Uttar Pradesh Rajarshi Tandon
Open University

MBA-3.12

Union Management Relations

Block

1

CONCEPTUAL FRAMEWORK

Course Design Committe

Prof. Ishwar dayal
Consultant
New Delhi

Prof. Udai Pareek
Consultant
Jaipur

Prof. Prayag Mehta
Consultant
New Delhi

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Indian Institute of Manageme(it
Ahmedabad

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International Management Institute
New Delhi

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School of Management Studies
IGNOU, New Delhi

Dr. B.B. Khanna
School of Management Studies
IGNOU, New Delhi

Course Preparation Team

Dr. B.B. Khanna
(Course Editor and Coordinator)
School of Management Studies
IGNOU, New Delhi

Prof. R.K. Grover
Director
School of Management Studies
IGNOU, New•Delhi

Prof. C.S. Venkat Ratnam
International Management Institute
New Delhi

Prof. Arun Monappa •
. Indian Institute of Management
Ahmedabad

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Indian Institute of Management
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New Delhi

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Consultant
New Delhi

Print Production : B. Natarajan, Copy Editor. SOMS, IGNOU

October, 2000 (Reprint)

ISBN-81-7263-384

Printed by : K.C.Printing & Allied Works, Panchwati , Mathura – 281003.

BLOCK 1 CONCEPTUAL FRAMEWORK

This block comprises three units. The first Unit gives an overview of theiUnion Management Relations scenario in terms of approaches, determinants, manifestations and the factors affecting Union Management Relations in the organisatipns. Second Unit refers to the basic thrust of Public Policies concerning labour matters influencing Union Management Relations and the influence of our constitution, international labour standards, five year plans and tripartite consultations on labour policy. The last Unit broadly sketches the major events and international issues with a view to discuss whether and how they affect industrial relations.

UNIT 1 UNION MANAGEMENT PERSPECTIVE

Objectives

After going through this unit, you should be able to understand:

- the overview of the Union Management Relations;
- the approaches to Industrial Relations;
- the determinants and manifestation of Union Management Relations; and
- the organisational factors which affect the Union Management Relations in the organisations.

Structure

1.1 INTRODUCTION

With the advent of liberalisation and new industrial policy, it has often been said that if India fails to seize the initiative in turning around its economy, it may well not find another chance for quite some time. The consequences, then, would not be difficult to imagine.

Surely, in this task of all-round economic progress, and industrial growth would play most crucial role. But how does one proceed inthis vital task of rapid industrial growth. Informed opinion tells us that this can be achieved by mass-producing top quality goods at competitive prices, through higher. productivity and reducing unit costs. Many of us may be inclined to believe that this can be achieved through incorpOrating latest technology and scientific work methods that allow organisations to economise, to cut costs. But if the answer was simply a question of introducing newer technologies, certainly United States, United Kingdom and a host of other advanced industrial countries would not be overtaken by (West) Germany and Japan. The success and distinction of the latter two countries depend largely on the way they have managed to surpass other nations through better union management relations.

An industrial society is a highly complex and dynamic arrangement of differentiated groups, activities and institutional relationships intertwined with a variety of attitudes and expectations. Consequently, any specific social phenomenon, such as industrial relations, cannot and should not be viewed in isolation from its wider context. The 'context' of industrial relations may usefully be divided into three major elements (See Figure 1).

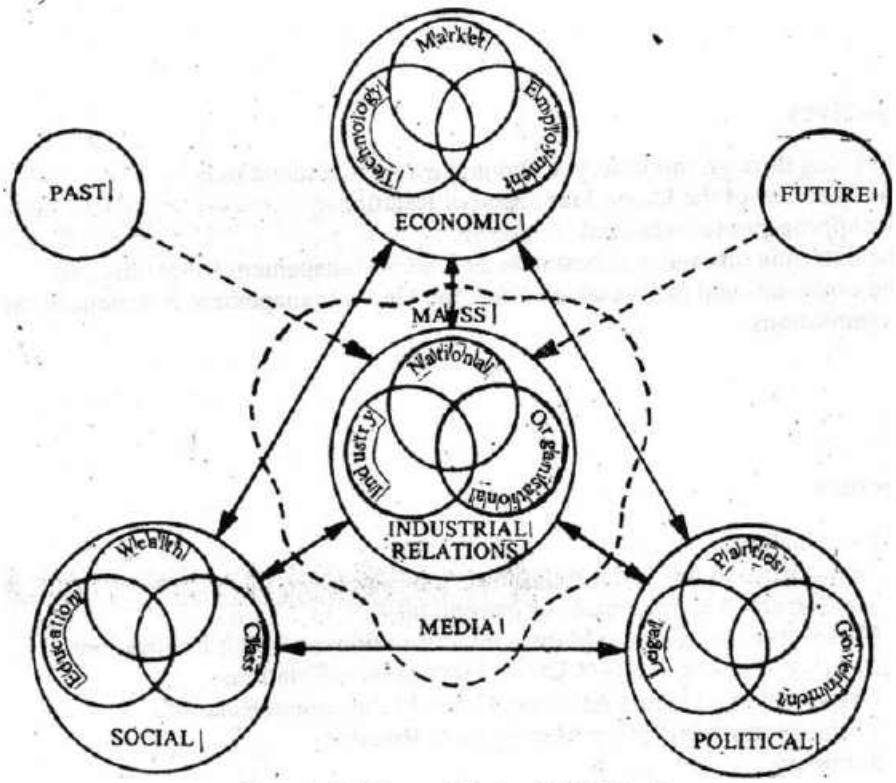

Figure 1 : The Context of Industrial Relations

- **The Industrial Relations 'System'.** The roles, relationships, institutions, processes and activities which comprise the phenomena of industrial relations exist both in a wide variety of industries and services and at a number of levels ranging from the suborganisational (work group, section or department) and organisational (site or company) levels through the industry level to the national level. This inevitably creates a pattern of internal influences both horizontally (between different organisations/industries) and vertically (between different levels). Consequently, the industrial relations system, in terms of the attitudes and activities existing within it at any point of time, provides its own context or climate for the individual industrial relations situations.

- **Other Segments of Social Activity.** Industrial relations is only one segment of a society's structure and activity and as such is influenced by, and in turn influences, other segments of the society's activity. The economic, social and political segments are of particular importance in this respect. Actions or changes in these areas may directly stimulate or constrain specific industrial relations activities as well as indirectly influence the attitudes of the participants. It is important to recognise that these environments exert an influence at all levels of industrial relations and therefore, as Fox argues, "organisational issues, conflicts and values are inextricably bound up with those of society at large".

- Time. The present is only part of a continuum between the past and the future; consequently, current industrial relations owes much to its past (whether last week, last year, the last decade or even the last century) and the participant's goals and expectations for the future. At the micro level, the time context may be evidenced in two ways: (a) today's problem stems from yesterday's decision and its solution will, as the environments change, become a probleni in the future, and (b) the attitudes, expectations and relationships manifest by the participants are, at least in part, the product of their **past individual and collective experiences. At the macro level, industrial.relations as a whole is subject to adjustment and development as society,**

expressed through changes in the economic, social and political environments, itself changes and develops.

At the same time it is important to recognise that the 'mass media' provide an additional, and very significant, context for industrial relations by virtue of their role in shaping attitudes, opinions and expectations. Any individual, whether as a manager, trade unionist or part of the 'general public', has only a partial direct experience of the full range of activities present in a society. Most knowledge and appreciation of economic, social, political and industrial relations affairs is, therefore, gained indirectly from the facts and opinions disseminated through newspapers and television.

1.2 APPROACHES TO INDUSTRIAL RELATIONS

The term 'industrial relations' is used to denote a specialist area of organisational management and study which is concerned with a particular set of phenomena associated with regulating the human activity of employment. It is, however,' difficult to define the boundaries of this set of phenomena, and therefore the term itself, in a precise and universally accepted way. Any more specific definition must, of necessity, assume and emphasise a particular view of the nature and purpose of industrial realtions — consequently, there are as many definitions as there are writers on industrial relations. For example, the two most frequently used terms of 'industrial relations' and 'employee relations' are, in most practical senses,interchangeable; yet they have very different. connotations. The former, more traditional, term reflects the original historical base of unionised manual workers within the manufacturing sector of the economy whilst the latter has come into greater use with the development of less unionised white collar employment and the service and commercial sectors of the economy. (The term 'industrial relations' is used because it is the more commonly known and used term.)

The term may be used in a very restrictive sense to include only the formal collective relationships between management and employees (through the medium of trade unions) or in an all inclusive sensf. : to encompass all relationships associated with employment (those between indi viduals at the informal level as well as those of a formal collective or organisational nature).

However, it is doubtful whether the two approaches can, or should, be separated so easily — informal, interpersonal or group relationships are influenced by the formal collective relationships which exist within the industrial relations system and, it may be argued, the formal collective relationships are themselves in part determined by the nature of individual relationships. Clearly, the borderline between formal and informal or individual and collective relationships within organisations cannot provide a natural boundary for the subject matter of industrial relations.

The way we perceive the overall nature of this area of organisational study determines 'o a very large extent not only how we approach and analyse specific issues and situations within industrial relations but also how we expect others to behave, how we respond to their actual behaviour and the means we adopt to influence or modify their behaviour. In examining the different approaches it is useful to differentiate between those approaches which are concerned with the general nature of employment organisations and those which specifically deal with the industrial relations system itself. (See Figure II).

However, it is important to bear in mind that:

i) they are primarily analytical categorisations rather than causative theories or predictive models, and
ii) there is no one 'right' approach; rather each approach emphasises a particular aspect of industrial relations and taken together can provide a framework for analysing and understanding the diversity and complexity of industrial relations, i.e the complexity of the human aspect of work organisations.

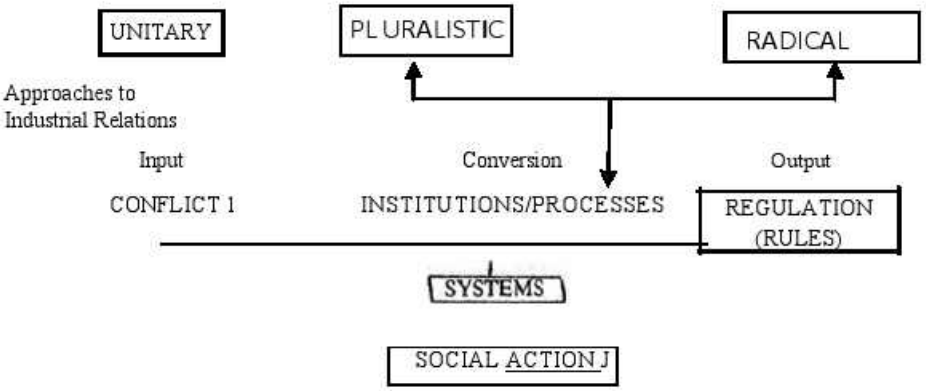

Figure 2: Approaches

1.3. THE NATURE OF EMPLOYMENT ORGANISATIONS

There are three major views of employment organisations:

i) the unitary perspective, which emphasises the organisation as a coherent and integrated team "unified by a common purpose";

ii) the pluralistic perspective, which emphasises the organisation as an amalgamation of separate homogenous groups — "a miniature democratic state composed of sectional groups with divergent interests over which the government tries to maintain some kind of dynamic equilibrium"; and

iii) the radical perspective which emphasises the organisation as a microcosm and replica of the society within which it exists.

Unitary Perspective

The unitary perspective is based on the assumptions that the organisation is, or if it is not then it should be, an integrated group of people with a single authority/loyalty structure and a set of common values, interests and objectives shared by all members of the organisation. Management's prerogative (i.e. its right to manage and make decisions) is regarded as legitimate, rational and accepted and any opposition to it (whether formal or informal, internal or external) is seen as irrational. The organisation is not, therefore, regarded as a 'them and us' situation — as Farnham and Pimlott put it, there is "no conflict between the interests of those supplying capital to the enterprise and their managerial representatives, and those contributing their labour... the owners of capital and labour are but complementary partners to the common aims of production, profits and pay in which everyone in the organisation has a stake". The underlying assumption of this view, therefore, is that the organisational system is in basic harmony and conflict is unnecessary and expectional.

This has two important implications:

- **Conflict** (i.e. the expresSion of employee dissatisfaction and differences with management) is perceived as an irrational activity.
- **Trade unions are regarded** as an intrusion into the organisation from outside which competes with management for the loyalty of employees.

The unitary perspective is found predominantly amongst managers—particularly line management— and therefore is o,ften regarded as a management ideology. Fox has argued that management clings to this-view because:

i) it legitimises its authority role by projecting the interests of management and employees as being the ame and by emphasising management's role of 'governing' in the best interests of the organisation as a whole;

ii) it reassures managers by confirming that conflict (dissatisfaction), where it exists, is largely the fault of the governed rather than management;

iii) it may be projected to the outside world as a means of persuading them that management's decisions and actions are right and the best in the circumstances and that any challenge to them is, at best, misguided or, at worst, subversive.

Pluralistic Perspective

Fox believes that this view of the organisation "probably represents the received orthodoxy in many Western societies" and is often associated with a view of society as being 'post-capitalist' i.e. that there is a relatively widespread distribution of authority and power within the society, a separation of ownership from management, a separation of political and industrial conflict, and an acceptance and institutionalisation of conflict in both spheres. This perspective is based-on the assumption that the organisation is composed of individuals who coalesce into a variety of distinct sectional groups, each with its own interests, objectives and leadership (either formal or informal). The organisation is perceived as being multi-structured and competitive in terms of groupings, leadership, authority and loyalty and this, Fox argues, gives rise to "a complex of tensions and competing claims which have to be 'managed' in the interests of maintaining a viable collaborative structure". The underlying assumption of this approach, therefore, is that the organisation is in a permanent state of dynamic tension resulting from the inherent conflict of interest between the various sectional grOups and requires to be managed through a variety of roles, institutions and processes. The implications of this view for the nature of conflict and the role of the. trade unions arc very different to.those of the unitary approach.

Radical Perspective

The radical perspective, which is also often referred to as the Marxist perspective, concentrates on the nature of the society surrounding the organisation. It assumes, and emphasises, that the organisation exists withina capitalist society where, Hythan argues, "the production system is privately owned...influence-on-- company policy...; and control over production is enforced downwards by the owners' managerial agents". The Marxist general theory of society argues that:

i) class (group) conflict is the source of societal change — without such conflict the society would stagnate;
ii) class conflict arises priMarily from the disparity in the distribution of, and access to, economic power within the society — the principal disparity being between those who own capital and those who supply their labour;
iii) the nature of the society's social and political institutions'is derived from this economic disparity and reinforces the position Of the dominant establishment group, for example, through differential access to education, the media, employment in government and other establishment bodies etc.;
iv) social and political conflict in whatever form is merely an expression of the underlying economic conflict within the society.

1.4 MANIFESTATIONS OF UNION MANAGEMENT RELATIONS AND THEIR IMPLICATIONS

The term UMR, however, has wide-ranging connotations; much of it being highly esoteric, if not outright vague. It will therefore be appropriate to break down UMR to its essentials. In this regard, it will be instructive to first catalogue the usual manifestations of UMR for a realistic assessment of the situation and then to figure out adequate measures of tackling them. On a normative mode, a healthy UMR is expected to generate negligible grievances, smooth.production flow and a generally conducive atmosphere for growth and.prosperity. But the overwhelming reality is of a different kind, and practitioners are more familiar with the turbulent side of UMR. And that's what UMR means to most.

Organisations are beset with problems of late-coming, sleeping, loitering or absenting during working hours; poor workmanship, non-compliance of existing rules and norms, non-performance of tasks, disregarding superiors' instructions and pressurising management to grant overtime. Often, work norms are flouted or concessions demanded by arm-twisting the management. The spectre of unsavoury incidents, if not outright violence, loom large over workplace functioning. These problems are such as to seriously affect th,e functioning of any organisation. In a depressed economy where most organisations are forced to improve their input-output ratio, the situation can be alarming. The problem becomes more acute when organisations are not able to go in for major structural or operational changes due to sustained indiscipline or opposition

from organised workforce.

On the other hand, labour would catalogue insufficient pay, inadequate working conditions and demanding work schedules; an insensitive management unresponsive to worker aspirations and grievances; and alienating work practices.

While the above manifestations are typical of many organisations, these could not have come about overnight. Rather, they invariably take roots over long periods of time and become synonymous with organisational culture. At stake are the consequences of such poor UMR: a non-committed if not alienated workforce, lack of management control over work processes and a high cost of production.

1.5 THE THREE DETERMINANTS OF UNION MANAGEMENT RELATIONS

If we were to carefully categorise the above manifestations of UMR, we are likely to differentiate three broad strands. And these in turn would owe their origins to three different facets of organisational life. Issues of pay, benefits, terms of working and work norms would fall within the ambit of collective bargaining. The second would relate to the management of workplace relations. These would involve the network of structures and their relationship that an organisation develops to manage UMR. And finally, we can identify those (a) rules and regulations, and (b) organisational practices that either inhibit or encourage work behaviour of both labour and management and which in turn affect UMR. In this category would fall issues like workplace discipline, lax or excessive supervision, workmanship, timeliness, etc.

The advantage of such classification is that it allows us to approach UMR in an organised and systematic manner. It further allows us to straightaway go to the various sources of UMR, so that our basis of analysis and prescriptions for change are fundamentally sound. For example, organisations_whose UMR flounders on poor but well-entrenched work practices may probably conclude that instead of going in for sensitivity training exercises, it is best to decisively alter such work methods by negotiating productivity bargaining agreements, whereby management ensures higher worker productivity, regains control over workplace functioning in exchange for higher pay and benefits. Or, for that matter, organisations may go in for organisational re-design exercises where there is poor role clarity between line and staff functions in terms of managing union management relations. Or, once again, in a judicious toning up, in an integrated manner, of all the three determinants of UMR.

1.6 ORGANISATIONAL FACTORS AFFECTING UNION MANAGEMENT RELATIONS

The fundamentals of power relationship apart, the impediments to better UMR lie within the organisation itself. Broadly speaking, these relate with the structure, processes and practices that an organisation evolves in relation to its work setting. Not infrequently, organisations do not have adequate structure and when they do, there is insufficient clarity as to the roles, responsibilities and interrelationship between the various structures in the execution of myriad tasks affecting UMR. For example, in most organisations, the personnel department is out on a limb and not incorporated within the overall 'corporate think'. The personnel department usually concentrates on welfare functions, sanctioning of leave, loans and advances, complying with labour laws or attending to numerous court cases. In between are thrown the odd cases in which the personnel department has to deal with disciplinary matters. It is with respect to this last aspect that the peculiar position of the personnel department comes to the force. When job is it to manage union management relations? Line functionaries think that it is essentially the personnel department's responsibility to deal with the thorny issues of UMR like ensuring workplace discipline and deal with instances of deviation; while personnel people counter that it is the line managers' responsibility to manage the workers and get work out of them. It can be argued that the personnel department just does not have the time or the resources to deal with any other managerial function. Similar arguments may be preferred by line functionaries. Managing UMR therefore seems not only an onerous task, but nobody's job as well. **In** this ambiguous situation,

the real loser is the organisation. The way out of this unsavoury situation is fOr the line and staff functions to work in tandem with each other. This calls not so much a shift in resources or functions, as with a. shift in emphasis.

Closely related are the processes that the organisation follows in the management of UMR. These essentially relate to the rules, regulations and work norms that organisations lay down in getting work out of their employees. The problem arises when some of these rules or norms are so unrealistic or impracticable that they necessitate their partial violation if not their complete abandonment. The simplest example would relate to casual leave. It is quite unrealistic to expect employees to apply in advance for leave especially in emergency cases. It is also not possible for organisations to verify the genuineness of all such cases. Post-facto sanction is therefore an accepted organisational practice. However, ove•a period of time the distinction between what is emergency and what is not, is lost. An example for the other end of the spectrum is for the organisation to expect continuous and uninterrupted worker input especially in tiring and onerous operations. When work norms do not provide for adequate breaks, exercises, rotation or other rejuvenating measures, such norms often end up being flouted. Similarly, when the grievance procedure is cumbersome and leads to Inc. of the framework of organisational justice, the problem of dysfunctional behaviour or discipline cannot be far behind.

Organisational practices are far greater impediments e,o a healthy union management relationship and are often extensions of the above two organisational factors. UMR• is not so much improved by making pious statements as it is governed by what is allowed to be institutionalised by organisational practice. For example, when a management is insensitive to alienating work practices ormindlessly applies rules that do not benefit the workers, it is certainly contributing to a `we' verses 'they' feeling. To that extent, managerial action may be deemed to be dysfunctional, contributing to poor work practices and deteriorating UMR. Similarly, lax supervision, continued for a reasonable period of time, may send the message that management is not very particular about work standards. The spillover effect is invariably noticed in such critical areas of maintaining productivity levels or meeting production targets. It is unrealistic to presume that workers who have been traditionally used to undemanding work standards will suddenly exert herculean efforts to meet targets set by management.

1.7 TOWARD IMPROVING UNION MANAGEMENT RELATIONS

In such a situation, any change in ordering workplace relations will be stiffly resisted. Experience however suggests that management will have to devise some non-traditional methods of handling workplace relations. The onus of taking pro-active stance obviously rests with the management because it is they who have to retrieve lost wound; the organised workforce have nothing to lose by the continuation of prevalent Work practices.

The first step in this direction was taken quite some time back in ESSO's oil refinery in UK in the manageMent's attempt to gain control on overtime and increase efficiency. The term that emerged was productivity bargaining and has now become a mainstay in industrial relations vocabulary. In essence it means that organised workforce will shed some of its dysfunctional activities and allow management to regain some measure of workplace control if labour is assured of some tangible benefits in return. In India too, there have been quite a few organisations that have gone about ordering their workplace relations by following this principle. Outstanding examples are those of Eicher and Bajaj.

While this is no place to go in for a detailed discussion on productivity bargaining, suffice it to say that it gives the management the opportunity to rewrite its union management relations. Obviously, such an opportunity may go waste if the long-term !agreement (LTA) is not backed by complementary managerial actions. While the LTA may make it very expensive for the workers to indulge in rampant absenteeism, the business of managing men at work to get optimum productivity. would still remain. A radical.LTA lays the ground for substantive changes in work methods, a higher

productivity norm being one example.

While management would be in a stronger position to negotiate long-term agreements in the foreseable future, the problems of managing men in work situations will not • disappear. Actually, if the stress is going to be on optinium utilisation of resources, ' higher productivity and improved quality, Organisations have to do much more than negotiate favourable agreements. To some measure at least, organisations will have to achieve these through the men working at the shopfloor. For long, organisations have lett undecided whose job it is tO order workplace relations: whether it is of the line management orof the personnel department. To start with, this tangle is best addressed at the apex policy making level, flowing downwards thereafter. Organisations will also have to.cope with the problem of modernisation of operations, rationalisation, redeployment and training.: .Organisations must come up with clearer ideas as to how the hitherto diSparate activities like personnel, industrial relations and HRD coalesce together to achieve overall. effectiveness in man-management. What is at stake here is the organisation's very understanding and ability to integrate personnel policies in the overall framework of the 'corporate think'.

This brings us to the necessity of having institutions and structures that Ink) to operationalise these policies in a meaningful way. For example, if in the neasefuture we are to deal with a situation where there are bound to be clashes between union and management in developing work norms, then the organisation must have the requisite' structure to deal with such a problem. If the organisation is to pursue a policy of participatiVe management even for the narow objective ofcoopting recalcitrant workers than it must have the necessary structures to achieve this end. The example of participative management even for the narrow objective of coopting recalcitrant workers have experimented with this concept and have got little out of it However. experience in some organisations, for example in BHEL, indicate that such.a concept can be successfully operationalised.

Since LTAs generally come along once in three years, the question arises•what doeS . management do in the interregnum? It is inconceivable that management would be able to swing in a radical LTA without doing some preparatory work. The pre-LTA period • can therefore be fruitfully utiliSed in preparing the ground.for the major changes that the organisation wishes to ineorporate through the LTA. Organisations like Eicher and Bata b$_o$ld launched innovative employee relations programmes and aggressive information campaigns respectively to create conducive 'atmospheres and clearly indicate.the changed scenario in which the impending collective bargaining negotiations would be held. -

The third complementaryline of. action that the management could undertake lies in the areas of employee relations activities like quality circles, job enrichment or other . employee involvement programmes. Toning up.the grievance redressal machinery for • speedy and fair dispensation of organiSational justice would also need attention.

1.8 SUMMARY'

In one sense, organisations that haye sledgehammered unions into submission, introduced automation, stricter work norms and higher productivity targets may also end up with the consequenceS of having a deflated and demoralised workforce. There may well be a real danger for organisations to go overboard in their euphoria of besting the unions and a recalcitrant workforce. Organisations will therefore have to face the challenges thrown up by job dissatisfaction and an alienated workforce. Since available literature suggests that the cutting edge of Japanese and (West) German business is often determined by their work ethos and committed workforce, HRD practitioners will have to reorient themselves towards improving UMR.

To those holding a cynical view. of Indian industiral relations, we may to two settlements. The preamble to the first settlement declared that "consideringthe cordial relations, the union submitted a draft of the proposed•ettlement instead of a charter of demands". In the second instance, the Chairman of Mukund Iron and Steel suggested that "the employees constitute a committee which would decide the question of benefits as if they were top management with final decision-making authority, and the decision' of this committee would not *be* subject to any discussion but accepted by him and

1.9 FURTHER READINGS

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UNIT 2 PUBLIC POLICIES AND UNION-MANAGEMENT RELATIONS

Objectives

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

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

Structure.

2.1 INTRODUCTION

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

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

2.2 ROLE OF STATE IN UNION-MANAGEMENT RELATIONS

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

The role of the State in regulating union-management relations in a democratic country will be different from that with a different philosophy for the governance of the people. In a democratic set-up the emphasis will be on human freedoms and human rights and policies reflect, broadly, the choices and will of the people. Industrial telations policies are also influenced by the stages of development of an economy and industrialization

strategies. Social policies concerning job and earnings security, etc., are influenced by the economic health, employment-unemployment situation, etc. Such influence could be reciprocal too. In a sound economy with near full employment situation it would be possible to offer better job and earnings security. When economic conditions change significantly the industrial relations institutions and policies too will change.

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

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

a) **concern for planned development and rapid economic growth, as envisaged in the successive five year plans;**
b) **requireinents of a Welfare State envisaged in our Constitution, particularly the directive principles of State Policy and more importantly Articles 43 and 43A;**
c) **the socio-economic imbalances in the society, the depressed conditions of the working class as observed by the Royal Commission on Labour and the Labour Investigation Committee;**
d) **the imbalance in and between unions and employers and the weaknesses of both the social partners, leading to preference for adjudication despite avowed recognition and appreciation of the merits of free and fair collective bargaining;**
e) **the anxiety of the State concerning the adverse impact of industrial disputes and workstoppages, including strikes and lock-outs, led the government to prefer adjudication despite lip sympv by to the apparent merits of free and fair collective bargaining.**
f) **the role of the State as a major employer, with public sector being projected to achieve the commanding heights of the economy as per the Industrial Policy Resolutions". The new economic policy of 1991, however, seems to alter this position.**

2.3 CONSTITUTION AND LABOUk POLICIES

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

> "We, the people of India, having solemnly resolved to constitute into a sovereign socialist secular democratic republic and to secure to all its citizen;
>
> JUSTICE, social, economic and political;
>
> LIBERTY of thought, expression, belief, faith and worship;
>
> EQUALITY of status and of opportunity, and to promote among them all, •
>
> FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation."

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

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

> RIGHT TO EQUALITY. This right includes prohibition of discrimination on grounds of religion, race, caste, sex or place of birth, Equality of opportunity in matters of public emplOymeth and **abolitioii** of untouchability. The mulki rules,

constitutional provisions for reservations for scheduledzastes and scheduled tribes, etc. provided in the Constitution are in the nature of affirinative action programmes for disadvantaged groups.

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

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

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

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

a) that the citizens, men and women equally, have the right to an adequate means t„ livelihood;
b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
c) that the operation of the economic system does not result in concentration of wealth **and** means of production to the common detriment;
d) that there is equal pay for equal work for both men and women;
e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their ageor strength;
f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

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

The State shall secure:

Article 39A: Equal justice and free legal aid.

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

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

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

Article 43A. Participation of workers in management of industries.

Article 44. Uniform civil code for the citizen.

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

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

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

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

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

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

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

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

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

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

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

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

h) to develop the scientific temper, humanism and the spirit of inquiry and reform;

i) to safeguard public property and to abjure violence;

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

2.4 INTERNATIONAL LABOUR ORGANISATION (ILO)

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

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

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

Subject	Convention	Aim of Standard
FREEDOM OF ASSOCIATION		
	C.87. Freedom of Association and Protection &the Right to Organise, 1948	The right, freely exercised, of workers and employers, without distinction, to organise for furtherint and defending their interests.
	C.98. Right to Organise and Collective Bargaining, 1949	Protection of workers who are exercising the right to organise non-interference between workers' anderriployers' organisations; promotion of voluntary collective bargaining.
	C.135. Workers' Representatives, 1971	Protection of workers' representatives in the undertaking; facilities to be afforded to them.
	C. Rural Workers' Organisations, 1975	Freedom of association for **rural** workers; encouragement of their organisations; their participation in economic and social development.
	C.151. Labour Relations (Public Service), 1978	Protection of Public employees exercising the right to organise; non-interference by public authorities; negotiation or participation in the determination of terms and conditions of employment; guarantees for settling disputes.
PROHIBITION OF FORCED LABOUR		
	C.29. Forced Labour, 1930	Suppression of forced labour
	C.105. Abolition of Forced Labour, 1957	Prohibition of the recourse to forced or compulsory labour in any form to certain purposes.
EQUALITY OF OPPORTUNITY AND TREATMENT		
	C.100. Equal Remuneration, 1951 '	Equal remuneration for men and women for work of equal value.
	C.111. Discrimination (Employment and Occupation), 1958.	To promote equality of opportunity and treatment in respect of employment and occupation.
EMPLOYMENT AND HUMAN RESOURCES		
	C.122. Employment Policy, 1964	Full, productive and freely chosen employment.
	C.88. Employment Service Convention, 1948	Free public employment service
	C.142. Human Resource Development, 1975	The development of policies and programmes of vocational guidance and vocational training, closely linked with employment.
	C.159. Vocational Rehabilitation and Employment (Disabled Persons), 1983	To ensure a suitable employment and social integration for disabled persons, in conditions of full participation and equality.
	C.158. Termination of Employment, 1982	Protection against termination of employment without valid reasons.
SOCIAL POLICY/LABOUR ADMINISTRATION		
	C.117. Social Policy (Basic Aims and Standards), 1962	, All policies shall be primarily directed to the well-being and development of the

Subject	Convention	Aim of Standard
		population and to the promotion of its desire for social progress.
	C.150. Labour Administration, 1978	The establishment of an effective labour administration with the participation of employers and workers and their organisations.
	C.160. Labour Statistics, 1985	The maintenance of regular series of labour statistics
	C.144. Tripartite Consultation (International Labour Standards), 1976	Effective consultation between the representatives of the government, of employers and of workers on international labour standards.
INDUSTRIAL RELATIONS		
	C.154. Collective Bargaining, 1981	To promote free and voluntary collective bargaining.
	C.131. Minimum Va,yt Fixing, 1970 (read with earliercoav No. 26 of 1928	Protection against excessively low wages.
	. C.1949. Protection of Wages,. 1949	Full and prompt payment of wages in a • manner which provides protection against abuse.
WEEKLY REST AND PAID LEAVE		
	C.14. Weekly Rest (Industry), 1921	At least 24 consecutive hours of rest per week.
OCCUPATIONAL SAFETY AND HEALTH		
	C. 155. Occupational Safety and Health; 1981	A coherent national policy on occupational safety, occupational health and the working environment. Communication and co-operation at all levels in this area.
SOCIAL SECURITY		
	C.102. Social Security (Minimum Standards), 1952	To establish with the **requisite** flexibility, given the wide variety of conditions, obtaining in different countries minimum standards for benefits in the main branches of social security.
I EMPLOYMENT OF WOMEN		
	C.3. Maternity Protection, 1919 & C.103. Maternity Protection (Revised), 1952	Twelve weeks of maternity leave with • entitlements to cash benefits and medical care.
	C.89, Night Work (Women) (Revised); 1948, and Protocol, 1990	The prohibition of night work for women in industry, while allowing some • , ' flexibility under certain conditions. -
	C.45. Underground Work (Women), 1935 •	The prohibition of the employment of women on underground work in any mine .
a		
EMPLOYMENT OF CHILDREN AND YOUNG PERSONS		
	C.138. Minimum Age, 1973	abolition of child labour. **The minimum age e4 completion of . compulsory schooling (normally not less**

	than 15 ypars). This does not apply to certain work as part of vocational/ technical training and apprentices of the age of 14 years.
MIGRANT WORKERS	
C.C.97. Migration for EmploymPnt (Revised), 1949 •	Assistance, information, protection and equality of treatment for migrant workers.
C.143. Migrant Workers • (Supplementary Provisions), 1975	Equality of opportunity and the elimination of abuses.
INDIGENOUS AND TRIBAL PEOPLES	PLANTATIONS
C.169. Indigenous and Tribal Peoples, 1989	To protect the rights of indigenous and tribal peoples in independent countries and to guarantee respect for their • integrity.
C.110. Plantations 1958 and Protocol, 1982	To expand the application of certain provisions of existing Conventions to plantations.
HOURS OF WORK	
R.116. Reduction of Hours of Work Recommendation	Normal hours of work shall be progressively reduced when appropriate with a view to attaining the social standard • of the 40-hour week without any reduction in the wages of the workers as at the time hours of work are reduced.

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

2.5 THE EVOLUTION OF LABOUR POLICY DURING THE FIVE YEAR PLANS

A major landmark event influencing post-Independence era labour policies was the report of the Labour Investigation Committee, 1946. The national government in 1946 drew up a four-year phased programme to:

a) revise the existing labour legislations to meet the changing needs of the time; •
b) eliminate completely and/or control contract labour;
c) extend employment opportunities/exchanges to cover all classes of workers;
d) evolve fair terms of service and deal for workers;
e) fix wages in sweated industries, rationalise rates of dearness allowance to Promote fair wage agreement; and
f) lay down nucleus for an industrial. health insurance programme.

Thc **First Plan** recognised the importance of industrial labour in the fulfilment of plan targets and in creating an **economic** organisation in the country which would best subserve the needs of social justice: The plan envisaged:

a) adequate provision for the basic needs of the workers;
b) securing improved health facilities and wider provision of social security;
c) providing access to better educational opportunities;
d) imprOving conditions of work to safeguard the health of labour;
e) the right to recognise arid to take lawful action in furtherance of the rights and interests of labour;
f) the right to be treated with consideration by the management and access to impartial machinery if he fails to get a fair deal.

The plan called for steps to improye productivity, emphasised the need for bilateral settlement of disputes, provided for State intervention in the event of failure of bilateral processes. The plan document also made a commitment for full and effective implementation of social security measures as also minimum wage legislation.

The Industrial Disputes Act was amended, **in** 1950 itself, providing for a three-tier system of Labour Court, Industrial Tribunals and National Tribunal.

The Second Plan recognisecithat "creation of industrial democracy is a pre-requisite for the establishment of a socialist society." It also emphasised the importance of industrial peace. A series Of voluntary arrangements were provided through tripartite consultation; code of conduct, code of discipline, workers' committees, joint management councils, voluntary arbitration, etc. It is a different thing that because these are purely voluntary they were not taken seriously by the parties.

Apart from emphasising workers' participation in management, a programme of workers' education was also started in 1958. The need to strengthen the trade union movement and giving labour a fair wage. **by** linking the wage increases with increases in production were also stressed.

The **Third Plan** emphasised the economic and social aspects of industrial peace and elaborated the concept that workers and management were partners in a jont venture to achieve common ends: Adherence to Codes, not going to courts, was emphasised to regulate union-management relations. However, this was of little avail.

The **Fourth Plan** stressed the need to improve legislation concerning safety and welfare of workers, review :of workers' participation and management of workers' education prograthmes, and arrangements for skills training, labour research, etc.

Several new legislations and improvements to existing legislations were made during the period. The Payment of Bonus Act, 1965, Shops and Conimercial Establishments Act, and Labour Welfare Fund Act were among the important legislative initiatives during the period. The National Safety Council was set up in 1966.

The **Fifth Plan** called for strengthening professional management, particularly in the public enterprises and also underlined the need to raise labour productivity. For this, the Plan envisaged "better food, nutrition and health standard, higher standards of education and training, improvement in discipline and morale and more productive technology and management practices."

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

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

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

2.6 TRIPARTITE CONSULTATIONS

Recognising the need for tripartite consultation on labour matters on the pattern of the

International Labour Organisation and in line with the recommendations of the Royal Commission on Labour, the government has constituted in 1942, the Indian Labour Conference (ILC) and the Standing Conference (SLC) with a view to:

a) promote uniformity in labour legislation;

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

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

Both the ILC and the SLC were constitutedon the lines of the composition of the ILO:

a) equality of representation between the Government and non-Government representatives;

b) parity between employers and workers;

c) nomination of representatives of organised employer and labour being left to the concerned organisations;

d) representation of certain interests (unorganised employers and unorganised workers) where necessary.

The agenda for' the meetings of ILC/SLC meetings is settled by the Union Labour Ministry. Delegates of all the parties are allowed to bring official and non-official advisors.

Till about early 1970s the ILC/SLC used to provide useful inputs in formulating public policies. But during the last quarter century the tripartite consultations suffered a major setback with the government taking a stand that government is not bound to incorporate in to public policy even the unanimous recommendations of the ILC. The tensions in centre-state relations, the pbliticised polarisation among certain national federations of trade unions and the reluctance of parties to achieve substantial results through tripartite consultations have all resulted in the much reduced influence of these fora in shaping public policy.

The absence of database, the non-existence of an independence agency to evaluate the extent of implementation and non-implementaticin of legislations and the effects of public policies in realising the avowed goals have led to a situation whereby there exists a wide gap between precept and practice even as we grope in darkness searching alternatives to crucial labour and social policy matters that affect union-management relations.

2.7 SUMMARY

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

2.8 FURTHER READINGS

Government of India, Five Year Plans (various Plan periods).

Government of India, Report of the National Commission on Labour, New Delhi: The Author, 1969.

Government of India, Constitution of India, Delhi: The Author, 1981.

International Labour Organisation, Summaries of International Labour Standards, Second edition, updated in 1990. Geneva: The Author.

UNIT 3 MAJOR EVENTS AND INTERNATIONAL ISSUES

Objectives

After going through this unit, you should be able to:

- broadly sketch the major events and international issues with a view to discern whether and how they effect industrial relations;
- understand external factors and international developinents which impinge on national economies and enterprises and eventually effect employment and industrial relations.

Structure

3.1 INTRODUCTION

We are living in a world where rapid changes have become a constant feature. Unabating turbulence and never ending transition compounded the complexity of our diverse societies even as they seem to become "borderless". The past few years have been both eventful and traumatic with significant changes in the world order which have profound implications for the future of the mankind. The following are some ofthe major events/developments which are likely to cast their shadow on our future.

3.2 MAJOR EVENTS/ISSUES

3.2.1 Democratisation

The wave of democratisation — political transformation in Eastern Europe and the former USSR, the German unification, the retreat of Latin America's military rulers and the progress of multi-party democracy in Africa — continues to sweep the world today and radically affect the lives of working people and their employers. This lead to breakdown of certain orthodox ideologies, transition and transformation of economies, and changes in industrialisation strategies which influenced human resource policies and industrial relations. Developments in one part of the world create ripples in other parts of the world. The affect of the changes in the former USSR and the Gulf -war to restore freedom to Kuwait affected Indian economy and enterprises with consequential implications for employment and industrial relations.

3.2.2 Globalisation

As we shall discuss later, national policies are being influenced significantly by extra-national forces on a variety of economic, social and laboui matters. Problems and decisions in one part of the world affect prospects in other.parts of the world and shaping the events and institutions elsewhere too. International debt and cross-national inequities are limiting the sovereignty of indcpendent nations to act decisively even on

matters concerning their own nations. This is a new interpretation of global interdependence which unfortunately is not based on balance of power and opportunities.

Globalisation impinges on industrial relations because it contributes to structural changes resulting from new forms of organisation of work and production within and between firms and also because it subjects national labour markets to increased pressures from foreign economic influences (Campbell, 1991). Far-reaching technological changes altered earlier notions about comparative costs and competitive advantage. Japanese auto firms located in North America bargained for 4 job classifications in the place of 100, for instance. The employment dislocation due to job reclassification and new competitive forces resulted in a decline of 500,000 for the auto workers union in Japan in 1980s (Reich, 1991). In the context of new employer initiatives for flexibility and competitiveness in a global firm, trade unions are considering a variety of options (Hecker and Halleck, 1991) such as the following which need not be mutually exclusive but can be used in combination:

- restrict the mobility of capital so that it cannot shop for cheaper labour in developing countries or lower-wage industrial nations;
- raise the cost of doing business in other nations through international organising, international labour standards, and multinational bargaining campaigns; and.
- accept the mobiliy of capital, choose to compete in the world economy on some basis other than wages — for example, a "high-wage/higher performance" industrial policy—and deal with the adjustment side through domestic labour market policies.

3.2.3 Structural Adjustment and Unemployment

International debt, recesson in most parts of the world, growing unemployment and inflation have been major sources of concern. Social security systems in industrialised countries are becoming vulnerable. Sweden had to scale down employers' contributions to social security, Italy had to consider stopping indexation of wages and large scale redundancies and workforce reductions in many parts of the world, cast additional responsibility to seek or sustain social security arrangements.

The employment scene will continue to be a major cause of concern accentuating deprivation and social tensions. In the wake of German unification, East Germany lost one out of every three jobs. Most European countries have about 6 per cent unemployment rate and 12 per cent poor. Rise in unemployment and shift to part-time or informal sector employment will together make more and more jobs less paying. As has happened in the last decade during 1990s also employment stability can be maintained in several parts of the world at the cost of a steep decline in real wages. In sub-Saharan Africa, on average, real wages fell by 30% during 1980 and 1986 and urban employment is expected rise from the current 18% to about 31% by the end of this decade. Asia outperformed all regions in the world but South Asia continues to languish.

International organisations have begun to express concern about decline in the creation of productive employment and the deterioration in human capital due to contraction of social expenditures such as on education, health and housing. Notwithstanding education and training policies to enhance workers' productivity and flexibility to adjust in rapidly changing job markets, unemployment problem persists even in industrialised countries (ILO, 1992b). The social and labour policies which hitherto did not receive much attention from the Brettonwood twins (IMF and the World Bank) are likely to gain due consideration in the current and future structural adjustment reforms.

3.2.4 Competitiveness

Accelerated rate of growth, productivity improvement and accent on total quality will no doubt be the corner stones of competitiveness in a global economy. But these alone would not suffice. Innovation and strategic alliances will make a vital difference to the fortunes of enterprises arid economies. Improvement, if not innovation, has been the main strength of many economies in Asia (AIMA, 1992).

Unbridled competition has its negative side too. There is fear that market forces, if left alone altogether, care less for social issues. It is only very recently that World Bank and IMF have begun to focus attention on social and labour issues also in the wake of efforts

of organisations like the UNESCO and the ILO. The Confederation of Japan Automobile Workers' Unions has recently addressed itself to this problem through a research survey and listed "tripple suffering" due to excessive competition for the sake of competition: employees are exhausted, profits are declining and industry is bashed from abroad (JAWA, 1992).

3.2.5 Privatisation

The transition of Central and East European countries to free market economy based mainly on a negative vote due to mounting dissatisfaction with communism, command economy, public sector and public services affected industrial relations. The structural adjustment pressures also resulted in a massive thrust towards privatisation in most developing countries.

Privtalsation is one of the major elements of structural adjustment process going on in most parts of the world. It involves complex social and labour issues. Fears about privatisation concern potential loss of present and future jobs. However:, there is not enough evidence to suggest that privatisation per se destroys jobs. Be that as it may, the focus on efficiency improvement in units surplus manning usually leads to short-term reduction in jobs, even if there is no privatisation. In countries with significant levels of unemployment and small proportion of labour force engaged in organised sector, this can create a major social problem. Hence the emphasis on job security measures and creation of a social security net. However, a country's ability to provide such security. effectively depends mainly on its economic health including low rates of inflation and unemployment, high growth of gross national product, and low debt and deficit.

The trade unions arc concerned about privatisation due to fears about job loss and potential adverse effects on the dynamics of trade unions and their rights. Trade unions ability to impede privatisation in general and adjustment and restructuring in particular, seem to be inversely related to the political will of the government to meaningfully carry out the process involved. To begin with, the free trade union movement had the ideological dilemma that opposition to privatisation is opposition to free enterprise itself. The unions were also handicapped by the growing dissatisfaction of the public with the unsatisfactory performance of the public services. In several countries, after privatisation the trade unions have gained rights. This is particularly so in the case of Indonesia and former USSR where the right to organise, right to collective bargaining and right to strike have been restricted or denied not only in public services but also public utilities and parastatals. But, with privatisation, the restrictions have been generally removed. Trade unions, however, maintain that improvement in workers right notwithstanding, in practice they find it more difficult to exercise them in private sector than in public sector, particularly, in developing countries.

The negative effect of privatisation on collective bargaining and trade union dynamics was experienced in some countries like Philippines and Japan. Also, in countries like Poland, the transformation of the economy diminished or altered the powerful role that v$_o$n˜k councils used to enjoy at the enterprise level. Though the employee ownership has occasionally raised suspicion about the effects of workers' capitalism, financial participation of employees in corporate turn-arounds and privatisation is on the increase in several countries.

3.2.6 Technological Changes

The interaction between technological change, particularly microelectronics technology, and industrial relations continues to have far-reaching consequences for all of us in the world of work.

Technological changes provide unprecedented opportunities for employers to gain control over the workplace and workers though they would be well advised to shed or share power than seek to put the clock back. The transition from agriculture to industry, to service and to the present post-industrial, high-tech information society resulted in a shift in emphasis away from brawn to brain or muscle to mind in the use of human energy. This rendered the old values, philosophy, beliefs and management principles based on direction and control archaic and called for a shift away to management based on consent and consensus. Physical labour can be monitored and controlled easily, in a relative sense, but not mental processes of work involving, among others, obtaining one's discretion and securing one's initiative.

Managerial policies and strategies concerning investment and use of new technology are usually aimed at securing one or several of the following objectives (Ozaki, et. al., 1992, p. 2):

a reduction of labour input in work processes, either in order to reduce labour costs or to cope with labour shortages;

1) greater efficiency of operations through closer managerial control and production processes,
2) higher quality of products or services through the greater percision of operations and speedier delivery of information that the computer makes possible;
3) improvement of the ability to produce custom-built products in small batches, and to adapt production to the diverse and changing demands of clients.

The union policies and strategies on new technology vary across countries. In developing countries, they tended to oppose for fear of loss of employment, earnings and control over work processes as also due to apprehensions concerning the effects of new technologies on social relations, union dynamics, health and safety, etc.

In some industrialised market economy countries, however, unions have made significant efforts to develop coherent policies on technology, aimed at making new technology instrumental in humanising work and generally enhancing workers' well-being as well as in improving the efficiency of industry (Ozaki, et., al. 1992, p. 6-7) through:

1) legislative reforms enabling union/worker participation in decision-making on technological change (eg. Co-determination Act, 1976 of Sweden);
2) participation in joint project groups for developing new technology and new forms of work organisation (Sweden);
3) shift of emphasis in collective bargaining from quantitative objectives (related to the level of pay) towards qualitative objectives (aimed at influencing the content of human labour through integrated jobs in which planning, preparation, execution and supervision are integrated into one job and stress on semi-autonomous team work);
4) building up technical resources within unions and workers through union group work, specialist help, training of works council members, etc.
5) Realisation about the need for trade unions to assume greater responsibility in the wake of economic recession, crisis or competitive pressures. For instance, in Italy in December 1984 a protocol was signed between the Institute of Industrial Reconstruction (IRI --- the largest holding company for public sector enterprises) and the three major union confederations, providingtor the involvement of the unions in most decisions on reorganisation and technological innovation from the planning phase. The agreement between Steel Authority of India Limited and several federations of trade unions concerning modernisation of its plant at Burnpur in June 1989 could also be cited as a relevant example in this regard.

3.2.7 Human Freedoms/Rights, International Standards and Trade

Human freedoms and human development issues are gaining currency. Global comparisons based on Human Freedoms Index and Human Development Index (UNDP, 1991) brought the issues concerning human freedoms, equality, poverty, human survival and environmental degradation (The Earth Summit, Rio, 1992) to the centre stage. Universal primary education, primary health care, family planning, safe water and the elimination of malnutrition have been identified as realistic human goals for the year 2000 A.D. which require an investment of around. US $ 20 billion a year. UNDP estimates that developing countries can save over US $ 10 billion a year by merely freezing their military expenditure at current levels and developed countries can **contribute US $** 25 billion if they provide 3% of peace dividend through cuts in defense spending. The UNDP has been stressing that just as economic growth is necessary for human development, human development is'critical to economiegrowth, that high levels of human development tend to be achieved within the framework of high levels of human freedom; that the potential is enormous for restructuring national budgets and international aid in favour of human development; that nearly US $50 billion a year can be released in developing countries alone for more productive purposes; that

restructuring for human development is likely only with a workable political strategy. Greater respect for international labour standards and protection of human rights such as the eradication of all forms of discrimination has become a major concern of international organisations. International aid and trade wil! increasingly be linked to labour standards and human rights issues. Carpet makers in India who use child labour, for instance, may be denied entry to sell in Europe. Competitive strategies based on cheap labour and denial of basic trade union rights in export processing zones may boomerang. Chinese exports to the tune of US $ 100 to 150million a year based on the output from forced labour in prisons and labour campus are now being threatened since public policies in several industrialised countries do not favour import 'of goods and services generated through use of forced labour. Those who do not See the interrelationship among employment, international trade, international labour standards and human rights issues may soon find themselves in a quandary.

Despite verbal commitment to free trade and borderless word regionalism and protectionism is raising its ugly head. Already three regional groupings have emerged: US, Canada and Mexico, European Community and Asia-Pacifib rim. The Apartheid in South Africa may be part of history, but racial tensions are spreading in Europe manifesting in organised attacks on migrants and refugees. Back in India we have our share of problems with ethnic and regional differences and sub-national aspirations leading, among others, to unstructured situations in industrial relations.

3.2.8 Quality, Standards, Patents and Environmental Issues

Concern for quality, standards, intellectual property rights and ecologically friendly products has beengrowing. Quality is not free and requires a distinct orientation and a new value system. Strict Standards set (ISO 90(10, for instance) need to be understood and compiled with steadfastly to be able to compete in global markets. Lest even entry may be denied. In the wake of threatening reports the environmental degradation several countries are passing strict legislation that may affect businesses who fail to pay heed to the writing on the wall. 'A recent German legislation, for instance, requires the manufacturers to assume responsibility for collecting certain packages back and dispose them off properly without polluting the environment.

Prevention of industrial disasters is on top of the agenda since industrial installations are a potential soutte of hazard. As the World Labour Report, 1992 noted, "Bhopal has become a symbol of what can go wrong." New approaches to control include a fresh directive from European Community that classifies installations according to degrees of risk and indicates what kind of notification manufacturers must give to the authorities. Germany alone has classified, already, 3000 'sites. It is a daunting task for developing countries like India which are making half-hearted attempts to set environmental courts, etc. The 1993 International Labour Conference is likely to adopt a convention and/or recommendation on the subject to help guide countries minimise the risks from hazardous installations.

Dccupational safety and health is another major issue. We do not yet know enough bout the full effects and consequences of new technologies and materials (chemicals, for instance) on occupational safety and health. The problem is not confined to work sites alone. Their transportation could be dangerous too. Also, new forms of organisation and employment is leading to an increasing use of home work and scattered offices. Far-reaching legislative changes or the type India had undertaken alone cannot help.. The employers, employees, union leaders and factories inspectors need to be trained to comply with the requirements. Some times, when it comes to old installations and work sites, often there could be a trade off.between occupational safety and employment security — a dilemma that is much difficult to resolve in an economy with rampant unemployment and underemployment.

3.3 CHANGES AFFECTING HR/IR PERSPECTIVES

The transition and transformation occurring in the world led to shifts/changes that affect human resource and industrial relations perspectives (Table 1).

The above description is illustrative, not exhaustive. The transition occurs on a

continuum and we may find plurality where aspects associated with the past coexists with the present posing additional dilemmas for those with responsibility for managing work systems in such diverse, complex and plural settings.

It is both difficult and unwise to generalise the effects of the myriad, complex and rapid changes occurring at various levels within and outside enterprises, nations, regions and in the world on industrial relations. Industrial relations is culture specific. There are significant institutional differences in industrial relations across countries. The persisting difficulties within European Community in evolving a common social policy substantiates this.

It is further argued that although future trends can be anticipated to some degree, policies and programmes seldom lead, or even keep up with, changes in economic and social conditions. Most of the policies that guide us today were based on yesterday's conditions and experience. At times changed, their relevance can be called into question. As change continues to unfold between now and the year 2000, many of the policies from past decades are likely to become irrelevant to the needs of the 1990s and beyond (Hudson Institute, 1991). Subject to the limitations noted above, the following observations could he made about HR/112 perspectiVes for the future.

The changing world order keeps economics in a stage of transition and flux. only change is permanent. Political systems are changing. Economic conditions arc changing. Technologies are changing. Decline in faith in public sector led to new opportunities for private initiative. The demographic changes require us to learn to manage a rapidly changing diverse workforce.

New technologies, new jobs, new skills, workforce with new characteristics, new work practices, new work organisations... The problem is not just with coping with what is new and let the new coexist with the old, but in adjusting with rapid changes. The forces of globalisation and competition that we discussed earlier will require high performance systems and thus call for developing disciplined and skilled workforce; and, sustaining their motivation and commitment by finding a match between their own and that of organisational expectations and needs.

Industrial relations systems and policies are a product of industrialisaan strategies and to some extent reflect the stages of growth and vulnerability of economies. Significant institutional changes occurred in countries which had faced serious economic crises.

Table 1: Shifts/Changes Affecting HR/HR Perspectives

Aspect	Past (around II World War)	Present/Future
Political	Few Democratic, independent countries	Surge of Democracy Few colonies
Economic systems	Diverse	Converging
Economic activities	Mainly agricultural, Some industry	Service and High-tech
Technology	Machine tending	microprocessor based predominantly
Wealth base	Land and Capital	Knowledge and Know-how
Corporate Ownership	Emphasis on public sector and nationalisation upto early 1980s	Focus on private sector initiative
Corporate organisation	Rise of modern corporation; multinationals	Emergence of global firm
Work organisation	Classical, bureaucratic, pyramidical hierarchies	socio-technical systems; flat structures and integrative networks
Social base	Inequitous Colonial	Emphasis on equity and human freedoms
Human energy use	Muscle and machine-tending skills	increasing emphasis on mental faculties
Management	by direction and control	by consensus and commitment

Structural adjustment pressures and technological changes give employers greater powcr and discretion to influence workplace industrial relations. Unions in most parts of the world have bedome more vulnerable today than ever before during the post-II World War period. Changes union membership pattern are not uniform across countries. Decline in union membership is not uniform all over. In the context of adjustment and transition, unions are losing old clout, but gaining basic rights of freedom of association, right to collective bargaining and right to strike that had been denied to them till recently in Central and Eastern Europe as also public sector in some countries. Unions worry is that their ability to use such rights could be much less in private sector under the changed situation. If employers seek to put the clock back and control workers with old notions of hire and fire, it might result in stymied situation with counterproductive outcomes and hardening of rigid postures among social partners. The only way to foster healthy, productive, peaceful and purposive relations between employees and employers and union and management lies in securing cooperation between the partners for common goals through joint consultation and striving for equitable balance between their divergent interests through negotiations in good faith. Humanising the workplace even as flexibility is maximised and empowering the workforce with skills, competence, say and stake, will harmonise the requirements of material growth with social well-being, and productivity improvement with quality of worklife.

In several countries the major changes in industrial relations are seen in terms of decentralisation and bargaining with iotal unions with much reduced effective influence and intervention from national federations of trade unions and government. Bargaining at other levels, particularly centralised bargaining is becoming less common with the weakening of centralised trade union structures and emphasis on instrumental orientation and pragmatism based on perceptions concerning enterprise level economics. There is a new resurgence of corporatist, enterprise unions, particularly in North America and several countries in South-East Asia. The new industrial relations practices seem to focus in some cases on individualised contracts replacing collective bargairting, skill development and direct two-way communications with employees. RaPid changes call for adjustment or adaptation. It requires restructuring at macro and ri, icro levels tb 'bridge the gap between current and expected (competitive) levels of pt7formance. Enterprise restructuring involves in changes in firm's product, processes, mqkets, etc,.; changes in management and organisation; education and retraining; plant relocation, specialisation, modernisation, mergers, acquisitions, divestitures, leve ged buyouts, recapitalisation, down-Sizing and clarifying the relationship betwen government and public enterprise. Flexibility has become the catch work in adjustment/adaptatior process. As Kanawaty et. al. (1989) argue, flexibility in human resourcmanagement may be viewed differently, according to the context, each context giving rise to a different set of problems, viz.;

- the ability to reduce or increase employment or wage levels with ease;
- the ability to increase mobility; .
- the ability to make more elastic use of skills for greater occupational flexibility;
- the ability to introduce non-conventional working arrangements such as part-time work; temporary work. subcontracting, disguised wage work, self-employment, etc.

Against this backdrop, employers want to dispense with feather-bedding and restrictive work practices through bargaining, joint consultation if they cannot unilaterally act in these matters. The concept-of wage flexibility introduced in Singapore in mid 1980s is gaining currency in Asia-pacific region (National Wages Council, 1985).

Financial participation by employees is likely to gain currency in the years ahead. Despite the dilemmas and ambiguities in the position of trade unions and employees over the subject concept of financial participation is spreading. The Pepper Committee report and the European Community recommendation on the subject has brought the issue into sharp focus with employers' organisations generally favouring voluntary arrangements at the discretion of employers at the company level (Venkata-Ratnam, 1992), in the wake of structural adjustment and privatisation financial participation is being encouraged steadfastly by governments and international donor agencies. Grant of shares through free distribution (in several Central and East European countries) which is popularly referred to as "voucher privatisation", distribution of shares on

Concessional terms, establishment of Employee Stock Ownership Plans (ESOPs), management/employee buyouts are becoming a common element in the privatisation strategies. According to a World Bank study (Vulsteke, 1988, Vol. 1, pp. 169-72) about 5% of the completed privatisations (20 out 392) during 1980-87 were through worker/management buyouts. 12 of these were in the UK and 5 in Cote d'Ivory. Chile, Denmark and Gambia also reported one case each. In Philippines, the tripartite industrial peace accord (May 1990) provided, among others, that, "Workers and Employers agree to recommend to the Asset Privatisation Trusts that in case of sale or privatisation of government owned or controlled corporations, the workers affected should be given the right of first refusal to purchase the company or shares/interest thereof. Alexandria tyre company in Egypt followed the ESOP programme. In Hungary and Poland 20% of the shares have been earmarked for employees through legislation. In Pakistan 26% per cent of the shares in Allied Bank were allotted for purchase by employees on the eve of privatisation with promise about allocation of another 25% shares in the same bank a year hence. 6 out of 55 privatisations carried out in Pakistan during 1991-92 were through employee buyouts. It is too early to assess whether this trend will be irreversible. Much depends on the industrial and economic progress and prosperity as also the preferences of employees for ready cash vis-a-vis long-term capital appreciation. The effects of such employee financial participation on corporate governance and performance are still to be seen and the available and evidence and experience on the subject has been mixed.

