

Chapter

1

INDUSTRIAL RELATIONS : DISPUTES AND SETTLEMENT

CHAPTER OUTLINE

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- 1.2 Importance of Good Industrial Relations
- 1.3 Industrial Unrest and Disputes
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INTRODUCTION

Industrial relations are invariably *a combination of cooperation, collaboration and conflict* between labour and management. However, efforts should be made to seek the maximum degree of cooperation and collaboration between them so that organisational objectives may be achieved efficiently. Some degree of conflict always remains because of the following *reasons* :

- (a) Both labour as well as management have different orientations and perceptions which generate generally *negative images about each other*.
- (b) Both the groups claim complete rationality for their demands; because there are *no mutually accepted norms* to guide their behaviour in the pursuit of their objectives.
- (c) Both the groups *don't come on the negotiation table with a clean slate*. They bring with them some carry over effect from the past

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which signifies the existence of conflict between the labour and the management.

1.1 MEANING AND NATURE OF INDUSTRIAL RELATIONS

Concept of Industrial Relations

"Industrial relations are an integral aspect of social relations arising out of employer-employee interactions in modern industries, which are regulated by the state in varying degrees, in conjunction with organized social forces and influenced by the existing institutions. This involves a study of the legal system, and the workers' and employers' organizations at the institutional level; and of the patterns of industrial organization (including management), capital structure (including technology), compensation of the labour-force, and a study of market forces—all at the economic level."

Industrial societies necessarily create industrial relations defined as complex of interrelations among workers, managers and government. According to Casselman's Labour Dictionary,

Industrial relations denote the relations between employers and employees in industry. In a broad sense, the term also includes the relations between the various unions, between the state, and the unions as well as those between the employers and the state".

The above definition reveals that industrial relations arise out of employer-employee interaction in modern industries which are regulated by the government in varying degrees. "The concept of industrial relations has been extended to denote the relations of the state with employers, workers and their organizations. The subject, therefore, includes individual's relations and joint consultation between employees and workpeople at their workplace; collective relations between employers and their organizations and trade unions and the part played by the state in regulating these relations."

EMPLOYER-EMPLOYEE RELATIONS

The term 'industrial relations' refers to all types of relationships between the parties concerned with industry. The parties related to industry are the workers and the management representing the owners. Therefore, the term should not be restricted to mean merely the relationship between union and management, but a vast complex of relationships between management and employees, union and management, union and employees and between employees themselves. However, the major parties to industrial relations are workers and management. Both the parties have a common interest in industry, but many times, they are found to be pulling in different directions which leads to industrial unrest. Therefore, it has become necessary to secure the cooperation of both

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the parties to improve industrial relations, which is a pre-condition to growth and stability of industry. State interference in the regulation of labour-management relations has been constantly growing and thus the area of industrial relations has been extended to relations among the state, employers and employees.

1.1.1 Nature of Industrial Relations

Industrial relations nowadays are not solely determined by direct relationship between employers and employees. State participation in the regulation of labour-management relations has been constantly growing. Hence, the era of industrial relations has been extended to relations of the State with employer's, employees and their organisations. Industrial relations do not constitute a simple relationship between the employers and employees. They are complex and multi-dimensional resting on economic, historical, social, psychological, ethical, political, legal and other variables.

Industrial relations in the modern times call for interdisciplinary approaches to their study. "If we make industrial disputes the centre of a circle, it will have to be divided into various segments. A study of the conditions of work, mainly of the levels 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 combatants, the 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; the legal aspects of disputes under law; the issues arising out of international aid (to combatants) under international relations; the technological aspects (for example, control of temperature and introduction of rationalisation) of disputes under technology and the quantitative assessment of losses incurred by the parties and the country's economy under mathematics.

1.1.2 Aspects of Industrial Relations

Industrial relations refer to the continuing relationship that emerges out of the day-to-day association between the labour and the management. There are two important aspects of such relationship:

- (i) Relations between individual employees and manager(s), called personnel relations.
- (ii) Collective relations between labour unions and management, called labour relations or labour-management relations. The pattern of labour-management relations is shaped by State intervention.

1.1.3 Objectives of Industrial Relations

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INDUSTRIAL RELATIONS : DISPUTES AND SETTLEMENT

The primary objective of industrial relations is to maintain good and healthy relations between the workers and the management in the enterprise. All other objectives revolve around this primary objective. Some of the more important of these objectives are listed below:

- (i) To protect the interests of employees as well as management by securing the highest level of mutual understanding and goodwill among them.
- (ii) To avoid industrial conflicts and minimise the occurrence of strikes, lockouts and gheraos.
- (iii) To minimise labour turnover and absenteeism by providing job satisfaction to the workers.
- (iv) To raise productivity to a higher level which is the need of the day.
- (v) To establish and develop industrial democracy based on workers' partnership in management of industry.
- (vi) To establish government control over industries to regulate production and industrial relations.

1.1.4 Participants or Variables in Industrial Relations

The preceding discussion makes it amply clear that industrial relations are the outcome of the employment relationships in industry. The state influences these relations to a great extent. Thus, there are three major variables in industrial relations as discussed below :

(i) **Employees and their Organisations.** The personal characteristics of workers, their culture, educational attainments, qualifications, skills, attitude towards work, etc. play an important role in Industrial relations. Workers' organisations or associations of workers, known as trade unions, are political institutions. Trade unions are formed for safeguarding the economic and social interests of the workers. They put pressure on the management for the achievement of these objectives.

(ii) **Employers and their Organisations.** These cover work teams, their variations in size, composition and the extent of specialisation they impose, internal communication, employers' associations, and so on. Communication between employers' associations and trade associations is given due importance.

(iii) **Government.** The government exerts an important influence on industrial relations through such measures as providing employment, intervening in working relationships and regulating working conditions through various laws relating to labour. The government keeps an eye on both the trade unions and employers' organisations to keep them disciplined. In case of any dispute, the government can intervene through Conciliation Officers, Labour Courts and Tribunals to restore industrial peace.

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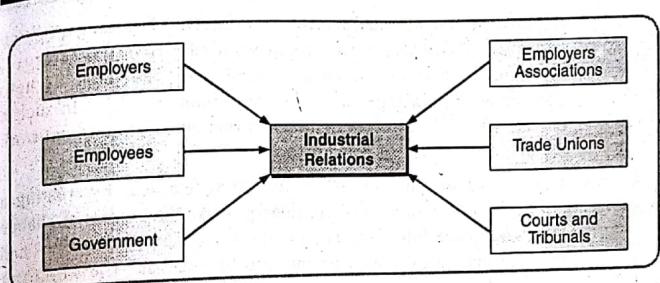


Fig. 1.1. The Parties to Industrial Relations.

1.2 IMPORTANCE OF GOOD INDUSTRIAL RELATIONS

Good industrial relations refer to maintenance of harmonious relations between the labour union and the management in an organisation. In other words, in such a situation, there is absence of industrial disputes between the two parties and presence of understanding and cooperation between them. The importance of good industrial relations cannot be over emphasized in any country. More specifically, sound industrial relations are necessary for the following reasons :

- (i) **Contribution to Economic Growth.** Good industrial relations lead to increased efficiency and economy, and hence, higher productivity and income. This will result in economic growth of the economy.
- (ii) **Establishment of Industrial Democracy.** A business enterprise with good industrial relations settles industrial disputes and solves other common problems of the employees through collective bargaining, mutual negotiations, mutual cooperation and mutual agreement amongst the parties, i.e., management and employees' unions. This assists in the establishment of industrial democracy in the organisation which motivates employees to contribute their best to the success of the organisation.
- (iii) **High Morale of Workforce.** Good industrial relations imply the existence of an atmosphere of mutual co-operation, confidence, and respect within the enterprise. In such an atmosphere, there are common goals and also common approach to achieve the goals, which motivate all members of the organisation to contribute their best to the situation. Consequently, there is higher productivity, higher income, and increased job satisfaction; all resulting in high morale of the workforce.
- (iv) **Enactment of Sound Labour Legislation.** The process of creating and sustenance of good industrial relations involves setting up a machinery to solve problems confronted by management and

employees through mutual agreement. This results in putting a full stop on the unfair practices of unions and employers. To further safeguard the interests of both the parties, good industrial relations help government in making laws forbidding unfair practices. In such a climate both the parties leave their confrontational attitude and work for the achievement of common goals.

- (v) **Facilitation of Change.** Sound industrial relations, by creating a climate of co-operation and confidence, make the process of change easy, and hence full advantage of latest inventions, innovations and other technological advancements can be obtained. The workforce easily adjusts itself to required changes for betterment, without resistance.
- (vi) **Optimum Use of Scarce Resources.** Harmonious industrial relations create a sense of belongingness and also a favourable environment resulting in almost complete absence of industrial unrest, grievances, and disputes. This obviously ensures optimum use of human as well as non-human resources.

1.2.1 Essentials of Good Industrial Relations

The basic pre-requisites of sound industrial relations are discussed below:

- (i) **Mutual Trust.** There should be willingness on the part of both the employers and the trade unions to deal with their mutual problems freely, independently and with mutual respect.
- (ii) **Sound Personnel Policies.** Personnel policies are guides to action in personnel matters. They should be formulated in consultation with the workers and their representatives if they are to be implemented effectively. The implementation of the policies should be uniform throughout the organisation.
- (iii) **Collective Bargaining.** The right of collective bargaining of the trade unions must be recognised by the employers. Collective bargaining is the cornerstone of good industrial relations.
- (iv) **Management Support.** Management must give adequate support to the industrial relations officer in handling employees' grievances and complaints. He should be given sufficient autonomy in dealing with the trade unions.
- (v) **Training of Supervisors/Foremen.** To ensure that organisational policies are properly implemented, the foremen and supervisors should be trained thoroughly so that they may convey to the employees the significance of those policies and practices. They should also be given workers.

(vi) **Co-operation with Government Agencies.** The workers and employees' organisations should be willing to associate themselves with the government agencies in the formulation and implementation of policies relating to general economic and social measures affecting industrial relations.

(vii) **Workers' Education.** A suitable system of workers' education should be introduced in industry to provide appropriate training in human relations to the rank and file employees.

1.3 INDUSTRIAL UNREST AND DISPUTES

Industrial peace is fundamental to the success of industry. The goals of industry can be realised best in an atmosphere of peaceful cooperation, utmost mutual trust and fair dealings. But the relations between the employers and employees are frequently clouded by a sense of exploitation, distrust and discontent. These give rise to industrial conflicts or disputes. Industrial unrest is the most acute problem in any industrial organisation because it endangers peace in the industry. Some of the symptoms of industrial unrest are high labour turnover, disciplinary problems, high absenteeism and tardiness, low morale, restriction of output, etc. It is important to note that strikes and lockouts have come to stay almost permanently in the industrial setup of many countries. Industrial unrest in the form of strikes and lockouts leads to cessation of work due to which the interests of the management, workers and the community suffer.

1.3.1 Industrial Dispute

According to Section 2 of the Industrial Disputes Act, 1947,

"Industrial dispute means 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".

Industrial disputes are symptoms of industrial unrest in the same way that boils are symptoms of a disordered body. Industrial unrest may take either unorganised or organised form. When it is unorganised, it is manifested in the form of low morale, low productivity, frustration, etc. Organised forms of industrial unrest include strikes, demonstrations, gheraos, lockouts, etc.

The industrial disputes may be individual disputes such as disputes relating to reinstatement and compensation for wrongful termination. Disputes relating to wages, bonus, profit sharing, hours of work, etc. are collective disputes.

Weapons of Labour

Whenever, industrial disputes arise, workers generally resort to one or more of the following weapons, namely, strike, boycott, picketing and gherao.

(1) **Strike.** When workers collectively cease to work in an industry, it is known as strike. "It means a cessation of work by a body of persons employed in an industry acting in combination; or a concerted refusal of any number of persons who are or have been so employed to continue to work or to accept employment; or a refusal under a common understanding of any number of such persons to continue to work or to accept employment."

For trade unions, strike is the most powerful weapon for forcing the management to accept their demands. Various types of strikes are discussed below:

- (i) **Economic strike.** Most of the strikes of workers are for more facilities and increase in wage levels. In economic strike, the labourers demand increase in wages, travelling allowance, house rent allowance, dearness allowance and other facilities such as increase in privilege leave and casual leave.
- (ii) **General strike.** Under this type of strike, members of the majority of the trade unions in an industry or region go on strike. Such a strike is organised to force demands which are common to all the workers.
- (iii) **Hunger strike.** When the workers of an organisation collectively refuse to take food to put pressure on the employer for conceding their demands, it is known as hunger strike.
- (iv) **Sympathetic strike.** When workers of one unit or industry go on strike in sympathy with workers of another unit or industry who are already on strike, it is called a sympathetic strike. The workers of sugar industry may go on strike in sympathy with their fellow workers of the textile industry who may already be on strike.
- (v) **Stay-in strike.** In this case, workers do not absent themselves from their place of work when they are on strike. They keep control over production facilities but do not work. Such a strike is also known as 'pen down' or 'tool down' strike.
- (vi) **Wild-cat strike.** Under it, the workers walk out of the work place without authorisation by the trade union.
- (vii) **Slow Down strike.** In this type of strike workers, remain on their job, and they do not stop work. But they restrict the amount of work in an organised manner. They adopt go slow tactics to put pressure on their employer.

(2) **Boycott.** The workers may decide to boycott the company by not using its products. Such an appeal may also be made to the public in general. In the former case, the boycott is known as *primary* and in the latter *secondary*. It is a coercive method whereby the management is forced to accept their demands since the boycott affects the marketability of its products.

(3) **Picketing.** When workers are dissuaded from work by stationing certain men at the factory gates, such a step is known as picketing. If picketing does not involve any violence, it is perfectly legal.

(4) **Gherao.** Gherao in Hindi means to surround. Workers may gherao the members of management by blocking their exits and forcing them to stay inside their cabins just like prisoners. The main object of gherao is to inflict physical and mental torture to the person being gheraoed and hence this weapon disturbs the industrial peace to a great extent.

Gheraos have been criticised on both legal and moral grounds. Legally gheraos amount to imposing wrongful restraints on the freedom of some persons to move. That is why, courts have held it as an illegal action. Gheraos tend to inflict physical duress on the persons affected. They also create law and order problem. Morally, to gherao a person to press him to agree to certain demands is unjustified because it amounts to getting consent under duress and pressure. A person who is gheraoed is subjected to humiliation. Moreover, a person who has made a promise under gherao is justified in going back over the word after that. In short, as pointed out by the National Commission on Labour, gherao cannot be treated as a form of industrial protest because it involves physical coercion rather than economic pressure.

Gheraos are quite common in India not only in industrial establishments but also in educational and other institutions. Gheraos cut at the very root of the democratic process of collective bargaining and make workers mere tools in the hands of politicians. Therefore, gherao in the long-run is not in the interest of the workers. Radical trade unions consider gherao as a powerful weapon to pressurise management to accept the demands of labour.

Weapons of Management

To put pressure on the employees, the employees or management may use the following weapons :

(1) **Employers' Association.** The employers may have their associations or unions which may collectively oppose the working class and put pressure on the trade unions.

(2) **Lockout.** An employer may close the place of employment temporarily, such a step is technically known as lockout. It is reverse of a strike and is a very powerful weapon in the hands of an employer to coerce or pressurise the workers to return to the place of work. According to the Industrial Disputes Act, 1947, "*Lockout means the closing of a place of employment or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him.*"

(3) **Termination of Service.** The employers may terminate the services of those workers who are on strike by blacklisting them. Their lists may be circulated to other employers so as to restrict their chances of getting employment with those employers.

1.4 CAUSES OF INDUSTRIAL DISPUTES

The disputes between the management and the employees may arise on account of the following factors:

(1) Economic Causes. These causes may be classified as:

- (a) Demand for increase in wages on account of increase in All India Consumer Price Index for Industrial Workers. The demand for increase in wages may be for all categories of factory workers.
- (b) Demand for higher gratuity and other retirement benefits.
- (c) Demand for higher bonus.
- (d) Demand for certain allowances such as house rent allowance, medical allowance, night shift allowance, conveyance allowance.
- (e) Demand for paid holidays.
- (f) Reduction of working hours.
- (g) Better working conditions.

(2) Political Causes. Trade unions in India are controlled by various political parties. In many cases, their leadership vests in the hands of persons who are more interested in achieving their political interests rather than the interests of labourers.

(3) Personnel Causes. Sometimes, industrial disputes arise because of personnel problems like retrenchment, layoff, transfer, promotion, etc.

(4) Indiscipline. Industrial disputes also take place because of indiscipline and violence on the part of the workforce. Lockout may be resorted to by the management to curb indiscipline and violence.

1.4.1 Causes of Industrial Disputes in India

The percentage distribution of disputes by causes from 1973 onward has been shown in Exhibit 1.1. This table reveals the following causes of industrial disputes:

1. Wages and Allowances. Since the cost of living has generally showed an increasing trend, the workers have been fighting for higher wages to meet the rising cost of living and to increase their standard of living. 34.1% of the industrial disputes in 1973 were due to demand for higher wages and allowances. This percentage was 36.1% in 1974. It decreased to 23.4% in 1976. During 1985, 22.5% of the disputes were due to wages and allowances. Wages and allowances accounted for 26.1% of disputes in 1987, 24.6% in 1992 and 20.5% in 2001. The issue of wages and allowances is sometimes aggravated by inter-union rivalry. When a proposed wage settlement is found acceptable by one union speaking for a group of workers, other unions claiming to represent the same group may reject it. Such rejection is not always based on merit, but may simply reflect union's political considerations and a strong presence of outside leadership.

