ALAGAPPA UNIVERSITY

[Accredited with 'A+' Grade by NAAC (CGPA:3.64) in the Third Cycle and Graded as Category–I University by MHRD-UGC]

KARAIKUDI – 630 003

DIRECTORATE OF DISTANCE EDUCATION

P.G. Diploma in Human Resource Management

421 14

INDUSTRIAL RELATIONS MANAGEMENT

I - Semester

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INDUSTRIAL RELATIONS MANAGEMENT

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SYLLABI-BOOK MAPPING TABLE

Industrial Relations Management

Syllabi	Mapping in Book
BLOCK I: BASICS OF INDUSTRIAL RELATIONS MANAGEMENT	
UNIT 1: Constitution of India - Salient features - Fundamental rights and directive principles of State policy - Labour movement	**Unit 1:** Constitution of India and Labour Movement **(Pages 1-9)**
UNIT 2: Concept of labour movement and Union Organization - Trade union movement and various phases of the movement - Trade unions and economic development.	**Unit 2:** Labour and Trade Union Movement **(Pages 10-24)**
UNIT 3: Development of Trade Unionism in India - Historical retrospect - Central organization of workers in India - Role of internal trade union	**Unit 3:** Development of Trade Unionism in India **(Pages 25-43)**
UNIT 4: Inter and intra union rivalries - Union recognition - International Labour Movement: ICFTU - WFTU - ILO - History	**Unit 4:** Union Rivalries and International Labour Movement **(Pages 44-66)**
BLOCK II: IR MACHINERY AND FUNCTIONS	
UNIT 5: objective and functions - Convention and recommendations - PCR rights and duties - functions - problems-Voluntary Welfare Measures - Statutory Welfare Measures - Labour - Welfare Funds - Education and Training Schemes	**Unit 5:** Industrial Relations Machinery: Objectives and Functions **(Pages 67-83)**
UNIT 6: Concept of Industrial Relations - Social obligations of industry - Role of government employers and the unions in industrial relations	**Unit 6:** Industrial Relations: Concept and Role of Different Parties **(Pages 84-102);**
UNIT 7: Industrial relations machinery - Joint consultation - Works committee - Negotiation: Types of Negotiations - Conciliations	**Unit 7:** Industrial Relations Machinery and Negotiations **(Pages 103-119);**
UNIT 8: Adjudication, voluntary arbitration - Workers participation in industry - Grievance procedure.	**Unit 8:** Arbitration and Grievance Procedure **(Pages 120-147)**
BLOCK III: COLLECTIVE BARGAINING PROCESS	
UNIT 9: Process of collective bargaining - Problems and prospects - Bipartisan in agreements - Code of conduct and code of discipline -	**Unit 9:** Collective Bargaining and Code of Discipline **(Pages 148-171)**
UNIT 10: Wage boards - Reports of wage boards - Management of strikes and lockouts - measures to stop strikes and lock outs Disputes - Impact - Causes - Prevention - Industrial Peace - Government Machinery - Conciliation - Arbitration - Adjudication.	**Unit 10:** Wage Boards and Strikes **(Pages 172-194)**
UNIT 11: Employee safety programme - Types of safety organization - functions - implications - features - Industrial Relations problems in the Public Sector - Growth of Trade Unions - Codes of conduct.	**Unit 11:** Employee Safety Programme **(Pages 195-207)**

BLOCK IV: WELFARE SAFETY COMMITTEE MEASURES

CONTENTS

INTRODUCTION

NOTES

Developments are taking place in the area of labour welfare and industrial relations, although at a very slow pace. Organizations in the country are becoming more and more sensitive to the needs of workers, and those at the management level are taking a scientific approach in dealing with issues concerning their workers or employees. A lot of efforts are being made these days to understand the psychology of workers and promote workers participation in management as well as to ensure amicable settlement of grievances. What is lacking is the fast pace of positive reforms or the speed required in implementing welfare activities and policies that could bring about a radical improvement in the area of labour welfare and industrial relations in the country.

Labour law seeks to regulate the relations between an employer or a class of employers and their workmen. The reach of this law is so wide that it touches the lives of millions of men and women who constitute the labour force. However, it is unfortunate that barring a few statutes such as the Minimum Wages Act, 1948, most labour legislations are not applicable to unorganized labour which constitutes about 92 per cent of the entire labour force. The recent trend in the decisions of the Supreme Court is to strike a balance between the earlier approach in the realm of industrial relations wherein only the interests of the workmen were focused on, and the current emphasis on ensuring fast industrial growth in the country. In several decisions, the apex court noticed how discipline in the workplace/industrial undertaking has received a setback. In view of the change in the economic policy of the country, the court felt that it may not now be proper to allow employees to break discipline with impunity. Our country is governed by the rule of law. All action, therefore, must be taken in accordance with the law.

This book, *Industrial Relations Management,* is divided into fourteen units that follow the self-instruction mode with each unit beginning with an Introduction to the unit, followed by an outline of the Objectives. The detailed content is then presented in a simple but structured manner interspersed with Check Your Progress Questions to test the student's understanding of the topic. A Summary along with a list of Key Words and a set of Self-Assessment Questions and Exercises is also provided at the end of each unit for recapitulation.

BLOCK - I
BASICS OF INDUSTRIAL RELATIONS MANAGEMENT

UNIT 1 CONSTITUTION OF INDIA AND LABOUR MOVEMENT

Structure

1.0 INTRODUCTION

Most countries in the world have a Constitution. The Constitution serves several purposes. First, it lays out certain ideals that form the basis of the kind of country that we as citizens aspire to live in. A Constitution tells us what the fundamental nature of our society is. A Constitution helps serve as a set of rules and principles that all persons in a country can agree upon as the basis of the way in which they want the country to be governed.

Making of Indian Constitution was in progress even before the country attained independence in 1947. Indian nationalism took birth in the nineteenth century as a result of the conditions created by British rule. Nationalist leaders of India demanded many reforms in constitutional arrangements during the colonial rule. To meet some of their demands, the British enacted some legislations, such as the Government of India, Act 1858; the Indian Council Act, 1861; the Indian Council Act, 1892; the Indian Council Act, 1909; the Government of India Act, 1919; and the Government of India Act, 1935. The Constituent Assembly of India was elected in 1946 to write the Constitution of India. Following India's independence from Great Britain, its members served as the nation's first Parliament.

The first historical session of Indian Constituent Assembly held its meeting on 9 December 1946 under the chairmanship of Dr. Sachidananda Sinha. On 11

December, it elected Dr. Rajendra Prasad as its permanent president. The membership of the Constituent Assembly included all eminent Indian leaders. Pt. Jawaharlal Nehru introduced the objectives Resolution on 13 December 1946. After a full discussion and debate, the Constituent Assembly passed the objectives Resolution on 22 January 1947. It clearly laid down the ideological foundations and values of the Indian Constitution and it guided the work of the Constituent Assembly. When on 15 August 1947, India became independent, the Constituent Assembly became a fully sovereign body and remained so till the inauguration of the Constitution of India. During this period, it acted in a dual capacity: first as the Constituent Assembly engaged in the making of the Indian Constitution, and secondly as the Parliament of India, it remained involved in legislating for the whole of India. For conducting its work in a systematic and efficient manner, the Constituent Assembly constituted several committees which were to report on the subjects assigned to them. Some of these committees were committees on procedural matters while others were committees on substantive matters. The reports of these committees provided the bricks and mortar for the formulation of the Constitution of India.

1.1 OBJECTIVES

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

- Discuss the important features of the Indian Constitution
- Describe the Fundamental Rights enshrined in the Indian Constitution
- Explain the Directive Principles of State Policy

1.2 SALIENT FEATURES OF INDIAN CONSTITUTION

The Preamble of the Indian Constitution declares that the people of India resolved on 26 November, 1949, to constitute their country into a Sovereign, Socialist, Secular Democratic Republic and to secure to all its citizens:

Justice; social, economic and political;

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

Equality of status and opportunity and to promote among them all;

Fraternity assuring the dignity of the individual and the unity and integrity of the Nation.'

Some important features of the Indian Constitution are mentioned below:

1. **Provision of adult franchise:** The Constituent Assembly adopted the principle of adult franchise with the full belief that the introduction of a democratic government on the basis of adult suffrage will bring enlightenment and promote the well-being of the common man.

2. **Fundamental Rights and Directive Principles:** As Granville Austin observes, the fundamental rights and directive principles of state policy are the 'conscience of the Constitution' of India. Fundamental rights recognize the importance of the individual. They are basically political and civil liberties of the citizens of India against the encroachment by the state. These are justiciable rights, for if any of these rights are violated, the affected individual is entitled to move to the Supreme Court or the High Court for the protection and enforcement of his rights. The directive principles of state policy are basically economic rights and represent socialist objectives. They inscribe the objectives of a modern welfare state as distinguished from a merely regulatory or negative state. It is the duty of the state to follow these principles both in the matter of administration as well as in the making of laws.
3. **Secular state:** By adding the word 'secular' to the existing description of the country as a 'Sovereign Democratic Republic', in the Preamble, the commitment to the goal of secularism has been spelled out in clear terms.
4. **Cabinet government:** The Constitution establishes cabinet type of government both at the centre and in the states.
5. **Federal form of government:** The Constitution establishes a federal form of government in India but with a strong unitary bias. Though normally the system of government is federal, the Constitution enables the federation to transform into a unitary state.
6. **Single citizenship:** All the Indians irrespective of their domicile enjoy a single citizenship of India. The principle of single citizenship was provided for in order to foster strong bond of social and political unity among the people of India.
7. **Independent judiciary:** The Supreme Court and the High Courts of India were made independent of the influence of the executive.
8. **Protection of minorities and provision of reservation:** By providing protection to the minority groups in India and by providing reservation to the SC/STs, the Constitution made the Indian state a welfare state.

1.2.1 Directive Principles

The Preamble has been amplified and elaborated in the Constitution, particularly in 'Directive Principles of State Policy'. The State has been directed to promote the welfare of the people by securing and protecting as effectively as it may, a social order in which justice, social, economic and political shall inform all institutions of national life. Further, the state has been directed to secure, *inter alia*, (*a*) adequate means of livelihood; (*b*) proper distribution of ownership and control of the material resources of the community so that it may subserve the common need; (*c*) prevention of the concentration of wealth and means of production; (*d*) equal pay for equal work for men and women; (*e*) the health and strength of

NOTES

workers; (*f*) right to work, to education and to public assistance in cases of undeserved want; (*g*) just and humane conditions of work and for maternity relief; (*h*) living wage and decent standard of life of labourers; (*i*) participation of workers in the management of undertakings or industrial establishments by suitable legislation or otherwise and (*j*) higher level of nutrition and standard of living and improving public health. Article 47.

These provisions spell out the socio-economic objectives of the national policy to be realized by legislation. These are the directives to the legislature and executive organs of the State which are committed to make, interpret and enforce law.

1.2.2 Fundamental Rights

The labour policy is, however, not unqualified. It is subject to various limitations. The Indian Constitution imposes an express limitation on it. Labour legislation, therefore, should not be inconsistent with or in derogation of the fundamental rights. It is to the extent of such inconsistency void. Further, the rights are enforceable by the courts under Articles 32 and 226 and cannot be denied in case of violation of fundamental rights.

Fundamental rights are enumerated in Part III of the Constitution. The whole object of Part III is to provide protection for the freedom and rights mentioned therein against arbitrary action by the State. Of particular relevance is Article 14 which provides that 'the State shall not deny to any person equality before the law or equal protection of the laws within the territory of India'. In addition to this, Article 16 guarantees equality of opportunity in matters of public employment. Further Article 19, *inter alia*, guarantees 'the right to freedom of speech and expression,' to assemble peacefully and without arms; to form associations or unions, to acquire, hold and dispose of property Article 19 (1) (f). and to practise any profession, or to carry on any occupations, trade or business. These constitutional guarantees are of great practical significance in the area of labour management relations.

Equal protection constitutes a limitation on the legislative power to select or decide which business or industry must achieve minimal standards. The right to carry on trade, profession or business limits the burden which the legislation may place on business in the interest of workers. The freedom of speech, assembly, association and unionization protect workers in their efforts to achieve their objectives through self-organizing, picketing or striking.

Article 21 provides protection of life and personal liberty. It provides that no person shall be deprived of his life or personal liberty except according to procedure established by law. Article 23 prohibits traffic in human beings and forced labour. It says (i) Traffic in human beings and *begar* and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law. Life, in Article 21, has been interpreted by the Supreme Court as including livelihood and the Court has held in several

cases that any employment below minimum wage levels is impremissible as it amounts to forced labour as understood in Article 23. Holding a person in bondage is a constitutional crime. Article 24 places a ban on employment below the age of 14 in any factory, mine or in any other hazardous employment.

A survey of decided cases reveals that the *vires* of the Industrial Disputes Act, 1947 has been challenged time and again on the ground of infringement of fundamental rights guaranteed under Articles 14 and 19 before the high courts and the Supreme Court. In *Niemla Textile Finishing Mills Ltd* v. *Industrial Tribunal, Punjab*, the Supreme Court observed that neither the Industrial Disputes Act nor any provision thereof is void as infringing the fundamental rights guaranteed by Article 14 or 19. Thus, it has now been settled that the provisions of Industrial Disputes Act are not violative of the fundamental rights guaranteed under the Constitution.

1.2.3 Distribution of Law-Making Power

Distribution of power imposes another limitation on the overriding labour policy. It will be observed that the power to make laws for the whole or any part of the territory of India is vested in the Parliament. This power extends only to such subjects of legislations as are enumerated in Union List and Concurrent List of the Seventh Schedule of the Constitution. Further, the Parliament has been empowered to make laws on any of the matters of the State List under the following conditions. *First*, if the Council of States declares by resolution supported by not less than two-third of the members present and voting that it is necessary or expedient in the national interest that the Parliament should make laws in respect to any matter enumerated in the State List specified in the resolution, it shall be lawful for the Parliament to make laws on such matters. The resolution will remain in force for the period of one year unless relaxed. *Second*, the Parliament is empowered to legislate on any matter enumerated in the State List while proclamation of emergency is in operation. *Third*, the Parliament is empowered to legislate for two or more states by their consent. Such a legislation shall apply to such states and any other state by which it is adopted afterwards by resolution passed in this behalf by each of the houses of state legislature. The Parliament has also been given power to legislate on such matters as are not enumerated in the Seventh Schedule. Quite apart from this, fundamental rights and freedom of inter-state trade and commerce impose express limitation on the legislative power.

