate levels. An ideal method of securing public accountability has to be'evolved while leaving, at the same time, enough autonomy to the enterprises to manage their own affairs. The persons who are incharge of public sector units must be genuinely inspired by the economic philosophy and human approach underlying the concept of public sector. The government has to take a positive and forward-looking attitude concerning labour relations in the public sector. In the case of a multiple union situation, a uniform procedure of union recognition will have to be evolved for all public sector undertakings. Existing machinery for consultation, negotiation and even joint decision in certain matters is to be made effective and new systems have to be worked out for better labour-management relations in the public sector enterprises. The ultimate aim of the relationship scenario between union and management in the public sector undertakings should be the creation of a climate of trust and mutual appreciation and understanding of each other's functions and limitations.

19.10. SELF ASSESSMENT QUESTIONS

1. What is the state of industrial relations in public sector undertakings?
2. What are your suggestions to improve industrial relations in public sector enterprises?

19.11. REFERENCES AND SUGGESTED BOOKS FOR FURTHER READING

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Lesson : 20

INDUSTRIAL RELATIONS IN U.S.A., U.K., GERMANY AND JAPAN

OBJECTIVE

The learners at the this lesson is expected to understand the industrial relations in USA, UK, Germany and Japan. Union comparisons across the countries also discoed at the end of this lesson.

STRUCTURE

20.1. INTRODUCTION

Before we discuss the industrial relations in various countries. The key issues in labour management relations as they relate to their respective countries we need to consider some general points about the field of international labour relations. First it is important to realise that it is difficult to compare industrial relations systems and behaviour across national boundaries; a labour relations concept may change considerably when translated from one industrial relations context to another. The concept of collective bargaining, for example, in the United States is understood to mean negotiations between a labour union local and management; in Sweden and Germany the term refers to negotiations between an employers organisation and a trade union at the industry level. Crossnational differences also emerge as to the objectives of the collective bargaining process and the enforceability of collective agreements. Many European unions view the collective bargaining process as an ongoing class struggle between labour and capital, whereas in the United States union leaders tend toward a pragmatic economic view of collective bargaining rather than an ideological view. Second, it is generally recognized in the international labour relations field that no industrial relations system can be understood without an appreciation of its historical origin. As Schregle has observed. A comparative study of industrial relations shows that industrial relations phenomena are a very faithful expression of the society in which they operate, of its characteristic features and of the power relationships between different interest groups. Industrial relations cannot be understood without an understanding of the way in which rules are established and implemented and decisions are made in the society concerned.

20.2. INDUSTRIAL RELATIONS IN USA

Industrial relations in the U.S.A. as in other industrialized countries of the world are closely linked with the organized labour and trade union movement in that country. The labour movement in the early days of the Republic in the United States encountered difficulties in the formation, development and functioning of the trade unions owing to the employers not willing to recognize such unions. During the period 1820 – 1840, most of the factory – owners showed an attitude of indifference towards labour. Sunrise to sunset was the usual working day. It was in 1828 that trade associations in New York secured a ten – hour working day. With the expansion of trade between the states, one could witness the tide of competition between manufacturing units in different states. This led to the setting up of the National Trade Union in New York City in 1834. An important landmark in the history of labour organizations in the United States is the formation of American Federation of Labour in 1886 under the presidentship of labour leader Samuel Gompers.

The industrial relations system in the U.S.A. consists of two rather distinct sectors: a unionized sector and a non – union sector. The unionized sector has historically been characterized by openly adversarial relations between labour and management. The unions reflected the aspirations of their members and adopted goals which seemed most important to the workers. Though of late, the unions have pursued wider goals and interested in cooperation with management, their emphasis continued to be on practical improvements in wages, hours and conditions of work. The non – union sector is characterized by broad management discretion and control over the terms and conditions of employment. These two sectors interconnect in many ways and share common legal and social underpinnings, but do differ significantly.

In the U.S.A of all the participants in the industrial relations system, it is the employers who have generally been the most powerful of the actors. In 1992 the non – union sector of the American work force included more than 80 per cent of the workers. Throughout most of this sector, redundant workers can be laid off. Furthermore, the conditions under which employment takes place are essentially employer– determined. Limited only by labour market forces and the protective labour legislation.

