

SESSION 1 INDUSTRIAL RELATIONS

Concept, Perspective and Organization: Human Resource Development in Perspective – Impact of Industrial Revolution – Industrial Relations:

Definition of Industrial Relations

The Labour Dictionary defines ‘industrial relations’ as ‘the relation between employers and employees in industry’. According to Dale Yoder, ‘industrial relations’ describe ‘relationships between management and employees or among employees and their organizations, that characterize or grow out of employment’. The term ‘industrial relations’ can be taken to stand for employee(s)/ union(s)—employer(s)/management—government relationships in employment. As the term indicates, industrial relations spring from the contacts between employers, employees and their trade unions.

Actors of Industrial Relations

Employees

Trade and/or labour unions resist the exploitation of employees by employers through equal bargaining power, and represent workers’ interests in the employment relationship. It is the union (rep), on behalf of the worker, who ensures that the employee benefits from Industrial Relations and aim to secure the workers by helping them to have, better wages that is sustainable for the future of the employee, improved working conditions so that the employee can be productive, safe and happy, mutual respect by ongoing conversation between the employer and their employees to keep the, improved working conditions so that the employee can be productive, safe and happy, mutual respect by ongoing conversation between the employer and their employees to keep the work relationship healthy.

Trade Unions

Collective Bargaining: Labour unions represent the interests of a body of employees by means of a united front. This allows the employees’ voices to be heard more effectively than if employees made the same requests or voiced the same concerns one by one in their individual capacity. Unions have the power to organize strikes, boycotts, go-slows, sit-ins and formal protests in order to get the employers’ attention and urge them to consider matters from the perspective of the employees that the trade unions represent.

Employer

Trade and/or labour unions represent the employees in negotiations with the employer. Because the union rep represents the multitudinous voices of the employees, it allows the employer to hear only one clear and concise argument on behalf of the workers instead of having to field the same comments/concerns from hundreds of employees who are all saying the same thing. Union reps save the employer time and thus money in this way. While the interest of the union rep lies with the worker; his/her existence ultimately serves to benefit both parties; both employee *and* employer.

Role of Government in Industrial Relations

The industrial relations processes, and the relationships between employees and employers, are influenced by the government and its agencies through the government’s construction, passing and implementation of relevant industrial relations law, policies, regulations etc. The legal framework

within which Industrial Relations must function is determined by the government and/or its agencies, possibly in consultation with other role-players in the industrial relations processes.

Industrial Revolution and Industrial Relations

Industrialization is the process by which an economy is transformed from primarily agricultural to one based on the manufacturing of goods. Industrialization is most commonly associated with the European Industrial Revolution of the late 18th and early 19th centuries. The Industrial Revolution traces its roots to the late 19th century in Britain. Prior to the proliferation of industrial manufacturing facilities, fabrication and processing were generally carried out by hand in people's homes. The steam engine was a key invention, as it allowed for many different types of machinery. Growth of the metals and textiles industries allowed for the mass production of basic personal and commercial goods. As manufacturing activities grew, transportation, finance and communications industries expanded to support the new productive capacities. The Industrial Revolution led to unprecedented expansion in wealth and financial wellbeing for some. The rise of labour unions can be linked to Europe (in the late eighteenth century) and in North America (in the nineteenth century) where the movement from rural to urban life in order to work in factories and machines was the most pronounced. This mass influx of workers into the workplace helped provide gains in profits of developing industries, however at the expense of less-than-ideal working conditions. Labour unions arose because there were many who found difficulty in accepting how "big business" was run; on the backs of the workers in the factories who saw very little in compensation. Along with less money, mechanized production of goods replaced household manufacturing, but these machines were difficult to use and could be dangerous to work with. Labour unions helped spread the balance of power more evenly so that labourers could bargain for more rights such as more pay and better working conditions. The imbalance of power between industry and labourers made the first few labour movements, such as the National Labour Union, limited in their success.

Factors Affecting Industrial Relations – Perspectives/Approaches to Industrial Relations

Factors Affecting Industrial Relations

Industrial relations deals with human behaviour and management of personnel in an organizational setup. The various factors that influence the relationship between the administration and the employees in an organization are as follows:

Individual Behaviour: Every person has a different perception, background, skills, knowledge, experience and achievements which influences an individual's behaviour. The employees, therefore, behave differently in different situations, thus impacting the work environment in the organization.

Organizational Structure: The hierarchical structure creates more formal relationships among the employees belonging to different hierarchical levels in an organization. Also, the delegation and execution of decision-making power by the superior influences the industrial relations between the managers and the employees.

Psychological Factors: An employee's attitude and mentality towards the employer and the given task; and the employer's psychology towards the workers can be positive or negative, which ultimately impacts the employee-employer relationship.

Leadership Style: Every manager possesses certain leadership traits and different style to function even in a formal organization. Through his/her formal or informal ways of generating team spirit and motivating the employees, he/she impacts the organization's industrial relations.

Economic and Technical Environment: To cope up with the changes in the economic conditions or technology, organizations need to restructure the task of the employees including their work duration,

conditions and wages; which leads to a difference in their behaviour, attitude, adapting spirit, etc. towards the organization and its people.

Legal and Political Environment: The legal framework and political circumstances influence the organization and its industrial relations. It contributes to the framing of rules, rights, authority, powers, roles and responsibilities of all the parties of the organization.

APPROACHES TO INDUSTRIAL RELATIONS

The Economic Approach

Industrial relations devolve basically round economic issues. These involve cost to the employer whose main aim has been to maximize profit and reduce cost. This element of conflicting interests, if not amicably resolved, gives rise to industrial disputes, strikes, lock-outs and other forms of industrial action. This approach to industrial relations has found expression in the writings of most of the pioneers of trade unionism including Sidney and Beatrice Webb, G. D. H. Cole, John R. Commons and Karl Marx.

The Sociological Approach

The sociological approach considers industrial relations as a product of the industrial society, which is itself a part of the broad social milieu. The various components of the society such as social institutions, associations, values and standards, customs and traditions, and beliefs all have their impact on the state of industrial relations. These sociological factors play a significant role in conditioning the behaviour pattern of the parties to industrial relations and their mutual relationships.

The Psychological Approach

The psychological approach to industrial relations devolves mainly round the perception of the parties to the same problems. These perceptions may relate to particular situations, persons or issues. If the perceptions of the parties to the same subject are similar or easily reconcilable, industrial relations tend to be smooth. If they are opposed or in contradiction, situations of conflict arise.

The Political Approach

The political approach to industrial relations may be viewed in two ways, one in the wider political perspective, and the other in the narrower perspective of formation of government jointly by the employer and the trade union by mutual agreement in regard to the terms and conditions of employment of the workers. Many aspects of industrial relations such as determination of bargaining agents, industrial disputes, strikes and lock-outs, status of collective agreements, and unfair labour practices have increasingly been brought under the coverage of law.

Session No 2 – Industrial Relations

Organization for Industrial Relations – Dimensions of Industrial Relations Work – Pre-requisite Successful Industrial Relations Program

International Labour Organisation

As the ILO celebrated its 100th anniversary in 2019. It was created in 1919, as part of the Treaty that ended World War I, to reflect the belief that universal and lasting peace can be accomplished only if

it is based on social justice. The International Labour Organization (ILO) is devoted to promoting social justice and internationally recognized human and labour rights, pursuing its founding mission that social justice is essential to universal and lasting peace. Only tripartite U.N. agency, the ILO brings together governments, employers and workers representatives of [187 member States](#), to set labour standards, develop policies and devise programmes promoting decent work for all women and men. Today, the ILO's Decent Work agenda helps advance the economic and working conditions that give all workers, employers and governments a stake in lasting peace, prosperity and progress.

How the ILO works :Main bodies

The ILO accomplishes its work through three main bodies which comprise governments', employers' and workers' representatives, the [International Labour Conference](#) sets the International labour standards and the broad policies of the ILO. It meets annually in Geneva. Often called an international parliament of labour, the Conference is also a forum for discussion of key social and labour questions, the [Governing body](#) is the executive council of the ILO. It meets three times a year in Geneva. It takes decisions on ILO policy and establishes the programme and the budget, which it then submits to the Conference for adoption, the International Labour [Office](#) is the permanent secretariat of the International Labour Organization. It is the focal point for International Labour Organization's overall activities, which it prepares under the scrutiny of the Governing Body and under the leadership of the [Director-General](#). The work of the Governing Body and of the Office is aided by tripartite committees covering major industries. It is also supported by committees of experts on such matters as vocational training, management development, occupational safety and health, industrial relations, workers' education, and special problems of women and young workers.

Workers' Organizations in India

The trade unions in India are involved in the implementation of programmes and projects both at the national and state levels, on a wide range of labour-related issues. In India, 12 major unions are recognized as central trade union organizations and operate in many states: [Bharatiya Mazdoor Sangh \(BMS\)](#) ; [Indian National Trade Union Congress \(INTUC\)](#) ; [All India Trade Union Congress \(AITUC\)](#) ; [Hind Mazdoor Sabha \(HMS\)](#) ; [Centre of India Trade Unions \(CITU\)](#) ; All India United Trade Union Centre (AIUTUC) – formerly UTUC (LS); [Trade Union Co-ordination Centre \(TUCC\)](#) ; [Self Employed Women's Association \(SEWA\)](#) ; All India Central Council of Trade Unions (AICCTU); [Labour Progressive Federation \(LPF\)](#) ; United Trade Union Congress (UTUC); and [National Front of Indian Trade Unions – Dhanbad \(NFITU-DHN\)](#) .

Key Dimensions of Industrial Relations

The four key dimensions: industrial democracy, industrial competitiveness, social justice and job and employment quality.

Industrial democracy – based on the autonomy of the social partners as well as on the participation and representation rights of employees in the governance of the employment relationship.

Industrial competitiveness – based on an economy with a consistently high rate of productivity growth. The complex relationship between economic competition and industrial relations is captured through the four subdimensions of industrial competitiveness: increasing productivity and growth, establishing a strong base of market stability, providing high-quality resources for businesses to utilise and creating an environment of innovation and entrepreneurship. Job and employment quality – based on career and employment security, health and well-being, the ability to reconcile working and non-working life and the opportunity to develop skills over the life course. Social justice

– based on the fair and non-discriminatory distribution of opportunities and outcomes within a society).

The basic requirements on which a successful industrial relations programme is based are:

1. Top Management Support: – Since industrial relations is a functional staff service, it must necessarily derive its authority from the line organization. This is ensured by providing that the industrial relations director should report to a top line authority to the president, chairman or vice president of an organization.
2. Sound Personnel Policies: – These constitute the business philosophy of an organization and guide it in arriving at its human relations decisions. The purpose of such policies is to decide, before any emergency arises, what shall be done about the large number of problems which crop up every day during the working of an organization. Policies can be successful only when they are followed at all the level of an enterprise, from top to bottom.
3. Adequate Practices should be developed by professionals: – In the field to assist in the implementation of the policies of an organization. A system of procedures is essential if intention is to be properly translated into action. The procedures and practices of an industrial relations department are the “tool of management” which enables a supervisor to keep ahead of his job that of the time-keeper, rate adjuster, grievance reporter and merit rater.
4. Detailed Supervisory Training: – To ensure the organizational policies and practices are properly implemented and carried into effect by the industrial relations staff, job supervisors should be trained thoroughly, so that they may convey to the employees the significance of those policies and practices. They should, moreover, be trained in leadership and in communications.
5. Follow-up of Results: – A constant review of an industrial relations programme is essential, so that existing practices may be properly evaluated and a check may be exercised on certain undesirable tendencies, should they manifest themselves. A follow up of labour turnover, absenteeism, departmental morale, employee grievances and suggestion; wage administration, etc. should be supplemented by continuous research to ensure that the policies that have been pursued are best fitted to company needs and employee satisfaction.

Session 3– INDUSTRIAL RELATIONS

Evolution of Industrial System – Occupations in Ancient India – Labour in Medieval India –

When compared to the position in the United States, United Kingdom and other European countries, the evolution of industrial relations in India was belated on account of a number of factors such as late beginning of industrialization in the country, absence of modern trade unions during early periods of industrialization, and indifference of the British government towards the problems of Indian labour. However, with the expansion of the labour force, spread of unionization, development of industries, increasing espousal of the cause of labour by many nationalist and political leaders and their active participation in the labour movement, changes in governmental policies and programmes relating to labour, and new developments in economic, political and social fields, industrial relations in the country also started developing and taking its own shape.

Position Prior to the First World War

Modern industries began to be set up in the country by the middle of the nineteenth century. Prior to the outbreak of the First World War, the country had witnessed the establishment of textile mills, jute mills, iron and steel factories, coal mines, plantations and a few other industries in a more or less scattered manner. During this period, majority of important industrial establishments were owned by British employers who had rather uncontrolled dominance over their workers, particularly in plantations, coal mines and railways. Deriving undue advantage of the protection accorded by the British government, they unilaterally laid down the terms and conditions of employment of their workers and subjected them to undue disabilities. The relationship between the employers and workers during the period could be said to be that of masters and servants. Workers' organizations during the period were either non-existent or in the nascent stage of emergence. A few workers' organizations that came to be set up during the period were mainly philanthropic organizations and lacked elements of modern unions. Workers, no doubt, resorted to strikes here and there, but these were confined mainly to some immediate issues and were spontaneous and short-

Position from the First World War to Independence

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

Guilds and Unions: Guild, also spelled gild, an association of craftsmen or merchants formed for mutual aid and protection and for the furtherance of their professional interests. Guilds flourished in Europe between the 11th and 16th centuries and formed an important part of the economic and social fabric in that era.

Types And Functions: The medieval guilds were generally one of two types: merchant guilds or craft guilds. Merchant guilds were associations of all or most of the merchants in a particular town or city; these men might be local or long-distance traders, wholesale or retail sellers, and might deal in various categories of goods. Craft guilds, on the other hand, were occupational associations that usually comprised all the artisans and craftsmen in a particular branch of industry or commerce. There were, for instance, guilds of weavers, dyers, and fullers in the wool trade and of masons and architects in the building trade; and there were guilds of painters, metalsmiths, blacksmiths, bakers, butchers, leatherworkers, soapmakers, and so on. Guilds performed a variety of important functions in the local economy. They established a monopoly of trade in their locality or within a particular branch of industry or commerce; they set and maintained standards for the quality of goods and the integrity of trading practices in that industry; they worked to maintain stable prices for their goods and commodities; and they sought to control town or city governments in order to further the interests of the guild members and achieve their economic objectives.

Early History

There is no direct evidence for the existence of permanent associations of traders or craftsmen in ancient Mesopotamia or Egypt, and little more evidence exists about such societies in pre-Hellenistic Greece. Such associations are known to have existed in ancient Rome, however, where they were called collegia. These craft guilds seem to have emerged in the later years of the Roman Republic. They were sanctioned by the central government and were subject to the authority of the magistrates.

From the reign of the emperor Diocletian onward, the imperial government deliberately exploited these guilds in the interests of public authority and social order.

The internal structures of medieval craft guilds are well known from documents and were generally alike throughout Europe. Assemblies of the guild's members enjoyed some legislative powers, but the control of guild policy lay in the hands of a few officials and a council of advisers or assistants. The guild tended to be an extremely hierarchical body structured on the basis of the apprenticeship system. (See apprenticeship.) In this structure, the members of a guild were divided into a hierarchy of masters, journeymen, and apprentices.

Apprenticeship was the basic element in the craft guild, since it secured the continuity of practice, tradition, and personnel on which the welfare of the guild depended. Apprenticeships in some trades came to be highly valued, and a family would have to pay a master a large sum of money for him to enroll their son as an apprentice. Often apprenticeships came to be restricted to the sons or other relatives of masters. The craft guild policed its own members' professional practices, and guild courts and officials investigated complaints of poor workmanship, unfair competition, and other problems, levying fines on those found in violation of the guild's rules and standards.

Besides their economic and educational functions, guilds also served other purposes. A guild was often associated with a patron saint, and a local guild would maintain a chapel in the parish church to be used by its members. Guilds performed charitable work, not only among the poor and indigent among their own members but among the community at large. Guilds also built and maintained residences, called guildhalls, in which the membership would hold banquets and conduct official business.