Human resource policies influence the nature and quality of industrial relations at firm level. A major challenge awaits the human resource function to effect the changes with a human face and human concern limiting thenegative effects on employment, employment conditions, and industrial relations without violating the regulatory — moral, legal and contractual — framework defining mutual rights and obligations of unions and of employees. The transfer of ownership clarifies managerial objectives and **fosters new** patterns of industrial relations. Also, as Colling's (1991) analysis suggests, change in the external environment will be mediated by the needs and perceptions of actors within the process and may expose managers to a range of contradictory pressures.

3.4 PERSPECTIVES FOR INDIA

From the second most industrialised nation in Asia at the time of independence we have "de-graduated to the bottom of the top ten in 1990s. Our economic growth is nullified by population growth. We rank 12th in the World GNP in 1990, but 154 in terms of per capita GNP. We are getting marginalised in a world that is becoming increasingly interdependent. India's share in world exports declined from 1.4% in 1955 to 0.5% in 1990; its share in world imports also declined from 1.3% to 0.7% during the corresponding period. The World Competitiveness Report declared India to be the least competitive among the 10 newly industrialised countries. Our strongest resource — human resources— is our weakest link. Over 50% of our organised workforce hdve neither technical skills nor-studied beyond matriculation. Our people's skills are sought after world over and fetch much coveted foreign exchange remittances, not the products and services that•they render, here in **India.** The 1992 UNDP Report on Human Development pronounced that India ranks rather (121st in a total of 160 countries) in terms of Human Development Index. We are the world's largest democracy yet we score 15 out of 45 in terms of Human Freedoms Index. We need to introspect to arrest the fall. We can be what we want to be: as individuals, as an enterprise and as a nation.

The industrial relations policy and legislation are out of tune with our new economic policy and industrialisation strategies. There is'a crying need for legal and institutional 'reform. Thrice in the past, when labour law reform bills were introduced in the . Parliament the then Government in power fell. Therefore one is less optimistic about significant macro-level reform. Instead of endlessly **waiting** for political reforms at macro level,. corporate leaders from both tnanagement and unions should take joint initiatives to reform the industrial relations scene at the enterprise level.

The tripod is weak. Tensions in Central-State relations and politicised polarisation on labour matters which are in the "concurrent list" of our Constitution made Government thinking on the subject less representative of the Government particularly because the State governments are ruled by several national and regional level parties. The

employers organisations too are not quite representative of employers. Despite their alleged national character, the membership base of most organisations is limited. The cumulative membership strength of all unions submitting returns is less than 2% of the total labour force in the country and those covered by collective agreements less than 1% of the workforce. Thus even the one dozen and odd "national trade union federations" are not quite representative and recent studies point to their waning influence. The continued decline in employment in organised sector which itself stands at less than 10% today is accelerating their marginalisation. Since early 1970s tripartism suffered a setback. There is need to revitalise tripartism.

What about bi-partism? Unfortunately, here too, as Ganguly observed, "We find ourselves face to face with a possibly unintended but nevertheless unholy alliance of management and labour in building an economy of poor performance and high cost for the benefit of a few at the cost of many." Employees' wages double in organised sector every six to seven years without reference, whatsoever, either to individual or. company performance. Labout costs as a proportion of total costs vary from less than 2 to about 60 per cent from petro-chemicals to coal; yet, we wish to evolve uniform pay and benefit schemes. In recent years we have begun to notice certain unconventional trends in collective bargaining (Venkata-Ratnam, 1991b), the full import of which we do not know enough yet.

We continue to grope in the dark. We thought the best way to provide job and income security is to introduce labour market rigidity through high protective legislation. But stringent job security regulations of 1976 effectively reduced the demand for employees in the organised subject in the years that followed (Fallon and Lucas, 1991) when not only did the rate of growth of jobs decelerate in both pub'ic and private sectors, but also there was a decline, in absolute terms, of employment i9 organised private sector during mid-1980s.

The above description of Indian industrial relatiohs perspectives is illustrative of the range of concerns. We may juxtapose these in the light of the developments in other parts of the world of discern lessons, if any, for us.

3.5 SUMMARY

We'have reviewed major international events/issues which, though external in character, impinge upon national systems and industrial relations. The effects of globalisation are thus increasingly experienced with changes in one part of the world causing ripples in other parts of the world. The implications of these changes on human resource policies and industrial relations have been broadly mentioned. It is conceded *that it* is both difficult and unwise to generalise the effects of the myriad, complex and rapid changes occurring at various levels within and outside enterprises, nations, and regions and in the world on induStrial relations. The institutional differences within and cross countries needs to be noted. At the same time, it is argued that although future trends can be anticipated to some degree, policies and programmes seldom lead, or even keep up with, changes in economic and social conditions. We need to constantly update our perceptions and modify our policies to stay in tune with **the** changing reality.

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Union Management Relations

Block

2

UNIONS AND UNIONISM

UNIT 4

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New Delhi

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Consultant
Jaipur

Prof. Prayag Melita
Consultant
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International Management Institute
New Delhi

Prof. Rakesh Khurana *(Convenor)*
School of Management Studies
IGNOU
New Delhi

Dr. B.B. Khanna
School of Management Studies
IGNOU
New Delhi

Course Preparatory Team

Dr. B.B. Khanna *(Course Editor and Co-ordinator)*
School of Management Studies
IGNOU
New Delhi

Prof. R.K. Grover
Director
School of Management Studies
IGNOU
New Delhi

Prof. C.S. Venkat Ratnam
International Management Institute
New Delhi

Prof. Arun Monappa
Indian Institute of Management

Prof. S. Ghosh
Indian Institute of Management
LucknoW

Dr. B.R. Seth
Consultant
New Delhi

Dr. S. Masila Mani

Sri Ram Centre for Industrial
Relations and Human Resource
New Delhi

Print Production : B. Natarajan, Copy Editor, SUMS, IGNOU

October, 2000 (Reprint)

ISBN-81-7263-384

BLOCK. 2 UNIONS AND UNIONISM

This block comprises five units; The first unit dwells upon the growth and development of trade unionism in India, and the legal framework governing trade unionism through the Act of 1926. The second unit logically takes care of the structure and recognition of trade unions in Indian situation through several examples. The third unit discusses
various aspects of the problem of leadership in trade unions and management of trade unions. The Fourth unit gives you an account of white. collar and managerial trade unions, explaining as to why a managerial union is needed and explaining distinguishing features of white collar unions. The last unit gives you an idea about the employers, _ Association and discusses various aspects and issues viz., their origin and growth, aims and objectives, legal status etc. etc. This unit also gives you a picture of organisation and management of Employers' Associations and future challenges faced by them.

UNIT 4 TRADE UNION DEVELOPMENT AND FUNCTIONS

Objectives

After going through this unit, you should be able to understand:

- the role of employers, their organisations, the government, its agencies and trade unions in regulating, structuring and shaping Industrial Relations.
- the growth of Trade Unions and their development in India, and
- an overview of Trade Unions functions and problems.

Structure

4.1 INTRODUCTION

Trade Union has been one of the first fruits of Industrial Revolution the world over. So long the production was not in large factories and was carried on by self-employed artisans with the help of apprentices or a limited number of workers, the disputes were

settled by commonsensorule of "give and take" and the problem of conflict was never serious. Economy was free from violent fluctuations and upheaval as goods were sold in a nearby markets, Retrenchment, wagecuts and closures were never a nightmare to the employed. All this was completely changed by the industrial revolution. Personal ties between employer and employee got snapped, and the latter was treated more as commodity than as a human being. He became a wage slave for all intent and purposes..

To meet market situation employers thought only of economising in labour cost by reducing workers, increasing workload and cutting down wages. This awakened the worker to full realisation of the danger brought about situation which seemed to leave the employer untouched. Revolt against this tyranny of the capitalistic system brought about by industrial revolution and search for means of self-preservation through the

only available means to workers i.e. the power of combination, led to the inevitable consequence, namely, formation of unions. In other words, need for forming trade unions was felt when workmen failed to get deal from employers by bargaining. with them individually. In the absence of any law and prevailing doctrine of laissez faire, and due to the absence of collective action, a worker had to accept whatever employment

and service conditions including wages, which employer offered him. The individual wofker was in a disadvantageous position because his individual protest could have no effect on account of easy availability of labour. This state of affair resulted in their exploitation and harsh working conditions, and this compelled the workers to foim unions and to bargain collectively ins,tead of individually. They also evolved jointly the tactics of joint withdrawal from work—that is strike.'

4.2 GROWTH OF TRADE UNIONS IN UK AND USA

In UK the trade union movement startedwith the formation of friendly clubs of Journeymen for social intercourse and mMtual assistance in sickness and employment. These clubs also co-operated tgesist wage-cuts, night work as overtime, and forming unions in defence. In the USA Trade Union Movement started with the craftsmen societies which were formed even before the factory system, fbr the protection of native born skilled workers against the competition of immigrants. However, modern trade union movement started in or after 1850.

Initially formation and growth of trade unions met with a stiff resistance not only from employers who also started forming their own organisations to meet the collective strength of workers, but also from the Government in practically all industrially developed and developingcountries. The workers had to struggle for years to get their right to form unions accepted by the employers and the state. The growing influence of trade unions, of which the formation started in UK in the last quarter of the 18th century, Made the Government and the employers apprehensive and so to curb their activities Combination Acts were enacted in 1797 and 1800. These Acts forbade under severe penalty al: tombinations and concerted efforts to stnKes, nots ana machine wrecking. In 18;4 the Government had to repeal this Act, and trade unions ceased to be crimin0 conspiracies. However, it was in 1871 and 1875 unions were made lawfiil by enacting Trade Unions Act which protected their memberl and office bearers by .making them immune from criminal and civil prosecution for peaceful picketing during strikes and lock-outs. In U$A also formation of unions and their growth was opposed bitterly by employers who in retaliation form their own unions. Not a few unions were _ prosecuted for conspiracies in restraint of trade and very heavy fines were imposed on them compelling them to stop their operations. The employers fought vigorously the unionisation of workers, and at times these clashes resulted in violence, injuries and deaths. In some cases pitched battles were fought resulting in riots, martial law and fatalities. While in UK there was the notorious "Document" in the USA there was what is popularly known as "the Yellow Dog Contract", which the employer weard'compel a would-be recruit to sign pledging abstention from all trade union activities. Such practices continued in the highly developed democracy of USA until 1935 when under Roosevelt Administration the new Industrial Relations Law, popularly known as the Wanger Act, set matters right.

Inspite of all this resistance trade unions continue to grow and were able to obtain some legislative reforms regtilating employment of women and children, protection against industrial hazards, creation of separate Labour Department, and the enactment of Clayton Anti-trust Act of 1914, •which exempted trade unions from prosecution on the ground often, engaging in restraints of trade, andsought to limit the issuance of injunctions by Federal Court in labour disputes.

4.3 DEVELOPMENT OF TRADE UNIONS IN INDIA

Phase I (Up to 1915)

Although in India history of Trade Union Movement has not been so turbulent; but here also the trade unions had to face hostility and opposition from both employers and the Government. However, as in other countries, in India also trade unions grew out of the miseries created by 'Idustrial revolution. Here the inception of trade union movement took place in second half of the 19th century when big industrial enterprises started groWirg side by side with the British ones in all sphere of national economy and Indian working class started emerging. In this period working and living conditions of labour were very poor. Not only these hours of working were long, but also wages were very low, the general labour conditions in industrial areas were so harsh that thenoted" otonOinist Dr. Radha Kama! Mukherji described them as such where adulthood was being butchered, Woinanhood being dishonoured and childhood being nipped in the very bud. Although there were no unions in the real sense of the word, but sub-human employment conditions led to so many strikes during 1889-1900 organised by the workers themselves, or under the guidance of some social and political workers. In 1877 textile.workers'of the Express Mills, Nagpur remained on strike for a

long time demanding short working hours, adequate wages and other improvements in their employment conditions. From such strikes workers learnt the power of unit united action, even though they had no unions.

During the early period of industrial development efforts towards organising workers for their welfare were made largely by social workers and other religious leaders, mostly on humanitarian grounds. In 1875 a few social reformers under the leadership of Sorabjee and Shapurjee Bengalee, started an agitation in Bombay in order to draw attention of the Government to the appaling conditions of workers in factories, especially those of women and children, and appeal to the authorities to introduce legislation for the amelioration of their working conditiRns. On the basis of the recommendations of the Bombay Factory Commission (1875) the first Factories Act was enacted in 1881. But this Act was so inadequate that workers in Bombay protested against it. Mr. N.M. Lokhande, a factory hand convened a meeting of about 1000 workers in Bombay and drew up a memorandum demanding limitation of working hours, weekly rest day, mid-day rest and compensation for injusies. The Bombay Mill Owners Association conceded the demand for weekly holiday:rEncouraged by this success Lokhande established in 1890 the Bombay Millhands Associatin, regarded as the first labour organisation in India. A labour journal called Dinabandhu (Friend of the poor) was also published. The setting up of three factory commission and enactment of the Factories laws provided the necessary impetus for the formation of labour organisations. Some of the important organisations set up before the first world war were the Amalgamated Society of Railway Servants in India anOurma (1897), the Printers Union, Calcutta, the Bombay PostalUnion (1907) and S blial Service League (1910). However all these organisations were adhoc bodies, and cpuld hardly he regarded as trade unions in the true sense. Lokhande Millhands Association had no roll of members, no funds, and no rules. Beside Lokhande, some other persons and 'organisations who organised early associations of workers, were Mr. P.C. Mazumdar and Mr. Bannerji in Bengal, Theosophical Society in Madras, Servants of India Society in Bombay, and Brahmo Samajist organisation in Calcutta, with the main purpose of drawing public attention to the cause of labour. But most of the unions organised before the 1st world war disappeaT ed after a short and stormy career.

Phase 11 (1915-40)

It was during the 1st world war that the trade union movement was witnessed in the modern sense of the term. The, war along with the upsurge of national movement in the country, the Russian Revolution of 1917, and establishment of International Labour Organisation in 1919, gave a new turn to the trade union movement and led to the organised effort on the part of workers to form trade unions. The Madras Labour Union, the first union in India to. be formed on systematic lines, was established by B.P. Wadia in 1918. At Ahmedabad under the inspiration and guidance Of Mahatma Gandhi and Ansuyaben spinners' union and weavers' union' were formed, which later on federated into the industrial uniort known as Ahmedabad Textile Labour Association (Majur Mahajan). This association, ever since its inception has been a Model of sound trade unionism in our country, based on the Gandhian Philosophy of mutual collaboration and non-violence. The formation of this association was also started with a strike for wage rise in 1917 when Mahatma Gandhi had to go on fast following which Ahmedabad Mill Owners' Association conceded the right of workers to be compensated for the rise in price. The workers were given 10% rise in wages in the form of war bonus in 1917, and which was increased to 15% in the following year.

In 1920 a central organisation of labour, known as All India Trade Union Congress (AITUC) was formed by the Indian National Congress for deputing .a labour delegation for the annual session of the International Labour Organisation at Geneva. The first session of the AITUC was held in October, 1920, at Bombay under the presidentship of a respected Congress leader Lala Lajpat Rai. Most of the.Unions existing at that time were affiliated to this central organisation, which became strong in course of time focusing its attention on the real needs and problems of labour.• In 1922 the All India Railwaymen Federation was formed which was also affiliated to the AITUC. After the war economic difficulties and growing interest in unionisation excellerated the formation of unions. By 1924 there were 167 unions with a quarter million members.

The year 1920 is also important in the history of trade union movement due to the agitation of workers of Bukingham and Carnatic Mills in Madras for better wages and

other employment conditions. The Management declared lockout and filed a suit for damages against the union leader B.P. Wadia and other leaders of Madras Labour Union. The Madras High Court granted an injunction declaring formation of union an illegal conspiracy and also awarded to the management damages amounting to Rs. 75000. This judgement of the Court brought to the fore the need for legal protection to trade unions for their survival. This was very powerful demonstration of the methods used in our country to crush early trade union movement. The labour leaders became conscious of the fact that in the absence of any base they could be prosecuted for bonafide trade union activities. In 1921 an effort was made by N.M. Joshi to introduce in Indian legislature a trade union legislation. However, his effort succeeded after five years in 1926 when Trade Unions Act was enacted legalising the right of workers to combine and form unions, and granting them immunity from civil and criminal prosecution for bonafide trade union activities and the action flowing from the' same. This Act still continues to be the basic law governing trade unions in the country. This gave further boosting to the trade union movement in the country by providing that any seven persons can form their union and get it registered under the Act in the prescribed manner. The registration which is still optional provides necessary security to the union and its members against any presecution for legitimate trade union activities.

Phase III (1940 and onwards)

In Thirties trade union movement received some setback due to economic recession, but the out-break of second world war and the formation of the popular governments in the laie Thirties again quickened the pate of the growth of trade unions. The economic distress that followed the war, the advent of Independence, the new spirit of awakening, the change outlook towards the unions both on thepart of the Government and employers, the enactment of Industrial Disputes Act, 1947 which enabled the unions to represent workers for settlement of their disputes in conciliation, arbitration and adjudication, the setting up of tripartite wage boards and other tripartite bodies, and the desire of the political parties to help labour and as well as seek help from them, also contributed to the tremendous growth of trade unions in the country after the war and Independence. The extent of growth from 1947 onward may be seen from the Table I below:

Table 1
Growth of Trade Unions during 1947-87

Year	No. of Registered Unions	Number of Registered unions submitting returns	Membership of Registered unions submitting returns (in lakhs)	Average membership union submitting return	Average Annual Income Per Union (Rs.)	Average Annual Expenditure Per Union (Rs.)
1	2	3	4	5	6	7
1947-48	2761	1600	16.63	1026	2335	1114'
1955-56	8095	4000	22.75	568	2089	1639
1960-61	11312	6913	40.13	589	2279	2078
1968	16409	8689	50,94	586	2037	1818
1970	20681	7835	48.87	621	5146	4304
1971	21606	7007	.44.09	629 '	4792	4586
1972	21757	8011	53.40	589	5767	5029
1973	26788	9853	65.80	668	6576	5214
1974	28648	9800	'61.90	632	8819	7755
1975	29438	10324	65.50 '	634	-	
1976	29350	9778	65.12	666		
1977	30810	9003	60:34	670		
1978	32621	8727	62.03	711		
1979	34430	10021	74.74	746		
1980.	36507	4432	37.27	841		
1981	37539	6682	53.97	808		
1982	38313	5044	29.99	595.		
1986	46710	7228	46.70	832		
1987	47810	7419	47.80	861		

Source: Indian Labour Year Book, 1990.

4.4 PRESENT POSITION

Although no official latest figures are available regarding the number of unions and their membership, but from the speeches of some senior officials of the Labour Ministry (Central) it appears that at present there may be about 7000 trade unions in the country including unregistered unions and more than 70 federations and confederations registered under the Trade Unions Act, 1926. While the degree of unionism is fairly high in the organised industrial sector, itis negligible in the agricultural and unorganised sectors, where the bulk of the labour force (63%) is engaged and majority of the workers live below the poverty line.

This tremendous increase in the number of unions does not reflect their real strength because the average union membership per union declined from 1026 in 1947-48 to 861 in 1987, The increase in the number of unions suggest a splitting of unions otrtheir own inability to absorb in new units. As reported by the National Commission on Labour 73.2% of the unions had only a membership of below 300 and only 131 unions had only a membership of over 5000. Most of the unions are, therefore, too small to be viable and have little following. The proportion of union membership to the total number of industrial membership is estimated at about 28%. The degree of unionisation also varies widely from industry to industry. The industries and employment with high degree of unionisation are coal,"cotton textiles, Jute Mills, iron and steel plantations, railways, tobacco manufacture, cement, banking, insurance, post and telegraph, ports and docks, and some other industries and employments in public and Government sector, with unionisation varying from 30 to over 70%.

Unionisation is no longer confined to manual and blue collar workers. It now embraces also clerical and supervisory staff and other white collar employees including officers, senior executives, managers and civil servants. Even professionals and self-employed persons like doctors, teachers, lawyers, traders and shopkeepers have also formed their own associations and unions for safeguarding and promoting their own interests. Again, unions have been formed not only at craft level but also at unit or plant, local, regional industrial and national levels. The central or national trade union organisations have also associated themselves with world labour organisations, such as International Confederation of free trade unions (ICFTU), a non-communist organisation, World Federation of Trade Unions (WFTU-Communist), and World Federation of Labour (WFL) recognised by ILO and UNO.

Central Trade Union Organisations

India is the only country in the world where there are as many as eleven central trade union organisations against one or two in the USA, UK, Japan and other developed countries. As already mentioned AITUC was the first such organisation set up in 1920 for representing India at the ILO annual conference. To free this organisation from the grip of communists another Central Organisation was formed by the Indian National Congress in 1947, known as the Indian National Trade Union Congress (INTUC). In the same year with another split in AITUC the Socialists separated and formed Hind Mfazdoor Sabha (HMS) in 1948. In 1949 some of the radicals under the leadership of K.T. Shah and Mrinal Kanti Bose formed another Central organisation known as United Trade Union Congress (UTUC). Thus soon after Independence the trade union movement in the Country was split into four distinct central organisations with different ideology and political affiliation. Later on, some other central organisations were formed, such as Bhartiya Mazdoor Sangh (BMS) in 1955, Hind Mazdoor Panchayat-(HMP) in 1965, the Centre of Indian Trade Unions (CITU) in 1970. UTUC was split up in the subsequent years into two federations, namely, UTUC and UTUC (Lenin Sarani). With the split of Congress Party in 1969, there was a split in the INTUC and a new central organisation known as National Labour Organisation (NLO) was formed with the initiative of mainly the Textile Labour Association, Ahmedabad. Excepting HMS, all other central labour organisations after Independance were formed because of the split in one or the other existing organisation on account of political and ideolOgical differences. However in 1967 a central labour organisation shorn of any political ideology qr control of any political party, known as National Front of Indian Trade Unions (NFITU), emerged under the leadership of S.P. Roy, a well known labour leader. This has caused a consternation among the traditional trade union leaders with political leanings. As this organisation is not divided on party lines like the

trade union movement in the country, it has clicked on national level. The following Table II shows the strength of the ten' Central labour organisations number and membership wise, as claimed by them and as verified by the office of the office of the Chief Labour Commissioner for recognising them for consultation and giving them representation on national and international tripartite forum as on 30th August 1984.

Table II
Central Labour Organisation

S. No.	Organisation	No. of Unions claimed	Membership claimed (lakhs)	No. of Unions as verified	Membership as verified (lakhs)
1	INTUC	3437	35.69	1609	22.36
2	AITUC	1366	10.62	1080	3.44
3	BMS	1725	18.80	1336	12.11
4	CITU	1737	10.33	1474	3.31
5	HMS	1122	18.48	426	7.63
6	UTUC	618	6.08	175	1.63
7	UTUC(LS)	134	12.39	134	6.21
8	NLO	249	4.05	172	2.46
9	TUCC	182	2.7	65	1.23
10	NIFTU	166	5.3	80	0.84

The central government recognises a central labour organisation for the purposes mentioned above if it has a membership of at least five lakhs spread over four States and industries. So long the Government has recognised only four organisations, namely, INTUC, AITUC, HMS and UTUC. Now other organisations like BMS and NLO are also claiming recognition.

4.5 THE TRADE UNIONS ACT, 1926 - LEGAL FRAMEWORK FOR TRADE UNIONS

Beside the Bembay Industrial Relations Act, 1946, and the Maharashtra Recognition of Trade Unions and Prevention of Unfair Practices Act, 1971, Trade Unions Act, 1926 is the only legal framework for the trade union Movement in the country. It legalises the formation of trade unions by conceding to workmen their right of association and organising unions. It permits any seven persons to form their union and get it registered under the Act. Registration of unions is optional and not compulsory. The National Commission on Labour recommended compulsory, recognition of trade unions, but this recommendation is still under the consideration of the Government. However, the latest amendment of the Industrial Disputes Act, 1947, makes registration compulsory virtually by defining the term "Trade Union", for the purposes of this Act, as a Union registered under the Trade Unions Act, 1926. This disallows unregistered unions to represent workmen in conciliation, arbitration, and adjudication of disputes under the Act. No worker would like to be the member of a union which is not qualified to handle his disputes under the Industrial' Disputes Act.

Beside specifying the procedure for registration of unions, this Act lays down the guidelines for the day to day working of the registered unions. It also defines their rights and obligations, important of which are as follows:

Obligations of Registered Trade Union —

Under the Act Registration makes it obligatory for the union —

i) To allow any person above the age of 15 years to be a member of the union and enjoy all privileges attached to membership.

ii) Must have 50% of the office bearers from among the persons actually employed, or engaged in an industry with which trade union is concerned. A person is to be disqualified to be a member of the executive or hold any other office if he is below 18 years of age, or if he has been convicted of any offence involving moral turpitude and sentenced to imprisonment unless a period of five years has passed.

iii) Union membership fee must not be less than 25 paise per month and per member.

iv) Maintain membership register and properly audited account and make them available for the inspection of the office bearers and members of the union.

v) The rules, of the union must provide the procedure for the change of its name, its merger with any other union and its dissolution.

vi) Spend union funds for the purposes specified in the Act only.

vii) Send to the Registrar on or before the prescribed date an annual statement of income and receipts, and assets and liabilities of the union audited in the prescribed manner as on 31 March with the statement showing changes in the office bearers and rules of the union made during the year.

Rights of the Registered Union

i) Spend general funds on the salaries of the staff and office bearers, prosecution and defence for protecting trade union rights, conduct of trade disputes on behalf of the trade unions or any member thereof, compensation of members for loss arising out of trade disputes; and other purposes as permitted under the Act, including publication of periodical.

ii) Can have a political fund without making its contribution compulsory or a condition for the membership of the Union.

iii) Can change the name of the union, amalgamate it with some other union and dissolve it under intimation to the Registrar of Unions, as these changes will take effect front the date they are registered by the Registrar.

iv) Can claim immunity from criminal and civil prosecution for bonafide trade union activities.

v) Can appeal against the order of the Registrar withdrawing or cancelling the registration of the union in a Civil Court.

Registration of the union can be cancelled or withdrawn by the Registrar of Trade Unions if it has been obtained by fraud, or by supplying wrong information, or by
mistake or if it has ceased to exist, by giving two months notice to the Union specifying the reason for withdrawal or cancellation. This order can be appealed against in a Civil Court.

4.6 FUNCTIONS OF TRADE UNIONS

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

a) Protecting and advancing terms and conditions of employment of its members;
b) Negotiating and settling terms and conditions of employment and remuneration;
c) Improving status and standing the efficiency of interest of workers in relations to work and living; and
d) Promoting economic and social interests of its members.

Some unions have also as their objectives to undertake social security measures where the State has not assumed this responsibility, and organise welfare activities and . Organise them to become literate leaders and union conscious.

From the above objectives reflected in various theories of trade unions (summarised in Appendix B) it is obvious that primary function of a trade union is to promote and protect the interest of its members. The union draws its strength from the funds and
general support provided by its members. It has, therefore, to strive to secure better wages and improve their terms and conditions of employment and generally to advance
their economic and their social interests so as to achieve for them a rising standard of living.

Originally and traditionally the only function of trade unions was economic, that is, rescuing workers from exploitative employment and working conditions, and use their collective strength to ensure workers adequate and fair wages, reasonable working
hours, safe and healthy condition at work, periodical rest and leave, some essential amenities at work place like wholesome drinking water, first aid, washing and resting facilities. In fact, most of the early demands of the union which caused disputes resulting
in strikes, were economic regarding wages, hours of working safe and healthy working

condition and job security. It is gradually that the unions started addmg to the fist of their demands such facilities as housing, medical aid, recreation, constitution of welfare funds, and social security measures like sickness, disability, maternity benefits, gratuity, provident fund, and old age and family pension.

Social Functions

Beside the main economic functions consisting basically of organising unions and improving their terms and conditions of employment to enable workers to meet their physical needs,some unions have now started undertaking and organising welfare activities and also providing variety of services to their members and sometime to the community of which they are a part, which may be grouped under following heads:

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

ii) Education: Education of members in all aspects of their working life including improving their civic life, awareness in the environment around them, enhancement of their knowledge particularly in regard to issues that concern them, their statutory and ?ther rights and responsibilities, workers participation scheme, and procedure for redressing their grievances. Some central union organisations are also assisting the Government in implementing their workers education scheme.

iii) Publication of periodicals, new letters or magazine for establishing communication with their members, making the latter aware of union policy and stand on certain. - t principal issues and personnel matters concerning members, such as births, deaths, marriages, promotion and achievements.

iv) Research: Of late, this is gaining importance and is intended mainly to provide updated information to union negotiators systematically collected and analysed at the bargaining table. Such research is to be more practical than academic/ concerning problems relating to day to day affairs of the union and its activities, and Union and management relations. Some of the research activities are (i) collection and analysis of wage data including fringe benefits, and other benefits and services through surveys of 6omparative practices, data on working conditions and welfare activities; (ii) preparation of background notes for court cases and also position papers for union officials; (iii) Collection and analysis of macro data relating to the economy, industry sectors etc.

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

Political Functions

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

The type and the extent of unions participaeion in the political process of the Government depends largely upon the stage of economic and social development. It ranges from the joint consultation at the plant/industry level to work on bodies like the Economic and Social Council in France, Planning Commission in Sweden, or the Economic Council in Denmark. In a number of countries law specifies the activities that union may engage. In Sweden and Netherlands' unions "are made responsible for the implementation of the labour and social security legislation. Thus, while a union

functions in the interest of its members, it should also accept community responsibilities. Consciousness of this wider responsibility will vary from country to country, depending upon the extent of wage employment. In a country like India where self-employment is sizeable, unions have to make special effort in understanding the interest of the total community. This aspect of the role of unions in a developing economy has been emphasised in our successive five year plans. It is in recognition of this fact that the very first planning Advisory Board constituted in 1950, had two labour representatives on it. Since then the labour representatives have been associated with Development Councils set up for individual industries and other tripartite bodies like the Indian Labour Conference and Advisory Boards at the Central and State level in the formulation and implementation of labour programmes. This has enabled trade unions to perform their primary function for meeting the basic needs of their members as listed below by the National Labour Commission on Labour.

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

In fact most of the unions at craft, unit and plant level which are still described as fighting unions, attend mostly, if not only, the basic needs of their members mentioned ahnve at (i) to (vil. Jt is only the trade union organisations which are attending to some extent the tunctions and needs mentioned at (vii) and (viii). This is attributed mainly to the fact that employment and service conditions of workers still need considerable improvement, so the primary function of unions still remains that of improving the economic conditions of workers either by collective bargaining, or by other peaceful means, or by direct or militant action.

4.7 QUALITY GROV TH OF TRADE UNIONS

Indian trade union movement has not developed as health lines as in some other developed and developing countries. It suffers from so many weaknesses as small size unions poor finances, politicaliSation and multiplicity of unions, and outside leadership. Small unions and poor finances: The mushroom growth of unions has not on accompanied by proportionate growth in the total membership. As a consequence the total membership has been fragmented among too many unions adding to significant decline in the average membership per union. From Table I it may be seen that the average membership per union in 1987 was 861 against 1026 in 1947-48, and still less in ,the intervening years. With the small membership and low monthly membership subscription which is the main source of union fund (25n.p. per month and per member as prescribed under the Trade Unions Act, 1920, a union can hardly have sufficient' money to have a whole time peon or d helper, leaving aside pursuing any trade union activity. If a union is to grow, survive and meet the needs of its members in terms of attaining its objectives, it needs money. Financial weakness is, therefore, a major bottleneck in attaining a desirable degree of organisational effectiveness and viability. Lack'of adequate finances and some wholetime workers or staff, make the union an easy prey for the unscrupulous politicians who want to use unions as a ladder for climbing up in the heirarchy of political leadership and other outsiders who take to trade unionism as a profession for making money. Such persons get hold of the union and manage it and its finances more to serve their own interests than that of the workers. This financial weakness of unions was also highlighted bythe National Commission on Labour attributing it to the inadequate membership strength of unions and their small size. The Commission also observed that due to low rate of unionisation total funds collected are small and so the general picture of finances of unions is disappointing, and this has been an important factor limiting effective functioning of unions in our country.

There are, however, some notable exceptions in terms of finances. The unions like Textile Labour Association, Alnedabad, Simpson Workers Union and Empress Mills Workers Union, Nagpur, who have been so well off financially that beside discharging

their economic functions, they have ventured into a variety of labour welfare activities and have also built up sizeable financial reserves. There are also some craft unions composed of skilled workers with high average earning which are usually better funded because of higher contribution from members, and are thus in a position to provide services to their members. But the number of such unions is very small.

Politicalisation and Multiplicity of Unions

Both politicalisation and multiplicity of trade unions are posing a serious threat to industrial peace and harmony in India. Together with inter-union rivalry they frequently pose a serious managerial problem. Practically all through the history of trade unionism in the country politics has played a significant part in its development. Some regard it as a by-product of political movement. At the very inception of modern trade unionism in India the stalwarts of the Indian National Congress were prominently associated with it. Their association might originally have been from the humanitarian point of view, but potentiality of organised labour could not possibly be overlooked by the growing political organisation. Growth of four major trade union organisation i.e. INTUC, AITUC, HMS, UTUC can be traced directly to the four major political parties, which have different ideologies and approaches to the distribution of power and role of labour in society. Affiliation of various trade union organisations to political parties has resulted in the multiplicity oftrade unions in various industries as well as in the different units of industry, thereby reducing their bargaining power considerably and increase inter-union rivalries. Multiplicity of trade unions may also be due to the Trade Unions Act, 1926 permitting any seven persons forming a union, or due to unscrupulous employers encouraging and forming rival unions. However, fact remains that the union multiplicity has increased so much that it is visible at all levels of unionisation, i.e.., from craft to national level.. There are units and plants having more than ten unions. The organisations like SAIL, HEC, and Damodar Valley Corporation are reported to have 124,79 and 46 unions, respectively. At the national level there are as many as eleven central trade union organisations associated with different political parties and with different approaches to labOur problems. Two or three unions plant/ unit level is quite a common phenomenon. As these multiple unions owe allegiance to different political parties, or haVe different professional leaders to manage their activities, there is bound to be inter-union rivalries among them making any collective bargaining and agreement difficult, if not impossible. No doubt this problem of union multiplicity is not unique in India, since it is also being faced in developed countries, like UK and USA, but its intensity there is not so acute as in India. Moreover, while UK and USA have been successful in developing measures to minimise the adverse effects of it on industrial relations, we are yet in search of possible ways and means to overcome and evert this problem. Multiple unionism may have some positive consequences, such as encouragement of healthy competition, checking undemocratic practices by unions and developing an authoritarian structure with perpetuation of leadership, and keeping the leadership alert and dynamic and innovative. But,all these may be eclipsed by negative consequences when competition converts itself into unfair rivalries leading to inter-union warfare. Each union tries to counteract against the other. In case of wages negotiations of collective bargaining, and-thus resist implementation of any agreement being reached between management and rival unions. - Outside Leadership: Another distressing feature of trade union movement in India is the dominance of outside leadership which is a serious drawback to the trade union unity. No doubt, from the early stages the trade union movement has been built up by leaders committed to the well-being of the working class, but seldom belonged to this class. They were'either philanthropists, or social reformers of politicians, and their contribution was remarkable. This outside leadership still continues to guide the destiny of trade unions, but now most of the outsiders are no longer selfless dedicated social workers. They are either middle class intellectuals and professionals, such as lawyers, doctors, social workers, or non-intellectuals, such as dismissed or disgruntled ex- employees, or Persons with low education talking up trade unionism as a profession, or persons with clear-cut political orientation aspiring to be political leaders. These outsiders generally occupy the key position of president or general secretary or treasurer or office secretary and so on. The General Secretary who is usually the key full time official and who runs the union'day to day is generally an outsider. No doubt, the TradeUnions Act, 1926, provides that at least 50% office bearers of a union should

be from among the actual workers, and in conformity with this provision majority of office bearers in unions are insiders or actual workers. But they are only secondary labour leaders who serve on the union executive as ordinary office bearers carrying little or no responsibility, and it is the minority of outsiders holding dominant positions of president, general secretary or secretary who manage the activities and the affairs of the union.

This continuance of the domination of outsiders is generally attributed to the illiteracy or low education of workers, hostility of employers towards unions and threats of victimisation of union members, lack of knowledge among workers of industrial practices in comparable organisations, and complexities of union ,and management negotiations, and the need for using the political influences of outsiders informulation and implementation of labour policies of the Government. But still the advantages of internal leadership outweigh that of external leadership. The leaders emerging from within the ranks have frequent contacts with the union members, a greater understanding of the problems, more devotion to their tasks, and more conversant with the organisation. The outside leaders, being political-cum-labour leaders, differ in their ideology, personal athbition, problem solving approach, and political orientation. They attach greater priorities to their political and self interests, irgnoring the larger interests of union and workers. Unions are often used as an effective instrument to further their own ideology. They do not hesitate to form independent unions if their ideological interests and opinions clash with that of intetaal leaders. This Multiplicity of unions becomes inevitable. The external leadership is also reported to be becoming more not only authoritative and exploitative but also corrupt, and their management of unions tend to be more oligarichal than democratic. A feeling is alsD reported to be growing among some sections of workers that the unions which were formed to save -*workers from the exploitation of employers have themselves started exploiting them. Perhaps Sec. IIA of the Industrial Disputes Act,1947 was inserted to save workers from such exploitation.

4.8 STRENGTHENING OF TRADE UNIONS

..The above mentioned weaknesses of unions viz. small membership and paucity of funds, politicalisation and multiplicity of unions, out-side labour leadership, are intensifying inter-union rivalries and reducing the bargaining power and their effectiveness in attaining their main objective of improving employment and working conditions of their members. For strengthening unions it is necessary that their weaknesses are minimised if not totally eradicated, and sooner it is done the better for reducing conflicts and improving union and management relations. All these problems were considered in deiail by the National Commission on Labour, and they recommended the following measures for resolving them.

i) Trade Unions Act, 1926 should be amended to provide for (a) Compulsory registration of unions; (b) Reduction of percentage of outsider as union office-bearers; (c) Monthly subscription for union member may be increased from 25 p to Re. 1; (d) The minimum number required for starting a new union Should be raised to 10% of regular employees of a plant subject to the minimum of 7 and maximum of whichever lower; (e) The registrar of trade unions should complete all preliminaries to registration within 30 days of the receipt of application, excluding the time taken by the union in answering queries from the Registrar. (0 The registration of union should be cancelled if the union fails to submit its annual return wilfully or otherwise, if its membership fell below the minimum prescribed for registration and the annual return submitted is defective in material particulars and if their defects are not rectified within the prescribed, period. The cancellation should be subject to appeal to the Labour Court; (g.) An enabling provision may be made to permit check-off system for collection Of membership subscription on demand by a recognised union.

ii) Formation of craft union should be discouraged. Craft unions operating in a unit/ industry should amalgamate into an industrial union. Formation of Centre-cum-industry and national industrial federation should be.encouraged.

iii) Stops should be taken to promote internal leadership and give it a more responsible role. The ex-employees should not be treated as outsider.

iv) Unity in the trade union movement has to grow from ithin. Collective bargaining

should be the main method of settlement of disputes. An independent authority for union recognition will hasten the process of inter-union rivalry. The latter is best left to the central organisation concerned to settle. If Centrat organisation is unable to resolve the dispute, the Labbur Court may step in at the request of either group or on a motion by the appropriate Government. •

v) Apart from paying attention to the basic responsibilities towards their member, unions should also take social responSibilities such as (a) promotion of national integration; (b) influencing the socio-economic policies of the community through active participation in the formulation of these policies; and (c) instilling in their members a sense of responsibilities towards industry and community.

The above recommendations, if implemented, would have gone a long way to strengthen trade unions, as that would have reduced to some extent their weaknesses already mentioned. But they are still under the consideration of the Government and the trade union organisation. Only one recommendation regarding check off system has been implemented half-heartedly by making an enabling provision for it is the Payment of Wages Act, 1936. No clout:tithe Government has been trying to amend the Trade Unions Act, 1926, for some of the above recommendations, but as mentioned in the Unit 4, the Bills introduced in the Parliament from time to time lapsed with the dissolution of the Parliament. However, the Government has amended the Industrial disputes unions. This provision if implemented properly, may encourage internal leadership by reducing the threat of victimising workers for trade union activities. The Government take another measure to reduce external leadership by improving the working of their Workers Education Scheme by laying more emphasis on training of labour leaders.

The trade Unions, particularly their central organisations, can also help by forging unity among themselves and also following the Inter-Union Code of Conduct which the four central organisation agreed to observe in the Indian Labour Conference in 1959 for maintaining harmonious inter-union relations, of which the copy is enclosed as Appendic C.

4.9 SUMMARY

We have considered the growth of trade unions in India since the middle of the 19th century! Trade union movement in this country has.been following the same course as in other developed countries, it has not been so turbulent as in UK and in USA and some other countries due to the opposition and hostility of both employers and the Government. Quantitative growth of trade unions has been tremendous.' Perhaps in no other country the number of unions at craft, plant/unit, industrial and national levels is so large as in this country. But this does not reflect the real strength of trade unions, which is much less. Qualitatively the growth has not been so healthy as in other countries. It still suffers from so many weaknesses as small membership, paucity of funds, multiplicity, politicalisation, external leadership and inter-union rivalries. Functions of trade unions have also been examined explaining how they have been operating not only at economic front, but also on social, civic and political fronts. Most of the unions are still fighting unions struggling to improve wages and other employment and working conditions of their members. But there are some unions who are financially well off, which are undertaking welfare, educational and cultural activities. The central.labour organisations, of which growth has been reviewed, are operating on political front and participating actively in the formulation and implementation of Government labour policies and enactment of labour legislation. At the end there are four appendices on trade union terminology, important trade union theories reflecting the forms and functions of unions, the Inter-union Code of Conduct agreed to by four central labour organisations to be followed for avoiding inter-union rivalries and minimising multiplicity of unions, and main.principles of conduct evolved by the UK Trade Union Cognress for their members.

4.10 FURTHER READINGS

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APPENDIX A

Trade Union Terminology

Trade Union

The Webbs classical definiti'.',' cf r `Ade union is as "a continuous association of wage earners for 'the purpose of maintaining and improving the conditions of their working life." This definition still holds good in so far as actual practice of unions are concerned. Under the Trade Unions Act, 1926 this term is defined as any combination whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen 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. In other words, the term trade union applies not only to combinations and associations of employees only, but also to that of the employers.

Trade Union Movement

This term applies to all the various types of long term associations of workers that appear in industrialised and partially industrial economies.

Organised Labour

This term is used to distinguish members of unions from non-member or unorganised . employees. Ih a restrictive sense it is sometimes used to apply to members of unions affiliated with the nation-wide association and may exclude members of unaffiliated onions. Via-means continuing long term association of employees formed and maintained for the specific purpose of advancing and protecting the interest of members in their working relationships.

Trade Unionism

This term refers to the organised needs, wishes, aspirations and attitudes of the working class. Traditionally it has ascribed to workers Organisations a particular philosophy and function of collective representation to project and promote interest of workers Within a given socio-economic system. ,

APPENDIX B

Theories of Trade Unionism

There is no one theory of Trade Unionism, but many contributors to these theories are revolutionaries like Marx and Engels, Civil servants like Sydney Webb, academics like

Common and Hoxie and labour leader like Mitchall. Important theories of trade unionism are-as follows:

a) Political Revolutionary Theory of Labour Movement of Marx and Engels: The . Theory is -based on Adam Smiths theory of labour value. Its short run purpose is to eliminate competition among labour, and the ultimate purpose is to overthrow capitalist businessman. Trade union is pure simple a class Struggle, and proletarians have nothing to lose but their chains and they a world to win.

b) The Webbs Theory of Industrial Democracy: The Webb's book 'Industrial democracy' is the Bible of trade unionism. According to Webb, trade unionism is:an extension of democracy from political sphere to industrial sphere. Webb agreed with Marx that trade unionism is a class struggle, and modern capitalist state is a transitional phase which will lead to democratic socialism. He considered collective bargaining as the process which strengthens labour.

c) Cole's Theory of Union. Control of Industry: Cole's views are given in his book "World of Labour" 1913. His views are somewhere in between Webb and Marx. He agrees that unionisth is class struggle and the ultimate is the control of industry by labour and not revolution as predicted byMarx.

d) Common's Environmental Theory: He was skeptical of generalisations and believed only that which could be proved by evidence. He agreed that collective bargaining was an instrument of class struggle, but he summarised that ultimately there wilibe partnership between employers and employees.

e) Mitchell's Economic Protection Theory of Trade Unionism: Mitchell, a labour leader, completely rejected individual bargaining. According tc him unions afford economic protection to.

f) Simons Theory of Monopolistic, anti-Democratic Trade Unionism: He denounced trade unionism as monopoly founded on violence. And he claimed monopoly power has no usesave abuse.

g) Perlman's Theory of the "Scarcity Consciousness" of Manual Workers: He wrote two books,— A History of Trade Unionism in U.S. and "A Theory. of Labour Movement". He considered unionism asclass struggle and considered it as communism of opportunity. He considered free competitionas SIN.

h) Hoxies Functional Classification of Unionism: He classified Unionism on the basis of their functions. His classification were Business Unionism for protecting the interests of various craftmen, "uplift unionism" for the purpose of contributing better life such as association of sales engineers etc. "Revolutionary Unionism" which is eager to replace existing social order, "Predatory Unionism" which rests on these support of others.

i) Tannenaum's Theory of MartYs. Machine: According to him unionism is.born of insecurity caused by machine, and unionism overcome this insecurity.

Types of Unions

From the theories of Trade Unions mentioned above it appears that Unions vary widely in their goals, their guidelines of policy, strategy for attaining their objectives of policy, strategy for attaining their objectives and their detailed tactics and programmes. Broadly all the unions can be classified under the following heads:

i) Revolutionary Unions: Such unions believe in the {lestruction of existing special and economic order and development of a new one. For attaining this objective they may propose a major shift in power and authority and severe use of force for this purpose.

ii) Reformist Unions: Such unions work and propose changes within the existing social and political framework of society.

iii) Uplift Unions: They advocate extensive reforms well beyond the area of working conditions i.e. changes in the taxation system, elimination of property, abolition of death sentence and voting requirements.

iv) Business Unions: They depend on collective bargaining for attaining their objectives and arriving at some collecive agreement or contract.

v) Craft Unions: These unions cover members of single craft.

vi) Industrial Unions: Industrial Unions cover workers with a variety of skills employed in a single industry e.g. Coal Industry or Steel Industry.

vii) Affiliated and Non-affiliated Unions: Such unions may or.may not be affiliated to central or national or international unions.

APPENDIX C

Inter-Union Code of Conduct

We, the representatives of four Central Labour Organisations, namely, INTUC, AITUC, HMS & UTUC agree to observe the following basic principles for maintaining harmonious inter-union relations.

1) Every employee in an industry or unit shall have the freedom and right to join a union of his choice. No coercion shall be exercised in this matter;
2) There shall be no dual membership of unions (In the case of representative Unions, this principle needs further examination).
3) There shall be unreserved acceptance of, and respect for democratic functioning of trade unions.
4) There shall be regular and democratic elections of executive bodies and office bearers of trade unions.
5) Ignorance and or backwardness of workers shall not be exploited by any organisation, No organisation shall make excessive or extravagant demands.
6) Casteism, communalism and provincialism shall be eschewed by all unions.
7) There shall be no violence ,coerdon, intimidation, or personal vilification in inter-union dealings.
8) All Central Labour Organisationt shall combat the formation or continuance of Company Unions.

APPENDIX D

Main Principles of Conducts Evolved By the T.U.C., UK for its Members

1) The application for membership form of a union should contain an enquiry to be answered by the candidate as to whether he is or has been a member of any other union, and, if so, what his financial relationship to that union is.
2) As a general principle no man who is or has recently been a member of any trade union should be accepted into membership in another without enquiry of his present of former union. The present or former union is under an obligation to reply within 14 days of the enquiry, stating:
   a) Whether the applicant has tendered his resignation.
   b) Whether he is clear on the books.
   c) Whether he is under discipline or penalty.
   d) Whether there are any other reasons why the applicant should not be accepted.

   Under no circumstances should a union accept a member who is at the time of his application in dispute with his union on the subject of disciplinary action or penalty.
3) No member should be allowed to escape his financjal obligations by leaving one union while in arrears and by joining another.
4) Under no circumstances should a union accept members from any other union which is engaged in a trade dispute. It should be a general understanding that both national and local officials of trade unions should refrain from speaking or acting adverselo the interests of any other union during any, period in which the members of the latter union are participating in a trade dispute. Unions about 'to participate in a trade dispute are expected to inform other unions whose members are likely to be affected by the dispute.

UNIT 5 TRADE UNION STRUCTURE AND TRADE UNION RECOGNITION

Objectives

After going through this unit, you should be ab!& to:

- understand the present structure of trade •-pions in India;
- review of the trade union structure from craft Level to National Level; and
- examine the importance, process and-problems of recognition of trade unions and - legal framework for the same, if any.

Structure

5.1 INTRODUCTION

There is neither a common pattern and structure of trade "ions and nor any common basis on which unions are organized. 7.11 different (xi entries unions h2 developed on different lines, depending on social and etonomic,compulsions of industriOisation, political and historical factors, and the institutional framework of the respeqive societies. In the UK where. unions grew out of the guird system, the occupation and trade became the basis of workers getting together for collective action. Similar is the experience in Australia. In the USA workers are members of local unions, most of which are afflicted to national unions covering an occupation or an industry. Ithe Socialist countries unions are organized on an industry-wise basis. All persons employed in a factory and establishment belong to one union, and at the higher level each industry union compriies unions of one branch of the national economy. French, Italians and Belgian unions are divided not only on industry and plant basis, but also have religious denomination. In Japan "enterprise" is,the basis of union structure. About 85°/0 of the unions covering 80% of the total membership in Japan are confined to a single iinitiestablishment or enterprise. In no country union structure has remained static. In its attempt to adjust to national situation trade union movement has undergone changes,. Government intervention has also played a significant role in giving a direction to trade unions and in restructuring them. The impact of these changes has varied from country to country.

5.2 TRADE UNION STRUCTURE IN INDIA

The experience in India has not been different, though much of the ordeal through which unions in other countries had to pass, were spared for our unions in the early

years because of the protective arm of the State.

Even so cases are on record where union and its office-bearers had to suffer indignities at the hands of employers and penalties through State action, The strike of workers of Buckingham and Carnatic Mills in Madras which lasted for nearly three months is a glaring example of such a case. The Madras Textile labour union and its Secretary. Mr. B.P. Wadia who organized this strike, were prosecuted for conspiring against the management and causing considerable loss by taking their workmen on strike, claiming damages from him and the union. The case went up to Madras High Court who held that to form a union amounted to being parties to an illegal conspiracy and awarded to the management damages amounting to Rs. 75,000, which the Union could not pay even in 25 years with income the union had from membership subscription. The Management is reported to agree not to recover this damage if Mr. Wadia could leave Madras permanently and trade union activities were stopped. This case caused lot of resentment and agitation and is considered as one of the factors which expedited the enactment of the Trade Unions Act, 1926.

5.3 PLANT OR UNIT LEVEL UNIONS AND LOCAL UNIONS

In India the broad pattern of trade union structure has been the small unit-wise or plant . level unions locally federated•t area or national level. However, there has been some variations in structure and pattern. In the early stages, there was trend to form plant level unions covering different departments. The need for plant level unions was felt when the bulk of labour consisting of unskilled or manual workers needing protection and improvement in their working conditions also started joining unions. Later on these plant level unions welded together into larger industry area-wise unions.

Local Unions

There are also Local Unions which are not afflicted to any industry level or national level union or federation. They are independent unions centered round a particular plant or a multi-plant organization. They cover all employees of a plant/unit irrespective of occupational groups. They vary in number and strength from small to medium and large units. In times of crisis they may seek assistance and guidance of larger unions in related industries. At times some of them have political loyalties, but no union is afflicted to any political party or national labour federation. Their source of funds is largely membership subscription, but sometimes they make extraordinary collection, particularly at the time of bonus payment. They are mostly concerned with specific issues concerning workers and their conditions of employment in a particular organisation.

5.4 INDUSTRIAL UNIONS AND CRAFT UNIONS

Such unions have been organised mainly on account of the need felt by workers in one industry at a given centre to come together on a common platform. This development of industry-cum-centre unions was encouraged by:

i) The concentration of certain industries in certain areas.
ii) Promotion of employers' associations. .
iii) Provisions in the industrial relations legislation in certain State perinitting recognition of industry-wise unions in a given area
iv) Setting up wage boards and tripartite Industrial Committees and with greater scope given by Government fOr formal labour'and informal consultation in the formulation of and implementation of labour policy matter.

Such unions have been formed by textile workers in Boinbay, Ahmedabad, Kanpur and Indore, plantation labour in Assam, West Bengal, Tamil Nadu and Kerala, and jute mills workers in Bengal, Engineering workers in Calcutta, BOmbay and other important centres, workers engaged in Chemical and Pharmaceutical industries in Bombay and Baroda. Transport workers in many states also get organised on this basis.

Some of the advantages claimed for organising unions on industry-wise basis are:

i) The facility that industrial unions afford for colleCtive bargaining;

ii) Introduction of measures of uniformity in the principles governing all aspects of working conditions; and

iii) Reconciliation of sectional claims of different k vels of workers.Within an industry.

Federations and Confederations of Unions

Older industry-wise unions have acquired strength aad many new ones have also been formed not only on industry-wise basis but also on the all India level. At present there are more .than 70 such federations of workers engaged . n cotton textile, Cement, Engineering, Iron and Steel, Sugar, Coal, Plantations, Chemicals, Banks, Insurance, Railways, Oil Refining and distribution, defence establis invent and ports and docks. In respect of some industries there are more than. one unioi and these are afflicted to different federations. Some have been sponsored by the central organisations themselves as they are specialised agencies for the induqr ;es concerned, such as National Federation of Railwaymen. Major political parties, such as the Congress, Communist, the CPI, and Socialist, each has a federation at the appex or national level to which unions at the plant and state level are ,afflicted.

The organisation pattern of a trade union federation is usually three tier. Units exist at the plant or shop level, state level and national level. The federation can be registered under the Trade Unions Act.

Craft Unions

Although unions covering all workers without distinction on the plant and industry level are now the general pattern, but the craft unions have also come up in air transport, railways, ports and docks and industrial$_l$ units based on modern technology The, formation of such unions have been encourage&by the appre 'iension on the parr" of skilled workers that their interest may not be protected adequat ;Iv by the general purposes unions and also because of the union rivalries. Lack of he ogeneity and rivalries between different craft groups have also prompted the for$_t$ n 3tion of separate associations or unions. Formation of such unions has increased thy niultiplicity of unions and rivalry among them in the same industry and the same' nit. This has weakened the bargaining power of the unions and had also made it difficult for the employers to enter into collective agreements. The National Commission on Labour has recommended discouragement of the formation of such union.

5.5 CENTRAL TRADE UNION ORGANISATIONS

The trade union structure in India is headed by as many as eleven(11) central trade union organisations against one such organisation each in the UK, the USA, Soviet Russia, West Germany, Norway, Sweden and Denmark. These organisations are also known as centres of trade unions or national level federations. They are sponsored by different political parties with varying philosophies and objectives. This shows that the whole trade union structure in India suffers from multiplicity, politicalisation, inter-v union rivalries, not only at the craft, unit, industrial and regional levels, but also at the national level. Even $_{at}$ the international level some of these organisations are associated with different international organisation, known as World Federation of Trade Unions (WFTU) established in 1946, largely under Soviet leadership, and International - Confederation of Free Trade Unions (ICFTU) established in 1949 under American Leadership. The latter is running an Asian Trade Union College in India.

As on 31st March 1978 the eleven central organisations hid about 7000 unions with a membership of nearly 77 lalchs who submitted their annual returns to the Registrar of Trade Unions, Central. In 1982they submitted to the Chief Labour. Commissioner their claimgor membership of about 126 lakhs for verification. The minimum requirements for recognising these organisations for consultation and representation on national and international tripartite forums like International Labour Organisation, Indian Labour Conference and Industrial committees, as laid down by the Government, are that the organisation shonld have a membership of five lakhs or more and it should be spread over four states and industries. These requirements are at present being met only by the following four organisations regarded as major organisations.

All India Trade Union Congress (AITUC)

This was established in 1921 by the Indian National Congress for electing labour delegates for the International Annual Labour Conference at Geneva. Organised as a nationalist organisation it soon started showing signs of militant tendencies and revolutionary ideas. Now it is linked with the communist philosophy, and, therefore, espouses a more radical approach as compared to some other organisations. In 1979 it had a membership of about 13.7 lakhs. Its major objectives are:

i) To establish socialist State in India and the nationalisation of th means of production, distribution and exchange as far as possible.
ii) To improve the economic and social conditions of the working class by securing better terms of conditions Of employment.
iii) To safeguard and promote the workers right to free speech, freedom of association and assembly and the right to strike.

For furthering these objectives the means adopted are to be legitimate, pegeful and democratic viz. legislation*, education, propagation, mass meetings, negotiations, demonstration, and staging strike as a last resort.

Indian National Trade Union Congress (INTUC)

This union was organised in 1947 with active support and encouragement from Congress leaders. It is considered as the labour wing of the Congress Government. Its main aim is to bring about a peaceful and non-violent solution to industrial peace. It is the largest national federation with a membership of nearly 22.4 lakhs. Its main objectives are to (i) ensure full employment, (ii) secure greater participation of manual' vorkers in management of enterprises; (iii) complete organisation of all categories of workers including agricultural workers, (iv) organise workers on an industry-wise basis, (v) improve conditions of work, (vi) provide social security measures, and (vii) develop among workers a sense of responsibility towards industry and community. The means to be adopted for furtherance of these objectives are to be adopted through due process of law and negotiations.

Hind Mazdoor Sabha (HMS)

This national federation came into being in'1948, and in 1984 its membership was 7.52 laldis..It espouses social philosophy and has linkage with socialist parties.. However, there has been division within the socialist ranks with the emergence with the Hind Mazdoor Panehayat and other federations with socialist leanings. Its objective and methods of attaining the same are practically the same as that of the INTUC, i.e. peaceful and democratic.

Centre of Indian Trade Unions (CITU)

This was established as a result of split in AITUC in 1971, which was as a sequel to the split in the CPI owing to its allegiance tO the CPIM. It has a membership of 10.3 lakhs in 1084. Its main objective is to organise workers to further their interest in economic, social and political matters, and attain the same by legislation, demonstration, agitation and intensification of class struggle.

Other National Trade Union Organisations

Beside these four organisations at the national level, there are seven others like the Bhartiya Mazdoor Sangh (BMS), Hind Mazdooi Panchayat (HMP), National-Labour .Organisation (NLO), United Trade Union.Congress (UTUC), National Front'of Indian Trade Unions (NIFTU), and Trade Union Coordination Committee (TUCC). Their dates of establishment, number of unions affiliated to them, and their membership as on August 1984 were as follows:

	Date of	No. of Unions,		Membership (Lakhs)	
Organisation	Establishment	Claimed	Verified	• Claimed	Verified
BMS	1955	1725	1336	18.8	12.1
HMP	1965	112	426	18.5	7.6

NLO	1969	349	172	4.1	2.5
UTUC	1965	618	175	6.8	1.6
UTUC(LS)	1970	134	134	12.3	6.2
NIFTU	1967	166	80	5.3	0.84
TUCC				2.7	

Of these seven organisations NIFTU is reported to be growing fast, as it is shorn of any political ideology or control of any political party. It is not divided on any party line and so has better bargaining power. It is affiliated to one of three international labour organisation, known as World Confederation of Labour (WCL) which is reported to be recognised by the UNO and ILO. NIFTU is trying to bring together all independent unions. Its activities lay emphasis on workers education, and has set up an Institute of Indian Labour in Calcutta.