The American employers in many cases were known to have resisted the growing strength of organized labour by forming “Company Unions”. The law courts were also hostile to the trade union movement and employers were able to obtain from them injunctions to restrain the activities of unions. Trade unions in the U.S.A. had to muster strength to meet the growing might of the big industrial corporations. With the result, the trade union membership increased by leaps and bounds in the post – depression years.

By the early twentieth century, the Federal Government which so far had not been taking much interest in the labour movement began to play a significant role in this direction. President Roosevelt’s efforts had been all through to raise the standard of living of the working class. Gradually, there was a significant improvement in industrial relations and collective bargaining. The collective bargaining purposes of unions were recognized by the Norris LaGuardia Act of 1932 which prohibited anti – union activities of employers. Then came the National Industrial Recovery Act of 1933 which guaranteed to labour the right to bargain through representatives of its choosing, a right reiterated by the National Labour Relations Act (Wagner Act) of 1935. This Act was passed with a four – fold purpose, namely: (i) to protect the worker’s right to join a union of his own choice and to organize without interference from his employers; (ii) to compel the employer to recognize and bargain with the most representative

union; (iii) to provide for election machinery to determine the most representative union any unit; and (iv) to forbid certain unfair labour practices in order to coerce the employers.

The most common type of current American union is the business union. It stresses economic advantages to be gained through collective action. Business unionism depends in large measure on the process of collective bargaining to achieve its objectives. Collective bargaining describes the process in which conditions of employment are determined by agreement between representatives of an organized group of employees and one or more employers. It is called “collective” because employees form association that they authorize to act their agent in reaching an agreement and because employers may also act as a group rather than as individuals. It is described as “bargaining” in part because the method of reaching an agreement involves proposals and counter proposals, offers and counter offers.

American unions vary in the types of workers that they include as members. In the American colonies, for example, each local union usually include members of a single craft. These craft unions were supplemented, after the middle of the nineteenth century, by industrial unions, which included workers with a variety of skills employed in a single industry. Many of the largest and most powerful unions in the US today are industrial unions. In the US, the large majority of all union members belong to organizations affiliated with AFL – CIO. They are described as affiliated unions. There are company unions whose membership is confined to the employees of a single firm.

In order to certain the allegation of the employers that the Wagner Act was one – sided, the Labour – Management Relations Act(Taft – Hartley Act) was passed in 1947. This Act defined unfair labour practices by unions, which included “closed shop” system. * It made labour contracts enforceable in federal courts. More spectacularly, it provided for federal injunctions against strikes threatening to cause national emergencies. Such strikes can be prohibited for an eighty – day “cooling – off” period during which intensive federal efforts at resolving the dispute can be undertaken. The Act is administered by the National Labour Relations Board (NLRB) which acts as an industrial court, dealing with complaints of “unfair industrial practice” under the Act.

In 1955, the Congress of Industrial Organization(CIO) merged with the American Federation of Labour (AFL). Since the merger, numerous important developments have highlighted the labour relations scene: (1) passage of the Landrum – Griffin Act, which responded to public concern over racketeering and undemocratic practices within unions; (2) the rapid growth of collective bargaining for public employees, especially after 1965; (3) the growing concern about job security in the face of technological change and a sometimes stagnating economy; (4) the labour movements need to adapt its policies to the public debate over job discrimination and equal employment opportunity; (5) the growth of labour relations in the health – care industry; (6) internationalization of the American economy: and (7) growing management opposition to unions.

The national unions in the U.S.A. are affiliated with the AFL– CIO. The AFL– CIO is sometimes called as a “union of unions”. That is an apt term because it is federation, not a labour union in the normal sense. Union membership of AFL – CIO affiliates represent approximately three – fourths of all union members in the United States. The national unions are made up of locals to which the individual members belong. The unions are organized either on craft basis covering all skilled occupations or industrial lines covering all the employees in an industry. Only 22 per cent of the US workforce belong to trade unions, this figure having fallen from 35 per cent in 1945. Unions are, however, strong in

engineering, motor manufacturing, ship is expanding. The AFL – CIO is rich and influential, but several major unions are not affiliated to it. Strong employers confederations have also kept trade union power in check. Like those in Germany, American trade unions work in support of rather than against the capitalist system. They are not affiliated to any political party but they generally support the Democratic party, and often help to raise funds for Democratic candidates.