Friction often arose between the wealthier members of the merchant guilds and the less prosperous but far more numerous members of the craft guilds in a particular city. Conflict between these two groups became especially intense when they competed for control of the city government, as happened in a number of cities in Italy, Germany, and the Low Countries.

Decline

In their heyday from the 12th to the 15th century, the medieval merchant and craft guilds gave their cities and towns good government and stable economic bases and supported charities and built schools, roads, and churches. Guilds helped build up the economic organization of Europe, enlarging the base of traders, craftsmen, merchants, artisans, and bankers that Europe needed to make the transition from feudalism to embryonic capitalism. Yet the guilds' exclusivity, conservatism, monopolistic practices, and selective entrance policies eventually began to erode their economic utility. Apprenticeships became almost entirely hereditary, and masters set ridiculously high standards for apprentices to become journeymen and for journeymen to become masters. The guilds worked exclusively for their own interests and sought to monopolize trade in their own locality. They were frequently hostile to technological innovations that threatened their members' interests, and they sometimes sought to extinguish commercial activities that they were not able to bring under their own control. The merchant guilds became parties of aristocrats who dominated the town and city governments, sometimes over the opposition of the craft guilds.

The decline of the medieval craft guilds was a slow and tortuous process during the Renaissance and Reformation periods. New guilds were still being founded throughout Europe in the 17th century, but the 16th century had already marked a turning point in the fortunes of most guilds. Craft guilds broke down as the pace of technological innovation spread and new opportunities for trade disrupted their hold over a particular industry.

It is perhaps a sign of the general insignificance of the surviving guilds that they evoked surprisingly little serious criticism until the Enlightenment of the 18th century. By the time decrees abolishing craft

associations were enacted in France (1791), Spain (1840), Austria and Germany (1859–60), and Italy (1864), the guilds' authority had long been on the wane. Craft guilds continued to flourish in India, China, Japan, and the Islamic world into the 20th century, but they too proved unable to withstand the impact of modern Western industrial organization.

Session 4 INDUSTRIAL RELATIONS

Industrial Relations – Early British Rule- First World War to Pre Independence Period

When compared to the position in the United States, United Kingdom and other European countries, the evolution of industrial relations in India was belated on account of a number of factors such as late beginning of industrialization in the country, absence of modern trade unions during early periods of industrialization, and indifference of the British government towards the problems of Indian labour. However, with the expansion of the labour force, spread of unionization, development of industries, increasing espousal of the cause of labour by many nationalist and political leaders and their active participation in the labour movement, changes in governmental policies and programmes relating to labour, and new developments in economic, political and social fields, industrial relations in the country also started developing and taking its own shape. Many features of industrial relations in the country can be discerned from Chapters 4–9, which are concerned with the study of the various aspects of trade unionism in the country. In the sections that follow, an attempt has been made to bring to the fore the more glaring features of industrial relations in the country.

Position Prior to the First World War

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

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

Position from the First World War to Independence

The pace of industrial development in the country was accelerated during the period following the end of the First World War. A number of industrial undertakings came to be established in different parts of the country. This was accompanied by an appreciable expansion of workforce most of which was drawn from the rural areas. The industrial workers had to face several sorts of problems relating to the terms and conditions of employment, the solution of which was possible only when their organizations were capable of exerting effective pressures on the employers and alien government. This period witnessed the formation of a large number of trade unions at various levels such as enterprise, locality, region, industry and even at the national level. Trade unions at all the levels acquired considerable strength under the able leadership of renowned nationalist and other leaders. In a number of industrial establishments, trade unions were capable of exerting effective pressures on the employers for improving the terms and conditions of employment of their members, and quite a few of them contracted collective agreements with them. Such agreements were also contracted at region-cum-industry level. The period also witnessed increasing participation of trade unions in tripartite forums at various levels and reached unanimity with the representatives of employers and government on broader issues concerning labour and industrial relations. As a consequence of the growing strength of trade unions and increasing involvement of political parties and nationalist leaders in the trade union movement, the attitude of the employers towards workers and their organizations and their perception towards labour issues materially changed. They also started forming their organizations at different levels primarily with a view to facing new challenges in a united manner. The important employers' federations formed during the period were: Federation of Indian Chambers of Commerce and Industry (FICCI: 1927), All India Organisation of Employers (AIOE: 1932), and Employers' Federation of India (EFI: 1933). Although these federations primarily aimed at protecting and promoting the interests of the employers and their members, they actively participated in deliberations of tripartite bodies at national levels and tried to reach unanimity among representatives of the workers and the government on broader labour issues. A few employers' organizations formed at the industry-cum-regional level also contracted collective agreements with corresponding unions at intervals. A detailed description of employers' federations in the country has been given subsequently in the chapter. The more notable measures adopted by the government to regulate industrial relations during the period included enactment of the Trade Unions Act, 1926, which is still in force in the country (see Chapter 20), and Trade Disputes Act, 1929; insertion of Rule 81A in the Defence of India Rules, 1942; enactment of Industrial Disputes Act, 1947, which incorporated many provisions of Rule 81A of the Defence of India Rules, 1942, and still in force with subsequent amendments; and establishment of tripartite bodies for deliberations on matters relating to labour and industrial relations. Most of the measures initiated by the government during the period continued to operate with modifications in the post-Independence period as well.

INDUSTRIAL RELATIONS SESSION 5

TRADE UNIONISM CONCEPT, FUNCTIONS, APPROACHES, STRUCTURE AND SECURITY

Syllabus Trade Union Concept: General features

Functions: Functions of Trade Unions in the USSR, China, USA, UK and India

Evolution of Trade Unions; Types and Structures of Trade Unions

Craft vs. Industrial Unions

Views of the NCL on the pattern/Structure of Trade Unions

Trade unions are considered a prerequisite to achieving industrial peace. Decisions which are taken through a collective process and through negotiations of the employees and the employers are the most influential and long lasting. They provide the platform between the two classes so that arguments and differences can be resolved before they become major areas of conflict. Trade unions have a wider function which is the representation of people at work and protecting their interests. The activities of the union include educating the workers by organizing courses on a variety of subjects and improving the quality of their lives. Trade unions help in the business development of the workplace by inculcating discipline at the workplace and helping in reducing workplace disputes and incorporating a sense of responsibility on the part of workers. Trade unions are an integral part of the industrial society and as such are considered to be of utmost importance in the industry of any country.

As per the Indian Trade Union Act, 1926, “A Trade Union is any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers, or between workmen and workmen, 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.”

General features of Trade Unions:

They are associations of either employers or employees or of independent workers

They are relatively permanent and not temporary or casual

They are associations of workers who are engaged in securing economic benefits for their members and improving the status of workers as part of citizens of society

They contribute to the nation’s socio-economic development.

Ideologies:

The growth of Trade Unions has been led by various ideologies and political movements. Karl Marx and Frederich Engel’s Theory of Class War has also influenced trade unions who work towards bringing a revolutionary change in the existing social order. The view is that the proletariat must overthrow the bourgeoisie and usher in a classless society because the capitalists have exploited the workers for far too long.

In Socialist countries, including India, it has been accepted that trade unions are necessary and should be involved in the process of making laws with regard to labour and production and the implementation of these laws.

Characteristics of Modern Trade Unions:

They are economically oriented
They are an instrument of defence
They imply class distinction and
They are the outcome of an individualistic society

Functions of a Trade Union:

According to the Trade Union Act, 1926, the functions of a Trade Union are:

To achieve higher wages and better working conditions for the members.
To acquire control over running of the industry by workers
To minimise the helplessness of the individual workers by giving them a united platform, increase their resistance power and protect their members against injustice by employers
To improve the status of workers as partners in industry and citizens of society
To generate self confidence among the workers
To encourage sincerity and discipline among workers
To take up welfare measures for improving the morale of the workers

The National Commission on Labour made additional recommendations which included promotion of national integration, safeguarding of security of tenure, promotion of individual and collective welfare, facilitation of technological advancement by broadening the understanding of workers in the issues involved in their jobs etc.

INDUSTRIAL RELATIONS Session 6

TRADE UNIONISM CONCEPT, FUNCTIONS, APPROACHES, STRUCTURE AND SECURITY

Evolution of Trade Unions – Some approaches:

Questions like, what are the goals of Unions, how do they affect economic, political and social structure of the country in the long run, how do they decide which techniques to adopt to achieve their goals are addressed by examining the various theories on the subject. Some are listed below:

1. Social – Psychological approach of Robert Hoxie:

Robert F. Hoxie suggested that trade unions grew out of the socio-psychological environment of the workers and not purely because of economic reasons. He stated that “Workers are economically and socially associated and too divergent and training will tend to develop a common interpretation of the social situation and a common solution of the problem of living.”

He classified unions according to their structural and functional operations such as.

Business Unionism: These unions are trade conscious rather than class conscious. They accept the existing economic system and aim at bringing about improvement in the wages and working conditions of their members. Collective bargaining is the usual method of achieving their goals.

Friendly or Uplift Unionism: Such unions are idealistic in nature and elevate the moral, social and intellectual life of the workers. To achieve their aim these unions, advocate use of political methods such as setting up of cooperatives, profit sharing and mutual insurance.

Revolutionary Unionism: Such unions are extremely radical both from a viewpoint and in action. They are distinctly class conscious rather than trade conscious. They aim at replacing the capitalistic system by socialistic system. They follow direct action in the form of strikes, boycotts, sabotage and violence.

Predatory Unionism: Unions of these types does not subscribe to any ideology. Such unions are characterized by their ruthless pursuit of immediate ends. They use collective bargaining, secret bribery and violence to settle their dispute.

2. Sociological approach of Frank Tannenbaum

Tannenbaum observed that “workers are engaging in an unconscious rebellion against the automatization of industrial society.” According to him, the emergence of Unionism is spontaneous and is inherent in the growth of capitalism. Unions are in a position to impose wage bargains on their employers who may be driven out of business if they do not agree. Unions will have funds to buy into corporations and gaining control will create more problems. Unionism is not a problem, rather it is a part of the process of an industrialised society.

3. Scarcity Consciousness approach of Selig Perlman

Perlman’s view was that Unionism developed because of workers’ scarcity consciousness which arose from the workers’ understanding that their economic state would not improve beyond providing them the basics for sustenance. The Union plays the role of an administrator of allotting scarce job opportunities.

4. General approach to Trade Unionism of Kerr and Associates

“Worker protest is inherent in industrialisation” was the view of Kerr, Dunlop and associates. They stated that organised protest is the nature of labour organisation and it relates to the specific culture and environment of a country.

They were of the view that leadership of the industrialisation process is taken by:

a) Dynastic Elite: Workers unite at plant level, challenge the employers, engage in political activity and are led by politically inclined intellectuals.

b) Middle Class Elite: Union does not challenge the employers; they are led by workers themselves and are reformist in nature.

c) Revolutionary intellectual elite: Union acts as an instrument of the party; leadership is provided by the party. Workers are stimulated to engage in political activity.

d) Colonial Administrators: Unions functioned largely as a part of the Independence movement and nationalist movement. Leadership was provided by nationalist leaders and unions were deeply involved in the fight for independence.

e) Nationalist elite: Unions working both for development of workers as well as for economic growth. Leadership is provided by national leaders and intellectuals.

5. Non-Revolutionary or Industrial Democracy approach of Sydney Webb

Webb considered trade unions to be “institutions for overcoming managerial dictatorship, to strengthen individual labourers and to give them some voice in the determination of the conditions under which they have to work”. Webb postulated that unionism is not a means of overthrowing the capitalists but a means of equalising the bargaining power of labour and capital, with the adoption of common rules which are practical and humane.

6. Classless Society approach of Karl Marx

Marx objected to the tendency of heavy concentration of wealth and capital in the hands of a few and the tendency towards depressing the wages of workers and increasing the misery of the working class. He felt that the working class should continue its struggle for the abolition of capitalism. According to Marx, "With the development of industry the proletariat not only increases in number, it becomes concentrated in greater masses, its strength grows, and it feels that strength more. The workers therefore unite to fight the bourgeoisie. Gandhiji's Approach

Gandhiji's view on Unionism is based on the "Sarvodaya" principles of Truth, Non-Violence and Trusteeship. He felt that unions should improve the economic conditions of workers as well as raise their moral and intellectual standards and teach supplementary skills to protect them during uncertainty. He was of the view that workers should be honest and responsible and should strike for the redressal of genuine grievances; these strikes should be peaceful and should be resorted to, only after the moral appeals and demands had failed.

Types and Structures of Unions

Classification of Unions is done on the basis of: The purpose for which they are formed and The composition of their membership

Under the first category, Unions are classified as:

a) Reformist Unions and b) Revolutionary Unions

Reformist Unions are sub divided into :

Business Unions: Unions which primarily focus on collective bargaining with employers; they try to garner economic benefits for their members; they are craft conscious but not class conscious

Friendly or Uplift Unions: are idealistic in nature and believe in raising the moral, intellectual and social life of workers to a higher level. They are usually law abiding and peaceful

Revolutionary Unions are classified as

Anarchist Unions which set out to destroy the system through revolutionary means

Political Unions which gain power through political action, enactment of laws and redistribution of wealth

Predatory Unions those which adopt any method to achieve their ends, regardless of the legality or the ethics of the actions.

Unions classified on the basis of membership structure

1. Craft Union: is one of workers employed in a particular trade or craft e.g. Indian Pilots' Guild. These unions are usually not class conscious. They comprise workers of similar skills, training and specialisation.
2. Staff Union: usually includes non-manual workers e.g. clerical staff, computer operators, draughtsmen, supervisors and even managers from sectors like services.
3. Industrial Unions are found in industries like coal, textiles, plantations, mines etc. They are organised on industry basis rather than craft basis.
4. General Unions: include workers from all types of industries and all types of skills. They get strength from numbers because they accept members from a range of industries.

Craft vs. Industrial Unions

Craft Unions are compact with a focus on apprenticeship and training. They usually control supply of labour due to their control over skilled workers and thereby they have strong bargaining power. Employers, however, may play Unions of different crafts against each other and often with the expanding technology, the craft union gets displaced. By being members of a craft union, workers are sometimes kept out of mainstream unionism.

Views of the NCL on the pattern/structure of Trade Unions

The NCL has recommended that: Unions operating in a unit/ industry should be encouraged to amalgamate into an industrial union and such unions, once recognised as the sole bargaining agent, should set up committees for the important crafts, so that craft-specific problems get the attention they need.

The NCL observed that unions in India did not wield a fraction of the power of the unions in the U.S.A. and the U.K.

INDUSTRIAL RELATIONS Session 7

TRADE UNIONISM CONCEPT, FUNCTIONS, APPROACHES, STRUCTURE AND SECURITY

Trade Union Concept: General features
Functions: Functions of Trade Unions in the USSR, China, USA, UK and India
Evolution of Trade Unions; Types and Structures of Trade Unions
Craft vs. Industrial Unions
Views of the NCL on the pattern/Structure of Trade Unions
Structure of Trade Unions in India
Union Security – Three Characteristics needed
Methods of achieving the objectives

Structure of Trade Unions in India

Unions are structured with three levels: plant/shop/local, the State and the Centre. There are two types of organisations to which trade unions in India are affiliated: National Federations and b) The Federation of Unions

- a) National Federations: All the unions in a given industry are affiliated to them. They co-ordinate union activities at a national level and are based on different ideologies, with their leaders being from various political parties, such as MPs and MLAs. Affiliates are usually permitted to bargain independently with their employers; they select delegates to the ILO's programs and the programs of the International Confederation of Free Trade Unions. The structure is usually a central organisation, affiliated unions, regional branches, and councils, assembly of delegates, general council and working committees.
- a) Federation of Unions are combinations of various unions for the purpose of solidarity, at the local, regional, state, national or international level e.g. National Front of Indian Trade Unions.

There are several associations and federations which have not joined any central workers' organisations such as All India Defence Employees' Federation, The All India Railwaymen's Federation etc.