The power to make laws for the whole or any part of the state is vested in the state legislature, which may make laws on such subjects as are enumerated in the State List and Concurrent List of the Seventh Schedule of the Constitution. But, where laws made by the state legislature on matters enumerated in the Concurrent List are inconsistent with a central act on the same matter, the state laws will be inoperative to the extent of inconsistency.There is, however, one exception to it, namely, if a law made by the state legislature is inconsistent with the Union law, state law will prevail over the Union law, if the same has been referred for the consideration of the President and it has received his assent. State

NOTES

legislations too are subject to limitations like those imposed by fundamental rights and freedom of inter-state trade and commerce.

The main topics directly affecting labour relations are included in each of the following lists:

Union List: List I

Item 13: Participation in international conferences, associations and other bodies and implementation of decisions made there at

Item 55: Regulation of labour and safety in mines and oilfields

Item 61: Industrial disputes concerning union employees

Item 94: Inquiries, surveys and statistics for the purposes of any of the matters in the list

Concurrent List: List III

Item 20: Economic and social planning

Item 22: Trade unions; industrial and labour disputes

Item 23: Social security and social insurance; employment and unemployment

Item 24: Welfare of labour including conditions of work, provident fund, employers' liability, workmen's compensation, invalid and old age pensions and maternity benefits

Item 25: Vocational and technical training of labour

Item 36: Factories

Item 37: Boilers

Item 45: Inquiries and statistics for the purposes of any of the matters specified in List II or List III

State List: List II

Item 9: Relief for disabled and unemployable

In addition to the aforesaid items, there are several other items. A perusal of the items mentioned in the lists of the Seventh Schedule reveals that the Parliament has been vested with wide powers in labour matters. However, it 'may sometimes happen that in the course of making a law, one may incidentally touch upon subject assigned to the other. This incidental encroachment, however, is not considered bad, for the reason that the entries in the lists have to be widely construed and some amount of overlapping could not altogether be avoided. If the legislation is in pith and substance on a matter assigned to one legislative body, an incidental encroachment into the territory of the other could be considered permissible. Pith and substance and incidental encroachment are the doctrines evolved by courts to ensure that the federal machinery could function without serious friction.'

There 'is however, no provision in the Constitution which lays down that a Bill which has been assented to by the President would be ineffective as an Act if

there was no compelling necessity for the Governor to reserve it for the assent of the President. There might be a genuine doubt about the applicability of any of the provisions of the Constitution which required the assent of the President to be given to it in order that it might be effective as an Act. If the Governor in exercise of his discretion decided to reserve the Bill for consideration of the President to avoid any future complication, that could not be put forward as a proof of the existence of repugnancy between the Parliamentary enactment and the Bill which had been reserved for the assent of the President.'

The Supreme Court in a catena of cases laid down the following tests for repugnancy:

(*i*) whether there is direct conflict between the two propositions?

(*ii*) whether Parliament intended to lay down an exhaustive code in respect of the subject matter replacing the Act of the State Legislature?, and

(*iii*) whether the law made by the Parliament and the law made by the state legislature occupy the same field?

1.2.4 Labour Movement

The trade union movement consists of the collective organisation of working people developed to represent and campaign for better working conditions and treatment from their employers and, by the implementation of labour and employment laws, from their governments. The standard unit of organisation is the trade union. The labour movement developed in response to the depredations of industrial capitalism at about the same time as socialism.

Trade unions and labour movement are used synonymously. But that is not so as labour movement is conceived as 'All of the organised activity of wage-earners to better their own conditions either immediately or in the more or less distant future.' According to Prof. Cole, 'Labour movement implies in some degree, a community of outlook. It is an organization, or rather many forms of organizations based upon the sense of a common status and a common need for mutual help.' It emerges from a common need to serve a common interest. It seeks to develop among workers a spirit of combination, class consciousness and solidarity of interest and arouses a consciousness, for self-respect, rights and duties. It creates organisation or organisations for their self-protection, betterment of their social and economic position and safeguarding of their common interest. A trade union is an essential| basis of a labour movement because the labour movement cannot exist without it and moreover the trade unions are the principal schools in which the workers learn the lessons of- solidarity and self-reliance.

Check Your Progress

1. Where are fundamental rights enumerated in the Indian Constitution?
2. What does Article 16 of the Indian Constitution state?
3. What does the trade union movement consist of?

NOTES

1.3 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. Fundamental rights are enumerated in Part III of the Indian Constitution.
2. Article 16 of the Indian Constitution guarantees equality of opportunity in matters of public employment.
3. The trade union movement consists of the collective organisation of working people developed to represent and campaign for better working conditions and treatment from their employers and, by the implementation of labour and employment laws, from their governments.

1.4 SUMMARY

- Most countries in the world have a Constitution. The Constitution serves several purposes. First, it lays out certain ideals that form the basis of the kind of country that we as citizens aspire to live in.
- The Preamble of the Indian Constitution declares that the people of India resolved on 26 November, 1949, to constitute their country into a Sovereign, Socialist, Secular Democratic Republic.
- The Preamble has been amplified and elaborated in the Constitution, particularly in 'Directive Principles of State Policy'. The State has been directed to promote the welfare of the people by securing and protecting as effectively as it may, a social order in which justice, social, economic and political shall inform all institutions of national life.
- Fundamental rights are enumerated in Part III of the Constitution. The whole object of Part III is to provide protection for the freedom and rights mentioned therein against arbitrary action by the State.
- A trade union is an essential| basis of a labour movement because the labour movement cannot exist without it and moreover the trade unions are the principal schools in which the workers learn the lessons of- solidarity and self-reliance.

1.5 KEY WORDS

- **Preamble of the Indian Constitution:** It is a brief introductory statement that sets out guiding people and principles of the document, and it indicates the source from which the ordinary document derives its authority, meaning, the people.
- **Fundamental Rights:** It is a basic or foundational right, derived from natural law; a right deemed by the Supreme Court to receive the highest level of Constitutional protection against government interference.

- **Trade Union:** It is an organized association of workers in a trade, group of trades, or profession, formed to protect and further their rights and interests.

1.6 SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. Write a short-note on the labour movement.
2. List the tests laid down by the Supreme Court for repugnancy.

Long Answer Questions

1. Describe the important features of the Indian Constitution.
2. Discuss the Union List, State List and Concurrent List.

1.7 FURTHER READINGS

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UNIT 2 LABOUR AND TRADE UNION MOVEMENT

Structure

2.0 INTRODUCTION

Trade union is an outcome of the factory system. It is based on labour philosophy—'united we stand, divided we fall.' Industrial revolution in India has changed the traditional outlook in the labour management relationship. With the introduction of the modern factory system, personal relationship between employer and employee disappeared and has given rise to many social and economic evils which made it imperative on the part of the workers to devise an effective means to contact employers and to bargain with them. Formation of trade unions has provided an ideal solution.

2.1 OBJECTIVES

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

- Discuss the significance of the labour movement
- Describe the history of the trade union movement
- Explain the role played by trade unions in the economy

2.2 CONCEPT OF LABOUR MOVEMENT AND UNION ORGANIZATION

A **trade union**, also commonly known as a labour union, is a legal organization, consisting of workers who endeavour to achieve common goals in order to improve their work life conditions. Generally, a trade or labour union comprises of individual workers and professionals working in an organization, and may also include its

NOTES

past workers. Trade/labour unions play an significant role in organizing and empowering workers. At the onset, the unions had to face many problems mainly due to the illiteracy and unawareness of the workers; so, there was a need for the trade union leaders to organize the disorganized.

Concept and Significance of Labour Movement

Labour movement refers to an organized effort on the part of workers to improve their economic and social status by united action through the medium of labour unions. It is a broad term for the development of a collective organization of labour force, to campaign for better working conditions and treatment from their employers and governments. For the realization of their goals, they especially put emphasis on implementation of specific laws governing labour relations. The term labour movement basically refers to the following two ideas:

- Workers, especially blue-collar or manual workers, share common political and economic interests which may be advanced through organized trade union and political action.
- Trade unions can form an effective alliance with left of centre parties in Parliament with the objective of forming a government in which workers' interests would be of central importance.

The most important goal of trade unions has been to secure an equal distribution of the benefits of economic growth. They pursue the goal of ensuring transparent governance, execution of core labour standards, employment generation, social security and poverty reduction.

As the representatives of the union members, the leaders of the trade union, hold discussions with the employers to negotiate labour contracts (Collective bargaining). These negotiations may be around key areas like wages, work rules, redressal of complaints, rules related to recruitment and retrenchment, promotions, workplace benefits, security and other policies. The agreements negotiated by the union leaders are binding on the rank and file members and the employer and in some cases on other non-member workers. The political structure and the autonomy of Trade Unions are varied across different countries. Over the years, trade unionism has developed and evolved influenced by various political and economic factors.

Scope

Modern day trade unions have highly developed social and economic policies and an efficient organizational management. They have a vision of achieving social justice for all, and to realize it, they deploy methods like collective bargaining with can lead to more severe steps like taking industrial action and enforcing strikes or lockouts to further certain goals.

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Industrial action

While most of the problems between employees and the employer are sorted out on the table, there are times when a solution cannot be found on certain issues. In such situations, a trade union may use some kind of industrial action to achieve its goals.

- ***Strike*** – Workers decide not to work for a certain period.
- ***Slowing down production*** – Employees work at a minimal pace so as to avoid disciplinary action but also bring down production drastically.
- ***Picketing*** – Workers disrupt work by demonstrating with banners and slogans.
- ***No overtime*** – Workers refuse to work overtime to slow down production.

Political activity

Trade unions also actively participate in the political process by promoting legislation which are in the interests of workers. To realize their goals they often engage in campaigns, initiate lobbying, or at times even provide economic support to individual candidates for public office or to political parties, for example the Labour Party in Britain.

Types of Trade Unions

Trade unions can largely be classified as:

(a) **Company unions** that represent only a single firm and might not be part of any trade union movement. It is commonly called a house union, and such unions are often not legally registered.

(b) **General unions** represent employees from several firms belonging to the same industry. It is commonly called an industrial union.

(c) **Craft unions** that represent skilled workers belonging to a specific field like carpentry or welding.

(d) **White-collar unions** represent salaried professionals or educated workers who work in offices.

A survey of the development of trade unions in India shows that most of the unions are affiliated with either of the four central trade union federations, viz.,

- Indian National Trade Union Congress
- All India Trade Union Congress
- Hind Mazdoor Sabha
- United Trade Union Congress

Besides these, some of the trade unions are affiliated with seven other trade union federations, viz., Bhartiya Mazdoor Sangh, Hind Mazdoor Panchayat, Centre of

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Indian Trade Union, National Federation of Independent Trade Unions, National Labour Organization, Trade Union Coordination Committee and United Trade Union Congress (Lenin Sarani). These trade union organizations have been patronized by different political parties in the country. Further, a survey of the trade unions in India reveals that over the years the trade union movement has undergone significant development. Both workers and non-workers have been involved. The beginnings of the movement were the outcome of the efforts made by certain social reformers and labour leaders. 'The early... trade union movement (was) often full of difficulties. Strike committees (arose) calling themselves trade unions and demanding the privileges of trade unions, without any means of discharging the responsibilities thereof'. The position has considerably changed since then. The number of unions has gone up and membership and funds of trade unions have increased.

2.3 TRADE UNION MOVEMENT AND IT VARIOUS PHASES

The history of trade union movement in India is not very long. From the industrial point of view India is very backward; and accordingly the history of trade union movement is relatively short. Indeed, the trade union movement comes into being with industrial growth and development.

In India, the industrial development took place in the middle of the nineteenth century. After industrial development, the first organization that came into being was that of the industrialists. The owners of the industries formed an organization.

The industrialists organized themselves in order to protect and safeguard their interests; but there was no organization for the protection of interests of the labour class. With further industrialization, the exploitation of labour increased and a need for sepa-rate labour organization was felt.

In organizing labour, the initiative was taken by certain social reformers. It is not very long since the labour organized itself. The history of labour movement is not more than 100 years old. Dividing it into two parts, one can make a systematic study of labour movement in India. In the first part, the initial stages of labour movement would be studied and in the second the modern period.

The major phases of the movement are:

- the First Phase (1875-1918)
- The Second Phase: Birth of A Trade Union (1918-24)
- The Third Phase: Presence of Marxian Thought—Left-Wing Unionism (1924-34)
- The Fourth Phase (1935-1947)

We will study the details of these phases in historical retrospect in Unit 3.

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Check Your Progress

1. What is a trade union?
2. List the different phases of the trade union movement.

2.4 ROLE OF TRADE UNIONS AND ECONOMIC DEVELOPMENT

In India, over the years, the functions of trade unions have undergone a change both in their object and scope. The traditional role of trade unions has been confined to redress of grievances of their members regarding employment, non-employment, terms of employment and conditions of service and is still a predominant part of its activities. The Welfare State requires widening in the outlook and functions of trade unions. The role that trade unions can most effectively play in a planned economy, in addition to their traditional activities, may be as follows:

(i) To help, formulate and implement various five-year plans.

(ii) To maintain discipline in the industry.

(iii) To exercise utmost restraint regarding interruption of work and thereby maintaining industrial peace and harmony.

(iv) To assume increased responsibility for the success of higher productivity.

(v) To extend the working of various co-operative societies, e.g., credit societies, fair-price shops, housing co-operatives, co-operative stores, canteens, etc.

(vi) To observe the wage restraint according to the requirements of economic development.

(vii) To assist the Government in the workers' education programme and also to train workers.

(viii) To ensure that management carries out the provisions of minimum standard statutes properly.

(ix) To settle industrial disputes through the machinery provided under the Industrial Dispute Act, 1947.

(x) To uplift the status of women workers.

(xi) To encourage small savings among working classes.

(xii) To encourage family planning in the working classes.

(xiii) To help and improve the content and standard of labour research.

(xiv) To participate actively in the joint management council.

(xv) To induce the labour class to effectively participate in social security schemes.