The fundamental characteristics of the American Labour Movement are as follows:

1. goals which are largely those of 'bread and butter' unionism;
2. a strategy that is mainly economic;
3. collective bargaining as a central well developed activity;
4. relatively low total union density;
5. strength vis – a – vis the employer on the shop floor;
6. an organizational structure in which the national union holds the reins of power within the union;
7. financial strength;
8. leadership drawn largely from the rank– and – file;
9. The extent of unionization varies considerably by occupation, industry, geographic regions and gender.

Even though there are national unions, the American pattern of negotiation is usually unit – wise or company – wise. The much greater reliance on collective bargaining by U.S. unions makes the union – management process and the collective agreements produced by the process more complex and conflict – prone. Such critical issues as health insurance, paid vacations and paid holidays, protection against lay – offs, and others are almost exclusively the province of collective bargaining in the private sector in the United States.

The labour Management Reporting and disclosure Act (Landrum Griffin) Act of 1959 requires annual reports from unions regarding their financial affairs as well as reports from management regarding union – related financial transactions.

A Federal Mediation and Conciliation Service exists in the U.S.A. and is required to intervene to take steps to prevent strikes but it is unusual for either unions or employers to ask for its assistance in disputes. In practice, however, the conciliators do attend collective negotiations as observers and intervene in cases of extreme deadlock in negotiations. If agreement cannot be reached through negotiation, reference is usually made by mutual consent to voluntary arbitration. The system of voluntary arbitration is highly developed. The American Arbitration Association maintains regular panels of professionals arbitrators possessing the requisite expertise and adequate experience of arbitration handling. Drawn largely from university research departments and the legal profession, the arbitrators have developed by experience a professional standard which inspires confidence in both sides of industry. Voluntary arbitration which also deals with the interpretation of agreements has come to hold a special place in the American system of industrial relations.

The labour – management partnership between the Saturn Corporation and the United Auto Workers (UAW) is perhaps the boldest experiment in U.S. industrial relations today. It was created through a joint design effort that included the union as a full partner in decisions regarding product, technology,

suppliers, retailers, site selection, business planning, training, quality systems, job design and manufacturing systems.

Intense international competition over the two decades has motivated many U.S. industries to attempt a restructuring of their production systems. This restructuring has in turn generated a need to rethink the human resource management, industrial relations, and employment practices that support those production systems. Just – in – time inventory practices stress the need for co – ordination in production systems as each department adds value and then transfers product down – stream without the buffers excess inventories historically provided.

Attempts to transform work organization, employment practices, and the relations between labour and management have taken a wide variety of forms, ranging from quality of work life and socio – technical systems interventions. Recent evidence suggests that some of those efforts to transform workplace practices are well worth the investment.

20.3 INDUSTRIAL RELATIONS IN U.K.

Britain was the first country to industralise. It was also the first country to evolve a set of industrial relations institutions. In consequence, industrial relations in Britain has an historical continuity and a longevity which are exceptional among the industrialized countries.

Three distinctive characteristics of British industrial relations are: firstly, the tradition of voluntarism; secondly, the representation of workers through trade union officers at workplaces in the form of shop – stewards; and thirdly, the organization of trade union membership along occupational rather than industrial lines. In Britain, industrial relations have come to mean the long – established and well – tried system of bargaining between employers organizations and trade unions. The rates of pay and other terms and conditions of employment of a majority of employees are determined by collective agreements, voluntarily entered into between trade unions and employers or their representatives. Collective agreements are not legal contracts of service, binding individual employers and work people. Their terms are not, therefore, directly enforceable in the civil courts, and their observance depend primarily on the good faith and mutual respect of employers and trade unions. Despite the general effectiveness of the voluntary machinery which has been established in nearly all branches of industry, differences are bound to arise in cases of failure in reaching settlements. The state helps in preventing and settling such differences. This help is rendered by the Ministry of Labour under statutory powers derived from different enactments. The normal method by which assistance is given are: conciliation, arbitration, and investigation or formal inquiry.