Union Security

There are many Union members who take the benefits for granted and do not support the Union activities. Hence, some security measures are put in place which are listed below:

Sole or Exclusive bargaining agent: Union is accepted as the sole bargaining agent by all employees

Preferential Union shop: Union members are given first preference in recruitment

Maintenance of Membership: Union has to retain its members as for the duration of the contract as a condition of employment

Agency Shop: Though some employees are not members of the Union, they have to pay the fees for the collective bargaining service

Union shop: All employees have to become members of the Union by a given date

Closed shop: Only Union members are employed in the organisation; the Union acts as an Employment Exchange. It gives the Union control over the supply of labour, thereby making it powerful. It creates a monopoly and the employer cannot select workers of his choice.

Open shop: Union membership is not compulsory before or after employment. It separates the right to work and union membership.

Check off: Union gives the list of members to the employer who deducts the membership fee from salary, with an approval from the employee, and sends the amount to the Union.

Three characteristics needed to carry out activities:

The Union should be internally strong so that it can protect the workers from negative actions by the management

It must be internally responsible, so that it can use its power carefully, choosing its methods carefully with appropriate means to support it

It must be internally democratic and must safeguard the workers' rights

Methods of achieving the objectives

There are various complementary methods of achieving the objectives of the Union.

Mutual Insurance: A common fund is created to which members contribute. It is utilised to finance strikes, welfare activities and other mutual benefit schemes. In India, this is not very strong because of the poor financial position. In countries like the U.S., U.K. etc. a variety of welfare amenities are provided such as medical aid, educational and recreational facilities, housing etc.

Collective Bargaining: Employers and employees meet to discuss common possible points of agreement. Issues may include wages, dearness allowance, hours of work, incentive payments, superannuation fund, medical and welfare measures etc.

Legal enactments: Unions send their competent representatives to the committees set up by the government to project their demands and requirements for worker protection. Labour laws pertaining to employment, disputes, trade unions etc. are thus enacted in consultation with the work force, through the Unions.

Other methods: Tactics such as go-slow, picketing, tools-down strike, sabotage and boycott are used as pressure tactics by Unions to achieve their goals. The ideology of the Union is a key factor in the choice of method for protesting against the Management. INTUC attaches importance to right to secure justice; AITUC strives for socialisation and nationalisation of means of production, UTUC aims for liberating the labour movement of its political affiliations and targets the establishment of the workers' state.

INDUSTRIAL RELATIONS Session 8

Trade Union Movement in India:

Syllabus : Labour Movement or Trade Union Movement – Why the Trade union Movement? – Growth and Development of the Trade Union Movement – Social Welfare Period – Early Trade union Period – Left-wing Unionism Period – Trade Union’s Unity Period – Second World War Period – The Post-Independence Period - Present Scenario of the Trade Union Movement – The Central Trade Unions – The Indian National Trade Union Congress – All India Trade Union Congress – United Trade Union Congress – Bhartiya Mazdoor Sangh – National Front of Indian Trade Unions – Centre of Indian Trade Union – Comparative Study of Four Original Central Organizations.

Labour or Trade Union Movement

The Labour Movement was for the workers by groups of social workers, lawyers etc. who cared about the plight of labour and sought to improve the lot of the proletariat. On the other hand, the Trade Union Movement was by the workers for their own protection and development. The Labour movement in India started around the year 1875 and the Trade Union movement started around the year 1918.

Why the Trade Union Movement?

The doctrine of laissez faire resulted in ruthless exploitation of labour by employers; wages went unpaid or were delayed; in some cases, commitments on wages were not fulfilled. Conditions of work were dismal, with dimly lit factories, poor sanitation, inadequate break time and poor treatment of workers by supervisors. There was significant rural migration to the centres of industrialisation such as Mumbai where workers suffered the negative impacts of being separated from their families and habits like gambling, drinking etc. were rampant. In the process, workers squandered their meagre savings and were unable to improve the quality of their lives.

Workers therefore, realised that they had to come together to improve their bargaining power against employers. Joint action helped the workers to attain some of their demands. When they were unable to make progress, they

attempted joint withdrawal from work. With the support of prominent personalities with a social bent of mind, they were able to come together to garner some amount of negotiating power.

Growth and Development of the Trade Union Movement:

The Trade Union movement in India grew stage by stage with distinct differences between each.

It is largely divided into:

1. Social Welfare period from 1875 to 1918
2. Early Trade Union period from 1918 to 1924
3. Left Wing Trade Unionism period from 1924 to 1934
4. Trade Unions' Unity period from 1935 to 1938
5. Second World War period from 1939 to 1945
6. Post-independence period from 1947 to date

Session 9

Trade Union Movement in India:

Syllabus :

Labour Movement or Trade Union Movement – Why the Trade union Movement? – Growth and Development of the Trade Union Movement – Social Welfare Period – Early Trade union Period – Left-wing Unionism Period – Trade Union's Unity Period – Second World War Period – The Post-Independence Period - Present Scenario of the Trade Union Movement – The Central Trade Unions – The Indian National Trade Union Congress – All India Trade Union Congress – United Trade Union Congress – Bhartiya Mazdoor Sangh – National Front of Indian Trade Unions – Centre of Indian Trade Union – Comparative Study of Four Original Central Organizations.

Early Trade Union period (1918 to 1924)

World War I led to grave economic difficulties and industrial unrest grew as a result of this. Cost of living rose phenomenally and workers felt the need to rise in protest to demand more wages to cope with this. The Swaraj movement intensified, widening the gulf between employers and the employed and brought about a mass awakening among workers demanding racial equality with their British employers. There was restlessness, discontent and a new defiance crept in. In 1917, the Tsar of Russia was overthrown in the Russian Revolution. This had worldwide impact. It created a revolutionary wave of new ideas and enlightenment.

A big landmark was the establishment of the ILO in 1919 which gave guidance for a regulatory framework to countries all over the world to establish back

home. After the war, soldiers left the Army and joined the labour force. By 1920, a proletariat had developed. Gandhiji led the non co-operative movement in 1920, through which the working class derived support.

Many Unions were formed during this period:

The Indian Seamen's Union, The Railway Workers' Union, Madras Textile Labour Union, Postmen and Port Trust Employees' Union, Colliery. The Textile Labour Association was formed in 1920, initiated by Gandhiji, with the ideology of truth and nonviolence.

On October 30, 1920, the representatives of 64 Trade Unions, with a membership of 140854 met in Bombay and established the All India Trade Union Congress, with Lala Lajpat Rai as the Chairman. Support came from Sardar Vallabhbhai Patel, Moti Lal Nehru, Subhash Chandra Bose, Gulzarilal Nanda, C.R. Das etc.

The initial purpose of this step was to select delegates to represent Indian at the ILO conference. In the process, the task of co-ordinating activities of Indian Unions began. The movement did not progress much in the textile industry but made inroads into the railways, post and telegraphs, shipping, engineering and communication.

Session 10

Trade Union Movement in India:

Syllabus

Labour Movement or Trade Union Movement – Why the Trade union Movement? – Growth and Development of the Trade Union Movement – Social Welfare Period – Early Trade union Period – Left-wing Unionism Period – Trade Union's Unity Period – Second World War Period – The Post-Independence Period - Present Scenario of the Trade Union Movement – The Central Trade Unions – The Indian National Trade Union Congress – All India Trade Union Congress – United Trade Union Congress – Bhartiya Mazdoor Sangh – National Front of Indian Trade Unions – Centre of Indian Trade Union – Comparative Study of Four Original Central Organizations.

Left Wing Unionism Period 1924 to 1934

There was a violent strike in the year 1924, following which several Communist leaders were arrested and prosecuted. By 1927, AITUC had 57 member unions. As the anti – British movement grew, certain brutal acts on the part of the British, such as the Jallianwala Bagh massacre, Rowlatt Act and the huge

profiteering by capitalists while wages of workers fell, all led to the strengthening of the trade union movement. As many trade unions opted for left wing leadership, there were a series of strikes.

International affiliations came into question at this stage. Leftists demanded that AITUC be affiliated to The Third International, a part of the Pan Pacific Trade Union Secretariat, a camouflaged Communist organisation in Moscow. Rightists preferred to be affiliated to The International federation of Trade Unions (Amsterdam).

Due to this dispute, the moderates formed the All-India Trade Union Federation (AITUF) and the Communists formed the Red Trade Union Congress (RTUF). Thus, by the beginning of the 1930s there was much disunity in the trade union movement.

Trade Unions' Unity Period 1935 to 1938

The All-India Railwaymen's Federation formed a Trade Union Unity Committee in 1932. Through the efforts of V.V. Giri, the path to unity was set in 1938 when AITUC accepted conditions of merger with other Unions. In 1940, AITUC became the sole representative of organised labour again.

Second World War Period, 1939 to 1945

There was an increase in production of war materials and recognition was given to trade unions by many employers. During the period the number of unions and their membership grew. A qualitative change took place at this stage and unions increased their ability to participate in negotiations with employers and tripartite deliberations.

Post-Independence Period 1947 to 2000

In May 1947, the Indian National Trade Union Congress (INTUC) was founded, with a view to establish unionism which fostered growth of human personality in all aspects, progressively eliminating social, political and economic exploitation and inequality. INTUC supported the political outlook of the Indian National Congress. A breakaway group formed the Hind Mazdoor Sabha (HMS) with a view to establish a democratic socialist society. Another dissatisfied group formed the United Trade Union Congress (UTUC).

By 1949, the trade union movement was split into INTUC, AITUC, HMS and UTUC representing four rival groups. In 1970, when the Communists divided themselves into CPI and CPM, AITUC came under the CPI and the CPM formed the Centre of Indian Trade Unions (CITU).

The post war period saw major strides in the movement with increased international influence, tremendous trade union rivalries, Government's introduction of adjudication machinery and attempts by some employers to set up unions that they could influence.

Comparative chart on next page.

Comparative study of four original central organisations:

	INTUC	AITUC	BMS	UTUC
Objectives	Sarvodaya ideal, gradual transformation	Marxist, transformation through radical means	Nationalise labour, labourite industry	Socialisation of means of production
Organisational Machinery	General councils,	Similar	Similar	Similar

	working committees			
Methods used	Urges placing of industry under national ownership through democratic and peaceful means	Similar goal using radical means	Similar to INTUC, prefers peaceful means	Radical and anti-INTUC
Political Affiliations	Indian National Congress	Pro Communist	BJP	Revolutionary Socialist Party

IR SESSION 11

PROBLEMS OF TRADE UNIONS

SYLLABUS : Introduction- Main problems – Inter Union Rivalry –Recommendations of ILC Standing Committee; – Code of Conduct – Recommendations of NCL; – Under the Maharashtra Act – National Commission on Labour’s Views on Rights of Recognized Unions – Trade Unions under the plans – Recommendations of National Commission on Labour for Strengthening Trade Union – Essentials for Success of a Trade Union; –Unfair Practice by Recognized Trade Union – General Unfair Labour Practice.

Indian employers and British Capitalists disliked Unionism and discouraged it. In retrospect, some of the policies of the government are considered to be idealistic and unrealistic which prevented the growth of positive Unionism. Goals were ambitious and some schemes which were launched seem to have been too advanced for the time because the ground had not been set for the applicability of these schemes in a smooth manner.

A large number of weak and unstable unions grew and there was self-oriented interference by political groups. Despite this, there were some economic and social changes that benefitted workers. Some amount of economic benefit has reached workers, unions have helped in national integration and unions have been a driving egalitarian and socialistic force.

Some of the main problems of Indian trade unions are:

1. Uneven growth (industry and area wise): Trade union activities are concentrated more in the large-scale industries and often limited to manual labour. It is concentrated in a few states and within the larger industrial centres of these states, due to the development of industries in these areas. This leaves many industries and geographical areas inadequately covered. There is not much unionisation in white collar jobs, small scale enterprises, domestic workers and agricultural labour.

2. Small size of Unions: Only 7 workers are needed to register a Trade Union, under the Trade Union Act, 1926. Hence multiple small unions can exist in an organisation, reducing the bargaining power of the workers.
3. Financial weakness: Unions struggle at times, for funds. Worker members are apathetic to the conditions of the Union. They make ad hoc payments making it difficult for the union to sustain itself. With multiplicity of unions comes the problem of contributions having to be tracked as well. Unions trying to garner membership keep the fees very low to attract members. Data shows that around 40% of the membership fee is spent on basic administration.
4. Multiplicity of Unions: Because of the earlier mentioned requirement of only 7 members to form a Union, based on minor rivalries, often break away factions form unions resulting in multiple unions in the organisation, severely reducing the bargaining power, giving management the option to divide and rule.
5. Inter-union rivalry: leaders struggle to gain power and position and keep rivalry simmering to the detriment of the cause of the workers
6. Leadership issues: Often leaders are chosen based on muscle power; they may not be well read or have an understanding of the legislations that protect workers and do not have a positive style of leadership that helps to win management engagement. Often, there are struggles for power and leadership within the Union. Sometimes leaders are brought in from outside, with no understanding of the t
7. Politicisation of unions: Local politicians try to enhance their voter base by infiltrating unions and likewise, union leaders with political ambitions use this as a platform to secure a mass following. This often creates friction with management which may not like outside interference and may result in the management distancing itself from unions.
8. Non recognition of unions by employers: Even with a registration, it is possible that the employer may not recognise the union and refuse to negotiate. This makes it impossible for the process of collective bargaining to take place. The Bombay Industrial Relations Act, 1946 provides for recognition of the representative unions in the area, including Gujarat and in a modified form to M.P. and Rajasthan. The Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act, 1971 which came into force in 1975 provides for recognition of unions in Maharashtra.

Recommendations of ILC Standing Committee 1966:

The Standing Committee of the Indian Labour Conference of 1966 discussed the problem of inter union rivalry and made a recommendation that when more than one person /set of persons claim to be office bearers of the same union, if the Union is affiliated to any of the Central organisations, that organisation should try to settle this difference. If not, under the Labour Court, an election confined to the members of the union concerned should be held.

- ⊙ Code of Conduct was voluntarily adopted by INTUC, AITUC, HMS and UTUC to manage the rivalry and disruption that it was causing.
- ⊙ The following were some of the highlights of the Code of Conduct
 - ⊙ Freedom to worker to choose Union
 - ⊙ No dual membership

- ⦿ Democratic functioning of Unions
- ⦿ Democratic elections of executive bodies
- ⦿ No exploitation of ignorance of workers
- ⦿ Casteism, communalism and provincialism to be eschewed
- ⦿ No violence, intimidation, intimidation
- ⦿ Combat the formation of Company Unions

Recommendations of NCL 1969

It was recommended by the National Commission on Labour, 1969 that it would be desirable to make recognition compulsory under a central law in all undertakings employing 100 or more workers or where the capital invested is above a stipulated size. An individual union should have representation of at least 30% of workers in the establishment and for industry recognition, there should be at least 25% membership in the area.