2. Personnel and Retrenchment. Personnel and retrenchment causes have also been important. During 1973, 24.3% of the industrial disputes were because of dismissals, retrenchment, etc. as compared to 29.3%. In 1961, personnel and retrenchment topped the list of causes of industrial disputes with 29.9%. The

number of disputes because of personnel and retrenchment was 23.0% in 1977, 23.1% in 1985 and 16.4% in 1987. During 2001, about 12.5% of the industrial disputes were due to personnel and retrenchment problems. Industrial conflict over personnel issue is a direct consequence of tremendous importance workers attach to job security. With widespread and continuously increasing unemployment, those who are already in employment fiercely resist being thrown out. Trade unions take a serious view of suspension, dismissal and retrenchment which constitute the core causes of personnel disputes.

3. Bonus. Bonus has also been an important factor in the industrial disputes. 10.3% of the industrial disputes in 1973 were because of bonus as compared to 6.9% in 1961. 13.8% and 15.2% of the disputes were due to bonus during 1976 and 1977 respectively. It is worth-noting that during 1987, only 4.2 of the disputes were due to bonus as compared to 7.3% in 1985. This percentage was 4.2 during 1992 and 8.6 during 2001.

4. 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 gives rise to industrial disputes. The number of disputes because of indiscipline and violence among the workers has been significant. During 1991, 18.1% of the disputes were because of indiscipline and violence as compared to only 5.7% in 1973. During 2001, 25.8% of the industrial disputes were caused by indiscipline and violence. This shows that indiscipline and violence have increased in industry during this period.

EXHIBIT 1.1 :

Percentage Distribution of Disputes by Causes in the Post-independence Period

Causes	1973	1975	1980	1985	1991	1992	1995	1996	2001
1. Personnel and Retrenchment	24.3	29.8	24.3	23.1	17.4	15.5	12.5	19.5	12.5
2. Wages and Allowances	34.1	32.0	28.4	22.5	24.5	24.6	27.2	24.4	20.5
3. Bonus	10.3	8.0	7.3	7.3	4.0	4.2	5.6	8.2	8.6
4. Indiscipline and Violence	5.7	8.9	8.9	16.1	18.1	21.1	21.9	18.2	25.8
5. Leave and Hours of work	1.5	2.9	2.2	1.8	1.0	1.7	1.2	1.2	1.2
6. Other causes	24.1	19.0	28.9	29.2	34.3	34.9	31.6	28.5	32.6

Source: Pocketbook of Labour Statistics, 2003, Ministry of Labour, Government of India.

5. Leave and Hours of Work. Leave and hours of work have not been so important causes of industrial disputes. During 1973, 1.5% of the disputes were

because of leave and hours of work. Their percentage share in the industrial disputes was 2.2% in 1977 and 1.8% in 1985. It got reduced to 1.0% in 1991 and rose to 1.7% in 1992 and again came down to 1.2% in 2001.

6. Miscellaneous Causes. Miscellaneous causes include modernisation of plant and introduction of automatic machinery, recognition of union, political factors, etc. These factors have caused a significant number of industrial disputes in the country, 24.1% of the industrial disputes in 1973 were due to miscellaneous causes. They accounted for 19.5% of the industrial disputes in 1977 and 29.2% in 1985. Miscellaneous causes of industrial disputes rose to 36.7% in 1987 and again declined to 34.3% in 1991 and they accounted for 31.6% of the industrial disputes in 1995 and 32.6% in 2001.

Miscellaneous causes of industrial disputes are as follows:

- Workers' resistance to rationalisation, introduction of new machines and change of factory location.
- Non-recognition of trade union.
- Rumours spread out by undesirable elements.
- Working conditions and working methods.
- Lack of proper communication.
- Behaviour of supervisors.
- Trade union rivalries, etc.

Thus, industrial disputes do not arise only when workers are dissatisfied on economic grounds; they also arise over issues which are of non-economic nature. Instances may be quoted when strikes were successfully organised to protest against the management's decision to change the location of the plant from one state to another. Similarly, even causes like behaviour of supervisors and trade union rivalries may give rise to industrial disputes.

The whole concept of industrial relations revolves around the principle of friction dynamics which is the key to the establishment of harmonious relations between labour and management. We cannot think of any society completely oblivious of some sort of friction between labour and management.

In spite of all the stresses and strains on the scene of industrial relations, there is no ground for any pessimism. In India, we have many encouraging factors to improve the climate of industrial relations. The increasing productivity, the growing tempo of industrialisation, the trend towards professionalisation of management, the expansion of cottage and small-scale industries, and the genuine desire of all the constituents of tripartite machinery to maintain industrial peace may be cited as healthy signs towards the improvement of languishing labour-management relations.

1.4.2 Adverse Effects of Poor Industrial Disputes

Poor industrial relations within an organisation are not only harmful for it, but are also against the interests of the workers and the society as a whole. The adverse effects of poor industrial relations may be as follows:

(i) **Tense Relations.** Tension in the organisation increases because of poor industrial relations. There is an atmosphere of breakdown of communication and lack of trust between the management and the workers. It becomes very difficult to expect cooperative attitude from the workers and trade unions.

(ii) **Lower Morale.** Because of tension in industry, workers' interest in work is diminished leading to higher absenteeism and labour turnover. As a result, the morale of the workforce goes down.

(iii) **Frustration Among Employees.** Employees work in an organisation for the satisfaction of their physical, social and egoistic needs. In an environment with uncomfortable industrial relations, they find it difficult to satisfy their needs. This will obviously lead to frustration among them.

(iv) **Intensification of Social Tension.** Frustration among employees leads to a reduction in their cordiality towards the management and social tension gets aggravated. Frustration, reduced cordiality, and social tension might lead to class struggle between the workers and the management.

(v) **Resistance to Change.** Change is the law of life. Innovations are very essential in industry because of changing needs of customers and rising competition in the market. Innovations involve changes in working methods, working relationships and working environment in the organisation. When industrial relations are not good, the workers resist changes in the organisation which might hamper the growth of the industrial organisation.

(vi) **Impact on the Economy.** Poor industrial relations have a multiplier effect on the economy through lower productivity, higher wastage and lower quality. Because of strikes and lockouts, supply of goods and services to the society suffers leading to a lower standard of life for the general public. Thus, the loss caused to the economy due to the multiplier effect of industrial unrest is always astonishing.

(vii) **Lower Profitability.** Because of poor industrial relations, the productivity of the workers goes down. At times, this may also bring down the quality of products. Fall in productivity and quality will have adverse impact on the profitability of the enterprise. Besides this, the wastages may also rise substantially.

(viii) **Agony to Workers and their Families.** Industrial friction may inflict lasting injury on the workers. It may affect not only the workers but their families also. Inadequate nourishment to the workers' children during the periods of strikes and lockouts may affect their health and education on a permanent basis.

1.5 MEASURES TO IMPROVE INDUSTRIAL RELATIONS

In order to promote industrial harmony or lasting peace in industry, the following steps are suggested:

- (i) **Atmosphere of Mutual Trust.** Both management and labour should help in the development of an atmosphere of mutual cooperation, confidence, and respect. Management should adopt a progressive outlook and should recognise the rights of workers. Similarly, labour unions should persuade their members to work for the common objectives of the organisation. Both the management and the unions should have faith in collective bargaining and other peaceful methods of settling disputes between them.
- (ii) **Effective Communication.** Blockages in communication between the management and the workers should be removed. There should be an effective system of two-way communication so that the basic policies and procedures relating to industrial relations are known to everybody in the organisation. Proper communication is particularly important, when a new policy is to be introduced or an existing policy is to be changed. Management must ensure that the operative employees understand and agree on the industrial relations policies. Proper communication will help in minimising resistance to change, eliminating unnecessary misunderstanding, and, thus, in checking deterioration in industrial relations.
- (iii) **Fair Personnel Policies.** Sound and fair personnel policies should be formulated in consultation with the representatives of the employees, reviewed periodically, communicated to all the members of the organisation, and implemented uniformly throughout the organisation.
- (iv) **Proactive Management.** The management should follow a proactive approach, i.e., should anticipate problems and take timely steps to tackle these problems. Challenges must be anticipated before they arise otherwise reactive actions will compound them and cause greater discontent.
- (v) **Strong Unions.** The workers should be encouraged to build strong unions which will negotiate with the management and guide the workers in improving productivity and quality. Strong and stable unions will go a long way in protecting the economic and social interests of the workers.
- (vi) **Industrial Democracy.** Workers' participation in management of the industrial enterprise should be encouraged. This will not only satisfy the psychological needs of the workers but also help in improving communication and trust between the management and workers and also allow the workers to actively participate in improving productivity and quality.

(vii) **Effective Implementation of Agreements.** Any agreement/settlement between labour and management should be sincerely administered in both letter as well as spirit; otherwise mutual faith may be shaken, and industrial relations may start getting tense.

(viii) **Role of Government.** The government can play an important role in protecting the interests of the workers and also ensuring smooth industrial relations in industry by enacting and enforcing various labour laws. It must monitor and regulate industrial relations for encouraging industrial peace in the country. Wherever, the management and the workers of a unit fail to settle disputes between them, the government should intervene for the speedy settlement of industrial dispute.

1.6 INDUSTRIAL RELATIONS MACHINERY IN INDIA

Cordial industrial relations and lasting industrial peace require that the causes of industrial disputes should be eliminated. In other words, preventive steps should

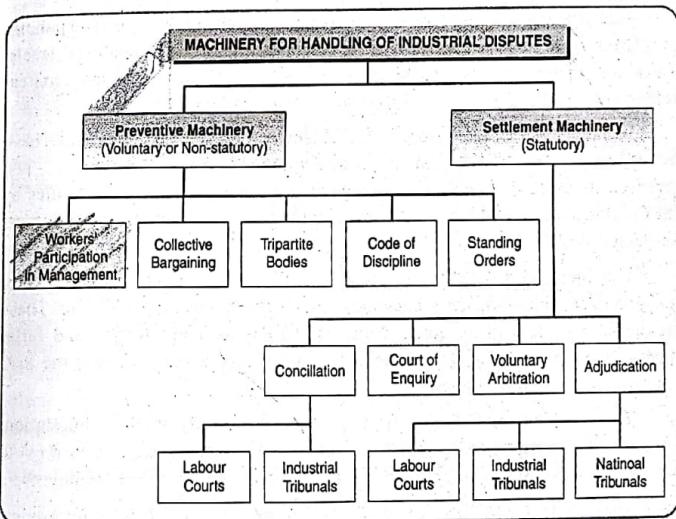


Fig. 1.2. Machinery for Handling of Industrial Disputes.

be taken so that industrial disputes do not occur. But if preventive machinery fails then the industrial settlement machinery should be activated by the government because non-settlement of disputes will prove to be very costly to the workers, management and the society as a whole. The machinery for handling the industrial disputes has been shown in Fig. 1.2.

1.7 PREVENTION OF INDUSTRIAL DISPUTES

The preventive machinery has been set up with a view to creating harmonious relations between labour and management so that disputes do not arise. It comprises of the following measures:

- (a) Schemes of workers' participation in management such as works committees, joint management councils and shop councils and joint councils.
- (b) Collective bargaining.
- (c) Tripartite bodies.
- (d) Code of discipline.
- (e) Standing orders.

The schemes of workers' participation and collective bargaining have been discussed in the next chapter. Rest of the preventive measures are discussed below:

1.7.1 Tripartite Bodies

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 cooperation and goodwill."

Indian Labour Conference (ILC) and Standing Labour Committee (SLC) have been constituted to suggest ways and means to prevent disputes. The representatives of the workers and employers are 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 is settled by the Labour Ministry after taking into consideration the suggestions sent to it by member organisations. These two bodies work 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 functions of 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 matters of All India importance as between employers and employees.

The ILC advises the government on any matter referred to it for advice, taking into account suggestions made by the states and representatives of the organisations of workers and employers.

The Standing Labour Committee's main function is to consider and determine 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.

1.7.2 Code of Discipline

The Code of Discipline is a set of self-imposed mutually agreed voluntary principles of discipline and relations between the management and workers in the industry.

In view of growing industrial conflict, the Fifteenth Indian Labour Conference agreed that there should be a set of general principles of discipline which should be adopted by labour and management voluntarily. To evolve such a set of principles, a tripartite sub-committee was set up. The resulting draft was discussed at Standing Labour Committee meeting in October, 1957. At the Sixteenth Indian Labour Conference held in 1958, the final form of the Code of Discipline was approved. The details of the code are discussed later in this book.

1.7.3 Standing Orders

The terms and conditions of employment have been a bone of contention between labour and management from time immemorial. To prevent the emergence of industrial strikes over the conditions of employment, one important measure is the Standing Orders. Under the Industrial Employment Standing Orders Act, 1946, it was made obligatory that Standing Orders should govern the conditions of employment of the workers. The Standing Orders regulate the conditions of employment from the stage of entry to the organisation to the stage of exit from the organisation. Thus, they form the regulatory pattern for industrial relations. Since the Standing Orders provide Do's and Don'ts, they act as a code of conduct for the employees during their working life within the organisation.

The purpose of having Standing Orders at the plant level is to regulate industrial relations. They define with sufficient precision the conditions of employment under the employers and hold them liable to make the said conditions known to workmen employed by them. These orders regulate the conditions of employment, discharge, grievances, misconduct, disciplinary action, etc. of the workmen employed in industrial undertakings. These issues are potential problems in industrial relations. Unresolved grievances can become industrial disputes; and disciplinary action in the wake of disciplinary proceedings against misconduct may lead to industrial unrest.

1.8 SETTLEMENT OF INDUSTRIAL DISPUTES [JUDICIAL MACHINERY]

Preventive measures seek to create an environment where industrial disputes do not arise. Should they, however, arise, every effort is required to be made to settle them as early as possible so that they do not lead to work stoppage. The machinery for the settlement of industrial disputes has been provided under the Industrial Disputes Act, 1947.

This machinery comprises (a) Conciliation, (b) Arbitration, and (c) Adjudication. These are discussed below.

1.8.1 Conciliation

Conciliation or mediation signifies third party intervention in promoting the voluntary settlement of disputes. The International Labour Organisation has defined conciliation as "the practice by which the services of a neutral third party are used in a dispute as a means of helping the disputing parties to reduce the extent of their differences and to arrive at an amicable settlement or agreed solution. It is a process of rational and orderly discussion of differences between the parties to a dispute under the guidance of a conciliator."

The conciliator assists the parties to dispute in their negotiations by removing bottlenecks in communication between them. Conciliation machinery as provided under the Industrial Disputes Act, 1947 is as under :

(i) **Conciliation Officers.** The Act provides for the appointment of conciliation officers, permanently or for a limited period, for specific area or for a specific industry, to whom the industrial disputes shall be referred for conciliation. The conciliation officer enjoys the powers of a civil court; he can call and witness parties on oath. The conciliation officer examines all facts relevant to the disputed matter and then gives his judgment.

(ii) **Board of Conciliation.** The Act also empowers the Government to appoint a Board of Conciliation for promoting the settlement of disputes where the Conciliation Officer fails to do so within 14 days. The Conciliation Board is a tripartite *ad hoc* body consisting of a chairman and two to four other members nominated by the parties to the dispute. The mode and procedure of the functioning of the Board are similar to those of the Conciliation Officer.

(iii) **Court of Inquiry.** In case the conciliation proceedings fail to settle an industrial dispute, the Government has yet another option of referring the dispute to the Court of Inquiry. The Court is expected to give its report within six months.

The performance of conciliation machinery cannot be said to be satisfactory. Only 25% of cases are annually handled. Besides a very large number of disputes are filed and then withdrawn later on by workers or unions. It means petty issues are taken up for conciliation. Similarly a large number of cases are rejected as untenable, not satisfying the legal provisions. This shows lack of the understanding of legal provisions. Finally, a substantial number of cases remain pending.

The ineffectiveness of conciliation machinery can be attributed largely to inefficient conciliation officers. "Either they do not have the necessary educational background, training and experience, and knowledge of industrial relations, since most of them are promoted from the ranks of clerks and labour inspectors, or they lack interest and initiative because conciliation is devoid of the attractions that are usually present in the other job. Partly, the failure of conciliation machinery is because of the parties attitude of casualness towards it. Very often, conciliation is looked upon as merely a hurdle to cross to reach the next stage (namely, adjudication). Besides, the weakening of conciliation machinery is also caused by the political pressures on the conciliators.

1.8.2 Arbitration

Voluntary arbitration became popular as a method of settling differences between workers and management with the advocacy of Mahatma Gandhi, who had applied it very successfully in the Textile industry of Ahmedabad. However, voluntary arbitration was lent legal identity only in 1956 when Industrial Disputes Act, 1947 was amended to include a provision relating to it.

On failure of conciliation proceedings, the conciliation officer may persuade the parties to refer the dispute to a voluntary arbitrator. Voluntary arbitration refers to getting the disputes settled through an independent person chosen by the parties involved mutually and voluntarily.

The provision for voluntary arbitration was made because of the lengthy legal proceedings and formalities and resulting delays involved in adjudication. It may, however, be noted that arbitrator is not vested with any judicial powers. He derives his powers to decide the dispute from the agreement that parties have made between themselves regarding the referring of dispute to the arbitrator. The arbitrator submits his award to the government. The government then publishes it within 30 days of its submission.