Following the report of Labour Commission published in 1984, the Conciliation Act of 1896 was passed. It empowered the board of Trade to investigate disputes and to arrange for conciliation or, if the parties agree, to appoint an arbitrator. It emphasized the voluntary principle which has always been typical of British legislation on the subject. The success of the Act is reflected in the steady growth of registered conciliation boards which prevented a large number of strikes and the labour machinery was found inadequate. In October 1916, the government appointed the whitely committee which recommended the formation of joint industrial councils in well – organized industries; the appointment of works committee in partly organized industries; and regulation of wages in unorganized industries. The Committee also proposed the formation of National Joint Standing Industrial Councils and District Councils on a voluntary basis. The Industrial Court Act of 1919 was enacted embodying the proposals of the Whitley Committee. Under this Act, a permanent arbitration tribunal was set – up to arbitrate in

trade disputes at the parties request. It also gave the Minister of Labour the power to refer any matter to an ad hoc court of Inquiry which reports and makes recommendation but does not make an award. Its function, therefore, is more of mediation than of arbitration.

The permanent arbitration tribunal changed its name to industrial Arbitration Board in 1971, and that in turn was replaced by the Central Arbitration Committee (CAC) in 1976. The CAC inherited various functions from its predecessors. It continues to provide voluntary arbitration at the request of both parties, although other facilities for this are also available. The CAC has also a number of new functions which have been given to it by recent statutes. Under the Equal Pay Act of 1970, for example, the CAC has the power to amend collective agreements or pay structures which are discriminatory. Compulsory arbitration has never been as central an element in British third – party intervention as in some countries such as Australia and New Zealand.

After 1950s it was felt that collective bargaining sustaining the industrial relations in Britain was developing cracks and it needed to be rapaired and strengthened well in time. The government wanted the collective bargaining to play a stable and constructive role in concluding agreements particularly at company and plant levels. At the same time, the government wanted both the parties to the agreement to honour their commitments. With these objects in view, the Industrial Relations Act, 1971 was passed. This Act sought to gather all relevant legislation since 1871 on one status and to impose a legal code of behaviour on the relationship between trade unions and employers, between the unions and the new institutions set up under the Act, and between individual workers and trade unions. Central to it was a new category of unlawful acts called “unfair industrial practices” which were matched by substantial penalties. The Act established a new superior court of record, the National Industrial Relations Court, presided over by judges drawn from the High Court and Court of Sessions with all the powers of a High Court. The Act laid down statutory procedures with the intention of promoting trade union growth and recognition and for eliminating strikes over recognition issues. However, the Trade Unions and Labour Relations Act, 1974 repealed the Industrial Relations Act, 1971.

The industrial Relations Act of 1971 constituted a radical attempt recognize industrial relations within a legal framework. The Act aimed to encourage legally enforceable collective agreements, to reform collective bargaining to make unions liable for controlling and disciplining their members, to give union members greater rights against their union, and to restrict industrial action. The Act was largely ineffective for a variety of reasons. The Act was, however, repealed and another Act was passed known as Trade Union and Labour Relations Act, 1974. It contained various provisions relevant to trade unions. The Employment Protection Act, 1975 introduced measures designed to support and extend collective bargaining. Independent trade unions could apply for recognition to employees under the Act.

The Act of 1974 contained new provisions relating to trade unions, employers associations, workers and employers, including unfair dismissals and connected matters. The National Industrial Relations Court and the Commission on Industrial Relations were wound up and the concept of “unfair industrial practice” was dropped. The main thrust of this enactment is to do away with the restrictions imposed by the Act of 1971 on trade unions and their traditional methods and practices and to confer upon them certain rights and privileges so as to make them legally more secure.