IR SESSION 12

National Commission on Labour's Views on Rights of Recognized Unions – Trade Unions under the plans – Recommendations of National Commission on Labour for Strengthening Trade Union

National Commission on Labour recommended that recognised Unions should be granted certain exclusive rights and facilities such as:

1. The right to collect membership subscription within the premises
2. The right to “check-off”
3. The right of sole representation
4. The right to enter into collective agreements on terms of employment and conditions of services
5. The right to hold discussions with departmental representatives of worker members in factory premises and
6. The right to nominate its representative s on works/grievance committees and other tripartite committees

Trade Unions under the Plans

Under the First Five-year plan, 1951 – 1956, the focus was to Create enthusiasm for the Plans

- Exercise restraint in work stoppage
- Formulate wage demands in tune with economic development needs and considerations of social justice
- Responsibility for the success of productive effort
- Expand T U s on a larger scale; Accept workers' right to associate, organise and bargain as fundamental basis of mutual relationship; Not mere tolerance but welcome and help
- Encourage collective bargaining ; make it a meaningful indication of organised worker strength
- Positive view of Unions; Strong indication of govt policy thinking

- TU s to function as an important part of the industrial system

The role of the trade union was defined as one to :

- Maintain reasonable degree of peace; ensure flow of industrial output
- Support technological change: new processes, machinery
- Accept growth-oriented wage payment system

Focus of the Second Five-year plan (1956 – 1961)

- Creation of industrial democracy imperative for socialist society
- Strong TU movement needed to safeguard worker interests and realize production targets; TU finances needed to improve from within
- Emphasis to be placed on conciliation and voluntary arbitration
- Effective use of Standing Joint Consultative machinery for reduction of industrial disputes and Plan implementation
- Increased association of labour with management
- Design measures to promote productivity
- Better understanding of workers' role in discipline, production, opportunity for self-expression
- Workers to be consulted before rationalization and system of payment by results introduced

Focus of the Third Five Year plan (1961 – 1966)

- Need for readaptation in the outlook, functions and practices of TU s to suit changing conditions
- Workers' participation in management a fundamental principle and need
- TU s an essential part of the apparatus of industrial and economic administration; Unions should be prepared to discharge their responsibility
- Visualized progressive growth for Union leadership

Focus of the Fourth and Fifth Five Year Plans: 1969 -1974; 1974 - 1979

- Highlighted that TU should play an increasing role in the nation's development
- Focus should not be only on seeking fair wages and better working conditions
- Labour, can, through the TU s make an effective contribution to the area of policy

Focus of the Sixth Five year plan (

- Observation: Proliferation of TU s, inter and intra union rivalry had affected their bargaining and financial power
- Call for reorientation of approach based on value system, social obligations, mutual trust, fair practices in an atmosphere of goodwill.
- Serious efforts needed by TU s to promote involvement of workers in greater efficiency of undertakings and excellence in overall performance

Recommendations of National Commission on Labour for Strengthening Trade Union

- 1. Enlargement of functions:
- Unions must pay attention to basic needs such as Fair wages, Security of tenure, improved conditions of service, enlarge opportunities for promotion and training, improve working and living conditions, Educational, cultural and recreational facilities
- 2. Leadership: No ban on non-employees holding a position in the executive of the union; steps should be taken to promote internal leadership with more responsible roles, the permissible limit of outsiders in the executive of the union should be reduced to 25% and ex-employees should not be treated as outsiders.
- 3. Union Rivalries: Recognition of unions, shift to collective bargaining, building up of internal leadership would all help to reduce rivalry. Rivalry is best settled by the central organization concerned.
- 4. Registration: the NCL recommended that membership should be cancelled if membership fell below prescribed limits, if annual returns were not submitted or if they were defective and that re-registration after cancellation should not be permitted for 6 months.
- Improvement of financial conditions: It recommended that the membership fee be fixed at Re. 1 per month and should not be in slabs.
- Verification of membership: The Industrial Relations commission should decide the representative character of the union, by examining records or by holding an election by secret ballot of all employees
- Recognition of Unions: The NCL recommended that it should be compulsory under a central law for all organizations employing 100 or more workers or where capital was above a stipulated amount. If there was more than one union, the union with the largest membership should be recognized.

IR SESSION 13

Essentials for Success of a Trade Union; –Unfair Practice by Recognized Trade Union – General Unfair Labour Practice.

A practical and enlightened union can mould workers into a positive movement whereas a union that is driven by negative ideologies can create havoc and immense loss to both employer and to the work force. The trade union should have a solid foundation and a clear goal along with sound principles.

It is essential for a union to have clearly enunciated goals. The objectives should be stated in clear terms and undue complexity should be avoided. They should be able to win the willingness of the management to negotiate with them, rather than try to avoid them at all costs.

The union must have a well-documented policy in terms of the structure. Over the years, unions have grown in a haphazard manner and issues like jurisdiction have created anomalies. A trade union should be considered as a business organisation and as such, would need sound planning proper organisation.

As George Meaney, the former President of the American Federation of Labour, a trade union need certain characteristics to be effective:

“It should be able to protect its members and win a reasonable measure of economic justice for them. It should be run by the members for the members. There must be leaders – strong leaders,

able and willing to stand firm for what they believe is right and to fight for it against what might appear at times to be a popular position. But they must always be subject to the support or rejection of the general membership of the union.

Third, a good union must be an honest union. This goes beyond finances; just being 'money honest' is not enough. The integrity of a good union is all-inclusive. It extends to its relationship with employers, to what it says to its own members, the formulation of its policies and the evaluation of its own performance.

Fourth, a union must look beyond its own horizons. It must recognise and fulfil its proper role in the life of the nation and of the community in which it lives."

Unfair Practice by Recognized Trade Union – General Unfair Labour Practice.

Often, unions try to achieve their ends through unlawful means, using various pressure tactics and creating undue fear.

Some unfair practices are listed below:

- (1) To advise or actively support or instigate any strike deemed to be illegal under the ID Act, 1947
- (2) To coerce workmen in the exercise of their right to self-organization or to join a trade union or refrain from, joining any trade union, that is to say-
 - (a) for a trade union or its members to picketing in such a manner that non-striking workmen are physically debarred from entering the work places;
 - (b) to indulge in acts of force or violence or to hold out threats of intimidation in connection with a strike against non-striking workmen or against managerial staff.
- (3) For a recognized union to refuse to bargain collectively in good faith with the employer.
- (4) To indulge in coercive activities against certification of a bargaining representative.
- (5) To stage, encourage or instigate such forms of coercive actions as wilful, "go-slow", squatting on the work premises after working hours or "gherao" of any of the members of the managerial or other staff.
- (6) To stage demonstrations at the residence of the employers or the managerial staff members.
- (7) To incite or indulge in wilful damage to employer's property connected with the industry.
- (8) To indulge in acts of force or violence or to hold out threats of intimidation against any workman with a view to prevent him from attending work.

General unfair labour practices:

These could include picketing, creating disturbance at the work place, intimidating supervisors through threatening remarks or actions, reduced productivity, deliberate and planned absenteeism, all of which create undue pressure on the employer to ensure production targets and smooth operations.

According to Section 25U of the Industrial Disputes Act, 1947, any person who commits any unfair labour practice will be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

IR Session 14

Syllabus : Worker's Education and Concept – Objective of Workers' Education – Venue and Technique – Worker's Education in India – The Scheme for Worker's Education – Three Levels of Worker's Education – Special Category Programs – Evaluation of the Scheme – Worker's Training – Training Scheme of DGET

Workers make a significant contribution to the GDP of the country through their labour. They need to be supported in the pursuit of their social and psychological satisfaction. It is not the physical equipment of a company that achieves its output; without manpower much would not be possible.

The concept of workers' education has been talked about for around fifty years. In 1956, in Copenhagen, the ILO considered the question of workers' education but there were very sharp differences of opinion and no unanimous concept was defined. To some, it signified basic education for those who had not got it, for others it meant training to be trade unionists, and for others it meant training the worker to be a good citizen, a member of the community, as a producer, a consumer or citizen.

The educational needs of a workman as an individual for his personal evolution, as an operative for his efficiency and advancement as a citizen for an integrated life with the community, as a member of a trade union and for the protection of the members of the working class – these are all perspectives of worker education.

Some features that have been identified are:

1. The scope is much wider than that of trade union education but narrower than adult education
2. It is designed to create trade union consciousness and make them good citizens and train them to understand their status, rights and responsibilities
3. The workers prescribe the curriculum and select teachers who have a deep empathy for the working class.
4. Institutions providing worker education are owned, financed and managed by the workers
5. The aim is to increase the bargaining power of the unions, though making them cooperative and sensible in their interactions
6. It is not vocational and professional training; it is aimed at increasing group advancement through individual capacity for creative work.
7. The approach is psychological and philosophical
8. It may include general education, vocational training, technical education, social education and training in unionism.

Objective of workers' education:

To convert a worker into an efficient, disciplined union member and a good corporate citizen is the overall objective, so as to enable the worker to participate in the socio-economic development of the country.

To develop the worker for a good and respectable civic life

To promote among workers a greater understanding of the problem of the country's economic environment and their privileges, rights and obligations as union members and citizens

To develop leaders from within the unions, preventing infiltration by politicians

To help workers understand capitalist culture and philosophy which is the pillar of the modern industrial system

To help workers understand their duties, responsibilities to enable them to work properly

To equip organized labor to take its rightful place in a democratic society

After liberalization, some of the objectives have changed based on the changed scenario. Some additional objectives are:

To acquaint workers with the ground realities of liberalization and inculcate a sense of competitiveness and excellence needed to compete on the international stage

To help workers understand the philosophy of liberalization and to train them to carry out their new role

To teach workers means of keeping the pace of the business and with upcoming trends

The overall objective of workers' education is to create a social consciousness in the worker, to enable him to perform his functions effectively in a dynamic scenario and to promote his solidarity with other workers through worker organizations in a positive manner.

Venue and Technique

In 1981, five new sub regional centers were opened for the training of rural workers. The boards and regional centres prepare material for study on a wide variety of subjects through mimeographed lessons, notes, seminar papers, role play scripts and case studies which are prepared in English and then retranslated to the regional languages and to Hindi. This material is supplied at a very nominal price. Over 200 titles have been prepared. The board also undertakes the creation of audio-visual material for education such as flash cards, posters, stickers, small films etc. A newsletter is published every month in English and Hindi and magazines are made available.

As workers may not be highly educated, the technique used to impart education is appropriate to their level of education so that they are able to absorb the material. Hence, often, audio visual tools are used to ensure a clear understanding.

IR Session 15

– Worker's Education in India - The Scheme for Worker's Education – Three Levels of Worker's Education – Special Category Programs

In India, workers' education began with the establishment of the Central Board of Workers' Education in 1958. It is registered under the Societies Registration Act, 1860. The Board is a tripartite body, headed by a Chairman, nominated by the Government. It also has representatives of the central and state governments, representatives of the central trade unions, employers' organisations, representatives of the University Grants Commission, the Indian Adult Education

Association and one independent trade unionist nominated by the Ministry of Labour and Employment. The total number is 20.

The Board has 49 regional centres located in four zones, with offices in Mumbai, Kolkata, Delhi and Chennai, 10 sub-regional centres in different parts of the country. A regional advisory committee reviews the progress of the scheme in each region.

Two types of grants are given to the registered trade unions and other institutions to conduct their own workers' education programmes. The board also provides grant-in-aid for national level courses to the central trade unions and the national federations. Maintenance grants to meet operational expenses and equipment grants to meet expenditure on furniture, library, audio visual aid etc are given.

The Indian Institute of Workers' education in Mumbai was established in 1970 and is also involved in workers' education. Its objective is to impart training to educational officers, central trade union leaders and industrial federations at the apex level. The Institute conducts one-week training programmes for trade union officials, refresher courses for education officers, two-week training programmes for officials on the economics of trade unionism etc.

The aim of the Board is to:

- 1, Create a sense of patriotism, national integrity, secularism and pride in being Indian
2. Developing them for intelligent participation in social and economic development
3. Creating a mindset of "Nation First"
4. Helping them to understand the social and economic environment, rights and obligations of citizens, as workers and their responsibility to their employers.
- 5.. Developing them as future trade union leaders

Three Levels of Workers' Education

1. The National Level: Education officers are trained at this level. They are shortlisted for the programmes by the CBWE and are trained at a central location by the Board officials. Typical programmes are : Trade Union Development, Leadership Development, Trade Unionism and Industrial Relations, Industrial Health, Safety and Environment, Economic Policy, Total Quality Approach, ISO 9000, New trends in Productivity
2. The Regional Level: These programmes impart training to selected workers who are known as Worker Teachers. In addition, there are programmes on Leadership Development, Joint educational programmes, Programmes for self-generation of funds and need based seminars
3. The Unit/Village level: This is the last stage of training: the worker teachers return to their workplace and conduct programmes for the rank and file of their respective units. Need based special programmes are conducted.

Special Category programmes:

In addition, the Board also organizes programmes for the unorganized sector, rural workers and those belonging to backward categories. These include functional adult literacy, education of unorganized workers, Personality development, Seminars for women workers, Quality of life for workers and their spouses, programmes for SC/ST workers, Rural awareness etc. .

IR Session 16

Evaluation of the Scheme –Workers’ Training – Training Scheme of DGET

The workers’ education is run by the worker, for the worker and has made some progress in the field of raising the level of the worker population, both in terms of general education, adult education and vocational training and training in trade union leadership.

Since its inception, though, the results have not been as considerable as they could have been. The success of the programme depends on the responsive co-operation of the unions and management, enthusiastic participation of worker-teachers, the rank and file of workers and trade union leaders. A lot of trouble has to be taken to win this co-operation. Study tours need to be organised with a specific purpose. Greater attention needs to be paid to the regional centres for diversification of short-term training programmes at different levels.

The three-month worker -teachers’ training course need not be considered as the best model and more options should be explored. Workers with the right attitude, ability and intelligence need to be sponsored so that they imbibe the learning and their abilities are enhanced through the training. Industry -wise worker teacher training should be enhanced. Unions should take more initiative in organising these programmes and unions should take full advantage of the programmes sponsored by the managements.

Workers’ Training

In India there is a shortage of workers with the right skill set for a number of industrial occupations and a majority of workers have a low standard of efficiency. The skill level needs to be at a higher level. Social attitude to industrial work, high income disparity between skilled and unskilled workers, lack of co-ordination between industry and training institutions/educational institutions has made workers’ education an uphill task. For continued rapid industrialisation and to meet the needs of a liberalised economy, worker development is critical. Workers should comprehend the quality requirements of their output and the importance of maintaining good relations with the employer and minimising time off the job through any form of loss of man hours. On the other hand, they also need to be aware of their rights and not get taken for granted or short changed by unscrupulous employers.

Literacy is a cause of concern in our country and this itself results in many workers not getting their just due in unethical organisations. Hence building literacy through this programme is essential. Increased efficiency and increased productivity could have positive outcomes for both employer and workers and this can be achieved through sound training on standards, use of machinery, reduction in waste of materials and time, ability to work with minimal supervision and reduced work-related accidents. This can lead to better earnings, better stability for the company, increased morale on the part of the work force, increased flexibility and job mobility which will further skill workers.

Training Scheme of DGET

The Directorate General of Training (DGT) in Ministry of Skill Development and Entrepreneurship is the apex organisation for development and coordination at National level for the programmes relating to vocational training including Women's Vocational Training. Industrial Training Institutes are under the administrative and financial control of State Governments or Union Territory Administrations. DGT also operates Vocational Training Schemes in some of the specialized areas through field institutes under its direct control. Development of these programmes at national level, particularly in the area concerning common policies, common standards and procedures, training of instructors and trade testing are the responsibility of the DGT. But, day-to-day administration of Industrial Training Institutes rests with the State Governments/ Union Territories Administrations.

Major functions of the DGT are:

- To frame overall policies, norms and standards for vocational training.
- To diversify, update and expand training facilities in terms of craftsmen and crafts instructor training.
- To organize and conduct specialized training and research at the specially established training Institutes.
- To implement, regulate and increase the scope of training of apprentices under the Apprentices Act, 1961.
- To organize vocational training programmes for women.
- To provide vocational guidance and employment counselling.
- Assist scheduled castes/scheduled tribes and persons with disabilities by enhancing their capabilities for wage employment and self-employment.

The Directorate General of Employment and Training (DGET) has designed several programmes to ensure supply of trained people to industry.

Some of the programmes are:

1. Craftsmen's Training
2. Craft Instructors' Training
3. Advanced Vocational training
4. Foreman's training
5. Apprenticeship Training Scheme
6. Part time training for industrial workers
7. Vocational training programme for women

DGT has introduced the Dual System of Training (DST) model wherein the ITIs are being encouraged to join hands with multiple industry partners for providing mandatory industrial exposure to the trainees during the course of their training. Hence a part of their skill training takes place in the

industry environment. The Flexi- MoU model offering customized, industry relevant training, entirely on the industry premises has also been introduced for providing flexibility to create tailored skilling programmes.

DISCIPLINE SESSION 17

SYLLABUS : Discipline: Code of Discipline in industry- Criteria for recognition of TU-Rights of recognized unions under the Code of Discipline- Fostering discipline in industry-Employee; Discipline-Positive Discipline-Disciplinary action process-Standing Orders-Judicial

Intervention-Domestic Enquiry- Framing the charge sheet-Suspension of pending enquiry notice of enquiry-Enquiry Officer-Domestic Enquiry Proceedings-Representations of a legal practitioner-Principles of Natural justice- Criminal proceedings on domestic enquiry findings and conclusions of Enquiry Officer- Award of Punishment.