Regarding the performance of voluntary arbitration as a method of resolving disputes, it can be said at the very outset that it has failed to make much progress. There exists general indifference among parties to use voluntary arbitration as a method of settling disputes. Hardly 2 to 3 per cent of the disputes not settled by conciliation are referred to voluntary arbitration. National Commission on Labour (1969) identified following causes for the failure of voluntary arbitration:

1. Lack of arbitrators who command the confidence of the parties to the disputes.
2. Law provides no appeal against the award given by arbitrator.
3. Easy availability of adjudication on the failure of negotiation or conciliation.
4. The absence of simplified procedure to be followed in voluntary arbitration.

1.8.3 Adjudication

The ultimate remedy for the settlement of an unresolved dispute is its reference by the government to adjudication. Adjudication may be described as a process which involves intervention in the dispute by a third party appointed by the government, with or without the consent of the parties to the dispute, for the purpose of settling the dispute. The reference of dispute to adjudication is voluntary when both parties agree to reference of dispute to adjudication at their own accord, and it is compulsory when reference is made to adjudication by the government without the consent of either or both the parties to the dispute. The Industrial Disputes Act, 1947 provides a three-tier adjudication machinery comprising (i) Labour Courts, (ii) Industrial Tribunals, and (iii) National Tribunals.

(i) **Labour Courts.** The Labour Courts can deal with disputes relating to;

- The propriety or legality of an order passed by an employer under the Standing Orders.
- The application and interpretation of Standing Orders.
- Discharge and dismissal of workmen and grant of relief to them.
- Withdrawal of any statutory concession or privilege.
- Illegality or otherwise of any strike or lockout.
- All matters not specified in the third schedule of Industrial Disputes Act, 1947, (it deals with the jurisdiction of Industrial Tribunals).

(ii) **Industrial Tribunals.** The Industrial Tribunals can deal with the following matters:

- Wages including the period and mode of payment.
- Compensatory and other allowances.
- Hours of work and rest intervals.
- Leave with wages and holidays.
- Bonus, profit sharing, provident fund and gratuity.
- Shift working otherwise than in accordance with standing orders.
- Rules of discipline.
- Rationalisation.
- Retrenchment.
- Any other matter that may be prescribed.

(iii) **National Tribunals.** These tribunals are meant for those disputes which, as the name suggests, involve the questions of national importance or issues which are likely to affect the industrial establishments of more than one state,

The employers and unions use adjudication as a primary measure of resolving disputes. About 90 to 95 per cent of disputes are referred to adjudication machinery on an average annually. However, the functioning of adjudication machinery has not been very satisfactory, particularly because of: (i) the delays involved, and (ii) the inefficient implementation of the awards.

The proceedings at adjudication take unduly long period. About 50 to 60 per cent of the cases are decided in more than a year. And 25% of the cases take between 6 to 12 months. The state of the implementation of awards (requiring implementation) is also not very commendable. 30 to 40 per cent awards are not implemented by the date of enforcement. Incomplete and abrupt implementation of awards creates suspicions in the minds of workers and shake their faith in the machinery.

EXHIBIT 1.2: Difference Between Arbitration and Adjudication

Arbitration Adjudication	Adjudication (Compulsory Arbitration)
1. It is a voluntary method of resolving industrial disputes. It is resorted to before the dispute is referred to a labour court, industrial tribunal or national tribunal.	It is compulsory as it is initiated by the government and is the ultimate remedy for resolving industrial disputes provided by ID Act, 1947.
2. The power to refer an industrial dispute to an arbitrator is derived from the written agreement made by the employers and the workmen together.	The power to adjudicate upon disputes is statutory in the sense that it is derived from the provisions of the ID Act, 1947 and it is the appropriate government which refers industrial disputes to the adjudicatory bodies, namely, labour courts and industrial tribunals.
3. The names of arbitrator/arbitrators are specified in the written agreement. The number of arbitrators can be one or more than one.	The presiding officers of the adjudication bodies are appointed by the appropriate government only. Each such body has only one presiding officer.
4. Arbitrators can't appoint assessors.	Labour courts and tribunals can appoint one or two assessors having special knowledge of the matter under consideration for adjudication to advise them in their proceedings.
5. The government may ask a third party not bound by the arbitration agreement but concerned in the dispute to present its case before the arbitrator.	Only the parties to the industrial dispute can present their case before the adjudicating authority.

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Adjudication has been the most popular measure of resolving industrial disputes accounting for more than 90 per cent of the disputes every year. However, adjudication is not a democratic method and may create bitterness among the parties. It tends to encourage litigation and irresponsible behaviour among employers and labour. The functioning of the adjudication machinery has in practice been unsatisfactory. An unduly long time is involved in adjudication proceedings and more than one-half of the disputes are decided in more than a year. Moreover, the implementation of the awards has been inefficient. Delays in implementation erode the faith of workers in the adjudication machinery. Adjudication is preferred more by employers as they can afford to spend on the legal proceedings.

Chapter

2

COLLECTIVE BARGAINING AND WORKERS' PARTICIPATION IN MANAGEMENT

CHAPTER OUTLINE

- 2.1 Concept and Nature of Collective Bargaining
- 2.2 Significance of Collective Bargaining
- 2.3 Process of Collective Bargaining and Negotiation
- 2.4 Collective Bargaining in India
- 2.5 Concepts of Industrial Democracy and Workers' Participation Management
- 2.6 Significance of Workers' Participation
- 2.7 Forms of Workers' Participation in Management
- 2.8 Requirements of Effective Workers' Participation
- 2.9 Workers' Participation in India

2.1 CONCEPT AND NATURE OF COLLECTIVE BARGAINING

2.1.1 What is Collective Bargaining

Collective bargaining is concerned with the relations between employers acting through management and organised labour. It is concerned not only with the negotiation of a formal labour agreement but also with the day-to-day dealings between management and the union. Collective bargaining is called collective because the negotiations take place between the employers and the organisation of workers. It is described as bargaining because the collective agreement is reached through a process of negotiations involving proposal and counter-proposals. Underlying it is the concept of self-determination. In the words of Flippo, "Collective bargaining is a process in which the representatives of a labour organisation and the representatives of business organisation meet and attempt to negotiate a contract or agreement, which specifies the nature of employee-employer-union relationship."

(2.1)

Collective bargaining is a process in which the representatives of employees and employers negotiate on any dispute relating to employees and reach an agreement amicably avoiding confrontation. Anything can be settled through the negotiations like rise in wages, payment of bonus or leave rules, working hours, working conditions, etc. Agreement reached through collective bargaining is binding on both the parties. It is through bargaining that the objectives of employees are accomplished. It is an extension of democracy to industries.

DEFINITIONS OF COLLECTIVE BARGAINING

"Collective bargaining is the term used to describe a situation in which the essential conditions of employment are determined by a bargaining process undertaken by representatives of a group of workers on the one hand and of one or more employers on the other."

—Dale Yoder

"The term 'collective bargaining' typically refers to the negotiation, administration and interpretation of a written agreement between two parties that covers a specific period of time. This agreement or contract lays out in specific terms the conditions of employment; that is, what is expected of employees and what limits there are on management's authority."

—David A DeCenzo and Stephen P Robbins

Collective bargaining is a voluntary process under which the representatives of both employers and labour enter into an agreement. But the process does not stop as soon as a bargain is struck between the employer and the trade union. It is a continuous process because the contract is only the beginning of collective bargaining. The collective agreement provides only the broad framework within which actual bargaining takes place at the shop floor. Bargaining requires a efficient and permanent arrangement for negotiations. No *ad hoc* arrangement can make the bargaining process successful. An efficient bargaining machinery includes (a) selection of proper representatives; (b) willingness to assume responsibilities inherent in the bargaining process; (c) fact finding approach; and (d) availability of full information. Such a machinery permits day-to-day bargaining that takes place within the framework of working relationships set by the collective agreement.

2.1.2 Features of Collective Bargaining

The salient features of collective bargaining are as under :

- (i) It is a *collective process*. The representatives of both workers and management participate in bargaining.
- (ii) It is a *continuous process*. It establishes regular and stable relationship between the parties involved. It involves not only the negotiation of the contract, but also the administration of the contract.
- (iii) It is a *flexible and dynamic process*. The parties have to adopt a flexible attitude through the process of bargaining.

- (iv) It is a method of *partnership of workers in management*; It is, in fact, a way to establish industrial democracy.

2.1.3 Subject-matter of Collective Bargaining

Collective bargaining has two pronged concerns : (1) chalking out a broad contract of employment relationship between employers and workers, and (2) the administration of the contract. In fact, it has been recognised as a method of determining the wage rates and other terms and conditions of employment and of regulating the relations between the management and organised labour. In this sense, collective bargaining may be labelled as a prominent method of industrial rule making.

A collective agreement constitutes a code governing relations between management and workers. As one would expect, with the passage of years such codes of reciprocal rights and duties have tended to get longer and longer. The subject-matter covered by collective agreements is wide ranging. Collective bargaining may include provisions with respect to hiring, lay-offs, promotions, transfers, work scheduling, work assignment, wages, welfare programmes, retirement benefits, discipline, etc.

The Indian Institute of Personnel Management suggested the following subject-matter of collective bargaining :

- (i) Purpose of agreement, its scope, and the definition of important terms;
- (ii) Rights and responsibilities of the management and of the trade union;
- (iii) Wages, bonus, production norms, leave, retirement benefits, and terms and conditions of service;
- (iv) Grievance redressal procedure;
- (v) Methods and machinery for the settlement of possible future disputes; and
- (vi) Termination clause.

In India, the important clauses in the collective agreements in most of the cases are as under :

1. Wages, including time rates, piece rates and other incentive scheme of payment, and procedure for increasing wages in the event of increase in the cost of living.
2. Fringe benefits, canteen, transportation, housing, etc.
3. Hours of work, overtime and rates of pay for overtime; rest periods, etc.
4. Sick leave and leave of absence for other reasons (for example, to enable a worker who has been elected as a trade union official to take part in union activities).
5. Annual holidays and rates of pay for holidays.
6. Seniority rights in case of laying off and rehiring.

7. Dismissal for disciplinary offences.
8. Number and training of apprentices.
9. Establishment of fair production standards, including satisfactory quality of output and methods of increasing productivity and reducing waste.
10. Joint consultation procedure.
11. Methods of settling grievances and disputes over the interpretation of the agreement.
12. Prohibition of strikes and lockouts during the period covered by the agreement.
13. Duration of the agreement, its subsequent continuation unless notice of termination is given, and the length of such notice.
14. Procedure for negotiating a new agreement.

All clauses of the agreement should be put in writing as clearly and concisely as possible. Legal terminology should be at a minimum because most of those who will use the contract are not lawyers. The agreement should then be signed by both the parties and communicated to those who will work by it.

2.2 SIGNIFICANCE OF COLLECTIVE BARGAINING

Collective bargaining is an important method of regulating relations between employers and employees. It involves negotiation, administration and enforcement of the written contracts between the employees and the employers. It also includes the process of resolving labour-management conflicts.

The role of collective bargaining in solving the problems arising at the plant or industry level has been widely recognised. Labour legislation and the machinery for its implementation prepare a framework according to which industrial establishments should operate. But, whatever, labour laws may lay down, it is the approach of employers and trade union leaders which matters. Therefore, the solution to common problems can be found directly through negotiation between both the parties and in this context, the scope of collective bargaining is very wide.

Healthy collective bargaining generates a spirit of self-confidence and self-reliance among the workers, i.e., when solving problems among themselves without any aid from authorities or forces will certainly develop the spirit of self-confidence and self-reliance in the minds of the employees. This implies that collective bargaining based on a 'give and take' policy on both sides will develop goodwill and understanding between labour and management which in turn will help to create peaceful and comfortable atmosphere in industrial relations.

Speedy solution to dispute is considered as another advantage of this system. That is being a settlement between the disputing parties among themselves, they can do it at their own discretion. In other words, they do not wait for the awards of judicial and other authorities, and while comparing the delay in compulsory

adjudication, the time involved in solving the dispute through collective bargaining is comparatively very less.

2.2.1 Benefits of Collective Bargaining

Collective bargaining between the management and the workers may lead to the workers may lead to this following advantages:

1. *It provides a method for the regulation of conditions of employment by those directly concerned.* The employers and workers in an industry know more about its conditions and problems than anyone else.
2. *It provides a flexible means of adjusting wages and conditions of employment to economic and technological changes in industry.* The parties can meet, whenever, necessary and can adapt the terms of their agreements to these changes.
3. *It leads to better mutual understanding.* The employers gain a greater insight into the problems and aspirations of the workers, while the latter become more aware of the economic and technical factors involved in industrial management.
4. *It creates a sort of 'industrial jurisprudence'.* Two kinds of rules—procedural and substantive are framed. Procedural rules set out the procedures that govern the behaviour of the two groups—employer and union, and regulate the manner in which they deal with each other. They lay down, for example, how contracts may be negotiated, modified, renewed, or terminated. Substantive rules, on the other hand, regulate the relations between individuals and not groups. It is possible to distinguish three different kinds of relations between individuals which are regulated by substantive rules. There is first the *economic relationship*. The rules set down the terms on which existing as well as prospective workers will offer their labour to the employer. They also stipulate manning procedures, recruitment policies and the like. Next comes the *political relationship*. Here the rules stipulate who may exercise power over whom, and for what purpose. Last comes the social relationship. Rules provide standards of behaviour based on shared interests, sentiments, beliefs and values among various groups of employees.
5. *It leads to better implementation of decisions* because of the direct involvement of both the parties in reaching them. The management and the workers know that the decisions are their own and are not imposed.

2.3 PROCESS OF COLLECTIVE BARGAINING AND NEGOTIATION

The actual conduct of the collective bargaining process is very complicated. Despite the wide variety of shapes that bargaining can take, there are certain fundamental procedures and stages which are as follows :

(i) **Organising and Recognition.** The first thing to be done by the employees is to form a group of seven persons or more (as per Trade Unions Act, 1926) and

get the trade union registered under the Act. The registration of the union is advisable, because there are certain advantages of getting the union registered : it can use its general funds for certain specified purposes; it can create a separate fund for political purposes; it gets immunity from civil suit in certain cases; it can have representation of its members to the works committee, etc.

After getting the union registered, efforts should be made to increase its membership; it should enjoy the support of the majority of workers in the plant. In case, it is not the only union in the plant, efforts should be made to make it the most representative union so that it is recognised as the exclusive bargaining representative for all the employees within the specified bargaining unit by the employers. Once the union is recognised as the bargaining agent, each worker is covered by the negotiated contract and must abide by the governance.

(ii) Preparation for Negotiation. After a union has been recognised as the exclusive bargaining agent, both the union and management begin preparation for negotiations. The preparation for negotiation is basically composed of three activities : fact gathering, goal setting and strategy development.

Facts are gathered from both internal and external sources. The required internal data will include grievance and accident records; employee performance reports; overtime figures; and reports on transfers, turnover, and absenteeism. External information should include statistics on the current economy; economic forecasts for short and intermediate terms; data on the communities in which the company operates; and industry labour statistics to see what terms other organisations employing similar types of personnel are negotiating. This information helps management in knowing its position and position of similar other organisations under the existing circumstances, and in anticipating the same in the near future. On the basis of these data, the management sets tentative goals for achieving in the negotiations.

With the above mentioned information in hand and the establishment of tentative goals, management must *develop strategy* for dealing with the union's demands. This includes assessing the union's power and specific tactics. The degree of union influence is affected by factors like the labour market, economic conditions, rates of inflation, and recent contract settlements. In the process of negotiations, management's ability to tolerate a strike will also be crucial. If the company's products are highly demanded, the management will be against a strike, even for a short period. On the other hand, if the sales have been low, management may be prepared even for a lengthy strike, and, therefore, will be unwilling to concede to union's demand. These factors will affect the tactics of bargaining.

(iii) Negotiation. For negotiating a contract, *the first meeting* between labour and management negotiation teams usually establishes rules, policies, and schedules for future meetings. Sometimes, at the first meeting, the representatives of labour formally present their specific proposals for changes in the existing labour agreements. At *succeeding meetings*, management submits counter-proposals. Both

groups seek opportunities to suggest compromise solutions in their favour until an agreement is reached. If labour and management find it impossible to come to an agreement, a *third-party*—a fact finder, a mediator, or an arbitrator—may be brought in from outside. If, even with the assistance of the outsider, no viable solution can be found to resolve the parties' differences, there may be a strike or lockout.

(iv) Contract Administration. The final phase in the process of collective bargaining is contract administration. Once a contract is agreed upon, it then must be administered. The way it will be administered is included in the contract itself. For effective administration of the contract and to have harmonious industrial relations in the organisation, the contract must spell out a procedure for handling contractual disputes. Almost all collective bargaining agreements contain formal procedures to be used in resolving grievances over the interpretation and application of the terms of contract.

Grievance procedures should be designed in such a way that makes it possible to resolve grievances as quickly as possible and at the lowest level possible in the organisation. The grievances should be referred to higher levels, and, ultimately, to arbitration, only when they cannot be resolved at the initial level. This is essential for speedy resolution of grievances and for creating an efficient and effective working climate in the organisation.

2.3.1 Basic Considerations in Collective Bargaining

Collective bargaining can be viewed as a form of participative management. It involves development and enforcement of employment contract between employers and employees. Therefore, it can be studied at two levels, namely, negotiating the work conditions which become collective agreements and describe the employee employer relationship. Effective negotiations and enforcement requires a systematic preparation of the base or ground for bargaining which involves the following three steps :

1. Recognition of the Bargaining Agent. The management should give recognition for trade union to participate in the collective bargaining process. In case there are more than one union on the basis of certain criteria, namely, selection of the representative union by secret ballot. Selection could be done through verification of membership by a government agency giving representation to all the major unions through joint consultations. Thus, the bargaining agent of the workers should be properly identified before initiating any action.