The Trade Union and Labour Relations Act, 1974, defines a trade union as an organization which consists of workers whose principal purposes include the regulation of relations between those workers

and employers or employers associations. In Britain, most of the large and important trade unions are affiliated to the Trade Union Congress (TUC), which caters for a total membership of over eleven million workers. The official functions of the TUC are: (1) to do anything to promote the interests of all or any its affiliated organizations; (2) to improve the general economic and social conditions of workers in all parts of the world and to render them assistance wherever necessary; (3) to affiliate to or subscribe to or assist other organizations having objectives similar to those of the congress; and (4) to assist in the complete organizations of all workers eligible for membership to its affiliated organizations, and to settle disputes between members of such organizations and their employers or between such organizations and their members or between the organizations themselves.

Collective bargaining remains the prime method for regulating industrial relations in Britain. In the public sector, public services and nationalized industries have a statutory duty to establish a negotiation machinery and to have provisions for the referral of resolved disputes to arbitration. In carrying out these duties, they are free to choose the arrangements that suit them. The agreements adopted vary substantially from one nationalized industry to another. It is generally accepted that the official third – party provision should not undermine existing collective bargaining arrangements. Inasmuch as conciliation, mediation, and arbitration provide a feedback service, they are useful adjuncts to collective bargaining. The state can make provision for such services to be available; the parties must be left to decide whether and when to use them.

To sum it up the words of Royal Commission on Labour (1968), “Britain has two systems of industrial relations. The one is the formal system embodies in official institutions. The other is the informal system created by the actual behaviour of trade unions and employers associations, of managers, shop stewards and workers. The formal and informal systems are in conflict. The informal system undermines the regulative effect of industry wide agreements. Nevertheless the assumptions of the formal system still still exert a powerful influence over human minds and prevent the informal system from developing into an effective and orderly method of regulation.”

20.4. INDUSTRIAL RELATIONS IN GERMANY

The industrial relations system in Germany is not an isolated phenomenon but part of a historical process. This process is called the process of transformation of capitalism into a system of social reform. Trade unions were reestablished on industrial lines after Second World War, following the destruction of earlier political/religiously divided movement in the mid 1930s. At present, trade unions in Germany are few and large and they are free from political interference. Manual or blue – collar workers are organized into seventeen industrial unions embracing membership of all the workers in the industry regardless of their skill or craft. These unions which represent about 37 per cent of the labour force are joined together in the German Confederation of Labour (DGB). The Deutscher Gewerksheftbund (DGB) does not engage directly in collective bargaining with industry; it has role in the development of national economic and social policies and carries on extensive educational and research programmes.

German unions have become big business. Together with the cooperative movement, they own the fourth largest bank and the second largest insurance company in the country. In addition, they operate largest housing development and rental company, a chain of over 5,000 stores, a book and record publishing company, a travel agency, and auto club, and several factories producing household goods. The DGB has no political affiliation. The individual trade unions are wholly autonomous.

Under the Collective Bargaining Agreement Act of 1949, as modified in 1952, unions are required to be independent of political and religious organizations. They are not permitted to contribute funds directly to any political party. The unions have the right to appoint officials to many government boards and agencies, such as the labour courts, and the social security, post – offices, and railroad boards. To a considerable extent the union movement has used the political process rather than collective bargaining to achieve major social goals.

Just as the German Constitution gives the workers the right to form unions, it also gives employers right to form employers associations. Employers associations are protected and controlled under the Collective Bargaining Agreement Act. It is estimated that there are eight hundred such associations, most of which are affiliated with the BDA, the national employers association. The BDA itself does not engage in bargaining but does lay down broad guidelines and offers advice and assistance to its member associations. The BDA and its affiliates carry on extensive educational to provide benefits to employers during strikes or lockouts.

German law differentiates between disputes over rights and over interests. Strikes are legal only if over interests – e.g., over a deadlock in collective bargaining. They are unlawful if concerned with rights – i.e., the interpretation of existing legal rules – which must be resolved by the Labour Courts. Strikes and lockouts are unlawful if they are in breach of a collective agreement; also if they are for any purpose other than the improvement of terms and conditions of employment; so political strikes or sympathy strikes are unlawful.