5.6 TEXTILE LABOUR ASSOCIATION

Description of trade union structure may not be complete without mentioning an industry level union, known as Textile Labour Association, Ahmedabad (TLS). This was founded in 1920 after a strike had been organised on the issue of dearness allowance or the right of the workers to be compensated for the rise in price under the *dance of Mahatma Gandhi who had to go on fast for getting this right of workers conceded by the Ahmedabad Mill Owners Association. _

From its very inception it hai been a model of sound unionism in our country, based on the Gandhian philosophy of mutual collaboration and non-violence. It has been pursuing a peaceful and developmental approach and is able to serve its members best interests. It started as a craft union, with the workers informally negotiating a wage increase. Subsequently it grew into a confederation of several craft unions, and with the passage of time, the craft unions and confederations have all merged into one single entity, It has shop steward system, where the union functionary plays on active with regard to the rights and interests of workers. It has a cell for handling the grievances of workers promptly and;effectively and also a cell which takes up the claims and problems of workers with regard to the operation of ESI Scheme. Many welfare activities are also conducted, including a special cell for women. The Textile Industry in Ahmedabad has, therefore, an industry level union which along with the Ahmedabad Mill Owners Association negotiate and decide peacefully the terms and conditions of employment, including welfare, leave etc. for the industry as a whole. By and large both parties are covered by collective agreements determining their relations.

5.7 PRESENT POSITION

The present structure of trade unions in India is quite big with craft unions at the followed by unit-wise or plant unions, local unions, Industrial unions, Federations-and confederation, and Central or national trade union organisations. The latter are also associated with International Trade Union Organisations like ICFTU, WFTU and WFL. There is hardly any developed and developing country in the world where there are so many unions either at unit or plant level or industrial level or national level. The whole structure needs to be consolidated, and strengthened. It suffers from so many malices and weaknesses, like multiplicity and politicalisation of unions at,ll levels, undesirable external leadership, poor financial codition, inter and intraunion rivalnes affecting their stability and bargaining strength or power. It is high time that the central trade union leaders and the Government could think of some suitable measures for unifying trade unions and their organisations at all levels with a view to improve their health and stability. Mere compulsory recognition of unions, and amendment of the Trade Unions Act for increasing the number of persons eligible for forming unions, or enhancement of union membership fee, or reducing the number of outsiders among the office-bearers or as members of the executive committee, may not be adequate for improving the stability and strength of unions, Perhaps if they could think of pne union for one unitor plant, one or two at the most central trade union organisations instead of the present ten or eleven, minimising politicalisation of unions, implementation of Code of Conduct agreed to by the Central trade union organisations

5.8 RECOGNITION OF UNIONS

The underlying idea of forming trade unions is to improve employment and service conditions of workers by negotiating or bargaining with the employers/managements collectively instead of determining the same by individual bargaining, as was the practice before the formation of unions, or is still the practice where workers are not yet unionised. Collective bargaining can be possible only when employer recognises trade unions as bargaining agent and agree to negotiate with it any matter affecting the interest of workers. A union may be strong and stable but unless it is recognised by the employer it will hardly have any impact. Denial of recognition to a union is likely to make it militant and behave irresponsibly. If a union has to exist it must fight to ensure its members a fair deal. As generally attitude of employers towards union has been rather hostile, recognition of trade unions has been a vexed problem. Since there is no , Central Law for compulsory recognition of unions, the employers are not bound to 'recognise any union and are free to recognise any union of their own choice. Even if an employer seeks to recognise a union, he may find himself in a dilemma due to multiplicity of unions in his establishment, which may make it difficult for him to decide as to which union he should recognise. In such a situation he may be guided only by his whims and political affiliation of the union.

Compulsory Recognition of Trade Unions

Trade Unions Act, 1926 is the only Central law which regulates the working of unions in the country. It has legalised the right of workers to combine and form unions and carry on legitimate trade union activities without any fear of civil and criminal prosecution. The Act provides for optional registration of unions defining their rights and obligations under the Act. But registration under this Act is not sufficient for the effective functionina, of trade unions and attaining their objectives. There is no provision under the Act requiring employers to recognise registered trade unions and thereby allowing them to represent workers and bargain collectively on their behalf for determining their employment and service conditions. In other words, registered trade unions are not recognised unions as the Act does not provide for the recognition of registered trade unions by employers.

In 1947 the Trade Unions Act was amended for making provision for compulsory recognition of unions. The Act as amended received the assent of the President, but it was not enforced for the reasons best known to the Government, Attempts were made to amend this Act again in 1950 and 1978 providing for compulsory recognition of registered trade unions, but the same proved infructuous as the amending Bill la' Dsed with the dissolution of.the Parliament.

In 1988 another attempt was made by the Government to provide for compulsory recbgnition of trade unions when a Bill known as Trade Unions and Industrial Disputes (Amendment) Bill was introduced in the Parliament. The Bill provided for the constitution of Bargaining Council to contain situation arising out of trade union chairman in industrial and commercial world. The bargaining Council as envisaged in the bill, had following main features.

i) Constitution of the bargaining council.
ii) Each trade union operating in an establishment to Weaned a bargaining agent.
iii) Proportionate representation to trade unions on the basis of their membership on B.C. with no minimum membership stipulated.
iv) Disputed membership of unions to be determined under Trade Unions Act.
v) Trade Union with membership of 40% of the workmen to be made a principal bargaining agentwith a right to nominate on the bargaining council a chairman of its choice.
vi) Trade unions based on craft and occupation to be excluded from the Bargaining Council.
vii) The Trade Union with the largest membership to B.C. appoint a chairman of the B.C. when no union has membership of at least 40% of the workmen.

viii) WheneVer there is only one union irrespective of membership it shall have a right to becolue a bargaining council of that unit with a right to appoint the chairman.

ix) Constitution of a bargaining council in a class of industry in a local .1rea by the State Government.

x) Creation of a B.C. to be constituted by Central Governthent in an industrial establishment or a class of industry.

This amendment of the Trade Unions Act also did not materialise as the Bill lapsed with the dissolution of the Parliament, Hente, there is still no central legislation making recognition of trade unions complsory.

5.9 STATE LEGISLATION ON TRADE UNION RECOGNITION

The Bombay Industrial Relations Act, 1946 is the first piece of State legislation which provides for statutory recognition or representative unions in the local area. This Act is applicable only to certain industries like silk, cotton, hosiery, woollen, textile processing, sugar, cooperative banking, generation and supply otelectric energy and transport **(Best Undertaking).** Among other things it provides for a classification of the registered unions as a) representative union having a membership of not less than 25% employees in any industry in a local area; b) Qualified Unions having at least 5% membership in any industry in a local area; c) Primary union having a membership of at least 15% of employees in an undertaking. The Act also provides for registration of a single union as a representative union for an industry in a local area. If there is no such union, there can be registration of any other union as a qualified union or failing which, registration of a primary union. The registration of a union can be cancelled under certain circumstances. The Representative Unions are the sole bargaining agents for representing employees in each industry in local area. But there is no provision for recognition of trade unions through secret ballot in industries covered by it. Under this Act some of the rights of a Representative Union are as follows:

i) Has the first preference to appear or act in any proceeding under the Act as the Representative of employees in any industry in any local area. Next in order of preference is a Qualified Union or Primary Union.

ii) Neither an individual nor a labour officer is to be permitted to appear in any proceedings in which employees are represented by a Representative Union.

iii) Any employer and a representative union or any other registered union may submit a dispute for arbitration.

iv) •representative union is entitled to make a special application to a labour court 'to hold an enquiry as to whether a strike, lock-out is illegal.

v) Management cannot dismiss, discharge or redhce any employee of such a union or punish him in any other manner merely because he is an officer or a member of a — registered union who has applied for recognition under the Act.

vi) In the case of an agreement, award etc., in which representative union is a party, the State Government may, after giving the parties an adequate opportunity of being heard, direct that such agreement shall be binding upon such other employers or employees as may be specified.

This Act has been made applicable in Gujarat State also who has framed their own rules for verification of fee-paying membership providing an opportunity to the rival union to challenge the membership of its counter-part by lodging objective.

Madhya Pradesh Industrial Relations Act, 1960

Under this Act Representative Union should have membership of 5T% (originally 25%) of the total number of employees employed in the industry in the local area. It makes provision for recognition of representative unions in local areas for different industries and the representation of employees. The agreement reached with such a union can be binding on all the employees in the induitry in the local area.

Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act, 1971

It came in operation from 8th September 1975. It grants recognition to Union having 30% paid membership among the total number of employees employed in an undertaking for 6 months preceding the month in which application for recognition is made to the Industrial Court. Such a Union is known as Representative Union. The Industrial Court to which application is made for recognition after hearing all the interested parties. The Industrial Court has also the power to cancel, the recognition, if among other things, it has instigated, aided or assisted the commencement of an illegal strike. It can alSo suspend the rights of a recognised union. The recognition continues for a minimum period of two years from the date of registration as a recognised union.
The Union thus recognised becomes the Sole bargaining agent and has certain rights and privileges.

Some of the rights of a recognised union are:

Check off system, sending representatives to works committee,,and representing a member in an industrial dispute, apart from the sole right of collective bargaining. A union representative while doing work for the union is to be regarded as on duty. The recognised union has also a series of obligations, the main being that of bargaining in good faith. The Act also prohibits unfair labour practices on the part of trade unions and employers. A list of unfair practices which union must avoid, is given in Schedule III to the Act.

Although the Act covers industries falling within the purview of the BIR Act and the, Industrial Disputes Act, but the provisions relating to recognition of unions do not apply to the industries covered by the BIR Act for the time being. Again, the Act provides for recognition of unions for an undertaking employing 50 or more employees on any day in the preceding twelve months.

5.10 VOLUNTARY RECOGNITION OF UNIONS UNDER THE CODE OF DISCIPLINE

In the States other than Maharashtra and M.P. recognition of unions still remains a. matter of discretion with employers. Some unions including that of Dr. Samant, raised a dispute demanding recognition of unions before the Industrial Court or Tribunal, and took up the matter to the High Court and Supreme Court, but all of them held that this could not be the subject of industrial dispute either under the Industrial Dispiites Act, 1947 or the BIR Act, 1946.
The need for suitable provisions for recognition of unions was stressed in the second five year plan., As the Government wanted to go sloW on legislation, the matter was discussed at the 16th annual session of the Indian Labour Conference held at Nainital I, May 1958. With the consensus of the representatives of all the three parties i.e. employers, employees and the GoVernment, the following criteria for.the recognition of unions was drawn up under the Code of Discipline which was adopted at the Conference.

i) Where there is more than one union, a union claiming recognitioh should have been functioning for at least one year after registration Where there is only one union this condition would not apply.

ii) The membership of the union should cover at iea t 15% of the workers in the establishment concerned. Memberihip should be counted only of those who had paid their subscriptions for at least during the period of six months preceding the recognition period.

iii) A union may claim to be recognised as a representative union for an industry in a local area if it has a membership of at least 25% of the workers of that industry in that area.

iv) When a union has been recognised, there should be no change in its position for a ppriod- of two years.

v) Where there are several unions in an industry or an establishment, the one with the largest membership should be recognised:

vi) A repiesentative:- Union for an industry in an area should have the right to represent

the workers in all establishments in the industry, but a union of workers in a particular establishment Should have the right to deal with matters of purely local Interest suchos, for instance, the handling of grievances pertaining to its members. All other workers who are not members of that union might either operate through the representative union for the industry or seek redress directly.

vii.) In the case of trade union federations whichare not affiliated to any of the four central organisations of labour, the question of recognition will have to be dealt with separately.

viii) The right which the unions i ecognised under the Code of Discipline have vis-a-vis unrecognised unions may be seen at appendix

5.11 VERIFICATION OF TRADE UNION MEMBERSHIP

Although the above criteria was agreed tly both employers and employees representatives, very feW of their affiliates have cared to act upon the smile mainly on the ground that very few of them has observed the code of discipline. Even the

employers who tried to follow this criteria for recognition, faced with the difficulty of verifying the majority character of the union to be recognised when there is more than one union. At present, the labour department on the request of the management does

the verification work and certify which is the majority union. The verification; is done on the basis of the records of membership with the trade unions which they produce to substantiate their claim about the membership.

Unfortunately this is a very time consuming process, more so because trade-unions do not maintain their membership record properly, and in spite of several requests from

the Labour Department, the unions do not produce the membership register amell as receipts. Generally the unions do not maintain subscription record in proper forni, and collection of subscription is in much arrears.

Another difficulty arises from the common names appearing in the Trade Union Registers, as this makes it difficult for the verifying authority to find out the real membership. In such cases the verifying authority has to make test check by contacting some of the workers whose names appear in the membership register of more than one union to find out as to which union they really belong to. This also takes lot of time.

Again, this verification method is being questioned by non-congress unions on the ground that it is being used to favour unions affiliated to Indian National Trade Union Congress which is alleged to be patronised by the Congress Government in Stafes as well as at the Centre. They are demanding that the majority character of trade unions should be determined by secret ballot, which is being followed in USA and U. The secret ballot system, for verifying membership is being opposed by the INTU4 , and is also not favoured by the Government on the following grounds.

It will'be dangerous to allow workers to cast their votes in a secret ballot to elict the union to be recognised. It would introduce topical political issues aboutunion

may not be directly concerned as a union, and create an election atmosphere will some leaders making promises which they will never fulfil. In that event not many v4irkers would be willing to pay the membership fee of the unions and the financial potion of these unions would be much worse. Beside, it is apprehended that appeal will beg:, the sentiments and emotions of workers. Uncommitted workers would be deciding the issues, and loyal and committed workers will be in minority. Secret ballot would also

-introduce all the electioneering tactics in the industrial enterprise including politicaliSation of trade unions, encouraging such divisive forces as caste, community, linguistic and regional differences etc., and other factors which cone into prondnence

durihg parliamentary elections. There is also the fear that employers and political parties might be able to influence the election of a representative union in their favour by contributing to the election expenses. It is also apprehended that unlike

parliamentary democracy where existence of an opposition party is a must, in inaitstrial democracy one union for one industry is the cherished goal. Again, electioneeiing would lead to election petitions, stay orders, confidence motions, defections; poll etc.

Cheek-off System: This is being advocated as another method for verification Of membership of unions claiming to be recognised. Under this system union membership

is collected through the pay roll at the time ofpayment of wages. This is one of the nghts of the unions recognised under the Code of Discipline. This method has found favour with the employer and also to some extent with the INTUC. Under this system the employer will deduct from the wages of workers union membership fee and the amount so collected will be transmitted directly to the union concerned. Such a deduction from wages of workmen under the Payment of Wages Act, 1936 with the written consent of the workmen. The subscription so collected on behalf of each union shall provide reliable evidence of its membership and the same can be used for determining its representative character or otherwise. But this system is not acceptable to AITUC, HMS, and CITU on the ground that it is open to manipulation and to the use of undue influence.

5.12 RECOMMENDATIOMOF NATIONAL COMMISSION ON LABOUR

All aspects of Trade union recognition were also considered by the Commission and they recommended that a) It would be desirable to make recognition compulsory under a central law in all undertakings employing 100 or more workers or where capital invested is above a stipulated size, b) A trade union seeking recognition as a bargaining agent from an individual employer should have a membership of at least 30% of workers in the establishment, c) The minimum membership should be 25% if recognition is sought for in an industry in a local area, d) the minority union should be allowed only the right to represent cases of dismissal and discharge of their member 'before the Labour Court, e) Industrial Commission should he appointed both by the 'State and Central Government, and one of the function of such a Commission is to verify the membership of the union for recognition by examining records of membership and the subscription paid, or if it considers necessary by holding election by secret ballot open to all employees. The Commission should define also the rights and privileges of both recognised and minority unions. As recommendations of the Commission are yet to be implemented by the Government, the debate is still on in regard to the method of verification of union membership for recognition purposes.

A tentative formula drawn up at a recent meeting of. the 'representative meeting of the INTUC, AITUC and HMS reflects some mature thinking in regard to the recognition issue. The brief content of this formula is as follows:

i) All recognised claims shall be dealt with by independent judicial authority taking into confidence the representatives of the contending parties.
ii) When more than one union either in the plant or in the industry put rival claims for recognition, firstly there would be verification of paid membership of each contending union. If verification of the largest two contending unions reveals no significant gap or difference in membership, the choice of selecting one among the two as the sole bargaining agent would be left to all the workers employed in the plant or industry through secret ballot.
iii) In the case where one recognised union already exists at the industry level, no other craft or occupational or category-wise union would be permitted recognition at the plant or enterprise level.
iv) The recognition once granted will remain valid for two years and the incumbent union is permitted to continue further, unless its validity, is challenged successfully by other unions following the usual procedure.

This formula also could not overcome the earlier limitations, it only seems to lay emphasis on the procedure of verification of paid membership and accepted secret ballot only as a last resort. As verification of membership involves no sense of confidence in the disputants, this formula may invite stronger opposition from other central trade unions like CITU.

5.13 PRESENT POSITION

Position regarding recognition of trade unions as bargaining agents for the promotion of collective bargaining as method of determining employment and service conditions

of working class and resolving industrial disputes and conflicts, has not changed materially since Independence. Excepting three states recogfition of union by employers remains discretionary in the rest of the Country. There is still no Central law providing compulsory recognition of union. Voluntary criteria for recognition agreed to by the parties under the Code of Discipline has not been implemented by vast majority of establishment or enterprises. There is still no consensus among the parties on the methods or according recognition to a union. Central T.U. organisations are also divided in regard to the method of verification of union membership for recognising union. The bone of contention/controversy or problem whether secret ballot, or check-off system or physical verification is to be used for the purposes of determining representatiVe character of a union, is still defying solution. The only ray of hope is provided by the periodical statements made by the Central Government that a new amending Bill amending Trade Unions Act, 1926 and the Industrial Disputes Act, 1947 based on the recommendations of Ramanujam Committee will soon be introduced in the Parliament. It is, however, to be seen that it meets the needs of the parties concerned, and it does not meet the same fate as the similar amending Bills introduced in the Parliament during the last forty five years.

5.14 SUMMARY

We have considered the present structure of trade Unions in India, and how it compares with that in other countries. Growth of various parts of the structure and the basis on which they are organised, have been reviewed. Present position and the need of rationalising and consolidating the structure has been explained. Passing reference has been made regarding the problems of multiplication, Politicalisation, inter-union rivalry and undesirable leadership, which are afflicting the whole structure at most of its levels.

The need and importance of recognition of unions for attaining their objectives and funotions more effectively have been explained. Attempts made by the Central Government to enact a central law for compulsory recognition of union have been reviewed. Important provisions made by. Maharashtra, Gujarat and M.P. Governments for verification of union membership for recognition, and differences among the major central trade union organisations regarding the methods of verification have been discussed. Present position regarding the trade union recognition and the po.,sibility of finding solution of the problems involveo a 'pe;ned.

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Appendix

Rights of Recognised Unions Under the Code of Discipline vis-vis Unrecognised Unions

1) it was agreed that unions granted recognition under the Code of Discipline should, for the present, enjoy the following rights:
   i) to raise issues and enter into collective agreements with employers on general questions concerning the terms of employment and conditions of service of workers in an establishment, or, in the case of representative union, in an industry in a local area;
   ii) to collect membership fees/subscriptions payable by men bers to fhe union with the premises of the undertakings;
   iii) to put up or cause to put up a notice board on the premises cf the undertaking in which its members are employed and affix or cause to be affixed thereon notices relating to meetings, statements of accounts of its income and expenditure and other announcements which are not abusive, inc :cent or inflammatory or subversive of discipline or otherwise contrary to the Code;
   iv) for the purpose of prevention or settlement of an industrial dispute.
      a) to hold discussions with employees who are members of the union at suitable place or places within the premises of office/factory/establishment as mutually agreed upon.
      b) to meet and discuss with an employer or Any person appointed by him for the purpose, the grievances of :'embers env toyed in ta$, unde
      c) to inspect, by prior arrFigement, in an undertaking, any place where any member of the uric i& employed.
   v) to nominate its representatives on the Grievance Committee constituted under the Grievance Procedure in an establishment;
   vi) to nominate its representatives on Joint Management Councils; and
   vii) to nominate its represents tives on non-statutory bipartite committees e.g. production committees, Irelfare committees, canteen committees, house allotment committees, etc. set up by managements.
2) The rights referred to above would be without prejudice to the privileges being enjoyed by the recognised unions at present, either by agreement or by usage.
3) The question of grant of special casual leave to office-bearers and release of employees to work as full time union functionaries was briefly discussed. It was, however, decided to defer these questions for gill consideration at a future tri-partite meeting. The organisations agreed to send full information regarding the existing practices on the subject of rights and privileges of recognised unions.
4) The question of rights and privileges of non-recognised unions was deferred for future consideration because of differences of opinion.

UNIT 6 LEADERSHIP AND MANAGEMENT IN THE TRADE UNIONS

Objectives

After going through this unit, you should be able to:

- understand the management of trade unions;
- internal activities of unions;
- the factors responsible for development of internal or external leaders; **and**
- various aspects of union activities.

Structure

6:1 TRADE UNION MANAGEMENT

Management of trade unions is different from managing other organisations. Trade unions are indeed organisations and therefore face structural problems, require leadership, need resources from the environment and most important, have their own survival requirements. In short, they have all the problems of any organisation. Yet trade unions are often seen as deserving attention only because of its impact on other segments of society. Unions directly serve a more restricted clientele, and their indirect contributions to the larger society are less significant than are the contributions of goods producing organisations. People ignore the fact that unions exist to serve their own interest, not someone else's. The position taken here is that if unions exist because members want them to, they need no further explanation. An industrial society is a good society when it has many rather than few centre of power, each power centre able to represent some segment of the private interests of the clientele it serves. There are three things we should keep in mind while trying to understand union as organisation.

Union Structure : The Flow of Authority

All organisations have structure, the network of connections pass, by which status distinctions are made, and through which coordination of activities take place. So central is this network of connections to the very concept of organisations that one think of the boundary of an organisation as the point at which these connections are sharply in number and intensity. Within the organisation it is traditional'to think of the flow of authority of moving down' through tnese connections, and also delegation, the transfer of formal rights to exercise authority, as moving down-the hierarChy. In the union this movement is in part reversed.

The format grant of authority is from the membership to the leader. Sometimes this authority is not a direct grant, but is delegated upward. For example, the membership elects committees who in turn elect the executive. Or the officers may be elected directly, but in addition, an executive committee is elected which has formal authority over the officers. This upward flow of authority is quite different froi.that found in other economicorganisations..The strength of the union depends upon the support of the membership; in a real sense it operates through them in any test of strength, or even in a show of strength. For this reason, the formal grant of authority becomes more than in an item of purely theoretical or academic interest. It may require affirmation in action during even minor crises. This is well illustrated when union members are

reluctant — even though they may be,quite strong in an establishment — to have the union act for them. Presumably there are other facts of union membership which are valuable to them, but they view representation not so much. as a right as an irritant.

Together with the upward grant of authority from the membership to the leaders is a downward flow of exhortation and direction. This downward flow can be compared to the flow of authority in a goods-producing organisation, and the parallels are very strong indeed. But the vital difference - that this power is being exercised over people on whom the leader is dePendent does add a *new* dimension to the exercise of this poyier, for it continually intermixes questions of job security of the leader with the exercise of authority. It is this elements which makes the problem of delegating authority to subordinates of the leader so difficult to deal with. The optimum degree of delegation in a union may well be a function of the leaders security rather than any measures of the efficiency resulting from the delegation.

The leader however needs more than the formal grant of authority from the member to support his right to exhort and direct them. The leader is the union, in so far as many members perceive the relation. He embodies the'collective power of the union, and while it may require collective action to make it real, to an individual member or an outsider it appears that only the leader has the ability to exercise or restrain it. This i! national, for the typical member does not work in the union; he works in a firm. Accordingly, there must be a significant organisational bond which ties the member to the union, either of ideology or of firm belief that supporting 'his' union is in his own best interests.

Member Allegiance : The Organisational Bond

In the typical employment relation between employee and firm the central, though by no means the only bond, is the economic One. In a Union Such an economic bond is present, (it pays to be a member) and in some unions may be dominant (I will be fired if I do not pay dues). There need to be member conviction that the union membership `pays' in a non-economic sense as well as an economic one, whether this be through pride, self-respect, opportunity to shape decisions at the work-site, or whatsoever.

Simple loyalty to a leader is not a satisfactory basis for member allegiance. Such loyalties can produce movements, but they must be institutionalised before they can produce stable organisations. The ephemeral quality of Indian which depended heayily on loyalty to a person gives evidence of this truth and it is clear that member allegiance to a union which is not based on self-interest is unlikely to be a sufficiently strong organisational bond.

Only rarely will this bond be a truly ideological one. Workers do not shift from a Communist led union because they have become dedicated communists, then from a -congress union because they have become congressites etc. Loyalty to a union is a fun'ction of self-interest, but to repeat, self-interest is not only economic.

TS a union has no bargaining power it can still exist, but only with outside support. A Price must be paid for this support, the more dependent is the union, the more does it become a captive of the organisation which supplies it. In India the captivity of some uni)gsis less direct, but no less pronounced, for these unions are dependent on•the state for survival. Such unions lack the organisational bond which gives the basis for bargaining power which in turn encourages member-centered unions; unions without this bases for power will be called dependent unions.

Union Goals

Third relevant distinction between producing organisations and trade unions is the difference in goals. It is true that some employers seek to reach none economic goals, such as employee satisfaction, prestige in the community, or perhaps a quite life for themselves. Most often, however, the primary goal is economic, the generation of a profit (or surplus), or at least an absense of lass. When achievement of th's goals is endangered, other goals become secondary. More money is not the primary goal of a trade union. More money is merely one of several ways in which the life of the member may be made more pleasant. Thus thetrade union can look on mere money seekin' is a secondary and somewhat inferior type of goal. This sense of moral superiority is increased in the trade union leader, because the money he seeks is not for himself but for his members. It is Satisfying, personally, to have grounds for feeling morally above

an opponent. It also contributes directly to organisational strength. This is cleirly evident in the stories of historic strikes_

Moral purpose will not be associated only with member centered unionism; it is equally likely to be present in political unionism, worker organisations led by persons whose orientations are toward service to a larger segment of society than just the union members. An ideology which leads to political unionism has a significant advantage; it can draw fellow ideologists into a support of the organisation. When skills of a sort necessary to run an organisation are in short supply, this may be a decisive advantage, for the organisation commands free resources. But such an ideology also has significant drawbacks, for it means that member service is no longer the ultimate end, but merely a means to (a new) ultimate end. Political unionism, then is to be distinguished from member centered unionism by the purposes it gives to the organisation.

This distinction in purpose between member-centered and political unionism is a clear enough at an impressionistic level, but presents .a problem at an analytic level. It is difficult to describe unions as having similar or having different goals unless one can derive goals operationally. Member service is a category of goals, and not a goal. Moreover, no union leader would admit that such service was not a goal of his union. In political unionism the probleml of defining objectives becomes difficult in the extreme. For example, on occasion that a broken strike is more advantageous than a successful one. The essence of pure political unionism is that the connection between leaders and persons outside the union (in the party; the federation, etc.) are stronger than those within the union. Thus the boundary of a union is not always sharply defined at the top. It was indicated earlier that if the connections between the member and the union are too weak, there is no bargaining power. If the leader is strongly connected to another organisation, it may simply mean the 'union' is really a part of another organisation. The Indian experience suggests that the analytical difficulty in defining objectives for political unionism is a practical problem as well.

Whether a union is member-centered, dependent, or political, it must still serve members. No matter whether its leader's sense of moral purpose comes from serving members, or serving social uplift, or the revolution, no matter whether its muscle comes from the membership or is borrowed from government, it must still act for the members. How shall it act? Moral purpose, however satisfying is not an objective around which activities can be organised. Muscle; no matter whose, must be used.

Unions are organisations and should be studied as such, that is, assumed to have goals that are functional for themselves and not others. Three characteristics of unionism are of particular note when seeking such an understanding nthe structure of unionism, the strength and nature of member allegiance to unions, and the nature of union goals.

6.2 MANAGING INTERNAL AFFAIRS OF THE UNION

The trade unions as organisation involve themselves in a variety of activitin. Certain activities are more important than rest of them. For understanding of how unions manage their internal affairs of the union, we may analyse, how communication system operates, how decisions are made, how union elections are conducted and how do they manage to create interest in members in enlisting new members etc. -

Communication System in Unions

Communication based on egalitarian norms in a trade union is a must for its effective performance. For example, without proper information about the date, time and place of the union meetings, even the interested members cannot attend the union meeting. Hence, we cannot underestimate the role of communication in the unions. The formal structure and informal network in the union prOttide the necessary channels which control the flow of information, and information constitutes one of the major inputs of the decision making process in the organisation. Within the union organisatibn irnportantinfoimation and knowledge have to pass downwards to the workers as well as upwards from the rank-and-file to the leaders of the union. Here again it is the shop floor leaders who provide the basic relational link both within the union and between the union and the managements Moreover, it is the informal networks organised along factions which is the most crucial and efficient channel of communication.

Decision Making

Related to communication is the decision making process in unions. The decision making processpay be related to day-to-day affairs, meeting the challenges of new developments or facing a crisis situation. All the members ultimately face the consequences of a decision either positive or negative. We can classify the decision making styles in the union into two types. They are, (a) democratic decision making, and (b) bureaucratic or undemocratic decision making styles. The democratic decision making should include not only formal procedures according to the constitution but should also respect of the opinion of the majority and avoid any action to obstruct the presentation of opinions and opposing views. On the other hand, the bureaucratic union, does not provide meaningful opportunities for members' participation in the formulation, ratification and implementation of the union policy.

Union Election

Union eleCtion of leaders is one of the important affairs of any union. The union Constitution provides for Union election, method ofvoting, periodical interval etc. Depending upon whether a union is democratic or otherwise, a pattern of election procedures are followed. Some unions conduct union election once a year, some every two years, others at irregular intervals etc. The voting method also found tobe peculiar. Some unions prefer voice vote., some go for raising of hands, some prefer unanimous electiOn and some othecunions adopt secret ballot method. In a democratic union everyone or every faction has an equal opportunity to contest elections, whereas in the oligarchic union some individuals or a particular group of individuals keep contesting the elections. In the Indian context mostly the union elections are a formality.

Membership Drive

Enlisting new members to the union is one of the important activities of the union. This requires involvement of some workers in addition to that of the leadership. Generally an active member who is satisfied with his union participates in enlisting new members on his own. By canvassing for his union, he motivates the non-members as well as the members of other unions to join his union. Members who are satisfied with their union as the best one and go about convincing the potential new members to join their unions. Without union drive neither the union can exist nor it can broaden the power base.

6.3 INTERNAL AND EXTERNAL LEADERSHIP IN UNIONS

In the Indian context, it is found most of the members do not take part in union affairs actively. One of the consequences of the lack of active involvement of the rank-and-file members:tip in organising and running their unions is that it provides an excellent ground for outsiders to step in and take over. The outsider may be a disgruntled exfonployee, a professional trade unionist, or a politician. The presence of outside leadership is sometimes attributed to the low level of education among the workers.

There are of course, other reasons for the emergence of outside leadership. Union is not still the felt needs of the management. Hence, workers who take active interest in organising and leading a union often run the risk of victimisation by the employer. The Indian industrial relations system, is based on a complicated legal system which demands technical proficiency on the part of union leaders. Although such competence is seldom available within the ranks of union membership, the employers have not yet shown their willingness to develop it by providing necessary facilities and support.

The Indian industrial worker seems convinced that he needs a union. And yet he is not willing to put in the necessary effort to build a viable trade union movement nor even a stable plant union. Despite low union participation, the wokers' short-term occupational interests are well taken care of. This is made possible by the availability of outside professionals as well as national political parties that are always ready to step in and carryout all the necessary work connected with formation and running of unions. This arrangement apparently suits the worker for, besides saving him time and effort, it minimises the risk of victimisation at the hands of the employer. The following are certain factors attributed to the underdevelopment of internal leadership and growth and development of external union leaderships.

Education and Training

Lack of education and appropriate training is one of the reasons for emergence of external leadership. The lack of required education and training handicapped them in the administration of the organisation, representation of cases in negotiation, conciliation and adjudication proceedings and in the understanding of the problems of trade unionism and industrial relations: It is found, the knowledge of various labotir laws and in particular of the industrial disputes legislation which require high degree of educational attainment and spare time too for understanding.and assimilation.

Poor Economic Conditions of Workers

Royal Commission on Labour had commented that those whose wages and leisure are barely adequate for sustained work in the factory are not likely to find energy or leisure for activity outside it. These remarks are found to be true even now. Additional earnings by working extra or overtime may be weighed against spending the time in trade union work and a poor worker may be inclined to prefer the first alternative to the second. Hence, shortage of time is found to be one of the reasons foremergence of outside leaders. Workers have little leisure after the day's work is over. Their time outside the factory is occupied with domestic duties.

Employers Attitude and Victimisation

Trade unions are considered a challenge to the power and authority of employers. They may resort to a variety of measures such as victimisation, prohibition and restraint on union meeting and maintaining of black list. When employers are hostile to trade unionism, they are prepared to stop to any level to prevent formation and proper functioning of unions and to anihillate the existing ones. They resort to victimisation in some form or other. Employers have no opportunity to victimise those who have never teen employees or who have ceased to be employees. Ex-employees had suffered mostly byway of termination of service'and even imprisonment on account of their being involved in some false cases. Forms of punishment of those who continue to be in service differ widely. For them suspensions, demotions and discriminations in matters of transfers and promotions seems to be more common.

Migratory Nature of Employees

In India, migratory nature of employeesis peculiar problem to trade union movement. Employees often change their jobs due to temporary nature of work, dissatisfaction with service conditions and better prospects elsewhere. Along with these, it cannot be denied at the same time, that fear fvictimisation is also an iportant cause of moving from one organisation to another. Changthof jobs deprive the employees of the amenities and privileges associated with seniority and performances. The case of unionism also suffers because with every change some of the old contacts are broken and new contacts have to be developed.

Lack of Interest

After payment of subscription the worker feels that his duty to the union is over and he ceases to take any further interest in its activities. Explanation of his lack of interest is to be found in a large measure in his migratory nature and philosophy of fatalism and contentment. The need for unionisation is not felt actually because the migrant worker is prepared to retire to his village home for relief and maintenance in emergencies and for final settlement after completing his period of employment in industry.

Lack of Class Consciousness

The majority of workers in India still remain an inarticulate, incoherent and floating mass and have not yet become a selftonscionsness independent permanent class with a well recognised status and.with distinct rights and privileges as well with well developed sense of duty and obligation in modern industrial society. There is . inadequate realisation of the effectiveness and utility Of collective action. - Communalism, regionalism, and lingual differences retard class solidarity and produce emotional disintegration. These are some of the factors which are responsible for hindering the growth of internal leadership and in-turn lead to the development of external leadership.

6.6

context still outsiders dominate the unions because, it is difficult for the rank-and-file to develop internal union leaders. The unions undertake many activities such as, collectivebargaining, negotiation, industrial action and legal action. Still only a few unions undertake welfare activities.

6.7 FURTHER READINGS

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UNIT 7 WHITE-COLLAR AND MANAGERIAL TRADE UNIONS

Objectives

After going through this unit, you should be able to understand:

- the formation of white collar managerial unions,
- the nature and role of such unions, their growth and problems, and
- why these unions formed and how to deal with them faiily?

Structure

7.1 INTRODUCTION

The Trade union movement ha seen one of the first fruits of Industrial Revolution the world over. It is the miseries created by this revolution which led to the growth of trade unions. Had the factory or large-scale system of production started by the revolution given a fair deal to workmen instead of exploiting them, workers might.not have thought of forming unions for bargaining with the employers collectively for human and reasonable working and employment conditions.

In India, though the origin of the movement can be traced to sporadic labour unrest dating back to 1887 when the workers of the Empress Mills, Nagpur struck work following a wage cut, the systematic trade union movement on modern lines started towards the end of the first world war when Textile Labour Association started working ito 1917 with a strike for wage cut. This was followed by the formation of Madras Labour Union led by B.P. Wadia in 1918, and All India Trade Union Congress, a central labour organisation, formed by the Indian National Congress in 1920 to depute delegates to

the International Labour Organisation (ILO) formed in 1919. The enactment of the Trade Unions Act in 1926, which made it legal for workers to organise and form unions, and granted them immunity from civil and criminal prosecution for bona fide trade union activities, together with World War II and Independence, gave further boost to this movement resulting in considerable increase in the number of unions and their membership. At present there are reported to be nearly 70000 unions, more than 100 federations and confederatitins, and 10 central trade union organisations claiming membership of nearly 14 million.

There was a time when unions and strikes were known only to workers in factories, mines, railways, docks, etc. White-collar employees and professional people like doctors, engineers, lawyers, professors and senior executives and managerial staff thought it below their dignity to band themselves in unions, march the high streets, and yell slogans. Today it is different. Trade unions exist among most professionals, white-collar employees, officers, senior execPt;ves, and managers, and so do strikes and gheraos.

Highly.paid employees in.banks, in the Life Insurance Corporation and in many'other establishments are organised, and so the Central Government and semi;government employees. They take recourse to strikes, mass casual leaves, work to rule, dharnas, and gheraos for seeurir.7:their demand, and thus creating some embarrassing problems for their employers/managements requiring serious consideration.

7.2 WHITE-COLLAR WORKERS AND BLUE-COLLAR WORKERS

Both blue- and white-collar workers are employees, but are of different status, and holding different positions at different levels. The differences between these two categories **of unions are** as summarised in the Table below:

Differences between Blue and White Collar Workers

i)	All shop-floor workers (Part of production system who operate machines and related systems) are termed as blue-collar workers, as their work is not generally clean.	All clerical el office staff who do not work on the shop-floor, are termed as white-collar workers as their work and working places are clean.
	They are manual workers with lower literacy and education, and have their own social and economic background.	They are generally involved in a desk job or providing service over the counter. They are non-manual workers forming a distinct social group characterised by divergent socio-economic backgrounds, level of education, manner of speech, social custom and ideology. They are better educated and have jobs requiring mental capabilities to a greater exent.
iii)	They icay be paid by time, or by piece, or results, either on daily, or weekly, or fortnightly, or monthly basis. They are generally wage earners, and may have lesser holidays, and leave facilities and other privileges than white-collar workers.	They are time workers paid on monthly basis. They enjoy longer holidays and leave facilities and better pnvileges. They are concentrated in the fields of commerce,
	iv) They are not so inclined towards management. On the other hand, they may be caring for their unions than for the management.	They hold such jobs that they are regarded as part of the management, and so they are more inclined towards it than the blue-collar workers.
v)	Excepting highly skilled categories who are in greater demand and can manage to have higher wages income, the blue-collar workers are not so well paid. Their fringe benefits and perquisites are lower than that of white-collar workers.	Because of their professional and social standing they are generally better paid and have better terms and conditions of employment, including better perquisites and fringe benefits.
vi)	They have better union protection and job security by labour legislation, such as Industrial Disputes Act.	They have no union protection if they are not unionised, and also job security if they are not covered by the Industrial Disputes Act, 1947 as may be the case with not, a few of them.
vii)	They are mostly engaged in production processes.	transport, storage and communication. They are engaged in different occupations that fall under the category of professional, administralive, executive and managerial workers, clerical and related workers, sales staff, technical, and supervisory and other workers, engaged in transport and Communication services, or in sports and recreational facilities, artists and musicians.
viii)	They have no authority, and nor are they associated with decision taking.	They are linked with their employers by being associated with that part of the productive process where authority is exercised and decisions are taken.

Source: Industrial Relations, Arun Monappa, Tata McGraw-Hill, New Delhi, 1985, pp. 33-34.

7.3 WHY WHITE-COLLAR WORKERS' UNIONS?

Seeing how unions of blue-collar workers had improved their service', employment and working conditions by bargaining collectively with their employers for better and regular payment of wages, bonus and other fringe benefits, and job and social security, white-collar workers also started uniting and organising themselves and forming their

unions for fighting for better pay scales, more fringe benefits, internal promotion by collective bargaining, agitation and litigation. Other factors responsible for the growth of white-collar unionism are:

i) Denial of both Job Security and Social Security to them by their exclusion from the purview of labour laws like Industrial Disputes Act, 1947, and Laws relating to wages, bonus and social security against such social risks as sickness, maternity, premature death, and permanent or temporary disabilities caused by accidents, old age and retirement.

ii) Anomalies in pay caused by implementation of the recommendations of Wage Boards and Pay Commissions.

. iii) Nationalisation and consequent rationalisation of pay and perquisites.

iv) Inconsistent and discriminatory promotion and salary policies which have been causing so many conflicts and disputes,

v) Gradual narrowing of wages and salaries differentials of blue and white-collar workers due to fast improvement in the wages and fiinge benefits of the former on account of their union activities, and so causing feeling of deprivation among white-collar workers.

vi) Inflation and 'soaring prices resulting in erosion of pay and standard living of white-collar workers, and thus leading to demand for higher pay, dearness allowance and annual bonus and oth'er i i ige benefits. It is the.unions of the Goverriment employees and public sectors undertakings who had been excluded from the purview of the Payment of Bonus Act, 1965, enabled them to receive now annual bonus worked out on the basis provided under This Act.

7.4 GROWTH OF WHITJ-COLLAR UNIONS AND PRESENT POSITION

In India unionisation of white-collar workers began as early as 1897, when National Union of Railwaymen of India and Burma was formed. In 1905 Printers Union was formed, and in 1907 Calcutta Postal Union started functioning. However unionism among white-collar workers did not have significant growth before the Second World War. During this war banksmen formed their unions, and their dispute was referred for adjudication. In the Post-World-War period rapid growth of industries and increasing number of banks and insurance companies, commercial offices, and also increase in the number of Government and semi-Government offices, accounted for tremendous increase in the number of white-collar workers. This is shown by the.following census data for the decades ending 1951, 1961, and 1971.

Table 2

Year .	Working Population (Million)	Number of Persons engaged in Non-Manual Operations (Million)
1951	139	23
1961	188	28,
1971	180	31

Source: Industrial Relations, Arun Monappa, Tata McGraw-Hill, New Delhi, 1985, p. 34.

According to Census of 197,1, 31 million white-collar workers were engaged in different occupations as shown in table below:

Table 3 : White-Collar Workers

Sample of Occupational Groups	Number
.Professional, Technical and related Workers	4,083,300
Administrative and Managerial Personnel	670,300
Clerical and related Workers	5,231,600
Sales Workers	1,620,400
Service Workers	3,614,500
Farm Sectors,,Supervisors and•Workers	•1,958,600
Production, transport and Communication	11,990,300
Workers not Classifiable by Occupation	1,290,500

Source: International Labour Office, Year Book of Labour Statistics, Geneva, 1977, p: 222.

Of the 31 million white-collar workers, 1.1 million are unionised and there are 1448 trade unions of white-collar workers as shown below:

Table 4

Membership of registered aide unions in certain Industry Groups in India

	Number Of Unicns submitting returns	MembershiP in Lakhs (Foi 1971)
Commerce	593	2.23
Transport; storage	147	6.10
Communication Services	708	2.26
Total	1448	10.59

Source: Indian Labour Statistics. Labour Bureau, Ministry of Labour, Government of India, Simla, 1976, p. 169-181.

Unionisation position in regard to White-collar employees in the Government and their Organisations is as shown below:

Table **5**
Union Membership of the Employees of the Government and their Organisations

	Organisation	Number of Employees (Class **1, 11** and III)	Membership of Union
	Central Govt. (Posts & Telegraphs, Income Tax, A.G. Office, C.H.S., C.P.W.D., Customs)	16,24,000	9,50.000 (Includes class IV employees)
2.	Defence (Civilians)	2,46,600 (Includes class IV employees)	3,50,500
3.	Railway.;	5,98,900 (Includes class IV employees)	7,90,000
4.	State Governments	33,00,000	19,00,000 (Policemen are excluded as they are not allowed to join unions)
5.	Insurance Employees (LIC)	45,000	28,000
6.	General Insurance	20,000 (Officers and Class III employees)	22,000 (Includes class IV employees)
7.	Banksinen	2,08,000	1,89,000
8.	Primary Teachers	22,00,000	17,00,000
9.	Secondary Teachers	6,50,000	4,50,000
10.	University & College Teachers	1,50,000	75,000
11.	Journalists	15,000	4,800
12.	Doctors (Allopaths)	1,00,000	45,000 (As Claimed by IMS)

Source: Illustrated Weekly of India, October 14, 1973.

Besides the above unions of white-collar workers, there may be many more which did not submit the returns to the Registrar Trade Unions, or might be functioning as associations registered under the Societies Registration Act, 1860. In fact there may hardly be any public sector undertaking and semi-government establishment where the clerical and junior staff are not organised and functioning as unions or associations for bringing collective pressure in one form or the other for meeting their demands, or redressing their grievances from time to time.

Unions of salaried workers which are about thirty years old, now constitute a stable part of the trade union movement. In some cases they are part and parcel of the general union for the establishment, providing in that case leadership by virtue of their better educatio.n. Even teachers are now organised from the primary to university level. Central Government employees have a Confederation. State Government employees have their own organisations which have come together in a national federation. Secretariat staff apart frOm railwaymen and postmen, are not allowed to form unions, since work in the Government is not an industry. That is why they call their organisation

"association" and not union, which is generally registered under Registration of Societies Act 1860, and not under the Trade Unions Act of 1926.

According to their conduct rules Government employees cannot goon strike. They cannot join an organisation in which non-government employees participate. Also, they cannot have outsiders as office-bearers, nor can they work for any political fund. But in practice these restrictions have little meaning, as Government employees do go on strike and associate themselves with the unions of non-Government employees.

Salaried employees, known as white-collar employees, have been slow to form unions. This has also been the experience even in USA and Great Britain. But once they get over their initial coolness, they become as devoted to their unions o, associations as manual workers.

Professional and technical workers start with professional organisations, which, in due course,"undrfake negotiation for beter pay and condition of work and acquire the status of "near uni)n3" which in due course tend to become more conventional unions.

Some of the important Trade Unions of which white-collar workers are the members, are (i) The Confederation of Central Government Empi*es and Workers; (ii) All India Defence Employees Federation; (iii) All India Defence Federation; (iv) All India Railwaymen Federation; s'AITUC), (v) National Federation of Indian. P ailwaymen (INTUC); (vi) All India State Government Employees Federation; (vii) All India LIC Employees Federation; (viii) All India !rsurance Employees Association; (ix) National Confederation.%General Insurance Employees Associations; (x) General Insurance All India Association; (xi) General insurance All India Officers Association; (xii) All India GeneralInsurance Field Workers Association; (xiii) National Federation of P.T. Workers; (xiv) Indian Federation of Working Journalists; (xv) All India Bank Employees Association; (xvi) National. Union of Bank Employees; (xvii) Indian Medical Association; (xix) RBI Supervisory Association; (xxiii) RBI Officers Association. In Bihar and U.P. Policemen have formed their own associations and ar functioning as unions, and have been taking recourse to strike and other pressure tactics demanding higher pay and improvement in their other employment conditions. Another recent development noticed as far as white-collar unions are concerned, is the increasing militancy among white-collar workers as in case of blue-collar workers. They also take recourse to gherao, demonstration; intimidation, dharna and hunger strikes for getting their grievances redressed and improving their salaries and other employment conditions.

Position in Other Countries

In USA and Great Britain unionism among salaried workers, known as white-collar workers, especially professionals and technical workers is fast growing and expanding. The latter start with professional organisation, which in due course, negotiate for better pay and condition of work, and thus acquire status of "near union". The National Education Association with more than a million teachers and administrators, prided 'It self On its status as thoroughly professional association. Now the teachers affiliated with this association have embraCed the idea of negotiationt with School Boards, and resorted to strikes and other collective sanctions to achieve their proposals. Professional associations of nurses are now having recourse to mass resignations and other forms of economic pressures to achieve collective agreements. In professional atheletics, football and baseball association have all sprang up, seeking negotiations and uttering ominous threats of stopping play. Police officers associations in a few localities have invented the "blue Plague" exotic illness, known only to uniformed petrolmen in search of improved benefits.

Another development in the American trade union movement is the advent of widespreLd public employees unionism. The American Federation of State, Country, and Municipal employees with a membership of more than five million, is one of the largest affiliate of the AFL-CIO, With the increase in membership, public employee 'unions are acquiring a larger say in the affairs of the country's trade union movement. The Public employees have acquired the right to join and form inions and also the right to bargain collectively by the order of President Kennedy of January 17, 1962, but not - yet the right to strike.

7.5 LEGAL FRAMEWORK OF WHITE-COLLAR WORKERS' UNIONS

Like the blue-collar workers the white-collar workers can organise and form and join union. This right is granted by the Constitution of India. Any seven or more white-collar employees can form a union and get it registered under the Trade Unions Act, 1926 in the prescribed manner. This Act gives the workers the right to organise but not yet the right to bargain collectively, as they have no provision for recognition of union, except in Maharashtra, Gujarat and M.P.., where State legislations make provision for recognitiOn of unions as bargaining agents. However, Trade Unions Act, 1926 provides for the immunity to unions, its members and its office bearers from Civil and criminal prosecution for bona fide/trade union activities, such as peaceful strike, agitation, picketing and demonstration. This Act also enables registered unions tolaketindustrial disputes to conciliation and represent workmen in arbitration and adjudication and any other proceedings under the Industrial Disputes Act, 1947. Unions are also allowed to constitute a political fund from voluntary contributions separately levied for or made to that fund. The Trade Unions Act, 1926 also makes it obligatory for registered unions to have monthly subscription of not less than 25 n.p., and use union money for the purposes mentioned in the Act, maintain membership register and proper accounts open to members for inspection, have at least 50% of its office bearers from among actual workers, dissolve union or amalgamate it with any other union, or change its name in the manner prescribed under the Act, and submit an annual statement, audited in the prescribed manner, of receipts and expenditure of the union during the year ending 31st day of March, and of the assets and liabilities of the union existing on 31st day of March.

7.6 DISTINGUISHING FEATURES OF WHITE-COLLAR UNIONS

There are some noteworthy features of unions Of white-collar workers which distinguish' them from that of the blue-collar unions as stated briefly below:

i) White and Blue collar workers unions are mostly registered Under the Trade Unions Act, 1926 and are generally known as workers and employees Unions, White-Collar workers unions are registered either under the Trade Unions Act, 1926, or under the Societies Registration Act, 1860, and are known as empldyees unions, or employees or staff associations. Since the immunity from civil and criminal prosecution is provided to unions, its members and office l5earers for bona fide trade union activities under the Trade Unions Act, and as this is not specifically provided under the Societies Registration Act, 1860 the white-collar workers organisations registered as association under the latter Act have to be selective in using pressures for getting their demand met. They generally take recourse to mass casual leave, work to rule, peaceful demonstrations and dharnas, or hunger strike, rather than to strike, picketing and boistrous agitation and demonstration.

ii) Members of white-collar unions are more educated, knowledgeable and intelligent, and, therefore, they are more capable in negotiating and bargaining for their demands. Their union leadership is, therefore, mostly internal or endogenous. A's blue-collar workers are largely illiterate or low educated, the leadership is more external than intenal. as they require the help of-the outsiders in bargaining for them collectively and representing them in conciliation, arbitration and adjudication proceedingS under the Industrial Disputes Act, 1947.

iii) Financially and membership-wise white-collar unions are stronger than blue-collar unions. Small membership and poor finances make the latter more dependent on outside leadership and political parties for their day to day Working, ner liatiOns with employers, and conciliation and adjudication of their disputes. These outsiders may not work always entirely in the interest of workers. Increasing militancy of blue-collar unions could be attebuted to some extent to their poor bargaining power and frustration.

iv) White-collar unions suffer much less from multiplicity, politicalisation and outside leadership, and consequently from inter-union rivalries than the blue-collar unions. They, therefore, have better bargaining power and greater possibility of arriving at

collective and bipartite agreements. Most of the white-collarunions are independent, as they are not affiliated to central trade union organisations with different political ideologies. All India Federation of Railwaymen (AITUC), and National Federation of Indian Railwaymen (INTUC) are working more cohesively than as arch rivals. Similar is the case with All India Bank Employees Association and National Union of Bank Employees. They do not sacrifice the interests of their members for some political gains.

v) Lastly, some of the white-collar employees may be outside the purview of the Industrial Disputes Act, 1947, and so may have the problem of job security which their unions may have to look after. This may not be the problem with Blue-collar Unions as their members are almost coveted by the I.D. **Ad,** 1947.

7.7 MANAGERIAL TRADE UNIONS

Managerial trade unionism is no longer a fiction, but is an established fact. Though this phenomenon is more than forty years old, it is yet to be considered as worthwhile to be concerned with either by the Government, or by the central bodies of trade unions, or by academicians. The Government could enact a legislation concerning this aspect of trade unionism, or could introduce some procedure for redressal of grievances of the managerial staff. The Central organisations of trade unions coud have provided leadership or guidance for proper organisation of such unions. The academicians, if they had wished, could have attempted an in-depthshdy of managerial unionsim and workshops•It is only the corporate managements who could not ignore this happening. In fact they are finding it difficult to develop working relations with their managers and other officers in the absence of any corporate or national policy on this'subject.

7.8 NATURE OF MANAGERIAL UNIONISM

Hardly any organisation of mana •erial employees is a union. Tliey are known as Officers' associations registered :ither under the Societies Registration Act, 1860; or under the Trade. Unions Act, 1V26. The officers do not like their associaion to be equated with a trade union, though many of their organisations are registered under the Trade Unions Act, 1926. Some cases are also reported to be pending in the Courts, wherein the officers of certain organisations are claiming that they are not managers but workmen, and they should be given protection under the provisions of the Industrial Disputes Act, 1947. The purpose of managerial unions is not verymuch different from that of other trade unions for employees at different but lower levels in the hierarchy. The means and strategies may differ in the sense that the managerial unions are relatively soft in their wheelings and dealings than most of the blue-collar unions.

The officers eligible for membership of such associations are below the level of Director. They may be from the rank of trainees and upward up to the rank of Deputy General Manager, and in some cases even the General Manager. It is the junior and middle level managers who provide leadership of these associations. These officers rise **from the ranks, and•as members of the non-executive cadre they may have had prolonged experience as members of trade unions, if not, as office-bearers.**

In India, Managerial unionism is more in public sector than in private sector. Its lesser development in private sector may be due to the fact that most of the organisations in this sector are usually small, and, therefore, they are free from the cold and impersonal atmosphere Usually found in large bureaucratic organisations. In small organisations the problems and difficulties of the officers do not remain unattended. Such individualised attention is supposed to be missing in big public sector establishments. The other possible reason for slower growth of managenal trade unions in private sector may be that there employers are not willing to permit their officers to combine and form unions of their own.

The emergence of Officers Associations in the public sector is relatively a new happening, whereas these associations have existed in the banking industry and insurance companies for a fairly long time. In Western Europe officers are organised in almost all countries, and there also it predominates in the public sector. There the formation of such unions have been facilitated by the fact that demarcation between a

workman and non-workman is not so rigid as in India, and there trade unions are als) not so apathetic 'towards officers association as they are here in India. In fact there the unions want to bring officers unions under the banner of the existing trade unions.

7.9 WHY MANAGERIAL UNIONISM

Feeling of "relative deprivation", has been an important reason for the officers/ managers to organise themselves and form their associations for obtaining fair deal from their managements. There has been a feeling that as comparedto unionised cadre of workmen and lower staff they have been getting a raw deal. They complain about narrowing wage differentials generally. It is after the management had negotiated a settlement with the unionised staff and a settlement is arrived at, the ad ho-_ increase.in emoluments is given to them unilaterally, which is usually less than the increase given to the unionised staff. This has been constantly reducing the gap between the emoluments of the junior officers and the wages of the senior workmen.

Feeling of insecurity is another reason for the growth of officers unions. They do not have that enormous protection under the Industrial Disputes Act, 1947, which is enjoyed by the employees covered by this Act. They are left high and dry to fend for themselves. This has made them to realise the message of "unite and organise" to protect the interest of their membership through collective bargaining, a strategy of which efficacy has been demonstrated amply by the workmen and staff unions.

Growing harassment of managerial staff by their subordinates

The authority of the managers has been grossly eroded by the unionised workmen and staff. They are making it difficult for the managers to take work from them by being emboldened by the support from their union and protection they enjoy from labour legislation. Under pressure of the unionised staff top management often fails to provide the required support to junior and middle level managers. Even whenever they are assaulted by the workmen, the matters are hushed up for maintaining industrial peace. Managerial unions have been formed to pressurise top management to provide necessary protection against such harassment.

Neglect of Junior and Middle level Managers in Bureaucratic Organisations

In such organisations junior and middle level managers feel lost. They find no ways of getting noticed by theirtOp management why :ind hardly any time to provide necessary human touch. Decisions affecting them are taken unilaterally far from their working places--company's' head Quarters or Ministry. It is to make their presence felt and have some say in matters affecting them, that the managers/officers are organising and forming their associations.

Absence of Participative Forum

This has also encouraged the formation of Managers'/officers' associations. Managers at all leN;els do want to have effective say in the managemen•of the organisation or the establishment where they work, as their survival and growth is closely linked with that of the organisation. and so they are very much interested to see how it works. In the absence of any forum set up by the management to involve them in its worki g, they are **forming their associations to utilize collective negotiations or bargaining as a participative forum for being associated with the management as closely as possible.**

To be a Third Force between the Working Class and the Management

Being denied the protection of labour laws, and as well as of the privilege of a rea' manager, the junior and middle level managers have gone for the only option left to them, that is, the formation of the Officers Association. They would not like to be considered as part and parcel of either of the working class or the management, but as a "third force" between these two groups.

Some other factors which influenced the formation of unions of managers, senior executives and other officers, are nationalisation and rationalisation of pay and perquisites, and anomalies in pay arising from the recommendations of Pay Commissions and Wage Boards and their implementation.

7.10 GROWTH AND ACTIVITIES

The phenomenon of managerial unionism is now a fact. It is growing and multiplying. Managerial Officers Unions in industrial and commercial establishments in both public and private sectors have now come to stay. In fact managerial unionism is spreading and the urge is becoming intense when the attitude and approach of the Government/ Management is hostile and pre-empting collectivisation by managers. In banks, life insurance and general insurance, associations of officers are strong and militant organisations. In public sector they are recognised by their employing ministries, and they negotiate on terms and conditions of service. In undertakings like Coal India, Steel Plants, Indian Oil Corporation, Hindustan Petroleum, Bharat Petroleum and IBP, the Officers Associations are active and effective. In Indian Airlines, as well as Air India, the pilots and officers are well organised, and they ventilate their grievances through their associations. Some of the Officers Associations not only make collective representations to the Government, they even stage strike, dharnas, demonstrations and gheraos. The Officers Associations in the State Bank of India have staged strikes and even resorted to picketing bringing banking operations to stand-still.

In the private sector, managements in the industrial and commercial establishments generally frown upon organisations of officers/executives. The latter are not allowed to bargain collectively on their terms and conditions, and strike action or work stoppages may result in termination of service. In the foreign banks which are not nationalised, officers are on individual contract service and if they have any grievance, they make representation individually. But since the latterpart of the sixties and in seventies there has been a tendency among the officers/executives in the private sector to organise themselves into associations or unions, as they felt that injustice was done to them by their employers because they were not organised or united. In Calcutta it started in the Jute Industry when professionally' Managed concerns were taken over by proprietary indigenous employers. The trend gradually spread to engineering, pharmaceutical, chemical and other industries. Federations and even Confederations of Officers Associations on all India basis were formed. However, from mid-seventies when sickness in industry became rampant, tendency among the officers to combine and form associations abated. When skit units were taken over by the Government and later nationalised, this automatically conferred upon the officers the right to organise, but if the sick units were taken over by proprietary indigenous employers, officers associations could not survive.

At present there is hardly any public sector undertaking or establishment where officers are not organised and have their association. Even the secretariat staff are not averse to adopt trade union methods to ventilate their grievances. Officers of the Central Government have" formed Confederation of their Officers Associations. The National Federation of officers association is reported to be striving for statutory recognition of managers association. Sometime back more thana thousand engineers, doctors, scientists, enconomists, and educationists in the Central Government service marched to the Prime Minister's office and submitted a memorandum containing their grievances and demands. Engineers of the U.P. Government organised a strike bringing to stop not only factories and workshops, but also running of trains. The strike was called off only after protracted negotiations securing for strikers some of their demands.