Code of Discipline in Industry

The issue of discipline in industry was discussed at the 15th Indian Labour Conference, held in July 1957 following which some principles were laid down. Some of the main features of the code are:

1. It is a government induced, self-imposed and mutually agreed voluntary principle of discipline between management and workers in an industry.
2. It aims to prevent disputes by providing for voluntary and mutual settlement of disputes through negotiation, conciliation, voluntary arbitration without outside interference or through adjudication.
3. It restrains both parties from unilateral action and induces them to use the existing machinery to settle disputes
4. Both parties are compelled not to indulge in strikes, lockouts without notice and without exploring the avenues of voluntary, mutual settlement of disputes
5. Co-operation is encouraged; there should be no recourse to violence, intimidation, co-ercion, victimisation, interference with union activities
6. Management is required to settle grievances promptly
7. Employers should recognise the majority union and set up a mutually accepted grievance procedure
8. Both parties should recognise the rights of the other as defined by law and prior agreements.

Sanctions under the Code:

There are some defined steps in case of breach of the Code of Discipline:

1. Units can be asked to explain the infringement. Central and workers' organisations can ask their constituent units to set right the infringement, censure the unit, impose penalties, disaffiliate the unit from membership etc.
2. Grave, wilful breaches of the code should be widely published
3. Failure to observe the Code may earn wilful derecognition for a year

The Code of Discipline aimed to promote harmony and put an end to industrial unrest. Employers and unions were required to recognise each other's right, co-operate in a constructive manner, secure settlement of disputes through negotiation, conciliation and voluntary arbitration, eliminate intimidation and violence, avoid work stoppages and most importantly, maintain discipline in industry.

Criteria for recognition of trade unions :

In practice, management allows the recognized Trade Union only for negotiations and collective bargaining. As such, recognition of trade union serves as backbone of collective bargaining. It has been debated time and again whether a trade union should be recognized or not. This is because there is so far no enforced central legislation on this subject, i.e., recognition of trade union.

Be that as it may, the recognition of trade unions refused by the employers has been considered as the major stumbling block to the healthy growth of trade unions and, in turn, collective bargaining in India”.

Realizing the need for recognition of Trade Unions, some stray and sporadic attempts have been made by various organisations such as International Labour Organisation, the Royal Commission on Labour and the National Commission on Labour from time to time to advise the employers to accord recognition to the trade unions.

Nonetheless, the absence of any central legislation on the subject, on the one hand, and the Trade Union Act, 1926 having no provisions in this regard, on the other, recognition of trade unions by employers has so far remained voluntary.

Rights of Trade Unions under the Code of Discipline:

1. To negotiate with employers in respect of matters connected with employment conditions.
2. To collect membership fees from the members on the premises of the industry.
3. To nominate its member-representatives on the Grievances Committee constituted in an establishment.
4. To nominate its representatives on the Joint Management Councils.
5. To receive replies from employers in response to their letters.
6. To conduct interviews of employers.

Fostering Discipline in industry

The Code of Discipline helps to foster discipline because it gives clear guidelines on actions that may result in violence and indiscipline.

Unions are required to agree not to encourage any form of physical duress, not to permit rowdiness, not to damage property, disturb normal work and engage in insubordination.

Both parties are required to agree that there will be no strike or lockout without notice, that they will avoid litigation, strikes and lockouts, that they will have a mutually agreed grievance procedure in place and that no unilateral action will be taken with regard to any dispute. They agree that the existing machinery will be utilised for settlement of disputes and that they will educate both sides regarding their obligations to each other.

This greatly supports the maintenance of discipline in the industrial set up.

IR SESSION 18

Employee Discipline-Positive Discipline-Disciplinary action process-Standing Orders-Judicial Intervention-Domestic Enquiry- Framing the charge sheet-Suspension of pending enquiry notice of enquiry-Enquiry Officer-Domestic Enquiry Proceedings

Employee discipline isn't a matter of dominance or punishment. It's about making the work environment safe and pleasant for both employees and management. Discipline works best when there's a foundation of trust between managers and employees. That starts with clear communication and continues through consistency. One of the most uncomfortable decisions

that an employer ever has to make is to discipline or terminate an employee. No matter what anyone says it is always hard to take this step when you know that the employee has been part and parcel of the organization.

Helping a worker to correct or mould his behaviour to the expected standards is known as positive discipline. Positive discipline exists in organisations with sound developmental policies, adequate remuneration, appreciation of proper performance and reinforcement which reinforces good behaviour. Support is given to the worker to adhere to the regulations and improve his behaviour and his output.

Discipline in organisations is needed to ensure that there is an element of consistency and certainty despite there being many differences in informal behaviour patterns, to make sure that responsibility is honoured, that there is an atmosphere of respect and the efficiency of the organisation is at its best, with high employee morale.

The Red-Hot Stove Rule:

Discipline is likened to the red-hot stove, which when touched,

Gives an immediate burn, gives a warning, is consistent regardless of who touches it and is impersonal – the person is burnt because of touching the stove, not because of who he is.

Disciplinary procedures in organisations should not lose time after the misdeed, the punishment should be regardless of who the person is, the same punishment should be given for the same type of offence and punishment should be given irrespective of the status of the person.

The rules for employees in an organisation are spelt out under the Industrial Employment (Standing Orders) Act, 1946. Under this Act, conditions of employment have to be clearly spelt out and defined so that there is no ambiguity and employees do not make mistakes which can then taken to be incidents of indiscipline. Regulated standard code of conduct needs to be in place so that employees can maintain the prescribed discipline, and harmonious working conditions can prevail. The Standing Orders are certified and need to be communicated to the workers.

Indiscipline can include wilful insubordination, disobedience, theft, fraud, dishonesty, wilful damage to employer's property, taking or giving bribes, habitual absence without leave, negligence or neglect of work, habitual breach of law, riotous or disorderly behaviour during working hours, repetition of acts of omission or resorting to strikes or inciting others to go on strike.

The principles of natural justice apply in the matter of application of disciplinary action.

The principle of impartiality or consistency and the principle of impersonality must also apply.

In the case of an act of indiscipline, the steps are:

1. Framing and issue of charge sheet: A written complaint has to be taken, based on which the charge sheet is drawn up, mentioning full details of the time, date, location and nature of the indiscipline. It indicates a time frame within which a response must be given. The receiver has to justify why he feels that disciplinary action should not be taken against him.
2. The charge sheet is handed over in the presence of a witness and explained to the receiver. If he refuses, it is sent to his residential address by post and if it is refused there, the non acceptance itself is considered to be a fresh charge of misconduct.
3. The defendant's explanation for the incident is received. He needs to be allowed access documents that he may need to make this explanation. If the management is satisfied with his response, the charge sheet may be withdrawn but if not, the enquiry will proceed.
4. Notice of enquiry is issued indicating date, location etc of the proceedings. An Enquiry officer, well versed in law and conversant with the nature of the business is appointed. The worker needs to be present with his witnesses.
5. The Enquiry Officer examines the worker and the witnesses, before which the entire process is clearly explained to the worker. If he pleads guilt in writing, the proceedings are stopped but if he does not the enquiry proceeds. The details are recorded and signed by all persons; witnesses are required to submit their statements.
6. Findings of the Enquiry Officer contain the procedure of the enquiry, the parties heard, the list of documents examined, the charges made, the explanation given and his own findings, mentioning which charges are proved and which are not. He does not make a recommendation regarding action to be taken.
7. The Disciplinary authority appointed takes the decision on the action to be taken, whether to accept or reject the findings of the enquiry and provides his decision in writing.
8. The Order of punishment is communicated to the worker in writing, giving a clear description of charges that are established, the punishment awarded and the reasons for the same.

IR SESSION 19

-Principles of Natural justice- Criminal proceedings on domestic enquiry findings and conclusions of Enquiry Officer- Award of Punishment.

The employee has a right to represent his case and defend himself, as per the principles of natural justice. Hence, a domestic enquiry is held before a punishment is awarded. It safeguards the employee against whom an enquiry is being conducted so that he is able to meet the charge laid against him properly. No man should be condemned unheard and be the judge in his own cause – this is the essence of the principle of natural justice. It ensures that the workman charged should be given an opportunity to present witnesses of his choice on whom he relies; he has a right to cross examine the management's evidence; the evidence of the management has to be taken in his

presence; no material should be used against him without an opportunity for him to explain; the enquiry against him should be fair and conducted by an impartial person and the punishment awarded should not be out of proportion to the misconduct conducted.

The basic issue that a tribunal or a labour court will try to find out when a case is being heard is whether a proper domestic enquiry was held and whether the basic principle of natural justice was observed. They will also check whether there was a bias in the enquiry proceedings and whether the other party acted "in good faith". The first issue is to establish the validity of the domestic enquiry. There is no statute regarding the procedure to be followed in conducting a disciplinary enquiry but case law has been developed by the various courts and their various awards have indicated a detailed procedure for taking disciplinary action and making it compulsory for a domestic enquiry to be held before the worker is punished for misconduct.

Criminal proceedings do not bar a domestic enquiry from proceeding, or coming to a different conclusion. In the case *Kusheshwar Dubey vs. M/S Bharat Coking Coal Ltd.*, AIR 1988 SC2118, the Supreme Court held that "there was no legal bar to simultaneous proceedings being taken against an employee even though there may be cases where it may be appropriate to defer the disciplinary proceedings awaiting the disposal of the criminal case." The Supreme Court held that it was neither possible nor advisable to evolve a hard and fast straitjacket formula and in cases where the charge against the employee was of a grave nature and involved complex questions of law and fact, in that event the disciplinary proceedings could be deferred till the decision of the criminal law.

In the case of *State of Rajasthan vs. B. K. Mena and others*, reported in 1996(^) SCC Page 417, the Supreme Court held that "it would be evident from the above decisions that each of them starts with the indisputable proposition that there is no legal bar for both proceedings to go on simultaneously and then say that in certain situations it may not be "desirable", "advisable" or "appropriate" to proceed with the disciplinary enquiry when a criminal case pending against on identical charges. The staying of disciplinary proceedings, it is emphasised, is a matter to be determined having regard to the facts and circumstances of a given case and that no hard and fast rules can be enunciated in that behalf.

After the enquiry proceedings, the Enquiry Officer furnishes a detailed report along with all supporting documents to substantiate his findings. He does not take any decision on the punishment to be awarded. This is done by the Disciplinary Officer.

The various types of punishment after a domestic enquiry, depend on the seriousness of the misconduct.

1. Censure or warning: If this is given after a domestic enquiry, it is considered to be a punishment. If it is given before, it can be considered a matter of caution. The worker should have been found guilty, the cause for punishment should be sufficient and it should be imposed after giving notice to the worker and considering his explanation.
2. Fines: may be imposed
3. Suspension is the last resort, till the enquiry is completed. If suspended, a worker has to receive subsistence allowance which is one half of the basic wage, dearness allowance and compensatory allowance and is paid for 90 days. If the enquiry gets prolonged beyond 90 days, it is increased to three fourths of the basic wage, dearness allowance and compensatory allowance. However, if the cause of prolonging the

enquiry proceedings can be fixed on the worker, the allowance is reduced to one fourth.

4. Dismissal: After the allegation has been proved against him and his misconduct is considered serious, dismissal is an option that the management may choose. In this case, the misconduct should be of such a character that dismissal is an appropriate punishment. The enquiry should have been held in such a manner that it appears to be fair and proper and in conformity with the principles of natural justice. The enquiry officer should not be one who is disqualified for any reason, such as bias, personal interest, eye witness or victim. The findings should not be baseless or perverse.

The order of dismissal passed against the worker must be bona fide and made in good faith, it must be duly communicated to the employee.

COLLECTIVE BARGAINING : SESSIONS 20

Syllabus: Concept – Main Features of Collective Bargaining – Importance of Collective Bargaining – Principles of Collective Bargaining – Contents and Coverage of a Collective Bargaining Agreement – Forms of Collective Bargaining – Developing a Bargaining Relationship – Process of Negotiation during Bargaining – For union and Management for Trade Union – The Attitude of the parties – Collective Bargaining in India – Recent Trends in Collective Bargaining the Issue Side – Collective Bargaining Agreements at Different Levels – Plant, Industry and National Level – Prerequisites of Collective Bargaining Agreements at Different Levels – The National Commission on Labour or Collective Bargaining.

In India, collective bargaining has been growing along with the growth of trade unions. The first collective bargaining agreement was made in a textile industry in Ahmedabad. Collective bargaining has been growing rapidly in the post-independence scenario.

Though attention was paid to, adopt collective bargaining as a method to resolve industrial disputes since, the dawn of planning era in India; it received increasing emphasis since the days of the National Commission of Labour.

It involves the bargaining over an issue between an employer or group of employers and a bonafide Trade Union.

Main Features of Collective Bargaining:

1. It is a group action as opposed to individual action and it is initiated through the representatives of workers. The management sends its representatives to the bargaining table and the trade union, representative of the local factory, the industry membership or the nationwide membership may present themselves on the other side of the negotiating table.
2. It is flexible and mobile, not fixed or static. The process of collective bargaining is not fixed and allows scope for fluidity and scope for compromise. Neither side can come to the bargaining table expecting all their demands to be met in full. It is an exercise in “graceful retreat”, without seeming to retreat. Both sides normally ask for more than they really expect to finally close the bargaining with.

Before retreating, each party tries to withdraw as little as possible. They therefore need to ascertain the maximum concessions of the opposing side; the process is exploratory until the agreement is finally arrived at.

3. It is a two-party process and it can succeed only when both sides want it to succeed.
4. It is a continuous process; the relationship between management and the Trade Union is an ongoing one. If one issue is resolved through collective bargaining, the next one will present itself. Hence it goes on throughout the year and then year after year.
5. It is dynamic and not static: It is a dynamic force and has scale and power, it embraces the evolving ideas that may emerge and is a powerful force at the workplace.
6. It is industrial democracy at work and has helped remove arbitrary unilateralism. It is a joint formulation of company policy on matters that directly affect workmen; it gives workmen a chance at self-governance through their involvement in the policy making process.
7. It is not a competitive process, but a complementary one. Distributive bargaining involves a win – lose relationship but integrative bargaining involves a win for both parties, through common objectives and an understanding of each other's needs.
8. It is an art and an advanced form of human relations: It is a complex process that involves psychology and power at play. There is oratory, dramatics and coyness all mixed together for benefit.

Contents and Coverage of a Bargaining Agreement:

There is no standard specification of a collective bargaining agreement. The scope and coverage are often related to the maturity of the relationship between the two sides.

Largely, they cover union security, worker security, economic factors and management protection.

As suggested by the National Institute of Personnel Management, the agreement should include:

The purpose of the agreement, its scope and the definition of important terms
The rights and responsibilities of the management and of the trade union
Wages, bonus, productivity norms, leave, retiring benefits and other benefits
Grievance redressal procedure
Methods of settling future disputes
A termination clause

Forms of Collective Bargaining

1. Single plant bargaining: takes place between management and a single union
2. Multiple plant bargaining: between the management and all the workers at multiple plants of the company

In India, collective bargaining has been classified into four categories:

- a. Settlements under the Industrial Disputes Act: these are negotiated by officers during the course of conciliation proceedings
- b. Agreements concluded by the parties themselves without reference to a Board of Conciliation
- c. Agreements negotiated on a voluntary basis when disputes are sub-judice which are known as consent awards
- d. Purely voluntary agreements which use moral force for enforcement; they are based on the goodwill between the parties.