2. Deciding the Level of Bargaining. Whether the dealings are confined to enterprise level, industry level, regional or national level should be decided as the contents, scope and enforcement agencies differ in each case.

3. Determining the Scope and Coverage of Bargaining. It would be better to have a clear understanding of what are the issues to be covered under bargaining? Many a time, bargaining is restricted to wage and working conditions related

issues but it would be advantageous for both the management and union to cover as many issues as possible to prevent further friction and disputes. Therefore, all the important and interrelated issues are to be taken for consideration.

2.4 COLLECTIVE BARGAINING IN INDIA

It was in 1920 when a collective bargaining agreement was concluded at the initiative of Gandhiji between the Ahmedabad Textile Labour Association and the Textile Mill Owners of Ahmedabad. However, these days, most of the collective bargaining agreements in India are on unit basis. Matters covered in collective bargaining include wages, working conditions like hours of work, holidays, overtime, leave rules, work scheduling and assignment, layoffs, promotions, transfers, discipline, welfare facilities and retirement benefits, union recognition, grievance handling, etc.

2.4.1 Types of Collective Agreements in India

Collective bargaining as it is practised in India can be divided into three classes. First is the bipartite agreement drawn up in voluntary negotiation between management and union. The second type is known as a settlement, while the third type of collective agreement is consent award. These are discussed below :

1. Bipartite Agreement. Bipartite agreements are most important types of collective agreements because they represent a dynamic relationship which is evolving in establishment concerned without any pressure from outside. The bipartite agreements are drawn up in voluntary negotiation between management and union. Usually the agreement reached by the bipartite voluntarily has the same binding force as settlement reached in conciliation proceedings. The implementation of these types of agreements are also not a problem because both the parties feel confident of their ability to reach the agreement.

2. Settlement. It is tripartite in nature because usually it is reached by conciliation, i.e., it arises out of dispute referred to the appropriate labour department and the conciliation officer plays an important role in bringing about conciliation of the differing viewpoints of the parties. And if during the process of conciliation, the conciliation officer feels that there is possibility of reaching a settlement, he withdraws himself from the scene. Then the parties are to finalise the terms of the agreement and should report back to conciliation officer within a specified time. But the forms of settlement are more limited in nature than bipartite voluntary agreements, because they strictly relate to the issues referred to the conciliation officer.

3. Consent Award. Here the negotiation takes place between the parties when the dispute is actually pending before one of the compulsory adjudicatory authorities and the agreement is incorporated to the authorities, award. Thus though binding award pronounced by an authority constituted for the purpose,

The idea of national or industry-wide agreements and that too on a particular pattern may appear to be a more ideal system to active industrial relations through collective bargaining, but the experience of various countries shows that it is not possible to be dogmatic about the ideal type of collective bargaining, because it largely depends upon the background, traditions and local factors of a particular region or country.

2.4.2 Problems of Collective Bargaining in India

The collective bargaining scene in India is not very encouraging. The major emphasis of both union and employers is to settle the disputes through adjudication rather than sorting out the issues among themselves. Whatever bargaining takes place, it is limited to large plants only. Smaller organisations generally do not prefer this form of handling the issues. Several factors are responsible for this state of affairs. These are listed below :

- (i) Due to the dominance of outsiders in trade unionism in the country, there is *multiplicity of unions* which are weak and unstable, and do not represent majority of the employees. Moreover, there are inter-union rivalries, which further hinder the process of collective bargaining between the labour and the management.
- (ii) Since most of the trade unions are having political affiliations, they continue to be *dominated by politicians*, who use the unions and their members to meet their political ends.
- (iii) There is a lack of definite procedure to determine which union is to be recognised to serve as a bargaining agent on behalf of the workers.
- (iv) In India, the law provides an easy access to adjudication. Under the Industrial Disputes Act, the parties to the dispute may request the government to refer the matter to adjudication and the government will constitute the adjudication machinery, i.e., labour court or industrial tribunal. Thus, the faith in the collective bargaining process is discouraged.
- (v) There has been very close association between the trade unions and political parties. As a result, trade union movement has leaned towards political orientations rather than collective bargaining.
- (vi) More often, industrial disputes are sought to be settled by inviting the political leaders to mediate and help the parties arrive at agreement. This inhibits the growth of collective bargaining.

2.4.3 Suggestions to make Collective Bargaining Effective

The following steps should be taken for making collective bargaining an effective tool of industrial relations in India :

(i) Strong Trade Union. A strong, stable and representative trade union is essential for effective collective bargaining. For having such a trade union, workers should have freedom to unionise so that they can exercise their right of unionisation

and form a trade union for the purpose of electing their representatives for collective bargaining. But the union must be strong, stable and representative of the workers. A weak union not enjoying the support of majority of workers is not likely to be effective. The management will not negotiate with such a union; because mutual agreements are not likely to be honoured by a large section of the labour-force. Moreover, there is always a danger that it may be sabotaged by the non-union members.

(ii) **Compulsory Recognition of Trade Unions.** There must be an acceptable and recognised bargaining agent. That means that there must be recognised union or unions to negotiate the terms and conditions of the agreement with the management. The process of collective bargaining cannot begin until unions are recognised by the employers for the purpose. Employers will give such a recognition only if they believe it to be in their interest or if it is a legal requirement. A strong, stable and the most representative union should be recognised by the employers for the purpose; because any agreement with that union will be acceptable to majority of workers, and, thus, will help in establishing sound industrial relations in the organisation.

(iii) **Mutual Accommodation.** There has to be a greater emphasis on mutual accommodation rather than conflict or uncompromising attitude. Conflicting attitude does not lead to amicable labour relations ; it may foster union militancy as the union reacts by engaging in pressure tactics. The approach must be of mutual "give and take" rather than "take or leave". Heart of collective bargaining is the process of continuous joint consideration and adjustment of common problems.

(iv) **Mutual Trust and Confidence.** Trade unions and management must accept each other as responsible parties in the collective bargaining process. There should be mutual trust and confidence. Management must accept the union as the official representative and watchdog of the employees' interests. The union must accept the management as the primary planners and controllers of the company's operations. The union must not feel that management is working and seeking the opportunity to undermine and eliminate the labour organisation. The company management must not feel that the union is seeking to control every facet of the company's operations.

(v) **Efficient Bargaining Mechanism.** Among other things, for bargaining to be successful, the bargaining machinery must be efficient and permanent. No *ad hoc* arrangements are satisfactory for the simple reason that bargaining is a continuing process. An agreement is merely a framework for everyday working relationships, the main bargain is carried on daily and for this there is a need to have permanent machinery. As for machinery being efficient, it has three aspects; (a) availability of full information, (b) selection of proper representatives, and (c) recognition of natural temperament of each other.

(vi) **Emphasis on Problem-solving Attitude.** There should be an emphasis upon problem-solving approach with a de-emphasis upon excessive legalism. Presuming both parties accept each other as explained in the previous point, there will be less interest in finding loopholes in the contract, in having shod deals to the detriment of the other party, or in relying solely on the lawyer to develop and preserve the union-management relationship. The problem-solving approach would often involve seeking of union help by management. It would also require union's respect for management as the primary director of the organisation.

(vii) **Political Climate.** For effective collective bargaining in a country, it is important to have conducive political climate. The government must be convinced that the method of arriving at the agreements through mutual voluntary negotiations is the best for regulating certain conditions of employment. Therefore, positive attitude of the political parties is a must for the promotion of collective bargaining. Such an approach would help and encourage the development of strong, stable and representative trade unions, growth of mechanism for the resolution of industrial conflict, recognition of unions, etc. However, direct interference of the government should be minimised because collective bargaining is basically a bilateral process.

2.5 CONCEPTS OF INDUSTRIAL DEMOCRACY AND WORKERS' PARTICIPATION IN MANAGEMENT

2.5.1 Concept of Industrial Democracy

The concept of 'industrial democracy' is an extension of the concept of democracy to the sphere of industrial activity. It is democracy in the industrial world. John Leitch has defined industrial democracy as *the organisation of any factory or other business institution into a little democratic state with a representative government which shall have both the legislative and executive phases.*

In the same manner as political democracy has converted subjects into citizens, with right of self-determination and self-government, industrial democracy converts the workers from the mere subjects obeying the orders of the employers, into citizens of the industrial world, with a right to self-determination and self-government, that is, representative participation in making rules and enforcing them. This is also called **Workers' Participation in Management** in the modern context.

The fundamental step in the introduction of democratic principles and practices in industrial management is the creation and implementation of various schemes for workers' participation in decision-making and management. The formation of works committees, works councils, joint consultative committees and the inclusion of representatives of workers on the board of directors are some of these measures. The basic intention in such measures is to provide an opportunity for the workers to express their views on all matters in which they are competent to do so.

2.5.2 Concept of Workers' Participation in Management

The term "workers' participation in management" is interpreted in different ways by the managers, workers and industrial relations experts. Some managers interpret it as *information sharing* while others consider it as *joint consultation* prior to decision-making. These views represent a very narrow view of the term 'workers' participation in management'. But the workers generally think of it as *joint decision-making*. That means workers treat participation as equivalent to co-decision in the spheres of management of the enterprise.

Many industrial relations experts regard it as *association of labour with management* without the final authority or responsibility in the general area of managerial functions. To them, it means that the management shares in an appropriate manner the decision-making power with the lower ranks of the organisation. Thus, *workers' participation in management means giving scope for workers to influence the managerial decision-making process at different levels by various forms in the organisation*. The principal forms of workers' participation are information sharing, joint consultation, suggestion schemes, etc.

2.5.3 Scope of Workers' Participation

It was Elton Mayo who first advocated the idea of workers' participation in management in his famous Hawthorne Studies (1927-32). Since then three points of view on participation have emerged which are discussed below:

1. Information Sharing. According to the first view, participation takes place when the management solicits the opinion of workers before taking a decision. The decision is ultimately taken by the management. Workers are given a say or an opportunity to influence decisions, they play a passive role in the process of decision-making, but have no final say in the matter.

2. Sharing Decision-Making. This school holds that participation of an individual in something occurs when he actively takes a part or share in that thing. The focus here is that there must exist "taking part actively". Workers sit across the table—with the representatives of management to take important decisions particularly on matters affecting the workers. Workers may be members of Works Committees, Joint Management Council, etc. alongwith the representatives of management. The decisions are taken through mutual discussions between the representatives of the workers and those of the management.

3. Self-Control. The essential feature of self-control (or management) is that management and workers are not visualised as two distinct groups but as active members with equal voting rights. Participation in Yugoslavia is an example of self-control. Self-control implies a process in which subordinates exercise control on the mechanism of decision-making as full and active members. It is formal involvement of workers in the determination of the course of action.

The difference between joint decision-making and collective bargaining should be clearly noted. It is the manner in which workers influence managerial decisions that distinguishes joint decision-making from collective bargaining. In joint decision-making, the interests of the labour and the management are based on mutual faith and reciprocity of interests. They sit around the table and make decisions. On the other hand, collective bargaining is based on the acceptance of two entities in the organisation—the management and the union. It is based on power relationship and it is the relative power of each party which is the main factor in deciding issues. The parties sit across the table, negotiate and try to arrive at an agreement. Since workers' representatives are able to exert greater influence on managerial decisions through joint decision-making and collective bargaining, these two forms of participation may be considered higher forms of participation and consultation and information sharing as lower forms of participation of workers in management.

2.6 SIGNIFICANCE OF WORKERS' PARTICIPATION IN MANAGEMENT

Workers' participation in management is important because of the following reasons:

1. Higher Productivity. The increased productivity is possible only when there exists fullest co-operation between labour and management. It has been empirically found that poor 'labour management relations' do not encourage the workers to contribute anything more than the minimum desirable to retain their jobs. Thus, participation of workers in management is essential to increase industrial productivity.

2. Greater Commitment. An important prerequisite for forging greater individual commitment is the individual's involvement and opportunity to express himself. Participation allows individuals to express themselves at the work-place rather than being absorbed into a complex system of rules, procedures and systems. If an individual knows that he can express his opinion and ideas, a personal sense of gratification and involvement takes place within him. This, in turn, fortifies his identification with the organisation resulting in greater commitment.

3. Reduced Industrial Unrest. Industrial conflict is a struggle between two organised groups which are motivated by the belief that their respective interests are endangered by the self-interested behaviour of the other. Participation cuts at the very root of industrial conflict. It tries to remove or at least minimize the diverse and conflicting interests between the parties, by substituting in their place, cooperation, homogeneity of objects and common interests. Both sides are integrated and decision arrived at become 'ours' rather than 'theirs'.

4. Industrial Democracy. Participation helps to usher in an era of democracy in industry. It is based on the principle of recognition of the human factor. It tends to reduce class conflict between capital and labour. It also serves as a support to political democracy.

5. Improved Decisions. It is seldom, if ever, possible for managers to have knowledge of all alternatives and all consequences related to the decisions which they must make. Because of the existence of barriers to the upward flow of information in most enterprises, much valuable information possessed by subordinates never reaches their managers. Participation tends to break down the barriers, and makes the information available to managers. To the extent such information alters the decisions, the quality of decisions is improved.

6. Human Resource Development. Participation provides education to workers in the management of industry. It fosters initiative and creativity among them. It develops a sense of responsibility. Informal leaders get an opportunity to reinforce their position and status by playing an active role in decision-making and by inducing the members of the group to abide by them.

7. Reduced Resistance to Change. When changes are arbitrarily introduced from above without explanation, subordinates tend to feel insecure and take counter measures aimed at sabotage of changes. But when they have participated in the decision-making process, they have had an opportunity to be heard. They know what to expect and why. Their resistance to change is reduced.

To sum up, benefits of workers' participation in management include high productivity, employee satisfaction, improved quality of work, team-work acceptance of change, establishment of industrial democracy, creation of environment of industrial harmony and peace, etc. However, it is not a panacea for all the ills of the industry, nor is it intended to work as a revolution overnight because key to it lies in men's attitude, and the change in men's attitude comes about only slowly.

2.7 FORMS OF WORKERS' PARTICIPATION IN MANAGEMENT

There are various methods of workers' participation in management. The common forms are as follows :

1. Suggestion Scheme. It aims at enlisting man's creative ability, providing him with an opportunity for self expression, and motivating him towards increased productivity. Under this scheme, the management invites suggestions from workers concerning matters such as working conditions, safety and welfare facilities, etc. In order to encourage workers to come forward with their constructive suggestions and make positive contribution to the growth of the enterprise, suitable incentive schemes may be introduced. The suggestions, that help in cutting costs or wastage, increasing productivity, or even showing originality, may be suitably rewarded in cash or kind. Suggestions should be acknowledged promptly and, where they are turned down, reasons should be given for the decision. Special boxes should be provided, and good publicity should be given initially and periodically afterwards through house journals, posters, pay packet inserts, etc. Arrangements should be made to cover the patenting of any ideas that have special merit. To sum up, careful preparation, prompt follow-up, proper supervision, handsome rewards

and an intensive publicity campaign will help in the success of the suggestion scheme and promote labour-management co-operation in the country.

2. Joint Consultation. In many undertakings, there are arrangements for consultation between management and employees about matters of common interest which are outside the scope of negotiating procedures. These arrangements often take the form of joint consultative committees or councils. A joint committee consists of representatives of management and workers. The decisions of such committees are *advisory* in nature, but they are normally accepted and implemented in practice because the decisions are the outcome of joint deliberations between labour and management. The matters usually discussed by these committees include working hours, festival and national holidays, health services, safety and accident prevention, welfare schemes, etc. Matters like wages, dearness allowance, bonus, etc. are usually decided through collective bargaining.

Joint consultation is one of the most effective means to bring the parties together in an organised discussion, and deliberate on matters of common interest. It, however, requires that management to be genuinely receptive to the ideas of workers so that the latter can perceive that their ideas are useful. It is the positive attitude on the part of management, rather the procedure itself, that is the important factor for successful functioning of joint consultation mechanism. The important by-products of joint consultation include better communication and grievance settlement because both parties understand better each other's problems.

3. Employees' Representation on the Board of Directors. This form is the highest level of workers' participation in management. Under this system, the workers are given the right to elect a certain number of their representatives for nomination on the board of directors of the organisation. This creates highest satisfaction of the workers and there is maximum boosting up of the morale. The nominated employees' representatives on the board of directors participate in the deliberations of the board, put forth workers' viewpoint on various issues that interest them, and, therefore, make the workers a party to the various decisions concerning the establishment. However, this method has not been very successful. The worker-directors cannot have effective power with regard to decisions of the board; as they because of their minority are usually outvoted on important issues. Trade unions also do not favour this method because they fear that the worker-director may connive with the management.

This method has been tried in Netherlands, Austria, Norway, Sweden, Denmark and Germany; but the results have not been satisfactory. Even in India, the experience of some of the public sector undertakings such as Sindri Fertilizers, Air India, and Vishakhapatnam Shipbuilding Yard with worker-directors has not been encouraging. According to V.V. Giri, workers' participation to be effective, should begin from the bottom and extend upto the top of both the undertaking and the industry as a whole. The mere inclusion of workers' representatives on the boards of directors will not be of any use.

4. Co-partnership. Under this method, workers of an enterprise contribute to its equity and, thus, become co-owners of the company. Workers, as shareholders, may also get elected as directors from amongst themselves on the Board of Directors. Under such circumstances, workers not only share the profits and losses of the firm, but also share the management decisions. This develops a sense of commitment and partnership among the employees. This method, however, has not been found favourable by both the workers and the managements. The workers are not in a position to contribute to the equity because of their low saving base. On the other hand, managements are, in general, grudging to accept workers as co-partners.