Daily newspapers carry reports of strikes, demonstrations, mass casual leaves by doctors, engineers and other officers and staff of the State and Central Governments, Municipalities and Public Sector undertakings organised by their associations for improvement in their emoluments and other employment and service conditions. These associations have now started indulging in such agitational activities as processions in the streets, posters in vile and objectionable languages, gheraos, strikes and threats. In LIC and Banks workmen's unions have also started supporting the demands and agitation of the officers' unions by passing resolutions. All this has made discipline in the organisation as first casualty. Both in the public and private sectors the following questions are now being asked:

— If executives resort to strike action, who is management?

— Is the Chairman or Managing Directors of the establishment the only executive to be named as management?

— **Can productivity be maintained at a satisfactory level if there is erosion of**

discipline?

— How can confidential matters be kept confidential?

— If top management cannot confide in the various levels of management, how can industry face competitions and survive?

All these questions are valid and pertinent, and sooner their satisfactory answers are found the better, as the unions of managers and other officers and their agitation are likely to multiply and grow in the years to come, and not disappear. This may increase the complexity of the Indian industrial relations system, which is already struggling to cope with its so many other problems effectively.

Officers including managers, administrators, doctors, engineers, educationists, economists and civil servants are no longer living towers. They are subject to the same pulls and pressures of prices and the aspirations of a higher standard of living as ordinary workmen. They have heard, though belatedly, the same message of the new age, "unite and organise". They are bound to act upon it. Once they do so, small and big conflicts are inevitable, unless ways are found to avoid them through discussions and reasonable settlements. Statesmanship lies in seeking ways of peaceful settlements, and not to resort to draconian measures to stop or break an organisation, or defeat strikes.

7.11 STATUTORY PROTECTION

The Constitution grants the right to organise, and so nobody including manager and officer, can be prevented from forming or joining any organisation, if he so desires. The Trade Unions Act, 1926 and the Societies Registration Act, 1860 which provide the only legal framework for the managerial and officers unions, permit the registration of unions and associations formed by any seven workers/persons. The registered trade unions are protected from civil and criminal proceedings for bona fide trade union activities, including peaceful strike and picketing. The Trade Unions Act only provide for the right to organise, but not the right to bargain collectively, as there is no provision in the Act for the recognition of unions by the employers. Only Bombay Industrial Relations. Act, 1946 which has been adopted in Rajasthan and Madhya Pradesh and is applicable in Maharashtra, provides for compulsory recognition of unions as bargaining agent. This is a serious lacuna in our industrial relations system, which must be removed at the earliest, if union and management relations are to be improved.

Apart from the limited protection afforded by the two enactments as mentioned above, managerial and administrative employees and other officers have no other statutory protection or benefit except what is provided by the Civil and Common Law. They have neither the job security nor the arrangement for quick recovery of their dues, which the workmen or the blue-collar workers have as provided by the Industrial Disputes Act 1947 and the Payment of Wages Act, 1936. Most of the Indian organisations have prescribed some sort of grievance handling procedure to take care of the grievances of the workmen, but no such procedure exists for the executives or officers. Such a -- discriminatory treatment and the fact that revision of salaries of managerial staff has always to wait till the wages of workers are revised by collective bargaining, has compelled the former to form their own unions and agitate for improvement and security of their jobs and emoluments.

It is not that the Government has never thought about the situation of the Managerial employees. On August 30, 1978 the Janata Government introduced in the Lok Sabha a Bill (No. 143 of978), called the Employment Security and Miscellaneous Provisions (Managerial Employees) Bill, to provide the security of employment to persons not covered by the Industrial Disputes Act, 1947. If this Bill had been enacted, it would have enabled a managerial employee to approach, Employment Security Tribunal for:

a) setting Aide termination of his employment or a notice of such termination issued by his employer,

b) reliefs if the employer affected reduction in rank, salary or allowances, and

c) recovery of amounts due to him from the employer.

With the dissolution of Parliament, the said Bill along with the Industrial Relations Bill, 1978 which provided for the compulsory recognitions of unions as bargaining agents,

lapsed. Since then thirteen years have passed and two parliaments have had their full terms, but the two successive governments have not considered it necessary to reintroduce the Bill mentioned above.

7.12 SUMMARY

In this unit we have discussed the extension of trade union movement covering also the white-collar and managerial employees who have now organised themselves and formed their own unions. After distinguishing white-collar workers from blue-collar employees, reasons as to why the latter and managerial employees have now organised themselves, are explained. Nature of their unions and how they differ from that of the blue-collar workers unions in regard to memberhip, financial resources, multiplicity politicalisation, leadership and inter-union rivalries are also explained briefly. Their historical background, extent of growth, agitational activities, and statutory protection
afforded to them by Trade Unions Act and other laws has also been reviewed. The impact of these unions and their activities on discipline, productivity and industrial relations situations, and introduction and lapse of a Bill providing to managers security
of jobs and recovery of their dues, and absence of compulsory recognition of the right to bargain collectively, are also mentioned.

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UNIT 8 MANAGEMENT AND EMPLOYERS' ASSOCIATION

Objectives

After going through this unit, you should be familiar with

- **the nature and role of employers' organisations (EOs);**
- **the structure, finances, membership, activities and services they provide;**
- **the future challenges facing these organisations.**

Structure

8.1 INTRODUCTION

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

EOs are mainly concerned with matters relating to a wide range of employment issues including industrial relations. Chambers of Commerce are usually set up to defend the economic interests of employers. However, in some countries such as the U.K. Norway and Jordan, for instance, the same organisation deals with both. In India, as we shall discuss latter, the former are set up by the latter. Also, sectoral associations such as Confederation of Indian Industry (till 1991 it was a sectoral association mainly confined to engineering industry) and United Planters' Association of South Indian perform a combined role defending the interests of employers' in both economic and labour matters.

8.2 ORIGIN AND GROWTH

The orgin, growth and development of EOs in India have three distinct phases: (i) the period up to-1933; (ii) the period between 1933 and 1946; and, the post-independence period. Each phaSe'reveals its own structural and functional characteristics. In each phase the organisations had to undergo changes because of contemporary economic, social and political development. The changes have been more rapid in some than in others. The periods referred to also coincided with important developments in the labour field, and this have hade a grade impect on the pattern and dovlopment of eos and also on their functioning.

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

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

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

This posed a problem to both these parties in as much as there was no single organisation in existence at the time which was representative of either workers or employers on an all-India basis which could be entrusted with the tasks of selection of their respective Delegates. In the circumstances, when the Government of India resorted to the expedient of nominating these delegates on their own, trade unions and employers' organisations found the need to establish representative federations at the national level. While the trade unions acted speedily and established the All-India Trade Union Congress in 1920, it took some years for the employers' organisations to iron out the differences among different chambers and associations. Efforts to set up Employers' Federation of India at Bombay, though began in 1920 under the auspices of ASSOCHAM and a few other industry associations, could not materialise during 1920s. Since the formation of the Federation of Indian Chamber of Commerce and Industry (FICCI) with headquarters at Delhi in 1927, the Indian Employers' delegate began to be nominated on the recommendation of FICCI. It was in 1931 that the Government of India informed the FICCI that in terms of Treaty of Versailles, the Chambers of Commerce could not be treated as an organisation of industrial employers which could be consulted by the member-governments in nominating employers' delegates. To overcome the difficulty, FICCI announced the setting up of the All India Organisation of Industrial Employers (subsequently, the term "industrial" was dropped from the name) (AIDE) on 12 December 1932. ASSOCHAM and others including Bombay Chamber and Bengal Chamber took the initiative to register Employers' Federation of India (EFI) with headquarters at Bombay in 1933 under the

Indian Companies Act.

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

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

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

8.3 AIMS AND OBJECTS OF EOs

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

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

The same point was emphasised differently in the list of objectives. To mention a few: (i) To take all steps which may be necessary for promoting, supporting or opposing legislative and other measures affecting or likely to affect directly or indi*tly, industry, trade and commerce in general, or particular interest; (ii) totake all possible steps for counteracting activities inimical to industry, trade and commerce of the country; (iii) to promote and protect the interests of employers engaged in industry, trade and commerce in India.

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

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

EFI: The main objectives of the EFI as embodied in its constitution are: (i) to regulate the relations between employers and workers; (ii) to promote and protect the legitimate interests of employers engaged in industries, trade and commerce; (iii) to maintain harmonious relations between managements.Und labour and to initiate and support all propeilx considered schemes that would increase productivity and at the same time

vouch safe to labour a fair share of the increased return; and, (iv) to collect and disseminate information affecting eniployers and to advise Members on their employer-employee and other ancillary problems.

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

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

8.4 LEGAL STATUS

EOs could be registered in any of the following legal forms: The Trade Unions Act, 1926; The Indian Companies Act, 1956; or the Societies Act, 1860. The AIOE remained a registered body till 1969 when it was registered under the Indian Trade Unions Act. The EFI came into being in March 1933 as a company under the Indian Companies Act. A quarter century later, it was reorganised as an unregistered Association, a position which continued till 1963 when it too was registered under the indian Trade Unions Act.

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

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

8.5 AMALGAMATION OF EOs

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

8.6 COUNCIL OF INDIAN EMPLOYERS (CIE)

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

The CIE, wifr !ie. e.dquarters in the office of the AIOE in Delhi, consists of equal number of representatives of the AIOE, EFI and SCOPE. Its principal functions are: (i) to discuss generally problems confronting Indian employers, with particular reference to matters coming up before the ILO Conferences and various Industrial Comniittees and to formulate, from time to time, the policy and attitude of Indian employers in the matter of collaboration with employers of other countries; (ii) to furnish and exchange information on problems relating to industrial relations with employers of other countries; (iii) to maintain a close contact with the International Organisation of Employers (I0E) with'a view to study international trends in the employer-employee relations and to keep the two parties informed of such matters; and, (iv) to select the personnel.of the Indian Employers' Delegation to the various

Conferences and Committees of the ILO.

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

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

8.7 INTERNATIONAL ORGANISATION OF EMPLOYERS (IOE)

Foundaed in 1920, the International Organisation of Employers with headquarters in Geneva is the only world organisation authoritatively representing the interests of employers of the free world in all social and labour matters at the international level.

As of June 1992, it has a membership of EOs in 104 countries. One of the IOE's main tasks is to closely follow the activities of the ILO where, under its consultative status, it strives to preserve the principle of tripartism — according to which employers and workers are represented at all major ILO meetings on an equal footing with governments, from whom they enjoy complete independence at all times, notably when it comes to voting. The JOE also acts as Secretariat to the employer groups at almost all of its tripartite meetings and ensores continuous liaison with its members, worldwide.

IOE membership is open to any national central federation of employers upholding the principles of free enterprise, which is independent of any control or interference front governmental authority or any outside body and whose membership is composed exclusively of employers. CIE is a member of the IOE.

8.8 ORGANISATION AND MANAGEMENT OF EOs IN INDIA

Membership: As in most countries in India too membership in EOs is voluntary. AIOE has two categories of members: individual (enterprise) and association (group of enterprises). EFI additionally has provision for honorary membership whereby individuals with special skill or experience, such as legal luminaries or professionals are coopted to serve on various committees of the federation. While the predominantly private sector EOs do not bar public sector enterprises becoming members and rather welcome their entry and indeed have a few, the SCOPE remains an EO exclusively for the public sector that too mainly the public sector enterprises in the central sphere. 648 EOs were registered in 1986 under the Trade Unions Act. Of these, however, only 98 submitted returns. Several more were registered under the Companies Act and The Societies Act whose number is not known. The definition of an EO under these three legal forms is much wider than the meaning assigned to EO in the ILO parlance and include industry associations, chambers of commerce, etc., at various levels including national, regional, state, local, etc.

In 1986, the AIOE and the EFI had 59 and 31 association members respectively; ever the strength of individual members (enterprises) was low at 130 and 247 respectively.

Some members in both the categories are common for the AIOE and the ER. The representative character of the AIOE and the ER. even with regard to the large industry, is thus rather limited. The SCOPE, on the other hand, is the most repreSentative organisation for the Public enterprises in Central sphere (i.e., those established by the Union Government) with over 95 per cent of them being members of the SCOPE.

Organisation Structure: The AIOE has a unitary type of organisation. It has no sub-organisation on an industrial or geographical basis. Even though there are important clusters qf members in Calcutta and Bombay, there has been no attempt to create local committs or offices. The EFL however, has federal **type** of organisation structure with its activities distributed over a central body and the **regional committees.** Both the

AJOE and the EFI have a governing body, executive committee and the secretariat. The governing body is the supreine policy-making body, the executive committee is responsible for implementing the policies and objectives of the organisation and the secretariat with a permanent staff, is responsible for carrying out the decisions of the governing body. There is greater continuity in the leadership of the EFI than the MOE. The EFI had only fourpresidents in over 50 years. The MOE which iised to elect a new president every two years is now electing a new president every year. The EFI constitution provides for setting special technical committees if need arises to provide special attention on any subject.

The SCOPE has two adminigrativerorgans, the Governing Council and the Executive Board besides the Secretariat with permanent staff. The Governing Council lays down policy and elects office-bearers, the Executive Board oversees implementating Of policies. The Chill Executive of a member enterprise/organisation shall automatically be a member of the Governing Council. Additionally it has three government representatives nominated by the Direcetor Genral, Department of public Enterprises, as ex-officio members of the Gove:nirei, Council with full voting rights.

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

Representation: EOs in Indi I, play two types of roles in representing the interests of their members: One, they an called to nominate representatives of employers in voluntary or statutory bodie set up not only to determine wages and conditions of employment of workers in a particular industry/sector, but also for consultation and cooperation on social and labour matters in national and global context (See Table 1 for an indicative list of representation of EOs i'n various tripartite fora and public bodies/ institutions). Secondly they seek ti redress the grievances arising from legislative or other measures by making submit ,ions to concerned authorities. It is difficult to recapitulate and synthesise the r. 1. played by EOs in representing the interests of employers in the ILO, various committees/institutions, bipartite and tripartite fora at the national level and on various issues such as legislation, voluntary codes, social security, bonus, etc. (For an indicative analysis, see: Venkata Ratnam, 1989).

Table 1
EOs Representatives on Various Bodies

Advisory Committee under Equal Remuneration Act
All India Board of Technical Studies (Textile technology)
Central Advisory Board for Child Welfare
Central Apprenticeship Council
Central Board of Trustees of Employees' Provident Fund
Central Board for Workers' Education
(Central and Several Regional Committees)
Central Committee on Employment
Central Council on Employment
Central Council of Health & Central Welfare Planning Council
Central Standing Committee on Bonded, Migrant and Casual Labour
Committee on Conventions
Indian Institute of Science, Bangalore
Employee's State insurance Corporation
ESIC's Medical Council & Regional Board
(for various States/Union Territories)
Indian Institute of Applied Manpower Research, New Delhi
Indian School of Mines, Dhanbad
Various Industrial Committees
MicaMities Labour Welfare Fund — Central Advisory Board
Minimum Wages (Central) Advisory Board
Minimum Wages Advisory Board
National Arbitration Promotion Board

National Children's Fund
National Council for Training in Vocational Trades
National Labour Institute
National Productivity Council
National Safety Council
Regional Committee—Employee's Provident Fund
State Labour Advisory Boards
Shram Vir National•Awards and National Safety Awards—Awards Committee
Vocational Rehabilitation Centre for Physically Handicapped

Services: The real worth of an EO and the best justification for its support is the range of services that its provides to its members. Within the overall framework of the need to develop enlightened human resource management practices, the kind and range of services that an EO could provide should rest mainly on the needs of the members and their priorities as also the resources and competence within the leadership and secretariat of the EO. Some of the basic services every EO may be expected to provide include the following: (i) study and analysis of problems and dissemination of information -- advice, advocacy and dispute settlement; guidance or conduct of collective bargaining. In India this role is voluntary and at the initiative and request of the members; (iii) training and development of staff and members; (iv) safety and health at workplace and working environment; and (v) public image and public relations.

The above list is indicative and not exhaustive. A survey of members of EOs in India (Venkata Ratnam, 1989, pp. 112-113) noted that over 70 per cent of the respondent members of EOs believe that EOs: (a) are active in disseminating information to members and making representations whenever an issue or problem arises; henceforth need to be proactive; (b) are not doing as well as they should be doing in their advisory role and in providing a guidance on issues relating to collective bargaining, etc.; (c) should pay more attention to (i) studying problems of concern to employers; (ii) improving their interaction with members, unions and government; (iii) concentrating on training workers and members; (iv) strengthening advisory services; and (v) taking up projects for social and family welfare; and (d) need not participate; as before, directly in enterprise level negotiations or settlement of industrial disputes at firm level.

Rlations: In the course of exercise **of their functions,** EOs interact with the three principal actors; i.e., employers (who are their members), Government and unions. Traditionally employers are individualistic in nature and competitive considerations affect their ability to confederate as a cohesive entity. Employers want individual discretion than take a collective, unified stand for a good policy. This attitude influenced their orientation towards relations with governments. Individual office bearers would like to cultivate personalised relations with government functionaries than institutionalise the interactions. The relations with unions are typically adversarial and occasional interactions but not usually founded on the realisation of the importanee' of a continuous dialogue and discussion to develop rapport, mutuality, trust and confidence iii each other.

EOs also interact with political parties, professional organisations and the community. Relations with political parties assume significance even if EOs choose to remain avowedly apolitical. The presence of professional organisations make it imperative to see whether these organisations of managers are similar or dissirriilar to those of employers. In today's context of large, modern corporations, the employers' dependence on professional managers had increased. Likewise the professionals and professional bodies do draw their sustenance, to an extent, from employers. TheEO's also need to maintain relations with the community.

8.9 FUTURE CHALLENGES

Employers are not only individualistic, but also not a homogeneous class. The conflict of swadeshi vs. videshi in pre-independent era, the public-private debate impost-independence era, the rivalry between ASSOCHAM and FICCI, AIMO's dislike towards the big brother attitude of major chambers of commerce, the conflict among

handloom, powerloom and mill sector in textile industry, the formal-informal sector divide and the like exemplify that employers are not necessarily a homogeneous class. EOs need to reconcile the concept of a federation with the spirit of competition among their members. EOs work may concentrate on areas where members interests converge. They need to overcome the crisis of being the rich men's poor clubs by upgrading the quality, relevance, usefulness and cost-effectiveness of their services. They should learn to be proactive than reactive. The distinction between the reactive and proactive approaches may be described as the difference between settling disputes and taking preventive care, between raising demands and removing grievances, seeking amendments to the law and influencing the law in advance, controlling wages and providing incentives, enforcing discipline and promoting good relations..

EOs should also reflect on the emerging challenges and redefine their role in a rapidly changing scenario. For instance the spread of democracy and the transition to free market economy in most countries the world over rendered old notions of ideological class conflict less relevant today. The gradual shift towards information technology society requires reorientation in the basic philosophy of human resource management policies. Technological, structural, economic and other Changes requireladaption and adjustment with a "human face". These, then, are some of the 'new opportunities and challenges for EOs.

8.10 SUMMARY.

We have considered the origin and growth of EOs in India. EOs differ from chambers of commerce and owe their separate existence partly to select delegates from representative organisations of trade unions and employers organisations to the meetings and conferences of the ILO. EOs deal with a variety of aspects relating to the employment relations and as such also cover aspects relating to dealing with labour policy, union-management relations, collective bargaining. Because of historical reasons, there is more than one EO in India which, together amalgamated into an umbrella organisation, known as the Council of Indian Employers (CIE) which, in turn, is affiliated to the Geneva-based International Organisation of Employers (10E).

The membership of EOs is rather small, compared to the potential for coverage. Subscription being the main source of revenue, low membership coverage affects their finances. The organisation structure typically consists of a general body of members, office-bearers and executive committee and the Secretariat.

EOs represent members interests and can therefore be called interest group organisations. They provide a variety of services in the area of indUstriallemployment relations. They have a lot to do toimprove their relations with their constituents who include not only their own members, but also, government unions, and the public. EOs have their share of dilemmas and challenges. It includes, among others, the need for affiliation vs. competition and the need for having a sound policy covering all employers - _vs. leaving flexibility for individual employer initiative etc.

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Uttar Pradesh Rajarshi Tandon
Open University

MBA-3.12

Union Management Relations

Block

3

CONFLICT RESOLUTION

Course Design Ccomniftee

Prof. Ishwar dayal
Consultant
New Delhi

Prof. Udai Pareek
Consultant
Jaipur

Prof. Prayag Mehta
Consultant
New Delhi

Prof. A. Monappa
Indian Institute of Managerne(it
Ahmedabad

Prof. S.K. Chakraborty
Indian Institute of Management
Calcutta

Prof. V.S. Gautam
Indian Institute of Technology
New Delhi

Prof. Y.L. Grover
National **Police Academy**
Hyderabad

Dr. B.K. Singh
Ceat Tyres India Limited
Bombay

Mr. M.R.R. Nair
Chairman, Steel Authority
of India Limited
New Delhi

Prof. C.S. Venkat Ratnam
International Management Institute
New Delhi

Prof. Rakesh Khurana *(Convenor)*
School of Management Studies
IGNOU, New Delhi

Dr. B.B. Khanna
School of Management Studies
IGNOU, New Delhi

Course Preparation Team

Dr. B.B. Khanna
(Course Editor and Coordinator)
School of Management Studies
IGNOU, New Delhi

Prof. R.K. Grover
Director
School of Management Studies
IGNOU, New•Delhi

Prof. C.S. Venkat Ratnam
International Management Institute
New Delhi

Prof. Arun Monappa •
. Indian Institute of Management
Ahmedabad

Prof. S. Ghosh
Indian Institute of Management
Lucknow

Dr. Masila S. Mani
Sri Ram Centre for Industrial
Relations and Human Resources
New Delhi

Dr. B.R. Seth
Consultant
New Delhi

Print Production : B. Natarajan, Copy Editor. SOMS, IGNOU

October, 2000 (Reprint)

ISBN-81-7263-384

Printed by : K.C.Printing & Allied Works, Panchwati , Mathura – 281003.

BLOCK 3 CONFLICT RESOLUTION

This block comprises five units. The first unit explains the dynamics of conflict in organisational situations, explaining the process and types of conflict. It also discusses interpersonal, intergroup and class conflict and strategies for their resolution. The second unit deals with nature and content of Collective Bargaining. It refers to context which leads to collective bargaining, the types of bargaining emerging out of market and workplace requirements and the role of power in it.

The third Unit describes role and importance of negotiation skills in conflict resolution. It also refers to alternatives to negotiation for reaching a mutually agreeable settlement. The fourth unit gives you a detailed account of issues and trends in Collective Bargaining. It dwells upon the context and climate, structure and substance 'of Collective Bargaining. This unit also looks into the emerging concerns in Collective Bargaining, change of work practices, productivity agreements and concession bargaining in crisis situations. It also sketches the scenario of Collective Bargaining in public sectors. The last unit brings to you the role of labour administration in resolving conflicts and disputes throu.2,11 various machineries of .settlement. This unit also gives an account of the role of state in Union Management Relations in India and outside.

UNIT 9 DYNAMICS OF CONFLICT AND COLLABORATION

Objectives

After going through this unit, you should be able to:

- understand processes and types of conflict;
- understand various levels of conflict; and
- examine the various machineries for resolving conflict.

Structure

9.1 PROCESS OF CONFLICT

Conflict is a part of life. Inside and outside the organisation people are being constantly subjected to conflict. Cnriflict surface due to limitation of resources, competition and differences in va:ues, goals, attitudes, expectations, etc. Whatever may be the reason, if conflicts a e not managed properly they may adversely affect the organisation.

Effective management of conflict requires, the understanding of the concept of conflict. What is conflict? It is defined as "A process in which an effort is purposely made by 'A' to offset the effort of '13' by some of blocking that will result in frustrating 'B' in attaining his or her goals or furthering his or her interests". Conflict also could be defined as the actual or threatened use of force in any continuing social relationship. Force is the attempt to override opposition by an act designed to produce injury to the other party.

Trae various attempts to understand the conflict show that the conflict does not emerge all of a sudden. It is a process. It moves from one stage to another and finally it takes the form of individual, group or class conflict. The stages of conflict may be explained in the following manner.

Stage I — Potential Opposition

The first step in the conflict process is the presence of conditions that create opportunities for conflict to arise. They need not lead directly to conflict, but one of these conditions is necessary if conflict is to arise.

Comnunication Communication is one of the important factor which causes conflict. The communication sc rce represents those opposing forces that arise from semantic difficulties, misunderstandings and noise in the communication channels. Poor communication certainly one of the sources of all conflicts.

Researchers indicate that, semantic difficulties, insufficient exchange of information and noise in the communication channel are barriers. to communication and potential antecedent conditions to conflict. The potential for conflict increases, when either too little or too much communication takes place. Further, the channel chosen for communicating can have an influence on stimulating opposition.

Structure: The term structure is used in this context to include variables such as size, degree of specialisation in the tasks assigned to group members, jurisdictional clarity, member goal compatibility, leadership styles, reward systems and the degree of dependence between groups. Research indicates that size and specialisation act as forces to stimulate conflict. The larger the group and more specialised its activities the greater the likelihood of conflict. Tenure and conflict have been found to be inversely related. The potential for conflict tends to be greatest where group members are younger and where turnover is high. The greater the ambiguity in precisely defining the responsibilities the greater the potential for conflict to emerge. Groups within organis?tions have diverse goals. This diversity of goals among groups is a major source of conflict. There, is some evidence that a chosen style of leadership, tight and continuous observation with general control of the others' behaviours increases conflict potential. Reward systems too, are found to create conflict when one member's gain is at another's expense. Finally, if a group is dependent on another group or if interdependence allows one group to gain at another's expense, opposing forces are stimulated.

Personal variables : Personal factors include the individual value systems that each person has and the personality characteristics and that account for individual differences. The evidence indicates that certain personality types — for example, individuals who are highly authoritarian and dogmatic and who demonstrate low esteem—lead to potential conflict. The differing indit'idual value systems contribute for social conflict.

Stage II — Cognition And Personalization

In the first stage, the conditions generate frustration and now it becomes actual conflict. The antecedent conditions can only lead to conflict when one or more of the parties are affected by, and cognitive of, the conflict. It is necessary one or more of the parties must be aware of the existence of the antecedent conditions, when individuals become emotionally involved, that parties experience anxiety, tenseness, frustration or hostility.

Stage III — Behaviour

When a member engages in action that frustrates the attainment of another's goals or prevents the furthering of the other's interests. This action must be intended that is, there must be a knOwing effort to frustrate another. At this stage the conflict is out in the open. The conflict behaviour could be overt or covert. Overt conflict covers a full range of behaviours from subtle, indirect, and highly controlled forms of interference to direct, aggressive, violent, and controlled struggle.

9.2 TYPES OF CONFLICT

Conflict can be classified into various types depending on their nature. The followings are some of the typos of conflict which could be expeerenced in work organisations.

a) Perceived Conflict : Perceived conflict is one which people perceive that conflicting conditicins exist in the work organisation. The perceived conflict may be true or otherwise. But there is a potential ground for perceived conflict to turn into real conflict.

b) Latent Conflict :. Latent conflict is one which does not emerge in open. Although parties to the conflict realise the fact of conflict for various reasons they do not show it openly. Such a conflict is termed of latent conflict.

c) Manifest Conflict : Manifest conflict is one which not only recognition of conflict, but also expressing it explicitly or openly. This is a stage of open conflict.

Line and Staff Conflict : In organisatiOns there are people who represent line and others who represent staff positions. It is found from various studies **th'ut** line managers consider themselves superior than the staff managers. As a result of this conflicts arise between line and staff managers over many issues. Such conflicts are **known as** line.and staff conflicts.

Organised and Unorganised• Conflict As the name indicates that the times conflicts are expressed in organised or unorganised way. For example the parties to the conflict decide that they can successfully counter effect the other party they may use organised conflict. Union managcmcnt conflict in the form of a strike, or lock out all can be termed as organised conflict. On the other hand when parties view that organised conflict cannot bring solution they take on to unorganised conflict. For example, absenteeism, late coming, turnover are termed as unorganised conflict.

***Levels* of Conflict :** Since our aim is to understand and manage conflict in organisations we limit the levels of conflict to individual level, group level, and organisation level. They also could be called, interpersonal conflict, group/intergroup conflict, class conflict respectively.

9.3 INTERPERSONAL CONFLICT

When individuals join organisation, they enter into not only economic contract but also, social and psychological contract. Individually have a number of needs and in order to satisfy these needs they join the organisations. While satisfying the organisational needs, they try to satisfy their own individual needs. Not only the individuals bring their skills to the organisation but they also bring their beliefs, values and customs etc. As a result of this individuals join together knowingly or otherwise form groups and social systems. Because man is a social animal he has to interact with other fellow working men.

Interpersonal conflicts are character: •d by people not liking one another or not agreeing with one another, expression of hostility towards one another, pointing out the weakness of other person and criticism etc. Some of the factors which are responsible for interpersonal conflict could be, competition, differing values, stereotype behaviour, exploitative nature of human beings etc.

Competitive environment can be major source of interpersonal conflict. A competitive environment emerges in an organisation where competence is rewarded and people who are able to show results are given more attention. In'an environment like this, everytime a person gets rewarded that creates dissatisfaction among some others. Other experience a feeling of dissatisfaction because their self-respect is challenged. In such a situation, the hostility may be directed either on to the person who has been rewarded or to the authority which has rewarded him. In the former case the individual becomes the target of attack. In the latter case, the authority, its system of assessment, etc. are attacked directly or indirectly.

People working in the organisation may have different preference, values, beliefs, cultural background etc. This may also lead to interpersonal conflict. Like some m anagen: may view trade unionism as a negative sign in the union management relations, other managers may not view that way. Hence, managers belonging to these two categories may have different types of interpersonal relations with employees belonging to unions. While the managers belonging to **the** first category may have tensed interpersonal relations with the union members, the managers belonging to second category may not have tensed interpersonal relations with the union members.

Stereotyping and sharp judgment lead people to evaluate others first and form opinions of them through hurried judgments. These type of perceptional distortions lead reople to behave in biased ways towards each other resulting in conflicts. Country like India, where workers belonging to different costs, religions, regional linguistic segments constitute the total workforce. In such a situation managers belonging to one particular sect may interact with workers belonging to another sect in a manner which Lads to conflict.

Interpersonal conflicts may arise in team work situations due to the exploitatory tendencies of some team members. It is common human nature that individuals have tendency to take undue share in the outcome although their contribution to the achieving of goals may not be proportional. This type of situations lead to interpersonal conflict in the work teams.

9.4 STRATEGIES FOR INTERPERSONAL CONFLICT RESOLUTIONS

i) **Lose-Lase :** A lose-lose approach to conflict resolution is where both parties ioose. It has been pointed out that this approach can take several forms. One of the more common approaches is to compromise or take the middle ground in a dispute. A second approach is to pay off one of the parties in the conflict. These payments often take the form of bribes. A third approach is to use an outside party or arbitratory, A final type of lose-lose strategy appears when the parties in a conflict resort to bureaucratic rules or existing regulations to resolve the conflict. In all four of these approaches, both parties in the conflict loose, It is sometimes the only way that conflicts can be resolved, but it is generally less desirable than the win-lose or especially, the win-win strategy.

ii) **WinLose :** A win-lose strtegy is a very common way of resolving conflict. In a competitive type of culture, one party in a conflict situation attempts to marshal its forces to win, and the other party loses. The following are the characteristics of the win-lose situation.

1) There is a clear we-they distinction between the parties.
2) Parties direct their energies, towards each other in an atmosphere of victory and defeat.
3) Parties see the issue from their own point of view.
4) The emphasis on solutions rather than on the attainment of goals, values, or objectives.,
5) Conflicts are personalised and judginental.
6) There is no differentiation of conflict-resolving activities from other group processes, nor is there a planned sequence of those activities.

Example of win-lcse strategies can be found in superior-subordinate relationships, line-staff confrontations, union-management relations, and many other conflict situations found in today's organisations. The win-lose strategy can have both functional and dysfunctional consequences for the organisation. It is functional in the sense of creating a competitive drive to win and it can lead to cohesiveness among the individuals or groups in the conflict situation. On the dysfunctional side, a win-lose strategy ignores other solutions such as a cooperative, mutually agreed upon outcome; there are pressures to conform which may stifle a questioning, creative atmosphere for conflict resolution; and highly structured power relationships tend to emerge rapidly. The biggest problem, however, with a win-lose strategy is that someone alway• loses. Those who suffer the loss may learn something in the process, but losers also tend to be bitter and vindictive. A much healthier strategy to have both parties of a conflict situation win.

iii) **WinWin :** A win-win strategy of conflict resolution is probably the most desirable from a human and organisationpl stand point. Energies and creativity are aimed at solving the problems rather than beating the other party. It takes advantage of the functional aspects of win-lose and eliminates many of the dysfunctional aspects. The needs of both parties in th'. conflict situation are met and both parties receive rewarding outcomes. A review of the relevant literature revealed that win-win decision. strategies are associate" with better judgments, favourable organisation experience, and more favourable bargains. Although it is often difficult to accomplish a win-win outcome of an interpersonal conflict, this should he a major goal of the management of conflict.

9.5 INTERGROUP CONFLICTS

Groups in the organisation could be classified into two types; they are formal groups and informal groups. Individuals are members of different groups for different purposes. Successful intergroup performance is a function of a number of factors.

The umbrella concept that overrides these factors is coordination. Each of the following factors can affect at coordination.

Interdependence : In any organisation groups or departments do not exist in isolation. The departments depend upon each other. There are three types of interdependence could be identified when two groups/departments function with relative independence but their combined output contributes to the organisation's overall goals, pooled interdependence exists. Sequential interdependence said to be existing when one group depends on another for its input but the dependency is only one way. For example, one group say, parts Assembly — depends on another say Purchasing — for its inputs, but the dependency is only one way. In sequential interdependence, if the group that provides the input does not perform its job properly, the other group which is dependent on the first will be significantly affected. In the above example, if purchasing fails to order on important component that goes into the assembly process, then the parts Assembly department may have to slow down or temporarily close its assembly operations. The most complex form of interdependence is reciprocal. In these instances; groups exchange inputsand Outputs. For example, Sales and Product Developments groups in an organisation are reciprocally interdependent. Sales people in contact with customers, acquire information about their future needs. Sales then relays this back to Product Development so they can create new models or products. The long-term implications are that if Product Development does not come up with new products that potential customers find desirable, sales personnel are not going to get orders. So there is high interdependcnce—Product Development needs Sales for information on customer needs so it can create successful new products and sales depends on the Product Development group to create products that it can successfully sell. This high degree of dependency translates into greater interaction and increased coordination demands.

Task Uncertainty : The task certainty or uncertainty can also create intergroup conflict. The greater the uncertainty in a task, the more custom the response. Conversely, low uncertainty encomposscs routine tasks with standardized activities. Highly routine tasks have little variation. Problems that group members face tend to contain few exceptions and are easy to analyse. Such group activities lend themselves to standardised operating procedures. For example, manufacturing tasks in a tyre factory are made up of highly routine tasks. At the other extreme are non-routine tasks. These are activities that are unstructured, with many exceptions and problems that are hard to analyse. Many of the tasks undertaken be marketing research and ProductDevelopment groups are of this variety. Of course, a lot of group tasks fall somewhere in the middle or combine both routine and nonroutine tasks.

The key to tasks uncertainty is that nonroutine tasks require considerably more processing of information. Tasks with low uncertainty tend tcibe standardised. Further, groups that do such tasks do not have to interact much with other groups. ;In contrast, groups that undertake tasks that are high in uncertainty face problems that require custom responses. This in turn leads to a need for more and better information.

Overload on Some Groups : Work Overload on some groups, give rise to conflicts. The overloaded groups may start feeling unhappy about the situation and may start demanding incentives and differential treatment. Their bargaining for such differentials treatment may give rise to defensive and other reactions from the less-worked units. If the more loaded units are given any extra incentives, status and treatment differences filter into the organisation giving rise to a new kind of conflict.

Status Differences : Some groups are ranked informally by managers in relation to their status. Such ranking is resented by the groups which are ranked low and they start demonstrating their power by creating problematic situations to make their presence felt. For example the line managers may treat personnel departmeats as support systems and there by of a lower status. they may communicate this by passing ceitain orders or giving certain directions. In response the personnel people may delay recruitments, insist on procedures to demonstrate that they cannot be relegated to a lower status.

Role Ambiguities : The lack of a proper definition of roles of different departments and the absence of mechanism to clear the ambiguities may also lead to conflicts. It is riot sufficient to defme the roles of various departments once for all. As any organisation grows new roles may get added and new departments may get created. Some changes in functions may take place. Wherever such changes take place in less enough attention is paid to introduce such changes and clarify the roles continuously through a process of involvement of the people concerned, Conflicts may increase. Mechanisms of continuous interaction between people from different departments can help in preventing conflicts.

Lack of Understanding of Each Other's Functions : One of the factors which lead to interdepartmental conflicts is lack of understanding of other departments role may lead to indifference and lack of.enthusiasm in collaborating with or appreciating the problems of the other departments.•For example line managers often do not realise and functions and problems of the departments like personnel or finance. As a result they make too many demands on them and when the response is not prompt there are conflicts.

Differential Reward : Systems : Differential reward systems is another potential source for intergroup conflicts. Some giroups by nature of the tasks they perform have less opportunities for promotion and a few others have relatively more opportunities. Some departments may give more opportunity for overtime work and some others may not. Such differential others may not. Such differential opportunities may lead to conflicts.

906 MANAGING INTERGROUP RELATIONS AND CONFLICT

Rules and Procedures : The simple and less costly method of managing intergroup conflict is to establish in advance, roles and procedures which will regulate the interdepartmental regulation. In complex organisations, without standard operating procedures it will be difficult to manage complex interdepartmental relations. For example, any functional department requires, additional manpower for some tasks to be completed, it should request the personnel department to arrange for it in advance. Hence, the last minute confusion could be averted.

Hierarchy : In case the rules and regulations are inadequate to regulate the intergroup relations, then the use of organisation's hierarchy becomes the primary method for m. naging intergroup relations. This means, that coordination is achieved by referring problems to a common superior in the organisation. For example, in organisation there is a dispute between store department and production department they could go to a eommon superior for resolution. The major limitation to this method is that it increases demands on the common superior's time. If all differences were resolved by this means, the organisations chief executive, would be overwhelmed with resolving intergroup problems, leaving little time for other matters.

Planning : Another factor which could bring the intergroup conflict down is appropriate planning. If each work group has specific goals for which it is responsible, then each knows what it is supposed to do. Intergroup tasks that create problems are resolved in terms of the goals and contributions of each group. For example, in assembly line each area/department should have a set of goals which define their area of responsibility and acts to reduce intergroup conflicts.

Integrating : Departments : When intergroup relations become too complex to be coordinated through plans, task forces, teams and the like, organisations may create integrating departments. These are permanent departments with members formally assigned to the task of integration between two or more groups. While they are permanent and expensive to maintain, they tend to be used when an organisation has a number of groups with conflicting goals non-routine problems, and intergroup decisions that have a significant impact on the organisations total operations. They are also excellent devices to manage intergroup conflicts for organisations facing
long-term ret:enchmcnts.

There are other behavioural strategies developed by experts which include avoidance, diffusion and confrontation.

Avoidance : Avoidance would indicate not facing the conflict. There are various way people use to avoid conflict. They are ignoring the conflict situation, running away from the situation or taking it easy by agreeing to the demands of one of the parties. All these methods of not wanting to face the conflict situation out of fear that the person may not be able to respond or resolve the conflict can be termed as avoidance strategies. Avoidance strategies do not help particularly is the leadership 'positions are involved. Leaders who avoid conflict are seen as lacking courage, and subordinates may increasingly create. Conflicting situations too weaken such leaders. Also any issue once avoided may surface again in course of time. However, when intense emotions are involved, avoidance may serve as good escape strategy. When the people involved are in more congenial or harmonious moods, the issues can be slowly taken up. This strategy, however, tends to increase the self-confidence of the people involved in resolving the conflict.

Diffusion : This strategy involves postponement or delaying decisions to cool down the aroused tempers. It may also involve focussing on unnecessary issues to avoid the main problem for sometime. This strategy may help in temporarily avoiding the problem but leaves anxiety about future and dissatisfaction of the parties.

Confrontation : This is facing the conflict confrontation may involve negotiation and use of authority. Power or authority may be used to sort out the conflict. The authority figure may decide in fart/our of one of the parties or the other, he may eprimand somebody or punish one of the parties, or take decision to rectify the situation. Negotiation is another mechanism of confrontation.

9.7 CLASS CONFLICT

Conflict is inevitable in the indus riat organisation. Labour and management oppose each other in numerous ways in he course of daily work. Most industrial jobs are repetitive, monotonous, difficult, dirty and even accident prone. As a result of this management uses strict supervision to get the work done, on the other hand the normal sentiment of the worker is one of discontent. The interests of these two parties are in conflict with each other. For example, the main aim of the employers is to maximise profit. The management considers wages to workmen is one of its cost of production and in many industries a major cost of production. Therefore it is to the management's advantage to keep the costs of labour low, either through minimising wages, maximising hours, reducing the number of employed working **men,** or making their labour more efficient through the use of machinery. On the other hand, workers expect more returns for their efforts in production or they expect wages to be commensurate with their work. Thus, the interests of the workers and the management are diametrically opposed. These conflicting interests, lead to differences of opinion. The difference of opinion may be anything like, wage, Onus, working conditions, disciplinary matters etc. The relationship that exists between them is one of antagonistic cooperation. Wcirkers and management may agree on such general goals as the maintenance of high levels of productivity and wages and the profitability of the enterprises. Unless until the organisation survives, the conflict between the labour and management has no meaning.

Class conflict could be manifest or latent, organised or unorganised. Normally, strike is the most manifested or organised form of class conflict in industry. The strike may be used for a wide variety of purposes. Its aim may be to demonstrate worker resentment or to wage a sustained battle against the management. It may be the result of a calculated strategy, or a spontaneous outburst on the shop floor. Strikes are only one way in which industrial discontent is expressed. A doctrine in the number of strikes does not necessarily mean that discontent is less—it may merely mean that discontent is finding expression in other ways or is not finding expression at all. The decline of the strike as one form of conflict activity is not to be taken as a sign of the removal of conflict situation itself. Again class conflict could be classified

into two types. Basic conflict exists when a group feels that its share in rewards is unjust from a longeterm **point** of view, procedural conflict arises from disagreements about short-term variations in rewards and conditions of work.

The second form of conflict is **latent** or unorganised conflict. The parties feel the differences of opinion but do not express so openly to be visible. The unorganised conflict even could be the reDult of a personal reaction to the frustrations of the industrial situations. The latent conflict is expressed through withdrawal of effort resulting in poor productivity, absenteeism and poor time keeping. It is important to remember that the strike is merely the most dramatic expression of conflict. The proverbial tip of the iceberg. Below this tip lies the entire range of relationship between labour and management in which **is embedded** the divergence of interests between them.

9.8 INDUSTRIAL CONFLICT RESOLUTION

The class conflict also could be termed as industrial disputes. In India, the Government of India has established machinery for the settlement of Industrial Disputes. The industrial dispute settlement machinery couldbe classified into two types—consultative and Industrial relations machinery.

The Industrial Disputes Act, 1947, has provided for **settlement of industrial** disputes throughworks committee, conciliation officer, Board of conciliation, court of inquiry, labour court, industrial tribunals and National tribunals.

Consultative Machinery: The Government of India has taken every effort to constitute consultative machinery. The consultative machinery now exists at every level—at the level of the undertaking, industry, state and at the national level. The basic objective of the machinery is to bring the parties together for mutual settlement of differences in a spirit of cooperation and goodwill. At the unit level, the machinery is bipartite in character. According to the Industrial Disputes Act, 1947, works committees are to be set up in organisation employing 100 or more persons. They are entrusted with the responsibility of removing the causes of friction between workers and managements in the day-to-thy working of industrial relations, which alone can lead to satisfactory production and productivity. For this purpose, they offer advice and guidance to workers and managements alike, and strive to compromise the differences between labour and management.

In 1958, the Joint-Management councils were set up. The basic objectives **of this** council are to establish cordial relations between employees and workers; building up a spirit of co-operation and understanding between them; at increasing productivity; at securing better walfare services for workers, and training them to understand ane,l share the responsibilities of management.

At the industry level there are Wage Boards and Industrial Committees; at the state level there are Labour, Advisory Boards and at the national level there are Indian Labour Conference and the standing Labour Committee. The machinery at state and central level in advisory nature and tripartite, representing government, management and labour, in composition. The 16th session of Indian Labour Conference held in 1958 displayed a great deal of initiative and enthusiasm and evolved a Model Grievance. Procedure, a code of Discipline and adopted an. Industrial Truce Resolution stressing the need for settling industrial disputes through voluntary arbitration. These are **certain voluntary** or consultative mechanism of conflct resolution.

Industrial Relations Machinery: When employer and the unions cannot **bilaterally come to** an agreement the Industrial Disputes Act, 1947 provides **for conflict resolution** through conciliation, arbitration and adjudication.

Conciliation : Conciliation is a method of settling industrial disputes with the help of an outsider. This method has been adopted by the parties when they cannot reconcile their differences on their own and yet want to avoid the cost of an open conflict, or

when the state wants to avoid it. The role of the outsider is to bring the parties together for discussion and also to help them in their negotiations. Conciliation may either be compulsory or voluntary. Voluntary conciliation made at the free will of the parties which agree to have their differences settled by an outsider without any compulsion provided by law. When, however, the conciliation machinery takes note of a dispute or apprehends a dispute on its own and initiates proceedings with a view to avoiding a conflict, the element of compulsion comes

Mediation : Mediation is a method of settling industrial disputes with the help of an outsider who plays a more positive role by assessing the views and interest of the parties in dispute and by advancing suggestions for compromise for their consideration. As a matter of fact, the terms mediation and, conciliation are interchangeable, for the role of an outsider in both often overlaps.. Both conciliation and mediation flow from an understanding of the parties involved in a dispute and adjusting their interests to their mutual satisfaction. These methods are not judicial but rather advisory in nature. Hence the proceedings have to be conducted in the most informal and objective manner. The role of the conciliator or mediator lies in dispelling the atmosphere of suspicion and discard by exploring those areas of agreement between the two parties which they themselves could not discover. It lies in strategically building up proper attitudes between the two parties with a view to inducing them to reach an agreement. The functions of conciliation and mediation may be performed by the machinery set up by government for this purpose, or by individuals from a panel of persons influential in public life.

Arbitration: Arbitration is' the settlement of industrial disputes between two or more parties by means of a decision of an impartial body in cases where efforts towards conciliation (mediation).have failed. Arbitration as a method is distinguised from conciliation by the fact that the procedore is closed by a decision, which is building. In conciliation the voice of the parties is more important and an agreement is -arrived. Arbitration is judicial in character, in contrast with conciliation. It is voluntary, if the parties, having failed to settle their differences by negotiation and conciliation, agree to submit ;her to arbitration. Under the system of compulsory arbitration or adjudication, the :ate requires the parties to a dispute to submit their differences to an arbitration tribunal which after considering the facts and arguments submitted to, makes an award, giving the terms of settlement. An important distinction between compulsory and voluntary arbitration does not necessarily follow the procedure of a court.

9.9 SUMMARY

We have discussed that conflict is part and parcel of human life. In the industry
afflict can occur at individual, group and organisational level. Conflict is inevitable in work organisations. In this unit we have dealt with the process of conflict, conflict at individual level and methods of managing interpersonal conflict; group and intergroup conflict and the strategies to be adopted for settling group conflicts; and finally we have discussed conflict between classes i.e., union and managerdent and the methods of resolving industrial conflicts through consultative machinery and industrial relations machinery.

9.10 FURTHER READINGS

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UNIT 10 NATURE AND CONTENT OF COLLECTIVE BARGAINING

Objectives

After going through this unit, you should be able to understand:

- **the context that determines the nature of collective bargaining;**
- **the various types of bargaining that have emerged as a response to the demands of workplace functioning and market pressures;**
- **the central role of power in collective bargaining, and**
- **the management of the process itself.**

Structure

10.1 COLLECTIVE BARGAINING AND ITS SETTING

Collective bargaining cannot be understood if it is not seen against the backdrop of industrial conflict. Labour and management conflict over many issues and in many ways. Conflicts may be generated over determination of bargaining agent, wages and benefits, methods of work, redundancy, introduction of new technology or sheer absenteeism. Such conflicts can take varied and complex forms. Some could lead to strikes, lockouts and violence; others could manifest in restrictive practices not allowing an optimum utilization of resources. Ultimately all forms of conflict end up affecting workplace functioning. The relationship of collective bargaining with industrial conflict is that through the former, organizations have tiled to come to grips with the many forms of industrial conflict and have recordered workplace functioning. It is because of this characteristic that collective bargaining has been defined as that great social invention that has institutionalized industrial conflict. The significance of the above statement is that through the process of collective bargaining, organizations have learnt to cope with industrial conflict which is endemic to our society.

But what exactly is collective bargaining? Simply put, it is a process. through which labour and managethent agree over terms and conditions of work. For labour, it means the wages and benefits that will accrue to them, and to management it signifies how work is to be done. Such agreements, generally referred to as long-term agreements (LTA), are usually negotiated every three years. This description of collective bargaining is however most inadequate because the ramifications of a collective bargaining agreement go well beyond a simple computation of wages and benefits. This is because through a LTA, both labour and management are agreeing to a set of rules and regulations by which what work is to be done, how it is to be done, and at what cost. It is because of these attributes that Flanders termed collective bargaining as a rule-making exercise.

What this rule-making function does, is to affect the very nature of workplace functioning. Collective bargaining tends to affect workplace functioning on a continuous and day-to-day basis. Such diverse issues as absenteeism, reluctance or refusal to obey orders, introduction of newer work methods or even producing beyond an acceptable productivity index can be directly attributable to collective bargaining.

In this context, collective bargaining ceases to be a once in a three-year phenomenon and it is therefore extremely important to bear in mind this inseparable relationship of collective bargaining with workplace functioning Unfortunately, many managers seem to be oblivious of such a relationship with the result that collective bargaining is rarely used as a tool to reorder labour-management relations.

10.2 BARGAINABLE ISSUES AND TYPES OF BARGAINING

Otto Kahn-Freund, an authority on industrial relations, had observed that there is no inherent limitation on what can be bargained over between labour. and management. Depending on the relative power position of the negotiating parties,

any and every issue can become the subject of negotiation. The only limiting factor is the reluctance. of the negotiating parties to discuss some,specific issues which they consider to be within their sole prerogative. For example, management has been traditionally reluctant to negotiate work methods, arguing that it is management's sole and inalienable right to determine how work is to be done. Similarly, unions do not want to negotiate over production norms or for tIntt matter even discipline for fear that any negotiation on such matters would unnecessarily bind them, reducing their flexibility and bargaining power.

However, pressures generated by market forces make strenuous demands on workplace functioning and the ground realities of business are no respectors of rigid boundaries. Consequently, over time; the very nature and content of collective bargaining have undergone changes. It is possible to identify four distinct types of collective bargaining as it has evolved over time: conjunctive, cooperative, productivity and composite bargaining. It is however not being suggested that these four types of bargaining have been distinct evolutionary pheses, one emerging to replace the other. In reality, we do see all the above types being practised in one region or industry. However, the evolutionary aspect is unmistakable—as these are progressions to deal with emerging issues of organizational life.

Conjunctive Bargaining: The earliest form of bargaining was conjunctive or distributive bargaining. This was characterized by a 'we' versus 'they' feeling, where the loss of one was equivalent to the gain of other. Since the loss and gain of either party neutralized each other, this fOrrn of bargaining was: also known as zero-sum bargaining. Typically the issues centred around the demand of wages and benefits. The primary concern for both parties was to maximize their respective gains at the cost of the other. Unions were driven to ask for higher wages and more benefits, while the management's was to yield as little as possible. Issues of work norms were 'anklom negotiated upon as these were considered managerial prerogatives even by labour. Correspondingly, managerial demands on labour to increase their commitments or to improve their work behaviour was conspicuously absent.

conjunctive bargaining however did not resolve the problems of workpiace functioning. With both sides slated as confrontationists, manifestations of absenteeism, dysfunctional workplace behaviour and poor productivity were common. Managerial response to such work behaviour was to resort to disciplinary action in a bid to soften up labour.

Cooperative Bargaining: Conjunctive bargaining however had no answer when the economic health of the industry was itself under threat. In such a situation, management was in no position to entertain labour's demand for higher wages, yet could not function without the latter's support. The recession. facing the industry was therefore pushing labour and management in each others arm in a bid for survival. In other words, labour and management had no option but to cooperate with each other for surviving the crisis. The bargaining that characterized such cooperative stance was labelled cooperative bargaining. The most classic case of such bargaining was in the American Longshoring industry where labour accepted significant wage cuts and allowed management to bring in newer technology and work methods in return for job security and guarantee of higher wages and better benefits once the

industry made a turnaround. Such a bargaining arrangement was naturally beneficial to both labour and management.

It is noteworthy to observe that cooperative bargaining is essentially the product of a situation when the industry is facing a severe recession. *Recent* examples of cooperative bargaining in India have been witnessed in the automobile industry passing through its worst recessionary phase. It is a moot question whether the collaborative phase persists beyond the recessionary stage. Industrial relations experience suggests that with the end of recession, the compulsions of collaboration between labour and management also end.

Productivity Bargaining: Productivity bargaining is best understood in the context in which it has evolved. The growing strength cf unionization was matched by a corresponding inability of management to manage its workforce. Unacceptably high rate of absenteeism, taking unauthorized breaks, or abandoning work station, shoddy work, arm,twisting management to grant overtime as a pre-requisite to proceeding with the day's work, refusal to allow introduction of newer technology or more efficient work methods—all leading to poor productivity and high costs—were widespread industrial experiences. In such a situation, any attempt by management in ordering workplace relations was stiffly resisted by labour. Management therefore had to devise some nontraditional methods of handling workplace relations. The onus of taking pro-active stance obviously rested with the management because it was they who had to retrieve lost ground: the organized workforce had nothing to lose by the continuation of prevalent work practices.

The first step in this direction was taken quite some time back in ESSO's oil refinery in U.K. in the management's attempt to gain control on overtime and to increase efficiency. The term that- emerged was productivity bargaining and has now become a mainstay in industrial relations vocabulary. In essence it means that the organized workforce will shed some of its dysfunctional activities and allow management to regain some measure of workplace control if labour is assured of some tangible benefits in return.

An agreement that merely stipulates that workers will strive to increase production and productivity cannot be called a productivity bargaining agreement. A productivity bargaining ageement, to be called as such, must link workers' wages and benefits with productivity, There is a corresponding increase of decrease in wages and benefits in relation to a standard productivity index/output. This index is usually pegged at a level which is generally attainable in a operating unit without extraordinary effort by the workers. The questions are two-fold: why should workers accept an agreement that enjoins them to a productivity index when they can certainly do without it; and secondly, what benefit does it accrue to the management to negotiate an agreement that only asks'for a productivity level that is certainly not optimal. On closenscrutiny, it will be seen that such a productivity bargaining agreement allows the workers to gain substantially by producing beyond the negotiated productivity index. The management on the other hand retrieves its prerogative to manage workplace relations. The long-term gains are even more for the management, for it can negotiate much tougher work norms in subsequent settlements. In India too, there have been quite a few organizations that have gone about ordering their workplace relations by following this principle. Outstanding examples are those of Eicher and Bajaj.

Composite Bargaining: Progressive productivity bargaining agreements have tended to put increasing pressure on labour by demanding increasing workload from the workers. Rationalization, stricter work norms and introduction of labour saving devices have reduced labour's bargaining power. Lab7's response to productivity bargaining (which is essentially management driven) ha been to\shift towards composite bargaining. Through this, unions serve notic•thal they. are not just interested in negotiating monetary aspects; rather there are pressures from labour to negotiate work norms, manning standards, employment levels, sub-contracting practices, environmental hazards, recruitment patterns and the like. By bargain:: over manning standards, unions are not only trying to ensure against upward workload revision, they are also striving to maintain employment levels for the future: Similarly, by negotiating sub-contracting clauses, labour attempts to prevent

management from farming out business, for any such activity would result in lower employment in the mother plant and a resultant drop in union's bargaining power. Examples of such collective' bargaining exercises are those between the South Indian Textile Mills Association and its union counterparts, and of Entremonde Polycoaters Ltd. and Kamgar Sabha, Thane.

To those holding a cynical view of Indian industrial relations, it is best to refer to two settlements. The preamble to the first settlement declared that "considering the cordial relations, the union submitted a draft of the proposed settlement instead of a charter of demands". In the second instance, the Chairman of Mukund Iron and Steel suggested that the employees constitute a committee which would decide the question of benefits as if they were top management with final decision-making authority, and the decision of this committee would not be subject to any discussion but accepted by him and implemented". The chairman kept his word.

103 EMERGING TRENDS AND DIFF'ERING PERCEPTIONS

The pressures generated by slowing down of economy, increased competition and technological compulsions have caused major shifts of emphasis in labour-management relationship. To begin with, labour is no longer seen to be a cheap commodity. And this is true for even the process industries where traditionally labour costs have generally not been over 2-3% of product cost. Secondly, organizations face increasing difficulty in managing men at the shop-floor. These relate to deployment/transfer; absenteeism, restrictive practices and endemic overtime. In response to these, organizations have resorted to the following strategies. There has been an increasing trend towards automation, upgradation of production targets, lowered manning levels and farming out business to ancillaries or to the tertiary sector, thereby reducing the strain to manage men and also not having to pay higher wages to relatively more secure, unionised and older workers.

Workers, in turn, are no longer solely interested in monetary aspects to the exclusion of work-related matters. Datta Samant, for example, was thrown out by workers at Murphy simply because he did not take cognizance of workers' chagrin at managerial intention of closing down the carpentry. division. Ramaswamy's latest book (1989) catalogues the frustration of workers who are caught in the bind between new managerial strategies on the one hand and the inability/unconcern of union leadership to respond adequately_ to such a situation. The result has been more shopfloor unrest, It is becoming increasingly difficult for union officials to have the same sort of control over the rank and file as in times recently gone by.

The old order has already given birth to a new one. We have witnessed the growth of independent unions, we have seen outside leadership fading out and the emergence of internal leadership. The socio-cultural and educational background of the workers have changed' so much as t9. make a mockery of even a comparison with the so-called 'stereotype'. Leaders like Dhunji Neterwala, Chand Bibi and Rajan Nair epitomise the new breed of union leaders who have risen from the shopfloor. In real terms what it means is that management will have to negotiate with union leaders who are more in tune with the organisation's specific nature of operations and who have a greater control on their members.

If one were to catalogue the issues on which the greatest number of strikes and lock-outs have taken place over the past few years one would be able to point out that the issues have essentially centered around higher wages, bonus and other monetary aspects. Surely these will remain issues for the future as well. However, it would be necessary to point out certain developments which have a bearing on the future. We have already-seen a shift towards composite bargaining whereby labour tries to retrieve its bargaining position by expanding the scope of bargainable issues— issues that have been traditionally within the domain of managerial prerogative.

It is much easier for a management, to accede to demands of periodic wage hikes and other monetary matters rather than witness the shrinking of their managerial-

prerogatives. But management can ignore this reality only at great cost. It also raises the vexatious issue of handling employee relations on a day-to-day basis because if labour is going to nibble at managerial prerogative on how work is to be performed, it becomes necessary to ponder how management is going to handle this situation. Management may be tempted to wish for a situation where a strong trade-union having negotiated work norms will also he responsible for the work behaviour of its members. Experience in dealing with the unions of R.J. Mehta•is a case in point, where Mehta's unions having bargained tough terms from the management take on the onus'of disciplining the workers. However, the overwhelming reality is that trade unions by and large, white clamouring for more powers and benefits, will have little inclination to take responsibility fcr their members' actions on the shopfloor.