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(xvi) To help the state in the prohibition policy in accordance with the Directive Principles of the State policies as enshrined in the Constitution of India by discouraging drinking habits amongst working classes.

(xvii) To help the workers in getting housing accommodation.

(xviii) To help in evolving safety measures and in implementing all safety provisions.

(xix) To frame the programme for retaining surplus labour.

(xx) To run cultural and welfare activities

(xxi) To protect personnel and properties of the establishment against antisocial elements.

(xxii) To check false rumours being propagated during wartime; (xxiii) to uplift the status of backward classes.

Several factors motivated the widening of the sphere of activities of trade unions.

First, the Government of India has committed itself to the task of economic reconstruction as its main objective. The cooperation of trade unions is a sine quo non feature for industrial development.

Second, an extension of these activities of trade unions seems to offer a genuine opportunity to workers and may create further incentive for workers to join trade unions.

Third, trade unions have now been accepted as an integral part of the apparatus of industrial and economic administration of the country and should discharge their responsibilities and functions effectively.

Fourth, the requirements of planned economic development necessitated the enlargement of trade union activities, on patterns most conducive to the achievement of national objectives.

In this part an attempt is made to study and evaluate some of the functions of trade unions in a planned economy.

A. Traditional role of trade unions

The traditional role of trade unions is to secure higher wages and better service conditions for their workers. This has been considered by them to be their 'primary' and predominant purpose.

A survey of the activities of trade unions of various States during 1956-62 reveals that the activities of trade unions are mainly directed towards making demands for redress of grievances of workers.

B. Role of trade unions in formulating and executing various Five Year Plans

For the successful implementation of the plans the cooperation of trade unions is indispensable. The First Five Year Plan expected co-operation of all Indian organizations of workers in several forms. First, it required discussions in the

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affiliated unions and their views thereon. The object was to create enthusiasm amongst workers for the plan. A healthy atmosphere was to be created amongst the working class for this purpose. Second, in the interest of national economy, trade unions were required to avoid industrial disputes and maintain industrial peace and harmony. Third, the trade unions' help was also required to increase production. Fourth, it was expected that the outlook of a union with regard to the question of wages was to be attuned according to the requirement of economic development, in keeping with considerations of social justice. Fifth, the plans also required trade unions to devote more time to promote welfare and cultural activities especially in organizing and running consumers' and credit societies. Lastly, the trade unions were to be associated at various levels, namely, individual, industry, regional and national level.

The plan expected an effective role of workers in execution of the plan as increases in the standard of living of the common man depended on their efforts.

The Planning Commission in the Second Five Year Plan again sought the cooperation of trade unions for realizing the targets of production in the plan. A new approach was adopted to minimize the conflict between employers and workers based more on moral rather than legal sanction. The emphasis was on prevention of industrial unrest.

The Third Five Year Plan emphasized the 'need for a considerable adaptation in outlook, functions and practices of trade unions to suit the conditions which have arisen and are emerging'. The Planning Commission considered the trade union 'as an essential part of the apparatus of industrial and economic administration of the country' and expected that the trade unions should be prepared for the discharge of these responsibilities. It, inter alia, required trade unions to play a responsible role in matters such as observance of Code of Discipline, etc.

The fourth plan again emphasizes the constructive work and responsibility of trade unions in the national economy in addition to their traditional activities. The Planning Commission added that 'inevitably, strong trade union organizations are able to assume greater responsibilities in serving their members as well as in participating and shaping economic, social policies and programmes'. The various forums in which labour is represented provide a ready means through which trade unions can make an effective and continuous contribution in the area of policy. These include, besides tripartite bodies like the Indian Labour Conference, Development Councils constituted under the Industrial (Development and Regulation) Act, Industrial Committees, Productivity Councils, Labour Welfare Board, Port Trust, Dock Labour Boards and others. The Planning Commission expected similar participation of trade unions in private sectors.

The constructive role and indispensability of the cooperation of trade unions for achievement of the target has been repeatedly emphasized in all Five Year Plans. Unfortunately the response of the trade unions has not been encouraging due to several reasons:

(i) Absence of a unified trade union movement.

(ii) Lack of adequate finances of trade unions.

(iii) Lack of attitudes towards organized life.

(iv) Lack of encouragement either by the employer or government to actively associate themselves with these programmes.

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C. Role of trade unions in maintaining discipline in the industry

The Welfare State requires that trade unions should be responsible for maintaining discipline in industries. Trade unions should, therefore, discourage their members who are:

(i) Habitual late-comers;

(ii) Absent without giving notice;

(iii) Interfering with or creating disturbance to normal work;

(iv) Insubordinate;

(v) Negligent towards their duty;

(vi) Careless in operation of plant and machine; and

(vii) Causing damage to property, etc.

The impact of these work stoppages on the developing economy of India undoubtedly is enormous. Writes Professor Charles A. Myers: '. . . Work Stoppages, which are part of the western concept of collective bargaining, are costly. . . . India cannot afford them now when it needs more resultant strain on India's productive potentialities have magnified the intensity of the situation.'

Under the circumstances, the need for avoiding interruption of work and maintaining peace in industry in a developing economy is obvious. In the interest of the national economy, unions and employers should exercise the utmost restraint in interruption of work so as to maintain peace in industry. The Code of Discipline in industry also contains provisions for avoidance of industrial disputes. For instance, management and unions jointly agree that 'they will avoid (a) litigation, (b) sit-down and stay-in strikes and (c) lock-outs'. Further, for the avoidance of industrial disputes, the Planning Commission suggested that the duties and responsibilities of employers and workers should be laid down in specific terms.

D. Role of trade unions in achieving higher productivity of labour

The cooperation of trade unions is a 'must' for productivity improvement. This was best described in the Annual Report by the Director General of the International Labour Organization:

Economic development and technological change are the two great motive forces transforming the material conditions of societies. In so doing they require the organizations of society to respond to new problems, to grow and to adjust

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themselves. Nowhere is this more so than in the sphere of labour relations, and especially perhaps in the growth and functions of trade unions.

The autonomous growth of trade unions and the process of dialogue and accommodation among separate interest groups and the State are both desirable in themselves and a means of strengthening society for the work of economic development. They are desirable because trade unions and labour relations in this sense provide scope for individual and group freedom and initiative. They can be a means of strength for economic development by diffusing powers of decision, spreading responsibilities, and encouraging more spontaneity and facility for adjustment to change throughout the economically active group of population.

The need to make efforts for higher productivity through propaganda by the trade unions is significant in India in view of the growing importance of the industrial economy and dependence on it. 'The whole economic health of the country depends upon increased productivity of labour. Such increases will largely depend on improved conditions of work and improved methods and machinery. It will also greatly depend upon the utmost participation by the mass of workers in speeding up and improving production and that improvement can best be effected through modern industrial trade union organization. All this would depend upon the extent to which employers associate workers with the productive efforts and make the workers feel that in increased production lies the good of both the employers and workers. The employer should consult workers in respect of new machinery, method of production and the way in which economy could be effected in cost of production.' However, the suggestions stated in the First Plan are not exhaustive. We would like to mention that the industrial establishments should reserve a certain proportion of the profit for workers. This would create feelings of dignity and sincerity among workers as they may consider the industry to be their own.

However, neither the conditions prevailing in our country nor the response of the trade unions towards the movement for higher productivity is satisfactory. One trade union view is that 'productivity is not the means to exploit labour. The fact will have to be brought home to management. On the contrary, they will have to recognize that a worker first and foremost is a human being and any dealing with him will have to be on that basis.' Mr Michael pleaded that to achieve the object of higher productivity the proper atmosphere has to be created by the employer. In the thirteenth session of the I.N.T.U.C. He said: 'Let the employers who cry for higher productivity create a climate for that and give better treatment to their workers. The productivity that the employers clamour for can be possible only when the workers have attained a fair wage, and on the condition that the additional gains of productivity will be shared by the workers.'

In the Tenth Convention the general secretary of the H.M.S. said: 'It is necessary that the trade union movement should be vigilant and play an active role in ensuring that the productivity movement does not degenerate into merely a

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drive for intensifying labour.... The contribution that trade unions can possibly make is seriously restricted by the unsatisfactory state of industrial relations in general . . . when workers see that the employers are reluctant even to grant recognition to their union and to bargain with them on matters concerning service conditions. It is unrealistic to expect that the workers or the trade unions will feel particularly enthusiastic about productivity in the plant.'

The General Secretary of A.I.T.U.C. stated in his report: 'In the name of productivity, the existing time rates will be sought to be converted into piece rates. . . . But later on the employers will revise the norms and bring down the rates as also the complement of workers. . . . There is a tendency to look at the problem of speed-ups in an under-developed country like India on the same levels as in the advanced countries. And that generally leads to trouble. . . . Our workers are still fresh from the fields, . , . the average level of industrial skill takes time to rise . . . wages, nourishment and other conditions here are not at all conducive to greater speed-ups. We import European machines and techniques but not European wages and conditions.'

It has been generally accepted that 'action to raise productivity should be accompanied by appropriate employment policies, by appropriate policies to ensure that the benefits of higher productivity are fairly distributed through higher wages or lower prices or both, and thereby safeguards to ensure satisfactory working conditions. Such measures are essential in order to ensure that increases in productivity are translated into improvement much as measures which should accompany action to raise productivity but rather as integral parts of programmes to raise productivity. ... No less important are the questions of industrial and human relations.'

The abovementioned principles were accepted in the seminar on productivity. 'For increasing the national wealth and per capita income and for improving the standard of living, people must be made aware of the significance of higher productivity as a means of achieving these objectives.'

It follows that trade unions are dissatisfied with the attitude of employers and wage rates prevalent in our country. They consider that higher productivity movement can be successful only if the employers give:

(i) Better treatment

(ii) Higher wages

(iii) A share in additional gains

(iv) Recognize their union and bargain with it,

(v) Improve their terms of employment and conditions of service

Only lip service has been rendered to these considerations but unless and until a concrete step is taken towards these problems it is doubtful whether trade unions can play an effective role in the higher productivity movement.

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E. Role of trade unions in the development of co-operative societies

In a Welfare State trade unions are required to run various types of co-operative societies, e.g., co-operative stores, credit societies, housing co-operatives, co-operative banks, cheap department stores, fair-price shops, canteens, etc. Setting up of co-operative societies, if properly managed by the agency of trade, will help the trade union movement in two ways:

(i) This will offer genuine opportunity to many workers to join trade unions and would thereby strengthen the trade union movement.

(ii) This will advance the economic position of the union members and thereby strengthen the union finances.

The Ahmedabad Textile Labour Association has been instrumental in establishing co-operative societies. 'The association has a special section for encouraging co-operative enterprise among the working class. At the end of 1956-57, there were 203 Co-operative Societies of Industrial Workers in the Ahmedabad Textile Labour Association. The number of co-operative societies affiliated to the Majdoor Sahakari Bank Ltd. increased from 4 in the beginning of the year to 76 at the end of 1956-57. The capital and membership of the bank at the end of 1956-57 were ` 654,540 and 28,000 respectively. With a view to strengthening the co-operative movement among the industrial workers in the city, the Association submitted a proposal to the Government for the formation of a federation of various types of co-operative societies of the workers.' Besides, many unions in Mumbai were instrumental in establishing various types of co-operative societies, e.g., credit societies, housing co-operatives, co-operative stores, canteens, etc. Delhi Cantt. Board Employees' Association was also instrumental in establishing a co-operative thrift and credit society. A total of 2,748 consumers' co-operative stores and fair-price shops had been set up by April 1, 1967, in about 3,954 industrial establishments employing 300 or more workers.

However, except for the aforesaid and a few others, little or no enthusiasm has been shown by the rest of the unions in this direction. To begin with, such activities require adequate support from employers and government particularly in financial matters. The First Five Year Plan, therefore, recommended that trade unions should devote time to organizing and running consumers' and credit societies and that 'the employers could help such activities by providing facilities such as accommodation, clerical help, loans to start such societies, etc.' It is significant to note that as a result of continued efforts of I.N.T.U.C., 'the Government of India has agreed to allow the workers to withdraw an amount from their Provident Fund Contribution to purchase shares of Co-operative Societies'. However, the progress in this regard is hardly satisfactory.

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F. Role of trade unions in sponsoring and assisting workers' education programmes

In a developing economy, trade unions are required to play a major and constructive role in the nation's development. A strong democratic and enlightened trade union movement is essential. Workers' education, naturally, has to play a key role in streamlining the trade unions in our country. Under the circumstances, the need for workers' education programmes appears to be indispensable for the economic development of an under-developed country such as India. This has become all the more important in view of the illiteracy of workers.

G. Role of trade unions in family planning programme

Trade unions can vitally contribute towards the success of family planning. The unions have links with the majority of the population. Out of the total urban population of about 92.2 million' public sector undertakings alone absorbs about 16 million as workers; the mining sector employs a considerable labour population, the coal mines alone having a population of four lakhs. The private undertakings do not lag behind as employers of the labour force. Labour leaders can easily popularize the family planning programme. Workmen hail from all parts of the country and, if trade unions direct them, they can easily and efficiently carry the message of the programme to each corner of the land. Trade unions can find out the location of labourers' families, group them into sectors, and constitute a committee with a group leader to help them in implementing the programme. These unions can lend their propaganda machinery to the programme. Due to the closeness of leadership with the man in the street, unions can prove to be a boon to the programme in finding out and removing any defects.

Family planning officials should seek the co-operation of trade union leaders with a friendly smile, not in bureaucratic tones, if the programme is to be made a success in fact and not in files alone.

H. Role of trade unions in industrial safety

Another important function of trade unions is to promote safety consciousness amongst the working class. It can help in the safety campaigns by showing films and audiovisual aids to workers with the help of central and regional labour institutes, the Central Board of Workers' Education and similar other bodies. The programme can also be discussed either in their educational forum or in cultural programmes, e.g., safety weeks, etc.

Further, the trade unions can help in the implementation of the safety provisions. The trade unions can insist on their members keeping in view the following measures to prevent accidents: (i) workers must co-operate with the employer in carrying out the provisions meant for safety; (ii) they should make proper use of all safeguards, safety devices and other appliances provided for their protection or the protection of others. They should not interfere with, remove,

displace, damage or destroy any safety devices or other appliances furnished for their protection.