5. Quality Circles. A quality circle is another form of participative management. Under this method, problems are considered by a team of workers and sometimes supervisors. There are voluntary regular meetings of about 5 to 10 employees with a shared area of responsibility. They meet in company time, or company premises to discuss quality problems with the object of suggesting improvements, and arranging for their implementation. The benefits of quality circles include improved quality and productivity, greater motivation and awareness of work problems, and confidence in attempting to devise solutions and put them into effect. Besides these benefits, the quality circles can greatly help in realising the potential of the individuals working in an organisation, elevating the status of workers, improving interpersonal relations and improving industrial relations. The topics discussed by these circles are wide and include quality, cost reduction, use of equipment, safety, and efficiency working. An organisation may have a number of quality circles. For the success of these quality circles, active support and commitment on the part of top management is a must.

2.8 REQUIREMENTS OF EFFECTIVE WORKERS' PARTICIPATION

In order to make the workers' participation successful, the following conditions must be fulfilled :

- (i) The overall climate in the organisation should be favourable to workers' participation. There should be an attitude of mutual co-operation, confidence, and respect for each other. Management, in particular, should be genuinely receptive to the labour's ideas so that the latter can perceive that their ideas are useful.
- (ii) There must be sufficient time to participate before action is required; because participation in emergent situations is hardly advisable.
- (iii) The subject of participation must be relevant to the enterprise; it must concern something in which both the parties are interested, otherwise the parties are likely to become indifferent to the process of participation.
- (iv) The workers' representatives should have the ability such as intelligence and knowledge, to participate. It is not appropriate to ask workers to participate in technical aspects of the machinery; but they can participate successfully in problems relating to their work.

- (v) There must be effective system of communication. Both labour's representatives and management's representatives must be able to talk in each other's language so that they are in position to exchange their ideas. Moreover, both the parties should communicate freely what they have in their mind without any reservations.
- (vi) Participation should not adversely affect the status or authority of the participants. Managers will not participate, if their authority is threatened. Workers will hesitate in participating if they think that their status is being adversely affected.
- (vii) The financial cost of participation should always be lesser than the benefits of participation both economic and non-economic. Any activity whose cost exceeds its benefits is not advisable to be carried out in a business enterprise.
- (viii) Participation should be within the framework of overall policy of the enterprise in question.
- (ix) Participation should be an ongoing activity in the organisation, and should not be restricted to unfavourable situations only.

2.9 WORKERS' PARTICIPATION IN INDIA

The idea of associating labour with management has been enshrined in the Directive Principles of the State Policy in the Indian Constitution. The First Five Year Plan noted that to create a sense of partnership among the workers and to make them feel that they are not only servants but also masters of the enterprise in which they serve, efforts are being made to develop joint consultation and to introduce workers' participation in management. The Industrial Policy Resolution of April, 1956, made it clear that "in a socialist democracy, labour is a partner in the common task of development and should participate in it with enthusiasm..." The Second Five Year Plan, which was released late in the same year, identified the creation of industrial democracy as a pre-requisite for the establishment of a socialist society. Detailing the advantages of workers' participation in management, the plan envisaged that such a measure would help in "(a) promoting increased productivity for the general benefit of the enterprise, the employees and the community, (b) giving employees a better understanding of their role in the working of industry and of the process of production, and (c) satisfying the workers' urge for self-expression, thus leading to industrial peace, better relations and increased co-operation."

The concept of workers' participation in management was evolved with a view to give the workers a sense of belonging and stimulate their interest in higher productivity. In pursuance of this conviction, the Government of India sent a tripartite study group to West to study the systems of workers' participation prevailing in those countries. The report of the study group was placed before the Indian Labour Conference in 1957 where it was decided to try the experiment of

workers' participation in management in fifty selected units. But actually, this number dwindled down to twenty-four—seven in public sector and seventeen in private sector. It may also be noted that Industrial Disputes Act, 1947 requires the owners of factories to constitute Works Committees having representatives of both owners and workers.

2.9.1 Works Committees

The Industrial Disputes Act, 1947 envisages the creation of works committee in each unit consisting of representatives of workmen and employers with more or less equal representation. The Act lays down that, "It shall be the duty of the works committee to promote amity and good relations between the employers and workmen and to that end to comment upon matters of their common interest and endeavour to compose any material difference of opinion in respect of such matters".

The scope of works committee is restricted. But in some cases, they committees deal with production problems—a role assigned to joint management councils in the draft model agreement. The difference is that joint management council is a voluntary measure for the prevention of disputes. But it is suggested that we should have either works committees or joint management councils in the same establishment. National Commission on Labour (1969) was of the opinion that unnecessary proliferation of the consultative machinery will only add to confusion.

Effectiveness of Works Committees: National Commission on Labour found that works committees have not been effective. "In the evidence before us State Governments have expressed the views that the advisory nature of the recommendations, vagueness regarding their exact scope and functions, interunion rivalries, union opposition and reluctance of employers to utilise such media have rendered works committees ineffective. The employers' associations have attributed the failure of works committees to factors like interunion rivalry, union antipathy and the attitude of members (workers' wing) in trying to raise in the committee discussion : on extraneous issues. According to the unions, conflict between union jurisdiction and the jurisdiction of the works committees and the unhelpful attitudes of the employers have generally led to their failure".

The effectiveness of works committees depend on the following factors:

- (a) a more responsive attitude on the part of management;
- (b) adequate support from unions;
- (c) proper appreciation of the scope and functions of works committees;
- (d) whole-hearted implementation of the recommendations of the works committees; and
- (e) proper co-ordination of the functions of the multiple bipartite institutions at the plant level now in vogue.

2.9.2 Joint Management Councils (JMCs)

The establishment of Joint Management Councils is described as the first step towards achieving the objective of labour-management association. The council was given the right to obtain information regarding the working of the undertaking and direct administrative responsibility for matters concerning workers' welfare, training and allied matters. Its function was to bring about mutual consultations between employers and workers over important issues affecting industrial relations. The Third Plan document went on to say "For the peaceful evolution of the economic system on democratic basis, it is essential that workers' participation would be accepted as a fundamental principle and urgent need". It added "Joint Management Councils should be set up in all the establishments in the public as well as private sectors in which conditions favourable to the success of the scheme exists".

The primary test of eligibility was said to be the "presence of goodwill on both sides". But in fact, the experiment was not applied on an extensive basis. The Draft Plan of 1966-71 admitted that "important schemes such as works committees and joint management councils have made very limited progress". The draft plan assigned the following functions to joint councils:

- (a) Matters in which responsibility is entrusted to them, specially administration of welfare measures, supervision of safety measures, operation of vocational training and apprenticeship schemes, preparation of schedules of working hours and breaks and of holidays and payments of rewards, for valuable suggestions.
- (b) Matters in which workers have a right to receive information, discuss and offer suggestions
- (c) Matters in which they expect to be consulted.

Thus, the area of operation of J.M.C. was not clearly laid down. However, these councils left outside their scope issues such as wages, bonus and others that constitute the subject of collective bargaining. The accepted functions of joint management council can be summed up under three broad heads, namely, consultation, information and administration. It can be consulted for various matters and given information of general economic situation of the undertaking, production and sales programmes, etc. The administrative responsibilities to be entrusted to joint management councils include supervision of welfare measures and safety measures, the operation of vocational training and apprenticeship schemes, preparation of schedules of working hours, etc.

Effectiveness of Joint Management Councils: Joint management councils have not been successful because most enterprises have more than one trade union and there is intense rivalry among them for getting the workers' allegiance to them and the main weapon at their command is agitation for more wages and other material benefits to the workers. Moreover, the trade union leaders themselves are not particularly interested in making the joint council a powerful instrument for safeguarding the interests of the workers. They are always afraid that, apart

From the genuine possibility of workers-members on the councils getting brainwashed by the management, inter-union rivalry may lead to the charge being levelled against them of being stooges of the management and a consequent denigration of themselves and their unions before the working class. Above all, they have a deep-rooted feeling of an inherent conflict between the owners of property whom the management represents and the workers who want a higher share of the products of the enterprise in which they work. This consciousness of conflict and divergence of interests exists not only in regard to the private sector but also in regard to the public sector.

To make the joint management council successful, it is necessary that there must be provision for the recognition of one representative trade union in every organisation. According to National Commission on Labour (1969), "In regard to the future of the J.M.C.s, our view is that 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 J.M.C. 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 committee to ensure a greater degree of consultation/co-operation, amalgamating, to the extent desired, the functions of the two. In any case multiplicity of bipartite consultative arrangements at the plant level serves no purpose."

2.9.3 Scheme of Workers' Participation (1983)

The Government of India introduced a comprehensive scheme of workers' participation in management in December, 1983. The *main features* of the scheme are as follows :

- (i) This scheme is *applicable* to all central public sector undertakings, excluding departmentally-run undertakings.
- (ii) This scheme is to *operate* at shop floor and plant levels with equal representation at both levels. It provides for *Board-level participation* also.
- (iii) Except the managerial personnel, *all categories of workers*, such as, skilled, unskilled, technical and non-technical, supervisory (foreman, charge-man, etc.) and non-supervisory are to be represented at both shop and plant levels.
- (iv) The *exact number of representatives* will depend on the size of the workforce and is to be arrived at by the management in consultation with trade union leaders. The mode of representation of workers is to be determined through consensus.
- (v) *Women are to be given representation* if they constitute 10% or more of the total work-force.
- (vi) The scheme is *applicable in all undertakings*, as mentioned in number one above, *irrespective of the number of workers employed*.

(vii) The *functions of participative forums* at various levels have been made more elaborate. The forum at the *shop floor level* is to look into a wide range of functions such as production facilities, storage facilities, wastage control, hazard and safety problems, cleanliness, welfare measures, etc.

The forum at the *plant level* is to look into the following functions :

- (a) *Operational areas*. Matters not resolved at the shop level or concerning more than one shop; review of the working of the shop level bodies; evaluation of productivity schemes; planning, implementation and review of monthly targets and schedules; materials supply, storage and inventories; encouragement to consideration of suggestions; quality and technological improvements; machine capacity utilisation; and development of new products, etc.
- (b) *Financial areas*. Profit and loss statements, balance sheets, analysis of operating expenses, financial results, etc.
- (c) *Welfare areas*. Implementation of welfare schemes, like canteen, sports, transport facilities, medical benefits, etc.
- (d) *Personnel areas*. Special problems of women workers, initiation and supervision of training programmes, administration of social security schemes, etc.
- (e) *Environmental areas*. Extension activities and community development projects, pollution control.

"At the *Board level*, the workers' representatives will participate in all the functions of the Board. One of the special functions assigned to the Board would be to review the work of the shop and plant level forums."

Like other schemes of workers' participation, this scheme also could not make much headway due to lack of union leaders' consensus on the mode of representation and workers' tendency to discuss issues which are not within the scope of the participatory forum, e.g., determination of rate of wages, payment of bonus, etc.

2.9.4 Reasons for Failure of Workers' Participation in India

The working of workers' participation scheme has not been satisfactory in India; it could not achieve the desired objectives of labour-management cooperation. In fact, it has created tensions between the parties. Some of the factors responsible for failure of workers' participation scheme have been identified as follows :

- (i) There is a *lack of follow-up measures* on the part of the government for the implementation of the various schemes announced by it. For example, the works committees set up under the provisions of the Industrial Disputes Act, 1947 could not be effective for want of follow-up measures.

- up measures.
- (ii) A vast majority of workers in India are not strongly motivated to assume decision-making responsibility either directly or through their representatives. One plausible reason for this may be that their lower level needs have not yet been adequately satisfied.
 - (iii) Managements by and large lack a positive response to the idea of workers' participation. Most of them are not convinced of the utility of participation in increasing productivity. Some are not even prepared to share their decision-making authority with the workers. It is argued that workers are not competent enough to make a positive contribution to the decision-making process.
 - (iv) Trade unions in India are not very strong and responsible. They are under the domination of political leaders who use the workers for the realisation of their vested interests. As a result, workers' representatives do not often adopt a responsible and rational approach in the participation forums.
 - (v) Workers' representatives in the participation forums have to assume the dual role of workers' spokesman and co-manager. They are often not able to combine successfully the two incompatible roles, namely, sharing managerial responsibility and leading the workers.
- Workers' participation schemes have been inspired and sponsored by the government. There has been a lack of initiative on the part of managements and trade unions.
- (vi) More emphasis has been given to participation at the higher levels. That means active involvement is confined only to a few and the creative potential of rank and file workers is ignored.

2.9.5 Suggestions to make Workers' Participation Effective

In order to make workers' participation in management a success, the following suggestions may be followed:

1. Both the workers and the managements should be made conscious of the benefits of participation. So long as the true spirit of participation is missing, no scheme of participation can be successful. Mere legislative action cannot make participation effective unless employers, trade unions and government are fully committed to participation and make a determined effort to make it successful.
2. One and only one union should be recognised for each industrial unit so that inter-union rivalry will cease to play the disruptive role it is now playing in the progress of the industry.
3. An all out effort should be made to eradicate illiteracy among industrial workers; and workers' education should be undertaken on a more extensive scale.

- 4. Workers in general, and their representatives in particular, should get equipped with the skills and knowledge required for understanding the complications of management and intelligent participation in management decisions.
- 5. Atmosphere of trust should be created on both sides. Unions should feel that management is not side-tracking the effective union through works committees. Management should equally realise that some of their known prerogatives are meant to be parted with. It should do justice to the workers and treat them equal partners in the progress and prosperity of the industrial organisation.

Review Questions

Short Answer Questions

1. What is collective bargaining?
2. State the features of collective bargaining.
3. Briefly explain the problems of collective bargaining in India.
4. Explain the concept of Industrial democracy.
5. What is meant by workers' participation in management?
6. What are joint management councils?
7. What are works committees?
8. Why has workers' participation in management failed in India.

Long Answer Questions

1. What are the objectives and functions of collective bargaining in the modern industrial set up?
2. Define collective bargaining. What role does it play to maintain good industrial relations?
3. Write an essay on the concept and problems of collective bargaining in India.
4. What are the problems of collective bargaining in India? Give suggestions for making it strong and successful.
5. Explain briefly the weaknesses of collective bargaining in India. What should be done to strengthen this process?
6. Explain the concept of collective bargaining. What is its subject-matter?
7. Give suggestions to make collective bargaining effective and popular.
8. Explain the meaning and importance of collective bargaining. Suggest measures for the effective functioning of collective bargaining.
9. Discuss the importance of collective bargaining as a method of regulating relations between employers and employees. What are the pre-requisites to make it successful?
10. Define Workers' Participation in Management and discuss its significance in the context of Indian economy.
11. Explain various kinds of workers' participation in management of industry. Why is it recommended by the human relationists?

Chapter

5

TRADE UNIONISM

CHAPTER OUTLINE

- 5.1 Nature, Objectives and Functions of Trade Unions
- 5.2 Importance of Trade Unions
- 5.3 Motivation to Join Unions
- 5.4 Methods of Trade Unions
- 5.5 Origin of Trade Unions;
- 5.6 Beginning of Trade Union Movement (1875-1925)
- 5.7 Trade Unionism in India since Independence
- 5.8 Structure of Trade Unions
- 5.9 Types of Trade Unions
- 5.10 Problems and Weaknesses of Trade Unions
- 5.11 Recognition of Trade Unions
- 5.12 Trade Unions Act, 1926.

Trade union movement is an offshoot of industrialisation. The growth of modern industrial organisations involving use of modern technology and employment of workers has been followed by growth of trade unions throughout the world. This phenomenon has not only been observed in advanced countries of the world, but also in the developing economies.

"The emergence of trade unionism is spontaneous and inherent in the growth of capitalism. The origin of trade unionism lies in the industrial revolution which disrupted the older way of life and created a new society forged by the shop, the factory, the mine and the industry." Trade unionism has become a vigorous force not only in capitalist economies like U.K. and U.S.A. but also in mixed economies like Russia and Yugoslavia.

A strong trade union can improve the efficiency of workers and promote industrial peace. The labour unrest which may be inarticulate involving extensive absenteeism, frequent job changes, wandering from one plant or locality to another can be avoided.

6.1 NATURE, OBJECTIVES AND FUNCTIONS OF TRADE UNIONS

6.1.1 Definition of Trade Union

Section 2(h) of the Trade Unions Act, 1926 has defined a trade union as "any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers, or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more trade unions." This definition is very exhaustive as it includes associations of both the workers and employers and the federations of their associations. But in this book we will use the term 'trade union' in a narrow sense to mean the associations of workmen and their federations.

Dale Yoder has defined trade union as a continuing, long-term association of employees formed and maintained for the specific purpose of advancing and protecting the interests of members in their working relationships. "A trade union is a continuous association of workers which is formed with the purpose of protecting the interests of workers." According to Flippo, "A labour union or trade union is an organisation of workers formed to promote, protect, and improve, through collective action, the social, economic, and political interests of its members".

5.1.2 Features of a Trade Union

From the analysis of the above definitions, the following features of a trade union emerge :

- (i) It is an organisation formed by employees or workers.
- (ii) It is formed on a continuous basis. It is a permanent body and not a casual or temporary one.
- (iii) It is formed to protect and promote all kinds of interests—economic, political and social—of its members. The dominant interest with which a union is concerned is, however, economic.
- (iv) It includes federations of trade unions also.
- (v) It achieves its objectives through collective action and group efforts.