The Labour Courts Act of 1953 established a special system of labour courts that consists of 113 local courts, one state court for each state, and one federal court. Each local labour court is composed of one professional judge, one lay member appointed by the unions, and one lay member appointed by the employers. The labour courts have jurisdiction to hear disputes relating to labour agreements and also over the interpretation of labour legislation. Complaints may be brought by individuals as well as by collective groups.

There is provision in Germany for compulsory conciliation procedures. These normally take at least six weeks, and it is unlawful to strike until these procedure have been exhausted. A strike by workers in a public utility is only legal if the union concerned gives notice of the strike and sets out the measures necessary to maintain essential services. All the DGB unions except one require a secret ballot of workers involved and in most cases they cab only called out on strike if the vote in favour is at least 75 per cent. This safeguard is popular with German workers.

In the German industrial relations system, collective bargaining and workers participation are more or less integrated. Both sub – systems differ in their legal foundations and in their relations to the unions. There is a clear distinction between external collective bargaining between employers role of works councils within the field of employment, income, working conditions and vocational training. Participation provides the tools for developing manpower planning, new forms of work organization, work safety, training schemes, etc. The works councils in Germany are particularly strong and have legally prescribed rights of co – determination. They are responsible for major conflict – handling role, with access to arbitration where necessary. Nevertheless, collective bargaining remains the most flexible instrument of the industrial relations system.

The unification of Germany has, for most practical purpose, simply spread the former West Germany system of industrial relations, including the union structure, to the whole of Germany. Unification is

unlikely to change the system fundamentally, but it has brought problems in reconciling different levels of productivity and different levels of wages, and, of course, in coping with the exodus of workers from East to the West. By 1993 these problems had led to serious unemployment in what used to be East Germany.

20.5. INDUSTRIAL RELATIONS IN JAPAN

According to a publication of Organisation for Economic Corporation and Development (OECD), in Japan mandays lost are proportionately higher than in, for instance, West Germany or Sweden but much lower than it Italy or in the U.S.A. Many of the strikes occur when unions launch their spring offensive for new wage claims at the end of March every year. The duration of strikes is usually short. Lockouts are very rare. The important differences between Japanese disputes in other countries are in kind rather than in quantity. Three characteristics of Japanese disputes are mentioned in the publication. The first is the social pressure towards consensus, which places a heavy responsibility on the parties to resolve a dispute by themselves and without resort to overt conflict. The second is the tendency for industrial action to be taken in demonstrative from as it were, to make the public a ware that the workers feel that the employer has failed to do what ha should to meet to their needs. The third and final is that the union being mindful of the extent to which its members interests are bound up with the enterprise, is likely to refrain from any action likely to prejudice its long- term future.

In official statistics, industrial disputes are classified into those not accompanied by dispute tactics but settled with the interventions of third parties, and those accompanied by dispute tactics. Mandays lost through work stoppages are calculated on the basis of work stoppages lost in more than half a workshift (at least four hours).

A majority of the members involve themselves actively in the democratic decision – making process of the union. Japanese unions attach greater importance to harmony, efficiency and order rather than to individual dignity, freedom and equality. They respect managerial authority. The unions accede to the need for hard work, higher productivity, pride in skill and high quality of goods. A good deal of amity and mutual trust prevails between management and labour. We may also refer to the Japanese NENCO and RINGI systems of labour management cooperation. In the NENCO system, after a probationary period, the worker is given life – long security of his until he reaches the retirement age. While wage differentials depend on seniority and skill, the minimum essential needs of the permanent workers are taken care of. This is in addition to the common finage benefits, like subsidized supply of essential goods, house allowance and other welfare measures. The system motivates the workers, who take pride in the quality of their products and the reputation that their firm enjoys. The Hitachi Corporation employs this system. The RINGI system refers to the manner in which decision – making process proceeds from the bottom to the top. Work policies and suggestions for product improvement are proposed from the work – place and go up the hierarchy until they reach the board. The system seeks to provide a practice where managerial decisions are based on agreement and cooperation of the workers.