Of late the management has also come out of its shell. There was a time when collective bargaining was seen by management as a bitter process during which the management 'bargained' and the unions 'collected'. Recent experiences with Bata, **Metal** Box, Philips and even GKW indicate that management has come a long way in dealing with organised labour. This has been made possible due to changing market pressures. Organisatior.s can no longer ignore the compulsions of a free market economy where competition and the need for greater technological sophistication reqoire cutting down of costs and a better, utilisation of labour. All the above companies have basically tried in their own ways to grapple with these new compulsions. In the years ahead, more and more organisations will be left with lesser choice in this regard. To survive in a competitive environment, organisations cannot therefore ignore the realities of workplace relations.

The current times could not have been more propitious. The Narasimha Rao government has set the tone for re-ordering industrial relations that was long overdue. By its disinclination to bale out public sector organisations from the mire of low productivity and recurring losses, it has also served notice to the trade unions that have been essentially thriving on the government's largess at the cost of the public. The government's emphasis on greater efficiency and productivity alongwith its decision to place a moratorium on wage increases in public sector organisations has made the unions' position more tenuous. And if that is the scenario for the so-called powerful unions in the public sector, the ripple effect for the unions in the private sector can he imagined.

10.4 MACRO-ECONOMIC CONTEXT AND 'NEW' COLLECTIVE BARGAINING

Many practitioners and observers of industrial relations would quickly point out that in the changing macio-cconomic context the compulsions of collective bargaining have ceased. They point out to the significance of recession, underemployment and a tight money market on labour relations in general and collective bargaining in particular. They suggest that in such depressed economic scenario, the bargaining power of unions tends to diminish substantially. It is argued that a depressed market leaves no scope for organisations to respond favourably to union demands. The implicit assumption, though a bit overstretched for the sake of explanation, is that organisations that face the prospect of closure of all or major parts of their operations have nothing further to lose by refusing to entertain union demands. On 'the contrary, the imminent closure of all or some units puts the union in a precarious situation. The union's **overriding** concern will then be to save jobs, for all other benefits may accrue only when jobs exist in the first place. Between the anxiety of the workforce to save jobs and the demands of the management to enforce economy measnres falls the shadow of collective bargaining. Labour economists therefore see as axiomatic a low level of union bargaining power with a depressed market scenario. Aggregated data on strike activity and industrial conflict, buttressed by content analysis of wage agreements; tend to bear out such a thesis.

The 'New' Collective Bargaining Scenario

This recessionary scenario has tended to affect collective bargaining not just in terms of the cnntent,of long-term agreements (LTA), but in the very approach towards

managing LMR. The focus has shifted towards restricting collective bargaining to its purely economic dimensions. To be more specific, the tendency has been to limit collective bargaining to granting financial incentives alone. The 'new' collective bargaining has been aided by shifting significant portion of organisational operations either to the secondary sector' by farming cut business, sub-contracting or vendor development, or by establishing newer units with greater technological sophistication resulting in better manning levels and productivity norms. High levels of unemployment/underemployment also assure the secondary sector of employing wage labour on terms which are favourable to the management compared with the existing situation in the primary sector. The development of the secondary sector, inter,alia, implies the reduced importance of the primary sector in the organisation's overall, functioning. In times of crisis, it could also mean the dispensability of the primary sector from the arena of organisation's operations. In a traditional collective bargaining scenario, much of union power rests on the stake of the management in keeping the unit operational to generate profits. But the development of the secondary sector removes this permanency and hence seriously arodes union bargaining power.

It was because many of the above conditions were fulfilled that the Baia management was able to drive a very hard bargain in their last collective bargaining exercise at their Batanagar (Calcutta) factory, and labour had little choice but to accept job and pay cuts. Sometimes, the recessionary tendencies in a particular industry may *be* so pronounced that even in the absence of the secondary eector, conditions for 'new' collective bargaining are fulfilled. For example, in the automobile industry alone, Hindustan Motors laid off 1,500 casual workers, Premier Automobiles plans to cut 8,000 jobs, TVS Suzuki slashed staff strength by 30% through its golden handshake scheme, Maruti workers' pay packets shrunk by Rs. 400 and Hero Honda cancelled overtime scheme for staff (Business Today, Jan 7-21, 1992, p. 129).

Votaries of 'new' collective bargaining extend the concept to the management of workplace relations. It is stiggested that either the threat of further job insecurity will make the workers 'behave' and t aus make managing workplace relations easier or that in such an insecure environment, labour will be only too eager to respond to financial incentives to the virtual exclusion of indulging in restrictive practices.

Are we therefore to deduce that financial incentive's, as the main weapon of 'new' collective bargaining, would be sufficient to manage workplace relations? However, theoretically as well as empirically such a notion is indefensible.

The problems of managing workplace relations however tend to persist even under 'new' collective bargaining. This is what is known as the 'fixity of labour' and the constraints of technological upgradation beyond a certain limit. It is held that no matter how much redundancies are effected, a certain number of workers would still reed to be employed to man the machines. Moreover, it is not practically feasible to Ihthstitute all the machines with more capital-intensive and labour-substituting ones. In other words, to a significant extent, organisations will be saddled with the fixity of labour and old work methods in the primary sector. One may at best argue that so long the labour—fixity stage is not reached, labour will bc. on the defensive as its overriding concern will be that of saving jobs. But the moment the fixity of labour stage is attained (which, interalia would mean **no** possibility of further reduction in manpower) it is back to business as usual.

Not surprisingly therefore, in January 1992.

"Bata India Ltd. has again been stopped in its tracks. The 7,000-odd workforce at Batanagar struck work from January 3 this year. Even a personal appeal by Chief Minister Jyoti Basu did not help matters.

• Here, secondary sector refers to those ancillaries or Vendors that collectively undertake major productions work on behalf of large corporations. For example, Maruti Udyog, Hindustan Motors, Premier Automobiles and **TELCO** constitute the primary Sector of Automobile industry, while the network of ancillaries feeding the organisation with components or Semi Assembled parts would be the secondary sector.

"Behind the trouble are the issues: of wages and productivity. The manangement want workers to accept a new productivity norm before wage negotiations begin. The workers, under the banner of Bata Mazdoor Union, have refused. Eight months and 24 rounds of futile talks have already gone by" (Business Today, January 22-February 6, 1992):

So much for the earlier txperience at Bata and so much for the emasculating strength of labour in the face of a changed macro-economic context.

Empirically, disaggregate data on strike incidence of British multinationals operating in Ireland in the food, drink and tobacco, and auto parts assembly sectors indicate that these multinationals faced a higher number of strikes compared with other sectors even while employment opportunities were rapidly shrinking in the former category. The advantage of such disaggregate data is that it•cautions us against accepting unhesitatingly the thesis that the propensity to strikt decreases with the deteriorating financial status of the company, ostensibly on the assumption that unions are chary, about entering into conflict due to their own concern for survival for they would not make matters worse for themselves by jeopardising the very functioning of the organisation.

One may well ask the question as to why there has not been similar strike incidence in the automobile sector in India. While no definitive answer can be provided, it could be very much due to the appreciation of their. relative (lack of) power position. Or it could also be as recent study* has shown, due to union leaderships' lack of ability in articulating member concern or their lack of strategy in responding to the changing shifts in management policies and tactics.

It is therefore extremely important to bear in mind the substantive difference between labour acquiescing to job and pay cuts on the one hand when circumstances force them to, and managing workplace functioning by granting financial incentives under the overarching umbrella of `new' collective bargaining on the other. In the former case, labour, by bartering off some job and pay cuts tends to consolidate its depleting stock. It is very much consistent with the realpolitik situation of collective bargaining. What is being suggested is that collective bargaining, no matter what stage it is passing through, is essentially political in nature. And in any political exercise or relationship, power is the hub around which the entire relationship revolves. It is therefore not the same to say that power is one of the essential elements of a collective bargaining process and it should not be ignored; instead, it is appropriate to remember that power is tl'e most important attribute.

The problem with power is that it is a very complex phenomenon; ever changing and not easily defined. The situation becomes more nebulous when the collective bargaining process spills over to the management of workplace relations. However, since managers have to contend themselves more with the latter, the importance of understanding the power dimension in labour-management relations becomes self-evident.

10.5 POWER AS. AN UNMITIGATING FACTOR

Inequity and conflict are endemic to a pluralist society. And if one goes by the Weberian approach that views an organisation as a microcosm of the larger macrocosm, then it follows that an organisation is going to reflect, in good measure, the inequity and conflict of the larger society.

It is one thing to state that societal inequity and conflict are going to spill over in the organisational arena, and quite another to figure out the driving force of such a conflict, Empirical studies have found that at the root of all the conflicts there is clearly some kind of fight for power and that there is no organisation without power problems and conflicts arising out of them.

Similarly it has also been argued "that an organisational theory that works counter to a control notion is simply inconceivable within the value framework of

* Worker Consciousness and Trade Union Response by E.A. Ramaswamy (Delhi: Oxford, 1989)

management thought". But power is a very difficult problem which is "neither unidimensional nor predictive like the kind of stimulus-response relationship". Perhaps because of this complexity, and alsO perhaps it suits class interests, managers hold on to a 'unitary' conception of organisation "which sees it as having but one proper source of authority and one focus of loyality" — even while recognising conflict and plurality of interests at the workplace.

The purpose of highlighting the complex nature of power, its non-unidimensional nature and the perennial problem of control in organisations is to help us to appreciate that the phenomenon of power cannot be wished away in organizational setting. It is asserted that the difficulty in resolving industrial conflict does not lie with collective bargaining per se, but in the inadequacy of extending collective bargaining concept in the management of workplace relations. Flanders, a renowned expert on collective bargaining had favoured institutionalisation of collective bargaining to take into account shop-floor protest. Actually, he had argued that management can "regain control by sharing (power)".

In any case, it is held that no matter the degree of control and authority exercised by organisations, they never completely hinder individuals or groups. There could be various opportunities whereby power cannot only be regained; even a certain amount of legitimacy may be earned in the struggle for power. For example, the raising of non-sectional interest can confer the union not only with an aura of legitimacy but also the lever to come centre-stage in management-union relationship. Reports have it that when the union' at Philips recently protested against **the** transfer of 10.4% of company's equity to Nelco at "a measly premium of Ps. 15 when the market price was around 130, many manag-n+2ent peop'c rubbed ret ir ratios **g'.ze (Business Today,** Jan 7-21, 1992, p. 18)[6], NE–otO's subsequent withdrawal oThly strengthened the union's.positinn.

10.6 MANAGING COLLECTIVE BARGAINING

We have seen that productivity 'r s.rgaining gives the management the opportunity to rewrite its labour-management relations. Obviously, such an opportunity may go waste if the long-term agreement (LTA) is not backed by complementary managerial actions. While the LTA may make it very expensive for the workers to indulge in **restrictive** practices like rampant absenteism, the business of managing men at work to get optimum productivity would still remain. An LTA can lay the ground for substantive changes in work methods, **a** higher productivity norm being oine example.

Linking Collective Bargaining with Workplace Functioning

Aqutally, if the stress is going to be on optimum utilisation of resources, higher productivity and improved quality, organisations have to do much more than negotiate favourable agreements. To some measure at least, organisations will have to achieve these through the men working at the shopfloor. For too long organisations have left undecided whose job it is to **order** workplace relationship; whether **it** is of the line management or of the personnel department. To start with, this tangle is best addressed at the apex policy-making level, flowing downwards thereafter. Organisations will also have to cope with the problem of modernisation of operations, rationalization, redeployment and training. Organisations must come up with clearer ideas as to how the hitherto disparate activities like personnel, industrial relations and HRD coalesce together to achieve overall. effectiveness in man-management. What is at stake here is the organisation's very understanding and ability to integrate personnel policies in the overall framework of the 'corporate think'.

Need for Appropriate Structures

This brings us to the needs to have institutions and structures that '..alp **to** operationalise these policies in a meaningful way. For example, if in the near future we are to deal with a situation where there are bound to be clashes between labour and management in developing work norms, then the organisation must have the

requisite structure to deal with such a problem. If the organisation is to pursue a policy of participative management even for the narrow objective of co-opting recalcitrant workers then it must have the necessary structures to achieve this end. The example of participative management has been taken for the primary reason that organisations have experimented with this concept and have got little cut of it. However, experiences in some organisations, for example in BHEL (Haridwar), indicate that such a concept can be successfully operationalised.

Preparing for Collective Bargaining Negiatiations

Since LTAs generally come along once in three years. the question arises what does management do in the interregnum? It is inconceivable that management would be able to negotiate a radical LTA without doing some preparatory work. The pre-LTA period can therefore be fruitfully utilised in preparing the ground for the major changes that the organisation wishes to incorporate through the LTA. Organisations like Eicher and BaiS had launched innovative employee relations programmes and agressive information campaigns respectively to create conducive atmospheres and clearly indicate the changed scenarios in which the-impending collective bargaining negotiations would he held.

Improving Lt'n!nne Relations

In one sense, erganisations that have sledge hammered unions•into submission, introduced automation, tarieter work norms end higher productivity targets may also and up with the consequences of having a deflated and demoralised workforce. There may well be a real danger fOr organisations to go overboard in their euphoria of besting the unions and a recalcitrant workforce. Organisations will therefore have to face the challenge:, thrown up by job dissatisfaction and an alienated vorkforce. Since available literature suggesin that the cut6ng edge of Japanese and (West) German business is ellen determined by their work ethos and committed workforce, management will have to re-orient themselves towards improving labour-menagement relations.

The third complementary line of action that the management could undertake lies in the areas of employee ralations activities like quality circles, job enrichment or other employee involvement programmes. Toning up the grievance redressal machinery for speedy and fair dispensation of organisation justice would also need attention.

10.7 SUMMARY

Collective bargaining is, therefore, not only an instrument of settling wages and • benefits but of ordering workplace relations as well. it is a dynamic concept, and the $I_n$enntis types of collective bargaining have been successfully used by both labour and management to respond effectively to the changing demands of workplace functioning and market pressures. Management is placing greater stress on tougher work•norms, lower manning levels, higher worker productivity and is introducing automation while shedding surplus manpower.

Central to the functioning of collective bargaining is the concept of power. It is erroneous to presume that in the emerging macro-economic situation with its recessionary tendencies, the compulsions of collective bargaining have ceased. What has happened is a change in balance of power in favour of management. But labour is trying to retrieve its bargaining position through composite bargaining•and by seeking legitimacy by raising larger corporate issues of social relevance, as in the Philips' case.

Finally, the management of collective bargaining calls for a three-step organisational response. First, it demands the integration of labour-management relations as a part • of 'corporate think'. Secondly, the realisation that the management of workplace relations is the joint responsibility of line and staff functions. And finally, the introduction of adequate structures and processes to complement the management of the collective bargaining agreements.

10.8 FURTHER READINGS

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UNIT 11 NEGOTIATION SKILLS

Objectives

After going through this unit, you should be able to understand:

- the concept of negotiation and its importance to day in day business life;
- various alternatives to negotiation;
- negotiation conflicts and their impact; and
- the possibility of having or not having a settlement, through the negotiation process.

Structure

11.1 INTRODUCTION

Somehow the term 'Collective Bargaining' and 'Negotiation' have been oftenly used synonymously. It would be more logical and meaningful to consider negotiations as part of collective bargaining. 'Collective Bargaining' refers in the structural and/lr institutional arrangements of Union Management Relations and also covers the parties, goals, environments, and content as. well as the process oftenly used for resolving the conflict of interest between•the management and unions. Whereas the negotiation processes has been described by Walton and Mc Kersieas "the deliberate interaction of twg or more complex social units which are 'attempting to define or redefine the terms of their interdependence". Gottschalk defines negotiation process as "an occasion where one or more representatives of two or more parties interact in an explicit attempt to reach a jointly acceptable position on one or more divisive issues". The term Negotiation as described by M'chael Salamon as "the interpersonal process used by representatives of management and employees/unions, within the various institutional arrangements of collective bargaining, in order to resolve their differences and reach agreement". Negotiation is a process for resolving conflict between two or more parties whereby both or all modify their demands to achieve **a** mutually acceptable compromise.

Negotiation can be characterised as.

a) an explicit and deliberate event;

h) it takes place between the representatives of parties concerned;

c) the process which intends to settle the disputes/differences between the parties involved;

d) the outcome of the negotiation is dependent (partly) on the relative power relationship between the parties involved.

11.2 THE PREVALENCE OF NEGOTIATION

This is an age of negotiation. Almost each and every aspect of out lives is subject to cne or the other form of negotiation. Sometimes we negotiate several times a day also, though we don't realise doing so.

Nations, governments, employers, employees, unions, management, husbands, wives, parents and children all negotiate whether it is a national or international problem, negotiation is the solution e.g. summit of super powers negotiation between Israel and Arabs or Palestinians etc.

Labour disputes are far more visible and get extensive news coverage than commercial disputes which are as frequent but less public and visible. Go slows, strikes, bans and lock-outs have become quite familiar dramas. Industrial relations disputes do get more publicity and coverage, as in this case both the parties try to win public support and sympathy to strengthen their sides. Whereas commercial negotiations are generally held in private kind of environment, partly to have edge over the competitors and to protect the companies images.

There has been substantial increase in the use of the term "Negotiation" in the commercial context. Negotiating in this context is not merely selling but its extension where the interested parties having agreed to do business need to agree on the terms and conditions. Myriads of interest groups negotiate everyday. Retailers negotiate their margins with their supplies; Community action groups negotiate with their local authorities/government for various social welfare, rights and amenities. Negotiated settlement for marriage between the parents of prospective couple for the size of dowry, has been a common practice and far more a decisive factor than the compatibility of the prospective partners. Now negotiation has become quite common and effective in divorce settlements. Lawyers specialise in respresenting their clients in such negotiation. Husbands, wives, and lovers negotiate in go under. One thing which is common in all such cases and makes negotiation necessary is that the parties involved may have varying degrees of powers but not absolute power over each other. We are forced to negotiate because we are not fully in control of events.

11.3 ALTERNATIVES TO NEGOTIATION

The right to differ is regarded in deniocracies as a fundamental right. Given that everybody demands the right to have a viewpoint, naturally follows to find out a way of handling the mutual right to differ and that is negotiation. Negotiating may not work in certain circumstances, necessitating finding other way outs. There are alternatives to negotiation which are appropriate and sometimes even preferred to suit the circumstances.

Dictatorship is one of the alternatives to negotiations, which is even preferable in certain circumstances. If the decision is made unilaterally and the other party accepts it because either one has surrendered **one's** own ,tight or is fearful of the consequences, accepting the right and might of the dictator. decisions will be dictated whenever such situations exist**e** sucli decisions are far more cotlinion than realised *and* widespread throughout **society.**

In military orders are not subject to negotiation; in sports the referee's decision is final, though a player does not lose the right to challenge it risking punishment.

A solution can be hit through arbitration, if negotiation fails to produce one. Arbitration may be another alternative to negotiation wherein a third party is designated to make decisions for the two parties, who could not agree as one. This may not work always.

Because of its nature arbitration is also unpopular among the negotiators, as it requires the parties concerned to handover their powers in the hand of a neutral party and hence lose the opportunity to influence the decision in their favour, and moreover the decision of the arbitrator has to be mutually binding. Thus it has some proximity to the decision by dictatorship.

Pendulum arbitration is more common. In this the arbitrator selects one or the other party's final positions and is precluded from forming a compromise between them. Such a mechanism encourages the interested parties to move closer and closer to what they think the arbitrator may consider as a reasonable solution, thus even increasing the probability of striking a solution without the rtcessity of arbitration.

The most common alternative negotiation is persuasion. If the other party can be persuaded to accept one's point of view. It is often the first thing we try and,keep on trying throughout the negotiation. Unfortunately, the experiences show a very pessimistic Picture of the success rate of persuasion, provoking the feeling of frustration as people in conflict can seldom be persuaded easily.

11.4 NEGOTIATING CONFLICTS

The right to differ and have one's own viewpoint is an integral part of a democracy. We become convinced that our point of view is the right one and that the othr party could not agree to it because of the lack of understanding or inability to using the same facts and arguments to lir rive at the conclusion. As a result both the parties waste hours and days together: fruitlessly arguing repeating the same ground instead of negotiating to achieve a worklble compromise.

One of the major causes of conflict is differing percepf ons. Beside there are other causes too: e.g. one of the parties might want to improve on other's offer (even after a deal has been agreed) thus introducing conflict deliberately. Sometimes there is a genuine gap between the parties beyond their control e.g. suppose a flight is delayed due to fog, hence a major contract is lost, consequently substantial reduction of work available in the company, redundancies are inevitable.

People negotiate because of self interest, be it corporate or personal. It is not always . possible to resolve conflict by negotiation. Two parties in conflict can, a course, decide to ignore the issue and agree to disagree. Difference of opinion on politics, religion and sport may probably fall in this category.. Agreeing to disagree will not make the problem go away where these differences affect or are part of a wetk or. commercial relationship. -

In the negotiating context, the conflicts can be of two kinds: I)

1) Conflict of interest and

2) Conflict of rights.

The conflict of interest occurs where either the terms of business have not been settled or being re-negotiated, having settled earlier. Labour negotiations on wages, hours, numbers and working conditions, commercial negotiations on price, quantity, quality and delivery are the examples of the conflicts of interest.

The conflict of rights occurs where a difference of interpretation arises about the existing agreement between the two parties. In labour negotiations a dispute can arise over the application of an existing agreement. In commercial negotiations the conflict could centre on whether the terms of the existing contract havebeen met? Did one party its obligations under the contract, if not, was it entirely its own fault or did the other party contributed too, if yes, how much? Again, this is a conflict about rights not interests.

The word 'Conflict' is used decriptively because that is what it is. Characterising or categorising the conflicts of rights or interests, is a prelude to resolving it. Negotiations as a process for conflict resolution necessarily centres on the issue on which the two parties are in conflict and not their relationship in total. It is because parties despite all difference have a common overall interest and common interest in finding a negotiated settlement. It does not imply that any terms are acceptable.

11.5 NEGOTIATION PROCESS

Wage negotiation was once described by a trade union leader as it was a movement wherein "both the sides are walking towards each other" to reach a mutually acceptable position. He said he aimed to get the employer's side to walk faster and with bigger steps.

It is implied in negotiation to, move from somewhere and to, move to somewhere. In negotiation parties involved move front, their, ideal position to a settlement point, which is mutually acceptable. The position of this settlement point depends on the relative bargaining strength and skill of the negotiator. Iii this situation one of the parties may have to move more or less as compared to the other one. Thii can be illustrated through a simple diagram (see Figure 1)

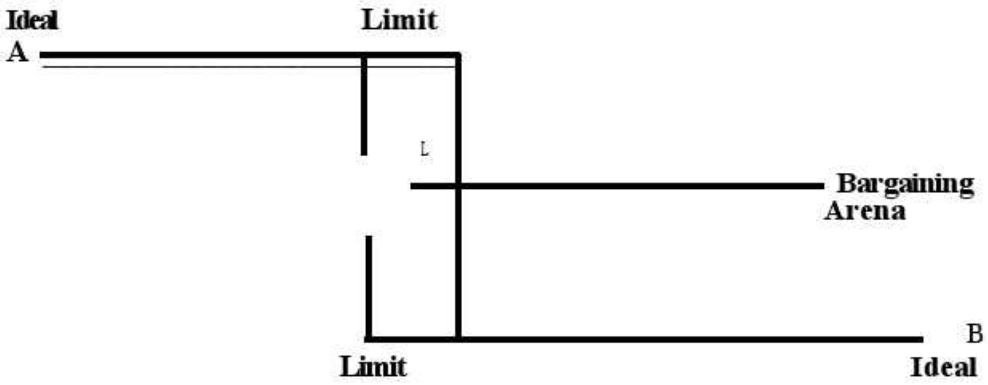

Figure I : Negotiating Continuum

If we assume there are two parties to the negotiation, A and B. Each given freedom of choice would select the position most favourable to one's interest, i.e. one's ideal point. However, both being aware that it is unlikely to persuade the other party to one's ideal, it becomes imperative for both to move a little way towards the other party's position. There is, however, a limit to this movement, sometimes referred to as the 'Break Point'—where the parties woud prefer to break off the negotiation rather than to settle beyond their fallback or the 'Worst Case' limit, This may be the limicof the negotiating authority i.e. the range of settlement authorised to the negotiator lies between his ideal and break point. In figure I the overlapping portions of both the lines indicate the existence of the possibility of a settlement. This area of overlap is known as the 'Bargaining Arena'. The settlement can be reached anywhere within this area.
As the negotiation proceeds, the negotiator may see the cause to review their limit and may seek the authority to move the limit. But in case going beyond the _ authority, would lead to the repudiation of the negotiated settlement. If they contemplate settling beyond their negotiating limit it may attract disapproval or. repudiation. Thus the limit (authority) works as a constraint upon the negotiator and it is most likely that they would seek authority to do so.

Postponement of a decision for seeking fresh instructions is a legitimate reason. Trade Unions generally insist that their agreement is subject to endorsement by their members, even though they are settling well within their limits. Commercial negotiators regularly insist that their agreement is subject to approval of *the* board. Negotiators generally talk about the `rooms for manoeuvre', which refers to the range of possible settlements open to them.

There are other possibilities too. The two parties may negotiate to their limits, but since their limits do not overlap, they can not reach to any settlement, in this circumstance, the negotiation may become deadlocked. (See Figure II)

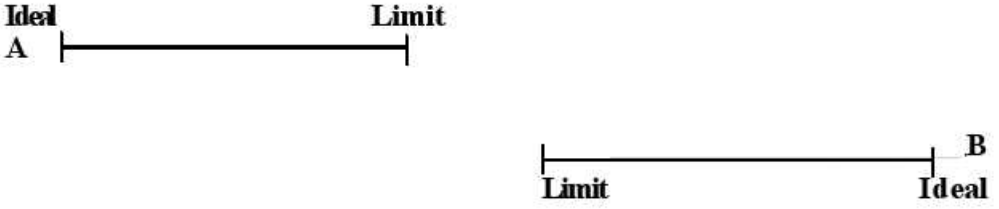

Figure II : Deadlock

In this case since both the lines are at a gap, suggesting no possibility of a settlement. As a result they may end up in a deadlock or one (or both) will have to revise their limits. In this situation either of the parties may use sanction against the other to persuade adjustment of one's limit and try to achieve a meeting of the lines. This is most commonly seen in the form of a strike or a cutting off of suppliers in credit.

It is also possible that new information emerges or new circumstances occur during the negotiation, necessitating alteration in the pre-negotiation ideal and timit continuum.

Figure III depicts another possibility where A's range overlaps ideal. If **B** discovers this during negotiations, he will have a choice of settling at his ideal or revising it (revised ideal), as shown by the dotted line—if he does not discover this, he may settle for less than he needed to.

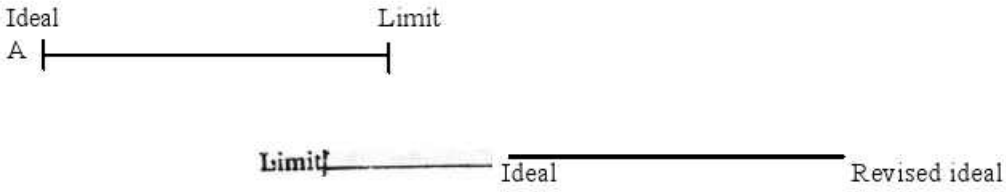

Figure III

Firstly negotiation process aims at getting into bargaining arena. Once the negotiators are in the bargaining arena, settlement depends on their relative bargaining skill, leading to how much are travels to reach the settlement point. Ensuring implementation of the agreement is also a very crucial aspect besides securing it at the least cost. One of the most difficult test of the negotiation training may be — Does it work in practice?

There are various ways and approaches to improving negotiating performance. As said earlier the real test is if it works in practice. One of the processes based on practical experience of participation an detailed study of the negotiations, focussing on the skills of negotiating is known as Eight Step Approach. This approach has been quite popular and have also been validated, by the experience of negotiating in industrial relations and commercial dealings. These skills are set in real-world environments and successful training requires that the credibility of the approach remains high with the praciising managers.

Attempts to train' management negotiators through abstract theories of negotiating and the use of extremely artificial issues is likely to be much less effective. Psychological school of negotiators is primarily concerned with the belief system of the negotiators. It is popular with some managers because they believe that **the** source of industrial conflict can be found in personality disorders of their opponents, The training values of various alternative approaches are difficult to be accepted as negotiating such as 'need theory' or over-complex manipulative bargaining. The need theory implies that the negotiator is separate from the interest which he is presumably serving. Much the same is implied in transactional analysis approaches. Both may improve the inter-personal relationship of the parties, if only, because the divisive irritants are suppressed. Similarly, an over-complex manipulative approach leaves a great deal to be desired. The parties are expected to make estimates of probabilities of various outcomes and then, to calculate the likely rewards associated with these outcomes, weighted by the probability of them occurring.

In Eight Step Approach, the negotiating sequence has been broken into eight main steps through which negotiations will go, if agreement is to **be** reached, though not necessarily in a rigid order, nor with equal attention of time to each step.

What diffetentiates arc step from the next is the differing skilLg which are appropriate in each case. These steps may help you identifying your surroundings so that you may head off in correct direction to reach the agreement. The eight steps are :

1) **Prepare**
2) **Argue**
3) **Signal**
4) **Propose**
5) **Package**
6) **Bargain**
7) **Close**
8) **Agree**

Four of the eight steps (underlined) are the crucial phases of negotiation. If the negotiator fumbles in these steps due to any reason, the deal struck, if at all, is more likely to be poorer than it need have been.

11.6 SUMMARY

Negotiations are a part of everyday life. Reading about a skill is not the same as practising it. One might be playing roles in so many negotiations in the daily life, which goes unnoticed even by oneself. If one becomes conscious of as to what is happening around and try to understand and try to improve one's performance through practising skills one has read and understood about. Writing is a great aid to the memory jogging act while you are making your moves. A checklist of steps to be followed during negotiation may be of help. Developing a checklist of common avodable mistakes would also be of great help getting the deals. Following the eight step approach can probably be put as: Prepare by knowing your business, Listen to the arguments, Make conditional proposals, Bargain using IF.....THEN, Negotiating
is a skill that can be learned and improved up on by almost anybody. Observing can be of great help in developing sAls.

11.7 FURTHER READINGS

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UNIT 12 ISSUES AND TRENDS IN COLLECTIVE BARGAINING

Objectives

- After reading this unit you should be able to:
- familiarise yourself with the context, climate, structure and substance Of Collective bargaining in India;
- discern Ane recent trends in collective bargaining; and,
- examine the implications for future course of industrial relations. ,

Structure

12.1 INTRODUCTION

Collective bargaining is defined in some of the ILO publications is:

> "Negotiation about working conditions and terms of einployment between an employer, a group of employers or one or more employers' organisations, on the one hand and one or more representative workers' organisationi on the other with a view to reaching agreement."

The ILO Convention No. 98 on the "Right to Organise and Collective Bargaining, 1948 is aimed at protecting workers who are exercising the right to organise; noninterference between workers' and employers' organisation; promotion of voluntary collectiVe bargaining.

The convention provides that

-- Workers shall enjoy adequate protection against acts of anti-union ' discrimination.

— They shall be protected more particularly against refusal to employ them by reason of their trade union membership and against dismissal or any other prejudice by reason of union membership or participation in trade union activities.

-- Workers' and employers' organisations shall enjoy protection against acts of interference bY each other. This protection is extended in particular against acts designed to promote the domination, the financing or the control of workers' organisation by employers or employers' organisations.

— Machinery appropriate to national conditions shall be established, where necessary, for the purpose of ensuring respect for the right to organise as defined by the Convention.

— Measures appropriate to national conditions shall betaken, when necessary, to encourage and promote the development and utilisation of voluntary collective bargaining to regulate tertno and conditions of employment.

The Convention neither authorises nor prohibits union security arrangements. Also, the extent to which guarantees provided for in the Convention apply to the armed forces and the police is to be determined by national laws or regulations. In 1978, Convention No. 151 was adopted on Labour Relations in Public Seivices which provide; that measures to encourage and promote the negotiation of terms and conditions of em ploYinent for public employees or such other methods as will allow their representatives to participate in the determination of these matters. The settlement of disputes is to be sought through negotiation between the parties, or through independent and impartial machinery such as mediation, conciliation and arbitration.

12.2 THE CONTEXT AND THE CLIMATE OF COLLECTIVE BARGALNING IN LNDIA

India has not ratified the ILO conventions on freedom of association and right to collective bargaining. In India, government policy and the legal climate down plays the process of bargaining. Though the labour policy stresses collective bargaining, the legal provisions and practiCes seem to encourage compulsory adjudication. Voluntary arrangements usually remain more on paper and arbitration had not taken roots except in some isolated cases.

For long several commissions and commissions debated reforms to industrial relations seeking to amend trade union act to make registration requirements relatively more stringent than at present (from any 7 being able to form a union proposed to be revised to 100 or 10% of the employees), provide for statutory mechanism for recognition, deny industrial relations to unregistered/minority unions, and specify more clearly not only trade union rights, but also 'trade union obligations/responsibilities. The Industrial Dispute Act is also proposed to be amended to provide for more emphasis on relations than disputes and set up an independent Industrial Relations Commission in the place of the existing dispute resolving machinery, Proposals have also been made to consider constitution negotiating councils where there is more than one union.

The central law, Trade Unions Act, 1926 provides for trade union registration, not trade union recognition. By convention, all registered unions have begun to have industrial relations rights, de facto, though not de jure. With the law permitting any seven employees being able to form and register a union, the ground was open for a variety of craft, category, caste, etc., based unions. Labour being a concurrent subject, certain state governments (like Maharashtra, Gujarat and Madhya Pradesh) have passed separate legislations provided mandatory mechanism for trade union recognition. Certain states like Andhra Pradesh made secret ballot a must. But statutory provisons concerning union recognition did not, unfortunately, ease conflict ou this count. The biggest strike in post-independence India occurred in the Bombay Textile Industry in 1982 over the issue of, primarily, iepresentative character of two rival unions. A variety of methods are available for determining the representative union. it can be done through any of the following methods: secret ballot, check-off or membership verification. Union shop method is not prevalent in India. However, selection of representative union for recognition as collective bargaining agent which is necessary to engage in collective bargaining has itself become a major problem because different national federations of trade unions did not agree to a common, methods and left the problem for settlement according to location realities! Even the National Labour Commission has left it vaguely. Proposals to alter the situation, along with other major changes in the Trade Unions Act have become abortive since 1978.

Due to multiplicity and unrepresentativeness of national federation of trade unions and employers' organisations as to the vast diversity, unlike in some European countries there are no "basic" agreements at the national level. There were some tripartite declarations on code of conduct, code of discipline, automation, etc., however, which becatoe of their voluntary character' remained more on paper as pious intentions whose breach entailedno obligation.

12.3 THE STRUCTURE OF BARGAINING

The structure of trade unions—of both employers and employees—in a way used to determine the structure of bargaining. If, for example, employers and employees are organised along different trades—as in Germany and the U.K., for example, the respective federations could conduct negotiations at national level for the concerned trades. However, the decline of unions, structural adjustments, privatisation and increased orientation to market economy have brought about significant changes in the structure of unions and bargaining. Union structures in several industrialised economies are increasingly being geared to become company unions and centralised bargaining is giving way to decentralised bargaining at firm/plant level. Primacy to market forces is often leading to the emergency of a phenomenon labelled as "business unionism" which gives weight to local factors and firms/plant level dynamics in bargaining situations than political ideology or worker solidarity across 'firms/trades.

In India, the role of national federations of trade unions and employers' organisations is limited, in collective bargaining, to a small nucleus of industrial associations which have a long tradition of collective negotiations with their counterpart trade union federations of workers. Among such employer associations, notable mention may be made of the Ahmedabad Mill Owners' Association, Ahmedabad, the Bombay Mill Owners' Association, Bombay, the Indian Sugar Mills . Association, New Delhi, the Tea Asiociation of India, Calcutta, the Indian Jute Mills Association, Calcutta, the Cement Manufacturers' Association, New Delhi, the United Planters Association of South India, Coonoor, the Southern India Mill Owners' Association, Coimbatore, the Indian Banks Association, Bombay and the Indian Port Association, New Delhi. The Confederation of Indian Industry, which till last year (1991) represented mainly the engineering Industry had the tradition of negotiating region-cum-industry agreements for member firms who assigned to them in writing such responsibility. "The role of industry associations in collective bargaining seem to vary depending upon the profile and background of industry and entrepreneurship. In a traditional industry like jute with leadership largely in the hands of trade turned industrialists, the entrepreneurs themselves conduct the negotiations. In juxtaposition, the engineering industry, profession managers are the charge of variations in processes and outcomes are discernible in each case which

• merit detailed study."

In some Industrial centres, both trade unions and employers, particularly have set up coordination committees to adopt a joint/collective strategy to deal with collective bargaining and related matters. This process has started in Bangalore andVyderabad and spread to other places. Industry wise coordination is also taking place with the commencement of industry wide agreements in core sectors like coal and steel. Oil industry, all of which is in public sector now, also has a coordination committee though it does not have an industry wide agreement.

For public employees, Joint Consultative Machinery and Board of Arbitration *have* been constituted. Public pay is revised through pay commissions which are usually adopted once every 12 years or so. The significant gap between central government pay systems and industrial pay systems created considerable heartburn and discontent to those who feel they were adversely affected particularly in the wake of some Supreme Court judgments pronouncing public sector as the State.

In a few industries such as cement arbitration has replaced collective bargaining over wages and working conditions while in others like media (newspapers) and sugar wage boards still decide the wages and working conditions. In all other cases, with all its distortions, collective bargaining is the main mechanism through 'which wages and working conditions are decided. Over the years, the scope of collective bargaining has been widened to include virtually every possible aspect of working relation including the quantum of overtime, shift manning, discipline promotions and transfers, for instance.

The collective bargaining scene in India is quite different from that in many other countries. Some single plant firms may have unions numbering over 80. Some large,

multi-plant firms like BHEL, Steel Authority of India Ltd., and departmental undertakings like the Indian Railways have to cope with a few hundred unions each. Which typically, the tendency in many cases of the parties to negotiation had been to bar the gain to the other party and in the process bargaining had become coercive than collective, in public sector, in the name of uniformity the bargaining had become competitive. In recent years, due to economic crisis and the need to improve the levels of productivity there have, of course, been several innovative approaches in collective bargaining. In order to survive the ailing firms and save the threatened jobs, unions and managements, particularly the former, have been agreeing for a variety of concessions including wage and employment cuts, wage freeze, moratorium on strikes and other trade union actions, changes in work practices, flexible deployment of workforce, among others. In the process, of course, some unions have been able to commit the employers to regularise the services of those who remained casual labour for several years. Productivity bargaining, though gaining currency, is yet to make such headway in view of the complexities in measurement of factor productivity and sharing of gains particularly in the context of glaring lack of mutual trust and acceptance.

12.4 THE SUBSTANCE OF BARGAINING

Traditionally wages and working conditions have been the domain of collective bargaining. Over the years, however, a variety of aspects concerning staffing arrangements, crew sizes and composition, work norms, incentive and overtime payments, job and income security arrangements, technological and other changes, working tools, techniques and practices, staff mobility including transfers and promotions, rewards and punishment including individual grievances and disciplinary matters, retirement benefits, ete., rights and responsibilities of management, unions and workmen, have. come to become part and parcel of negotiations. Collective bargaining has become an all inclusive phenomena in several organisations and therefore when one discusses about the substance of bargaining it is easy to look for what it possibly excludes than it includes. And, if one looks at a cross-section of Indian Industry, among various firms collective bargaining seems to cover almost everything that is subject matter of employer-employee relations including those aspects which arc covered by one legislation or the other (e.g. bonus).

Structural adjustment pressures, technological and other changes demand management flexibility to bridge the gap between current and expected levels of performance of organisations. These changes particularly the new technologies and adjustment pressures—when they become imperative, provide unprecedented means for management to escape old work rules and regulations. Responses by governments and unions to enact stringent job security provisions seem to result in a reduced demand for labour, with capital and new technologies progressively substituting labour in many areas. The pressures of globalisation and competition, along with various recessionary tendencies or contraction in national economy due to stabilisation programmes at macro level have been creating conditions necessary to economise the use of labour even if the spreading problems of unemployment and inflation warrant a better deal to labour. The emerging fluid situations disturbs the existing equilibrium in the power relations between unions and managements and the latter may, as Alan Fox observed, seek in some cases, to unilaterally act and search for managing new source of pluralism and individualism at the workplace, bypassing collective bargaining. This was evident with the tendency of some employers to promote workmen into officer categories in the hope that they could be taken out of the purview of the Industrial disputes and collective bargaining. But, alas! A special legislation was enacted to protect such groups, particularly sales persons who were the prime target in this respect at one time. Also, managerial unions began to proliferate subsequently even in private sector where the motives for such promotions were not necessarily honafide. The other way to respond is to promote labour management cooperation to introduce technological and other changes for modernising enterprises to overcome crisis and/or withstand competitive pressures. While several organisations, particularly those in private sector, have been seeking to promote labour management cooperation, through consultations rather than collective bargaining become the chosen means to negotiate and implement changes.

12.5 ASCENDANCY IN MANAGERIAL PREROGATIVES

A spate of agreements in recent times were directed in restoring the lost prerogatives of management. The ascendancy of managerial prerogatives is best characterised by assertion through clauses such as the following in various collective agreements:

> "It is agreed that the right to plan, direct and control operations, of the plant, to introduce new or improved production methods, to expand production facilities and to establish production schedules and quality standards are solely and exclusively the responsibility of the Management. The Management's authority to perform these and other duties will be respected in every case. In cage any order issued in connection with the discharge of these duties is considered a cause for grievance, employees would in the first instance obey the order and then proceed for the redress of the grievance in accordance with the Grievance Procedure". (emphasis added)
>
> — Indian Aluminium Co. Ltd., Belure, Agreement dated 16 September 1986.
>
> "It is agreedthat it shall be the right and responsibility of the Management to introduce new or improved methods of productions, better production facilities, plan production schedules, quality standards for improving factory operations and quality standards."
>
> The English Eleeric Co. of India Ltd., Madras, Agreement dated 4 April 1989.

With clauses like these, and others concerning modernisation changes in work practices, etc., described and discussed later, it becomes apparent that through proactive managerial approaches to collective bargaining, several aspects of labour market rigidities could be overcome, often short-cutting even references to appropriate authorities for prior permissions under the Industrial Disputes Act. For some, assertions along the above lines may just seem stressing the obvious. But the purpose seems to be to get over the vagueness behind implicit, yet contentious, duties and responsibilities that have often been a souicc of dispute.

Since mid-1980s the industrial relations scenario witnessed a new trend which led the media to perceive that labour militancy was giving way to employer militancy, particularly in the private sector. As Business World (1-14 February, 1989, pp. 54-61) quoted an industrialist, "If unions are unwilling to talk constructively about raising productivity, companies are telling them to go to hell." Several large companies witnessed prolonged strikes and lockouts towards the end of 1980s. Over 100 million mandays were lost in organised private sector during 1986-89, which witnessedAn ascendancy in managerial rights, as against the loss of only 17 million in the public sector, which employs roughly twice the number employed in organised private sector, during the corresponding period. The climate of bargaining **was** considerabil vitiated in several; bnt not all organisations where•such ascendancy of managerial prerogatives was discerned.

It is useful to recall at this stage that Karl Marx predicted that declining profits would lead employers to further exploit workers, and thereby, create the conditions for the demise of capitalism. Overzealous employers would do well to **pay hoed** to this warning. It may sound ironical, but it seems certain that employers can gain control at workplace by sharing it with the rank and file.

12.6 EMERGING CONCERNS IN BARGAINING

In the context of the new industrial policy and the changing scenario, the following appear to be some of the major concerns of unions and management which arc likely to appear on top of the agenda for the next round of negotiations for long-term and other settlements. The juxtaposition of the issues is somewhat striking for the degree of divergence in the requirements of respective constituencies at a time when utmost cooperation is the need of the hour:

Major Area of Concern	Union Concern	Management Concern
Unemployment	Create more jobs, resist job flexibility	Reduce workforce, make jobs flexible
Inflation	Improve purchasing power protect real wages	Pay for performance, not cost of living; put ceiling on DA, cut labour costs
Working Time	Reduction	Increase
Social Security	Pension, regularise all forms of employment	Reduce burden through typcial contracts of employment
New technologies	Effects on jobs, benefits, safety and health	Effects on productivity and profitability
Flexibility	Flexibility for employees	Management discretion in employ-ment practices, including **multiskilling**
Changes in practices	Union Consent	Management prerogative in method, equipment, process, and other changes

12.7 CHANGES IN WORK PRACTICES

There have been several agreements providing for managerial discretion or union consent about the modus operandi for introducing changes in work practices, etc., without necessarily issuing notice under Section 9-A of Industrial Disputes Act or reference to appropriate authority.

Modernisation and Automation: It is seen that union no longer oppose modernisation so long as job and income guarantees are given. Such guarantees are, however, easy to give and honour in conditions of growth and diversification, but difficult to sustain in conditions of chronic sickness and unviability of the unit. There is positive assertion about the imperatives of modernisation and reinforcement about the primacy of corporate survival as a prerequisite for individual job security.. Consider, for instance, the excerpts from the Tata Engineering & Locomotive Co. Ltd., Jamshedpur (agreement dated 31 March 1986):

> "...The Company pointed out that job security can only exist if the job itself exists and the employee is willing and capable of acquiring hew skills in specific time frame so that he will acquire greater mobility through deployment in the need areas. However, those workmen/employees who prove to be =trainable on account of their old age or impaired health may have to be persuaded to avail of the Voluntary or Premature Retirement Schemes of the Company. Adjustment to changing technology calls for enhancing the capabilities of workmen through acquisition of higher skills not only in their present jobs but the jobs for which they will be called upon to perform in the related or not so related areas. Every skill is to be viewed as a part of the total package of skills required to meet any contingency. The Company assures its determination to create and provide such facilities as are needed for imparting on or off the job training with a sense of urgency so that redundancy of an individual for the requirement of the organisation is avoided and jobs are protected.
>
> The Union assures the Company that they will willingly collaborate and prepare the workmen/employees for meeting the new challenges in the interest of the industry as also for the sake of job security for the workmen."

Some agreements (such as the one in Indian iron and Steel Company Ltd., Burnpur dated 12 June, 1989) provide for modernisation in consultation with the union, while in several private sector firms the agreements concede that it is a management prerogative/discretion. A similar trend is discernible with regard to computerisation, flexible deployment, introduction of multi-skills and even engagement of part-time/temporary/contract workers and subcontracting. There is a greater degree of

emphasis on leaving such matters to the discretion of management upon a guarantee that flexibility will not lead to any deterioration in terms and conditions in respect of job security, wages, benefits and allowances. In some cases, particularly public sector, however, the collective agreements expressly prohibit use of temporary and contract labour and oppose subcontracting. Companies like Bbadradialani Paper Boards, for instance, have entered into agreements which provide for optimal flexibility in deplOyment of labour listing and prohibiting, among others, wasteful and restrictive work practices; in return, however, Bhadrachalam Paper Boards (1991 agreement) undertook to departmentalise some activities hitherto handled by casuaVcontract labour.

Resolving Differences in Changes in Work Practices: Some agreements expressly provided for dealing with possible deadlocks in introducing such changes. As seen from the excerpts from three agreements given below, the agreement in Vijay Wires and Filaments Ltd. Bangalore, clarifies that introduction of new and modern machinery does not constitute change in service conditions. The agreement in Kirloskar Oil Engines, Pune provides for convincing demonstration to establish the new work norms/standards arising out of changes in work practices, etc., while the Indian Aluminium agreement provides for compulsory arbitration in the event of any dispute on the subject. It must be added that the following examples are illustrative and several organisations have clauses in their recent agreements on similar lines.

Agreement A

"The union and the Workmen shall accept the right of the management to introduce new and modern machinery or equipments as and when found necessary by the management. The workmen shall not refuse to work on such machinery and or equipments nor shall they demand any additional remuneration for working on sue 't machineries. Mere introduction of such machines and requiring workmen to operate them shall not amount to change in service conditions." (emphasis added) — Vijay Wires & Filaments Pvt. Ltd., Bangalore, Agreement dated 28 June, 1989.

Agreement B

"It is further. agreed that where the Company finds that the expected improvement in output is not forthcoming despite feasibility, and also in case of disagreement in this regard, the Company, in the presence of the concerned workman, will demonstrate by actual working for a reasonable length of time but not less that a shift to show the feasibility of achieving increased output in given normal conditions. The demonstration will be jointly monitored by the Company and the Sangh (i.e., the union). The increase in productivity/production so achieved shall be binding on the Sangh and the workmen, and that the Company assures the Sangh and the workmen that on account of higher output, there shall be no cut in the rate of incentive earnings of any workmen unless there is a change in the production/work processes. or in the machineries, materials, tools and gauges, etc." (emphasis added.)

-Kirloskar Oil Engines Ltd., Pune, Agreement dated the 19 May, 1989.

Agreement C

"...The parties agree that rationalisation or mechanisation will be effected generally in accordance with the principles adopted by the Tripartite Indian Labour Conference on rationalisation. The parties further agree that in case of rationalisation or mechanisation, the Union shall be consulted. However, if ao settlement is reached within one month from•the date of consulting the Union, the matter shall jointly be referred to a mutually agreed arbitrator, whose award shall be final and binding on both parties. (emphasis added).

— Indian Aluminium Co. Ltd., Ranchi, Agreement dated 21 De˙:ember, 1987.

The 1986 agreement of Southern India Mills Association, Coimbatore, with several federated unions was an improvement in respect of the arbitration clause: The settlement envisages various steps for scientific evaluatiu of work assignments and work load which should he done by an Industrial Engineer/Technical Expert associating a representative deputed by the union. A time limit has been fixed for

going through the exercise. In case of any difference of opinion between the management and the unions, the issue can he referred to South India Textile Research Association (SITRA) whose decision is final and binding on the parties. The timing of the scjentific study and the implementation of the decision has been left to the choice of the management.

It must he said, however, that not many industries can boast of similar research associations. The exceptions could be Ahrnedabad Textile Industry Research Association (ATIRA) in Ahmedabad, besides the research wing of United Planters' Association of South India (UPASI) in Coonoor. Arbitration has generally made little progress'in India, the notable exception till the other day being the cement industry where wages and working conditions were decided through arbitration. The recent wage dispute in cement industry exposed the weaknesses of arbitration there also.

12.8 PRODUCTIVITY AGREEMENTS

Typically all collective agreements signed in recent past contain a productivity clause. Successful adjustment at micro level is not possible without tangible productivity improvement. The approach to productivity is, however, quite varied. In some it is a mere cosmetic exercise resulting a honey-moon clause

> "The Management and the Union realise the need for improvement in productivity. Management may bring in appropriate changes in technology, production processes, equipment work methods, etc., with the consent ofthe Union as and when the need arises."

With inadequate pressure and homework from management, the attitude of the union in such cases as the above could be one of calculated indifference. 'When our members are getting substantial benefit out of the agreement, if the management insists on having something writs -n to please and appease their members, who, in fact, should give the final nod f ir the agreement, why should we object? In any case, they would come to us for implementation because anything and everything is possible only in consultation with us.' Typically this has been the case with respect to many public sector enterprises.

In contrast, several private sector organisations incorporated specific results expected in the productivity clauses. The expected outcomes were mentioned in respect of total discretion in laying down procedures and norms in Agreement A cited below, while in Agreement B, the output goals were recorded. In Agreement C, the focus was on maintaining the labour at the same level over a period of three years.

Agreement A

a. The Company's Industrial Engineering department shall, from time to time. study the processes and manufacturing operations on all product lines/sections and determine the standard production levels in accordance with the Standard Time Study Techniques, which make provisions for personal needs, working conditions, fatigue allowance and required quality standards.

b. The Standard Production Levels determined as above, shall be informed to all concerned. Every workman shall work normally, according to these production .standards."

— Peico Electronics & Electricals Ltd., Pune, Agreement dated 15 June 1991.

Agreement B

"Union agrees that workmen will increase their productivity by 20% over the standards.-

...The normal time for an operation/activity shall be separated into the manual elements and machine controlled elements... The Union agrees that the time taken for manual elements by **the workmen for setting/tool changing/adjustments etc. will also be reduced by 20%...**

Agreement C

"As a result of this agreement, the Union will not object to and, instead, cooperate with the Management in keeping the labour cost per unit at the same level as the average for 1989 for the next 3 years, if the labour cost per unit goes up, the Union will cooperate with the Management to make good for the difference or agree to proportionate reduction in wages as per the formula worked out in the annexure to the agreement."

Several agreements recognise and list wasteful practices and contain an undertaking from the union that they and the worker realise the need and scope for removing them and would work towards this end. The Bajaj agreement referred to above, makes failure to improve/achieve productivity liable for disciplinary, action:

> "The Union confirms that failure to improve/achieve productivity as per this settlement ill amount to contravention of this settlement and misconduct under the Model Standing Orders applicable to the .workmen."

12.9 CONCESSION BARGAINING IN CRISIS

Trade unions typically face a dilemma in decentralised bargaining at plant level where the plant/firm is facing a crisis due to market failure and/or financial sickness whether such problems are a production of recession or not. In their anxiety to protect all or most jobs, they have, in several cases, agreed for workforce reductions and cutbacks or freezing of pay, benefits and even reductions and suspension, of trade union rights. The following drastic measures were "mutually agreed" as essential for survival in most such situations involving companies like Jaipur Metal and Electricals Ltd., Jaipur; Kamani Tubes, Bombay; Kirloskar Oil Engin' s Ltd., Pune; and some units of Walchandnagar Industries Ltd, Pune, Metal Box, Gramophone Co. of India, among others:

Reduction in Wages and Allowances
Freeze in D.A.
Changes in Working Practices -
Stoppage or Modification of Incentive Schemes
Early Retirement Schemes
Lay-off/Retrenchment
Retraining
Redeployment

Often doubts were expressed whether such concessions by trade unions alone will ensure the survival of the firm and the security of the jobs intended to be saved. The BIFR set up in 1987 with quasi-judicial powers to dispose of cases of sick compancEs as to their closure or rehabilitation realises that some sick units are potentially viable while others are not. The industry characteristics and the *firm* size, technology and corporate strategy are among the major determinants of the potential viability of a sick unit. The experience of Jaipur Metals and Electricals Limited (JMEL), Jaipur Wakhandnagar Industries, Pune; and Kamani Tubes Limited (KTL), Bombay, indicate that such concession bargaining helped the companies to bounce back from the brink of liquidation and record impressive growth. As a result in these and several other similar instances, employment, employee earnings and productivity have significantly increased.

Invariably concession bargaining of the type described above occurs in companies after the event, i.e., after the advent of crisis. Rarely, if ever, parties sec the writing on t- wall and proactively respond and accommodate each other's interests for collective survival. Tice Indian Aluminium, Belur agreement stands out as unique in this respect, the agreement provides, among other things, that:

> "(Due to causes or circumstances beyond the control of the Company, or the employees, the Company may notify stoppage of any machine or machines, department or departments, wholly or partially for any period or periods) It is

agreed on such notification by the Company, the Company may send all or any employee on leave with pay for the period due to each employee or the Company may arrange disposal of employees on involuntary unemployment *basis* under the prevailing Acts, Rules, Adjudication Award, or Settlement, whichever may be 'applicable at the time, if the stoppage is for the reasons other than strike or lockout..."

Similarly, the agreement in Kirloskar Oil Engines (1989) stipulates when the company can be,deemed to be facing recession and proactively provides for measures to ward of the crisis through a variety of sacrifices on the part of the workmen:

"The Company shall have option of having a continuous four days as closed days at a stretch in a month instead of declaring five days working in week....

In the event the closed days exceed 26 days in a financial year, the remainder of the days shall be compensated by the Company by paying 5% compensation of wages and other allowances as aforesaid, as lay-offs and for the said excess days the workmen shall be allowed to avail of their paid leave to off-set their remaining loss to great extent

It is intriguing though, and indeed unions find it hard to accept if in such cases only workmen, and not managers, are made to sacrifice. Be that as it may,.such agreements arc in sharp contrast with the experiences of quite a few large companies asking their employees to sit at home for extended periods and claim full or, near full wages.

12.10 INTEGRATION WIN-WIN AGREEMENTS

Through creative multiplication of options to deal with persistent problems, unions and managements have, in several cases been able to integrate the purposes of both the parties and maximise common good through win-win agreements: Here are a few such examples:

Based on a joint study by management and the union, 120 jobs were considered surplus. The concerned employers were granted special leave by rotation for six months till they were absorbed in the new extrusion plant being set up then.

— Indian Aluminium Co. Ltd, Alupuram, Kerala 1966 agreement.The surplus labour problem in the textile mills was tackled, to an extent, by the union and woekers agreeing to work all 7-days a week instead of 5-days a week so that the existir F whrk, force is more optimally deployed to improve productivity and profitability.

"— Ahmedabad Textile Mills & Textile, Labour Association AgeeementS

A multinational wanted to sell one of its unviable units to an Indian business group felt that the unit had surplus labour, labour costs were too high and there was need to change the skill and age mix of the employees. It was agreed between the two firms, in consultation with the recognised union in the unit that (a) all the workers in the unit would accept a voluntary separation scheme to be financed from sale proceeds; (b) the voluntary separation compensation would be deposited in a bank account in the individual names of the affected workers which will yield a monthly annuity equivalent to 60% of the current earnings; (c) 30% of the workers would be declared surplus and the surplus labour would be idernf fled jointly by the union and the prospective employer; (d) the balance 70% employees would be rehired at 60% of current emoluments. As a result of the package deal, rehired workers would have their earnings improve by 20%, while the new employer would have his labour costs reduced by 40%. The major limitation of this agreement is that about 30% of the Workforce would be rendered surplus. There was informal understanding between the union and the present and prospective employers, but due to some other developments the sale of the unit did not take pine. As a result the agreement was not implemented.

It is, thus, seen that notwithstanding the constraints of an environment and legal framework that are hostile to collective bargaining there are several instances of labour and management coming together to bilaterally negotiate changes, this makes one hopeful about the possibility of bilateral resolution of thorny issues by discussion across the table. What is needed is the intention to bargain in good faith.

12.11 SPECIAL FEATURES OF COLLECTIVE BARGAINING IN PUBLIC SECTOR

It is difficult to have an acceptable definition of public sector, public services and public utilities, except perhaps in a national context. In India in government employment or civil services, there is hardly any collective bargaining. Pay and benefits in civil service are determined by pay commissions appointed by central and state governments, as appropriate, once in 12 years or so. Employees in departmental undertaking like Posts & Telegraphs and Railways also are governed by pay commission awards. Public sector collective bargaining, in Indian context, refers to collective bargaining in industrial and commercial undertaking owned by central and state governments and those in public financial institutions and nationalised commercial banks.

The following features characterise collective bargaining in public sector.

1) In. Public sector, though the. Standing Conference on Public Enterprises ISCOPE) is quite rep.esentative of the central public sector, it hardly plays any rose in collective bargaining. The Government created a special organ called the Bureau of Public Enterprises (BPE) which issues guidelines to enterprise managements on a host of matters concerning the management of an enterprise including almost all aspects of personnel and industrial Relations.

   In also provides guidelines nc content and other limits concerning financial commitments arising out .of collective agreements, Invariably, draft agreements between management and urion(s) had to be sent to the BPE for approval with or without modifications: The delays in processing collective agreements thiough the BPE 'undermined the role of nterprise management in collective bargaining and thus vitiated the industrial relations in climate in several units. The infeasibility of such guidelinel issues by BPE apart, the mechanism for enforcing them too is weak.

2) Core sector industries like steel, coal and ports and docks are characterised by nation-cum-industry-wide bargaining. The steel agreement covers the private sector giant, Tata Iron & Steel Company Limited (TISCO) also. The most interesting part of agreements in steel industry is that there are over 240 trade unions organised into several trade union federations within the public sector steel company, steel Authority of India Limited (SAIL). The procedure for recognition of trade unions in different public sector steel plants located in different states is not common or uniform, and in several of these there is more than one recognised trade union. In contrast, the private sector giant, TISCO, has had, since its inception in early 1900, only one recognised trade union. Yet, for the steel industry covering both public (the public sector includes not only SAIL plants but also the Rashtriya Ispat Nigam at Visakhapatnam which was commissioned in late 1980s) and private sector integrated steel plants, there is one National Joint consultative Forum for steel Industry (NJCS) which enters into an agreements once every three or four years. So far five such agreements were entered into since early 1970s. Invariably, there is a supplementary agreement at the plant level to cover aspects not covered in the national level agreement.