Conclusions

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From the foregoing discussion it is evident that the role of trade unions should be orientated in such a way as to enable the country to achieve national and economic solidarity. Unfortunately, the response of the trade unions towards this objective has been far from satisfactory. Many unions, have to change their outlook and extend the scope of their activities so as to strive for a much more organized life. On the other hand, the managements should encourage trade unions in order to get them effectively associated in the programmes of national and economic development. The Government is also required to lend its co-operation in realizing the avowed objectives of trade unions. This, in effect, requires the reappraisal of labour policy and practices.

Source: *S.C. Srivastava's Trade Unions participation in the Planned, Economy of India; Sydney University, Australia, 1970.*

Check Your Progress

3. List two roles that trade unions can play in a planned economy.
4. What types of co-operative societies are trade unions expected to run in a welfare state?

2.5 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. A trade union, also commonly known as a labour union, is a legal organization, consisting of workers who endeavour to achieve common goals in order to improve their work life conditions.
2. The major phases of the trade union movement are:
   - the First Phase (1875-1918)
   - The Second Phase: Birth of A Trade Union (1918-24)
   - The Third Phase: Presence of Marxian Thought—Left-Wing Unionism (1924-34)
   - The Fourth Phase (1935-1947)
3. The role that trade unions can most effectively play in a planned economy, in addition to their traditional activities, may be as follows:
   (i) To help, formulate and implement various five-year plans.
   (ii) To maintain discipline in the industry.

4. In a welfare state, trade unions are required to run various types of co-operative societies, e.g., co-operative stores, credit societies, housing co-operatives, co-operative banks, cheap department stores, fair-price shops, canteens, etc.

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2.6 SUMMARY

- A trade union, also commonly known as a labour union, is a legal organization, consisting of workers who endeavour to achieve common goals in order to improve their work life conditions.
- Labour movement refers to an organized effort on the part of workers to improve their economic and social status by united action through the medium of labour unions.
- Trade unions also actively participate in the political process by promoting legislation which are in the interests of workers.
- Trade unions can largely be classified as: (a)Company unions; (b) General unions; (c) Craft unions and (d) White-collar unions.
- The history of trade union movement in India is not very long. From the industrial point of view India is very backward; and accordingly the history of trade union movement is relatively short.
- The traditional role of trade unions is to secure higher wages and better service conditions for their workers.
- The cooperation of trade unions is a 'must' for productivity improvement. This was best described in the Annual Report by the Director General of the International Labour Organization.
- In a welfare state trade unions are required to run various types of co-operative societies, e.g., co-operative stores, credit societies, housing co-operatives, co-operative banks, cheap department stores, fair-price shops, canteens, etc.
- The role of trade unions should be orientated in such a way as to enable the country to achieve national and economic solidarity. Unfortunately, the response of the trade unions towards this objective has been far from satisfactory.

2.7 KEY WORDS

- **Welfare State:** It is a concept of government in which the state plays a key role in the protection and promotion of the economic and social well-being of its citizens.

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- **Cooperative Societies:** It is an autonomous association of persons united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly-owned and democratically-controlled enterprise.
- **Family Planning:** It refers to the planning of when to have children and the use of birth control.

2.8 SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. Write a short-note on the history of the trade union movement in India.
2. Discuss the different types of trade unions.

Long Answer Questions

1. Examine the role that trade unions play in a planned economy.
2. Discuss the significance of the labour movement.

2.9 FURTHER READINGS

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UNIT 3 DEVELOPMENT OF TRADE UNIONISM IN INDIA

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Structure

3.0 INTRODUCTION

This unit discusses the development of trade unions in India. The history of trade unions goes back to the 19th century. A survey of the development of trade unions in India shows that most of the unions are affiliated with either of the four central trade union federations, *viz*., the Indian National Trade Union Congress, All India Trade Union Congress, Hind Mazdoor Sabha and United Trade Union Congress. Besides these, some trade unions are affiliated with seven other trade union federations, *viz*., Bhartiya Mazdoor Sangh, Hind Mazdoor Panchayat, Centre of Indian Trade Union, National Federation of Independent Trade Unions, National Labour Organization, Trade Union Coordination Committee and United Trade Union Congress (Lenin Sarani). These trade union organizations have been patronized by different political parties in the country. Further, a survey of trade unions in India reveals that over the years, the trade union movement has undergone significant development. Both workers and non-workers have been involved. The beginnings of the movement were the outcome of the efforts made by certain social reformers and labour leaders.

3.1 OBJECTIVES

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

- Examine the history of the trade union movement in India
- Describe the different central trade union organizations
- Discuss the role of internal trade unions

3.2 HISTORICAL RETROSPECT OF TRADE UNIONISM IN INDIA

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The labour movement in India is about fifteen decades old, it may be traced from 1860s. Early years of the movement were generally led by philanthropists and social reformers, who organized workers and protected them against inhuman working conditions. The early years of labour movement were often full of difficulties. Strike committees arose calling themselves trade unions and demanding the privileges of trade unions without any means of discharging responsibilities thereof. The position of trade unions has considerably improved since then. The number of trade unions has gone up and its membership and funds have increased. The development during the span of about one hundred and fifty years or so may be considered broadly under the following six periods:

(*i*) Pre-1918

(*ii*) 1918–24

(*iii*) 1925–34

(*iv*) 1935–38

(*v*) 1939–46

(*vi*) 1947 and since.

(i) Pre-1918 Period

The earliest sign of labour agitation in India was a movement in Bengal in 1860 led by Dinabandhu Mitra, a dramatist and social reformer of Bengal followed by some journalists to protest against the hardship of the cultivators and also the plantation workers. The government thereupon appointed an Indigo Commission. The report of the Commission reflected upon the grossest cruelties perpetrated by foreign planters with the aid and under the protection of laws framed by the British government especially for this purpose. Thereafter, the system of indigo cultivation was abolished due to discovery of synthetic process.

In 1875, Sarobji Shapuri in Bombay made a protest against poor working conditions of workers at that time. The deplorable conditions of workers were brought to the notice of the Secretary of State for India. The first Factory Commission was, therefore, appointed in 1875, and as a result the Factories Act, 1881 was enacted. This Act was, however, was inadequate to meet the evils of child labour. Moreover, no provision was made to regulate the working conditions of the women workers. This gave rise to a great disappointment to workers. Thereupon, another Factory Commission was appointed in 1884. In the same year, Mr N.M. Lokhande organized the conference of the Bombay factory workers and drew up a memorandum signed by 5,300 workers demanding a complete day of rest on Sunday, half-an-hour recess, working hours between 6.30 a.m. to sunset, the payment of wages not later than 15th of the month, and compensation for injuries. In 1889, in Bombay, workers of spinning and weaving mills demanded

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Sunday as holiday, regularity in the payment of wages, and adequate compensation in case of accidents.

Several labour associations were formed after 1890. For instance, the Amalgamated Society of Railway Servants in India and Burma was formed in April 1897 and registered under the Indian Companies Act, the Printers Union, Calcutta was formed in 1905, the Bombay Postal Union was formed in 1907, the Kamgar Hityardhak Sabha and Service League was formed in 1910.

The post-1890 period was also important for the reason that several strikes occurred during this period. Instances may be made of two strikes which occurred in Bombay in 1894. The first big strike of mill operatives of Ahmedabad occurred in the first week of February, 1895. The Ahmedabad Mill Owners Association decided to substitute a fortnightly wage system for a weekly one which was in force ever since 1896. This forced over 8,000 weavers to leave work. However, the strike was unsuccessful.

There were also strikes in jute industries in Calcutta in 1896. In 1897, after plague epidemic, the mill workers in Bombay went on strike for payment of daily wages instead of monthly payment of wages.

In 1903, the employees of press and machine section of Madras government went on strike for overtime work without payment. The strike prolonged for six months and after great hardship and starvation workers returned to work. Two years later in 1905, the workers of the Government of India Press, Calcutta, launched a strike, over the question of:

(*i*) Non-payment for Sunday and gazetted holidays.

(*ii*) Imposition of irregular fines

(*iii*) Low rate of overtime pay.

(*iv*) The refusal of authorities to grant leave on medical certificate. The strike continued for over a month. The workers returned on fulfilment of certain demands. In December 1907, the workers of Eastern Railway Workshop at Samastipur went on strike on the issue of increment of wages. They went back to work after six days when they were granted extra allowance owing to famine conditions prevailing at that time in that region. In the same year, the Bombay Postal Union and the Indian Telegraph Association called on a strike. In 1908, workers of textile operatives in Bombay struck work in sympathy with Shri Bal Gangadhar Tilak who was imprisoned for sedition. The workers in Bombay went on strike in 1910 demanding reduction in working hours. As a result of this agitation the Government of India set up a Commission to enquire into the desirability of reducing the working hours. On the basis of the recommendation, the working hours were reduced to twelve hours a day. Similar strike continued from year to year particularly in Bengal and Bombay demanding an increase in wages.

Certain broad features of the labour movement during the period of 1860-1917 may be briefly noted:

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- First, the movement was led by philanthropists and social reformers and not by workers.
- Second, there were no trade unions in the modern sense. According to the report on the working of the Factories Act at Bombay, in 1892, the Bombay Mill Hands Association was not to be classified as a genuine trade union.
- Third, the Association mainly relied on petitions, memoranda and other constitutional means for placing their demands which were mainly confined to factory legislation, e.g., hours of work, health, wages for over stay, leave, holidays and such other matters.
- Fourth, the early movement was confined to the revolt against the conditions of child labour and women workers employed in various industries.
- Fifth, another feature of this period was the absence of strike as a means of getting grievances redressed. The association of workers worked with the cooperation of management and government officials and some of them considered it their duty 'to avoid strikes upon the part of its members by every possible and lawful means'
- Sixth, a strike during this period was considered to be the problem of law and order, instances are not lacking where police acted upon as strike-breakers by using force and framed false charges against strikers.

(ii) 1918–1924 Period

The period 1918-1924 can perhaps be best described as the era of formation of modern trade unionism. This period witnessed the formation of a large number of trade unions. Important among these were Madras Labour Union, Ahmedabad Textile Labour Association, Indian Seamen's Union, Calcutta Clerks's Union, and All India Postal and RMS Association. One of the significant features of this period was that the All India Trade Union Congress (AITUC) started in 1920.

The growth of trade unions was accompanied by a large number of strikes. The deteriorating economic conditions of workers resulted in strikes. The wages of workers were increased but it could not keep pace with the soaring prices of commodities. Further, there was a shortage of labour in some of the industries due to the epidemic of influenza.

Several factors were responsible for its formation and growth: First, the economic conditions of workers played an important role in the formation of trade unions. The demand of Indian goods increased enormously for two reasons:

(*i*) The shortage of shipping facilities led restricted imports of several commodities for which, India was dependent on foreign countries.

(*ii*) There was great demand of Indian goods from the allies and neutral countries. For these reasons the prices of Indian commodities, viz., salt, cotton, cloth, kerosene rose high. Naturally the cost of living

steadily increased. The employer earned huge profits. The wages of workers were increased but they could not keep pace with the soaring prices of commodities. This resulted in further deterioration of workers' conditions. Further, there was shortage of labour in some of the industrial centres due to the epidemic of influenza. These reasons led to the formation of trade unions to improve their bargaining positions.

Second, the political conditions prevailing in the country also helped the growth of labour movement. The struggle for independence started during this period and the political leaders asserted that the organized labour would be an asset to the cause. The labour unions were also in need of some help. The political leaders took lead and helped in the growth of trade unions.

Third, the workers' revolution in Russia which established the first workers' State in the world had its own influence on the growth of trade union movement.

Fourth, the other factor responsible for the growth of trade union move was the worldwide unrest in the post-war period. The war awakened the minds of industrial workers.

Fifth, another factor was the setting up of the International Labour Organization in 1919 of which India was the founder member. The constitution of ILO required one representative from the government of the member states. The government without consulting the unions appointed Shri N.M. Joshi as its representative. This gave an anxiety to workers to organize. As a result AITUC was formed in 1920. This gave an opportunity to send members for ILO conferences and also brought a change in the government attitude to deal with labour problems.

(iii) 1925–1934 Period

This period witnessed a split in AITUC, namely leftist and rightist. Later in 1929, a wing of AITUC, namely the All India Trade Union Federation was formed. The main cause of the Communist influence was the economic hardship of workers.

This period has also shown remarkable decrease in the intensity of industrial conflict. At least two factors were responsible for it. First, the Trade Disputes Act was passed in 1929 prohibiting strikes and lockouts. Second, the failure of strikes and lockouts resulted in industrial strife.

Another significant feature of this period was the passing of the Trade Unions Act, 1926 and the Trade Disputes Act, 1929. The former Act provides for registration of trade unions and affords legal protection to intervene in trade disputes. The later Act provided for ad hoc Conciliation Board and Court of Enquiry for the settlement of trade disputes. The Act, as already observed, prohibited strikes and lockouts in public utility services and general strikes affecting community as a whole.

(iv) 1935–1938 Period

During this period unity was forced in the trade unions. This led to revival of the trade union activity. In 1935, the All India Red Trade Union Congress merged

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itself with the AITUC. In 1938, an agreement was arrived at between All India National Trade Union Federation and AITUC and consequently, NTUC affiliated itself with AITUC.

Several factors led to this revival of trade unionism. First, the change in political set up in the country is responsible for the change. It is significant that Congress Party which formed its government in 1937 in several provinces tried to strengthen the trade union movement and to improve the conditions of labourers. Second, the working class was also awakened to their rights and they, therefore, wanted to have better terms and conditions of service. Third, management also changed its attitude towards trade unions.

The year 1938 saw the most important state enactment, *viz.,* the Bombay Industrial Disputes Act, 1938. The significant features of the Act were:

(*a*) Compulsory recognition of unions by the employer

(*b*) Giving the right to workers to get their case represented either through a representative union or where no representative union in the industry/ centre/unit existed through elected representatives of workers or through the government labour officer.

(*c*) Certification of Standing Orders which would define with sufficient precision the conditions of employment and make them known to workmen.

(*d*) The setting up of an Industrial Court, with original as well as appellate jurisdiction to which parties could go for arbitration in case their attempts to settle matters between themselves or through conciliation did not bear fruit.

(*e*) prohibition of strikes and lockouts under certain conditions. The scope of the Act was limited to certain industries in the province.