5.1.3 Objectives of Trade Unions

Trade unions generally pursue the following broad objectives:

1. **Steady employment.** Steady employment is something which the

employer by himself may not be able to guarantee to the workers. His ability to provide it is limited by the state of the market, which in large part is beyond his control. Achievement of this aspiration may thus involve workers in political action, through their unions, for the maintenance of full employment. Thus, this objective stands for *enough jobs with good pay*.

2. **Rationalisation of personnel policies.** The economic security of an employee is determined not only by the level of wages and duration of his employment, but also by the management's personnel policies—in its selection of employees for lay off, retirement, transfer and promotion, the assignment of employees to jobs, and in the disciplining of employees. If the decisions of this type are the result of subjective evaluation and capriciousness, there is no security for the workers. If such decisions are, however, governed by statutory rules and rational policies, there is greater assurance of fair treatment and equal justice.

3. **Voice in decisions affecting workers.** The workers may successfully pressurise for higher wages. He may achieve a satisfactory rationalisation of personnel policies. But if the vital decisions as the scale and schedule of production, introduction of labour saving devices, the closing or relocation of plant, etc. remain outside the effective influence of workers, there is no real security for them. Each worker wants to know if the new machinery would reduce him from a skilled operative to a machine attendant of a member of custodial force. He wants to know what his chances are for continued attachment to the company? What is "*the success of the company*" to him if in transferring the plant from Delhi to Ghaziabad he is laid off? The intervention of the union in such decisions of management is the only way by which the worker is able to achieve any degree of control over the affairs that concern him.

4. **Recognition and participation.** Another objective that unions seek to achieve is winning recognition for the fact that they are equal partners with management in the task of production. This equality is something more than the equality at bargaining table. It is an intellectual quality. That is, the intellectual faculties of workers are no inferior to those of management.

5. **Gaining legislative enactments.** To provide legal sanctions to its demands, the unions attempt to get these framed in the form of acts so that they become permanent features of the contract between the employers and the workers. For this purpose, unions may take recourse of political party.

6. **Miscellaneous services.** Modern trade unions also engage in providing educational, medical, recreational and other facilities for the development and welfare of their members and their families, if they have sufficient funds at their disposal.

OBJECTIVES OF TRADE UNIONS

- To improve the economic lot of employees by securing for them better wages.
- To secure better working conditions for the workers.
- To secure bonus for the employees from the profit of the concern,
- To resist schemes of the management which reduce employment, e.g., rationalisation and automation.
- To secure welfare of employees through group schemes which give benefit to every employee.
- To protect the interests of employees by taking active participation in the management.
- To secure social welfare of the employees.
- To secure organisational stability, growth and leadership.

5.1.4 Functions of Trade Unions

Broadly speaking, trade unions perform two types of functions, viz., (i) militant functions, and (ii) fraternal functions,

Militant Functions. One set of activities performed by trade unions leads to the betterment of the position of their members in relation to their employment. The aim of such activities is to ensure adequate wages, secure better conditions of work and employment, get better treatment from employers, etc. The unions also try to secure some share in productivity gains and a share in the management or even control of industry. When the unions fail to accomplish these aims by the method of collective bargaining and negotiations, they adopt an agitational approach and put up a fight with the management in the form of so-slow, strike, boycott, gherao, etc. Hence, these functions of the trade unions are known as militant or fighting functions.

Fraternal Functions. Another set of activities performed by trade unions aims at rendering help to its members in times of need, and improving their efficiency. Trade unions try to foster a spirit of cooperation and promote friendly relations and diffuse education and culture among their members. They extend financial help to their members when the latter are suffering from illness or when they (the latter) meet with an accident. They also arrange for legal assistance to its members, if necessary. Besides, these, they undertake many welfare measures for their members, e.g., school for the education of children, library, readingrooms, in-door and out-door games, and other recreational facilities. Some trade unions may be called fraternal functions, depend on the availability of funds, which the unions raise by subscription from members and donations from outsiders, and also on their competent and enlightened leadership.

Another broad classification of the functions of unions may be as follows :

(a) Intramural activities (b) Extramural activities, and (c) Political activities.

Intramural activities. These consist of those functions of the unions which lead to the betterment of employment conditions such as ensuring adequate wages and salaries, etc. for which the methods adopted may be collective bargaining, negotiations, strikes, etc.

Extramural activities. These activities help the employees to maintain and improve their efficiency or productivity, e.g., measures intended to foster a spirit of cooperation, promote friendly relations, diffuse education among members and various other types of welfare measures.

Political activities. Modern trade unions also take up political activities to achieve their objectives. Such activities may be related to the formation of a political party or those reflecting an attempt to seek influence on public policy relating to matters connected with the interests of working class.

5.2 IMPORTANCE OF TRADE UNIONS

The significance of trade unions can be studied under the following heads :

I. Functions relating to Trade Union Members

1. Safeguarding workers against all sorts of exploitation by the employers, by union leaders and by political parties.
2. Protecting workers from the atrocities and unfair labour practices of the management.
3. To ensure healthy, safe and conducive working conditions for the workers.
4. Exerting pressure for enhancement of rewards associated with the work only after making a realistic assessment of its practical implications.
5. Ensuring a desirable standard of living by providing various types of social services—health, housing, educational, recreational, co-operative, etc., and by widening and consolidating social security measures.
6. Ensuring a fair and square deal and social justice to workers.
7. Removing the dissatisfaction and redress the day-to-day grievances and complaints of workers.
8. Encouraging workers' participation in the management of industrial organisation and trade union, and to foster labour-management and leader-follower co-operation.
9. Making the workers conscious of their rights and duties.
10. Raising the status of trade union members in the industrial organisation and in the society at large.

II. Functions relating to Industrial Organisation

1. Making organisation as a joint enterprise between workers and management and promoting identity of interests.

2. Increasing production quantitatively as well as qualitatively, by laying down the norms of production and ensuring their adequate observance.
3. Maintenance of discipline at the place of work.
4. Creating opportunities for workers' participation in management and strengthening labour-management co-operation.
5. Redressal of day-to-day grievances.
6. Promoting cordial relations between the workers and management by settling disputes through negotiations, joint consultation and voluntary arbitration and by avoiding litigation.
7. Exerting pressure on the employers to enforce legislative provisions beneficial to the workers, to share the profits equitably, and to keep away from various types of unfair labour practices.
8. Two-way communication with the management.

III. Functions relating to Society

1. Rendering constructive co-operation in the formulation and implementation of plans and policies relating to national development.
2. Participating in the development of programmes of national development e.g., family planning, afforestation, national integration, etc.
3. Launching special campaigns against the social evils of corruption, nepotism, communalism, casteism, regionalism, linguism, price rise, hoarding, black marketing, smuggling, sex inequality, dowry, untouchability, illiteracy, dirt and disease.
4. Helping unorganised sector to organise itself.
5. Creating public opinion favourable to government's policies and plans, and to mobilise people's participation for their effective implementation.
6. Pressuring the government to enact legislation conducive to the development of trade unions and their members.

5.2.1 Criticism of Trade Unions by the Employers

Trade unions have been subjected to severe criticism, particularly by the employers. Some of the charges levelled against them are as under :

- (i) Lack of education makes the workers narrow-minded, and prevents them from taking long-term views. Thus, anything which does not result in an immediate reward becomes unattractive to them. This attitude is responsible for many strikes and lockouts in industrial concerns.
- (ii) Trade unions do not welcome rationalisation and improved methods of production for the fear that some of the workers will be put out of work. Therefore, they resort to go slow policy which retards industrial progress.
- (iii) When labour unions strike on flimsy grounds, incalculable losses occur

to producers, community and the nation. These are harmful to the workers also. They suffer because of the loss of wages.

- (iv) They create artificial scarcity of labour by demanding that only union personnel should be employed.
- (v) By undue insistence on the payment of standard rates of wages, they have only levelled down the earnings of the efficient workers.

5.3 MOTIVATION TO JOIN UNIONS

Why do Workers Join Unions? Since human behaviour is goal directed, the employees will join a union if some of their wants can be fulfilled by membership in a union. The important forces which make the employees join a union are as follows:

- (i) **Greater Bargaining Power.** The individual employee possesses very little bargaining power as compared to that of his employer. If he is not satisfied with the wage and other conditions of employment, he can leave the job. But it is not practicable to continually resign from one job after another when he is dissatisfied. This imposes a great financial and emotional burden upon him. The better course for him is to join a union which can take concerted action against the employer. The threat or actuality of a strike by a union is a powerful tool that often causes the employer to accept the demands of the workers for better conditions of employment.
- (ii) **Make their Voices Heard.** The desire for self-expression is a fundamental human drive for most people. They wish to share their feelings, ideas and opinions with others. They also want the management to listen to them. A trade union provides such a forum where the feelings, ideas and opinions of the workers could be discussed. It can also transmit the feelings, ideas, opinions and complaints of the workers to the management. The collective voice of the workers is heard by the management and given due consideration while taking policy decisions by the management.
- (iii) **Minimise Discrimination.** The decisions regarding pay, work, transfer, promotion, etc. are highly subjective in nature. They may be influenced by the personal relationships existing between the supervisor and each of his subordinates. Thus, there are chances of favouritism in favour of some employees and discrimination against others. A trade union can compel the management to formulate personnel policies which press for equality of treatment to the workers. All the labour decisions of the management are under close scrutiny of the labour union. This has the effect of minimising favouritism and discrimination.

- (iv) **Sense of Security.** The employees may join the unions because of their belief that it is an effective way to secure adequate protection from various types of hazards and income insecurity such as accident, injury, illness, unemployment, etc. The trade unions secure retirement benefits for the workers and compel the management to invest in welfare services for the benefit of the workers.
- (v) **Sense of Participation.** The employees can participate in management of matters affecting their interests only if they join trade unions. They can influence the decisions which are taken as a result of collective bargaining between the union and the management.
- (vi) **Sense of Belongingness.** Many employees join a union because their co-workers are the members of the union. At times, an employee joins a union under group pressure; if he does not, he often has a very difficult time at work. On the other hand, those who are members of a union feel that they gain respect in the eyes of their fellow workers. They can also discuss their problems with the trade union leaders.
- (vii) **Background Factors.** Historical background factors also play a part in the disposition of employees to join a union. For those who have been raised in a working class neighbourhood where one's father and indeed all the working members in the community belong to the union, acceptance of the union as a normal part of the employment life seems natural.

5.4 METHODS OF TRADE UNIONS

In order to achieve their goals, trade unions may adopt any or a combination of the following methods:

1. Method of Mutual Insurance.
2. Method of Collective Bargaining.
3. Method of Legal Enactment/Political Action.
4. Method of Direct Action.

1. Mutual Insurance: This method consists mainly of welfare activities conducted by trade unions for their members. Activities like medical aid, educational loans, recreational activities, cooperative societies, credit facilities, sickness aid, etc. come in the form of mutual insurance or mutual aid. These amenities and aids are provided out of the funds that its members contribute in the shape of membership subscriptions, and donations, etc. Thus, the effectiveness of this method is directly dependent upon the income of trade unions. The Indian trade unions have lagged far behind their counterparts in U.K. and U.S.A. in taking recourse to mutual insurance primarily because of their financial position.

2. Collective Bargaining: Another method used by trade unions for improving the economic and social conditions of their members is collective

bargaining. This is essentially a bi-partite method under which trade union as a representative organisation of workers bargains with the employers over the various issues such as terms and conditions of employment, wages, bonus, hours of work, working conditions, welfare facilities, etc. and enter into agreement, called collective agreement, with the employer.

Since individual worker is a weak bargainer, the method of collective bargaining is preferred. Bargaining may be made at the local level (*i.e.*, a factory or a plant), at the regional level or at the industry or national level.

The process of collective bargaining is bi-partite, that is, between employers/management and the trade unions. It should be free of external agencies as government. However, for various reasons, the bargaining power of the union is weak, which they have secured by statute and bargaining is often done in courts. For this reason, we have in India judicially controlled bargaining rather than free bi-partite collective bargaining. There are certain prerequisites of free collective bargaining which include mutual recognition and the will to bargain and come to settlement. Since unions are weak and there is no uniform law for the recognition of a representative union, collective bargaining has not made much headway in India.

3. Legal Enactment/Political Action: Under this method, trade unions engage in political action for securing working and living conditions for the workers. This is done by exerting pressure for getting progressive labour laws passed by the legislature and to get them enforced properly. For getting protective and pro-labour legislation passed by the legislatures, the unions send competent representatives of the workers to the Legislative Assembly and the Parliament.

Unlike mutual insurance and collective bargaining, which are designed to benefit only the trade union members or employees of a particular plant, region or industry, political action is intended to benefit the working class in general.

4. Direct Action: When the trade unions fail to achieve their goals by the methods described above, they resort to direct action. It is manifested in several forms like strikes, gheraos, bandhs, etc. Since this method is harmful to all concerned in terms of loss of production, loss of wages, scarcity or non-availability of goods, etc., every effort should be made to avoid the use of this weapon in the armoury of trade unions. What is required is cooperation and not conflict.

Under the diversity of objectives and methods of trade unions, which ones can be said to be "legitimate and which others, 'illegitimate'? There is no objective standard by which one can judge the legitimate functions and methods of trade union in general. Trade unionism is essentially a pragmatic movement which constantly reshapes its organisation structure, reformulates its policies and objectives and reexamines and evaluates its methods, keeping all the time in its view the welfare of the working class as its goal.

5.5 ORIGIN OF TRADE UNIONS

The emergence of trade unionism in India was influenced by a host of factors which will be discussed in this section. In other countries too, the rise of unionism was the result of the collective operation of various factors to bring about the much needed improvement in the then prevalent socioeconomic conditions in the industrial world. Efforts were also made through organised action to give expression to the needs, expectations, aspirations and attitudes of the working force.

Industrialisation started late in India as compared to the western countries. It was after 1950 that large scale industries started coming up and railways started operation in 1853 which facilitated the transport of labour and raw-materials. The working environment in factories was extremely poor as could be judged from the following:

- (i) Hopelessly low wages;
- (ii) Long hours of work;
- (iii) Job insecurity;
- (iv) No social security and welfare measures;
- (v) Women and children were employed in the factories;
- (vi) Mass illiteracy;
- (vii) Indifferent attitude of government;
- (viii) Rural background of labour;
- (ix) Unsympathetic public.

5.6 BEGINNING OF TRADE UNION MOVEMENT (1875-1925)

In 1875, a few philanthropists led by Shri Sorabjee Shahpurjee Bengali started an agitation to draw the attention of the government towards the need of legislative measures to protect child and women labour in particular and workers in general.

Shri Narayan Meghaji Lokhandey who was influenced by Mahatma Phoooley of Maharashtra emerged as the first labour leader in India. He took initiative in organising protests against the poor working conditions prevailing in factories. He served in the railways and the post office before taking up employment as a storekeeper in a textile mill and devoted his whole life to the cause of labour movement. He set up the first workers' organisation in India which was known as the *Bombay Mill Hands Association* organised. However the Bombay Mill Hands Association had no roll of membership, no funds and no rules. The association submitted a charter of demand before the government which announced the appointment of Factory Commission in 1890. The members of the Commission (Sorabjee Shahpurjee Bengali was one of them) were assisted in their enquiry in each of the provinces by a selected representative of the mill-hands of that province. Bombay Mill-Hands Association, led by Shri Lokhandey presented a petition reiterating the previous demands. This was followed by a bigger petition signed by about 17000 workers. Based on the recommendations of the Factory

5.7.1 Size of Unions

An idea of the size of the Indian trade unions can be had from a look at their average membership figures. A few of the trade unions are big in size, but most of them are very small. As a result, the size of Indian unions in general is very small. An idea of average membership of unions can be had from Table 5.2.

TABLE 5.2. Average Membership per Union (submitting return)

Year	Average Membership	Year	Average Membership
1927-28	3594	1968	579
1932-33	1615	1969	582
1937-38	1137	1970	600
1938-39	1013	1971	634
1943-44	1387	1972	507
1944-45	1552	1973	701
1950-51	877	1974	734
1951-52	781	1975	742
1955-56	568	1976	707
1956-57	540	1980	689
1960-61	589	1985	670
1964-65	549	1992	627
1967	602	1994	598

Source : Indian Labour Yearbook, 1995 and Pocket Book of Labour Statistics, 1997.

The average membership per union has been on a decline except for occasional reversals in the trend. Whereas, average membership was 3594 per union during 1927-28, it declined to mere 707 in 1976 and 675 in 1985 and 598 in 1994. It simply means that the size of unions has been on a decline.

There is yet another aspect of unions membership that shows the dominance and preponderance of small unions. In India, presently about 75% of unions are with members less than 500. On the other hand, unions with the membership of 2000 or more constitute only about 4% of total unions in the country. This picture is really highly disappointing and disheartening when compared with the size of the unions in the U.S. or the U.K. where union membership runs into millions.

Factors Responsible for Small Size of Unions: More than 75% of the unions submitting membership returns have less than 500 members each. The following factors are responsible for the small size of trade unions :

- Minimum Membership required by the Trade Unions Act. Any ten workers engaged in an industrial organisation can form a trade union and get it registered under the Trade Unions Act, 1926, moreover,

registration of a trade union requires a very simple procedure. As a result, small groups of workers are tempted to form a union.

- Multiplicity of Unions. Generally, there are multiple unions in many factories and industrial organisations. Naturally, the workers get divided among the unions leading to low size of unions.
- Ego of Trade Union Leaders. Many trade union leaders are egotistic in nature. Just to satisfy their ego, they form new trade unions and compete with other unions.