IR Session 21 Collective Bargaining

Developing a Bargaining Relationship – Process of Negotiation during Bargaining – For union and Management – The Attitude of the parties – Collective Bargaining in India – Recent Trends in Collective Bargaining the Issue Side

Both parties should develop a bargaining relationship on an ongoing and regular basis. In order to do this, they three steps involve:

- a. Management deciding which union they will recognise as the representative of the work force
 - b. Deciding the level of the bargaining and
 - c. Deciding the scope and coverage of issues that they will bargain collectively on
- a. Recognition: In the case of single union, usually that union gets recognised to represent the workforce. In case there is more than one union, then any of the following methods may be used:
 - i) Selection of the union through secret ballot
 - ii) Selection through verification of membership by some govt. agency
 - iii) A joint committee comprising members of all unions
 - iv) A negotiation committee, with proportionate representation to verified membership
 - v) A negotiation committee with elected representatives of every department in the organisation selected by secret ballot, regardless of their union membershipIn India, AITUC, BMS, UTUC and CITU have supported secret ballot but AITUC has not.
 - b. Level of bargaining: Collective bargaining can be at the level of the enterprise, the industry, the regional industry level and even at the national level. In the case of enterprise level, the advantage is that enterprise specific issues get more importance and through collective bargaining, better solutions may be found. Increasingly, the trend is to cover the entire industry so that settlements are applicable across the industry.
 - c. Scope and coverage of collective bargaining: While commonly covered issues are wages, bonus, seniority and promotion, both parties can propose and conduct bargaining on several more issues such as internal rotations, issue of uniforms/shoes, actions on compassionate grounds for employees with terminal illness etc.

Process of Negotiation during Bargaining:

The two stages are the negotiation stage and the contract administration stage.

In the negotiation stage, proposals are put forward by both sides to explore possibilities of acceptance

At this stage, both parties will prepare for the negotiation, by gathering relevant data which may relate to past agreement implementation, wage rates in other organisations, number of employees affected by issues such as stagnation, number of workers involved in disciplinary cases, overtime allowance, productivity standards, cost of living, hours of work, industry practices etc. In addition, the management tracks the public statements of union leaders, proceedings of labour conventions and conferences and outcomes of other negotiations for which agreements have been signed.

Some managements prefer that the unions submit their charter of demands while others prefer to also share with the Unions their proposals for consideration by the union office bearers. There is a defined time frame for proposing changes to the existing systems and agreements.

The top management's approval has to be obtained on the specific proposals of the company, the objectives of the negotiation, a study of the cost of any proposals that involve a monetary element and an in-principle approval of demands which may be acceded to and which may not.

Negotiation Procedure: Negotiations are usually conducted by a committee on each side. A small committee is preferred because large committees give rise to multiple discussions and do not help to consolidate discussions in a timely manner. The management committee has a chief spokesperson and works as a team. A strategy is developed on how they will handle the negotiation and the tactics that they will adopt.

Ideally, both parties should come armed with correct information so that negotiations can proceed smoothly. Typically, unions in India begin with a very aggressive stance and the management has to respond in a calm and mature manner.

Union demands should be classified into: a) can possibly be met b) may be rejected and c) need hard bargaining

The management will define a strategy as to which they will deal with first. Often issues are interlinked so separating them into tight categories may sometimes be difficult.

Attitudes of the parties

Factors which influence the decision-making process are economic, psychological and the power structure.

Economic factor includes the state of the economy, the capital requirements, cost conditions, type of ownership and business cycle. Monopolistic conditions and strong managerial tend to make bargaining power of workers weaker.

Psychological factors are often driven by the attitude of the management – whether it is autocratic, or autocratic- benevolent; the attitude of the unions regarding their rights, privileges and responsibilities and sense of awareness of their moral obligations.

The power structure implies the balance of power between the management and the unions which may be defined by earlier happenings e.g. if a past incident of worker violence against management still hangs in the air, the management may be slightly diffident..

Collective Bargaining in India

The First Five-Year Plan duly recognized the need for collective bargaining to resolve labour disputes and maintain peaceful industrial relations in the country. Increasing emphasis was given to collective bargaining in the subsequent Second Five-Year Plan It noted that for the development of an undertaking or an industry, industrial peace is indispensable. Obviously, this can best be achieved by the parties themselves. The best solution to the common problems, however, can be found by mutual agreement or collective bargaining.

The concern for collective bargaining continued in the Third Five-Year Plan also. The main emphasis was given to the adoption of voluntary arbitration in the place of compulsory adjudication. Similarly, the Fourth Five-Year Plan stressed the need for greater emphasis on collective bargaining as also a strong trade union to ensure better relations between the employer and the employees.

In India, industry level agreements may be found in the plantations industry, the coal industry, and in new industries such chemicals, petroleum, oil refining and distribution, aluminium and electrical

equipment etc. In the ports and docks, collective agreements have been the norm at individual centres and for some matters, all India agreements have been reached.

Statutory provisions have laid down some general principles of negotiation, procedure for collective agreements which have helped in the development of a mindset for collective bargaining.

Recent trends in collective bargaining – the issue side

Collective bargaining in India has evolved and issues are no longer centred only on typical topics like wages and employment conditions. They focus now on additional items like fringe benefits, welfare facilities etc.

In industries where collective bargaining practices are mature, the workers are now somewhat comfortable financially and they workers are well aware of the power collective bargaining gives them. When their basic wage demands are met, they no longer bring them to the negotiating table. Based on higher wages paid by MNCs, other companies have had to adopt a similar path to ensure that their workforce does not leave for greener pastures. Employers are seen to be more inclined to concede to demands of increase fringe benefits to keep the workforce satisfied.

IR Session 22

Collective Bargaining Agreements at Different Levels – Plant, Industry and National Level – Prerequisites of Collective Bargaining Agreements at Different Levels – The National Commission on Labour or Collective Bargaining.

Collective Bargaining is generally structured at 3 levels:

- a. Plant level – the basic or micro level unit where management negotiates with the union operating at the plant. Usually plant level unions have not much involvement with other bodies. Tata Workers' Union at Jamshedpur is considered a pioneer in this area, due to their early agreements of 1956 and 1959 in which they negotiated for workers' participation in management. Plant level bargaining tends to lower the power of the union.
- b. Industry level – Several units in the same industry come together and form an association with a union; agreements are broader in scope than at plant level negotiations. The petroleum sector has an industry level union, as also the iron and steel industry. In Mumbai, the mill owners negotiate with an industry union. Industry level unions exist for industries like jute, textiles, engineering, tea etc.
- c. National level – Though these are not common in India, the negotiations involve representatives of the trade union and employers who arrive at a settlement in tripartite agreements, involving the government as well. In 1951 and 1956 there were some significant national level collective bargaining initiatives which concluded with the signing of agreements. This happens most in sectors where the government is a key player e.g. coal, banking etc. They negotiate long term settlements with the All India federations. In some sectors, the negotiations are conducted by two to five major national trade union centres with a significant presence.

Pre requisites of collective bargaining agreements at various levels

The collective bargaining has no specified format and the management often decides which issues should be left out of the agreement.

The agreement begins with a brief recital of the case and a list of the terms and conditions agreed. The charter of demands is usually presented as an annexure. The agreement reflects the wishes of both parties and is arranged in as logical a manner as possible with a brief explanation on the importance of each aspect.

The introductory paragraph will also bear the relevant section of the ID Act, 1947 under which the agreement is signed. The rank and file union workers will be referring to the document frequently, hence it is always preferred that the agreement is written in concrete words, rather than abstract and short words and sentences, rather than long. The union workers should find the words familiar rather than far fetched and without subordinate clauses that may tend to obscure the meaning of the main text. An idea should be expressed in two or three sentences, if needed to simplify the text. If there is a preface to the agreement, the basic principles of applying the agreement in good faith should be included. However, each word of the preface should be chosen carefully, as in the case of a dispute, a judge may sometimes go more by “intent” rather than content.

Separate schedules and sections should be laid out and appendices should be carefully marked. A clause referring to future amendments should be included.

The period of the agreement should be clearly marked out and if the agreement is open ended, this can be mentioned in a clause.

National Commission on Labour or Collective Bargaining:

The first National Labour Commission was established on 24th December, 1966 under the Chairmanship of Dr. Gajendragadkar. The objective was to study and review the living conditions of labour and the labour legislations since 1947. In pursuance of this legacy which involves industrial relations and economy, the Second National Labour Commission was brought into existence after a long gap of 33 years based on the recommendation of Indian Labour Conference held in September, 1992. It consisted of ten members.

While developing the framework for its recommendation, the Commission took into account, the emerging economic environment involving rapid technological change, globalisation of economy, liberalisation of trade and industry, need for bringing existing laws in tune with future labour market needs and demands. Study groups were formed for detailed study and review of various laws, umbrella legislation for unorganised sector workers, globalisation and its impact, social security, women and child labour, skill development training and workers education.

The recommendations of the NCL on Collective Bargaining were

The extension to a wider area was desirable, though the record of collective agreements was not as unsatisfactory as popularly believed

A shift in emphasis and increasingly greater scope for and reliance on collective bargaining was needed, through a gradual process. Focus was to be given on collective bargaining as a primary process in settling disputes

Conditions were to be created to enable the process. Statutory recognition of the bargaining agent was recommended. Collective bargaining should exist along with the right to strike and lockout.

IR SESSION 23

Syllabus: Settlement Machinery: Conciliation – Arbitration – Adjudication.

The three methods for settlement of industrial disputes are as follows: 1. Conciliation 2. Arbitration 3. Adjudication.

Failure of the employees and the employers to sort out their differences bilaterally leads to the emergence of industrial disputes. The Industrial Disputes Act, 1947 provides legalistic machinery for settlement of such disputes by involving the interference of a third party.

The settlement machinery as provided by the Act consists of the three methods:

Conciliation, Arbitration and Adjudication

Conciliation means reconciliation of differences between persons. Conciliation refers to the process by which representatives of workers and employers are brought together before a third party with a view to persuading them to arrive at an agreement by mutual discussion between them. The alternative name which is used for conciliation is mediation. The third party may be one individual or a group of people.

Conciliation is a process of peace making to bring about speedy settlement of disputes without recourse to strikes and lockouts. It helps the parties move towards a mutually acceptable compromise or solution. The conciliator relies on reasoning and persuasion.

The conciliator or mediator tries to remove the difference between the parties. He/she persuades the parties to think over the matter with a problem-solving approach, i.e., with a give and take approach. He/she only persuades the disputants to reach a solution and never imposes his/her own viewpoint. (iv) The conciliator may change his approach from case to case as he/she finds fit depending on other factors.

According to the Industrial Disputes Act 1947, the conciliation machinery in India consists of the following:

1. Conciliation Officer
2. Board of Conciliation
3. Court of Enquiry.

Conciliation Officer:

The Industrial Disputes Act, 1947, under its Section 4, provides for the appropriate government to appoint such number of persons as it thinks fit to be conciliation officers. Here, the appropriate government means one in whose jurisdiction the disputes falls.

Conciliation Board:

The government may appoint a Conciliation Board consisting of a chairman and two to four other Board members. Trade unions may also recommend the names of their representatives.

Qualities of a Conciliator:

The choice of a conciliator has a major impact on the outcome of the conciliation exercise. He should be impartial and independent and be able to resist pressure or persuasion from either side.

He should be of high integrity and should be a neutral person.

He needs to be physically and psychologically fit to withstand the demands of a strenuous process.

He should be able to get on well with people and be polite, tactful, even tempered and patient, even while he pushes the two sides towards achieving results. He should have a friendly personality and be able to lighten tense moments with humour. A sound understanding of the legal framework is essential as well as an understanding of managerial processes, including finance, wage rates, production methods and labour relations are important. He should be versatile, be a keen observer and have a knowledge of social sciences, psychology, social institutions and culture.

Role of the Conciliator:

Discussion leader: gives space and opportunity to both sides to express themselves

Safety valve: defuses tension in a discreet way

Communication link: helps both sides to overcome their barriers in communication

Innovator: suggests out of the box solutions

Sounding Board: explores which arguments are valid and informs the party about illogical or invalid arguments

Protector: protects the interests of both sides, helping them to find alternative solutions

Stimulator: Gives hints so that parties may move in a certain direction

Advisor: Helps each side to realise its limitations and weaknesses

Face Saver: Helps parties to admit defeat without a complete loss of face

Promoter of collective bargaining: assists parties in building a sound relationship for collective bargaining

Voluntary and Compulsory Conciliation

Voluntary: Both parties may wish to approach a conciliator; accepting the decision is voluntary

Compulsory: Both parties need to attend the proceedings and need to observe the requirement of no strikes and lockouts during the proceedings. This is when the two parties refuse to meet each other that they are mandated to do so.

Phases of Conciliation:

Hard posture phase: Both parties act adamant

Search for accommodation: each party tries to protect its own bargaining position

Emergence of appropriate mood for compromise: Due to the encouragement of the conciliator, each side shows more co-operation towards a solution

Conciliation is an art in which listening is a primary skill, as also asking appropriate questions.

Persuading both parties to come to a settlement is an important step.

Drafting of a Conciliation Agreement: The conciliator participates in the drafting of the agreement.

The agreement includes the steps taken by the conciliator to ascertain the facts of the dispute, the steps taken to bring about the settlement, the detailed statement of facts and circumstances and the reasons for not reaching a settlement (if that be the case).

The conciliator is not required to give his recommendations in the matter as he is not the final authority, he does not pass an order directing a party to act in a particular manner. A settlement brought about by a conciliation officer is an administrative act and not a quasi-judicial act. On the basis of the conciliator's report, the government may refer the dispute to a labour court or tribunal, or may refuse to refer it.

The report becomes an important document on the record of relations between the two parties and information from this report may be taken for reference, in a future dispute.

IR SESSION 24

Syllabus: Settlement Machinery: Conciliation – Arbitration – Adjudication.

Industrial disputes are collective dissent and protest against the terms and conditions of employment and work. In the Industrial Disputes Act, 1947, an Industrial dispute means "Difference between employer and employer or between employer and workmen or between workmen and workmen, or

any dispute among these which are related to the employment or non-employment or terms and conditions of employment of any person". Practically, Industrial dispute primarily refers to the disengagement between employers and their employees. It is not a personal dispute of any one person. It engages a large number of workers' association having a correlated interest.

It is a process where a neutral third party hears to the parties in disputes, gather the information regarding the dispute, and then come to conclusion and decide the matter which is binding on both the parties.

The difference between both the officers as, conciliator only assists the parties to conclude to a settlement, whereas the arbitrator hears to both the parties and then passed his judgment.

Under Section 10 A of the Industrial Disputes Act, 1947,

"Where any industrial dispute exists or is apprehended and the employer and the workmen agree to refer the dispute to arbitration, they may, at any time before the dispute has been referred under section 10 to a Labour Court or Tribunal or National Tribunal, by a written agreement, refer the dispute to arbitration and the reference shall be to such person or persons (including the presiding officer of a Labour Court or Tribunal or National Tribunal) as an arbitrator or arbitrators as may be specified in the arbitration agreement.

Where an arbitration agreement provides for a reference of the dispute to an even number of arbitrators, the agreement shall provide for the appointment of another person as umpire who shall enter upon the reference, if the arbitrators are equally divided in their opinion, and the award of the umpire shall prevail and shall be deemed to be the arbitration award for the purposes of this Act.]"

- It is established by the parties and therefore both parties have conveyed their faith in the process of arbitration.
- Nature is a flexible and informal process.
- The concept is based on mutual consent of the parties and hence, therefore, it helps for healthy industrial functions and relations.
- Delay for settlement of disputes often occurs.
- The arbitration process is expensive and all the expenses are to be incurred by both labours and the management equally.
- When the arbitrator becomes biased and if he is incompetent then the Judgment becomes arbitrary.

Arbitration may be voluntary or compulsory. In voluntary arbitration, the parties to the dispute may refer the dispute voluntarily for arbitration. The enforcement of an award may not be necessary or binding because there is no compulsion. In compulsory arbitration, it is compulsory to refer the dispute to arbitration and to accept the award by the parties to the dispute. The Government may refer the dispute to a Board of Conciliation or a court of enquiry or a labour court or tribunal.

Qualification of Arbitrators:

Arbitrators must have qualifications that inspire trust in the parties to entrust their disputes to them. They must understand the complexities of the labour management relationship, have extensive understanding of collective bargaining and arbitration proceedings, should be of high integrity, nonpartisan and have a deep sense of impartiality. They need to be committed to the maintenance of harmonious labour management relationships.

Process of investigation:

Both sides have to be given a fair hearing. The principles of natural justice will apply i.e. the parties should have due notice of proceedings and must know what the issues are and the part they have to play and the right to state their point of view. They should be free to give any evidence which is relevant to the enquiry and on which they rely for their arguments. The arbitrator cannot rely on any document which is not shown and explained to the other party.