(v) 1939–1946 Period

The Second World War, like the First World War, brought chaos in industrial relations. Several reasons may be accounted for the industrial unrest and increased trade union activity. First, the rise in prices could not keep pace with the increase in wages. Second, there was a split in AITUC due to nationalist movement. Third, the post-World War II witnessed retrenchment and therefore faced the problem of unemployment. During this period the membership of registered trade unions increased from 667 in 1939–40 to 1087 in 1945–46. Further, the number of women workers in the registered trade unions increased from 18,612 in 1939–40 to 38,570 in 1945–46. Moreover, the period witnessed a large number of strikes.

During the emergency, the Defence of India Rules, 1942 remained in force. Rule 81 A of the Rules, empowered the government to:

(*i*) To require employers to observe such terms and conditions of employment in their establishments as may be specified.

(*ii*) To refer any dispute to conciliation or adjudication.

(*iii*) To enforce the decisions of the adjudicators.

(*iv*) To make general or special order to prohibit strikes or lockouts in connection with any trade dispute unless reasonable notice had been given. These provisions thus permitted the government to use coercive processes for the settlement of 'trade disputes' and to place further restrictions on the right to use instruments of economic coercion.

In 1946, another enactment of great significance in labour relations, namely, the Industrial Employment (Standing Orders) Act, 1946, was passed with a view to bring uniformity in the conditions of employment of workmen in industrial establishment and thereby to minimize industrial conflicts. The Act makes it compulsory for employers engaging one hundred or more workmen 'to define with sufficient precision the conditions of employment' and to make those conditions known to workmen.

Another important enactment at state level was the Bombay Industrial Relations Act, 1946. The Act makes elaborate provisions for the recognition of trade unions and rights thereof.

(vi) 1947 and Since

After Independence, the trade union movement in India got diversified on political considerations. The labour leaders associated with the National Congress Party formed the Indian National Trade Union Congress (INTUC) in 1947. The aim of the INTUC is to establish an order of society which is free from hindrances in the way of an all-round development of its individual members, which fosters the growth of human personality in all its aspects and goes to the utmost limit in progressively eliminating social, political or economic activity and organization of society and the anti-social concentration of power in any form.

In 1948, the Socialist Party formed an organization known as Hind Mazdoor Sabha. The aims and objects of the Sabha are to:

(*i*) Promote the economic, political, social and cultural interest of the Indian working class.

(*ii*) Guide and co-ordinate the activities of affiliated organizations and assist them in their work.

(*iii*) Watch, safeguard and promote the interests, rights and privileges of workers in all matters relating to their employment.

(*iv*) Promote the formation of federation of unions from the same industry or occupation.

(*v*) Secure and maintain for the workers freedom of association, freedom of speech, freedom of assembly, freedom of press, right of work or maintenance; right of social security and right to strike.

(*vi*) Organise and promote the establishment of a democratic socialist society in India.

(*vii*) Promote the formation of co-operative societies and to foster workers' education.

(*viii*) Cooperate with other organizations in the country and outside having similar aims and objectives.

NOTES

A year later in 1949, another organization, namely, the United Trade Union Congress was formed. The aims and objects of the United Trade Union Congress as given in its Constitution are: (*i*) Establishment of socialist society in India. (*ii*) Establishment of a workers and peasants state in India. (*iii*) Nationalization and socialization of the means of production. (*iv*) Safeguarding and promoting the interests, rights and privileges of the workers' in all matters' social, cultural, economic and political. (*v*) securing and maintaining for the workers' freedom of speech, freedom of press, freedom of association, freedom of assembly, right to strike, right to work or maintenance and the right to social security. (*vi*) Bringing about unity in the trade union movement.

The same year also witnessed the passing of the Industrial Disputes Act, 1947 and the Trade Unions (Amendment) Act, 1947. The former Act introduced the adjudication system on an all India level. It prohibits strikes and lockouts without giving fourteen days' prior notice and during the pendency of conciliation proceeding before a Conciliation Officer in public utility services. In non-public utility services, it prohibits strikes and lockouts during the pendency of proceedings before Board of Conciliation, Labour Court, Tribunal, National Tribunal and Arbitration (when a notice is given under Section 10-A of the Act). The Act further prohibits strikes and lockouts during the operation of settlement or award in respect of any matter covered under settlement or award. The Act provided for recognition of trade unions and penalties for unfair labour practices by employers and unions. Again in 1950, the Trade Unions' Bill was introduced in the Parliament providing for registration and recognition of trade unions and penalties for certain unfair labour practices. On dissolution of the Parliament, the bill lapsed and has not since been brought forward by governments before the Parliament.

Political involvement continued even after 1950. In addition to four major all-India organizations discussed above there are three unattached unions dominated by one or the other political parties. For instance on 23 July 1954, a federation namely, Bharatiya Mazdoor Sangh (BMS) was formed in Bhopal by Jan Sangh Party presently known as Bhartiya Janta Party. The main object of BMS was to check the increasing influence of the Communist unions in the industry and cooperate with non-Communist unions in their just cause. A year later Central Federation, namely, Hind Mazdoor Panchayat, a new trade union organization by Sanyukt Socialist Party and Indian Federation of Independent Trade Unions which has no affiliation with any political party were formed.

The period also saw the amendments in the Trade Unions Act in 1960. The amended Act brought four new provisions:

(*i*) Minimum membership subscription has been incorporated.

(*ii*) The Registrar of trade unions has been empowered to inspect account books, register, certificate of registration and other documents connected with the return submitted by them under the Trade Unions Act

(*iii*) Government is empowered to appoint Additional and Deputy Registrar with such powers and functions as it deems fit.

(*iv*) Fate of the application for registration where applicants (not exceeding half of them) cease to be members or disassociate themselves from the application has been statutorily decided.

Some independent trade unions met at Patna on 21 March 1964 and decided to form the All India Independent Trade Union Congress but this effort to unite the unaffiliated unions did not continue for a longer period and met an early death.

The Act was once again amended in 1964. It made two changes;

(*i*) It disqualified persons convicted by the court of an offence involving moral turpitude from becoming office-bearers or members of the executive of a registered trade unions.

(*ii*) It required for submission of annual returns by registered trade union on a calendar year basis.

1970 witnessed another split at the national level in the AITUC. The decision of left Communist group, which decided not to remain within the AITUC resulted in the formation of a separate organization, namely, the Centre of Indian Trade Union by the Marxist Communist.

A further split took place in 1970–72. During the period there was a split in the United Trade Union Congress and another organization namely, the United Trade Union Congress Lenin Sarani was formed.

The unity move

In 1981, once again unity was shown in the trade unions to protest the promulgation of the Essential Services Maintenance Ordinance, 1981 and also the Bill in that regard in the Parliament. A year later in 1982, the Trade Unions (Amendment) Bill was introduced in Lok Sabha. The Bill proposed to make the following amendments in the Act, namely:

(*i*) To reduce multiplicity of unions, it is proposed to change the existing provision of enabling any seven workmen to form a trade union by providing for a minimum qualifying membership of 10 per cent of workmen (subject to a minimum of ten) employed in the establishment or industry where the trade union is proposed to function or hundred workmen, whichever is less, for the registration of trade unions.

(*ii*) There is at present no machinery or procedure for the resolution of trade union disputes arising from inter-union and intra-union rivalries. It is proposed to define the expression 'trade union dispute' and to make provision for resolving such disputes through voluntary arbitration, or by empowering the

NOTES

appropriate government and the parties to the dispute to refer it to the Registrar of Trade Unions for adjudication.

(*iii*) The Act does not lay down any time limit for registration of trade unions. It is proposed to provide for a period of sixty days for the registration of trade unions by the Registrar after all the formalities have been completed by the trade unions. It is also proposed to provide that a trade union whose certificate of registration has been cancelled would be eligible for re-registration only after the expiry of a period of six months from the date of cancellation of registration, subject to certain conditions being fulfilled by the trade union.

(*iv*) Under the existing provisions of the Act, 50 per cent of the office bearers in the executive of a registered trade union shall be persons actually engaged or employed in an industry with which the trade union is connected. It is proposed to enhance this limit to 75 per cent so as to promote development of internal leadership.

(*v*) It is proposed to empower the Registrar of Trade Unions to verify the membership of registered unions and connected matters and report the matter to the state and central governments.

(*vi*) Penalties specified in the Act for the contravention of its provisions are proposed to be enhanced.

The Government of India had in 1997 approved certain amendments to the Trade Unions Act, 1926. The objective of these amendments, is to ensure organized growth of trade unions and reduce multiplicity of trade unions. The Trade Union Amendment Bill, 1997 was to be introduced in the Rajya Sabha in the winter session of the Parliament in the year 1997, but due to various reasons, it was not introduced.

During 1999, a consensus emerged among the leading trade union federations like the BMS, AITUC, CITU and INTUC on protection of domestic industry, strengthening the public sector units by way of revival and induction of professionals in the management and amendment of labour laws and among others, inclusion of rural and unorganized labour in the social safety net.

The year 2001 witnessed several amendments of great importance, made in the Trade Unions Act, 1926. However, such amendments came into force w.e.f. 9.1.2002.

3.2.1 Central Organization of Workers in India

In India, currently there are twelve central trade union organization. They are as follows:

1. INTUC (Indian National Trade Union Congress)
2. AITUC (All India Trade Union Congress)
3. BMS (Bhartiya Mazdoor Sangh)

NOTES

4. UTUC (United Trade Union Congress)
5. HMS (Hind Mazdoor Sangh)
6. CITU (Centre of Indian Trade Union)
7. NLO (National Labour Organization)
8. UTUC (Lenin Sarai) United Trade Union Congress
9. TUCC (Trade Union Co-ordination Committee)
10. NFITUC (National Federation of Independent Trade Unions)
11. HMKP (Hind Mazdoor Kisan Panchayat)
12. IFFTU (Indian Federation of Free Trade Union)

Table 3.1 *Percentage Distribution of Income of Workers' and Employers' Unions by Sources During 2008*

Sl. No.	Sources of Income	Percentage to total in respect of			
		Workers' Unions		Employers' Unions	
		Central Unions	State Unions	Central Unions	State Unions
1	2	3	4	5	6
1	Contribution from Members	26.4 (11,83,72,141)	45.1 (31,15,46,831)	-	27.1 (10,06,168)
2	Donations	11.2 (5,03,57,840)	26.1 (17,98,65,704)	-	8.6 (3,18,339)
3	Sale of Periodicals, Books etc	12.7 (5,68,49,537)	2.8 (1,93,94,660)	-	1.7 (63,123)
4	Interest on Investments	7.8 (3,47,13,407)	5.6 (3,83,70,790)	-	10.1 (3,76,818)
5	Income from Miscellaneous Sources	41.9 (18,75,66,972)	20.4 (14,10,43,837)	-	52.5 (19,50,987)
All Sources		**100.0 (44,78,59,897)**	**100.0 (69,02,21,822)**	**-**	**100.0 (37,15,435)**

Source: *http://industrialrelations.naukrihub.com*

Of the central trade union organizations, five unions are very important, namely AITUC, INTUC, HMS, UTUC and BMS. Let us discuss the salient features of these five trade unions.

1. The All India Trade Union Congress (AITUC)

This organization was originally formed on 31 October 1920, for two main purposes: to co-ordinate the activities of individual labour unions in India which till

then remained inchoate and were unable to take concerted action and to recommend the workers' delegates to International Labour Conference. It was the only central representative co-ordinating body of trade unions in the country. Till 1947, it consisted of the communists and nationalists including Indian National Congress and the Congress Socialist Party and pure trade unioinists. With the attainment of Independence the nationalists did not agree with the policy and working of the All India Trade Union Congress. Consequently with the secession of the nationalist trade unionists, the AITUC has now become politically and ideologically the part of the Communist Party of India and is also affiliated to the World Federation of Trade Unions.

The aims and objects of the AITUC as enumerated in its constitution of 1961 are (a) to establish a socialist state in India; (b) to socialize and nationalize the means of production, distribution and exchange as far as possible; (c) to ameliorate the economic and social conditions of the working class; (d) to watch, promote, safeguard and further the interests, rights and privileges of the workers in all matters relating to their employment; (e) to secure and maintain for the workers: (i) the freedom of speech: (ii) the freedom of press; (iii) the freedom of association; (iv) the freedom of assembly; (v) the right to strike, and (vi) the right to work or maintenance; (f) to co-ordinate the activities of the trade unions affiliated to the AITUC and (g) to abolish political or economic advantage based on caste, creed, community, race or religion.

The trade unions that remained in the AITUC after the splits were working under the control of the communists. The splits greatly reduced the strength of the AITUC and it ceased to be the most representative central organization of workers in the country as early as 1948.

2. Indian National Trade Union Congress (INTUC)

The decision to set up the 'Indian National Trade Union Congress' or Rashtriya Mazdoor Congress—popularly known as INTUC was taken on 3 May 1947.

The aims and objects of the INTUC as enumerated in its constitution adopted at the twenty-third Madurai session in 1957 are:

(A) (i) to establish an order of society which is free from hindrance in the way of an all-round development of its individual members, which fosters the growth of human personality in all its aspects, and goes to the utmost limit in progressively eliminating social, political or economic exploitation and inequality, the profit-motive in economic activity and organization of society and anti-social concentration of power in any form;

(ii) to place industry under national ownership and control in suitable form in order to realize the aforesaid objective in the quickest time;

(iii) to organize society in such a manner as to ensure full employment and the best utilization of its manpower and other resources;

(iv) to secure increasing association of workers in the administration of industry and their full participation in its control;

(v) to promote generally the social, civic and political interest of the working class.

(B) (i) to secure an effective and complete organization of all categories of workers including agricultural labour;

(ii) to guide and co-ordinate the activities of the affiliated organizations;

(iii) to assist in the formation of trade unions;

(iv) to promote the organization of workers of each industry on a nation-wide basis;

(v) to assist in the formation of regional or pradesh branches of federation.

(C) (i) to secure speedy improvement of conditions of work and life and of status of workers in industry and society;

(ii) to obtain for workers various measures of social security including adequate provision in respect of accidents, maternity, sickness, old-age and un-employment;

(iii) to secure a living wage for any work in normal emplyment and to bring about a progressive improvement in the workers' standard of living;

(iv) to regulate hours and other conditions of work in keeping with requirements of the workers in the matter of health, recreation and cultural development;

(v) to secure suitable legislative enactments for ameliorating the conditions of workers and to ensure the proper enforcement of legislation for the protection and uplift of labour.