5.8 STRUCTURE OF TRADE UNIONS

The structure of unions refers to the basis on which unions are organised (*i.e.*, whether they are organised on craft or industrial or general union basis) and to the pattern whereby the plant unions are linked to regional level or national level federations or unions. Let us examine these two aspects one-by-one :

Unions in India are largely organised by industry rather than craft. Although industrial unionism has been the general trend, craft unions have also emerged here and there; primarily, they exist among non-manual workers like administrative staff, professionals, technicians, etc. Ahmedabad Textile Labour Association is the sole example of craft union of manual workers.

Another aspect of the structure of unions in India relates to their pattern of relationship between national level, regional level, local level and plant level unions. Let us see how they are related in India.

5.9 TYPES OF TRADE UNIONS

There may be three types of labour organisations, *viz.*, the craft union, industrial union and general union. These are discussed below :

Craft Union

It is usually formed of workers belonging to the same craft, occupation or specialisation no matter in what industry or trade they happen to be employed. Thus, electricians though working in different industries may form a union of electricians only. There may be separate unions for fitters, turners, carpenters, etc. The International Wood Carvers' Association and the Indian Pilots' Guild may be cited as examples of craft unions. A craft union has the following merits :

- People belonging to the same craft or constitute a compact well-knit cohesive group. With their identical training and educational background these workers very soon develop similar perceptions and outlook and organising these workers in a group becomes relatively easier.
- Craft unions consisting of workers possessing some important skill enjoy superior bargaining position. Their workers cannot be easily replaced in a strike. Strike in a craft union may paralyse the entire working of the

organisation. Hence, craft unions generally succeed in securing more favourable terms and conditions for their members.

The weaknesses of a craft union are :

- (i) It is often easier for an employer to break this type of union. When several occupational groups in an industry are independently organised and each has its own agreement, the employer has only to break one organisation at a time. Joint action by all workers, because of different agreements with different craft workers, becomes difficult.
- (ii) With the advancement in technology, the traditional distinction among various crafts has disappeared. This is one reason why craft unions are generally found to oppose technological advances.
- (iii) The craft unions are not likely to have a clear perspective of the needs of the working class as a whole. Moreover, by excluding a very big chunk of unskilled workers, these unions undermine the solidarity of workers' movement.

Industrial Union

An industrial union organises workers on the basis of industry rather than craft. If the entire labour force of a cotton textile factory decides to form a union consisting of workers of different crafts, the union is called an industrial union. The Rashtriya Mill Mazdoor Sangh and the Girni Kamgar Union at Mumbai belong to this type. The main strength of this type of union lies in the fact that it cuts across skill and craft distinctions of workers employed in an industry. The unions have the following benefits :

- (i) They make negotiations easy. Employers are spared the trouble of bargaining separately with a number of unions established on a craft basis. A single agreement covers all the workers of a particular industry.
- (ii) They encourage workers' solidarity. Industry-wide unions have a special appeal to the socialists and other radicals because by bringing both skilled and unskilled workers closer these unions make the task of solidifying the workers easy.
- (iii) These days when mass production techniques have obliterated craft distinctions, industry-wide unions are the only logical answer.

The major drawback of this type of union is that the skilled workers in it feel that they are swamped by the unskilled workers and that in the negotiations with the employers their specific demands are not adequately taken care of.

General Union

A general union embraces all workers in its fold, whatever their industry or craft may be. The Jamshedpur Labour Union, whose membership includes workers engaged in different industries and crafts of Jamshedpur, is an example of a general union.

TRADE UNIONISM

Unions in different countries have developed on different lines, depending on social and economic compulsions of industrialisation, political and historical factors and the institutional framework of respective societies. For example, in the U.K. where unions grew out of the guild system, craft became the basis of workers getting together for collective action. In the USA workers are members of local industrial unions most of which are affiliated to national unions covering an occupation or an industry. The trade union movement in India may be said to have its beginnings in the industrial unions.

Another aspect of the structure of unions in India relates to their pattern of relationship between national level, regional level, local level and plant level unions. Let us see how they are related in India.

(i) **Local level federations.** This is the second level in the structure from below. The local trade union federation holds together the plant level unions at the local level in a particular craft and industry. These local level federations might be affiliated to either some regional level or national level federation (discussed below) or these may be independent.

(ii) **Regional level federations.** These are the organisations of all the constituent unions in a particular state or region. The importance of such federations cannot be exaggerated. In a vast country like India, conditions vary from region to region. The style of living, languages, customs, traditions, conditions, etc. are different. Therefore, it is better that workers are organised at regional or state level. These regional federations may have members of two kinds: (1) the plant level unions affiliating themselves to these directly and (2) the local federations. In the second case, plant level unions become the members of regional federation indirectly through the local federations. It may be noted that the regional federations may be independent or they may get affiliated to some national federation.

(iii) **National federations.** These are national level bodies to which plant level unions, local unions or regional level unions may get affiliated. These are the apex bodies at the top of the structure. They act as coordinating bodies. These national federations may have their own regional or state level coordinating bodies to which the plant level unions may get affiliated.

Four important central organisations of workers in India are as follows :

1. **The Indian National Trade Union Congress (INTUC).** The INTUC was formed by the Congress Party and the top Congress leaders like Nehru and Patel were associated with it. Every union affiliated to INTUC has to submit its dispute to arbitration after exhausting other means of settlement of disputes.

2. **The All India Trade Union Congress (AITUC).** This union serves as the labour forum of Communist Party of India at present. It is considered as the second largest union in India.

3. **The Hind Mazdoor Sabha (HMS).** It was formed in Calcutta by the socialists who neither approved INTUC nor AITUC. The HMS was organised with a view to keeping its members free from any political or other outside interference.

4. The United Trade Union Congress (UTUC). It was formed by those persons who were dissident socialists. It functions mainly in Kerala and West Bengal.

5. Centre for Indian Trade Unions (CITU). The Marxists separated from the AITUC in May, 1970 and formed the CITU.

In addition to the above, there are four other central trade union organisations namely, Bharatiya Mazdoor Sangh (BMS), National Labour Organisation (NLO), National Front of Indian Trade Unions (NFITU), and Trade Union Congress Committee (TUCC).

The relative strength of the foregoing central organisations of labour is shown in Table 5.3.

TABLE 5.3. Verified Strength of Central Labour Organisations as on 31.12.1989 and 31.12.1989

Trade Union Organisations	Membership (in '000s)				
	Latest Survey as on 31.12.89		Previous survey as on 31.12.88		
Total	%	Total	%		
1. BMS	3117	26.20	1211	21.04	
2. INTUC	2706	22.75	2236	38.85	
3. CITU	1798	15.12	331	5.75	
4. HMS	1477	12.42	763	5.26	
5. AITUC	924	7.77	345	5.99	
6. UTUC (Lenin Sarani)	803	6.75	621	10.79	
7. UTUC	540	4.54	165	2.87	
8. NFITU	530	4.45	84	1.46	
Total	11895	100.00	5755	100.00	

Source : Indian Labour Yearbook, 1995 and *The Hindustan Times*, 7th August, 1994.

According to the latest data relating to 31st December, 1989, as released by the Chief Labour Commissioner, in August 1994, Bharatiya Mazdoor Sangh (BMS) which is an affiliate of Bharatiya Janata Party (BJP) secured the top position in terms of membership by having a total membership of 31.17 lakh as compared to 12.11 lakh in December 1980. This is followed by INTUC—Congress affiliated union with a total membership of 27.06 lakh, followed by CITU affiliated to CPI(M) with a total membership of 17.98 lakh and HMS with a membership of 14.77 lakh.

In relative terms, as against the figures of 1980, BMS has improved its position by raising its membership from 21.0% of total to 26.2% while INTUC has lost ground from 38.85% to 22.75%. CITU affiliated to CPI(M) has improved

its position considerably from 5.75% to 15.12%, ATTUC affiliated to CPI has also strengthened its position from about 6% to 7.77%. Since many Central Trade Unions have filed claims challenging the provisional verification, the final figures are not available. But provisional figures do indicate that the hold of the Congress-affiliated INTUC has been on the decline and that of BMS, CITU, HMS and ATTUC has been increasing.

5.10 PROBLEMS AND WEAKNESSES OF TRADE UNIONS

The problems and weaknesses of trade unionism in India are as follows :

(i) **Uneven Growth.** The trade unionism in India is characterised by uneven growth—both industry-wise and area-wise. Trade unions are popular in big industries and the degree of unionisation varies widely from industry to industry. Besides, trade union activities are concentrated in a few states and in bigger industrial centres mainly due to concentration of industries in those places.

(ii) **Low Membership.** The number of trade unions in India has increased considerably. But this has been followed by the declining membership per union. The average number of members per union was about 3,500 in 1927-28. It reduced to about 1,400 in 1946-47 and again to as low as 675 in 1985. During 1964-65, 70% of the unions submitting returns belonged to the group having a membership below 300. More than 80 per cent of the trade unions submitting returns had less than 500 members. This data indicates the emergence of small sized unions in large numbers. This is due to the reason that any seven workers may form a union under the Trade Unions Act, 1926 and get it registered. Secondly, the rivalry among the leaders of trade unions has resulted in multiplicity of unions, thereby reducing the average size of membership per union.

(iii) **Multiplicity of Unions.** There exist several trade unions in the same establishment. The multiplicity of unions is the result of outside leadership and labour laws. The law permits and gives sanctity to small unions. Any seven persons can form a union under the Trade Unions Act, 1926. This Act confers rights on such a union. It is allowed under the Act to raise disputes, file suits, go to conciliation and even bargain with employers. Therefore, small sections of workers are encouraged to form separate unions. There is no restriction on the number of unions to be registered in one establishment.

The existence of multiple unions in an establishment leads to interunion rivalry. Different unions attempt to play down each other in their bid to

gain better hold on the workers. Workers lose interest in unionism, as employers get an opportunity to play unions against each other. They are able to take advantage of infighting among unions and may refuse to bargain on the plea that there is no truly representative union. That multiple unions do more harm than good to the cause of trade unionism.

(iv) **Outside Leadership.** Trade unions in India are led largely by people who themselves are not workers. These outsiders are politicians, intellectuals and professionals having no experience of work in industry. Outsiders continue to dominate the trade unions to advance their personal interests.

(v) **Financial Problems.** The financial position of the trade unions is weak because their average yearly income is very low and inadequate. The subscription rates are very low. Under conditions of multiplicity of unions, a union interested in increasing its membership figures keep the subscription rate unduly low. As a result, the funds with the unions are inadequate as they cannot undertake welfare programmes for their members. In such a situation, the subscription rates must be raised. It is argued that the financial condition of Indian workers is not too good to afford the increased rates. This, however, is only a myth. Over the years the average income of the worker has been on an increase. It is wrong to plead that they cannot afford higher subscription rates.

Another reason for the weak financial position of unions is that large amounts of subscription dues remain unpaid by the workers. The names of constant defaulters continue to appear on the membership registers of a number of unions. They are neither expelled nor they cease to be members *ipso facto* according to the union rules. Rules for expulsion of defaulting members are seldom invoked. Besides this, unions do not have proper staff and organisation to collect subscriptions. If workers are approached on or near the pay day, they will pay their subscriptions readily. A solution to the problem of collection of subscription on regular basis can be found in the check off system. Under this system, the subscription is deducted from pay at the time of making wage payment by the employer. The amount is later on handed over to the union of which the worker is a member.

(vi) **Indifferent Attitude of Workers.** In India, a large number of workers have not joined any union. About 2/3rd of the workers have no truck with unions. Moreover, all the members of the trade unions do not show interest in their affairs. The attendance at the general meetings of the unions is very low. Under such circumstances, trade unionism cannot be expected to make

much progress. This gives rise to another problem that unions cease to function democratically. They are run by a few interested persons who at times have their own axe to grind. This problem can be removed by educating workers of their rights and duties and developing in them a sense of responsibility.

5.10.1 Outside Leadership in Trade Unionism

A remarkable feature of trade unionism in India has been domination by outside leadership down to the present day. Labour movement has been guided by outsiders in its early phases in many countries. But as the movement attained certain maturity, the outsiders made way for the leadership for the working class. In India, however, outsiders still continue to dominate the trade union movement which is now more than seventy years old. These outsiders are professional politicians and lawyers who have no history of physical work in the industry. This is leadership by intellectuals rather than by workers.

The important reasons for the continued dominance of outsiders are as follows :

- The rank and file are largely illiterate and they cannot communicate with their employers. They do not possess the knowledge, education and ability which make a successful leader. They lack confidence which stimulates workers to meet the employers or their representatives as equals.
- Personnel in managerial posts are members of castes which are higher in hierarchy than those of rank and file unionists.
- The body of laws and rules applicable to labour relations is very large and the parties are prone to a legalistic approach. The recourse to conciliation, adjudication and courts adds greatly to complexity of union work. Since most workers are not adequately educated, they have to look to outsiders for leadership.

The existence of outside leadership has created the following problems:

- Since outsiders have links with political parties, they give greater importance to the interest of their political parties. At times, they do not mind sacrificing the interest of their followers for the achievement of political ends.
- Their approach towards labour problems is coloured by political considerations. This hampers the growth of healthy employer-employee relations. Whenever, there is an industrial dispute, the leaders try to solve it through political pressures and interventions. This naturally obstructs the growth of understanding and accommodation between workers and employers.

- (iii) Outside leaders are responsible for the creation of multiple unions; if case they are not satisfied with other union leaders, they would leave the union with a group of dissident workers and form another rival union at the same plant. Such an approach kills the solidity and solidarity of trade union movement.

5.10.2 Suggestions for Strengthening of Trade Unionism

Sound trade unionism has the potentialities for better labour productivity, increasing earnings of labour, expanding their purchasing power, improving their working and living conditions, increasing efficiency and so on. Such a state of affairs would be beneficial not only to workers, but also to the industry and to the nation. Therefore, it is essential to recognise the vital importance of trade unions as an integral part of the industrial structure of India. The government and many enlightened employers do appreciate the importance of the role of trade unions and their policy is one of encouragement and assistance to the trade unionism. But the future of trade unionism in India depends mainly upon the efforts of the unions themselves. The maximum encouragement and help from the government and the employers cannot instil vigour into unions which lack vitality. Real strength must come from within. No amount of encouragement from employers or of assistance from the State can infuse life into the unions which have nothing vital in themselves. For developing internal vitality, a strong and stable trade union movement is essential for the proper functioning of industry. A few suggestions for the development of such unions are given below :

- (i) **One Union in One Industry.** Multiplicity of unions in the same plant leads to interunion rivalry which ultimately cuts at the root of the trade union movement. It weakens the power for collective bargaining and reduces the effectiveness of workers in securing their legitimate rights. Therefore, there should be only one union in one industry.
- (ii) **Paid Union Officials.** Generally, the trade unions avail the services of honorary workers due to paucity of funds. This practice should be stopped because honorary office bearers cannot do full justice to the task entrusted to them because of lack of time at their disposal. Therefore, paid union officials should be employed who are persons of proven integrity and who are able to evaluate the demands of the workers so that they may negotiate with employers on equal footing.
- (iii) **Development of Leadership from within.** It is of crucial importance that trade unions are managed by the workers, and not by outsiders. Leadership should be developed from within the rank and file of the workers. In this

regard, the National Commission on Labour recommended that (a) there should be no ban on non-employees holding the position in the executive of the unions, (b) steps should be taken to promote internal leadership and give it more responsible role, (c) internal leadership should be kept outside the pale of victimisation, (d) permissible limit of outsiders in the executive of the unions should be reduced to 25%, and (e) ex-employees should not be treated as outsiders. With the development of internal leadership, multiplicity of unions and their rivalries will tend to reduce.

- (iv) **Recognition of Trade Unions.** Till recently, the employers refused recognition to the trade unions either on the basis that unions consisted of only a minority of employees or two or more unions existed. The Royal Commission observed as early as in 1931 that the fact that union consists of only a minority of employees is no adequate reason for withholding recognition. Some procedure must be worked out so that the most representative union in the plant is recognised by the management. The National Labour Conference (1982) suggested the check-off system for verifying membership of different trade unions. Under this, workers would individually authorise management to deduct from their wages dues to any one of the unions of their choice. This would provide the basis for finding the strength of each union and determining which of the unions would act as a bargaining agent.
- (v) **Improvement of Union Finances.** The National Commission on Labour suggested that the membership fees should be raised to Re. 1 per month. The check-off system was suggested by the National Labour Conference (1982) under which each worker would individually authorise the employer to deduct membership fee from his wage or salary. This will help in strengthening the financial condition of unions by reducing the chances of defaults in payment by workers.

5.11 RECOGNITION OF TRADE UNIONS

The Trade Unions Act is completely silent on the question of recognising a trade union for the purpose of collective bargaining. Such a provision exists, however, in the Annexure A of the Code of Discipline which is a voluntary measure. This Annexure lays down the following criteria for recognising a trade union :

1. Where there are more than one union, a union claiming recognition should have been functioning for at least one year after registration. Where there is only one union, this condition would not apply.
2. The membership of the union should cover at least fifteen per cent of the workers in the establishment concerned. Membership would be counted only of those who have paid their subscriptions for at least 3 months during the period of 6 months immediately preceding the month of reckoning.

3. A union may claim to be recognised as a representative union for workers in all establishments in an industry in a local area if it has a membership of at least 25% 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 2 years.
5. Where there are several unions in an industry or establishment, the one with the largest membership should 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 membership of 50% 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 representative union for the industry or seek redress directly.
7. Only unions which observe the Code of Discipline are entitled to recognition.