Submission of award:

The arbitrator has to submit his award to the government which will have the same legal force as the judgement of a labour court or tribunal. He has to ensure that the award is in line with the terms of reference, does not go beyond his jurisdiction, is precise and unambiguous, it should be capable of being enforced or implemented.

It should have a date for implementation and should not violate the provisions of any existing law or prior legal settlement.

IR SESSION 25

Syllabus: Settlement Machinery: Conciliation – Arbitration – Adjudication.

The ultimate legal remedy for the settlement of an unresolved dispute is its reference to adjudication by the government. The government can refer the dispute to adjudication with or without the consent of the disputing parties. When the dispute is referred to adjudication with the consent of the disputing parties, it is called 'voluntary adjudication.' When the government herself refers the dispute to adjudication without consulting the concerned parties, it is known as 'compulsory adjudication.'

The Industrial Disputes Act, 1947 provides three-tier machinery for the adjudication of industrial disputes:

1. Labour Court: adjudicate on disputes listed in Schedule II of the Act
2. Industrial Tribunal: adjudicate on disputes listed in Schedule II or III of the Act

3. National Tribunal: adjudicates on disputes which are of national importance or when the dispute is of such a nature as to affect industrial establishments situated in more than one state.

The Labour Court/Industrial Tribunal gets the jurisdiction to decide an industrial dispute only if the Government makes a reference of that dispute to it. The proceedings before the Labour Court/Industrial Tribunal are called adjudication proceedings. The Labour Court/Industrial Tribunal after following the procedure prescribed under law finally gives its Award. This Award is sent to the Government and becomes operational thirty days after the date of its publication by the Government. The Award given by the Labour Court/Industrial Tribunal is binding on the parties to the industrial dispute. However, any one of the parties in the adjudication proceedings before the Labour Court/Industrial Tribunal can challenge the Award by means of a writ petition before the High Court.

A labour court consists of one person who has been a judge of a High Court or a district judge for at least 3 years or held any judicial office for at least 7 years and below the age of 65.

The jurisdiction of the labour court is limited to matters specified in the second Schedule of the ID Act, 1947 such as application and interpretation of Standing orders, legality of an order passed by an employer, illegality of a strike or lockout etc. Its duty is to find whether an enquiry satisfies the principles of natural justice and whether there was any malpractice or victimisation. In cases where there was no enquiry, the labour court may then proceed to accept fresh evidence, reappraise the same and render a new decision.

Industrial Tribunal:

It consists of one or more persons, such as a former judge of a high court, or a district judge with 3 years' experience in the role, or a chairman of a labour appellate tribunal or any tribunal for at least 2 years. Although it is not a court, it has all the necessary attributes of a court of justice.

An Industrial Tribunal has wider jurisdiction than a labour court. It deals in matters listed in Schedule II as well as III of the ID Act, 1947. Some of the matters listed in Schedule III include Wages, Compensatory allowances, Hours of work, Leave with wages and holidays, classification of grades, bonus, profit sharing, rules of discipline, rationalisation, retrenchment of workmen, closure of an establishment etc.

National Tribunals are constituted by the Central Government by a notification in the official gazette for adjudication of industrial disputes which have national importance or for establishments that have multiple locations all over the country. A national tribunal consists of one person who has been a judge of a high court, or has held the office of the Chairman or any other member of the labour appellate tribunal for a period of not less than 2 years. Two more persons may be appointed to advise the national tribunal.

General Provisions for Reference under the Act

When an industrial dispute has been referred for adjudication, the government by order may prohibit the continuance of any strike or lockout in connection with the dispute (Sec 10(3)). The bodies must limit themselves to those points which are referred for adjudication. Where a reference is made to the national tribunal, the labour court or industrial tribunal will have no jurisdiction over the dispute. The award of the tribunal is final on its publication by the government.

Procedure for Settlement of Disputes

When a dispute is referred for adjudication, within two weeks the parties must file a statement of demands related to issues in the order of reference; a copy of the same is forwarded to the opposite parties. The opposite party is required to file a rejoinder limited to those issue. Thereafter hearings take place. The proceedings are deemed to have concluded on the date on which the award becomes enforceable.

SESSION 26

SYLLABUS Industrial Relations and Related Legislation:

Trade Union Act, 1926 came into force in June 1927. The objects of the Act are to make provisions for Conditions governing the registration of trade unions, Laying down the obligations of a registered trade union and fixing the rights and liabilities of registered trade unions

Registration of Trade Unions: Any seven or more members may, by subscribing their names to the rules of the trade union, apply for registration of the trade union, provided that no trade union of workmen shall be registered unless at least 10 per cent or hundred of the workmen, whichever is less, is engaged or employed in the establishment or industry with which is connected are members of the said union. Application for Registration has to be sent to the Registrar of Unions bearing details of the applicants, name of the Union and a general statement of assets and liabilities, the objects for which the union has been established etc.

Re-registration : If a certificate of registration is cancelled, a union may reapply after 6 months for a fresh certificate.

Trade Unions (Amendment) Act, 2001 : Minimum requirement on membership: "A registered Trade union of workmen shall at all times continue to have not less than ten per cent or one hundred of the workmen, whichever is less, subject to a minimum of seven engaged or employed in an establishment or industry with which it is connected, as its members". Sec 22 : " Not less than one half of the total number of office bearers of every registered trade union in an unorganized sector shall be persons actually engaged or employed in an industry with which the Trade Union is connected"

The Industrial Employment (Standing Orders) Act 1946: relates to conditions of service and aims to provide clarity to employees.

A set of model standing orders exist which organisations may adopt as they prepare their own. Within six months of this Act becoming applicable to the establishment, the employer has to submit draft standing orders to the Certifying Officer, appointed by the appropriate government. The Certifying Officer ensures that the draft proposed is in conformity with the provisions of the Act. A copy is forwarded to the trade union which gets 15 days' time to revert with objections, if any. The draft is certified, with modifications, if any and sent to the organisation. Within 30 days of the copies

being sent, appeals may be made to the appellate authority who will issue an order, with or without amendments.

Standing orders come into operation on the expiry of the 30th day from the date on which the copies were sent out or on the expiry of 7 days from the days on which the copies were sent of the order of the appellate authority. The Standing Orders as finally certified have to be prominently posted by the employer in English and the language understood by the majority of the workers, on special boards, so that all are able to read them. Typically, this is near the entrance and in all the departments.

Industrial Disputes Act,1947

The objective of this Act is to secure industrial peace and harmony by providing machinery and procedure for investigation and settlement of industrial disputes by negotiation.

Under Section 2 of the act, industry means “any business, trade, undertaking, manufacture or calling and the latter engaged in any calling, service, employment, handicraft or industrial occupation or avocation of workmen.

Industrial Dispute has been defined as “any dispute or difference between employers and employees or between employees and workmen or between workmen and workmen which is connected with the employment or non-employment or the terms of employment or the conditions of labour of any person”.

The definition is wide and therefore a dispute is considered to be an industrial dispute if the following conditions are satisfied:

- a. There should be an industry, employer and workman. There must be a collective effort on the part of workmen taking up the cause of the aggrieved workman. It must be raised with the management and rejected.
- b. There should be a real and substantive dispute or difference and should be one in which the workman is substantially interested, i.e. there should be a community of interest.
- c. The dispute must be connected with the employment, non -employment, terms of employment or with conditions of labour. Non employment includes retrenchment and refusal to reinstate.
- d. A contractual relationship should exist between employer and workman.
- e. The dispute should relate to an existing industry and not to one that has ceased to exist
- f. An individual dispute could assume the character of an industrial dispute provided it is sponsored by the trade union or a large group of workmen.

The employer in every organization which has 100 or more workmen must provide for a grievance settlement authority. The workman can address his grievance to the said authority which must follow the prescribed procedure to address the same.

Retrenchment is defined in Section 2oo as “the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action.” It means the discharge of surplus labour or staff by the employer for any reason whatsoever.” It does not include voluntary retirement , or retirement on reaching the age of superannuation or termination of the contract, or non-renewal of the contract or termination on grounds of continued ill health.

Lay off, defined in Section 2k, means the failure, refusal or inability of the employer, on account of shortage of coal, power or raw materials, accumulation of stocks, breakdown of machinery, natural calamity etc. to give employment to a workman who is on the rolls. Lay off is not a right conferred but an obligation imposed on the employer for the benefit of workmen. The expectation is that when the normal situation is restored, the business will continue as before and the laid off persons would be reinstated.

Lockout is defined under Section 2l. Lockout means, "the temporary closing of a place of employment, or the suspension of work or temporary refusal by an employer to continue to employ any number of persons employed by him." Lockout is often used by an employer as a weapon to bring the labour force under control by inducing fear about loss of employment.

Strike, defined under 2q is "a cessation of work by a body of persons employed in any industry acting in combination, or a concerted refusal to continue to work or to accept employment."

Various other terms such as wages, dearness allowance, workman are defined under the Act.

The process of conciliation is outlined under the Act. Under Sec. 3, Works Committee objectives are laid out. These committees promote measures for securing and preserving good relations between employer and employees and strive to minimize the difference of opinion between the two sides. They discuss grievances arising out of disciplinary action, enter into agreement with the employer on changes in conditions of service, supersede the unions for the purposes of collective bargaining and make recommendations to smooth out differences.

The Conciliation officer has powers to investigate into a dispute and induce the parties to come to a fair and amicable settlement. If he succeeds, he submits a report within 14 days and if not, he submits a report outlining the steps taken by him and the probable reasons for failure. A Board of Conciliation may be constituted by the appropriate government to induce parties to come to a settlement. Its opinion cannot be forced on the parties. The names of the persons constituting the Board have to be published in the official gazette. If a settlement is arrived at, the Board sends its report with a memorandum signed by the parties. If not, it sends a report to the government with its recommendations on how the dispute can be settled.

Adjudication:

When a dispute exists or is apprehended it may be referred under Sec 10 to a Labour Court, Tribunal or National Tribunal by a written agreement.

The Labour Court adjudicates on matters listed in the second Schedule of the Act, which include application and interpretation of standing orders, illegality or otherwise of a strike or lockout, discharge, dismissal or termination of services, reinstatement or grant of relief to employees wrongly dismissed etc.

The Industrial Tribunal adjudicates on matters listed in the Second and Third Schedule of the Act. Some items include wages, including the period and mode of payment, hours of work and rest intervals, bonus, profit sharing, provident fund and gratuity, rationalization, retrenchment etc.

If the dispute relates to a matter of national importance, the Government may refer the same to the National Tribunal. The arbitrator has to investigate the dispute and submit to the appropriate government the arbitration award signed by him or all the arbitrators, as the case may be. It consists of one person only, although the government may appoint two persons as assessors to

advise the national tribunal. If a matter is referred to the national tribunal, no labour court or industrial tribunal can adjudicate on the matter.

IR Session 27

Maternity Benefit Act, 1961

This Act was passed to protect the dignity of motherhood by providing complete and healthy care to the woman and her child when she is unable to perform her duty. As per amendments, this Act provides up to 26 weeks of maternity leave, with pay, to all women; women with two or more children are provided 12 weeks. 12 weeks leave is also provided to adoptive mothers, calculated from the date of the handing over of the child.

As per the amendment, every establishment with 50 or more employees is required to provide creche facilities within a prescribed distance and the mother is permitted 4 visits during the day to the creche. Additional leave with pay, for up to one month, may be given on production of proof of medical requirement. The woman is entitled to light work for ten weeks before the expected date of delivery, two nursing breaks until the child attains the age of 15 months. She cannot be discharged or dismissed while she is away on maternity leave and no change can be made to her position which can give her a disadvantage. A woman cannot be employed, knowingly, by an employer for 6 weeks immediately following the day of her delivery or miscarriage.

Payment of Gratuity Act, 1972

This Act is a social security measure to provide for the risk of old age. It is a voluntary payment made by the employer to the employee in recognition of continuous meritorious service.

If an employee has rendered five continuous years of service, he is entitled to receive gratuity from his employer, calculated based on 15 days wages of every completed year of service at the basic plus DA at the time of separation. The condition of five years of continuous service is not applicable if the termination is due to death or permanent disablement. The maximum amount of gratuity is capped at Rs. 20 lakhs. It may be withheld if the employee by wilful omission or negligence, has caused damage or loss to the property of the employer, has engaged in acts of disorderly conduct etc.

The formula for calculation of gratuity is:

Last drawn wages (Basic plus DA) X 15/26 X Completed years of service

A part of a year in excess of six months is considered a completed year.

The employer needs to determine the amount of gratuity as soon as it becomes payable and needs to provide the calculation details to the employee. In the case of the death of an employee, gratuity payable to him will be paid to his nominee or legal heir. Gratuity received up to the extent of Rs. 10 lakhs is exempt from tax.

An employer not paying gratuity is liable for punishment which may be imprisonment up to 6 months. The gratuity amount is not liable for attachment in execution of any order of any civil, revenue or criminal court.

IR Session 28

The Code on Wages, 2019

This Code subsumes the provisions of the Payment of Wages Act, 1936, Minimum Wages Act, 1948, Payment of Bonus Act, 1965 and the Equal Remuneration Act, 1976.

The Payment of Wages Act, 1936 requires the employer to pay wages for a wage period of one month. If <1000 people are employed, wages must be paid by the 7th day after the last day of the wage period. In all other cases, by the 10th day after the last day of the wage period. All payments must be made on a working day and in case of a termination, settlement should take place by the expiry of the second working day from the date of termination. Only specified deductions may be made from wages such as Fines, for acts of commission or omission which are specified in an approved list. The list must be exhibited at work place and opportunity given to show cause. There should be no fine for person <15 years. Records must be maintained in a register.

Permitted deductions include Orders of the court, Provident fund, Payments to Co-operative societies / Insurance schemes, for housing supplied by employer, to make up loss for fake currency accepted, to make up losses for failure to invoice or collect etc.

The Payment of Bonus Act, 1956 is linked with profit or productivity. An employee drawing up to Rs. 21,000 per month, is entitled to receive bonus if he has worked for at least 30 days in that year. The Act defines accounting year, available surplus, allocable surplus, employee etc. An employee is entitled to receive a minimum bonus of 8.33% of salary and a maximum of 20%. In case of misconduct causing financial loss to the employer, that amount is deductible from the bonus. The bonus payment should be made within a period of 8 months from the close of the accounting year. An employee who has been dismissed from service for fraud, riotous or violent behaviour etc will not be eligible to receive bonus. The employer has to submit an annual return of bonus paid to the employees.

Minimum Wages Act, 1948 sets the minimum wages to be paid to workers, based on the level of skill. The objective of the Act is to ensure that a minimum wage is paid to workers to ensure that basic needs are met and to stop exploitation of workers by unscrupulous employers. The Act lays down the principles for fixation of minimum time rate of wages, a minimum piece rate, a guaranteed time rate, an overtime rate for different occupations, localities, classes of work etc.

Definitions under the act include:

Living Wage: the level of income which will ensure a basic standard of living including good health, dignity, comfort, education and provide for contingencies

Fair Wage: the level of income which maintains a level of employment and seeks to increase it keeping the perspective of the industry's capacity to pay

Minimum Wage: is a wage that guarantees bare subsistence and preserves efficiency but also provides for education, medical requirements and some level of comfort.

Revision of minimum wages is based on cost of living index. The appropriate has to fix the minimum wage, by setting up committees which make recommendations or by notification of proposals to which representations can be made.

One of the key inclusions in the Code of Wages is the concept of a floor wage, which is to be determined by the Central Government after taking into account the minimum living standards of workers in a manner to be prescribed, which may be different for different geographical areas. The appropriate Government can, under no circumstance, fix a minimum wage rate which is lower than the floor rate determined by the Central Government. However, if the existing minimum wages fixed by the appropriate Government is higher than the floor wage, they cannot reduce the minimum wages.

SESSION 29

Factories' Act, 1948

The Factories Act, 1948 came into force on the 1st day of April, 1949 and extends to the whole of India. It was, in fact, extended to Dadra & Nagar Haveli, Pondicherry in 1963, to Goa in 1965 and to the State of Jammu & Kashmir in 1970. The Factories Act was amended in 1949, 1950, 1954, 1956, 1976 and 1989.