3) Public sector is engaged in a wide variety of economic, industrial and trading activities. Some are high-tech and capital intensive (e.g. computers, electronics and petro-chemicals). While others are labour intensive (coal, for instance). With the result, the share of labour cost in total cost varies from about two per cent to over 60 per cent. Yet, over the years, the government has been insistent upon a measure of uniformity in base wageisalary levels and frings benefits in the

entire public sector, irrespective of the nature of industry (labour or capital intensive) and paying capacity of firm as determined by its financial performance. For the public sector as a whole, at least in the units owned by the Central Government, the government being the employer, the logic seems to be that it should not distinguish or discriminate between employees in one type of firm with those in the other. With similar requirement not being applicable to private sector, at least in areas where public sector competes with private sector or where both private and public sectors operate, reward systems in private sector, relatively, seem to be more geared to the specific requirements and circumstances of the industry and the firm than is the case with public sector.

4) It is not unusual to find several instances where managements and unions collude to beat the infeasible guidelines of the Department of Public Enterprises. The parties achieve this objective through what is referred to as a practice of unsigned settlements. Parties to an agreement agree on several things, part of which are recorded in the text of the agreement and on the others a "gentleman's agreement" is reached and its contents implemented, over a period through "administrative orders." To cite an instance, provision of uniforms for employees could be bargained and yet no mention of it may be found in the text of the agreement. After a gap of time, management may chose to issue uniforms to employees as a sound human resource management practice. Same can be said about, for instance the overtime practice or subcontracting jobs hitherto carried out by regular employees it is often difficult to get a complete picture of such practice is particularly if they are encouraged to buy peace with unions or build a patronage system for political reasons. There is no attempt generally, to find out the true cost of unsigned settlements.

5) The tendency to indirectly centralise the bargaining outcomes on the part of government result in a competitive bargaining whereby at different points of time different companies are projected to bargain first so that others can negotiate for at least what the trial blazer could negotiate. In the late 1970s coal and steel BHEL (Bharat Heavy Electricals Limited) agreements served such a purpose.

6) At the lowest rung public sector wages (at about Rs. 40,000 per annum in 1990) are at least one-third higher than average wages in the organised private sector. At the highest level (chief executive), private sector wages are at least 10 times higher than their counterparts in the public sector.

12.12 FUTURE SCENARIO

Recent events and changes in the world economic order portend the traditional institutions of labour have become some what inadequate, if not irrelevant, to deal with the emerging complex issues. Perhaps, we need to begin with a neo-institutional c. ientation to understand and develop new approaches to industries. The role of government, unions and employers in industrial relations has changed significantly, over the years, in view of what happened in the intervening period. This has implications for collective bargaining. In future trade unions and management may have to be guided more by pragmatism than political and ideological fixations. The far reaching changes in Central and Eastern Europe significantly change the union dynamics of India.

The focus of collective bargaining will extend beyond the traditional employment relations and cover asnects like community, environment and post-retirement social security benefit. There will be several **new** issues in collective bargaining, which **may** include., among others, the following:

— changes in work organisation and work practices
— flexibility in employment and reward system
— quality and productivity improvement
— pensions and the whole range of social security
— quality of working life
— working environment, occupational safety and health
— new information technologies and privacy of employment data.
— prior information and consultation on changes communication and participation.

Both management and labour have limited knowledge about the full potential and possible impact of new technologies. Therefore they need to work in close cooperation and display considerable innovation at the bargaining table. Firms which take the initiative will have the competitive advantage.

In crisis situation, concession bargaining will be the rule, than the exception. The power of trade unions and the substance of bargaining may not be ever elastic. Therefore, unions particularly, would have to look for results in non-bargaining situations also to retain their membership and loyalties the members' needs and aspirations.

Because of the rapid pace of changes, the future will continue to be uncertain and turbulent. Bargaining in good faith will promote trust and ensures mutual cooperation for common good. Adversity will bring the conflicting parties together and there is need to take the optimal advantage of the situation with a view to build bridges of understanding and pave way for lasting peace and prosperity through voluntary negotiations.

12.13 FURTHER READINGS

C.S. Venkat Ratnam, *Unusual Agreements,* Global Business Press, New Delhi. 1990.

C.S. Venkata Ratnam, *Managing People: Strategies for Success,* Global Business Press, New Delhi 1992.

UNIT 13 ROLE OF LABOUR ADMINISTRATION- CONCILIATION, ARBITRATION AND ADJUDICATION

Objectives

After going through this Unit, you should be able to understand:

- the role of state in Industrial Relations including Union and Management Relations in India and outsider;
- the role of labour administration set-up to play this role, and laws on industrial relations;
- the working and effectiveness of conciliation, arbitration, and adjudication as methods of resolving conflicts and disputes.

Structure

Appendices

A) Industries which may be declared public utility services under Sub-clause (vi) of clause (n) of Sec. 2.

B) Matters within the jurisdiction of Labour Court (Sec. 7 of the Act)

C) Matters within the Jurisdiction of Industrial Tribunal (Sec. 7 A)

D) Condition of Service for change of which Notice is to be given (Sec. 9 A)

E) Unfair labour practices as listed in Schedule V of the Act (Sec. 25T, 254)

13.1 INTRODUCTION

Management and union relations or employers and employees relations are essentially their own relations arising out of employment service and working conditions. But as these relations also affect vitally the interest and welfare of the community of large, since the latter is the consumer of their joint products, and also the law and order situation in the country, the State cannot be a silent observer of these relations and divest itself of its right to intervene in the same. Community's and country's interests often demand that the two parties should not be left free to indulge in trial of strength for determining their relations or resolving their conflicts. This is particularly so in a developing country like India, where economy suffers from financial constraints, surplus labour, low productivity and standard of living, and where a planned rapid economic growth **has** to be achieved for promoting economic and social welfare of the people. The Government of such a country has therefore an obligation to maintain and promote industrial peace for generating increased employment and funds, and for facilitating the planned economic growth of the country.

13.2 ROLE OF STATE IN INDUSTRIAL RELATIONS

Of late, even in developed countries the Governments have assumed minimum powers to regulate industrial relations to save employees from exploitation, avoid dislocation of public utility services, and ensure community the availability of necessities of life at reasonable cost. However, role of state in industrial relations varies from country to country according to its level of social and economic advancement and political system obtaining in the country, and with social and cultural traditions of its people. In USA state intervention is limited to actual or threatened strike/and lock-out which imperil national health, safety and economy. Laws have been enacted only for ensuring workers' right to organise and bargaining collectively, and constituting an independent quasi-judicial authority to administer and interpret various provisions made in the legislation relating to sole bargaining agent, bargaining unit and complaints regarding unfair labour practices. In U.K. the State intervenes in dispute settlement in the last resort, though it is empowered by the Industrial Court Act, 1929, to refer dispute to conciliation. The State has provided for arbitration by the Industrial Court, and can move it if considered proper and consented by the Parties. The Court is independent of the Governments influence, and its decision though not binding on the parties, are generally accepted by them. Although Collective bargaining still plays a pivotal role in resolving conflicts, the Government has, recently assumed increased authority in industrial relations by requiring trade unions and employers under the Prices and Income Act 1966, to notify pay claims and awards to the Government which is empowered under the Act to withhold pay increases under certain conditions for a maximum period of three years. In Japan the right to collective bargaining is guaranteed under the Constitution of the country and the State has enacted legislation to promote collective bargaining. The State Intervenes in strikes only if these endanger national economy and public life. The Prime Minister can rest rain such a strike for 50 days through court injunctions obtained with consent of Central Labour Commissioner who tries to settle dispute within the 50 days cooling period. In less developed countries like Burma, Philippines and, Malaysia, the State concern in industrial disputes is more marked, providing arbitration machinery, industrial courts, and laying down rules and procedures for settlement of disputes. Disputes regarding recognition of unions are determined by the Labour Court. The Government has reserved to itself the right of making reference to such machinery in cases where public interest is involved, or where joint request is made by the parties.

Position in India

In India the State has been and is still playing a dominant role in regulating, structuring and shaping employers and employees relations.

Labour being a concurrent subject in the Indian Constitution both,the Central and State Government are using their legislative and administrative powers for reducing the areas of conflict, and preventing and resolving conflicts. First labour legislation, known as Appentices Act, was enacted in 1850 to prevent the exploitation of destitute.

Children by regulating their apprenticeship in such a manner that they become employable when they come of the age for employment. This was followed by such enactments as Fatal Accident Act, 1855, Factories Act, 1881 and its amendments in 1991 and 1911, Mines Act in 1903, Workmen's Compensation Act in 1923, Trade Unions Act in 1926 Trade Disputes Act in 1929, Payment of Wages Act in 1936, Industrial Employment (Standing Orders) Act in 1946, and some State enactments like Maternity Benefits Act, Shops and Commercial Establishments Act, and Bombay Industrial Relations Act 1946. After Independence the Government continued its legislative activity more vigorously to meet the aspirations of the working class for betterment of their employment, service, working and living conditions as promised by All India National Congress in their annual sessions before Independence and on assuming power after Independence.

At present there are more than 200 labour laws including their amendments in the statute books of both the Central and State governments, regulating practically all

important aspects of labour'conditions, meeting one or the other human needs of employees, and thereby reducing the areas of conflicts. All these laws can be grouped under six heads, that is, Working Conditions, Wages and Bonus, Industrial Relations, Social Security, Labour Welfare and Employment and Training. The laws other than on Industrial Relations may not have any provision for settlement or resolution of conflicts, but obviously they have reduced conflicts due to inadequate or lack of employee services, benefits and other essential amenities which are provided by these laws.

Legal framework for industrial relations consists of three Central Laws besides the Laws enacted or adopted by the State governments, and they are Trade Unions Act, 1926, Industrial Employment (Standing Orders) Act, 1946, and Industrial Disputes Act, 1947. The Trade Unions Act 1926, beside providing for registration of trade unions and defining rights and obligations, facilitates collective bargaining as a method for resolving conflicts. The provisions of the second enactment relating to standing orders requiring employers to reduce their employment and working rules in writing, getting them certified as reasonable by the Certifying Officers appointed by the appropriate Government and making them known to employees, has the effect of containing and reducing conflicts due to diverse and unknown employment and service conditions. The Industrial Disputes Act is the main Act which provides for prevention and settlement of disptites as explained below.

13.3 INDUSTRIAL DISPUTES ACT, 1947

This legislation is designed to ensure industrial peace by recourse to a given form of procedure and machinery for investigation and settlement of industrial disputes. Its main objeFtive is to provide for a just and equitable settlement of disputes by negotiations, conciliation, mediation, voluntary arbitration and adjudication instead of by trial of strength through strikes and lock-outs.

As State Governments are free to nave their own labour laws, States like U.P., M.P., Gujarat, Rajasthan and Mahara' itra have their own legislations for settlement of disputes in their respective states. U.P. legislation is known as U.P. Industrial Disputes Act, while others have Industrial Relations Act more or less on the lines of Bombay Industrial Relations Act, 1946.

Scope and Coverage

The Industrial Disputes Act 1947, extends to the whole of India, and is applicable to all industrial establishments employing one or more workmen. It covers all employees both technical and non-technical, and also supervisors drawing salaries and wages unto Rs. 1600 per month. It excludes persons employed in managerial and administrative capacities and workmen subject to Army Act, Navy Act, Air force Act, and those engaged in police, prison and civil services of the Government. As regards disputes, it covers only collective disputes or disputes supported by trade unions or by substantial number of workers, and also individual disputes relating to termination of service. For purposes of this Act the term "dispute" is defined as dispute or difference between employers and workmen, or between workmen and workmen, or between employers and employers, which is connected with the employment and non-employmegt or the terms of employment or with the condition of labour.

The term "disputes defined as dispute or difference between employers and workman, or between employers and employers which is connected with the employment and non-employment or the terms of employment or with the condition of labour of any person.

The term "Industry" includes not only manufacturing and commercial establishments but also professions like that of the lawyers, medical practitioners, accountants, architects etc., clubs, educational institutions like universities, cooperatives, research institutes charitable projects and other kindered adventures, if they are being carried on as systematic activity organised by cooperation between employers and employees for the production and/or distribution of goods and

services calculated to satisfy human wants and wishes not spiritual or religious, but exclusive of material things or services goaded to celestial bliss making on a large scale prasad or food. It also includes welfare activities or economic adventures or projects undertaken by the Government or statutory bodies, and Government departments discharging sovereign functions if there are units which are industries and which are substantially severscable units. (Judgment dated 21.2.78 in the civil appeals No. 753754 in the matter of the Bangalore Water & SeWerage Board etc., Vs. Rajappa & Sons, etc).

Measures for Prevention of Conflicts or Disputes

This Act not only provides machinery for investigation and settlement of disputes, but also some measures for the containment and prevention of conflicts and disputes. Important preventive measures provided under the Act are:

i) Setting up of Works Committees in establishments employing 100 or more persons with equal number of representatives of workers and management for endeavouring to compose any differences of opinion in matters of common', interest, and thereby promote measures for securing and preserving amity and cordial relations between the employer and workman.

ii) Prohibition of changes in the conditions of service in respect of matters laid down in the Fourth Schedule of the Act, (Appended) (a) without giving notice to the workmen affected by such changes; and (b) within 21 days of giving such notice. No such prior notice is required in case of (a) Changes affected as result of any award or settlement of decision of the Court under the Industrial Disputes Act. (b) Employees governed by Government rules and regulation.

iii) Prohibition of strikes and lock-outs in a public utility service (a) without giving notice to other party within six weeks before striking or locking out, (b) within 14 days of giving such notice, (c) before the expiry of the date of strike or lockout specified in the notice, and during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings. In non-public utility services strikes and lock-out are prohibited during the pendency of conciliation proceedings before the Board of Conciliation and seven days after the conclusion of such proceedings, during the pendency of proceedings before an arbitratory, labour court, and, Industrial Tribunal and National Tribunal, during the operation of an **award and** settlement in, respect of matters covered by the settlement or award.

iv) Prohibition of Unfair Labour Practices: Sec. 25 T and 25 U prohibits employers; employees and unions from committing unfair labour practices mentioned in the Scheule V of the Act (Appended). Commission of such an offence is punishable with imprisonment up to six months and fine up to Rs. 1000, or both.

v) Requiring employers to obtain prior permission of the authorities concerned before whom disputes are pending for conciliation, arbitration and adjudication, for changing working and employment conditions, or for dismissing or discharging employees and their union leaders.

vi) Regulation of lay-off and retrenchment and closure of establishments: Sec. 25 and its sub-sections require employers to (a) Pay lay-off compensation to employees for the period that they are laid-off at the rate of 50% of the salary or wages which they would have paid otherwise, (b) give one month notice, and three months notice in case of establishments employing 100 or more persons or pay in lieu of notice, and also pay compensation at the rate of 15 days wages for every completed year of service for retrenchment and closing establishments. (c) Retrench employees on the basis of first come last goes, and (d) obtain permission from the Government for retrenching and laying of employees and closing of establishments employing 100 or more persons.

Machinery for Invmtigation and Settlement of Disputes

For industrial disputes which are not prevented or settled by, collective bargaining or Works Committees or by Bipartite nagotiations, the following authorities are under the Industrial Disputes Act for resolving the same.

a) Conciliation Officer and Board, of Conciliation

b) Voluntary Arbitration

c) Adjudication by Labour Court, Industrial Tribunal and National Tribunal.

13.4 CONCILIATION

Conciliation in industrial disputes is a process by which representatives of management and employees and their unions are brought together before a third person or a body of persons with a view to induce or persuade them to arrive at some agreement to their satisfaction and in the larger interest of industry and community as a whole. This may be regarded as one of the phases of collective bargaining and extension of process of mutual negotiation under the guidance of a third party i.e Conciliation Officer, or a Board of Conciliation appointed by the Government.

Both the Central and State Governments are empowered under the Industrial Disputes Act, 1947 to appoint such number of conciliation officers as may be considered necessary for specified areas or for specified industries in specified areas either permanently or for limited periods.

The main duty of a Conciliation Officer is to investigate and promote settlement of disputes. He has wide discretion and may do all such things, as he may deem fit in order to bring about settlement of disputes. His role is only advisory and mediatory. He has no authority to make a final decision or to pass formal order directing the parties to act in a particular manner.

Process of Conciliation

Where any industrial dispute exists or is apprehended, and is brought to the notice of conciliation officer by the parties concerned, or is referred to hit li by the government, or he receives a notice of strike or lock-out, he is to hold conciliation proceedings in the prescribed manner. Conciliation proceedings are obligatory in case of public utility services,. and in such cases conciliation proceedings have to be started immediately after receiving notice of strike or lock-out or reference from the Government. In such cases conciliation proceedings are deemed to have commenced from the time the notice of strike is received by the conciliation officer. In other cases conciliation may be initiated at the discretion of the Government. The conciliation officer may send formal intimation to the parties concerned declaring his intention to commence conciliation proceedings with effect from the date he may specify. He may hold meetings with the parties to the dispute either jointly or separately. A joint meeting saves time and also affords parties an opportunity to meet each other and put forward their respective viewpoints and comments about the dispute. Conciliation proceedings are to, be conducted expeditiously in a manner considered fit by the conciliation officer for the discharge of his duties imposed on him by the Act. If a settlement is arrived at in the course of the conciliation proceedings, memorandum of settlement is worked out and signed by the parties concerned, and it becomes then binding on all parties concerned for a period agreed upon.

The conciliation officer is to send a report to the Government giving full facts along with a copy of the settlement. If no agreement is arrived at, the conciliation officer is required to submit a full report to the Government explaining the causes of failure.

After considering the report the Government may refer the dispute to the Board of Conciliation, arbitration, or for adjudication to Labour Court or Industrial Tribunal. If the Government does not make such a reference, it shall record and communicate to the parties concerned the reasons thereof. While exercising its discretion the Government must act in a bonafide manner and on consideration of relevant matters and facts. The reasons must be such as to show that the question was carefully and properly considered. The conciliation officer has to send his report within 14 days of the commencement of conciliation proceedings, and this period may be extended as may be agreed upon by the parties in writing.

The conciliation officer is not a judicial officer. After reporting that no settlement could be arrived at, he cannot be debarred from making fresh effort to bring about a settlement. But he cannot take final decision by himself.

Powers of Conciliation Officer

Under the Act Conciliation **is** not a judicial activitY. It is only administrative, since it is executed by a Government agency. Although conciliation officer is not a judicial officer, but to enable him to discharge his duties cast upon him under the Act, he has been empowered to enter the premises occupied by and establishment to which the dispute relates after giving reasonable notice for inspecting the same, or any of its machinery, appliances or articles. He can also interrogate any person there in respect of any thing situated therein or any matter relevant to the subject matter of conciliation. He can also call for any document which he has ground for considering relevant in the dispute, or to be necessary for the purposes of verifying the implementation of any award or carrying out any other duty imposed on him under the Act. He is also empowered to enforce the attendance of any person for the pupose of examination of such persons. For all these purposes the conciliation officer shall have the same power as are vested in a Civil Court under the Code of Civil Procedure. He is also deemed to be public servant within the meaning of Sec. 21 of the Indian Penal Code.

Settlements In and Outside Conciliation

A settlement arrived at in proceedings under the Act is binding on all the parties to the dispute. It is also binding on other parties if they are summoned to appear in conciliation proceedings as parties to the dispute. In case of employer such a settlement is also binding on his heirs, successors, assigns in respect of establishment to which these dispute relates. In regard to employees, it is binding on all persons who were employed in the establishment or part of the establishment to which the dispute relates on the date of dispute, and to all persons who subsequently become employed in that establishment.

A settlement arrived at by agreement between the management and workers or their unionsoutside conciliation proceedings is binding only on the parties to the agreement.

Board of Conciliatkin

Swhich is constituted
for a specific dispute. It is not permanent institution like the Conciliation Officer. The Government may, as occasion arises, constitute a Board of Conciliation for settlement of an industrial dispute with an independent chairman and equal representatives of the parties concerned as its members. The chairman who is appointed by the Government, is to be a person unconnected with the dispute or with any industry directly affected by such dispute. Other members are to be 'appointed on the recommendation of the parties conceit .ed, and if any party tails to make recommendation, the Government shall appoint such persons as it thinks fit to represent that party. The Board cannot admit a dispute in conciliation on its own. It can act only when reference is made to it by the Government.

As soon as a dispute is referred to a Board, it has to endeavour to bring about a settlement of the same. For this purpose, it has to investigate the dispute and all matters affecting the merits and right settlement thereof, for the purpose of inducing the parties to come to a fair and amicable settlement. Procedure followed by the Board in this regard is almost the same as adopted by the conciliation officers. The Board is, however, required to submit its report within two months of the date on which the dispute was referred to it, or within such short period as the Government may fix in this behalf. The proceedings before the Board are to be held in public, but the Board may at any stage direct that any witness shall be examined or proceedings shall be held in camera.

If a settlement is arrived at, a report with a copy of the settlement is submitted, to the Government. If the Board fails to bring about settlement, a report is submitted to the Government stating the facts and circumstances, the, steps taken, reasons for

failure along with its findings. After considering its findings the Government may refer the dispute for voluntary arbitration if both the parties to the dispute agree for the same, or for adjudication to Labour Court or Industrial Tribunal or National Tribunal. The period of submission of report may be extended by the Government beyond two months as agreed upon by the parties in writing. A member of the Board may record any minute of dissent from the report, or from any recommendation made therein. With the minute of dissent the report shall be published by the Government within thirty days from the receipt thereof. A Board of Conciliation can only try to bring about a settlement. It has no power to impose a settlement on the parties to the dispute. The Board has the power of a Civil Court for (i) enforcing the attendance of any person and examining on oath; (ii) compelling the production of documents and material objects; (iii) issuing commissions for the examination of witnesses. The enquiry or investigation by a Board is regarded as judicial proceedings.

The **Boards** of Conciliation are rarely appointed bythe Government these days. The original intention was that major disputes should be referred to a Board, and minor disputes should **6e** handled by the conciliation officers. In practice, however, it was found that when the parties to the dispute could not come to an agreement between themselves, their representatives on the Board in association with independent chairman (unless latter had the role of an umpire or Arbitrator), could rarely arrive at a settlement. The much more flexible procedure followed by the Conciliation Officer is found to be more acceptable. This is more so when disputes relates to a whole industry, or important issues, and a senior officer of the Industrial Relation Machinery i.e. a senior officer of the Directorate of Labour, is entrusted with the work of conciliation. The Chief Labour Commissioner (Central) or Labour Commissioner of the State Governinent generally intervene themselves in conciliation when important issues form the subject matters of the dispute.

Now the Conciliation Machinery is Working

There is no doubt that large number of disputes in India are settled in Collective bargaining, but it has yet to become very effective or widespread due to some basic difficulties like multiplicity and politicalisation of 'unions resulting in inter and intra-union rivalries, and the hostile attitude of employers. The following data in table I provides some idea of the range and efficiency of the conciliation procedure in India. From this it appears that more than 60% of the disputes reported to IRM during the period 1979-87 were disposed of in conciliation, or outside conciliation by mutual negotiation, or were abandoned by the parties concerned. In 1988 and 1989 this percentage declined and more disputes were referred for adjudication. Much of the success in conciliating disputes depends on the person entrusted with this work. Of late, some deterioration has been noticed in the quality of such person. Some) corruption is also reported to have crept in their ranks. Both the Central and State Government should be more careful in selecting persons for conciliation work. The National Labour Institute of the Central Government has already started training courses for conciliation officers, which can also be availed of by the conciliation officers of the State Governments.

Table 1

Disposal of Disputes by Government Machinery R M)

Year	No of Dis-pates Ref-erred to IRM	No of Fail-ure Reports Recei-ved	% of fail-ure; rep-orts	ADJUDICATION No of disputes referred for Adjudi cation	% of dis posal re-ferred for adju dica-tion	**ARBITRATION** No of disputes for which awards were given Arbi trat ion	In Fay our of Wor kers	Aga inst Work ers
1979	67456	20607	30	11707	**17**	66	4407	1992
1980	47788	15728	30	18923	30	58	4234	2836

1981	17133	5939	34	4833	28	21	831	516
1982	46329	16939	43	13039	27	100	2672	2274
1983	39073	13464	33	7888	22	80	1416	1740
1984	22094	5188	25	5696	26	21	1044	430
1985	55806	17317	31	15399	28	24	4299	2462
1987	25098	7311	29	6416	26	1	2449	1198
1988	31595	14833	47	11501	36	5	2514	1531
1989	57691	25858	45	21453	37	19	4390	3498

13.5 VOLUNTARY ARBITRATION

When Conciliation Officer or Board of Conciliation fail to resolve conflict/dispute, parties can be advised to agree to voluntary arbitration for settling their dispute. For settlement of differences or conflicts between two parties arbitration is an age old practice in India. The Panchayat system is based on this concept. In the industrial sphere voluntary arbitration originated at Ahmedabad in the textile industry under the influence of Mahatma Gandhi. Provision for it was made under the Bombay Industrial Relations Act by the Bombay Government along with the provision for adjudication, since this was fairly popular in the Bombay region in the 40s and 50s. The Government of India has also been emphasising the importance of voluntary arbitration for settlement of disputes in the labour policy chapter in the first three Plan documents, and has also been advocating this step as an essential feature of collective bargaining. This was also incorporated in the Code of Discipline in

industry adopted at the 15th Indian Labour Conference in 1958. Parties were enjoined to adopt voluntary arbitration without any reservation. The position was reviewed in 1962 at the session of the Indian Labour Conference where it was agreed that this step would be the normal method after conciliation effort fails, except **when** the employer feels that for some reason he would prefer adjudication. In the Industrial Trace Resolution also which was adopted at the time, of Chinese agression, voluntary arbitration was accepted as a must in all matters of dispute. The Government has thereafter set up a National Arbitration Boards for making the measure popular in all the states, and all efforts are being made to sell this idea to management and employees and their unions.

In 1956 the Government decided to place voluntary arbitration as one of the measures for settlement of a dispute through third party intervention under the law. Sec. 10A was added to the Industrial Disputes Act, and **it** was enforced from **10th** March, 1957.

Reference of Disputes for Arbitration

Where a dispute exists or is apprehended it can be referred for arbitration if the parties to the dispute agree to do so by submitting a written agreement to that effect, mentioning the person acceptable to them as arbitrator and also the issues to be decided in arbitration proceedings, to the Government and the Conciliation Officer concerned before it is referred for adjudication to Labour Court or Tribunal. The Agreement must be signed by both the parties.

Where an agreement provides for even number of arbitrators, it will provide for the appointment of another person as an Umpire who shall decided upon the reference if the arbitrators are divided in their opinion. The award of the Umpire shall be deemed to be the arbitration award for the purposes of the Act.

The appropriate Government shall within one month from the date of the receipt of the copy of the arbitration agreement publish the same in the Official Gazette if the Government is satisfied that the parties who have signed the agreement for arbitration, represent majority of each party, otherwise it can reject the request for arbitration.

Where any such notification has been issued, the employers and workmen who are not parties to the arbitration agreement, but are concerned in the dispute, shall be given an opportunity to present their case before the arbitrator or arbitrators.

The arbitrator shall investigate the dispute and submit to the Government the arbitration Award signed by him.

Where an industrial dispute has been referred for arbitration and notification has been issued, the Government may by order prohibit the continuance of any strike or lock-out in connection with such dispute which may be in existence on the date of reference.

Nothing in the Arbitration Act of 1940 applies to arbitration under Sec. 10-A of the Industrial Disputes Act, and therefore no relief is available against the award under Articles 136 and 227 of the Constitution. Only an appeal lies under Article 226 of the Constitution to the High Court.

The arbitration award which is submitted to the Government and becomes enforceable, is binding on all parties to the agreement and all other parties summoned to appear in the proceedings as parties to dispute. Such an award is also binding on all employees at the time of award, or to be employed subsequently even if they are not party to the initial agreement. If the arbitration agreement is not notified in the Official Gazette under Sec. 10-A, it is applicable only to the parties who have agreed to refer the dispute for arbitration.

Arbitration Award is enforceable in the same manner as the adjudication award of Labour Court or Industrial Tribunal.

Arbitration is an alternative to adjudication and the two cannot be used simultaneously. If is voluntary at the discretion of the parties to a dispute. Arbitrator is a quasi-judicial body. He is an independent person and has all the attributes of a statutary arbitrator. He has wide freedom, but he must function within the limit of his powers. He must follow due tnTicedure of giving notice to parties, giving fair hearings, relying upon all availa3le evidence and documents. There must be no violation of the principles of natural justice.

Acceptance of Arbitration

Voluntary arbitration has been recommended and given place in law by the Government. Experience, however, shows that although the step has been strongly pressed by the Government for over thirty years it has yet to take roots. The data in Table I shows that during the last decade not even 1% of the disputes reported were referred for arbitration. The National Commission on Labour examined the working of arbitration as a method of settling disputes, and found that it was yet to be accepted by the parties, particularly by the employers, unreservedly. The main hurdles noticed yet are:

a) Choice of suitable arbitrator acceptable to both parties.

b) Payment of arbitration fees—Unions can seldom afford to share such costs equally with management.

c) The limited remedy by way of appeals since Articles 132 and 227 of the Constitution cannot be availed of.

Apart from these it appears that arbitration under the Act is not correctly understood by the employers and trade unions. When arbitration is suggested, the impression often is that matter is to be left to the sole decision of an individual who can act in any manner he likes. The sanctity of th• decision by an arbitrator is also held in doubt. The fact that law covers voluntary arbitration and places it almost parallel to adjudication, is not appreciated or known widely.

Undoubtedly an arbitrator can give a decision more promptly and enjoys greater freedom since he is not bound by fetters of law and procedure. He is also not required to only interpret the technicality and meaning of statutory provisions. He is required in fact to decide the issue on grounds of natural justice and fair play to both the parties. Arbitration if accepted voluntarily and not under any duress or

pressure, should provide a more wholesome answer. It, however, is **for the, parties to** give a trial to this measure.

13.6 AJUDICATION

Unlike Conciliation and Arbitration, adjudication is compulsory method of resolving conflict. The Industrial Disputes Act provides the machinery for adjudication, namely, Labour Courts, Industrial Tribunals and National Tribunals. The procedures and powers of these three bodies are similar as well as provisions regarding commencement of award and period of operation of awards. Under the provisions of the Act. Labour Courts and Industrial tribunals can be constituted by both Central and State Governments, but the National Tribunals can be constituted by the Central Government only for adjudicating disputes which, in its opinion, involve a question of national importance or any of such a nature that industrial
establishments situated in more than one State are likely to be affected by such disputes.

Labour Court

It consists of one person only, who is also called the Presiding Officer, and who is or has been a judge of a High Court, or he has been a district judge or an additional District Judge for a period not less than three years, or has held any judicial office in India for not less than seven years. The Labour Court may be referred for adjudication industrial disputes relating to any matter specified in the Second Schedule of the Act (Appended).

Industrial Tribunal

This is also one-man body (Presiding Officer). The Third Schedule of the Act mentions matters of industrial disputes which can be referred to it for adjudication (Appended). This Schedule shows that Industrial Tribunal has wider jurisdiction than the Labour Court. The Government concerned may appoint **two assessors to advise** the Presiding Officer in the proceedings.

National Tribunal

This is the third adjudicatory body to be appointed by the Central Government under the Act for the reasons already mentioned above. It can deal with any dispute mentioned in Schedule H and III of the Act or any matter which is not specified therein. This also consists of one person to be appointed by the Central Governmetit, and•he must have been a Judge of a High Court. He may also be assisted by two assessors appointed by the Government to advise him in adjudicating disputes.

The presiding officers of the above three **adjudicatory bodies** must be independent persons and should not have attained the age of 65 years. Again, these three bodies are not hierarchical. It is the prerogative of the Government to refer a dispute to these bodies. They are under the control of the labour department of the respective State Government and the Central Government. The contending parties cannot refer any dispute for adjudication themselves, and the award of these bodies are binding on them.

Reference Dispute for Adjudication

If a dispute is not settled by direct negotiation, or conciliation, if the parties do not agree to get it settled by voluntary arbitration, the Government at its discretion may refer it to Labour Court, Industrial Tribunal or National Tribunal, depending upon whether the matter of the dispute appears in the Second or Third Schedule of the Act. However if the parties to the dispute jointly or separately apply for a reference to Labour Court or Tribunal, the Government is obliged to make a reference accordingly if it is satisfied that the persons applying represent the majority of each party. Disputes which are considered vexatious or frivolous, are not referred to adjudication. The Government has also the power to refer disputes which have not taken place, but are only apprehended. After referring the dispute to adjudication the

Government can prohibit the continuance of any strike or lock-out in connection with such dispute which may be in existence on the date of its reference.

An order referring a dispute to Labour Court or Industrial Tribunal or National Tribunal shall specify the period within which they shall submit their award on such dispute to the Government concerned. In case of individual disputes such a period shall not exceed three months. The period can, however, be extended if the parties concerned apply for such extension, or the Labour Court or Industrial Tribunal,may consider expedient to do so for the reason to be recorded. The proceedings before these authorities shall not lapse on the ground that the proceedings have not been completed within the specified time, or by reason of the death of any of the parties to the dispute being a workman. In computing any period specified in the order of reference; the period if any, for which proceedings had been stayed by the injunction of the Civil Court, shall be excluded.

When the Central Government is the appropriate Government in relation to any dispute, it can refer the dispute for adjudication to Labour Court or Industrial Tribunal appointed by the State Government instead of setting up its own Labour Court or Tribunal for that purpose.

Awards of Labour Courts and Industrial Tribunals

Awards of Labour Courts and Industrial Tribunals are binding on the parties concerned, on the heirs, successors and assignee of employers and on all persons employed subsequently. On receipt of award it is to be published by the appropriate Government within thirty days of the receipt. They become enforceable on the expiry of thirty days from the date of their publication in the Official Gazette. The normal period of operation of any award, as fixed under the Act, is one year. The Government has, however, the power to fix such period as it thinks fit. The Government can also extend the operation of the award up to one year at a time, but the total period of operation of any award cannot exceed three years from the date when it came into effect. Even if it is not extended, the award remains binding on the parties till it is terminated oy two months notice given by majority of one of the parties bound by the award io the other party, intimating its intention to terminate the award. The Government may not accept or give effect to an award in relation to a dispute to wilich it is a party, or if the award is given by the National Tribunal, and if it is considered inexpedient on grounds of national economy or social justice. In such a situation the Government may by notification in the Official Gazette declare that the award does not become enforceable on the expiry of the said period of thirty days. Within thirty days of its publication the Government may make an order, rejecting or modifying the award, and shall on the first available - opportunity lay the award together with a copy of the order before the State Assembly. or the Parliament, or as the case may be, where the award may be modified or rejetted. Such an award shall become enforceable on the expity of 15 days from the date it is so laid. Where no order is made in pursuance of declaration, i ward becomes enforceable within 90 days of its publication. The award comes into operation from the date mentioned in the order, and where no date is mentioned, it operates from the date it becomes enforceable.

Protection of Workmen during Pendency of Proceedings

These awards are semi-judicial in nature after they are published. They are amenable to constitutional remedies provided by Articles 136, 226 and 227 of the Constitution on grounds of defects of jurisdiction, violation of the principles of natural justice, or any error of Law. Proceedings can be initiated against these awards both in the High Court and the Supreme Court. But if an employer prefers any proceeding against an award which directs the reinstatement of any workman in High Court or the Supreme Court, he is liable to pay to such workman during the pendency of such proceedings full wages last deawn by him, inclusive of any maintenance allowance admissible to him under any rule if the workman had not been employed in any establishment during such period. If, however, it is proved,to the satisfaction of the Court that such workman had been employed and had been receiving adequate remuneration during any such period or part thereof, the Court shall order that no wages shall be payable for such period or part thereof, as the case may be.

Powers of Labour Court and Industrial Tribunals

Every investigation by these authorities is deemed to be a judicial proceedings with the meanings of Section 193 and 228 of the Indian Penal Code. They arc also deemed to be Civil Court for the purposes of Section 345, 346 and 348 of the Code of Criminal procedure. They have also the power to substitute their decision for the decision of the employer in disciplinary cases. They are empowered to determine as to who, to what extent, and to whom the cost of proceedings before them are to be paid.

They are also empowered to enforce the attendance of any person for the purpose of examination of such persons, compel the production of documents and material objects and issue commission for examination of witnesses. They are also deemed to be public servants within the meaning of Sec. 21 of the Indian Penal Code. They can also enter premises of an establishment to which dispute is related for purposes of enquiry after giving reasonable notice.

Effectiveness of Adjudication Machinery

From Table 1 showing disposal of disputes by IRM it appears that in no one ycar disputes referred for adjudication exceeded 30% of the disputes reported during 1979-87.

Initially trade unions affiliated to all political parties were enthusiastic in getting their disputes settled by conciliation and adjudication as provided under the Industrial Disputes Act, 1947. Their enthusiasm started warming when they found this method of settling disputes as very time consuming. Not a few employers also started

questioning the credibility of the presiding officers of Labourt Courts and Industrial Tribunals, who are generally retired person engaged an yearly contract basis. Some trade union leaders now prefer to get disputes settled by pressurised bargaining rather than by adjudication. Quite a number of disputes are reported to be pending with Labour Courts and Industrial Tribunals for four or five yeals, and for still longer periods in High Courts and the Supreme Court. It, therefore, appears that the machinery provided by the Industrial Disputes Act is failing to cope with the demand made on it. Its record shows that it is far from successful in resolving conflict effectively. This may be due to red-tapism and bureaucratic delays and complicated procedure which are inherent in the Government organisation. Such delays have encouraged militancy or violence in management and union relations.

The Industrial Disputes Act as amended recently, provides time limits for the disposal of disputes by Labour Courts and Tribunals, but these time limits are observed rarely. The Amended Act also provides for setting up a machinery within the establishment for prompt handling of grievances, but this amendment has yet to be given effect to. About twenty years back National Commission on. Labour recommended setting up of a more independent machinery in the form of Industrial Relations Commissions, and this recommendation is still under the considerationcs of the Government. In view of all this it is no wori[1]cip' that union and management relations in the country are still brittle, and arrangements for settlement of disputes need considerable improvement.

13.7 LABOUR ADMINISTRATION

In India both Central and State Governments enact and administer labour laws. The Jurisdiction between Centre and States is provided by the Constitution which makes distinction between matters within the exclusive Jurisdiction of the Centre and the State, and within the concurrent jurisdiction of the centre and the State. It is the Ministry of Labour and Employment of the Central Government which is the main agency for policy formation laying down laws and administration in all other matters. Together with the State Governments, local bodies and Statutory Corporations, Boards, (such as Employees State Insurance Corporation, Central Board of Trustees for Provident Fund, and Central Board of Workers Education), it coordinates and monitors the implementation of policies and decisions of the

tripartite committees. These agencies are also responsible for enforcement of labour laws. The Ministry at the Centre discharges the functions entrusted to it through a number of Directorates which are described briefly as below.

1) Director General of Employment and Training: It lays down the policies, procedures, standards and overall coordination of employment service procedures and conducting vocational training programmes throughout the country.

2) Director General of Factory Advice, Service and Labour Institute: It is concerned with the safety, health and welfare of workers in factories and docks, and is also responsible for coordinating the implementation of Factories Act. It runs a Central Labour Institute and Regional Labour Institutes.

3) Director General of Mines Safety: It looks into the working conditions and implementation of Mines Act, 1952 and Maternity Benefit Act, 1961 in mines other than coal mines.

4) Directorate of Labour Bureau : It is responsible for collection and publication of statistical and other information regarding employment, wages, earnings, industrial disputes, working conditions. It also compiles and publishes the Consumer Price Index Numbers for industrial and agricultural workers.

5) Office of the Chief Labour Commissioner (Central): It is responsible for the prevention, investigation and settlement of industrial disputes under the Industrial Disputes Act, 1947, and implementation of labour laws in industries and establishments in respect of which the Central Government is the appropriate authority, and verification of membership of the unions affiliated to the Central Workers Organisation. Beside the Chief Labour Commissioner who is the Head of this Office, there are 18 regions each headed by a Regional Labour Commissioner (Central) at headquarters at state Capitals or in industrial areas of important States and Union territories. The field Organisation has also two deputy Labour Commissioners (C), 75 Assistant Labour Commissioners (Central, and 164 Labour Enforcement Officers (Central) for discharging all the duties of the CLC Office already mentioned above.

6) Other offices with the Central Labour Ministry are (a) eleven Industrial tribunalcum-Labour Courts set up under the provisions of the Industrial Disputes Act for adjudication of disputes, for which the Central Government is the appropriate Government, (b) Nine Welfare Commissioners responsible for providing welfare services to workers in non-coal mines, and beedi and cinema industries (c) Board of Arbitration (JCM) set up under the Scheme for Joint Consultative Machinery, and Compulsory Arbitration for resolving differences on pay and allowances, weekly hours and leave of a class or grade of employees (d) Autonomous organisations like State Employees Insurance Corporation, Employees Provident Fund Organisation, National Safety Council, Central Board for Workers Education, National Labour Institute, and Vocational Council for Safety in Mines. There are Wage Boards, Commissions, Committees of Enquiry, and Tripartite Forums like Indian Labour Conference and Standing Committee, to provide direction and advice on matters that come under their jurisdiction.

In the States while the Labour Secretary is overall incharge of both policy and administration, the Commissioner of Labour in the States is the operative arm for the implementation of labour laws. He and his staff consisting of Conciliation officers and, labour inspectors are also responsible for the prevention, investigation and settlement of industrial disputes, either under the Industrial Dispute Act, 1947, or similar Act of their own State. He is also the Registrar of Trade Unions. In some States he has also the functions of the State Director of the National Employment, or of the Chief Inspector of Factories. In the States where there is separate authority for labour welfare, the Commissioner (State) looks after this function.

On the whole, there are several Institutions/agencies administering a variety of legislative and other provisions. As' in the case of legislation, in labour administration also there is scope for integrating the numerous authorities and having a unified cadre of labour judiciary service. This makes for a speedier

coordinated and effective labour administration, in the absence of which employees and employers have to run around a host of institutions/agencies in regard'to labour matters.

13.8 SUMMARY

We have explained briefly the need for the State intervention in relations between employers and employees and their unions, and the extent to which these relations are being regulated, structured and shaped by the governments in India and other countries. An overview is made of the labour legislation enacted in India before and after Independence. Industrial Disputes Act, 1947 which provides for the investigation and settlement of disputes, has been explained briefly, particularly its provisions winch are meant to prevent disputes, and provide, machinery for settlement of unresolved displuc.;. Working of Conciliation, arbitration and adjudication, the main methods of settling disputes under this Act, has been reviewed to know how effective they have been in settling disputes. Labour administration machinery of the Central and State Government has also been described briefly to show how labour policies are framed, legislation is enacted and enforced, and dispute settlement machinery is managed.

13.9 FURTHER READINGS

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APPENDIX-A

(Section 2n (vi))

Industries which may be Declared to be Public Utility Service under Sub-clause (vi) of Clause (n) of Section 2

Transport (other than railways) for the carriage of passengers or goods by land or water

2. Banking
3. Cement
4. Coal
5. Cotton textiles
6. Foodstuffs
7. Iron and steel
8. Defence establishments
9. Service in hospitals and dispensaries
10. Fire brigade service
11. Indian government mints
12. Indian Security Press
13. Copper mining
14. Lead mining
15. Zinc mining
16. Iron ore mining
17. Service in any oilfields
18. Any service in, or in connection with the working of any major port or dock
19. Service in the uranium industry.

APPENDIX-B

(Section 7)

Matters within the Jurisdiction of Labour Courts

1. The propriety or legality of an order passed by an employer under the standing orders:
2. The application and interpretation of standing orders;
3. Discharge or dismissal of workmen including reinstatement of, or grant of relief to workmen wrongfully dismissed.
4. Withdrawal of any customary concession or privilege;
5. Illegality or otherwise of a strike or lock-out, and
6. All matters other than those specified in the Third Schedule.

APPENDIX-C

(Section 7)

Matters within the Jurisdiction of Industrial Tribunals

1. Wages, including the period and mode of payment;
2. **Compensatory** and other allowances
3. Hours of work and rest intervals;
4. Leave with wages and holidays;
5. Bonus, profit-sharing, provident fund and gratuity;
6. Shift working otherwise than in accordance with standing orders:
7. Classification by grades;
8. Rules of discipline;
9. Rationalisation;
10. Retrenchment of workmen and closure of establishment;and
11. Any other matter that may be prescribed.

APPENDIX-D

(Section 9 A)

Conditions of Service for Change of Circumstance is ,to be Given

1. Wages, including the period and mode of payment;
2. Contribution paid, or payable, by the employer to any provident fund or pension fund or for the benefit of the workmen under any law for the time being in force;
3. Compensatory and other allowances;
4. Hours of work and rest intervals;
5. Leave with wages and holidays;
6. Starting, alteration or discontinuance of shift working other wise than in accordance with standing orders;
7. Classification by grades;
8. Withdrawal of any customary concession or privilege cr change in usage;
9. Introduction of new rules of discipline, or alternation of existing rules, except in so far as they are provided in standing orders;
10. Rationalisation, standardisation or improvement of plant or technique which is likely to lead to retrenchment of workmen;
11. Any increase or reduction (other than casual) in the number of persons employed or to be employed in any occupation or process or department or shift, not occasioned by circumstances over which the employer has no control.

APPENDEK•E

(Sec. T., Sec. U)

(Unfair Labour Practices)

On the Part of Employers

i) To interfere with, restrain from, or coerce, workmen in the exercise of their rights to organise, form, join or assist a trade union or to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, that is to say,
   a) threatening workmen with discharge or dismissal, if they join a trade union:
   b) threatening a loCk-out or closure, if a trade union is organised
   c) granting Wage increase to workmen at crucial periods of trade union organisation, with a view to undermining the efforts of the trade union at organisation.

ii) To dominate, Anterfere with or contribute support, financial or otherwise, to any trade union, that is to say,
   a) an employer taking an active interest in organising a trade union of his workmen; and
   b) an employer showing partiality or granting favour to one or several trade unions attempting to organise his workmen, or to its members where such a trade union is not a recognised trade union.

iii) To establish employer-sponsored unions of workmen.

'iv) To encourage or discourage membership in any trade union by discriminating against any workman, that is to say:
   a) discharging or punishing a workman, because he urged other workmen to join or organise a trade union;
   b) discharging or dismissing a workman for taking part in any strike (not being a strike which is deemed to be illegal under the Act.)
   c) changing seniority rating of workmen because of trade union activities.
   d) iefusing to promote workmen to higher posts-on account of their trade union activities;
   c) giving unmerited promotion to certain workmen with a view of creating discord amongst other workmen, or to undermine their strength of their trade union;
   0 discharging office bearers or active members of the trade union on account of their trade union activities.

v) To discharge or dismiss workmen:
   a) by way of victimisation;
   b) for patently false reasons;
   c) not in good faith, but in the colourable exercise of the employers rights;
   d) by falsely implicating a workman in a criminal case on false or concocted evidence;
   e) on untrue or trumped up allegations of absence without leave; 0 in utter disregard of the principles of natural justice in the conduct of domestic enquiry or with undue haste;
   g) for misconduct of a minor or technical character, without having any regard to the nature of the particular misconduct or the past record or service of workman, thereby leading to disproportionate punishment.

vi) To abolish the work of a regular nature being done by workmen and to give such work to contractors and measures of breaking a strike. ,

vii) 'ro insist upon individual workmen who are on a legal strike to sign a good conduct bond, as a precondition to allowing them to resume work.

ix) To show favouritism or partiality to one set of workers regardless of merit.

x) ?To employ workman as "Badlis", casuals, or temporaries, and to continue them as such for years, with the object of depriving them of the status and privileges of permanent workmen.

xi) To discharge or discriminate against any workman for filing charges or testifying against an employer in an enquiry or proceeding relating to any industrial dispute.

xii) To recruit workmen during a strike which is not illegal.

xiii) Failure to implement award, settlement or agreement.

xiv) To indulge in acts of force or violence.
xv) To refuse to bargain collectively, in good faith with the recognised union.
xvi) Proposing and continuing a lock-out deemed to be illegal under the Act.

On the part of Workmen and Trade Unions of Workmen

i) To advisor actively support or instigate any strike deemed to be illegal under this Act.

ii) To coerce workmen in the exercise of the, right to self-organisation or to join a trade union or refrain from joining and 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 place.
   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.

iii) For a recognised union to refuse to bargain collectively in good faith with the employer,

iv) To indulge in coercive activities against certification of a bargaining representative.

v) To stage, encourage or instigate such forms of coercive actions as wilful "go-slow," squalling on the work premises after working hours, or "Gherao" of any of the member of the managerial or other staff.

Block

4

WORKERS' PARTICIPATION IN MANAGEMENT

Course Design Ccomniftee

Prof. Ishwar dayal
Consultant
New Delhi

Prof. Udai Pareek
Consultant
Jaipur

Prof. Prayag Mehta
Consultant
New Delhi

Prof. A. Monappa
Indian Institute of Manageme(it
Ahmedabad

Prof. S.K. Chakraborty
Indian Institute of Management
Calcutta

Prof. V.S. Gautam
Indian Institute of Technology
New Delhi

Prof. Y.L. Grover
National **Police Academy**
Hyderabad

Dr. B.K. Singh
Ceat Tyres India Limited
Bombay

Mr. M.R.R. Nair
Chairman, Steel Authority
of India Limited
New Delhi

Prof. C.S. Venkat Ratnam
International Management Institute
New Delhi

Prof Rakesh Khurana *(Convenor)*
School of Management Studies
IGNOU, New Delhi

Dr. B.B. Khanna
School of Management Studies
IGNOU, New Delhi

Course Preparation Team

Dr. B.B. Khanna
(Course Editor and Coordinator)
School of Management Studies
IGNOU, New Delhi

Prof. R.K. Grover
Director
School of Management Studies
IGNOU, New•Delhi

Prof. C.S. Venkat Ratnam
International Management Institute
New Delhi

Prof. Arun Monappa •
. Indian Institute of Management
Ahmedabad

Prof. S. Ghosh
Indian Institute of Management
Lucknow

Dr. Masila S. Mani
Sri Ram Centre for Industrial
Relations and Human Resources
New Delhi

Dr. B.R. Seth
Consultant
New Delhi

Print Production : B. Natarajan, Copy Editor. SOMS, IGNOU

October, 2000 (Reprint)

ISBN-81-7263-384

Printed by : K.C.Printing & Allied Works, Panchwati , Mathura – 281003.

BLOCK 4 WORKERS' PARTICIPATION IN MANAGEMENT

This block comprises three units. The first unit deals with the concept, strategy and practices in workers' participation in Manageinent, giving historical developments and various models in workers' Participation in Management. The second unit gives an overview of the rationale for Workers' Participation in Management and also highlights various issue involved in and the design and dynamics of W.P.M. The last unit explains various practices and strategies for making participation work effectively, it also provides an overview of evolution of participative culture in Indian context.

UNIT 14 EVOLUTION, STRUCTURE AND PROCESSES

Objectives

After going through this unit, you should be able to

- understand the importance of workers' participation in management (W.P.M.)
- review the growth and development of the concept both in India and abroad; and
- understand various forms/models of workers' participation in management (W.P.M.)

Structure

14.1 CONCEPT OF W.P.M.

It is now agreed that genuine workers' participation in affairs of the organisation can lead to harmony and higher productivity besides being able to tap latent human resources and giving the employees and acceptable status.

A combination of powerful social, cultural, political, economic and industrial pressures have created world-wide demand for greater participation and democratisation. WPM is only one of the manifestations of this global trend. The concept of WPM is viewed by people differently. There arc people who feel that workers participation is the tool for solving most labour management relations problems, and that it will even become-the underlying concept of the future society. So people use the term as a synonym for what they call industrial democracy. Still others use it as the battlecry for uprooting the present system of ownership and management of the economics. Again for others it is more a tool of applied psychology to be used to counteract the dehumanisation of industrial work. Still others employ the term 'participation' with regard to specific procedures, for instance, the consultative machinery in an enterprise, negotiation over problems of displaced workers and profit sharing etc.

Workers' participation however can be defined as the method·through which workers acre able to collectively express their views on the functions of the enterprise.

The following are the characteristic featurgs of W.P.M.:

1) Participation implies practices which increase the scope for employees' share of influence in decision-making at different tiers of the organisational hierarchy with concomitant assumption of responsibility.
2) Participation has to be at different levels of management. Decision-making at different levels would assume different patterns with regard to policy formulation and execution.
3) Participation presupposes willing acceptance of responsibilities by workers.
4) Participation is conducted through the mechanisms of the forum and practices which provide for association of workers' representatives.
5) The broad goal of participation is to change fundamentally the organisational aspect of production and transfer the management function entirely to the workers so that management becomes 'Auto-managemen

Importance of W.P.M.

The ILO believes that the size of investment, the nature of technology and even favourable market conditions may not be of much value, if the human factor in the production process does not respond constructively to the dynamics of production. It alio believes that well informed and committed labour force is the best asset that a management would love to have at this critical juncture of India's industrial development when industrial sickness is becoming pervasive and the need for industrial harmony and productivity improvement has become a paramount necessity. The International Labour Organisation States the implications of Workers' participation in management as follows:

1) Workers have ideas which can be useful;
2) Effective communications upwards are essential to sound decision-making at the top;
3) Workers may accept decisions better if they participate in them;
4) Workers may work more intelligently if, through participation in decision making, they arc better-informed about the reasons for and the intention of the decision;
5) Workers may work harder if they share in decisions that affect tham;
6) Workers' participation may foster a more co-operative attitude amongst workers and management, thus raising efficiency by improving team work and reducing the loss of efficiency arising from industrial disputes;
7) Workers' participation may act as a Spur to managerial efficiency.

14.2 STRATEGY AND PRACTICES IN W.P.M

Much of the discussion on participation implicitly considers it as an orgamsational treatment or intervention strategy. The participative arrangement may vary from a formal i.e. explicitly recorded, system of rules and agreements imposed on or granted to the organisation to an informal, i.e. non-statutory, consensus emerging among interacting members. One can, for example distinguish three bases of formal participation. They are (1) legal bases, such as clauses in country's constitution, national or regional laws (for example participation of workers in management Bill 1990) or in government's executive orders; (2) contractual bases which for most countries involve mainly collective bargaining agreements on a national, regional-sectoral, company or shop floor level; and (3) management policies, which are unilateral regulations about the involvement of various groups or individuals in decisions about the organisation. Informal participatory schemes are based on a consensus among interacting social units or individuals and become legitimised through practice and evolving norms or customary procedures.

The degree of formality or informality of participants, is closely tied to the underlying values of the designers, to the goals and objectives which participation is to serve, aqd to the particular organisational and societal context in which the participatory systerti exists. For example, there has been a greater emphasis on the development of formal participatory structures in Germany and Yugoslavia than in England and the US, where the greater acceptance of human-growth or human development orien•ations has been associated with fewer formal participatory structures.

Formal-informal dimensions of participation remains an issue of importance in current discussions which are particularly heated in the European CountEes. Although Scandinavian Countries and Great Britain have traditionally einr. hasised :ess formal and more 'grass-roots' approaches to participation, there have been recent legislative actions and greater public pressure to introduce more fornzl forms of participation through national laws. On the other hand, in Germany and the Netherlands, for example, with their tradition of legislated participation, there appears a growing interest in less fornial on the job bargaining approaches to participation.:

Country, like India, formal participation is emphasised by making constitutional amendments in regard to workers participation. The Goveinment of India has announced time to time schemes such as workers committees, Joint Management councils etc., and advised the public sector undertakings to adopt these schemes. More

recently during 1990, the workers participation in Management Bill, 1990 was introduced in the parliament. Once it is enacted, the Act will make it statutory obligations for both public as well as private sector undertaking to adopt th's scheme of workers' participations in management.

Apart from the government initiated schemes, the private undertakings are following various other forms of participative schemes voluntarily such as suggestions schemes, quality circles etc. Within formal or informal practices of W.P.M., one may find the following types too:

Informative Participation: This refers to information sharing concerning the balance sheet, production, the economic condition of the plant, etc. Here, though the workers will have no right to have a close scrutiny of the informaton provided, they can have an idea of what is going on in the organisation.

Consultative Participation: Here the workmen will be consulted on such matters as welfare programmes, and methods of work and safety. However, even though the final decision will be that of the management, the workers' awareness and involvement will be in the positive direction.

Associative Participation: Here, the workmen's role will not be purely advisory, unlike that in consultative parqcipation. The management will be under a moral obligation to accept and implement the unanimous decisions taken jr intly. This will create a climate of partnership.

Decisive Participation: Decisions will be taken jointly on all matters, work related issues or interest-related issues. They will lead to oneness and total involvement.

14.3 BEHAVIOURAL SCIENCE INPUT/CONTRIBUTION TO W.P.M.

The behavioural sciences such as psychology, sociology, anthropology, etc., contributed to the growth of worL,.rs' participation in management through their concepts, theories and models. One of the earliest and most quoted experiments is that conducted by Prof. Kurt Lewin on after-school clubs of young boys engaged in handicraft activities. The boys were divided into three groups and subjected to three different style of leadership: authoritarian, democratic and laissez-faire. In the first group the members functioned in response to clear and specific orders from an authoritarian leader. In the democratic group, the members together decided what they would do and how they would organise themselves. It was found, in the authoritarian group, the moment the leader turned his back the productivity declined. In contrast, the presence of leader made little difference in the democratic group. It was clear that the boys subjected to authoritarian leadership would work only under supervision. Interpersonal relations in the authoritarian group were characterised by aggression and hostility, while these behaviour patterns were absent in the democratic **Group.**

Merall satisfaction was also higher in the democratic group. The only drop-outs from the club were those who functioned under an authoritarian leader. These findings signify the importance of participative management.

The most famous and most widely known experiment however is that conducted by Elton Mayo in the late twenties and early thirties. The Human relations theories emphasised that the crucial factor was the placement of a small number of workers in a separate room for purposes of experimentation and their emergence as a small group with its own structure and norms. It was the social satisfaction derived from belonging to a well-integrated small work group that enabled the workers to perform so well.

Beginning with Hawthrone, the human relations tradition placed a high value on Cooperation and Partnership between subordinates and supervisors, or between employers and employees. This emphasis has been reinforced by the findings of the Michigan School of persons like, McGregor, by recent propents of open system organisation and by advocates of T-groups to develop a sense of openness, authenticity and trust.

The behavioural theories emphasise that participation increases satisfaction which in-turn improves the output. Participative management draws on a number of motivation and human growth and development theories. These theories have discussed participation as one among several means of overcoming debilitating effects of traditionally designed organisations on their members. These theories assume a basic hierarchy of needs which culminates in a need for self-actualising or growth (e.g. Need Hierarchy Theory of Maslow). It includes people being active, independent, capable of self-control through awareness of their potential: engaged in a variety of behaviours; having long-range perspectives; and seeking equality. Theory Y is consistent with participative managemeM; while theory X alignsmith more traditional autocratic style of managing people. In terms of motivation hygiene theory, participative management could provide employees with intrinsic motivation by increasing opportunities for growth, responsibility, and involvement in the work itself. Similarly, tile process of making and implementing a decision and then seeing that it works out can help satisfying an employee's needs for achievement, recognition, responsibility, growth and enhance self-actualisation.

Noting wide spread alienation, dissatisfaction, and lack of Commitment in the work force, and the resulting cost of reduced efficiency, lower qudlity and quantity of production; absenteeism, high turnover, and increased sabotage and labour unrest, management˙ the.oriest and business leaders have looked to a variety of social science techniques — including various forms of participation — as a solution to these costs. Participation is assumed to increase general satisfaction or morale, improve group aahesion and commitment towards issues on which people are allowed to participate, provide more accurate information about such issues and increase productivity. These behavioural and social sciences theories and research contributed to the growth of participative management world wide.