(D) (i) to establish just industrial relations;

(ii) to secure redressal of grievances, without stoppage of work by means of negotiation and conciliation and failing these by arbitration or adjudication;

(iii) to take recourse to other legitimate methods including strikes or any suitable form of satyagraha where adjudication is not applied to settlement of disputes within a reasonable time or where arbitration is not available for the redress of grievances;

(iv) to make necessary arrangements for the efficient conduct and satisfactory and speedy conclusion of authorized strikes or satyagraha.

(E) (i) to foster the spirit of solidarity, service, brotherhood, cooperation and mutual help among the workers;

(ii) to develop in the workers a sense of responsibility towards industry and community; and

(iii) to raise the workers' standard of efficiency and discipline.

It is a common knowledge that the INTUC always echoes the language of the Congress governments on vital issues like conciliation, arbitration, adjudication, strikes, trade unions rights, etc. However, the INTUC has played a major role in evolving peaceful and democratic methods of settling disputes in the industry by voluntary mutual negotiations or conciliation or on its failure by arbitration. Its unflinching support to economic policies and five year plans, its emphasis on the need of peaceful and planned progress without strikes or lockouts, its objectives to remove the vestiges of social and economic disparities by just means has made it one of the foremost labour organizations of workers in the country.

3. The Hind Mazdoor Sabha (HMS)

The Hind Mazdoor Sabha (Indian Labour Congress) was set up at Calcutta at a conference held on December 24 and 25, 1948.

The aims and objects of the Hind Mazdoor Sabha are:

(i) to promote the economic, political, social and cultural interests of the Indian working class;

(ii) to guide and coordinate the activities of affiliated organizations and assist them in their work;

(iii) to watch, safeguard and promote the interests, rights and privileges of workers in all matters relating to their employment;

(iv) to promote the formation of—(a) federations of unions from the same industry or occupation, and (b) national unions of workers employed in the same industry or occupation;

(v) to secure and maintain for the workers—(a) freedom of association, (b) freedom of assembly, (c) freedom of speech, (d) freedom of press, (e) right to work or maintenance, (f) right to social security, (g) right to strike;

(vi) to organize for and promote the establishment of a democratic, socialist society in India;

(vii) to promote the formation of cooperative societies and foster workers' education; and

(viii) to cooperate with other organization in the country and outside having similar aims and objects.

In the promotion and realization of these aims and objects, the Sabha shall employ all legitimate peaceful and democratic methods.

4. The United Trade Unions Congress (UTUC)

The Socialist Party of India being aware of the long association of the AITUC with Communist Party of India and of INTUC with the Indian National Congress convened a conference at Calcutta to be held on December 24, 25 and 26, 1948

which led to the founding of the Hind Mazdoor Panchayat, later on known as Hind Mazdoor Sabha. Some of the dissatisfied leaders who had assembled in connection with conference held at Calcutta convened another meeting under the presidentship of Mrinal Kanti Bose and passed a resolution stressing the need for building an independent democratic central organization of labour. The meeting was unanimously of the opinion that it was not possible to work in the communist-dominated AITUC, nor it was possible for them to support the newly set up organization which according to them had become a Praja Socialist Party show. So it was decided to form an 'United Trade Union Committee' and to call a conference of trade unionists during the Easter holidays. The conference which met at Calcutta on April 29 and May 1, 1949 established a new organization called the United Trade Union Congress known as UTUC.

Aims and Objects

Section 2 of the constitution of the United Trade Union Congress provides its aims and objects which shall be;

(a) to establish a socialist society in India;

(b) to establish a Workers' and Peasants' State in India;

(c) to nationalize and socialize the means of production, distribution and exchange;

(d) to safeguard and promote the interests, rights and privileges of the workers in all matters—social, cultural, economic and political;

(e) to secure and maintain for the workers freedom of speech; freedom of press; freedom of association; freedom of assembly; right to strike; the right to work or maintenance and the right to social security; and

(f) to coordinate the activities of unions affiliated to UTUC and to bring about unity in the trade union movement.

In the promotion and realization of the above aims and objects, the UTUC shall employ all legitimate, peaceful, democratic methods, such as education, propaganda, mass meetings, negotiations, demonstrations, legislation, and the like, and in the last resort, by strikes and similar other methods, as the UTUC may, from time to time decide.

The UTUC, therefore, stands in mid-way between HMS and AITUC in its policy and programmes. Its founding fathers did not agree to qualify socialist society by the word democratic, inasmuch as according to them that would create an absolutely false notion that socialism is something which is a negation of democracy. In other words, the UTUC also like the HMS stands for the establishment of socialist society in India without bothering for a doctrinaire rigidity. On the contrary, unlike HMS and like AITUC, it recognizes trade unions as instruments of class struggle to achieve its aims and objectives. However, it differs from the rest of the central organizations as it disapproves the use of trade unions for serving the ends

of different political parties or groups. Thus UTUC strictly adheres to subscribe its trade union policies only to labour matters.

5. Bhartiya Mazdoor Sangh

NOTES

The Bhartiya Mazdoor Sangh (BMS) established in 1959 which is affiliated to Bhartiya Janta Party, the Hind Mazdoor Panchayat (HMP) affiliated to Samyukta Socialist Party of India and the Indian Federation of Independent Trade Unions which is not affiliated to any political party. These three new organizations of workers are seeking recognition from the Government of India for the purposes of representation on the Indian Labour Conference.

3.2.2 Role of Internal Trade Union

Unions carry out a number of functions. They negotiate on behalf of their members on pay scales, working hours and working conditions. These areas can include basic pay, overtime payments, holidays, health safety, promotion prospects, maternity and paternity rights and job security. When considering specifically internal trade unions, one can see the following roles played by them:

- The labour union contract – referred to as the collective bargaining agreement – standardizes wages and wage increases, working hours and benefits such as vacation requests.
- Employees who belong to labour unions depend on seniority for higher wages and attractive benefits. Favourable vacation dates usually go to employees with greater seniority, for example. Therefore, it's in the employee's best interests to stay with the company. This often results in low turnover if you have employees who aren't looking to move from one company to another.
- Along with lower turnover, employees who stay with the company gain more experience as each year passes, and as a result, they have extensive knowledge of company practices, policies and processes. When you have employees who demonstrate commitment and institutional knowledge, they are an excellent resource for your human resources department in providing on-the-job training for new employees.

Check Your Progress

1. What was the earliest sign of labour agitation in India?
2. When was the AITUC formed?
3. Which political party formed the Hind Majdoor Sabha and when?
4. Name the central trade unions to which most of the trade unions in India are affiliated.
5. Why was the All India Trade Union Congress originally formed?

3.3 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

NOTES

1. The earliest sign of labour agitation in India was a movement in Bengal in 1860 led by Dinabandhu Mitra, a dramatist and social reformer of Bengal followed by some journalists to protest against the hardship of the cultivators and also the plantation workers.
2. The AITUC was formed in 1920.
3. In 1948, the Socialist Party formed an organization known as Hind Mazdoor Sabha.
4. Most of the unions are affiliated with either of the four central trade union federations, viz., Indian National Trade Union Congress, All India Trade Union Congress, Hind Mazdoor Sabha and United Trade Union Congress.
5. All India Trade Union Congress was originally formed on 31 October 1920, for two main purposes: to co-ordinate the activities of individual labour unions in India which till then remained inchoate and were unable to take concerted action and to recommend the workers' delegates to International Labour Conference

3.4 SUMMARY

- Early years of the movement were generally led by philanthropists and social reformers, who organized workers and protected them against inhuman working conditions.
- The earliest sign of labour agitation in India was a movement in Bengal in 1860 led by Dinabandhu Mitra, a dramatist and social reformer of Bengal followed by some journalists to protest against the hardship of the cultivators and also the plantation workers.
- The period 1918-1924 can perhaps be best described as the era of formation of modern trade unionism.
- In 1935, the All India Red Trade Union Congress merged itself with the AITUC. In 1938, an agreement was arrived at between All India National Trade Union Federation and AITUC and consequently, NTUC affiliated itself with AITUC.
- After Independence, the trade union movement in India got diversified on political considerations. The labour leaders associated with the National Congress Party formed the Indian National Trade Union Congress (INTUC) in 1947.

NOTES

- In September 1977, an All India Convention of Central Organization of Trade Unions including CITU, BMS, HMS, HMP, the TUCC was called which demanded time bound programmes–ensuring reduction in wage disparity, national wage and price policy and need-based wages for industrial and agricultural workers.
- Unions carry out a number of functions. They negotiate on behalf of their members on pay scales, working hours and working conditions. These areas can include basic pay, overtime payments, holidays, health safety, promotion prospects, maternity and paternity rights and job security.

3.5 KEY WORDS

- **Strikes:** It means a refusal to work organized by a body of employees as a form of protest, typically in an attempt to gain a concession or concessions from their employer.
- **Lockouts:** It means the exclusion of employees by their employer from their place of work until certain terms are agreed to.
- **Collective Bargaining:** It is a process of negotiation between employers and a group of employees aimed at agreements to regulate working salaries, working conditions, benefits, and other aspects of workers' compensation and rights for workers.

3.6 SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. List the significant features of the Bombay Industrial Disputes Act, 1938.
2. What is the role of internal trade unions?
3. Discuss the aims and objectives of the United Trade Union Congress

Long Answer Questions

1. Discuss the broad features of the labour movement during the period of 1860-1917.
2. What were the aims and objectives of the Hind Mazdoor Sabha?
3. Describe the history of the trade union movement in India.

3.7 FURTHER READINGS

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UNIT 4 UNION RIVALRIES AND INTERNATIONAL LABOUR MOVEMENT

Structure

4.0 INTRODUCTION

In the previous unit, you learnt about the history of the trade union movement in India. In this unit, we will discuss in the trade union movement, including inter and intra trade union rivalries. The unit will go on to discuss the law and practice related to the recognition of trade unions in India. The final section of the unit will discuss the origins, history and functions of the International Labour Organization or ILO.

4.1 OBJECTIVES

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

- Examine the problems associated with trade unions
- Discuss the history and evolution of trade union recognition in India
- Describe the origins and functions of the International Labour Organization (ILO)

4.2 PROBLEMS OF TRADE UNIONS AND INTER AND INTRA UNION RIVALRIES

Trade unions in India have been facing many problems, which may be discussed under the following heads:

1. Outside leadership

One of the significant features of the Indian Trade Union Movement is outside leadership. The early trade union movement was led by philanthropists and social reformers. At present, the union depends for their leaders mainly on social workers, lawyers and other professionals and public men. A few of these have interested themselves in the movement in order to, secure private and personal ends. The majority, however, are motivated by an earnest desire to assist labour.

Since Independence, many of them have identified themselves completely with labour; some others have engaged entirely in political activities; still others continue to work both in the political and labour fields.

Several factors have been responsible for the outside interference in the executive of trade unions.

(i) The majority of workers are illiterate.

(ii) Fear of victimisation and of being summarily dismissed by management were further responsible for outside interference in the trade unions movement.

(iii) The financial weakness of the trade union and absence of full time trade union workers have given the opportunity to an outsider to interfere in the trade unions' administration and in the executive of trade unions.

Outsiders in the union executive and the law

Section 22 of the Trade Unions Act, 1926, provides that:

Section 22 — *Proportion of office-bearers to be connected with the industry*: (1) Not less than one half of the total number of the office-bearers of every registered Trade Union in an unorganised sector shall be persons actually engaged or employed in an industry with which the Trade Union is connected:

Provided that the appropriate Government may, by special or general order, declare that the provision of this Section shall not apply to any Trade Union or class of Trade Unions specified in the order.

Explanation: For the purpose of this Section 'unorganised sector' means any sector which the appropriate Government may, by notification in the office Gazette declare.

(2) Save as otherwise provided in sub-section (1), all office-bearers of a registered Trade Union, except not more than one-third of the total number of the office-bearers or five, whichever is less, shall be persons actually engaged or employed in the establishment or industry with which the Trade Union is connected.

Explanation: For the purpose of this sub-section, an employee who has retired or has been retrenched shall not be construed as outsider for the purpose of holding an office in a Trade Union.

(3) No member of the Council of Ministers or a person holding an office of profit (not being in engagement or employment in an establishment or industry with

NOTES

which the Trade Union, is connected), in the Union or a State, shall be a member of the executive or other office-bearer of a registered Trade Union.

2. Rights of minors to membership of trade unions

Section 21 provides that any person who has attained the age of fifteen years may be a member of a registered Trade Union subject to any rules of the Trade Union to the contrary, and may, subject as aforesaid, enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given under the rules.

3. Inter-union and intra-union rivalries

Since Independence, inter-union and intra-union rivalries, primarily based on political considerations, leading to disputes between rival sets of office-bearers of trade unions, have become sharper. However, except the Non-Statutory Code of Discipline evolved in 1958, which has failed to achieve the desired result, there is at present no legal machinery or procedure for resolution of inter-union disputes in the Trade Unions Act. To fill this gap the Trade Unions (Amendment) Bill, 1982 provides for such machinery. Section 2(i) of the Bill defines 'Trade Union Dispute' to mean any dispute:

(*a*) between one Trade Union and another, or

(*b*) between one or more members or office-bearers of a Trade Union and the Trade Union (whether also with any of the other members or office-bearers of the Trade Union or not) relating to its registration, administration or management of its affairs, including the appointment of the members of the executive or other office-bearers of the Trade Union, the validity of any such appointment, the area of operation of the Trade Union, verification of membership and any other matter arising out of the rules of the Trade Union, but excluding matters involving determination of issues as to the title to, or ownership of, any building or other property or any funds.

Section 28B permits the parties to a trade union dispute to refer such dispute to arbitration. Such arbitration agreement must be on the prescribed form and signed by the parties in the manner prescribed by regulation. Further, Section 28C empowers the Registrar to follow such procedure as he thinks fit in adjudging the disputes referred to him. The procedure that may be followed by the Registrar will be subject to such regulation as may be made in this regard. Any person aggrieved by the award of the Registrar in a reference may appeal to the Court within such period as may be prescribed by Regulation. The Bill also permits the parties to trade union disputes to apply jointly or separately in the manner prescribed by Regulation for Adjudication of Disputes to the Registrar.