20.6. UNION COMPARISONS ACROSS COUNTRIES

There are substantial differences in union strength across countries. Sweden is most strongly unionized with about 85 per cent union membership. In the United Kingdom, Italy, Australia, and Germany the proportion is about 40 per cent. The United States, with about 16 per cent, is at the low end of the scale. In Japan about 25 per cent are union members. The most strongly unionized group in every

country is government employees, with private blue – collar workers next, and white – collar workers the least organized.

The bargaining system varies from country to country. Consider, for example, the case of the United Kingdom. Traditionally, British Union have been strictly private associations, operating with little support or restraint from government. Collective bargaining agreement are short and simple, usually specifying only minimum rates of pay, with employers free to pay more if market conditions warrant. Agreements are of indefinite duration, with either party free to demand changes at any time. There is usually no established grievance procedure, and grievances that cannot be adjusted by informal discussion often lead to walkouts by employees.

In Britain, craft unions predominate, while German unions are organized on an industrial basis to an even degree than in the United States. In Germany collective bargaining focuses on wage rates and hours of work. Many other issues are dealt with through works councils, where workers and management are equally represented. An important feature of collective bargaining in Germany is that agreements automatically apply to all firms in the industry unless the employer and the union reach a separate agreement. In Japan unions at the company level predominate. Many workers have lifetime employment with the firm. Strikes usually are short. There is considerable conflict, especially during the annual spring offensive but also much co – operation.

The Japanese labour system often is said to be based on three sacred treasures, lifetime employment, a seniority based wage system, and enterprise unions. Lifetime employment, Shushin Koyo in Japanese, is central to the Japanese labour system. Not all workers have such job security, however. For example, very few women have access to lifetime jobs. Lifetime employment leads to greater investment by firms in their workers because the firm gains a higher return on such investments. Wage differentials within a firm are relatively low as compared with many other countries and the payment system is the enterprise union. The most distinctive feature of Japanese unions is the predominance of enterprise unions, unions based at an individual firm. Most large firms are unionized.

As the career paths are not very specialized, there is little resistance to technological change in Japan. Workers derive benefit from any new technology that makes the firm more competitive. With lifetime employment and with wages that depend mainly on seniority rather than on the particular job, there is no reason to fear the technological change will eliminate one’s job or lead to a lower paying position.

The Japanese work hard and function well as members of a team. Lifetime employment of regular workers is one key element, but another is the structure of wages, promotions and job rotation. Team members rotate among tasks. There are several reasons for emphasis on job rotation. Primarily, it reduces boredom on the job increases the flexibility of the group.

Japanese industrial relations differ from those in any other country, reflecting aspects of Japanese culture and a distinctive system of employment. Lifetime employment usually exists for many workers in the larger companies, but uncommon in smaller firms. The entire Japanese system produces, considerable loyalty to the company and a concern with the company’s economic performance. The loyalty is further strengthened by the fact that Japanese managers do not stand aloof from works at lower levels but spend a lot of time mingling with them both at work and on social occasions. The dominant feature of the Japanese trade union world is the local union of workers in a particular company.

The local includes manual and white – collar employees, without regard to occupation. Given this structure, collective bargaining is necessarily company – wide. Strikes are unusual and, if they do occur they almost always of the one – day variety.

20.7. SUMMARY

Industrial system has brought about a number of complexities which have rendered the management of people in an enterprise more difficult and complicated than ever before. Traditional industrial relations a gradually giving place to modern industrial relations posing a variety of complex and complicated problems covering both shop floor employees as well as executives at various levels of management. The employer – employee relationship is also subject to change. Obviously, the industrial relations scene in different countries have shown different characteristics and trends signifying dynamic relationship between the parties. The forces of change are operating with such intensity and velocity that it is indeed very difficult to predict the future, more so now than over before.

20.8. SELF ASSESSMENT QUESTIONS

1. What are the fundamental characteristics of American industrial relations?
2. Explain the Industrial Relations system in UK
3. What are the significant features in IR system of Germany?
4. Discuss the Union comparisons across countries.

20.9. REFERENCES AND SUGGESTED BOOKS FOR FURTHER READING

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