5.11.1 Rights of a Recognised Union

Annexure B of the Code of Discipline mentions the following rights of a recognised union:

- (i) It can raise issue and enter into collective agreements with employers on general questions concerning the terms of employment and conditions of service of workers in the establishment.
- (ii) It can collect membership fees from the members within the premises of the undertaking.
- (iii) It can put up a notice board on the premises of the undertaking and use it for announcements relating to meetings, etc.
- (iv) For the purpose of prevention or settlement of an industrial dispute:
 - (a) it can hold discussions on the premises of the undertaking with the employees who are members of the union. (But this should not interfere with the normal working of the undertaking.)
 - (b) It can discuss with the employer or with any other person appointed by him in that behalf the grievances of employees in the undertaking.
 - (c) It can inspect anyplace in the undertaking where any member of the union is employed.
- (v) It can appoint its nominees on (a) Joint Management Councils, (b) Grievance Committee, and (c) any other non-statutory bipartite committee set up by management such as production committee, welfare committee, canteen committee, house allotment committee, etc.

The First National Commission on Labour (1972) recommended compulsory recognition of trade unions by the employers under the central legislation in all

industrial undertakings employing 100 or more workers or where the capital invested is above the stipulated size. In order to claim recognition by the individual employer, the union must have the total membership of 30% of the plant or establishment. The industry wise union in local area may, however, be recognised if the minimum membership is 25%. The Commission has recommended that where recognition is sought by more than one union, the largest union should be recognised.

5.12 TRADE UNIONS ACT, 1926

Definition of Trade Union and Related Concepts

The Trade Unions Act defines trade union as "any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business and includes any federation of two or more trade unions".

According to the above definition a trade union can be either a union of workmen or of employers. The term "workmen" has not been independently defined in the Trade Unions Act. But in the definition of the term "trade dispute" in Section 2(g) the term "workmen" has been used to include : "all persons employed in the trade or industry whether or not in the employment of the employer with whom the trade dispute arises". This means that all the persons whether doing skilled, unskilled, manual, supervisory, technical, managerial or clerical work are workmen provided they are employed in any "trade" or "industry".

The above definition of trade union also prescribes the primary objectives for which a trade union may be formed; these are :

(a) To regulate the relations (i) between employers, (ii) between workmen, or (iii) between employees and workmen.

(b) To impose restrictive conditions on the conduct of any trade or business.

Besides these primary objectives which determine whether a union is trade union or not under the Act, there can be other objectives also. Thus a union may also have a number of economic, political and social objectives besides its primary objectives.

On the question whether there is any age restriction for becoming the member of a trade union, Section 21(A) (1) (i) of the Act provides that a person who has attained the age of 15 years may become the member of a registered trade union unless the rules of the union provide otherwise. But to become an office-bearer of the union or member of the executive of the union he should attain the age of 18 years.

Registration of Trade Unions

Any seven or more members of a trade union can, by subscribing their names to the rules of the trade union and by otherwise complying with the provisions

Chapter

3

LABOUR LEGISLATION

CHAPTER OUTLINE

- 3.1 The Employees' Compensation Act, 1923
- 3.2 The Factories Act, 1948
- 3.3 The Child Labour (Prohibition and Regulation) Act;
- 3.4 The Employees' State Insurance Act, 1948;
- 3.5 The Maternity Benefit Act, 1961;
- 3.6 The Employees' Provident Fund and Misc. Provisions Act, 1952;
- 3.7 The Industrial Employment (Standing Orders) Act, 1946;
- 3.8 The Industrial Disputes Act, 1947;
- 3.9 The Trade Unions Act, 1926;
- 3.10 The Payment of Wages Act, 1936;
- 3.11 The Minimum Wages Act, 1948;
- 3.12 The Apprentices Act, 1961;
- 3.13 The Payment of Bonus Act, 1965.

3.1 THE EMPLOYEES' COMPENSATION ACT, 1923

The Workmen's Compensation Act came into force on the first day of July 1924 for providing social security to workmen. By an amendment to the Act in 2009, the name of the Act was changed to 'The Employees Compensation Act.' The main object of the Act is to provide for payment of compensation by an employer to his workmen in case of an accident as a measure of relief and social security. Compensation is to be given not only for personal injuries sustained by accidents arising out of and in the course of employment but also for certain occupational diseases. The compensation payable is not dependent on any

3.2 THE FACTORIES ACT, 1948,

The object of the Act is to protect the workers against industrial and occupational hazards. It endeavours to secure for the workers conditions conducive to their health. The scope of this Act is quite wide and covers all aspects relating to factories namely : approval ; licensing and registration; inspecting authorities ; health, safety, welfare, working hours, employment of adults and young children ; annual leaves, and penalties for violation.

Meaning of "Factory". Section 2(m) defines a factory as any premises including its precincts wherein (i) a manufacturing process is carried on and (ii) the specified number of workers (10 in case manufacturing is carried on with the aid of power, and 20 if carried on without power) are working therein on any day of the preceding twelve months.

'Mines' governed by Indian Mines Act or mobile unit of armed forces or a railway running shed or hotel restaurant or eating place, etc. are not included in the term 'factory'.

Meaning of 'Worker'. The term 'worker' is defined in Section 2 (1) to mean 'any person employed directly or through an agency and whether for or without remuneration either in the manufacturing process or in some work connected with or incidental thereto.

Approval of Factory Site. Section 6 of the Act provides that before a site is used as factory, previous permission in writing of the State Government or the Chief Inspector must be obtained.

3.10

Health of Workers (Secs. 11 to 20)

Section 11 to 20 deal with the health of workers and contain the following provisions :

- (a) **Cleanliness.** Every factory must be kept clean and free from effluvia arising from any drain, privy or other nuisance.
- (b) **Disposal of wastes and effluvia so as to render them innocuous.**
- (c) **Ventilation and temperature.** Effective arrangements must be made to secure and maintain in every workroom (i) adequate ventilation and (ii) such temperature as will secure reasonable conditions of comfort and prevent injury to workers.
- (d) **Dust and fumes.** Where the manufacturing process is liable to give dust or fume, steps must be taken to prevent its inhalation and accumulation in any workroom.
- (e) **Artificial humidification.** Regulation relating to the method to be used for artificial humidifications as prescribed by the state government must be observed.
- (f) **Overcrowding.** To prevent overcrowding, there must be 500 cubic feet of space for every worker in a workroom.
- (g) **Lighting.** In every part of the factory where workers are working or passing, sufficient lighting—natural, artificial or both shall be maintained.
- (h) **Drinking water.** Adequate arrangement for drinking water is to be made and where the number of workers is more than 250, cool drinking water shall be provided.
- (i) **Latrines and urinals with separate accommodation for male and female workers.**
- (j) **Spitoons are to be provided at convenient places in the factory.**

Safety of Workers (Secs. 21 to 41)

Sections 21 to 41 deal with the safety of employees in factors as discussed below :

- (a) **Fencing of machinery.** The dangerous parts of all such machines as moving parts of prime movers, fly wheels, electric generators, rotary converters, etc. shall be securely fenced.
- (b) **Work on or near moving machines.** Work on moving machinery shall be carried out only by specially trained adult male workers wearing light fitting clothes and whose name has been recorded in a register.
- (c) **Young persons shall not be made to work on a dangerous machine unless fully instructed or sufficiently trained or placed under the supervision of an experienced person.**
- (d) **Provision and maintenance of striking gear or other devices for cutting off power.**

3.11

- (e) **Casing of new machinery.** All power driven machinery shall be encased or otherwise effectively guarded.
- (f) **Prohibition of employment of women and children near cotton openers.**
- (g) **Hoists and lifts.** In every factory, hoists and lifts are to be of good mechanical construction, sound material and adequate strength and thoroughly examined by a competent person every six months. Similar provision has been made with respect to lifting machines, chairs, ropes and lifting tackles.
- (h) **Revolving machinery.** Where grinding is carried on in a factory, maximum safe working peripheral speed of grindstone shall be notified by means of a notice.
- (i) **In case of pressure plants** safe working pressure is not to be exceeded.
- (j) **Floors, stairs and means of access.** All these shall be of sound construction and properly kept and maintained.
- (k) **Pits, pumps or openings in floors** are to be securely covered or fenced.
- (l) Provisions have also been made for ‘protection of eyes’ and for taking precautions against ‘dangerous fumes’, ‘explosive or inflammable dust, gas, etc.’; and also in case of fire.
- (m) **Obligation to appoint safety officers.** Safety officers shall be appointed if the factory employs 1000 or more workers or if the state government so prescribes.

The owner of a small industry is also advised to keep in mind the provisions relating to hazardous processes introduced by the Amendment Act, 1987.

Welfare of Workers (Secs. 42 to 50)

A worker would be entitled to the following facilities :

- (a) **Washing facilities;** (b) Facilities for storing and drying clothing; (c) Facilities for sitting, (d) First-aid appliances; (e) Canteen (where 250 workers are employed); (f) Shelters, restrooms and lunchrooms; (g) Crèches (if 30 or more women are employed); (h) Appointment of welfare officers in every factory employing 250 or more workers.
- (a) **Washing facility (Sec. 42).** In every factory: (a) adequate and suitable facilities for washing shall be provided and maintained for the use of the workers therein; (b) separate and adequately screened facilities shall be provided for the use of male and female workers; (c) such facilities shall be conveniently accessible and shall be kept clean.
- (b) **Facilities for storing and drying clothing (Sec. 43).** The State Government may, in respect of any factory or class or description of

factories, make rules requiring the provisions therein of suitable places for keeping clothing not worn during working hours and for the drying of wet clothing.

- (c) **Facilities or sitting (Sec. 44).** In every factory, suitable arrangements for sitting shall be provided and maintained for all workers obliged to work in a standing position, in order that they may take advantage of any opportunities of rest which may occur in the course of their work.
- (d) **First aid appliances (Sec. 45).** There shall in every factory be provided and maintained so as to be readily accessible during all working hours first-aid boxes or cupboards equipped with the prescribed contents, and the number of such boxes or cupboards to be provided and maintained shall not be less than one for every hundred and fifty workers ordinarily employed at anyone time in the factory.
- (e) **Canteens (Sec. 46).** The State Government may make rules requiring that in any specified factory wherein more than two hundred and fifty workers are ordinarily employed, a canteen or canteens shall be provided and maintained by the occupier for the use of the workers.
- (f) **Shelters, rest rooms and lunch rooms (Sec. 47).** In every factory wherein more than one hundred and fifty workers are ordinarily employed, adequate and suitable shelters, rest rooms and a suitable lunch room, with provision for drinking water, where workers can eat meals brought by them, shall be provided and maintained for the use of the workers.
- (g) **Creches (Sec. 48).** In every factory wherein more than 30 women workers are ordinarily employed, there shall be provided and maintained a suitable room or rooms for the use of children under the age of six years of such women. Such rooms shall provide adequate accommodation, shall be adequately lighted and ventilated, shall be maintained in a clean and sanitary condition and shall be under the charge of woman trained in the care of children and infants. The State Government may make rules for providing additional facilities for the care of children for washing and changing their clothing and providing them free milk and to feed them by the mothers at the necessary intervals in any factory.
- (h) **Welfare Officers (Sec. 49).** In every factory wherein two hundred and fifty or more workers are ordinarily employed, the occupier shall employ in the factory such number of welfare officers as may be prescribed.

Hours of Work (Sects. 51 to 54)

Maximum working hours for adult worker per week shall be 48. The daily hours of work shall be restricted to 9. There is to be a rest interval of half an hour after 5 hours. The period of work cannot be spread over more than $10\frac{1}{2}$ hours.

There is a provision for holiday on the first day of the week (or other substituted day which is duly notified). Compensatory holiday must be given where the worker is deprived of his weekly holiday. Where a worker works for more than 9 hours in any day or more than 48 hours in a week, he will be entitled to double the ordinary rate of wages. There is a prohibition on double employment.

Employment of Children

Section 67 of the Act forbids the employment of a child (*i.e.*, person below 14 years of age) in a factory. Though ‘non-adult : worker’ who has completed 14th years but not 15th years and an ‘adolescent’ who has completed 15th year but not 18th year may be permitted to work in a factory provided he has a certificate of fitness from a certifying surgeon and carries a token giving reference to that certificate while at work. But a person who has not completed 17th year of age shall not be allowed to work in a factory during night.

Working hours for a child shall be $4\frac{1}{2}$ spread over 5 hours. Moreover, the period of work of children shall be limited to two shifts which shall not overlap. There is a further obligation to maintain a ‘Register of Child-Workers’.

Further, there is a general prohibition on the employment of children on moving machinery or dangerous machinery or for pressing cotton in a cotton opener.

3.3 THE CHILD LABOUR (PROHIBITION AND REGULATION) ACT

As per the Child Labour (Prohibition & Regulation) Act, employment of children below the age of 14 years is prohibited in notified hazardous occupations and processes. The Act also regulates employment of children in non-hazardous occupations and processes. There are at present 16 hazardous occupations and 65 processes, where employment of children is prohibited. Some of the important prohibited occupations and processes are carpet weaving, building and construction work, brick kilns, production of hosiery goods, work as domestic servants, and in tea-shops road side eateries, etc.

On the advice of the Technical Advisory Committee on Child Labour, the Government has in September, 2008, notified inclusion of eight processes in the list of hazardous occupations/processes which include diving as an occupation and exposure to excessive heat (*e.g.*, working near furnace) and cold, mechanised fishing, food processing, Beverage Industry, Timber handling and load in, Mechanical Lumbering, Warehousing, Exposure to free silica such as slate, pencil industry, stone grinding, slate stone mining, stone quarries, a gate industry as Processes. Further, on the recommendations of the Technical Advisory Committee on Child Labour, the Government has shown its intention; wide notification dated 7th June, 2010, to add two more occupations, *viz.*, Circus and Caring of Elephants to the Schedule listing the occupations where employment of children is prohibited.

- (g) Closing and reopening of sections of the industrial establishment, temporary stoppages of work and rights of employer and workmen arising therefrom.
- (h) Suspension or dismissal for misconduct and acts which constitute omission.
- (i) Termination of employment and the notice thereof to be given by the employer and workmen.
- (j) Means of redress for workmen against unfair treatment or wrongful exactions made by the employer.

The draft standing orders are required to be submitted to the certifying officer within six months of the date of application of this Act to the establishment.

3.8 THE INDUSTRIAL DISPUTES ACT, 1947

The main object of the Act is to make provision for the investigation and settlement of industrial disputes and to :

- (a) promote measures for securing good relations between employers and workmen;
- (b) inquire into any matter connected with or relevant to an industrial dispute;
- (c) promote the settlement of industrial disputes ;
- (d) refer individual disputes to grievance settlement authority ;
- (e) prevent illegal strikes and lockouts ;
- (f) prevent unfair labour practices ;
- (g) provide for the payment of wages from date of award till final decision in court.

By an amendment in 1982, it has been made obligatory for an employer to set up a 'Grievance Settlement Authority' in an industrial establishment in which fifty or more workmen have/had been employed in the preceding twelve months. It shall have the responsibility to settle industrial disputes connected with an individual workman.

The employers have been made liable to pay compensation in the event of lay off, retrenchment, transfer of undertakings and closing down of undertakings.

The Industrial Disputes Act, 1947, also provides the machinery and procedure for the investigation and settlement of industrial disputes. The Act has been amended vide the Industrial Disputes (Amendment) Act, 2010 and enforced w.e.f. 15.09.2010. By these amendments, the definition of 'appropriate government' has been made more specific and the wage ceiling of the workers working in a supervisory capacity has been enhanced from ₹ 1500 per month to ₹ 10,000 per month bringing it on parity with other labour laws.

An significant feature of the amendments is to provide direct access for the workmen to the Labour Courts or Tribunal in case of disputes arising out of Section 2-A. A workman can directly approach the CGITs-cum-Labour Courts after 45 days of filing his grievance before the Conciliation Machinery and there will be no need for him to approach the 'appropriate Government' for making a reference. The Amended Act makes it statutory to establish a Grievance Redressal Mechanism within all industrial establishments employing 20 or more workmen.

3.9 THE TRADE UNIONS ACT, 1926

A trade union is an association formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen or between employers and employees. The Act prescribes the regulations for registration of trade unions and then define the law relating to registered trade unions. The basic object is to protect trade unions from civil or criminal prosecution on the ground of conspiracy so that these could carry on their legitimate activities. In specific, the Act lays down (i) the rights and liabilities of registered trade unions; (ii) the objects for which general funds of registered trade union may be spent; (iii) constitution of a separate fund for political purpose.

The Act assumes significance for a businessman in the event of a trade dispute. He will be required to negotiate with the recognised trade union for the purpose of settlement of dispute.

3.10 THE PAYMENT OF WAGES ACT, 1936

The object of the Act is to secure to workers the payment of wages in a particular form and at regular intervals without any unauthorised deductions. The Act mainly deals with the responsibility for payment of wages, the fixation of wage period, the time for payment of wages and most importantly the deductions that can be made from the payment of wages.

Applicability

The provisions of the Act are applicable to persons employed in a factory or industrial or other establishment or in a railway—whether directly or indirectly through a sub-contractor. The Act does not apply to persons whose wages exceed ₹ 18,000 p.m.

Responsibility for Payment. The Responsibility for payment of wages has been vested with the employer although the following persons shall also be so liable :

- (a) manager in the case of factories,
- (b) person responsible to the employer for the supervision and control of the industrial or other establishment in the case of industrial or other establishment,
- (c) persons nominated by the railway administration in the case of railways.