4. Victimization

Victimization and unfair labour practice are "like twins who cling together". According to some, unfair labour practice can stand by itself, but victimization

must always keep company with unfair labour practice. For instance, where the employer interferes with employees' right to self-organization or with the formation of any labour organization, or where the employer closes the door on any settlement by negotiation, there may be unfair labour practices. In such cases, no punishment need be inflicted on any employee. It cannot be said that there is any victimization. Thus, separate existence of unfair labour practice is conceivable.

Victimization "is a serious charge by an employee against an employer, and, therefore, it must be properly and adequately pleaded giving all particulars upon which the charge is based to enable the employer to fully meet them. The charge must not be vague or indefinite being, as it is an amalgamation of facts as inferences and attitudes.

The onus of establishing a plea of victimization will be upon the person pleading it. Since a charge of victimization is a serious matter reflecting to a degree, upon the subjective attitude of the employer evidenced by acts and conduct, it has to be established by safe and sure evidence. Mere allegations, vague suggestions and insinuations are not enough.

5. Multiple unions

Multiple unionism both at the plant and industry levels pose a serious threat to industrial peace and harmony in India. The situation of multiple unions is said to prevail when two or more unions in the same plant or industry try to assert rival claims over each other and function with overlapping jurisdiction. The multiple unions exist due to the existence of craft unions, formations of two or more unions in the industry. Multiple unionism is not a phenomenon unique to India. It exists even in advance countries like UK and USA. Multiple unionism affects the industrial relations system both positively and negatively. It is sometimes desirable for the healthy and democratic health of labour movement. It encourages a healthy competition and acts as a check to the adoption of undemocratic practice, authoritative structure and autocratic leadership. However, the negative impacts of multiple unions dominate the positive impacts. The nature of competition tends to convert itself into a sense of unfair competition resulting in inter-union rivalry. The rivalry destroys the feeling of mutual trust and cooperation among leadership. It is a major cause for weakening the Trade Union Movement in India. Multiple unionism also results in small size of the unions, poor finances, etc.

6. Finance

Sound financial position is an essential ingredient for the effective functioning of trade unions, because in the process of rendering services or fulfilling their goals, trade unions have to perform a variety of functions and organise programmes which require enormous financial commitments. Hence, it is imperative on the part of a trade union to strengthen its financial position.

But it is felt that the income and expenditure of trade unions in India over the years is such, with few exceptions is bad, that the financial position of the union is

NOTES

generally weak, affecting their functioning. It is opined that, "trade unions could be more effective, if they paid more attention to strengthening their organisations and achieving higher attention of financial solvency."

The primary source of income to the unions is membership subscription. Their other sources of union finances are donations, sale of periodicals, etc. The items of expenditure include: allowances to office bearers, salaries to office, annual convention/meeting expenses, rents, stationery, printing, postage, telegrams, etc. Most of the trade unions in India suffer from inadequate funds. This unsound financial position is mostly due to low membership and low rate of membership fee. Trade Union Act, 1926, prescribed the membership fee at 25 paise per member per month. But the National Commission on Labour recommended the increase of rate of membership subscription from 25 paise to ₹ 1 in the year 1990. But the Government did not accept this recommendation.

Check Your Progress

1. Who led the early trade union movement in India?
2. Why is sound financial position an essential ingredient for effective functioning of trade unions?

4.3 UNION RECOGNITION

The recognition of trade unions is said to have originated in relation to the government with its servants. Prior to 1933, government servants were prohibited from submitting collective memorials and petitions. When conceded, this right was granted only to combinations which conformed to certain rules. Unions which conformed to these rules were ordinarily granted 'formal recognition' and were allowed to conduct negotiation with government on behalf of their members.

A. Appointment of the Royal Commission

Problems relating to recognition of trade unions attracted the attention of the Royal Commission on Labour in 1929. It made a comprehensive survey of almost all the problems relating to labour (including recognition of trade unions) and recommended that the 'Government should take the lead, in case of its industrial employees, in making recognition of union easy and in encouraging them to secure recognition.'

B. Legislative Action on the Royal Commission's Recommendation

Legislative attempt was, however, not made until 1943 for compulsory recognition of trade unions by employers when the Indian Trade Unions (Amendment) Bill, 1943, was placed before the Central Legislative Assembly. The bill was opposed by the management and, therefore, it could not be passed. The bill was revised in the light of discussion made in the assembly and a new bill, namely, the Indian Trade Unions (Amendment) Bill, was introduced three years later in 1946 in the

Central Legislative Assembly. This bill was referred to the Select Committee which suggested certain amendments. The bill was passed in November 1947 and received the assent of the Governor General on 20 December 1947. But the Trade Unions (Amendment) Act was never brought into force. Subsequently in 1950, Trade Unions Bill also incorporated provisions for recognition of trade unions. The bill was moved in the legislature but it could not be made into an Act.

C. International Labour Organization Convention

At an international level, the concern felt by the International Labour Organization for evolving an international instrument for recognition of trade unions resulted in ILO Convention No. 87 on 'Freedom of Association and Protection of the Right to Organize' in 1948 and Convention No. 98 concerning the right to organize and bargain collectively in 1949.

D. Plans and Recognition of Trade Unions

Immediately after India became a sovereign democratic republic, the Trade Unions Bill, 1950, concerning the recognition of trade unions through planning was accepted and a Planning Commission was constituted.

In the evolution of labour policy during the plan, recognition of trade union has been accorded due importance by the planners. Thus, the Second Five-Year Plan (1956–61) paid considerable attention to the problems of recognition of trade unions. In view of the fact that 'recognition has strengthened the trade union movement in some states' the plan recommended that 'some statutory provisions for securing recognition should be made, where such recognition does not exist at present. In doing so, the importance of one union for one industry in a local area requires to be kept in view'. The Third Five Year Plan (1961–66) envisaged a marked shift in the policy of recognition of trade unions. It was stated in the plan that 'the basis for recognition of unions, adopted as a part of the Code of Discipline will pave the way for the growth of strong and healthy trade unionism in the country. A union can claim recognition if it has a continuing membership of at least 15 per cent of the workers in the establishment over a period of 6 months and will be entitled to be recognized as a representative union for an industry or a local area, if it has membership of at least 25 per cent of workers. Where there are several unions in an industry or establishment, the union with the largest membership will be recognized. Once a union has been recognized, there should be no change in its position for a period of 2 years, if it has been adhering to the Code of Discipline.'

E. First National Commission on Labour

Another landmark in the recognition of trade unions was reached with the appointment of the National Commission on Labour in 1966. The Commission recommended, *inter alia*, for statutory recognition of trade unions but no concrete legislative action was taken till 1978.

NOTES

F. Industrial Relations Bill, 1978

In 1978, the Industrial Relations Bill, *inter alia*, incorporated the provisions for recognition of trade unions. But the bill which was introduced in Lok Sabha in August 1978, lapsed after the dissolution of the sixth Lok Sabha on 30 August 1978.

G. The Hospital and other Institutions (Settlement of Disputes) Bill, 1982

The bill provides for the recognition of trade unions of workmen. A trade union will not be considered for recognition with respect to an establishment for the purposes of legislation unless it is registered under the Trade Unions Act and each of its office-bearers is a workman in such establishment or any other establishment. In order to be entitled for recognition, such a trade union must have the support of the majority of workmen in the establishment. The representatives of workmen on the Grievance Settlement Committee, Local Consultative Council and Consultative Council would be nominees of recognized trade unions.

To sum up, the existing arrangement for the recognition of trade unions reveals that no legislative step at central level has been effectively introduced and enforced for recognition of trade unions. The voluntary arrangement for recognition of trade unions as we shall presently see, has failed to deliver the goods for want of adequate implementation machinery.

4.3.1 Law and Practice Relating to Recognition of Trade Unions

A. Constitution and Recognition of Trade Unions

Is the right to grant recognition to trade unions a fundamental right within the meaning of Article 19 (1) (*c*) of the Constitution? This has been answered in negative because the right to form an association does not carry with it the concomitant right that the association should be recognized by the employers. Hence, neither withdrawal of recondition of the union nor the discontinuance of recognition infringes on the fundamental rights guaranteed under Article 19(1) (*c*) of the Constitution.

B. Legislative Measures

In some industrially advanced countries such as the United States of America, Canada, Columbia and Bahrain, collective bargaining and voluntary arbitration have developed considerably and statutory provisions have been made for determining the representative character of trade unions.

1. Trade Unions Act, 1926

The Trade Unions Act does not make any provision for recognition of such a union. Any recognition of union, even if it is a union relating to the employees of the Central Government, is governed by some departmental circulars. Those circulars are administrative in nature and not statutory. Therefore, those circulars also cannot be enforced in a writ petition.

2. Trade Unions (Amendment) Act, 1947

In India, it has been observed earlier, that there is no central enactment governing recognition of 'trade unions'. The Trade Unions (Amendment) Act, 1947, however, provided for recognition of unions: (*i*) by agreements; and (*ii*) by order of the court on satisfying the conditions laid down in relevant sections of the act. But the Act, as stated earlier, has not been enforced.

a. ***Machinery for Determination of Representative Unions*:** Section 28E of the Trade Unions (Amendment) Act, 1947, empowers the labour court to grant recognition where a registered trade union having applied for recognition to an employer fails to obtain the same within a period of 3 months.

b. ***Conditions for Recognition.*** Section 25D provides that a trade union shall not be entitled for recognition by order of a labour court under Section 25E unless it fulfils the following conditions, namely:

(*a*) that all its ordinary members are workmen employed in the same industry or in industries closely allied to or connected with another;

(*b*) that it is representative of all the workmen employed by the employer in that industry or those industries;

(*c*) that its rules do not provide for the exclusion from membership of any class of workmen referred to in clause (*b*);

(*d*) that its rules provide for the procedure for declaring a strike;

(*e*) that its rules provide that a meeting of its executive shall be held at least once in every 6 months;

(*f*) that it is a registered trade union and that it has complied with all provisions of this Act.

The aforesaid provisions of the Act raise various problems: (*i*) Can an employer voluntarily recognize a union which is not registered under the Act and which is in fact a majority union? (*ii*) Can an employer be compelled to recognize more than one union? Notwithstanding the relative importance of these questions and rather unsatisfactory answer that we get from the statute, the significance of Trade Unions (Amendment) Act, 1947, must not be overlooked. But, even this could not be put into force.

c. ***Rights of Recognized Trade Unions:*** The recognized trade unions have been conferred the right to negotiate with employers in respect of matters connected with employment, non-employment, the terms of employment or the conditions of labour of all or any of its members, and the employer is under an obligation to receive and send replies to letters sent by the executive and grant interviews to them regarding such matters.

d. ***Withdrawal of Recognition of Trade Unions:*** Under Section 28G of the Trade Unions (Amendment) Act, 1947, the Registrar or the employer is entitled to apply to the labour court in writing for the withdrawal of recognition on any one of the following grounds:

(*a*) that the executive or the members of the trade union have committed any unfair practice set out in Section 28 J within 3 months prior to the date of the application;

(*b*) that the trade union has failed to submit any return referred to in Section 281;

(*c*) that the trade union has ceased to be representative of the workmen referred to in Clause (*b*) of Section 28 D.

On receipt of the application, the labour court is required to serve a show cause notice in the prescribed manner on the trade union as to why its recognition should not be withdrawn. If the court is satisfied that trade union did not satisfy conditions for the grant of recognition, it shall make an order declaring the withdrawal of recognition.

The aforesaid provisions raise a question as to whether recognition of trade union can be withdrawn on the ground that recognized trade union has lost its status as a representative union.

e. Re-recognition of Trade Unions: Section 28H of the Trade Unions (Amendment) Act, 1947, permits the registered trade union whose recognition is withdrawn under sub-section (3) of Section 28G to make an application for re-recognition after 6 months from the date of withdrawal of recognition.

3. The Trade Unions Bill, 1950

In 1950, the Trade Unions Bill, 1950 was introduced in the Parliament. The bill was primarily a consolidating measure, but there were some new provisions which were added namely:

(*a*) A trade union of civil servants shall not be entitled to recognition by the appropriate government if it does not consist wholly of civil servants or if such union is affiliated to a federation of trade unions to which a trade union consisting of members other than civil servants is affiliated.

(*b*) A trade union shall not be entitled to recognition by an employer in relation to any hospital or educational institution by order of a labour court if it does not consist wholly of employees of any hospital or educational institutions, as the case may be.

(*c*) A trade union consisting partly of supervisor and partly of other employees, or partly of watch and ward staff and partly of other employees shall not be entitled to recognition by an employer by order of a labour court.

The bill also provided for recognition of trade unions where application for recognition was made by more than one union. The trade union having the largest membership gets preference over others. The recognized unions are given rights such as collecting subscriptions, holding meetings on employer's premises and of collective bargaining. The labour court is empowered under the bill to order for recognition of unions. The bill could not, however, be brought in the form of the

Act because of opposition by several quarters. The bill lapsed on the dissolution of the legislature.

C. Claim of Trade Union for Recognition Based on Circulars—Not Maintainable

In *K V Sridharan* v. *S Sundaramoorthy*, the division bench of the Madras High Court held that the Trade Unions Act, 1926 does not make any provision for recognition of a union based on circular. Any recognition of union, if it is a union relating to the employees of the Central Government, is governed by some departmental circulars. These circulars are administrative in nature and not statutory. Therefore, these circulars cannot be enforced in a writ petition.

The aforesaid view was reiterated in *Port and Dock Labour Union affiliated to Bharatiya Mazdoor Sangh* v. *Union of India*. In this case, the petitioner-trade union sought a declaration by Chennai Port Trust that it was a recognized trade union entitled to statutory benefits under a circular issued by the government. The Madras High Court rejected the claim and held that in the absence of any law relating to trade union recognition in the state of Tamil Nadu, the claims of the union can be based only upon the circulars and various communications issued by the ministry. In fact, as per the communication issued by the registry, pending finalization of policy by the ministry, the first seven unions alone have to be recognized and as rightly held by the Port Trust, those seven unions even as per the check-off verification conducted during 2010, are having more membership than the petitioner union.