14.4 HISTORICAL DEVELOPMENT OF W.P.M.

It was towards the end of the World War-I that the idea that workers should **share** in decisions which govern the life of the undertaking took practical shape with setting up of joint committees or works councils in various countries of the west. In Great Britain, join committees were advocated by the Whitely Report of 1916 and set up in principal undertakings two years later. Legislation on works councils was promulgated in Austria (1919), Czechoslovakia (1920) **Germany** (1920).

After the World War-II, many countries in Europe were busy in establishing works • councils in legislative or contractual terms. It was also the time when systematic arrangements for joint representations on supervisory boards were introduced in the West German Coal and Steel Companies. In the last two decades, this renewal of interest in institutions for worker's participation in decisions within ui. lertakings (apart from Collective bargaining) has been particularly pronounced in Europe and in some developing countries.

In Western Europe, interest in the subject has been reflected in various ways: the Γ commission of the Euiopean Communities has organised research and made proposals; special committees have'been set up to consider various aspects of participation, for instance, Finland, France, FRG. In the Netherlands, Norway, Sweden, United Kingdom, Denmark and Norway the national agreements on cooperation in the undertaking have been revised. In Norway the right of participation was the subject Of
a constitutional amendment in 1980. In Portugal the constitution of 1976 proclaiming the right to bargain collectively and the worker's right to set up workers' committees and coordinating committees for the desence of their interests in undertakings. In Spain, the constitution adopted in 1978 provides that the right to bargain collectively shall be guaranteed by law and that the public authority shall effectively provide the various kinds of participation within the undertaking.

In Yugoslavia, which has established since 1950 an elaborate system of self management, workers' participation in the solutions of problems of the level of the undertaking is a major objective of the system as a series of constitutional and legislative reforms were introduced in the later part of the 1970s.

In the U.S.S.R. and other planned economy, countries of Eastern Europe, the

economic reforms introduced since 1965, have contributed to the development and to a broadening of the scope of work agreement.

In the developing countries, collective bargaining, usually and mainly at the level of undertaking or establishment, has in most cases been developed and improved as the unions have grown stronger and the workers' level of education has risen.

Origins of W.P.M. in India

In India the first, attempt at participation were made in the early years of this century. Some industrialists in Calcutta and Ahmedabad had formed works committees even before the First world war, but these efforts made no progress. More serious attempts had to wait for independence.

Mahatma Gandhi was the most powerful spokesman of participation in the early years. His philosophy of trusteeship argued for participation. In his view, owners and workers were equal partners in industry. They were joint owners of the wealth of the firm. He considered Capitalism to be the root of evil, since it made the capitalist the sole owner of wealth. He wanted the capitalists to be the trustees and not owners till workers assumed full control.

These were certainly radical ideas. Gandhiji was intact saying that workers would ultimately destroy capitalism of course through non-violent methods. For hilti workers' control had to become a reality sooner or later. He expected the capitalist torealise this truth and act in a fitting mariner. Unlike most earlier supporters of participation who saw it as a way of increasing Production Gandhiji Saw it are means of self realisatior Participation was the method through which the we rker world realise it ever to control production.

The first attempt at introducing participation through law was made soon after Independence. The workers' committee under the Indlistrial.Disputes Act, 1947 attempted to involve workers in a limited way to discuss work related issues. The main aim of these committees was to promote measures for securing and preserving amity and good relations between employees and workmen. The functions of workers' committees were not clearly defined. Them was frequent conflict between the elected representatives of workers' committees and trade unions operating in the enterprises. And participation was mainly limited to aspects of walfare management.

In 1958, Joint Management Councils (JMC) were iritkoduced. .NICs were to entrusted with administrative responsibility for various matters`rclating to welfare, safety, vocational training, preparation of holiday schedules etc. They were to be consulted in matters of change in work operation, amendment of formulation of standing orders, rationalisation etc., to encourage smooth work operations, and enhance productivity. Representation of workmen in the JMCs was based on nominations by the recognised trade unions. JMCs did not receive much support from unions or management. It was a!leged that JMCs and work committees appeared similar in scope and function and fitig multiplicity of bipartite consultative bodies served no purpose. And where the membership strength of union§ was disputed, comporition of the council became a contentious issue.

Subsequent to the nationalisation of banks, under the Nationalised Banks (Management and MiscellaneouS Provisions) Scheme 1970, the Government required all nationalised banks to appoint employee directors to their boards, on represeting Workmen and the other representing officers. The scheme required verification of trade union membership, identification of the representative union and the appointment of a worker director from a panel of three names proposed to government by the representative union. The turn of an employee director was to be three years. This was the first major attempt to place representatives of workmen on the boards of public sector corporations. The process of membership verification and appointment of 'worker directors was carried through fairly smoothly in 1971, but the second round of appointment took till 1981 to complete in all the fourteen banks. Membership verification continues to remain a major difficulty and the process of appointments has been delayed.

In 1975, the constitution was amended and section 43A was inserted in the Directive Principles of the constitution. This section provided that "the state shall take steps by

suitable legislation or in any other way to secure the participation of **workers in tne** management of undertakings, establishments or other organisations engaged in any industry. In accordance with this amendment, the scheme of workers **participation in management** in manufacturing and mining industries was noticed in 1975. The scheme was meant for implementation at shop and plant levels and covered only those manufacturing and mining units which employed 500 or more workers. The scheme was required to be implemented in both public and private sector, as well as in departmentally run units. Shop and plant levels were assigned specific functions relating to production and productivity, management of waste reduction, absenteeism, safety, maximising machine and manpower utilisation etc.

The scheme did not lay down norms for the nomination of representations to the councils. The made for considerable confusion. It was left to management to work out an acceptable formula for representation to the councils providing for flexibility in the nomination of representatives only seemed to make matters more difficult, except where a single union was the dominent union and interested in such bipartite functions.

Druing 1977, commercial and services organisations with 100 or more employees were brought within the purview of a participative scheme, broadly similar to the 1975 scheme. It was applicable to institutions like hospitals the P&T, Railways and state electricity boards. While both the 1975 and 1977 Schemes generated considerable enthusiasm initially, with a large number of organisations constituting such forms after 1979, there was a sharp decline and various problems surfaced. Apart from the controversy about the criteria for determining representation to the forums, the exclusion of only work-related issues the inadequate sharing of information, the lack of a supportive participating culture, the indifference of management the involvement of second rung union officials etc. contributed in different ways to the ineffective funotioning of many forums and their later closure.

In December 1983, following a review of the progress of participative schemes in industry a new scheme was prepared and notified. This scheme was applicable to all central public sector enterprises, except where specifically exempted. It envisaged constitution of bipartite forums at shop development levels. In enterprises, considered suitable it was also to be implemented at the board level. The mode of representation of worker representatives was to be determined by consultation with he concerned unions ai' parity in representation between management and unions continued to be the norm. The scheme brought within the orbit of the councils a wider spread of work related issues. At the plant level, the council could discuss issues relating to personi welfare, environment and community development, plant operations and functions, and also take up financial matters relating to profit and loss statements balance sheets, operating **costs,** plant financial-performance, labour and managerial costs etc. A standing Tripartite Committee was also set up by the Ministry of Labour to facilitate review and corrective measures. State governments were requested to introduce the scheme in their public sector enterprises.

The participation of workers in management Bill 1990 was introduced in the parliamb; on May 30, 1990.

The objective of the bill as stated by the union labour and welfare Minister intends to:
Provide for specific and meaningful participation of workers in management at Shop floor level, establishment level and board of management level in industrial establishments;

ii) Provide for formulation of one or more scher les to specify detailed criteria, such as, the manner of representation of we rkrien on the shop floor E. n4 establishment level councils, and of workmen and other workers on the Board of Management.
iii) Provide for the principle of secret ballot for determining the representation and workmen on the Shop floor and establishment level councils and of workmen and other workers on the baord of management.
iv) Provide for rules to specify the power which an inspector may exercise the number of members of the Monitoring Committee and manner in which they shall be chosen etc.

The scheme to be announced after this bill becomes an Act, will decide matters regarding election of representatives of workmen and management. For workmen, the

options proposed are secret ballot or to be nominated by the registered trade unions. Representatives of the management shall be nominated by the employers as specified in the scheme.

14.5 MODELS IN WORKERS' PARTICIPATION IN MANAGEMENT

Collective Bargaining Model

In theory collective bargaining represents a different form of participation. Collective bargaining provides to the management and the workers the right, threlugh collective agreements, to lay down certain rules for the formulation and the termination of contract of employment as well as the conditions of service in an establishment. Collective bargaining has been used as an important method of influencing managerial decisions.

Works Councils Model

Staff or works councils are exclusive bodies of the employees. There may be one council for the entire organisation or a hierarchy of works councils from shop floor to the Staff Board. Members are elected by the employees of the relevant sections. They have different functions in the management of an enterprise, ranging from eliciting information on management's intentions to full share in decision-making. Here there is **a** basic assumption of a harmony of interests, at least on key issues.

Joint Management Councils Model

These are joint bodies comprising the representatives of ' the manager entry employees. Their functions ma ange from decision-making on some issues to merely advising the management as consultative bodies. In Britain and India, the JMCs are commonly used form of workers' participation in management. Mostly theiri ol.; in advisory and consultative, with decision-making being left to the top management.

Workers' Self-management Model

This institutional type is characterised by a substantial degree of workers' participation on the main decision-making bodies, coupled with either a system of workers' ownership or the right to use the assets of the enterprise. A system of self-management in Yugoslavia is based on this concept.

These are certain models in workers participation in management prevalent in various countries.

14.6 SOCIOLOGICAL BACKGROUND

Society is changing constantly. The social changes have led to development of new attitude and aspirations. On the industrial front, traditional management prerogatives and constantly, under attack and there is increasing social awareness. There is an enhanced desire for a better and more satisfying life as well as work. The new generatic nmants to be more and more involved in the matters affecting them. Increased involvement of the employees in the various matters of the organisation is the only way to draw **out** the energies and skills of employees to their full cooperation.

To-day work-force is qualitatively different from their counter parts of the yester years. Research evidences show that average age of our industrial worker is declining and is below forty years of age at present. Also, the educational level and technical kill attainments are rising:All this accounts for greater awareness in the workforce, and greater desire to be involved in decisions relating to their work and career management. Peter Drucker rightly observes that traditional **system** of organisation based on the concepts Of authority and responsibility— a system of command—is no longer suited to the contemporary situation wherein highly educated people are entering the work force in ever larger numbers. Instead, he emphasised the need for an information and decision system, a system of judgement, knowledge and expectations.

14.7 SUMMARY

We have dealt with the workers' Participation in Management in India and abroad. It is observed in some countries it is successful and in others it is not. In India it failed to take off. In this unit, we have discussed various forms and models of workers participation in management too. The behavioural sciences through their concepts, theories and models help grow the workers participation in management. Workers' PartiCipation no longer is a question of 'Whether' but of 'how'. The changing socio-economic profile of workforce and the political values stress the need for workers' participation in management.

14.8 FURTHER READINGS

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UNIT 15 DESIGN AND DYNAMICS OF PARTICIPATIVE FORUMS

Objectives

After going through this unit, you should be able to understand:

- rationale behind the participation;
- various types of structures pertaining to participative management; and
- issues involved in these participative forums.

Structure

15.1 RATIONALE FOR PARTICIPATION

The design and dynamics of participation would largely depend on the rationale adopted for participation. Of the many schools of thought, the following approaches are the most common:

1) The term participation and participative management are associated with the behaviourist as well as the human relations schools. Their main arguments are that in large complex organisations work is repetitive, boring and alienating. Large scale organisations also tend to block individual growth and self-development; leading to apathy, a wasting of human abilities, and dysfunctional activities, such as strikes, work restriction and destructive competition. It is thought that participation releases the creative abilities of the individual. Victor Vroom even found that participation in decision-making had positive effect on attitudes and motivation.

2) Advocates of industrial democracy extend the concept of participation from political democracy. An industrial organisation is seen as a microcosm of the larger society. Democratic principles can moreover be applied to a greater extent in an industrial organisation. Employees, as important stakeholders, therefore have a claim to the formulation of policies and the decision-making process. Advocates of this school therefore call for workers' participation in the management of enterprises.

   In contrast with the above two schools, radical sociologists and Marxists view workers' participation in management as a poor alternative to worker control. Following the classical Marxist approach, they believe that the workers have an inherent right to manage as they, and they alone can legitimately claim to own the means of production. In other words it is not so much workers' participation in management that they advocate but workers' control by which is possible "the establishment of working class centres of authority within the hostile framework-of capitalist society".

It will be seen that power seems to be an underlying factor in all the three schools. The basic difference in orientation between the protagonists of the human relations school and the Marxist approach is that for the former, power equalisation is seen to lead to more productive, efficient organisations as well as happier, better adjusted human beings. For the Marxists, workers control would signify an important attribute of social change.

Relationship of Rationale with Participative Form

The reason why we should concern ourselves with the rationale of participation is because there is a distinct relationship between the nature and form of participation

(the issues that are discussed, the mode of decision-making and their eventual implementation) and the very rationale behind the creation of such forums.

It will be easy to observe that those who accept the rationale of the first school could remain content with some of the manifest forms of participation. Elements like information sharing, consultation and sharing of views could become the hallmarks of participative forums.

On the other hand, advocates of industrial democracy would want some representation in the decision-making process of participative forums: Whether such representation is achieved through union participation or by worker representatives through direct elections would be a matter of detail. This would be in consonance with the representative form of parliamentary democracy. The extent of representation and the .degree of control in decision-making are secondary issues.

The rationale of the third approach would however demand a participative forum where, at the very least, worker representatives can exercise decisive control in the decision-making process. In terms of form, this is most likely to translate itself in seeking parity at all levels of the decision-making process. Since the concept of worker control goes beyond trade union representation, advocates of this approach also demand democratisation through direct worker election to such participative forums.

15.2 STRUCTURES AND NETWORK

The foregoing section indicated the relationship of the rationale of participation with the forms that the concept:takes. This section elaborates on the various structures in greater detail.

It is possible to identify three types of structures pertaining to participative management. These relate to participative forums at the shopfloor, unit and enterprise levels. For example, in India, works committees (WCs) constituted under the Industrial Disputes Act, 1947 are examples of participative bodies at the grassroot level. Similarly, shop councils (created under Emergency provisions of 1975) were participative forums at the plant level, while joint management councils (JMCs) were enterprise level bodies. In Germany, the corresponding bodies are works council, supervisory board and the board of directors.

The composition of these bodies and the powers of their constitution tell us more about the functioning of these participative bddies. The foregoing paragraph may lead some to suspect that there is little to distinguish between the WCs and JMCs in India industries on the one hand and works councils and supervisory boards in Germany on the other. In reality, the differences could not be more glaring. While there is no penalty for the non-formation for the WCs and the same can be disbanded by the management for discussing issues beyond their purview, the works councils and supervisory boards in Germany enjoy statutory protection against managerial action. Moreover, while the . decisions of the WCs and JMCs are only recommendatory in nature, decisions of the works councils and supervisory board have a mandatory nature in German organisations. As will be seen in the subsequent sections, these vital provisions go a long way in determining the nature and content of these participative forums.

While each of these structures have specific roles assigned to them, organisations have often found it necessary to link the activities of these forums. This is so because, in large complex organisations quite a few 'local' or shopfloor issues are likely to have overall organisational significance. For example, changes of work methods resulting out of introduction of newer technologies/machines in particular shop may have larger implications in manpower policy and deployment. In terms **of** organisational design, these changes are taken care of by close interaction of a network organisational structures. Correspondingly, if participative bodies are to address themselves to such issues that concern employees at various levels, a similar **network of structures** is required, as Walker, a leading expert on participative management has stressed..

Other Forms of Worker Involvement

The demands of workplace functioning have prompted organisations to experiment with other forms of participation. it might be safe to say that the compelling reasons for

the introduction of such forms have stemmed from a duality of sources: from human relations school and the economics of ensuring high quality production. It has been emphasised•earlier that protagonists of human relations school called for some measure of worker autonomy and participation to offset the debilitating effects of monotony, drudgery and lienation of machine paced work. In a more positive sense, the human relations school stresses that participation is good for both the individual and the organisation. For it releases the creative impulses of the individual thereby aiding his gro,wth and development; while the organisation harnesses this creativity by producing better quality goods.

The basic principle is simple: greater the autonomy the worker has over his work, the more he can identify with the fruits of his labour as his own. Consequently, greater will be his involvement. Further, this involvement is also likely to release his creative potential. Ultimately the results of such worker identification with and involvement in his job are likely to lead to higher productivity and better quality.

Two of the most talked of forms of such employee involvement programmes are autonomous work groups and quality circles. The autonomous work groups at Volvo's kalmer plant in Sweden and, to a lesser extent, at Calico Mills at Ahmedabad successfully experimented with a production systeni based on small autonomous work groups in place of the traditional machine paced assembly line production. Basically, • this alternative mode of production allowed workers to be collectively responsible for an integrated unit of production allowing for worker flexibility in terms of multiple tasks and time-offs. Based on the skills available to the group as a whole, workers themselves decided on a wide range of decisions affecting the performance of the tasks. The autonomous work group was therefore as great source of not just job enlargement but job enrichment as well. It also afforded the workers to pace their work allowing them greater freedom to utilise breaks. The flexibility enjoyed by these work groups however did not result either in a drop in quality or production. In reality, both these aspects registered distinct improvemCnts.

Since the workers exercise a high degree of authority in terms of reordering their work-life, the autonomous work votipS exhibit sophisticated forms of workers' participation that affect mannini, levels and production methods. But the point should not be missed that these groups are essentially job redesign exercises meant to relieve worker monotony, tap worker creativity and improve product quality by.following the principles of worker involvement in and identification with their work. However, so inseparably are autonomous work groups tied with production and quality, it is doubtful whether any such group will be allowed to function if it adversely affected production or quality.

Quality Circles (QCs), on the other hand haVe a much more limited and utilitarian scope. Unlike the autonomous work groups, QCs rarely, if ever, involve themselves in work redesign. Rather, as the name suggests, the focus is on improving quality and cutting costs of specific products or methods. Although these circles are generally management inspired, worker membership is voluntary. In these circles, managers and workers of a particular shop or department together identify, study and nrovide solutions to specific problems. Here too, workers do participate in a wick, range of issues affecting their task perfonnance.

Both these forums, then, have strong elements of worker participation and it is doubtful if either of these can actually survive if the participative element is absent. Nevertheless, both'the autonomous work groups and QCs limit themselves to their work stations; they do not involve themselves beyond the realm of their own shop. But it is not the jurisdictional scope of these forums that determine their participative character. Much more significant is the scope of the issues involved. Neither of these forums deal with issues going beyond production or product quality. As will be seen in the subsequent section, the issues in participation are indeed wide-ranging and it is here that the. autonomous work groups and QCs are seriously handicapped. It is therefore best to call the autonomous work groups and QCs as employee involvement programmes rather than as structures allowing workers' participation in management.

15.3 ISSUES IN PARTICIPATION

Perhaps more important than the structures of participative management are the issues

involved in these forums.

So far as the Indian experience goes, there has been a consistency in what participative forums arc to deal with. These essentially relate to:

1) amity and good relations between employers and employees
2) increase in productivity; and
3) satisfying workers' urge for self-expression, thus reading to industrial peace, better relations. and.Uninterrupted production.

Consider therefore the role of the works committees established under section 3(2) of the Industrial Disputes Act of 1947 which declared that:

> "It shall be the duty of the works committee to promote measures for securing and preserving amity and good relations between the employers and workmen and **to** that **end comment** upon matters of common interest or concern..."

In other words, the works committees are intended to remove the cause of friCtion between the employer and workmen in the day-to-day working of the establishment. And the means to be employed for this end is joint consultation.

And so far as the JMCs are concerned, in 1960, Nanda, then Union Labour Minister declared:

> "Participation in management will have no meaning unless every year some challenges like ensuring productivity increases of ten per cent per year are set a objective and fulfilled, these results evaluated and higher goals aimed at."

On 30th December, 1983 the Government introduced a new scheme on a voluntary basis for Workers' Participation in Management. These relate to:

1) **Operational areas**, like productivity, quality and technological improvements,. . storage, hOusekeeping and maintenance;
2) **Economic and financial areas,** like reviewing operating expenses, financial results, labour costs and market conditions;
3) **Personnel matters** dealing with absenteeism, social security schemes and special proble,ms of women workers;
4) **Welfare areas** such as sports and prevention of gambling, and
5) **Environmental** areas.

Thus, many issues have been included in the latest scheme that would, prima fade, be of interest to workers. Economic and personnel matters have been traditionally dear to workers and much of labour-management relationship revolves around these areas. **It** would therefore be natural to expect workers to evince interest in participative schemes that discuss economic and personnel matters. However, what is likely to sustain the workers' interest are the specific issues that can be raised within economic and social spheres. And it is here that the 1983 participative scheme becomes a dampner. Considering the overall **thrust** on productivity and cutting costs, it is likely that the participative scheme's mandate of reviewing operating expenses, financial results, labour costs and market conditions will be seen by labour as resulting in one-sided gain to management. They may even fear that 'participating' in such areas may legitimise organic atonal attempts to increase work load without providing the workers the wherewithal to defend their position. For, unlike the works councils and supervisory boards of (West) Gerinany which have wide-ranging powers to co-determine such issues like dismissal, retrenchment, re-training and re-deployment of workers arising out oftechriological upgradation , the 1983 participative scheme in India allows workers to deliberate on matters like absenteeisM, alcoholism and gambling. Now, problems relating to absenteeism or women workers, even in worst of times, do not affect over three-quarters of the workforce. Apart from the fact thrtt these are complex social problems, many workers do end up taking higher take-home pay on account of overtime generated by absenteeisin. In such circumstances, it will not be difficult to surmise thedegree of worker interest in such participative forums.

In contrast, issues like the introduction and consequences of new technology, redundancy, manning levels, retrenchment, recruitment or dismissal, closure and such matters that are of cardinal importance to workers find nO mention in the scheme. But these are the issues that workers are most concerned about. If it is argued that these

matters come under the purview of collective bargaining negotiations, then it must also be acknowledged that participative forums only deal with those issues that have tertiary interest to workers.

The inclusion of economic and financial matters is certainly an area having significant consequences for workers' lives and it is reasonable to expect workers to evince keen interest on such issues. This interest is however likely to be contingent on two factors: (i) the level of information supplied by management, and (ii) the extent to which workers can utilise their participative rights in furthering their bread and butter concerns.

Although this scheme is more comprehensive, its primary stress on productivity and profitability is unmistakable.

Actually therefore, what the Supreme Court observed in 1960 about the role of works committees can be extended to reflect the general status of participative bodies operating in our country to this day:

> "the role assigned to these committees is only limited to promote measures for ensuring and preserving amity and good relations between employers and workmen; **they are not authorised to take decisions on real or substantive changes in the conditions of service"** (emphasis added).

The overwhelming concern of these participative bodies is therefore with production and raising productivity levels. Any improvement in these areas would certainly be beneficial to the organisation. In real times, the rewards of such a benefit would accrue to the shareholders in terms of sustained or increased dividends, with senior managers likely to earn higher bonus and advancement. The workers, on the other hand, do not get any immediate benefit. Serious students of industrial relations would perhaps agree that any increase in workers' wages and benefits are more dependent on their collective bargaining power as manifested in the long term agreement that the union negotiates every three or four years. Thereis no evidence to suggest that with improved financial health of an organisation, workers' wages and benefits automatically rise. In other words, workers are least likely to nvolve themselves in a participative scheme where the resultant benefits accrue to °Vier parties but not to them. It is primarily because of this logic that trade unions dema id sharing of productivity gains that come about from enhanced worker involvement.

15.4 DESIGN AND DYNAMICS

The section on structures and networks had suggested the importance of the presence of appropriate institutions for an effective functioning of participative management. What was not emphasised was the design necessary to make these participative forums operative.

Ata informed way of figuring out the appropriate design of participative arrangements is to analyse the dynamics involved in participation. A careful study of the functioning of participative forums informs us of the following dynamics at work:

1) Importance/inclusion of Substantive Issues: It is obvious that the first pre-requisite for a viable functioning of participative forums are the issues that are allowed to be discussed. Worker representatives will not evince interest in participative exercises if substantive issues like the introduction and consequences of new technology, redundancy, manning levels, retrenchment, recruitment or dismissal, closure and such matters fall beyond the pale of these bodies. Much of the reputation and success of (West) Germany experience with co-determination rest on the inclusion of such issues in their participative arrangements. In our. country, two sets of developments have taken place. Either these bodies have not taken off in any meaningful way because the exclusion of such issues have failed to elicit adequate worker response, or they have been disbanded by management because these bodies discussed such issues which the management considered collective bargaining in nature and therefore beyond the scope of participation.

In such a context, it is necessary to dwell on the reasonableness of excluding the discussion of collective bargaining matters in participative bodies. Although

substantive issues have bargainable overtones, it is unrealistic to exclude these issues from the ambit of participative forums, for the dynamics of participation is such that exclusion of substantive matters sounds the death knell of the functioning of such forums. This is not to suggest that a participative body is another forum meant solely to discuss collective bargaining matters. But it is almost inevitable for worker representatives to use these bodies to press for the implementation of collective bargaining agreement, if they feel it necessary. In any case, nothing stops management from using participative forums to re-order workplace relations, to retrieve its authority, and to restore workplace discipline. Participative forums can also be used by management as a complementary device to push through measures for effecting higher productivity and to cut costs, element's that it negotiates in a productivity bargaining agreement. There is nothing wrong for participative forums to discuss substantive issues so long as these are extensions of the existing collective bargaining agreement. It is for the management not to give in to'new collective bargaining matters which have implications for new benefits and additional costs to the management.

Ground realities therefore suggest that participative management and bargainable issues that do not add up to additional costs go together, and it is silly to exclude the latter from the ambit of participation. There is even merit, and a good deal of managerial advantage, in accepting the inseparable linkage between participative management and substantive issues which are bargainable in nature. However, in spite of these ground realities, many protagonists of participative management advocate, in an ostrich like manner, the unqualified separation of bargainable issues from participative exercises.

2) Power as an Integral Aspect: The above tussle over the inclusion of substantive issues-is actually a manifestation of the power element in participative forums. By invoking the concept of workers' participation in decision-making, organisations are actually altering the very balance of power that exists between the givers and receivers of orders. At the very least, participative forums exalt the status of workers to the level of managers, irrespective of the limited scope of the issues discussed and the even more limited duration of time-span involved. But once these forums are created, worker representatives would tend to retain the power that these bodies give to them. Any attempt to alter this power relationship would be willy-nilly resisted by the worker representatives. But it may not necessarily be the worker representatives alone who might be the sole preservers of this power game. Junior and middle-level management representatives, who otherwise barely get to wield substantive powers in decision-making, may also have a stake in ensuring the power status of these participative forums.

3) Acquiring Legitimacy and Directive Authority: One of the dimensions of the power syndrome of these participative forums is their tendency to acquire legitimacy. When the constitution of these bodies do not specifically legitimise their existence and delineates the scope of their functioning, such forums take on a sovereign-like role in legitimising their existence. In such circumstances, it has been seen that one of the firy'r acts of a participative forum is to define its own scope and range of activities. Dimensions of power and the quest for legitimacy make these participative bodies extend their scope of functioning to acquire rule-making functions. They tend to legislate on new interaction pattern and reporting system, set targets and even direct changes in workplace functioning. One of the most effective ways to underwrite their legitimacy and rule-making powers is for these bodies to seek compliance from executive organs. For, in the ultimate analysis, the worth of these bodies will be judged by the extent to which they have been able to not just emphasise their existence but underscore their significance as well. Joseph's incisive study (1987) of the participative experience at BHEL beautifully captures such legitimising, rule-making and directive authority roles of participative forums.

4) Functioning of Participative Forums: Some of the questions that generally bedevil participative bodies are: (1) the nature of worker representation and the relationship of participative bodies with unions: (2) whether it is necessary to have parity between management and workers' representatives; (3) the ode of decision-making; (4) whether

the workers' representatives have sufficient knowledge and expertise to participate meaningfully; and (5) whether the Indian cultural ethos, with overt signs of obescience to authority figures allows members, from sharply different hierarchical levels, to

interact without inhibition. Since it is often contended that these impediments are so serious as to affect the functioning of participative forums, it is necessary to look into each of these aspects carefully.

4 (a) Union Relationship and Worker Representation: Almost the first anxiety expressed difelut the viable functioning of participative bodies relates to multiplicity of unions and the ensuing union rivalry. It is contended that these twin factors are sufficient to derail most participative exercises. A good answer has however been provided by BHEL's experience. After all, trade union rivalry is essentially a question of establishing legitimacy and representative status. If an organisation can take care of this in its collective bargaining process, the same would hold true for participative bodies.

Organisational experiences also suggest that problems arise when participative bodies are perceived to have been created to sidestep or marginalise union(s). Where participative bodies are not used to politik against unions, the latter even tend to support participative exercises. This is probably because participative bodies often complement trade union functioning in terms of operationalising collective bargaining agreement or discussing substantive issues. Unions therefore tend to use such forums as auxiliary mechanisms for furthering worker interests.

Anyhow, once this uncertainty is cleared, organisational specificities will determine whether worker representatives enter participative forums as a reflection of respective union strength or are voted by the workforce or represent a collection of departments.

4 (b) The Question of Parity and Mode of Decision-Making: Where participative bodies have acquired legitimacy and directive authority and where they deal with substantive issues, parity of repre4ntation becomes a non-issue. It does not become an impediment to the functioning of participative forums so long the decision-making process is through consensus. Consensus not only circumvents the problem of parity, it also ensures that decisions acquire a binding nature on the participants.

4 (c) The Indian Ethos and Participation: A Contradiction? There is no dearth of academics and managers who hold that the Indian cultural tradition with its strong bias for obedience to authority figures militates against equal interaction, which is at the core of participation. It is held that our child-rearing practices, family and social structures place premium on age, seniority and position, where the elders' wishes and advice are carried out unquestioningly, even if grudgingly. Doubts are raised whether Indian industry is 'ripe' for participation.

The ground realities of workplace functioning and the experiences of participative, bodies however believe these notions. Organisational realities are that workers flout superiors' orders, trade unions negotiate with management on equal terms and workers' representatives insist on inclusion of substantive issues in participative bodies irspite of such prescription. These indicate that workers and their representatives are cartainly not constrained by any cultural facets of obedience or acquiescence to' authority figures. Descriptions of the functioning of participativebodies, though limited, clearly indicate that workers'. representatives do raise vital issues and question and even influence managerial decisions. Participation in Indian industry is therefore not adversely affected by Indian cultural ethos and social systems.

4 (d) Knowledge, Expertise and Degree of Participation: Research however indicates that knowledge and expertise do effect the level and degree of participation. When participative bodies deal with such complex issues as technology or financial implications or organisational performance, participation invariably favours those who are possessed with the technical competence to handle such issues. And it is usually the management who are more skilled in these areas. Not unnaturally then, it has been observed that in such matters, the degree and level of participation by worker representatives become markedly low. It is an open question whether management representatives use these forums to ascribe worker sanction to essentially managerial concerns. Significantly, many unions are taking-active interest in upgrading their understanding on such technical matters.

15.5 SUMMARY

Like any other organisational activity, there needs to be a well developed and cogent

corporate understanding regarding participative management. This is essential because workers' participation in management means different things to different people and its continuation is often dependent upon the whims and fancies of key individuals.

But our treatment of the design and dynamics of participation also understood the necessity of a realistic assessment of what workers' participation is all about. This is vital, so as not to make unrealistic demands on the system or expect the mechanism to operate in &fashion that would tantamount to escape from ground realities.

The rationale advocated for participation often determines the form that the latter takes. Her the objective is to somehow involve the workers in organisational functioning, participation is generally limited to sharing of information and views. But where participation signifies workers' involvement in decision-making, there is usually a network of structures which allows members to raise and discuss key issues and take decisions thereon.

The element of power equalisation is very much evident in participative bodies. They tend to acquire directive authority and when denied or fail to do so, soon become moribund. Similarly, the dynamics of participation ensures that where workers are forbidden to raise substantive issues, participative bodies soon become defunct. Moreover, unions use these bodies as auxiliary mechanisms to implement collective bargaining agreements and for furthering worker interests. Once this position is accepted, participatiVe bodies can be effectively used by management to reorder workplace relations and improve organisational functioning.

Finally, while knowledge and expertise have a significant relationship with the nature and degree of member p'rticipation, the latter is however not constrained by issues of parity or Indian ethos.

15.6 FURTHER READINGS

Joseph, Cherian, "Workers' Participation in Management", in E.A. Ramaswamy (ed.), *Industrial Relations in India*.

—, "Making of a Participative Forum: BHEL Experience", *Economic and Political Weekly*, November 28, 1987, pp. M143-M152.

UNIT 16 STRATEGIES AND PLANNING FOR IMPLEMENTING PARTICIPATION

Objectives

After foing through this unit, you should be able to understand

- the factors responsible for failure of the participative management schemes in India,
- identify thelactors which contribute to the growth of the scheme, and
- formulate the strategies for making the participative forums\work.

Structure

16.1 STRATEGIES FOR MAKING PARTICIPATION WORK

The Government of India since its Independence constantly taking 'effort to make workers' participation in management a success story. And yet our record of achievement is quite dismal and the goal of workers' participation in management continues to be distant dream. Barring few success stories here and there, workers' participation in management has yet to take roots in India. Against this backdrop, any attempt in making the participation work should be based on past experiences. Any one attempts to make strategies undermining the past experience would be a waste. Hence, in this unit first let us look at the country's experiences in this area which were brought to light from time to time by various researchers. That would serve as base for strategy making for participation a success story.

Mhetras (1966) undertook a study of thirteen enterprises belonging to different industries spread over in eight states. He attempted to at studying the organisation structure of JMC and analysing the functioning of the JMCs in all these units. He finds that though the concept of participation cuts at the roots of industrial conflict, the scheme of labour participation should not be considered a panacea for all the ills of industry, nor is it intended to work in revolution overnight. Still the functioning of the councils in general was not discouraging, because wherever the councils functioned noothly they favourably influenced the level of employment and production per man - Or day. The author points out empathetically **that** no JMC throughout the country was vested with true decision-making power to any appreciable extent in the important spheres of production, and methods of work, financial and organisational aspects of the enterprise. He attributes this to the casual and light-hearted treatment which the councils have received **and** infact continue to receive at the hands of both labour as well as management. Further he asserts that the crux of the problem lies in the attitude of management towards unionism and towards the philosophy of workers' participation in management.

Tanie (1969) attempted to study the possibility of W.P.M. in India within the framework of the existing social, economic, political and cultural pre-conditions necessary for successful partnership participation. He concluded that the main conditions for the success of JMC scheme did not exist at that time. The scheme having an experimental character prolonged to enter the period of stagnation, without there being corrective efforts made by government to make it more successful. The over dependence on management's willingness and initiative to establish the JMC in th:. organisation thereby permitting management to continue with its patternalistic approach and autocratic powers and the implicit subordination of JMC to management,

the limited scope of authority of JMC which was marginal in relation to the management system, and the role of JMC being largely recommendatory in nature have been pointed out as the main reasons for the failure of JMCs in India. In most of the cases the absence of cooperative attitude and the existence of two autonomous centres of interest and motivations in JMCs in the form of•workers' representatives and management representatives has also been considered as an iinifartant reason for the failure of JMCs. He concludes that the actual perspective for the evolution of workers' participation in India is not favourable beCause the experiment of workers' participation in India is not only at the lowest level of evolution but also that workers, unions, employers and state do not have any real interest in its success.

The National Commission on Labour (1969) considered that lack of sufficient interest in works committees on the part of the concerned parties and inadequate interest in Joint Management Councils on the part of the representations of employers and workers as partly responsible for the unsatisfactory performance of the two schemes. Another important factor which was responsible for the failure found to be absence of an accepted procedure for trade union recognition. The Commission suggested that when the system of union recognition becomes an accepted practice, both managements and unions will themselves gravitate towards greater cooperation in areas they consider to be of mutual advantage and set up JMCs.

Bhatia (1971) indicates that illiteracy among the workers as one of the contributing factors to the failure of JMCs. He also finds that low propensity of the concerned parties to participate in the JMCs was one of the reasons for the failure of the scheme. Regarding trade unions, he concludes that multiplicity of trade unions as' ne of the reasons for the failure of JMCs.

Sheth (1972) argues that mere creation of institutions and structures does not ensure effective and meaningful participation in **manigein8nt.** JMCs and other such democratic arrangements can be effective only if they satisfy the felt needs of the concerned parties. Sheth (1977) from his another study finds that, there was little agreement about elementary matters such as selection of members and procedures for holding meetings which led to the failure of the works committees. He finds that unions and workers were hardly interested in information sharing and consultation as provided in the scheme and that their initial enthusiasm was based on the hope that workers' representatives would soon be allowed to participate in all important matters of management.

Thakur and Sethi (1973) argue that the industrial democracy can take rests and flourish only when the trade union movement has crystallised into some definite pattern and when trade unions have freed themselves from the control of political parties.

Lall (1984) studied the working of various participative forums in one of the public sectors. He notes that apart from other factors, absence of genuine bargaining forums also leads to lack of trust between the management and workers leading to eventual ineffectiveness of the participatory forums.

The studies referred here are not exhaustive but they are only indicative. These studies indicate the need for some sort of training for workers and also management representatives so as to develop a better and positive attitude towards W.P.M. The management should be broad minded so as to permit the growth of strong and healthy unionism. The real problem found to be management's strong resistance to change. Hence, the responsibility is with the management for making the participation a success. Further these studies find that, (a) over dependence On managmeent for initiative, (b) subordination of JMCs to management system, (c) limited scope of JMCs, (d) recommendatory nature of JMCs. (e) absence of cooperative attitude of both parties, (f) conflicting interest groups like worker representatives and management representatives, (g) absence of system of recognition of representative union, (h) wide spread illiteracy among workers, (i) multiplicity of trade unions, (j) absence of a felt need, etc. are responsible for failure of the participative effort in India.

16.2 MAKING PARTICIPATION MORE EFFECTIVE

We have seen from the past experiences, there are various socio-cultural, psychological, political, organisational factors which are responsible for the failure of

the participative culture in our country. Now what is required to make the participation more effective? is ought to be answered. Unless until we approach the problem of participative culture in the light of our experiences again we will make no progress in , the direction of success. This makes it clear that there are certain prerequisites which need to be present in the country, organisations, among participants. Let us see what are those prerequisites.

Socio-cultural Environment

The study by Tanie (1966) mentioned that the required socio-cultural environment was not present then which were responsible for failure of the scheme. But now the situation has changed a lot. The emergence of public sector in a big way has transformed the peasant society into an industrial society. There is increasing level of literacy and education, acceptance of egalitarian principles, economic freedom etc. The - implications of these changes will have to be taken into account for making the participative system work well. s

Basic education and training for Participation

Many organisations just join the bandwagon, because it is a much talked about scheme. They lack required education and training to make the participative culture a success. It is found participation can be effective only when the knowledge and skills of the employee representatives are equal to the knowledge and skills of the employers' representatives. To start with, under our present system, employers have an overwhelming advantage. This advantage has to be neutralised. The knowledge and skills of employees has to be built up. Here comes the importance of training.

Several decades ago, a concerted effort was launched to train and develop wot **Kers** and trade union leaders under the workers' Education Programme. Infact some of the leading trade unions have set up their own workers' education programme and even institutes. But much progress has not been made. Hence, there is need to further strengthen the workers' and the tradeunion leaders' educational efforts. Perhaps what requires more attention or emphasis is the education, training and development of managers in general, especially so at.enterprise level. This is because the reservations and the ability to involve workers and their representatives in the decision-making process are significantly deficient at the managerial levels. These are their values, ethos and culture which are distancing managers from workers and ultimately affecting their attitudes and behaviour.

Employer-employee Attitude

The Federation of Indian Chambers of Commerce and Industries (FICCI) and its Industrial Relations Body, the All India Organisation of Employers, organised a two day meeting of its constituents, to examine the pros and cons of the proposed labour participation scheme. As far as private sector employers are concerned; immediately after the National Seminar on the Labour Participation they have made public, their serious reservations on the need for legislation to introduce Labour Participation in Management.

The business community is reported to the dead against the idea of allowing labour participation at the Board level. The All India Organisation of Employers has also been reported to have directed all its presence efforts to ensure that the bill on labour participation does not go through the parliament. The AICE, in this context, has submitted a memorandum to the Labour Secretary. In this memorandum the AICE has stressed selective introduction of participative management depending on the circumstances and objective conditions prevailing in each industrial establishment. AICE's contention is that participative management should be an evolutionary process and that this should be experimented at plant level and shop floor levels. It also had stressed that workers by and large, are uninformed and lack experience. Therefore; Board level workers' participation is not feasible until workers and their union leaders are educated. All these observations raise serious questions about the willingness of the employers to accept meaningful implementation of the participative Scheme.

It is found, Indian managers are satisfied with decisions in which subordinate are not involved, social scientists attribute this to the Indian culture. The manager acts like a traditional father and expect obedience from his subordinates. In India managers view

participation and even the delegation of a part of their authority with mistrust, since they feel that is an encroachment into their domain and may'result in an erosion of their 'hard earned' authorty. Hence it is suggested that for participation to succeed, the attitudes of managers will have to undergo change.

Having seen the employers' managers' attitude let us see employees attitude. As far as the workers are concerned they would not generally want to be drawn into any kind of participation. Firstly, they consider any kind of participation as an eyewash. Secondly, they feel that this would turn out to be a forum for passing on to them the entire blame for poor production, low productivity and lower profits. Why should they allow themselves to be the escape goats. Historically, the workers have not been asked to do any thing more than carryout instructions. They have never been asked to think and suddenly they are made not only to think but also to participate in the job of running the organisation. Obviously, they will look at the whole thing with suspicion. The workers have been told by the union officials that the management speaks with a forced tongue. There is a lack of trust between the management and the workers and this gap has to be bridged before we can expect them to sit down to discuss anything other than their grievances, wages etc.

Employer-employee Potential to Participate

There are conflicting views regarding the abilities of especially workers participating in managerial decisions. It is argued that, to manage an industry requires specialised/technical knowledge and skills which the managers arc supposed to have acquired **by** virtue of their education, training, and on the job experience. In the absence of such knowledge and skills, the workers are really not equipped to effectively participate in management.

Managers in no ambiguous words are questioning the very abilities of workers and their representatives to contribute meaningfully towards improving the managerial effectiveness of the enterprise. Workers and leaders on their part are questioning the abilities of management to effectivelly involve employees and their representatives in the decision-making process. The mushroom growth of officers associations which demand, amongst others, their say in the decision making processes within enterprise strengthened the views expressed by workers and their representatives about the ability of top managers to elicit cooperation of employees in the general management of the enterprises. In sum, one of the basic pre requisite, i.e. ability to participate does not appear to be fulfilled.

But there are cases where workers have proved themselves that they can effectively make decisions, even manage organisations. Today's workers are relatively more aware and conscious of their environment, rights and responsibilities and more educated. This view strengthened by the fact that a few enterprises which workers took over have significantly turned the corner. Workers turning around sick enterprises like Jaipur Metals, Kamani Tubes **etc.** are evidences. While workers are not as proficient as the managers, we should not underestimate, the capacity of the rank and file workers to understand the working of an enterprise. What this calls for is an additional dose•1 training inputs which can sharpen their knowledge and skills to be effective partners in"r" the management of industry.

Workers'-Union Alienation

Workers organise themselves into trade unions to acquire and evenretain social power. In the Indian Context, the membership is regarded as the main insurance against calamities, dismissal, accidents and other difficulties. The result is that the workers perceive the trade unions as crisis-oriented and not as extending beyond certain individual problems. Workers do not really expect trade unions to play a major role in participative structures at the management level. For the success of participative structure this alienation of workers from such union representatives should be removed.

Union's Cooperation

Since the unions derive their strength from collective bargaining they are apprehensive that participative forums may weaken their bargaining strength. Therefore, the subject matters which normally constitute the contents of collective bargaining have been kept out from the purview of participative forums. However, the distinction between work

related issues and the interest related issues is more an exercise of polemics. These issues are inter-related and in reality cannot be mutually separated. Even the managers have confirmed that they have observed tendencies on the part of workers' representatives to convert participative forums into bargaining forums. To make the participative forums work, the condition should be created whereby the unions cooperate willingly to take part in these schemes.

DeterMining Worker Representation

How should workers be represented? Now for a long time India has been facing this problem without a solution. The government scheme is vague this issue. Particularly, it is a major issue in a multiple union situation. Unions like INTUC oppose the suggestion of election of representatives through secret ballot, but on the other hand unions like HMS, CITU, AITUC etc., they are in favour of election of representatives to these forums. The inter union rivalries pose a big problem to the working of the scheme. Unless, we have an appropriate answer to this question the effort being made to make the participative structure a success will not bring desired result.

Scope and Extent of Participation

The Indian experiences so far speaks of only issues related to 'tea, towels and toilets'. The workers and their organisations want, participation to be total. It must embrace every activity in the industry and employees must have representation at every level. The schemes do not include subject like grievances settlement, pay scales or wages etc., which would fall within the scope of industrial disputes. However, there has been a tendency on the part of workers sometimes to raise these issues at the participatory levels. Also, it has been experienced that- in the enterprises are industrial relations are not healthy and the grievance redressa, machinery is not effective, workers have shown little interest in discussing other subjects. Hence, for making the participative forum realistic, it should cove wider range of issues, so that workers are convinced that, it is not only the production related issues which are dealt, but interests related issues too.

Type of Participation: Consultation or Participation

Mere consultation of the workers by the management will not inculcate enthusiasm in the former unless they feel that they can wield influence on the management in the formulation of policies that affect them directly. One of the reasons for the unimpressive record of workers' participation is that the major function of the participative body is only consultative and advisory and their role in confined to peripheral issues of labour welfare. The'examples of West Germany and Yogoslavia, where the workers have a say in all the issues affecting them including personnel and economic matters should he positively considered in India. Once the workers are sure that they can really influence managerial decisions they are bound to have increasing ,faith.in.participative bodies.

Studies on the working of the participative forums in Indian industry such as the works committees and the Joint Management Councils indicated that they had, by and large, failed. It is found that there are certain basic factors which are hindering the working of participative forums. It this context it is desirable to note that environmental factors such as the industrial relations setting, the quality of unionism, the attitude and interest of parties, etc., are perhaps the more critical factors. Based on the various studies following pre requisites are identified in making strategies to make participative forums more effective.

1) A scheme of workers' participation in management cannot be developed unless a permissive environment is first created. There are three elements which may help building the permissive environment: (i) industrial relations climate must be peaceful; (ii) there must be a strong and representative union; and (iii) results of any experiments in this regard need not be time-bond.
2) Workers' Participation in Management can succied reasonably only when the parties concerned start with an initial faith in the system. This however, is possible-only when both union and management perceive the schemes as a useful aid to the realisation of their respective goals.
3) It is important that the objectives set for workers' Participation in Management should not be ambiguous and consequently vague.

4) It is important not confuse the larger question of the political struggle for power distribution between different social, groups, on the one hand and participative management for sorting out shop floor level issues on the other. If the larger question of power distribution is separated from the goals of participative management related to limited and specific issues, the changes of success will improve.

5) It is important that participative forums must play a complementary role to the process of bargaining. In such a complementary framework participative forums should confine themselves to dealing with the day-to-day work place level issues including grievance handling.

There is scope for selective and careful legislative support to workers' participation in management. Legislation provides a signal to the parties to move in a particular direction in their interaction process. But legislation should move towards creating a permissive environment rather than imposing a rigid framework in which participation to work.

7) As far as possible, the institutionalised form of participation should be less emphasised, and efforts should be made to encourage participation through changes in the leadership styles, communication processes, inter personal and intergroup relations etc.

8) A realistic scheme for workers' participation in management must necessarily start, from a reasonable degree of managerial and supervisory autonomy from outside control, particularly in the context of public enterprises. In addition the bureacratic and rule-oriented practices must give way to flexibility.

It is important that the right kind of attitudes and skills should be developed among' managers to enable them to practice participative styles. It is less than honest for a person of authoritarian bent of mind to practice participative management. In enterperises where such authoritarian practices have prevailed for a long time, probably a begining will have to be made by a change in the leadership itself. This will need considerable further reinforcement by carefully designed schemes of management development and organisational change through suitable techniques.

10) It is needless to enforce uniformity across the industrial scene so far as any form of participative management is concerned. It is better if the forms, the coverage, and the extent of participation grew in response to the specific environment, capacity and interest of the parties concerned. Perhaps it would be more worthwhile if some pilot schemes of workers' participation in management are tried in selected undertakings where, organisational and other pre-conditions permit.

11) It is desirable to have a limited number of forums of workers' participation in management. In this context, there is no need to have the works committee as well as the JMC. Perhaps works committees with enlarged scope and power should be given a further trial.

12) In order to create a necessary industrial relations climate, immediate steps must be , taken to strengthen unionism. All steps that are necessary to develop strong, representative and recognised trade unions at the enterprise or industry level, as the case'may be, should be taken in all earnests.

13) It is important that after the initial lead from the government, the managers must seize the initiatives to promote workers' participation in management. Once they are committeed and prepared to take the right kind of initiative perhaps it wculd be easier for them to convince others.

14) At the same time, the enterprise must commit a certain amount of resources L. : investment for the development of participative skills among the workers and 'he trade union•leaders.

15) In addition, Indian practitioners as well as scholars must know more intimately about the working of the participative styles of management in other countries with experience in this field must be developed at both the industry and the research levels with support from industrial federations, trade union centres, **government, etc.**

16) Similarly efforts for promoting clarity with regard to the different 'aspects of participatiVe management should be undertaken for a group of trade unions separately as well as jointly with managers of a selected group of enterprises.
17) Councils such as JMCs should regularly meet according to the original schedule. If they cannot meet regularly the duration between the meetings may be adjusted.
18) Once certain decisions are taken the management is under a moral obligation to implement suich detisions without undue delay.
19) Workers must sense a concrete need to participate.
20) There must be information flows and communication channels.
21) Workers must have a sense of job security and freedom from reprisals resulting from their participation.

16.3 MICRO AND OPERATIONAL PARTICIPATION

Labour is part of the organisation, hence they should be encouraged to participate in decision-making. As we have seen elsewhere, the participation might occur through various forums and forms and method. It could be formal or informal. It could be at shop floor level or at board level. It could be just a consultative style or a joint decision-making and joint decision implementing style. But one thing is common in all these things that there is a process of participation taking Place. One Country's experience need not match the requirements_of the other to due to varving socio-cultural, economic and political factors. But what we need tc unaerstand the importance of employee participation and how to practice it.

At the micro and operational level workers should be encouraged to participate in the day-to-day affairs of the organisation. There is a strong case for this type of participation because man-machine relationship is higher at the bottoni level. It is expected they should be able to contribute much towards solving operational probleins. As in the case of suggestion schemes, Quality Circle forums, etc. workers have proved that by involving the workers at the micro and operational level the organisations are able to solve problems, which were not thought of earlier. Hence, schemes such as suggestion schemes, quality circle etc. should be encouraged so that a meaningful participation at micro level takes place.

16.4 EVOLUTION FOR PARTICIPATION

In the beginning even before the governm'ent's initiative, some enlightened employers started the workers' participation in management in their organisation in India. But they did not bring the desired results. After independence, the government has made effort through various methods. The Industrial Disputes Act, 1947, provided for works coMmittees. The Industrial Policy resolution 1948, emphasised the need to associate flour in all matters concerning industrial production. The First Five year plan called for the constitution of Joint Committees for consultations. In 1975 a nett scheme of shops and plants councils was introduced under 20-point Economic programme. In 1976, the constitution was amended to incorporate wor_kcr participat'oc management as one of the directive principles of State Policy. In 1983, a *new* scheme of workers' participation in management was introduced. After all these attempts now, the participation of workers in management Bill, 1990, was introduced in the parliament on 30th May, 1990. The foregoing discussion briefly gives the p:Iture of the evolution of participative management schemes in India.

16.5 SUMMARY

In this unit, we dealt with the experiences of India in participative_management schemes. Based on various studies we tried to understand the factors responsible for success or failure of the scheme in organisations. To recapitulate, the environmental factorssr:h as the industrial relations setting, the quality of unionism, the attitude an" interest of parties, etc., were perhaps the more critical factors. It was also noted thair

unless until these environmental factors are tackled, the participative schemes will remain a dream.

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Uttar Pradesh Rajarshi Tandon
Open University

MBA-3.12
Union Management Relations

Block

5

. TRENDS IN UNION MANAGEMENT RELATIONS

Course Design Ccomniftee

Prof. Ishwar dayal
Consultant
New Delhi

Prof. Udai Pareek
Consultant
Jaipur

Prof. Prayag Mehta
Consultant
New Delhi

Prof. A. Monappa
Indian Institute of Manageme(it
Ahmedabad

Prof. S.K. Chakraborty
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Ceat Tyres India Limited
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of India Limited
New Delhi

Prof. C.S. Venkat Ratnam
International Management Institute
New Delhi

Prof. Rakesh Khurana *(Convenor)*
School of Management Studies
IGNOU, New Delhi

Dr. B.B. Khanna
School of Management Studies
IGNOU, New Delhi

Course Preparation Team

Dr. B.B. Khanna
(Course Editor and Coordinator)
School of Management Studies
IGNOU, New Delhi

Prof. R.K. Grover
Director
School of Management Studies
IGNOU, New•Delhi

Prof. C.S. Venkat Ratnam
International Management Institute
New Delhi

Prof. Arun Monappa •
. Indian Institute of Management
Ahmedabad

Prof. S. Ghosh
Indian Institute of Management
Lucknow

Dr. Masila S. Mani
Sri Ram Centre for Industrial
Relations and Human Resources
New Delhi

Dr. B.R. Seth
Consultant
New Delhi

Print Production : B. Natarajan, Copy Editor. SOMS, IGNOU

October, 2000 (Reprint)

ISBN-81-7263-384

Printed by : K.C.Printing & Allied Works, Panchwati , Mathura – 281003.

BLOCK 5 TRENDS IN UNION MANAGEMENT RELATIONS

This block comprises two units. The first unit gives you a clear understanding about the emerging trends in Union Management Relations through various changes taking place in labour laws, employment scenario, collective bargaining, employee participation and labour management cooperation to accept, adapt the technological improvements foi better productivity. This unit also provides you with some important issues of the Trade Unions Act, 1926 and the Industrial Disputes Act, 1947 in the form of Annexure. The second unit exposes you to various aspects of Union Management Relations in cross cultural. settings through some examples of multinational enterprises (MNEs) operating in various countries. To explain as to how does really cross cultural setting affect the Union Management Relations, the unit explains the prevailing scenario of some of the aspects like culture, customs, values, Political system, the role of government, Recruitment, CompenSation, Collective Bargaining, Industrial conflict and participation, which reflect the key issues relating to Union Management Relations in the organisations.

UNIT 17 EMERGING TRENDS. IN UNION MANAGEMENT RELATIONS

Objectives

After going through this unit, you should be able to reflect on the emerging trends in union management relations with a view to provide a perspective understanding of the key issues and challenges.

Sfructure

17.1 INTRODUCTION

Union management relations in India, as elsewhere, are in a state of transition due to variety of changes occurring it a rapid pace. The structural changes occurring in the economy since the middle o;1991 brought to the force theneed to adjust labour policy in line with the changes in the industrial policies. This apart, the liberalisation and deregulation, restricting privatisation, encouragement to multinationals, new technologies and return to market economy have profound implications for union management relations. Some of these macro and mega changes in the global scenario were considered briefly in. Block 1 of this course. Here we propose to consider some of the important emerging trends in the wake of these developments in the Indian context.

17.2 CHANGES IN LABOUR LAW AND LABOUR ADMINISTRATION

There is a plethora of legislation, with more laws and amendments being passed to deal with emerging problems and complexities. The machinery to inspect (labour administration) and monitor (statisticsand and research) is woefully inadequate (Labour Bureau, 1989) and too thinly spread out. The National Commission on Labour (1969) made comprehensive recommendations on the reform of labour law and labour policy. Since then at least on three occasions, bills were introduced and it was perhaps more than a coincidence that the government of the day fell on each such occasion: More recently we had another bi-partite committee headed by veteran trade, union leader, G. Ramanujam. Even the trade• union which he represents, Indian National Trade Union Congress, is calling for the setting up of another National Commission on Labour. There is much debate and less consensus on' the agenda for reform on matters concerning labour law and union management relations. Some of the important issues have been put under the annexure in this unit relating to Trade Unions Act 1926 and Industrial Disputes Act 1947.

There is need for labour policy to reflect the changes in the industrial policy. Therefore the reforms are long overdue. The present mbod of deregulation should extend to the sphere of labour laws and labour administration too not so much with a view to undo the social protection afforded to the labour in the organised sector

but more to creative a congenial environment for enterprise and entrepreneurship to flourish. Other proposals concerning labour law reform include more stringent requirements for trade union registration, provisions for trade union recognition, restriction on the number of outside trade union leaders from the present 50% to one third of the office bearers, abolition of craft, category and caste unions, discouragement to dual membership, etc. Similarly, the Industrial Disputes Act also being reviewed with a view to relook at provisions concerning prior permission for lay-off, retrenchment and closure. Suggestions for changes in the Industrial Disputes Act include emphasis 'Drt promotion of sound industrial relations than resolution of industrial disputes, more stringent restrictions on industrial disputes during conciliation stage, setting up of an Industrial Relations Commission, etc. There are also proposals for upward revision of retrenchment compensation. Annexure 1 presents lists the current issues relating to the proposed changes in labour legislation, as prepared by the Union Ministry of Labour. The Industrial Relations Bill providing for relevant changes is still (1 May 1993) to be introduced in the Parliament. The trade unions opposition to some of the proposed changes is well-known.

For a democratic country, the role of government as a senior partner with enormous powers in industrial relations is a dubious distinction. But the sources of greategovernment influence could, at least in part, be traced to management's continued dependence on government **for** protection and assistance in containing the power and influence of trade unions.

17.3 WEAK TRIPOD: ATROPHIED TRIPARTISM

The "tripod" is weak. None of the principal actors in industrial relations—government, employers and unions-are today capable of effectively,representing their respective constituencies. Labour being in the "concurrent list", the tensions in Centre-State relations stymied reforms on labour front, particularly if they are not perceived to be popular with the vote banks. Employers' organisations are split up—ownership (swadeshi, videshi), size (large, medium, small and informal), technology (power-loom, hand-loom, etc.), sectoral (trade, industry, import lobby and export lobby, etc.)--and have difficulties in pronouncing their preferences in one voice except, perhaps in asking for right to hire and fire. The Membership strength of trade unions submitting returns is less than two per cent and the employees covered in collective, agreements about one per cent of the total labour force in the country. Merely 10 per cent of the total labour force in the country is employed in the "organised" sector. Over 50% of the workforce even in organised sector does not have even in 1490s education beyond primary level. The principal actors are getting marginalised as to their role in influencing macro-level industrial relations policies. It is true, hOwever, that with all the weaknesses, the government has still vast discretionary powers to decisively influence industrial relations outcomes at micro level. Similarly, trade unions are in a position to influence electoral outcomes because their membership, though thin, is thickly concentrated in about 150 parliamentary constituencies, mostly in urban centres. Similarly, large employers in the private sector, in general, are able to evolve, over the years, strategies whereby the industrial relations situations in individual plants or locations is becoming less critical in affecting production and profitability of the firm or the business group. It would be sad, though, if sound industrial relations and social harmony cease to be a prerequisite for short-term industrial and economy progress. .