The occupier of a factory has to send to the Chief Inspector of Factories, full details of the premises at least fifteen days before he occupies the premises. The licence to run a factory is granted under Sec 6 by the Chief Inspector of Factories.

The Act pertains to the occupation safety and health of workers in factories and docks. Chapter III pertains to health matters such as cleanliness, disposal of effluents, ventilation and temperature, dust and fumes, artificial humidification, overcrowding, lighting, provision of drinking water, latrines and urinals and spittoons. Provision for drinking water should not be within six metres of any washing place or toilet. Walls and roofs should be of such material to prevent excessive heat. There should be adequate circulation of fresh air and temperature should be maintained so as to prevent injury to health. Separate enclosed latrines should be provided for male and female employees, height of walls is also prescribed.

Chapter IV pertains to safety at the premises. It includes fencing of machinery, work near machinery in motion, employment of young persons near moving machinery, striking gear and devices for

cutting off power, self-acting machines, casing of new machinery, prohibition of employment of women and children near machinery, hoists and lifts, lifting machines, chains, ropes and lifting tackles, revolving machinery, pressure plant, floors, stairs and means of access, pits, sumps, openings in floors, excessive weights, protection of eyes, precautions against dangerous fumes, and use of portable electric light, explosive or inflammable dust, gas, precautions in case of fire, power to require specifications of defective parts or tests of stability, safety of building and machinery, maintenance of buildings, safety officers and power to make rules. Fencing is required for moving parts which has to be maintained in good condition. Suitable devices have to be installed for cutting off power to any moving machinery. If a device can easily be switched on from off position, provision has to be made for locking the device in a safe position. Effective measures have to be in place to ensure that pressure in a pressure plant does not exceed the stipulated limits. Safety officers are required to be employed in line with the qualifications prescribed by the state government.

Chapter IV A relates to safety in areas where hazardous processes are undertaken. It includes sections on site appraisal committees, compulsory disclosure of information by the occupier, responsibility of the occupier, emergency standards, power of the government to appoint an enquiry committee, workers' participation in safety management and the right of workers to warn about imminent danger.

Chapter VI is about working hours and has sections on weekly hours, weekly holidays, compensatory holidays, daily hours, intervals for rest, spreadover, night shifts, prohibition of overlapping shifts, extra wages for overtime, restriction on double employment, notice of periods of work for adults, register of adult workers etc. No worker should work for more than 48 hours per week. No worker should work for more than ten consecutive days without a full day holiday and no worker should work for more than 9 hours a day. The periods of work of an adult worker in a factory shall be so arranged that inclusive of his intervals for rest under section 55, they shall not spread over more than ten and a half hours in any day.

Chapter VII deals with employment of young people, Chapter VIII is about annual leave with wages, Chapter IX contains special provisions, Chapter X contains penalties and procedures and Chapter XI has supplemental information. IF there is any contravention of any of the provisions of the Act or of any rules made thereunder or of any order in writing given thereunder, the occupier and manager of the factory shall each be guilty of an offence and punishable with imprisonment for a term which may extend to two years or with fine which may extend to one lakh rupees]or with both and if the contravention is continued after conviction, with a further fine which may extend to one thousand rupees for each day on which the contravention is so continued.

Workmen's Compensation Act, 1923 has been renamed as the Employees' Compensation Act as per the 2016 amendment. The Act defines workman, dependents, partial disablement, total disablement, wages etc. The object of this act is to compensate employees for injuries that are sustained during the discharge of their duties. Partial disablement is of a temporary nature, which reduces the earning capacity of the workman in the employment that he was engaged at the time of the accident, resulting in the disablement. Total disablement, whether temporary or permanent, incapacitates a workman for all the work he was capable of performing at the time of the accident.

The employer is not liable to compensate the employee if the disablement does not exceed three days, if it is not directly attributable to his work, if he was under the influence of alcohol or any substance at the time, if he has been willfully disobedient, or if he has willfully disregarded the safety attire given to him. The amount of compensation equals 50% of the monthly wages of the deceased workman, multiplied by the relevant factor (a chart which has factors based on age of the

workman), or an amount of Rs. 80,000 whichever is more where death is caused by injury. Total disablement compensation amounts to 60% of the monthly wages of the workman multiplied by the relevant factor or an amount of Rs. 90000 whichever is more. In the case of temporary disablement, the workman will receive a half monthly payment of 25% of his monthly wages, if the disablement lasts more than 28 days.

Employees' State Insurance Act, 1948 is a social security system designed to provide socio economic protection to the worker population and dependents, to cope with events like sickness, maternity, employment injury etc. The Act defines confinement, contribution, dependent, employee, employment injury etc. As per Amendment, only workers with wages up to Rs. 21,000 are covered under this Act. Employees who are covered are required to pay contribution on a monthly basis. The distribution is: Employee: 1.75% of wages and Employer 4.75% of wages. The benefits under the scheme include sickness and extended sickness, maternity, disablement, dependents, funeral and medical benefit. When an employee gets benefits under this Act, he does not get similar benefits under any other enactment.

Outdoor medical care is provided at state insurance dispensaries or mobile dispensaries manned by full time doctors or at the private clinics of insurance medical practitioners who are empanelled. The outdoor care includes all treatment, drugs and dressings, pathological and radiological consultation and care, emergency treatment etc. If an employee dies during a period for which he is entitled for a cash benefit, the amount of such benefit is paid to the nominee or, if there is no nomination, to his legal heir.

Employees' Provident Funds and Miscellaneous Provisions Act, 1952

This Act was passed with the objective of making some provisions for the future of the industrial worker after he retires and for dependants in case of an early death. Under this Act, which is applicable to establishments employing 20 or more workers, workers pay 12% of their salary (basic plus DA) each month and employers make an equal contribution. The provident fund is refunded with interest in the event of death, permanent disability, superannuation, retrenchment or on leaving service. The Act defines basic wages, contribution, employee, exempted employee, exempted establishment, factory, superannuation etc. The EPF rate is decided by the central government in consultation with the Central Board of trustees.

The accumulation that is in the account of an employee is visible by accessing the website epfindia. The employee is permitted to make withdrawals to a certain extent for specific purposes such as purchase or construction of a home, repair of home, expenses of illness, marriage of daughter, higher education of children, damage to property, unemployment etc.

IR SESSION 30

SESSION 30 SYLLABUS: Industrial Relations Systems in UK USA:

United Kingdom – Trade Union – Membership – Compulsory Arbitration – Joint Consultation and workers Participation in Management – Joint Consultation – Workers Participation. Unionization of IT-ITES Sector Employees – Issues
Industrial Relations Systems in UK USA: United Kingdom – Trade Union – Membership – Compulsory Arbitration – Joint Consultation and workers Participation in Management – Joint Consultation – Workers Participation.

Industrial Relations Systems in the U.K.

The rise and growth of trade unionism in the U.K. goes back to the eighteenth century. Trade unions of manual workers fall into three categories viz. craft, general and industrial. There are also white-collar unions. There is a strong bias towards organisation on an occupational basis and negotiations are conducted on an industry basis.

Membership: The unions are independent, voluntary associations of employees and are financed and run by their members primarily in order to protect the interests of the members. Registered unions enjoy legal advantages, including the principle of securing the sole bargaining right with employees and a limitation on the amount of compensation which they are liable to pay in case they indulge in unfair industrial practices. The Trade Union Congress at the national level secures co-operation between different trade unions. Scottish trade unions have their own national control body, the Scottish Trade Union Congress.

Compulsory Arbitration: The state has provided for Industrial Tribunals established under the Industrial Trading Act of 1964. The tribunals can deal with disputes arising in the process of application of the provisions of concerned laws. Arbitration by tribunals is involved when a complaint is made by a worker regarding infringement of his right or benefit to which he is entitled under the concerned act. The Tribunal gives its award which is recommendatory in nature. It has powers to award compensation if found valid. An aggrieved party can make appeal against the decisions or orders of the Tribunal to the Division Courts of the Queen's Bench Division and then to the Court of Appeal.

Under the Employment Protection Act of 1975, a worker can appeal to the Advisory Conciliation and Arbitration Services (ACAS), against an employer with regard to terms and conditions of employment which are either less favourable than the established terms and conditions as compared to general level of terms and conditions in comparable employment. The ACAS holds hearings on claims received and gives an award. This award becomes an implied term of contract of employment of the individual employees from the date as specified.

Joint Consultation and Workers' Participation in Management: This system is highly evolved in the nationalised industries where legislation has imposed a compulsion on the employers to consult workers in the process of decision making. The Committees formed discuss change or improvements in methods of production and related matters, safety, health, welfare of workers, systems of training, education, rules code of discipline and other personal problems. The system in the U.K. involves voluntary negotiation and joint consultations for resolving differences and promotion of harmony and peace. The joint machinery promotes accord between parties, though the awards are not binding.

Industrial Relations system in the U.S.A.

In the U.S.A., vast natural resources, availability of land and the spirit of experimentation led to rapid growth of industry. The spirit of enterprise and independence have had their influence on industry and led to trade unions asserting themselves. There are anti-trust laws, laws to protect security, transactions, provide social security, minimum wages and unemployment compensation.

Trade unions are organised in a pyramidal manner with local unions at plant/firm level, intermediate bodies at regional/industry level and national unions at the national level. Most union activity has centred around economic issues. Unions have succeeded in establishing ownership rights over jobs for the members thus increasing job security and limiting the power of the employer to transfer, layoff or dismiss members. Union membership is high in sectors employing manual labour such as mining, construction, manufacturing, construction and transportation.

Local Union is chartered by National Union and is subject to its constitutional provisions and bye laws. Local unions generally focus on collection of fees and dues, process grievances at the first level. They have the power to strike and negotiate agreements.

National Unions operate under a written constitution and enjoy complete autonomy in fixing dues, formulating policies, negotiating agreements, calling for strikes and organising new local unions. Two important national unions have emerged, namely the American Federation of Labour (AFL) and the Congress of Industrial Organisation (CIO). AFL focussed on job-oriented issues and emphasised craft rather than industrial unions. CIO tried to organise workers in an industry rather than focus on craft.

In the U.S.A, employers' associations have evolved as a response to growing trade unionism. They help to resist trade union pressures and sometimes succeed in breaking strikes. Employers are organised at the regional/industrial level and the national level. They are not required to register under any law.

The Government has formed legislation which aims at promotion of sound trade unionism and its practices, provision of statutory and voluntary procedures for settlement of labour disputes and encouragement of free collective bargaining.

Unfair labour practices on the part of management have been identified as assisting labour organisations, discriminating on staffing decisions, refusing to bargain with unions on issues related to bonus, wages, terms and conditions of employment.

Unfair labour practices on the part of unions include discriminating against an employee based on union membership. The union has to represent all employees when bargaining, not only those who have voted for the union.

Unionization of IT-ITES Sector Employees – Issues

Software professionals and labour union activities have, so far, remained poles apart. But the recent spate of layoffs that took place after the meltdown of 2008 emboldened some and there were rumblings in the IT industry and attempts by existing Unions to infiltrate the industry. Some IT professionals began to look at the possibility of forming a union. The Forum for IT Employees (FITE), an organisation which has taken up the legal route to fight layoffs in cities like Bengaluru and Chennai claims to be a registered union for IT employees.

Pune's first brush with trade union activism in the IT sector had taken place a few years ago, when FITE had helped TCS employees approach the Bombay High Court and the labour commissioner's office, in case of lay-offs. FITE has, since then, established a Pune unit.

As layoffs have again started to make news, the momentum to form a formal union has gathered steam.

The labour commission of Karnataka, home to the country's largest tech hub in Bengaluru, has certified the formation of the Karnataka State IT/ITES Employees Union (KITU) under the Trade Union Act, 1926, and Karnataka Trade Unions Regulations, 1958.

At present the KITU is extending support to employees whose salaries have been reduced due to the pandemic and has demanded government intervention to take strict action against companies which violate the advisory note of the government not to reduce salaries.

In December 2014, Tata Consulting Services, India's largest Information Technology (IT) services company, laid off 3,000 employees citing poor performance. This triggered debates about unionisation in India's IT & BPM industry. In fact, IT employees were seen protesting the actions of the TCS, a phenomenon not characteristic of an industry that currently employs 3.3 million people. Tamil Nadu's principal secretary for labour and employment Kumar Jayant clarified that the IT sector is covered by the Industrial Disputes Act 1947, which allows workers to form unions.

In 2015, unions including the Centre of Indian Trade Unions (CITU), which is affiliated to the Communist Party of India (Marxist), the Congress party-affiliated Indian National Trade Union Congress (INTUC) and UNITES India, affiliated to the global union United Network International, protested the move by an IT company to reduce its manning. They were unsuccessful in penetrating the IT behemoth.

"If an organization suddenly starts firing people because it is not profitable, that is an emotional outburst by the organization" said the general secretary, UNITES India, and a former employee of IBM.

IT employers offer excellent severance packages when they let go of their employees. Given that these industries reward their employees fairly well during good times, it is unsurprising that they move towards austerity when times get tough. The case for unionisation in the IT industry is, therefore, weak.

In addition to the fact that earnings are comfortable in the IT sector, the fact remains that the IT and the ITES sectors employ well educated people who are at far higher status in life than semi educated workmen doing manual work. Hence the outlook and the manner of conducting themselves if they are dissatisfied is different. While the workman with a low level of education has to use his fist to fight, his counterpart in the IT / ITES space has the advantage of being able to discuss his expectations with his manager through the process of discussion. He does not have to depend on union support because he is afraid to put forward his demand or request.

Another factor that prevents employees from this sector from joining unions is the very fact that concepts such as employee engagement are being practised in these organisations. The philosophy of Human Relations is very strong and therefore a lot of effort and expense is put into making employees comfortable and to build a culture around people relationships.

There are processes in place to handle issues that may make an employee consider leaving and to act on feedback. This sector struggles with high attrition rates and therefore the efforts made to reduce the same yield the result of having satisfied employees which in turn prevents any desire to join unions.

Indian IT firms also largely cater to clients working in other parts of the world. A majority of this work requires the management of the core technology systems of clients in the IT industry. In this construct, high organizational efficiency is a pre-requisite for the success of

individual firms and the industries as a whole. India is still considered as the top destination for the outsourcing of IT work as it has a skilled workforce and relatively low operational costs. However, it is easy for Indian firms to lose this competitive edge as there are several low-cost countries like Philippines and China that are building their IT & BPM capabilities.

The unionisation of the workforce could potentially cause the Indian IT sector to fall behind such countries. It could also lead to a further loss of jobs because it will not just create 'interest-groups'— a select few who stand to gain disproportionately — but also hamper the efficiency of a sector that is fast evolving. With unionisation, there is a risk of creating situations where the incentives for employees to acquire new skills cease to exist and it becomes exceedingly difficult for firms to retrench employees rendered redundant by the advent of new technologies.

In an industry that already pays relatively higher salaries and provides employees with excellent working spaces, there is a high aspirational value attached to IT jobs by a majority of the population. Unionisation will not only jeopardise the chances of several new aspirants entering the workforce, it risks creating an environment where skills and quality of output are not given importance.

In addition, performance management systems are well matured in IT companies and there have been surveys which indicate that employees hesitate to engage in union type activities for fear that their appraisals will be impacted. As pointed out by an ex IT professional who has turned into a union leader, the employees have joined immediately after their studies and are not aware of unionism and union activities as they have not been exposed to unionism in the manufacturing sector; hence they hesitate to engage in such activities. Even if they have work frustrations, they accept them as being an essential part of choosing a career in IT.

The leaders who are trying to push unionism in the sector say that though the performance management systems exist, there is a lot of bias in appraisal and on selection for onsite assignments overseas. They feel that unwarranted background checks are done, some companies close down without paying the last salary, a sort of illegal termination goes on when the IT companies downsize. They also accuse the companies of taking freshers at a lower cost to company and letting middle level managers go.

Obviously, these are issues that need to be addressed by the IT companies in order to maintain a stable workforce without disruptions to work. Unionisation of the IT/ITES sector has not taken off and hence the competitive edge that Indian companies in this sector have, still remains.