The tripartite institutions—Indian Labour Conference and the Standing Committee—were atrophied because, among other things,. the government refused to incorporate even the consensus recommendations of the Indian Labour Conference as part of the government policy on matters like the need-based minimum wages, etc. Also, in the wake of new industrial policy of June 1991, the government constituted special tripartite committee and revived tripartite industrial committees. But as of now (5 May 1993) the special tripartite committee could meet only thrice and the industrial committees only once. The apparent difficulties in arriving consensus on contentious issues and the time-taking nature of consensual processes may have influcuLed g'wernment to give them just the symbolic importance. Rigid politicised polarisations also contributed to the tripartite fora being atrophied.

Significant trust building exercises and information-sharing are essential for genuine tripartite consultations to take place.

17.4 ADJUSTMENT AND FLEXIBILITY

Adjustment, broadly defined, is the effort to bridge the gap between current and expected levels of performance at any level. Employer policies at enterprise level to improve productivity and competitiveness emphasise flexibility. Flexibility is the catch word that best describes managerial policies in adjustment/adjustment process. As Kanawaty and others (1989) argue, flexibility in human resource management may be viewed differently, according to the context, each context giving rise to a different set of problems, viz.:

- the ability-to reduce or increase employment or wage levels with ease;
- the ability to increase mobility;
- the ability to make more elastic use of skills for greater occupational flexibility;
- the ability to introduce non-conventional working arrangements such as part-time work, self-employment, etc.

Employers are seeking to dispense with feather-bedding and restrictive work practices. They also usually seek freedom to retrench employees to maintain discipline and lobby for the forfeiture of a series of clauses concerning prior notice for lay-offs, closures, retrenchments, etc., in the 'Industrial Disputes Act. Employers and enterprise managers view flexibility in deployment of human resources as an effective way to cope with the competitive' pressures of technological and other changes.

Trade unions', in turn, want guarantees against macro/micro economic risks, say for workers/unions in all aspects of change. As an extreme case, they want individual employees interests to be safe, secure and stable, even if the corporate boat is rocked, unstable and about to sink. Their arguments usually concern not only safeguards against retrenchment but also assurances about maintenance of existing strength.

The ultimate objective labour flexibility should be to foster steady growth with concern for improving human competence and human welfare. Retonciling the sharp differences in the viewpoints of unions and management is not always easy, except perhaps, as we have seen in the past, when the crisis reaches the boiling point. There is need for positive thinking and search for creative alternatives by both the parties with a sense of mutuality and convergence of interests. Would trade unions consider according priority to the need for corporate survival as a prerequisite to safeguard the employee interests? Perhaps they would, if there is better information sharing and involvement of employees and their unions on various aspects of the functioning of the organisation.

17.5 EMPLOYMENT PROTECTION AND JOB LOSSES

The Indian Labour Conference, 1957 resolution on automation without tears provides for automation and modernisation without adverse effects on employment and earnings and sharing of gains between employees and employers. But, experience reveals that structural and other changes may sometimes entail workforce reductions: some jobs may have to be shed, in certain situations, to protect the remaining jobs. The. ILO Convention and Recommendation on Termination of Employment (1982) also envisage that structural, economic and technological changes may constitute valid reasons for termination of employment. The said ILO Convention and Recommendation, however, lists the variety of measures which employers could take to avert or minimise job losses, including, prior notice, consultation, retraining, redeployment and preferences for reemployment, etc. There is also evidence to the effect that restrictive laws seeking to protect jobs may hinder job creation and thus lead to a phenomenon of jobless growth. A study of employment trends in 34 Indian industries, using the Annual Survey of Industries Data for the period 1976 to 1982 and econometric analysis, estimated the long-term decline in the demand for labour at around 17.5% (weighted average for all industries covered). The study observed

significant inter-industry variations. Employment is estimated to have been Teduced more than 5% in 25 of the 35 industries, and more than 15% in 7 of them. The rate of decline in employment is estimated to be over 33% in textiles (Fallon and Lucas, 1991). Fallon and Lucas's approach in examining the direct effects of job security regulations on the demand for employees hinged on three main elements. viz.:

a) firstly, if the costs to a firm for adjusting its labour force rise with how rapidly the transition is made, then changes will tend to occur more slowly and today's employment decisions will be strongly influenced by the inherited employment level from yesterday. If the new job security regulations impose.even higher costs for rapid changes, we might expect to see an increase in the inherited effect;

b) second, higher adjystme.nt costs may reduce the firm's demand for employees. Consequently, the hew regulations may actually result in diminished employment;

c) third, today's employment decisions are influenced by expectations about the future, which we suppose are shaped by the recent past.

Official statistics confirm that "growth in employment in the organised sector slciwed down considerably from 2.7% per annum in the seventies to 1.6% perurilium in the eighties. The slowdown in the growth rate was in both, thb public as well as the private sectors. The slowdown is sharper in the second half of the eighties. Between 1985-86 and 1988-89, employment in the organised manufacturing sector declined from 6.26 million to 6.24 million, in the organised mining sector it declined from 1.08 million to L05 million and in the organised construction sector it declined froth 1.25 million to 1.24 million. This decline in employment coincides with a period of a high groWth rate in industrial production of 8.4% per annum (Centre for Monitoring Indian Economy, August 1992, Section 7).

Another study by a Bombay-based trade union research group, which collected information about "regular employment" in 34 firms in Bombay during 1980 to 1990, estimated an average decline in employment by about 20.5% over the decade. (The Workers' ,Solidarity Centre Against Job Losses and Industrial Closures, 1989.) Yet another study (Sarat, 1992) pointed to a steep decline in permanent employment with high density of unionism and a parallel increase in contractual and casual employment with low density of unionism in several industries including tea, jute and chemical and pharmaceutical industries.

The legislation requires employer to obtain prior permission/approval for lay-off, retrenchment, lack-out or closure. Instead, it is suggested that without prejudice to the right of any employee to raise an industrial dispute, the employer should notify the union of his intention to effect lay off or retrenchment at least two months before the date of the proposed action. In the event of mass retrenchment, it is desirable that the notifications is given as soon as is practically possible, taking into account the number of employees to be retrenched, the chances of their re-employment, the need to retrain them, opportunities for redeployment, etc. After the said notification, consultations should be carried out with the unions and/or the employees in accordance with the provisions of I.L.O. Convention and Recommendation on Termination of Employment.

[7.6 COLLECTIVE BARGAINING: ASCENDANCY OF MANAGERIAL RIGHTS

The combined effect of the harsh macro-economic realities, external pressures, technological changes and imperatives of enterprises restructuring to restore competitive edge seems to further weaken the already weak trade union movement. The recent trends in collective bargaining and the pointers towards ascendancy of managerial rights were discussed in Unit 12 of this course. Hence they are not discussed again here.

17.7 INFORMATION SHARING AND EMPLOYEE PARTICIPATION

Much has been said and written about participation. The transition in the world of work and the changing worker profile point to the need for a shift away from the

principles of management based on direction and control to one based on consensus and control (Walton, 1989). For, with increasing reliance on technology, there is a shift away from muscle to mind and from physical labour to securing initiative, discretion and commitment of "knowledge workers" which is rather difficult to monitor and control. Therefore, participation should become a way of worklife and managements which refuse to give a say and share to its people at work may be forced, in future to shed power. The traditional hierarchical and official conceptions of participative mechanisms should give way to rank and file involvement in work. Still the old questions about workers' participation in management persist. While employees and,unions may look at participative fora as opportunities to pursue their sectarian interests just as employers do, for real participation to take roots shared perspectives become a vital prerequisite. Till then, it is futile to expect hierarchical, legalistic participative,fora would achieve anything substantial: worker-directors may be capable to take part in decisions at the board level but they Would be hard put to accept responsibility for collective decisions at the board level.

As an interim measure, it is appropriate to come to an understanding about the nature and extent of information sharing. Sharing and processing information is any way a vital part of managerial decision-making process. Parallelly, efforts to involve workers through a share and say at various level should continue. While legal stipulations could be though of in terms of information sharing, other forms of participation shoul i be best left for voluntary arrangements between employers and unions.

17.8 LABOUR MANAGEMENT COOPERATION FOR TECHNOLOGICAL CHANGE AND PRODUCTIVITY IMPROVEMENT

Indian trade unions have come a lbng way in accepting technological changes, though not without some reservations. Problems in implementing the resolution of the 15th Indian Labour Conference on "automation without tears" still persists (Venkata Ratnam, 1985). Some of the recent collective agreements provide for consultation or managerial discretion on technological change if it does not entail loss of jobs or earnings (Venkata Ratnam, 1990). AlsOgivements such as the one between the unions and the management of Indian Iron and Steel Company (IISCO), Burnpur (June 1989); are unique examples of trade union involvemenOin the policy formulation and implementation of modernisation decisions at various stages of the programme. It is a different thing that due to political and other considerations the ,modernisation programme in IISCO continues to be put off. It is useful for Indian trade unions to at least take note of and then consider what possible exist for them ' to, take lessons out of experiences in the west in welcoming new technologies and influencing, proactively, technology policy decisions. Unions in industrialised market economy countries have counted managerial policies aimed at labour input reduction,.
gaining closer managerial control over production processes, etc., through building up technical resources within unions and-among workers td analyse the effects of future technologies and influence the managerial decisions on new technologies with a view to humanise the workplace. There are several illustrations such a positive role , being played in industrialised countries such as Sweden and Germany, for instance (Ozaki, 1992).

Prodtictivity improvement has; for some time, been a major area of concern. The question is not just that of labour productivity, but of productivity of all resources ' including capital productivity, managerial productivity, etc. When India became an independent nation in 1947, it was among the two most industrialised nations in Asia. Today, it is at the bottom of the top ten. In the 1950s when India embarked on - planned economic development and heavy industrialisation, technologically we were ahead of many countries-in the region. There were no tigers, no dragons. The Japanese goods were synonymous with bad quality. But today Japan and South-East Asia have overtaken India, economically, industrially and technologically. India is rated rather low in terms of its competitiveness (IMD and WEF, 1992), human development (UNDP, 1992) and despite being the world's largest democracy, even in terms of human freedoms (UNDP, 1992): 40% of India's educated remain unemployed and barely 5% of its workforce is literate. The skilli of people of India are in demand abroad, but not the products they make, here, in India. India, with

1.4% share in the GNP ranks 12th in the world, but in terms of per capita GNP, its rank in 1990 was]54th. Population growth more than nullified economic growth. India is getting marginalised in a world that has become increasingly interdependent. India's share in world exports declined from 1.4% in 1955 to 0.5% in 1990, its share in world imports also declined from 1.3% to 0.7% during the corresponding period. On most parameters, India's performance in terms of productivity within Asia makes dismal reading.

Trade unions too should accept their share of responsibility for whatever has happened over the last four decades. Significantly, trade union leadership itself admits to it, even though, during the 1980s, capital productivity, rather than labour productivity, has emerged as a major concern.

17.9 TIME FOR INTROSPECTION: NEW ROLES OF SOCIAL PARTNERS

The far reaching changes call for a radical rethinking about the traditional roles of all the major social partners—unions, employers and the government. Today there is neither pure capitalism nor pure socialism. With the collapse of Communism, fall of Berlin Wall, Chinese transition to socialist market economy, the transition of many of the erstwhile socialist countries in Central and Eastern Europe, and the shift in emphasis from the ptiblic sector's commanding heights in the economy to the return for the private sector initiative, a new economic rationale is emerging on the horizon. Worker ownership and wider share ownership is seeking to bring about a shared market economy logic among the people. At least in the organised sector, the labour and social legislation, democratic institutions including trade unions and judiciary, and successive collective agreements have brought a measure of protection and standard much above the national levels even as majority employed in the unorganised sector languish in poverty and exploitation. The trade union demands in collective bargaining also may Move away from wages to quality and safety of working environment and social security beyond employment such as pensions, post-retirement medical care, etc. Trade unions may also have to redefine their role and extend the scope of their activities to non-bargaining activities and take an active interest in worker welfare and social and community progress.

A mere change in the title of the Act froth Industrial Dispute Act to Industrial Relations Act will not serve any purpose. There is need for a drastic overhaul of the industrial relations procedures and machinery. The existing procedures are essentially limited to conflict resolution than maintenance of harmony. The focus should shift from curative to preventive/proactive approaches.

The grievance redressal mechanism should be equipped to deal with disputes arising from the interpretation and/or implementation of an existing collective agreement or of existing conditions of employment arising, from personal complaints about the abuses, if any, due to exercise of prerogatives of management.

Even in the public sector, there is a. change in emphasis from being a "model employer" to being a "model performer". These and similar changes warrant a new attitude and orientation towards union management relations in the future.

In keeping with a deregulated and liberalised economy, the day-to-day industrial relations matters are best left to the parties themselves in a substantial measure, with a more rationalised and well-administered labour legislation. Also, there is need to set up or engage independent or tripartite professional body to conduct objective inquiry into major or controversial human resource/industrial relations policy matters and industrial disputes which have wider impact. Earlier, similar efforts were made under the Code of Discipline and also by the National Arbitration Promotion Board. There is need to revive the good practice abandoned for wrong reasons.

17.10 SUMMARY

We have considered some of the major changes and emerging trends in union management relations. These include the rationale for changes in labour and legislation in the context of ongoing structural adjustment reforms with a view to

dovetail labour policy with industrial policy. The structural adjustment related reforms make us rethink about the effects of job protection laws on job creation and job maintenance. Primacy to market forces focus on flexibility and seem to lead to an ascendancy in management rights. Changes in technology and profile of workforce warrant participation and involvement of employee. However, the requirements of speed seem to pose hurdles for consensual processes and competitive considerations are tending to obfuscate transparency and information sharing. There is need for labour-management cooperation to improve the performance of our organisations, achieve higher levels of productivity and social well-being. The mega changes occurring in the world and the changing macro environment for business and industry warrant a redefinition of the roles of the social partners in union management relations. A reorientation in legislation (disputes to relations); sound industrial • relations procedures (particularly, grievance handling); emphasis not merely on being model employers,,but also model performers; and, the need for social audit of major . events impinging upon union management relations are some of the aspects requiring urgent attention.

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Annexure

IMPORTANT ISSUES IN TRADE'UNIONS ACT, 1926

1) Minimum Strength for Registration etc. (paras 5.3 & 5.9)

According to Section 4(1) of the Trade Unions Act, any seven or more workers may form a trade union. There is no provision relating to dual membership.

The Ramanujam Committee recommended that minimum strength for registration of a trade union should be 10 per cent of the employees or 100 employees, whichever is less, subject to a minimum of seven members. While labour side wanted dual membership to be discouraged, the employers side wanted its prohibition.

The Group of Ministers did not consider the question of minimum strength for registration of a trade union as the Ramanujam Committee was unanimous on the subject. The Group unanimous agreed that dual membership should be discouraged.

2) Ban on Registration of Trade Unions based on Caste, Creed etc. (para 5.11)

The Ramanujam Committee recommended' that no trade union shall be registered if its membership is restricted to a particular craft, occupation, caste, creed, community, race, religion or persons originating from a particular region.

AITUC, UTUC(LS), CITU, UTUC and TUCC (hereinafter referred to as the five dissenting trade unions organisations) were of the view that a union formed on the basis of occupation need not be banned from registration, In the case of craft unions, which are already registered, some time should be given to them to develop their unions into industry-wise unions.

The Group of Ministers unanimously agreed that registration of trade unions whose membership is restricted to a particular caste, treed, community and religion should be banned. The Group is, however, of the view that an exception could be made in the case of trade unions based on craft or occupation.

(The existing Act. does not have provision relating to ban on registration of such unions)

3) Outsiders as Office Bearers/Members of The Executive Committee of a Trade Unions (paras 5.16. 5.17 and 5.24)

According to Section 22 of the Trade Unions Act, 1926, not less than one-half of the total number of the office bearers of a trade union shall be persons actually engaged or employed in an industry with which the trade union is connected. The appropriate Government may exempt any trade unions from the operation of this provision.

The Ramanujam Committee recommended that the number of office bearers and members of the executive who are not connected with the industry should not exceed one-third of the total number. While INTUC, NLO, BMS and HMS were in favour of excluding Ministers from being office bearers or members of the executive committee of a trade union, the five dissenting trade union organisations wanted the matter to be left to the workers to decide without interference from any quarter.

The Committee further recommended that employees whose cases are pending or are under dispute should not be deemed to be outsiders. The labour side wanted that employees who have honourably retired or have been **retrenched should not** be deemed to be outsiders for the purpose of holding office in trade unions. While haiing no objection to ex-employees holding office in trade unions, the employers side felt that it should be out of the one-third quota for outsiders. The Ramanujam Committee also recommended that Ministers should be ineligible to become office - bearers of a trade union.

The Group of Ministers unanimously agreed to restricting outsiders to one-third of the total number of office bearers/members of executive committee. However, West Bengal suggested that ex-employees should not be treated as outsiders. All except West Bengal were against a Central **or** a State Minister being an office bearer of a union.

Source: Ministry of Labour, Government of India New Delhi.1992.

4) Disqualification (para 5.18)

The existing provisions regarding disqualification of a person for being chosen as, and fo'r being member of, the executive or any other office bearer of a trade union are that;he as not attained the age of .18 years or he has been convicted by a court involving moral turpitude and sentenced to imprisonment, unless a period of five years- has elapsed since his release.

While recommending retention of the existing provisions relating to disqualification the Ramanujam Committee also recommended that disqualification of any person from holding an office in a trade union should be as per the model constitution of trade unions.

The five dissenting trade union organisations were of the view that disqualification should be left to the trade unions to decide. According to them, as the terminology "Moral turpitude" is complicated, the existing clause may be replaced by "any office bearer or a union convicted for defalcation of union funds or on chargts of corruption should be debarred from holding the office of the union."

The Group of Ministers were in favour of retaining the' existing provisions of the Act. However, West Bengal Labour Minister was of the view that disqualification of trade union leaders from holding office should be left to the trade unions to decide and that there should be no legislation in the matter.

IMPORTANT ISSUES IN INDUSTRIAL DISPUTES ACT, 1947

1) Colerage (paras 6.3-6.5, 6.7, 6.8 and 6.10)

The Ramanujam Committee felt that all etw-loyed persons regardless of the character of the employer or the destination of profit should have some appropriate legal machinery to protect their interests. The labour side wantedthat the Act should cover all employees except those covered by the Air Force Act, the Army Act, the Navy Act and those employed in the police service or in prison. The five dissenting, trade union organisations were of the view that non-cumbatnant civilian employees should not be covered by the Army Act etc. and should be considered as employees. Likewise, all the civilian Government employees including police men should be given full trade union rights: The employers' side, however, desired that the definition of the term 'workman' as contained in the I.D. (Amendment) Act, 1982 must be retained.

INTUC, NLO. and the employers' side wanted to continue the exemption of such laws as the BIR Act, MPIR Act etc. However, AITUC, CITU, BMS, HMS, UTUC and UTUC(LS) wanted that no such exemption should be grapted.

INTUC, AITUC, HMS and NLO agreed to the granting of exemption to the employees covered by the Joint Consultative Machinery Scheme; but wanted, at the same time, some improvements in this scheme.

b)...lone Group of Ministers agreed that pay limit of Rs. 1600/- p.m. prekribed in the I.D. Act for supervisory staff should be raised to Rs. 3000/- p.m. for wider coverage. The Labour Minister of West Bengal was of the view that there should not be pay limit of supervisory staff. It was also agreed that employees in the managerial or administrative capacity, as already provided in the Ait, should not be covered under the proposed law. The Group was also of the view that there should be uniformity in pay limit under various labour laws.

T.f.e Group further agreed that Government employees covered by JCM Scheme should be excluded from the purview of the industrial relations law.

The majority of the Group agreed that State laws may continue to be exempted. However, Labour Minister of West Bengal was of the view that Industrial Relations law should be uniform throughout the country.

2) Definition of 'Industry'

a) In the Ramanujam Committee, the workers' group desired a broad definition of industry and, in effect, recommended that the 1982 amendment to the definition of the industry should, be repealed. The employers' group desired that the amendment should be a iior ed. The AIMO desired that an undertaking until the expiry of three years from the data of establishment as well as an undertaking employing less than 20 workmen should be outside the purview of the Industrial Relations law.

b) The Group of Ministers except West Bengal were in favour of aseparate legislation/grievance redressal machinery for hospitals and education institutions. The Labour Minister of West Bengal was of the view that the 1982 Amendment may be enforced after excluding hospitals and educational institutions from the list of exempted establishments and that the State Government may form Tripartite Committees to look into the day-to-day grievanceS of the hospital employees.

3) Appropriate Government

a) There was no unanimity in the report of Ramanujam Committee on the subject. The employers' side wanted the Central Government to be the 'appropriate Government' in respect of industrial establishment-

1) where under the present I.D. Act, the Central Government is the 'appropriate Government'.
2) carried on by a Company in whicn not less than 51 per cent of the paid-up capital is held by the Central Government, and
3) owned by a body corporate having industrial establishments in.more than one State.

(In respect of other establishments, the State Governments shall be the 'appropriate Government'.)

CITU, UTUC and TUCC were agreeable only for the first category. INTUC, HMS, AITUC, BMS and NLO were agreeable for (1) and (2). UTUC(LS) agreed for the first two and also wanted that in case of private sector units which are spread over in more than one State, Central Government should be the appropriate Governmet

b) In the Group of Ministers, West Bengal, Andhra Pradesh and Tamil Nadu were in favour of retaining the existing provisions while Maharashtra and Uttar Pradesh wanted the Central Government to be the appropriate Government in respect of (1) and (2) above.

4) Individual Grievances (paras 6.12 to 6.15)

a) Section 9-C of the I.D. Act provides for setting up of Grievances Settlement Authorities for the settlement of industrial disputes connected with an individual workman. Such Authorities are to be set up by the employer in every industrial establishment in which 50 or more workmen are employed. The section further provides that no dispute shall be referred to Boards, Courts or Tribunals unless it has been referred to the Grievance •ettlement Authority.

This section, which was inserted by the Industrial Disputes (Amendment) Act, 1982, is yet to be enforced.

b) 1) The Ramanujam Committee unanimously agreed that every establishment employing fifty or more persons must have a Grievance Procedure which will pro de for. appeals in two stages, the second appeal being the final authority: The. deb(ion of the final Appellate Authority must be given within 30 days of the employee referring the grievance. If the employee is not satisfied with the decision, **he shall** have the right of access to a Grievance. Redressal Machinery. However, the employers', side wanted the right of such access to be limited to grievances relating to discharge, dismissal or termination of employment.

2) In every such eifiblishment, a panel of names of Grievance Arbitrators mutually agreed upon Shall be' mairitainted and the employee will be free to choose anyone out of such panelfo arbitrate on his grievance. •

3) If, after exhausting the Grievance Procedure, the employee is not willing to go for Grievance Redressal 'Machinery, he may approach the Negotiating Council. If, however, the employee does not Avant to approach the Negotiating Council or the Negotiating Council is not willing to take up his case, he shall have the right of direct access to a Labotir Court or the Adjudication Wing of the IRC. But*the employers' side wanted such right to be limited to case of dismissal, discharge or termination or employment.

4) The Ramanujam Committee further recommended that employees under suspension pending domestic .enquiry shall continue to tet 'the same rate of subsistence allowance as at present. The employees would also be entitled to such allowance if the employer goes in appeal qr writ proceedings challenging their order

of reinstatement. The employers, however, felt that such elief should not be automatic but should depend on the circumstances of each case. The adjudicator or arbitrator shall have the authority to grant suitable relief as it deems fit.

In his note of dissent, the representatWe of AIMO disagreed with the employees getting subsistence allowance during the pendency of an appeal or writ filed by the employer. He also wanted the question of granting interim relief to be left to the High Court or Supreme Court where the case is pending.

c) The Group of Ministers left this matter to be discussed in the Indian Labour Conference.

5) Union Recognition (paras 7.1 to 7.10)

The Ramanujam Committee observed that recognition of trade unions is important to the formation of Negotiating Council (setting up of which the Committee recommended) which is designed to play a pivotal role in the Committee's Scheme of New Industrial Relations law. The Committee recommended that a trade union would be eligible to contest for a position in the Negotiating Council if it has completed one year after its registration under the Trade Unions Act.

'Regarding the method of membership verification, while the employers' side:IN:TUC and NLO advocated check-off system, other trade unions, namely, AITUC, CITU, HMS, TUCC, UTUC and UTUC(LS) were in favour of secret ballot in which all employees should have the right to participate. While favouring secret ballot system, BMS was of the view that only unionised members should have the voting right.

The Committee also recommended [that] an independent machinery should be set up to conduct verification of membership or secret ballot.

The group of Ministers was in favour of secret ballot as the method for verification of membership of unions and identification of a negotiating agent. West Bengal was of the opinion that trade unions should be eligible to contest for a position in the negotiating Council right from the date of its registration. It was also of the view that the machinery for verification of memberShip should be decided by the individual States.

6)' Negotiating Councils (paras 8.1 to 8.18)

1) In the Ramanujam Committee's scheme of new Industrial Relations law, Negotiating Councils occupy a very important place in promoting bipartism is labour-employer relations. The Committee made the following recommendations:

a) A Negotiating Council should consist of an equal number of representatives of the employers and the employees. The size of the Negotiating Council should depend on the size of the enterprise. The Negotiliting Council should have a tenure of three years.

b) The actual number of representatives on each side shall depend on the size of the undertaking.

c) In case there is no union, 5 employees may be elected from the labour side through secret ballot.

d) Where there is only one union, that union will be entitled to nominate all the representatives to the Negotiating Council irrespective of its membership strength.

e) Those who favoured verification of membership of unions through check-off for recognition and tliose who favoured secret ballot recommended different systems of representation of various unions in the Negotiating Council. Take for instance, in the case multiple unions, while those who favoured the former method stated that the union with more than 50% membership of the total verified strength shall be recognised as the Sole Nagotiating Agent, those who favoured secret ballot method stated that the union with 65% of the total votes polled should be recognised as the Sole Negotiating Agent.

In case there is not union with more than 50/60% membership/support, the top two or more unions may be included in the Negotiating Council so that the total verified. membership/votes covered by the Council comes to 75/85% of the total verified membership/votes polled provided that each union has polled 10% of the total membership/votes polled. Once the coverage of the Negotiating Council reaches

75/85% of the membership/votes polled, even unions with 10% membership/votes polled shall be ignored.

In case the total verified membership/support of the unions with 10% or more verified membership/support does not add up to 75/85%, unions with less. than such 10% membership support shall be ignored, notwithstanding the fact that 75/85% has not been reached. In such circumstances, the Negotiating Council will, however, be competent to represent all employees.

f) An independent machinery may be set up for Inducting the election or for verification of membership through check off.

g) Where multiple unions have to be represented in the Council, the representation of each union shall be in proportion to its membership or support, as the case may be.

h) Any trade union in order to contest for the position of a member of Negotiating Council must have completed at least one year after recognition.

i) The Chairmanship at the meetings of the Council will rotate between the employers' and workers' representatives.

j) The Council shall have a tenure of three years and expenses relating to it shall be borneby the Industry.

k) In the case of composite Negotiating Councils, the unions with the largest membership will be recognised as the Principal Negotiating Agent.

1) Agreements reached in the Negotiating Council shall be binding on the employers and the employees. The five dissenting trade union organisations stated that an agreement in the Negotiating Council must be backed by 65% of the workers' representatives in the Council. Further, union which has at least ten per cent support of the workers as borne out by the secret ballot but is not included in the Council should have the option of signing the agreement.

m) In case of failure to reach an agreement in the Negotiating Council, the parties may invoke the assistance of voluntary,arbitration machinery (the five dissenting trade union organisations wanted that the unions may also have to right go in for conciliation, adjudication or for direct action.)

2) As there was no unanimity on the recommendations relating to Negotiating Councils, the Group of Ministers decided that the issue be discussed in the Indian Labour Conference.

7) **Voluntary Arbitration (paras 4.7 to 4.11 and 9.1 to 9.6)**

a) According to Section 10-A of the I.D. Act, any Industrial dispute can be referred to arbitration by written agreement between the employer and the workmen.

b) The Ramanujam Committee attached high priority to arbitration and considered it as an extension to the process of negotiations. The Committee made the following recommendations:

i) wherever the Negotiating Council records any disagreement, the next stage she 'A normally be voluntary arbitration; '1*-

ii) every establishment employing 100 or more persons shall maintain a standirig panel of arbitrators agreed by both the parties;

iii) either party shall have the right to invoke arbitration provided the other party agrees;

iv) In the case of Board of Arbitration with equal number of arbitrators appointed by each side, the arbitrators shall appoint an unpire before entering upon their duties;

v) the award of an arbitrator or the Boari ^f Arbitration shall be final;

vi) the cost of arbitration shall be bort:: 17 the industry;

vii) any dispute regarding interpretation of any agreement or award of arbitrator/(s) shall be left to be decided by an appropriate judicial authority and its decision shall be final and binding.

The Committee alSo unanimously recommended that the Arbitration Promotion Board which was set up some years ago and which is now defunct should be revived;

The five dissenting trade union erganisation did not agree with the concept of voluntary arbitration being an extension of the process of negotiations and

equently with the view that wherever the Negotiating Council records and disagreement, the next stage should normally be voluntary arbitration. They favoured conferring a right to resort to direct action, including strike, to the union after failure of negbtiations. They were also of the view that voluntary arbitration should be resorted **to** only after there is 75% support in the Negotiating Council.

c) Tbc Group of five Labour Ministers unanimously agreed that the existing provisions relating to arbitration in the I.D. Act should continue.

8) Industrial Relations Commission (paras 8, 10.1 to 10.16)

a) The National Commission on Labour had recommended that setting up of an Industrial Relations Commission (IRC) both at the centre and in each State. The Ramanujam Committee also made a similar recommendation. The main functions of the IRCs will be:

i) Registration and certification of membership of N o otiating Council after observing the due process of verification or secret tallot;

ii) Conciliation;

iii) Mediation;

iv) Adjudication in industrial disputes;

v) Hearing appeals against awards of concerned Labour Courts, and

vi) Enforcement

The Committee made detailed recommendations regarding the establishment and composition of the IRC appointment of its members etc.

The five dissenting trade union organisations opposed the concept of IRC and wanted the continuance of the existing conciliation and adjudication machinery with appropriate modifications. 1NTUC, BMS, HMS and NLO favoured the setting up the IRC as recommended by the National Commission on Labour.

b) The Group of Labour Ministers did not agree with the recommendation for setting up the IRC.

9) Strikes and Lockouts

a) The Ramanujam Committee agreed that strikes and lock outs should be the weapons of last resort. The following main points concerning strikes and lockouts were discussed in the Ramanujam Committee report;

i) The labour side recommended that strikes should not be equated with lockout. It should be mandatory for the employers to obtain prior permission of the appropriate Government before declaring a lockout. The employers' side did not agree with this view. However, should prior permission for lockout, be mandatory, the' employers' side insisted that the unions also must obtain prior permission before resorting to strike.

ii) Failure of negotiations. The five dissenting trade union organisations were of the ,view that in the event of failure of negotiations, if the union does not want to go for arbitration, conciliation or adjudication, it should have the right to resort to direct action including strike, if necessary.

iii) Strike ballot: The Ramanujam Committee recommended that every strike must be preceded by a strike ballot in which at least tWo-thirds of the workers employed in an establishment should vote in favour of strike.

This recommendation was opposed by the eve dissenting trade union organisations. **BMS** and HMS were of the view that where the unions which represent more than 51% of the workers in the Negotiating Council are in favour of strike, no strike ballot is necessary. In the event of a strike ballot becoming necessary strike can be launched if 51% of workers are in favour.

iv) Notice of strike and lockout: The Ramanujam Committee recommended that in industries classified as essenifUl service, one month's notice of strike and lockout should be mandatory. In otheit industries where strike and lockout become inevitable, at least 14 days' notice in writing should be .given.

The five dissenting trade union organisations did not agree to extension of the penod of notice of strike in essential services to one month and to the proposed provision of notice period in non-essential services.

v) Strike/lockout in esseritial/nOn-essential services.

Th•Ramanujam Committee recommended that Government should not declare any service other than water supply, electricity, health, defence etc. as essential except with the consent of Parliament. In industrial units where strike/lockout takes place, essential services shall be exempted from boit stakes and lockout.

The Ramanujam Committee also recommended that nu strike or lockout should be resorted to during the pendency of a related dispute in the Negotiating Council, Conciliator, Labour Court, IRC or Arbitrator.

The five dissenting trade union organisations-did not agree to the statutory exemption of essential services in an establishment from strike and the prohibition of strikes in defence production units.

vi) Wages during illegal strikes/lockouts.

The Ramanujam Committee recommended that in case of illegal lockouts, employees should be eligible for full wages and other benefits. The IRC or Labour Court should be empowered to declare a strike or lockout illegal at the instance of either parties.

The dissenting trade union organisations suggested that severe restriction should be provided in law on the employers' attempt to declare lock6ut. No employer should declare lockout without permission of the Government.

The Council of Indian Employers (CIE) stated that in case lock out is declared as a consequence of danger to life and property in tfie industry or safety of the community, no wages should be payable even though the lockout was technically illegal.

b) All the States except West Bengal agree that one month's notice is required for strike and lockout both in essential and non-essential services. No strike or lockout should be permitted during the pendency of the conciliation proceedings. However, the Labour Minister of West Bengal wanted continuation of the existing provisions for given 14 days' notice for strike in essential services and that prohibition of strikes during the pendency of conciliation proceedings should be only in respect of issues related to the matter in conciliation.

Labour Minister of West Bengal was also of the view that strikes and lockouts should not be equated, that there should be a specific legislation to prevent lock outs and suspension of business or closure, that strikes should not be preceded by a secret ballot and that in case of a strike or lockout in an establishment, essential services in that establishment should not be exempted.

10) Section 33 with its various Sub-sections (paras 12.1 to 12.5)

a) Under Section 33 (2) of the I.D. Act an employer is allowed to alter the servie conditions of a workman in regard to any matter not connected with a dispute relatil„_, to which conciliation/court proceedings are going on. However, such action on the part of the employer should be in accordance with standing orders and for any misconduct not connected with the dispute. Under Section 33(3) no such action can, however, be taken against protected workmen.

b) The Ramanujam Committee recommended that no unilateral action should be taken by either the management or the employer. Section 33 with its sub-sections proceeds on the basis of unilateral action by the employer. The Committee felt that if their recommendations regarding bipartism are accepted, there will be no such occasion for any employer to act unilaterally. In the circumstances, Section 33 with its sub-sections may have to undergo changes consistent with the Committee's proposals elsewhere. The I.R.C., Labour Courts etc. as the case may be, will be the enforcing authority in the matter of all orders, settlements or awards and in the matter of recovery of all dues. The Committee further recommended that the other sub-sections under Section 33 may continue to be operative to the extent they are not inconsistent with the various recommendations of the Committee.

The dissenting five trade union organisations while agreeing with the recommendations of the Ramanujam committee in this regard did not agree that the IRC should be the enforcing authority in all matters.

11) Lay Off (Chapter 13)

a) The existing provisions of lay-off are not applicable to those industrial establishments in which less than fifty workmen on average per working day are employed and to industrial establishments which are of seasonal in character or in which work is performed only intermittently (Section 25-A).

Under Section 25-C of I.D. Act, a workman is entitled to lay off compensation equal to fifty per cent of normal wi _ up to forty five days during any period of twelve months.

In factories, mines and plantations in which one hundred or more workmen were employed on an average per working day for the preceding twelve months, no workman shall be laid off by his employer without the prior permission of the appropriate Government (Section 25-M read with Sections 25-K and 25-L).

b) The Ramanujam Committee recommended that the provisions relating to lay-off would be applicable to establishments employing 20 or more employees. Where lay off is resorted to for reasons within the control of the management, full wages should be paid, otherwise the existing rate of 50% compensation shall continue. Where a contractor defaults in payment of compensation for lay off, the principal employer should be liable to pay the amount. The Committee further recommended that the employer must have the approval of the Negotiating Council for declaring a lay off. In the event of refusal of permission by the Council, the matter should be treated as an **industrial dispute.**

The Council of Indian Employers suggested that the employers should be required to intimate the Negotiating Council instead of having to obtain its approval of lay-off. They wanted that Section 25-M be deleted.

The AIMO stated that the present provisions requiring prior permission from the appropriate Government for declaring lay-off should be deleted. If the provisions' were to be retained at all, they should be applicable to establishments employing more than 1000 workers.

(c) The Group of five Labour Mi tisters generally agreed with the recommendations and was of the view that perm'.Jsion for lay-off for reasons within the control of the management should not be given. As to the question whether the reasons are within the control of the management the authorised authority should decide the case according to a given situation.

Generally agreeing with the Ramanujam Committee recommendations West Bengal further wanted that the existing provisions of Section 25-M so far as it relates to prior approval of the appropriate Government should continue.

12) Retrenchment (Chapter 14)

a) Under the existing provision (Section 25-F of the **I.D.** Act, 1947) no workman who has been in continuous service for not less than one year under an employer nail be retrenched until the workman has been given one month's notice or he has been paid one month's wages in lieu of such notice and retrenched compensation equivalent to fifteen days' average pay for every completed year of continuous service or part thereof in excess of six months.

b) The Ramanujam Committee recommended that the compensation for retrenchment should be at the rate of one month's average pay for every completed year of service. However, for smaller establishments employing less than 250 persons or with a turn over of less than Rs. 5 crores, the existing rates may continue.

The five dissenting trade union organisations recommended that approval by the Negotiating Council or the participative forum should be required for effecting retrenchment. Further a workman can be declared surplus only with the agreement of the Negotiating Council. They were not in favour or reducing the rate of compensation for the undertakings employing less than 250 employees. The AIMO did not agree to the enhancement of retrenchment compensation. The Council of Indian Employers' suggested that Section 25-N which requires prior permission for retrenchment be deleted.

c) The Group of Ministers were of unanimous opinion that a worker should be given retrenchment compensation of forty five days' pay for every completed year of service by all the industrial units regardless of the number of their employees and turnover.

13) Closures (Chapter 15 to the Report)

a) Under Section 25-FFA of I.D. Act, 1947 an employer who intends to close down an undertaking has to serve 60 day's notice before the date on which the intended closure is to become effective. The said provision does not apply to an undertaking in which less than fifty workmen are employed or were employed on an average per working day in the preceding twelve months and also to an undertaking set up for construction of buildings, bridges, roads, canals, dams or for other construction works or projects.

In case of factory, mine and plantation, in which one hundred or more workmen were employed on an average per working days for the preceding twelve months, an employer who intends to close down an undertaking of an industrial establishment shall apply, in the prescribed manner for prior permission at least ninety days before the date on which the intended closure is to become effective, to the appropriate Government. In the event of such permission being granted under Section 25-0, or deemed to be granted, every workman employed in that undertaking shall be entitled to compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months.

b) The Ramanujam Committee was of the view that in the event of default in payment of wages and/or other statutory dues by an employer, sickness can be deemed to have set in and efforts to combat sickness should commence. It recommended that Section 25-0 of the I.D. Act may be replaced by a new section whereunder any employer intending to close down his establishment, either wholly or partly, shall be required to place the matter before the Negotiating Council at least 90 days before the closure. If no agreement is reached within 30 days, the issue shall be referred to the IRC by either party. The IRC should give its award within 30 days.

The Labour side wanted that it should still be necessary for the employer to obtain permission of the appropriate Government. The five dissenting trade union organisations wanted not only to retain Section 25-0, but to make the provisions more stringent.

The employers' side expressed the view that the provisions of Section 25-0 of .I.D. Act, 1947 should apply only to industrial establishments employing at least 1000 workers. They also desired that it would suffice if the employer gave a prior intimation for closure instead of having to obtain prior permission for the purpose.

The AIMO and the Council of Indian Employers' desired the present provisions in the I.D. Act 1947 requiring the employer to obtain prior permission for effecting retrenchment or closure be deleted. The AIMO further desired that in the alternative, two levels of compensation should be provided. Where an employer resorts to retrenchment or closure without prior permission of the authorities concerned, the level of compensation should be higher than in case where it is effected after. obtaining prior permission. Disputes relating to unjustified retrenchment or closure can be raised before the IRC which would be empowered ts) award full wages in the event of reinstatement in services.

There was a general agreement among the Group of five State Labour Minister: that units employing not less than fifty should be covered under Chapter V-B of **I.D.** Act to give protection to the small scale units. It was also agreed that protectior, should be extended to all categories of workers and not just to the workers employed in a factory, mine **or** plantation. This can be done by adding "other establishments" in Section 25-L.

14) Rights and Responsibilities as Member of a Negotiating -Council (Chapter 16 of the Report)

a) The 15th Indian Labour Conference (1957) evolved the Code of Discipline in Industry and the same was adopted at the 16th Session in April, 1958. The Code which contains a compendium of obligations of managements and unions came into force from the 1st July, 1958. These obligations consist broadly of three parts : the first part binds both management and unions, the second part binds only the management and the third only unions. To regulated inter-union rivalries, the Code of Conduct was evolved in May, 1958 at a meeting of the representatives of four Central Organisations of **workers.** The Code of Conduct regulates the relations between union with different ideologies, gives employees freedom to join the union

of their choice and forbids coercion, intimidation or and vilification, emphasises democratic principles in the functioning of trade unions and prohibiting submission of excessive or extravagant demands by a union in an attempt to outbid its rival.

h) The Ramanujam Committee suggested that the rights and responsibilities of recognised unions under the Code of Discipline as well as the Code of Conduct may be suitable revised so as to be in tune with the Committee's recommendations which envisage more than one union as members of the Negotiating Council in certain context. The Committee further suggested that in respect of the unions which fail to get represented on the Negotiating Council, their rights will be to take up individual grievances of the employees who are their members.

The five dissenting trade union organisation were not in favour of the rights and responsibilities of members of a Negotiating Council to be laid down by the Code of Discipline and Code of Conduct since both of them have allegedly proved to be of no consequence in governing the behaviour of different parties. They were in favour of Bipartite Committees working out mutually acceptable norms of conduct.

15) Unfair Practices (Chapter 17 of the Report)

a) The existing provision under Section 25-T of I.D. Act, 1947 prohibits unfair labour practice. It lays down that no employer or workman or a trade union, whether registered under the Trade Unions Act, 1926 or not, shall commit any unfair labour practice listed in the Fifth Schedule tO the Act.

b) The Ramanujam Committee recommended that the Fifth Schedule to the present I.D. Act 1947 which lists unfair practices on the part of the employers and trade unions of employers and workmen and trade unions of workmen be deleted and, instead, a simple illustrative list may be prepared largely embodying the principle provisions of the Code of Discipline in Industry and the Code of Conduct. Any unfair practice by either party may be referred to a Labour Court by the aggrieved party direct and the Labour Court shall give a decision within a period of 90 days of the receipt of the complaint.

c) The dissenting five trade union organisations while agreeing to the deletion'of the Fifth Schedule to I.D. Act, 1947 were not in favour of preparing an illustrative list embodying the principles under .he Code of Discipline and Code•of Conduct or giving them any legal status. They were in favour of deciding the practices in Bipartite Committees and not through any legal provision.

b) The Council of Indian Employers suggested that 'failure to implement award settlement or agreement' which is listed in Part I of the Fifth Schedule of I.D. Act as an unfair labour practice on the•part of the employers may also be listed in Part II of the Fifth Schedule pertaining to workmen.

16) Penalties (Chapter 18)

a) Under the existing provisions of the I.D. Act, penalty for lay of and retrenchment without previous permission is imprisonment up to one month or fine up to Rs. 1000 both. An employer who closes down an undertaking without seeking prior permission of the appropriate Government in terms of sub-section (1) of Section 25-0 is punishable with imprisonment upto six months or a fine upto Rs. 5000 or both (Section 25-R(1)).

In case an employer contravenes an order refusing permission for closure he shall be punishable with imprisonment up to one year or fine up to Rs. 5000 or both and with a further fine up to Rs. 2000 per day where such contravention continues. (Section 25-R(2)).

Penalty for illegal strike is imprisonment up to one month or fine up to Rs. 50 or both fine up to Rs. 1000 er both (Section 25-U).

Similar penalties arc prescribed for instigating strike or lockout, giving financial aid to illegal strikes and lockouts and for disclosing confidential information. (Section 27, 28 and 30 of the I.D. Act).

Penalty for illegal strike is imprisonment upto one month or fine upto Rs. 50 or both in the case of workmen and in the case of employer penalty for illegal lockout is impriseiment up to one year or fine up to Rs. 1000 or both (Section 26).

Penalty for breach of settlement or award is imprisonment up to six months or with fine or with both and in case of continuing breach fine of Rs. 200 per day during which the breach continues. (Section 29).

Penalty for closure with out no time under, lave Sction 25-FFA is imprisonment up to six months or fine up to Rs. 5000 or both. (Section 30-A).

b) The Ramanujam Committee suggested that penalty should be made sufficiently deterent and their enforcement should be meaningful. The Committee hoped that with the handing over of the enforcement function to an independent agency, namely, the IRC, there would be a significant improvement in the record of enforcement of the provision in the law, awards, settlement etc. reducing the scope for violation. Thus the need for imposing punishment would also be limited. The five dissenting trade union organisations opposed handing over the penalty provisions to the IRC and stated that it is the responsibility of the Govt. as a law enforcing authority to' ensure full implementation of the legal provisions.

17) Go S1ow

There is no provision about go slow in the existing I.D. Act. The Ramanujam Committee also made no specific recommendation about it. However in their Note of Dissent, the CIE suggested that the law should provide for deduction of wages of a workman who resorts to go slow apart from rendering him liable for disciplinary action.

The Group of Ministers considered the suggestion made by the CIE and the Group was of the view that go slow should be discouraged. All except West Bengal agreed that provision for proportional deduction in wages for loss of production due to go slow may be made. West Bengal Labour Minister later conveyed his view that since Ramanujam Committee Report did not make any recommendations on this respect he would refrain from making any comment.

UNIT 18 CROSS CULTURAL ASPECTS OF UNION MANAGEMENT RELATIONS

Objectives

After going through this unit, you should be able to:

- have some insight., into cross cultural aspects of union management relations; and,
- highlight some key issues relating to union management relations in multinational enterprises (MNEs) operating in different countries.

Structure

18.1 INTRODUCTION

Dunlop described Industrial Relations System as an interdependent system of relations between three principal factors, namely, workers, managers and the State interacting to establish network of rules governing their relationship in the workplace, within a given technological and socio-political and economic environment. The network of rules being the outcome of the system is determined within a given context of technology, product and labour markets, social aspects, etc. Union management relations as a subject of study assumed importance in the context of industrialisation and the emergence of industrial man (woman included). Industrialisation proceeded in different nations in different ways. -There is no one logic, but many ways, union management relations evolved in different settings as specific responses—either proactive or reactive or both—to the amalgamation of different environmental eantexts (social, legal, political, economic, technological, etc.) in a given time frame. Thus, the network of relations among the three social partners that Dunlop described—trade unions, employers and the State—and the network of rules which is indeed the product of the industrial relations (or union management relations) system are specific to different cultures or environmental contexts. Therefore, one might find, across cultures operating in diverse environments significant similarities and dissimilarities. Understanding and dealing with dissimilarities is important for today's global manager operating in a multi-national or transnational enterprise. In what follows is a brief exploratory attempt to have some glimpses of an indicative check-list of items requiring study to understand and deal with union management relations in cross cultural settings. By no means this exercise of ours is complete and comprehenive. It is an indicative journey.

18.2 CULTURE, CUSTOMS AND VALUES

Since union management relations concern primarily relations between group's-of wage earners and employers and/or their organisations, they are culture specific. Certain western cultures (e.g. North America and Western Europe) seem to value individualism and individual achievement while eastern cultures (e.g. Japan and

Korea) seem to value consensus and team work. In some independence is valued most while in others interdependence is regarded the best. In some there is greater emphasis on equality while others are more feudal and authoritarian in character. In some merit is the basis for reward while in others seniority counts most. These and other differences then become the determinants of a range of personnel/human resource policies and practices ranging from recruitment and promotion policies, performance appraisal and reward systems, communication and motivation systems, the degree of involvement and participation, etc. In some countries administrative positions can be held only by the locals. Therefore, one may find a situation where the nurse would be the administrator or the superintendent of the hospital than the doctor. In some promotions do not necessarily indicate upward mobility;.promotions may entail horizontal or vertical movements and are based on-razignition of expertise of the individual and requirements of the jab.

18.3 POLITICAL SYSTEMS, INSTITUTIONAL FRAMEWORK AND GOVERNMENT ROLE

Katz, Kochan and McKersie proposed that union.- management relations or industrial relations (both are considered synonymous in this unit) union management relations occur, at three levels: at national and international level; industry or company level; and, plant or shop-floor level. The levels, particularly the last- two mentioned levels arc not necessarily water-tight and they could be one (in the case of single plant firms) or more (in the case of multi-plant, multi-divisional firms). At the macio or national level', the differences in the political economy of the state could be a major determinant of union management relations and the institutional framework government policies adopted to deal with such relations. For example, the differences between communist, socialist and capitalist systems are two well-known and two frequently documented. However, it appears that today there is neither pure communism nor pure capitalism. The events is central and eastern Europe, including the former U.S.S.R. resulted in virtual collapse of the communist system. Even China is transiting into a "socialist market economy." And, Peter F. Drucker's latesf-publication already talks about the post-capitalist industrial society.

The State seeks to regulate the rules of the game and maintain balance in the power relations between labour and management: The laws and regulations usually seek to establish minimal standards and norms and leave the subject of securing higher standards through collective bargaining. In some countries the State provides services for conciliation, mediation, arbitration and adjudication (UK, USA, etc.) of industrial disputes while in other (e.g. France and former. West Germany) the institutional framework and government action is minimal. In many countries the State is not only a regulator and adjudicator but also a major emploYer._ The system of labour courts and arbitration also varies significantly across countries.

There are significant diversities among nations in regard to the nature and scope Zir government initiative and interference. The viewpoints on the role of the State in industrial relations within the context of economic and social development differ. In some the State policy so dovetailed as to promote capital accumulation and profit improvement (e.g. USA and the Asian Tigers). In others, where the economic systems were/are guided by Marxian perspective such a role for the State is anathema because the State is not expected to play role of an agent of the capitalists. In some the State has an agenda and its policies are directed to accomplish its agenda. If a multinational corporation is having business in all these different systems, it has to contend with adjusting its human resource and industrial relations policies such that they do not come in conflict with the official policies of the State at the local level. The question that comes then is whether the vision and mission and philosophy of a multinational corporation will have to be subordinated to the policies of the concerned national government in order to continue to business or will multinational corporations be able to influence government policies per se. In an increasingly interdependent world where globalisation and internationalisation are taking place at a rapid pace perhaps the latter also becomes true to some extent. A case in point is the current controversy concerning the so called exit policy. While for the government an exit policy may be an undesirable expression, if foreign investment and employment generation are adversely affected by the perceived regidities in the

labour market due to existing economic and social log—ion, the government may find ways of balancing the need for social protection and fresh investment for economic development depending up 'the degree of choice and freedom and the exigencies of the situation.

18.4 RECRUITMENT AND COMPENSATION

In some countries there are restrictions on employment of expatriates while others are more open. Most developing countries began to insist, from the 1970s, that multinationals should progressively replace expatriates with the locals in their senior management positions. In some countries the higher compensation paid to expatriates become a problem because it was perceived to not only distort the wage and salary structure at the local level, but also escalate demands from trade unions for higher wages and salaries on grounds, of_parity, equal pay for equal work, etc. There were a few occasion-when the apatriates salary not only became-a top secret but was paid from the account of the parent company headquarters to avoid what managements consider, "undue comparisons."

18.5 COLLECTIVE BARGAINING

Macro level : The legal framework, the structure of trade unions and employers' organisations and practices may vary significantly across cultures and countries. For instance, in several countries, legislation provides for not just recognition but also recognition of collective bargaining agent. In some, like the Scandinavian countries (Sweden, Denmark and Netherland), for instance, for many years, there used to be solidaristic wage bargaining and centralised, framework agreements at the national level which used to provide the guideposts for bargaining at enterprise level. Now, of course, under pressure of macro-economic changes, centralised bargaining is giving way to decentralised bargaining even in these countries. In most of Western Europe, North America and some African countries like Nigeria trade unions are organised along industry trades like miners, metal workers, auto-workers, etc. and framework bargaining generally .takes place between trade unions representing relevant trades/skill groups and the concerned industry/employer associations. In some countries, like Sri Lanka, for instance, employers' association usually negotiates wage agreements on behalf of their members whereas in other parts of South Asia, generally individual enterprises conduct the wage negotiations and enter into collective agreements, directly with the concerned trade unions. In some countries like Singapore, for instance, there is a good amount of tripartite cohesion, with trade unions aligning more closely with the party in power. The tripartite National Wages Council of Singapore issues, from time to time, broad guidelines within which ollective 'agreements take place, In the mid-1980s, the National Wages Council recommended reduction in wage rates to enhance competitiveness and the social partners agreed to such discipline. There have ueen efforts to take wages and working conditions out of competition. The international labour standards—both conventions and recommendations—adopted at the International Labour Conferences of the International Labour Organisation (ILO), for instance are aimed at establishing certain minimum standards across member-countries. The Freedom of Association and the Right to Collective Bargaining are among the relevant instruments in this direction. Within the European Economic Community (EEC); there have been efforts, for quite some time now, concerning social causes which guarantee certain basic rights—including mobility and employment—as also to promote certain uniform Standards in regard to wages, working conditions, collective bargaining, participation,. safety at work, quality of working environment, etc.

Micro level: The other way to look at issues in collective bargaining in a cross cultural context concerns the way a multinational enterprise carries out negotiations in different countries it operates.

When domestic companies expand to become transnational companies, as was the case witlf tile American firms, for instance, the national trade unions could be concr.ned about the job affects of producing domestically and selling abroad versus setting up manufacturing and distribution facilities abroad. Similarly, the national

trade unions may he concerned 41,4 hoepening in India at this moment in the context of deregulation and opening up ot tug- teonorUy for foreign competition, that the entry of multinational enterprises may adverse affect the viability of domestic firms with consequential affects on, jobs. A third aspect is that while the firms may expand transnationally, trade unions cannot so easily expand their membership across countries so easily. Of course, there is evidence of international trade unionism in several industries and trades. But international trade unions are constrained by the dilemmas concerning the affects of multinationals on domestic jobs in the country of origin versus affects on jobs in countries where they locate new manufacturing or trading facilities. For the companies too while certain sensitivity to the needs and aspirations of both guest and host country are important considerations, they are usually guided by the overriding consideration of overall profitability.

There are also certain strategic choices concerning multinational collective bargaining. Efforts such as those in the EEC may seem to be directed bringing about at least a semblance of parity across countries within Europe. However, generally multinationals seek to decentralise bargaining with unions within each country separately. Trade unions, both in the developing and the developed countries, may seek coordinate collective bargaining across countries for different purposes. The trade unions in the developed countries may be interested in minimising the adverse job affects of their companies operations in developing countries particularly if the latter seek to enhance competitive advantage through cheap labour. The trade unions in the developing countries may seek to obtain for their members higher and better and wages and working conditions comparable to those obtaining in the company's country of origin.

A case in point is the efforts of the Union Research Group in Bombay which gather strategic information about job classifications, etc., from the parent companies, particularly in the pharmaceutical industry and used them with advantage across the negotiation table, in several Indian subsidiaries/operations, to influence decisions on job classifications.

The Japanese negotiated with United Auto Workers Union' in North America also around the time when they began negotiations with their business counterparts diere. At that time, if, for instance, the number of job classifications were 100 in auto induitry, they negotiated for reducing them to a mere four job classifications and thus obtained a strategic competitive advantage in terms of optimal human resource utilisation and elimination of ftather-bedding and other restrictive work practices. The UAW agreed because it may have felt that if the Japanese did not locate the auto plant •in, say, Canada, they would have moved out to the UK thus adversely affecting job creation within Canada.

18.6 PARTICIPATION

Specific cultural and ideological factors influence national differences in approaches towards employee participation and employee involvement (the so called self-management in Yugoslavia vis-a-vis the co-determination in Germany and collective bargaining in the USA). Where the driving force for participation is politics and ideology, the attempt is to distribute power down the ladder, than integrate the employees into management purpose.

The .level at which collective bargaining takes place also seem to.influence the nature and degree of participation. If industry level bargaining is the custom many matters of detail that become important at firm level may remain to be adequately covered in such agreements. Here participative fora like the works councils seem to fill that need as has been the case in West Germany. In Japan, where enterprise based structure of bargaining persists, the attitude towards participation is different. There the focus is- not so much on representative bargaining aS on direct involvement of each and every employee,

Some European and Scandinavian countries have legislation mandating employers to share information with the employees. Multinational corporations operating in such countries would be required to adhere to the national laws on the subject irrespective of the stated policy of the corporation elsewhere.

18.7 INDUSTRIAL CONFLICT

Ross and Hartman observed that acceptance of trade unions by employers, mutual acceptance and the resultant institutionalisation of collective bargaining may reduce industrial conflict. Countries with Centralised bargaining systems and countries where there is a higher degree of social cohesion—by choice or because of State policy and intervention—(as in some South East Asian countries) 'generally showed less propensity for industrial conflict. Countries with firm and stable union movement and institutionalised collective bargaining (e.g. Scandinavian countries) reported lower strike proneness than those with low union density and fractional unionisation (e.g. Italy and France). Thus, one can find several explanations for differences in strike proneness across countries, cultures, industries, etc. Systematic understanding of the underlying causes would help firms to develop apPropriate strategies to not only deal with industrial disputes but also make conditions for industrial strife redundant in the cross cultural perspective.

18.8 POLITICAL CONSIDERATIONS

Political considerations could be an important irritant and it is seem that not infrequently economic sanctions are imposed on countries which were not toeing the line of common thinking in a civilised world. Sanctions against South Africa for practising apartheid is a case in point. There was time, when some countries refused to allow any foreign businessman who visited South Africa to visit their country even for business purpose. And, a few government, it was understood began to issue two passports to their leading business men, one for visiting South Africa and the rest for visiting rest of the world. Some of th .Arab countries are equally sensitive about those who had interactions with Isra L. Even international trade union federations are seem to impose sanctions again: governments vindictive to the workforce in their respective countries and those wir., were seem to violat6 human rights. For example, the international federation of r ck workers could refuse permission to their members to allow ships to call at ports in a country either for serious political reasons (particularly in times **,f** war or aggression) or for gross violation of human rights of their members in a particular nation.

18.9 CULTURAL DIVERSITY WITHIN A NATION-STATE

Cultural diversity can be discerned not necessarily across countries alone, but also within a country. India is a classic case. There is so much diversity if we wish to focus on diversity. Yet, one can see unity, if the purpose is to look for unity in. diversity. Companies with operations throughout the country like the Oil and Natural Gas Commission (ONGC), for instance, have been paying attention to the problem and trying to study how best to grapple with the profound diversity—not just cultural—that it finds in its operations in different regions of the country. Companies find that there are differences in language, religion, customs, and practices. There are difficulties in securing optimal mobility among its workforce. There are problems in levelling the differences in attitudes to performance appraisal across regions. There are differences in the type of unionism and the emergence of unstructured situations where the ire of pent up grievances against the pattern of development is. sought to be directed, often, against the management of a company evenwhere the union has little against the management per se. Communal tensions, social movements, parochial sentiments and urge for regional autonomy and political self-determination in certain regions present fluid situations in union' management relations. While large companies operating in small communities may be able to immunise themselves and influence the happenings from within there are many cases where outside influences could be simply overwhelming enough. There is no one way to deal with emerging complex social phenomena.

18.10 SUMMARY

We have attempted to obtain a bird's eye view of an illustrative range of the issues involved in union management relations in a cross cultural context. The macro

environment in a given country of calture may often set the tune and limits to company practices. The micro (or curprise) polices have to dovetail with nationalocal policies and cultural attributes. While some, for instance the Japanese companies, may seek to retain their distinctive policies and approaches to union management relations others may endeavour to more easily integrate with the local policies and cultures. It is hard to be prescriptive. It is important to realise that apart from cross cultural aspects in an international perspective, the cultural differences within a country also merit attention and study. Within India, for instance, one finds so much diversity which often present complex problems to deal with.

18.11 FURTHER READINGS

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