D. Secret Ballot Method for Determining the Representation Character of Trade Union

In *Food Corporation of India Staff Union* v. *Foods Corporation of India*, the Food Corporation of India (FCI) and the union representing the workmen agreed to follow the secret ballot method for determining the representative character of the trade union. They approached the Supreme Court to lay down as to how the method of secret ballot should be tailored to yield the correct result. Keeping in view the importance of the matter, the Court issued notice to all the major all India trade union organizations on this aspect. Pursuant to this notice, some trade union organizations appeared and were heard by the Court. The Supreme Court, after perusing various documents and records, directed that the following norms and procedure shall be followed for assessing the representative character of the trade unions by the secret ballot system:

(*i*) As agreed to by the parties, the relative strength of all the eligible unions by way of secret ballot be determined under the overall supervision of the Chief Labour Commissioner (Central) (CLC).

(*ii*) The CLC will notify the returning officer who shall conduct the election with the assistance of the FCI. The returning officer shall be an officer of the Ministry of Labour, Government of India.

(*iii*) The CLC shall fix the month of election while the actual date/dates of election shall be fixed by the returning officer.

NOTES

(*iv*) The returning officer shall require the FCI to furnish sufficient number of copies of the lists of all the employees/workers (Categories III and IV) governed by the FCI (Staff) Regulations, 1971 borne on the rolls of the FCI as on the date indicated by the CLC. The list shall be prepared in the proforma prescribed by the CLC. The said list shall constitute the voters list.

(*v*) The FCI shall display the voters list on the notice board and other conspicuous places and shall also supply copies thereof to each of the unions for raising objections, if any. The unions will file the objection to the returning officer within the stipulated period and the decision of the returning officer shall be final.

(*vi*) The FCI shall make necessary arrangement to:

(*a*) give wide publicity to the date/dates of election by informing the unions and by affixing notices on the notice boards and also at other conspicuous places for the information of all the workers;

(*b*) print requisite number of ballot papers in the proforma prescribed by the CLC incorporating therein the names of all the participating unions in an alphabetical order after different symbols of respective unions;

(*c*) the ballot papers would be prepared in the proforma prescribed by the CLC in Hindi/English and the regional language concerned;

(*d*) set up requisite number of polling stations and booths near the premises where the workers normally work; and

(*e*) provide ballot boxes with requisite stationary, boards, sealing wax, etc.

(*vii*) The returning officer shall nominate a presiding officer for each of the polling stations/ booths with requisite number of polling assistants to conduct the election in an impartial manner. The presiding officers and the polling assistants may be selected by the returning officer from amongst the officers of the FCI.

(*viii*) The election schedule indicating the nominators, scrutiny of nomination papers, withdrawal of nomination, polling, counting of votes and the declaration of results shall be prepared and notified by the returning officer in consultation with the FCI. The election schedule shall be notified by the returning officer well in advance and at least one month's time shall be allowed to the contesting unions for canvassing before the date of filing the nominations.

(*ix*) To be eligible for participating in the election, the unions must have valid registration under the Trade Unions Act, 1926 for one year with an existing valid registration on the first day of filing of nomination.

(*x*) The presiding officer shall allow only one representative to be present at each polling station/booth as observer.

(*xi*) At the time of polling, the polling assistant will first score out the name of the employee/workman who comes for voting, from the master copy of the voters list and advice him thereafter to procure the secret ballot paper from the presiding officer.

(*xii*) The presiding officer will hand over the ballot paper to the workman/ employee concerned after affixing his signatures thereon. The signatures of the workman/ employee casting the vote shall also be obtained on the counterfoil of the ballot paper. He will ensure that the ballot paper is put inside the box in his presence after the voter is allowed to mark on the symbol of the candidate with the inked rubber stamp in camera. No employee/workman shall be allowed to cast his vote unless he produces his valid identity card before the presiding officer concerned. In the event of non-production of identity card due to any reason, the voter may bring in an authorization letter from his controlling officer certifying that the voter is the *bona fide* employee of the FCI.

(*xiii*) After the close of the polling, the presiding officer shall furnish detailed ballot paper account in the proform prescribed by the CLC indicating total ballot papers received, ballot papers used, unused ballot papers available, etc., to the returning officer.

(*xiv*) After the close of the polling, the ballot boxes will be opened and counted by the returning officer or his representative in the presence of the representatives of each of the unions. All votes which are marked more than once, spoiled, cancelled or damaged, etc., will not be taken into account.

(*xv*) The contesting unions through their representatives present at the counting place may be allowed to file applications for re-counting of votes to the returning officer. The request would be considered by the returning officer and in a given case, if he is satisfied that there is reason to do so, he may permit re-counting. However, no application for re-counting shall be entertained after the results of the poll are declared.

(*xvi*) The result of voting shall be compiled on the basis of valid votes polled in favour of each union in the proforma prescribed by the CLC and signatures obtained thereon from the representatives of all the unions concerned as a proof of counting having been done in their presence.

(*xvii*) After declaring the result on the basis of the votes polled in favour of each union by the returning officer, he will send a report of his findings to the CLC.

(*xviii*) The union/unions obtaining the highest number of votes in the process of election shall be given recognition by the FCI for a period of 5 years from the date of the conferment of the recognition.

(*xix*) It would be open to the contesting unions to object to the result of the election or any illegality or material irregularity which might have been

NOTES

committed during the election. Before the returning officer such objection can only be raised after the election is over. The objection shall be heard by the CLC and disposed of within 30 days of the filing of the same. The decision of the CLC shall be final, subject to challenge before a competent court, if permitted under law.

E. Method of Recognizing a Trade Union

In *M R P Workers Union* v. *Govt of Tamil Nadu*, it was held in the absence of specific statutory provisions in the Trade Unions Act, 1926 for recognition of trade union as representative body of workmen in the industry, the same would be determined by state government and labour commissioner. On receipt of such an application, the concerned labour commissioner will issue notice to the two unions, within 2 weeks from the date of receipt of the application, calling upon them to submit their membership registers and the necessary supportive documents under the Code of Discipline within 2 weeks from the date of receipt of the notice by them. The notice will call upon them to produce their records as per the Code of Discipline during the period of 6 months prior to the date of notice. The labour commissioner shall thereafter proceed to decide as to which union is the representative union of the workmen.

F. Rights of Unrecognized Unions

The management is obliged to hear a trade union registered though not recognized and resolve its dispute as far as possible without resorting to conciliation or adjudication processes. Though the management is not obliged to recognize a trade union but at the same time, it cannot refuse to hear grievances voiced by it in respect of service conditions or its members. There is no provision in the Industrial Disputes Act or Trade Unions Act prohibiting the management from negotiating, discussing or entering into settlement with an unrecognized union. It is only in case where the demands of unrecognized union are already seized of by the recognized union, such demand would not be maintainable. Direction can be given to management falling under Article 12 of the Constitution.

G. Trade Unions and Industrial Disputes (Amendment) Bill, 1988.

The bill seeks to provide for the constitution of a bargaining council to negotiate and settle industrial disputes with the employer. Thus, under Chapter II-D, every employer is required to establish a bargaining council for the industrial establishment for which he is the employer consisting of representatives of all the trade unions having membership among the workmen employed in the establishment, not being trade unions fenced on the basis of craft or occupation; each trade union being called a bargaining agent.

Where there are more than one trade unions having members among the workmen employed in an industrial establishment, the representation of all such trade unions on the bargaining council shall be in proportion to the number of the members in that establishment as determined under the Trade Unions Act, 1926.

The trade union with the highest membership of workmen employed in that establishment and having in no case, less than 40 per cent of the total membership among the workmen shall be known as the principal bargaining agent.

Where there is only one trade union having members among the workmen employed in an industrial establishment, that trade union shall be the bargaining council for that establishment and such bargaining council shall also act as the sole bargaining agent.

The chairman of the bargaining council shall be a person chosen by the principal or sole bargaining agent from amongst its representatives. However, if there is no trade union having membership of at least 40 per cent of the total membership of the trade unions of workmen in an industrial establishment, the one with the highest membership among the workmen employed in the establishment shall have the right to nominate one of its representatives as the chairman of the bargaining council.

If there is no trade union having members among the workmen employed in an industrial establishment, a workmen's council shall be established by the employer in the prescribed manner and such workmen's council shall be the bargaining council for that establishment.

The state government is empowered to establish a bargaining council in a class of industry in a local area in respect of which it is the appropriate government on the basis of the relative strength of the trade unions of workmen concerned as determined under the provisions of the Trade Unions Act, 1926, in such manner as may be prescribed.

Similarly the Central Government may establish a bargaining council in respect of an industrial undertaking or a class of industry in respect of which it is the appropriate government on the basis of the relative strength of the trade unions of workmen concerned as determined under the provisions of the State Trade Unions Act in the prescribed manner.

The Central Government is also empowered to set up, in consultation with the state government concerned, a council at the national level to be called the National Bargaining Council in respect of a class of industry or a group of central public sector undertakings in relations to which the appropriate government is the state government.

Check Your Progress

3. What did the Third-Five-Year plan ensilage in relation to trade union recognition?
4. What is the aim of the Trade Unions and Industrial Disputes (Amendment) Bill, 1988?

NOTES

4.4 INTERNATIONAL LABOUR MOVEMENT

The labour movement is a broad term for the development of a collective organization of working people, to campaign for better working conditions and treatment from their employers and governments, in particular through the implementation of specific laws governing labour relations. With ever increasing levels of international trade and rising influence of multinational corporations, there has been debate and action within the labour movement broadly to attempt international co-operation. This has led to renewed efforts to organize and collectively bargain internationally. A number of international union organizations have been established in an attempt to facilitate international collective bargaining, to share information and resources and to advance the interests of workers generally.

International Conference of Free Trade Unions (ICFTU)

The International Confederation of Free Trade Unions (ICFTU) was an international trade union. It came into being on 7 December 1949 following a split within the World Federation of Trade Unions (WFTU), and was dissolved on 31 October 2006 when it merged with the World Confederation of Labour (WCL) to form the International Trade Union Confederation (ITUC). Prior to being dissolved, the ICFTU had a membership of 157 million members in 225 affiliated organisations in 148 countries and territories.

It was a confederation of national trade union centres, each of which links together the trade unions of that particular country. Membership was open to bona fide trade union organisations that were independent of outside influence, and had a democratic structure.

The ICFTU cooperated closely with the International Labour Organisation and had consultative status with the United Nations' Economic and Social Council and with specialised agencies such as UNESCO, FAO, etc. It maintained contacts with the International Monetary Fund, the World Bank and the World Trade Organisation and had offices in Geneva, New York and Washington.

World Federation of Trade Unions (WFTU)

The World Federation of Trade Unions (WFTU) was established in 1945 to replace the International Federation of Trade Unions. Its mission was to bring together trade unions across the world in a single international organization, much like the United Nations. After a number of Western trade unions left it in 1949, as a result of disputes over support for the Marshall Plan, to form the International Confederation of Free Trade Unions, the WFTU was made up primarily of unions affiliated with or sympathetic to Communist parties. In the context of the Cold War, the WFTU was often portrayed as a Soviet front organization. A number of those unions, including those from Yugoslavia and China, left later when their governments had ideological differences with the Soviet Union.

As part of its efforts to advance its international agenda, the WFTU develops working partnerships with national and industrial trade unions worldwide as well as with a number of international and regional trade union organizations including the Organization of African Trade Union Unity (OATUU), the International Confederation of Arab Trade Unions (ICATU), the Permanent Congress of Trade Union Unity of Latin America (CPUSTAL), and the General Federation of Trade Unions of CIS.

The WFTU holds consultative status with the Economic and Social Council of the United Nations, the ILO, UNESCO, FAO, and other UN agencies. It maintains permanent missions in New York, Geneva, and Rome.

International Labour Organization (ILO): Origin, History, Objectives and Functions

The International Labour Organization (ILO) has played a key role in promoting international labour standards. It was set up in 1919 under the Treaty of Versailles. India is a founder member of ILO.

There are certain fundamental principles of the ILO that were laid down at the time of its inception. These principles are known as the Charter of Freedom of Labour. The main principles of ILO are as follows:

- Labour is not a commodity.
- Freedom of expression and of association are essential to sustained progress.
- Poverty anywhere constitutes danger to prosperity everywhere.
- The war against want requires to be carried on with unrelenting vigour within each nation and by continuance and concerted international effort in which the representatives of workers and employers, enjoying equal status with those of the governments, join with them in free discussion and democratic decision with a view to promotion of common welfare.

The aforesaid principles were modified at the 26th session of ILO held in Philadelphia in 1944. It also adopted a Declaration that concerns with the aims and purposes of the organization. This Declaration is known as the Philadelphia Charter.

By 2008, ILO had adopted 190 conventions and 198 recommendations. India had ratified 42 of the 190 conventions and one protocol. The Constitution of India and labour legislation uphold all the fundamental principles envisaged in the 8 core international labour standards. It ratified 4 of the 8 core conventions of ILO. With regard to the others, India seeks to proceed with progressive implementation of the concerned standards and leave the formal ratification for consideration at a later stage when it becomes practicable.

The ILO has influenced labour legislation in India. Most labour legislation has been enacted in conformity with ILO conventions.

NOTES

Today, the ILO stands as one of the specialized agencies of the United Nations with longer history than any of its sister organizations.

Organizational structure of ILO

The organizational structure of ILO consists of the following:

1. The International Labour Conference

The International Labour Conference consists of four delegates who are nominated by the member states. Among the four delegates two are government delegates and two are non-government delegates. One of the two government delegates represents employers of the member state and the other represents workers of the member state. The two non-government delegates are nominated with the reference of all the representatives organizations of employers and workers. Each of the delegates has the right to vote on all matters, which are discussed in the conference.

Each of the delegates can have at most two advisers for each item on the agenda of the meeting. The advisers are nominated by the respective governments. At least one of the advisers should be a woman if the questions discussed in the meeting are related to women. The advisers are not allowed to vote. They can give their opinion only when their delegates request them to speak with the permission of the President of the Conference. When a delegate authorize his adviser as his deputy, then the adviser is allowed to speak and vote in the conference.

ILO also has a consultative relationship with different non-governmental international organizations such as the International Confederation of Free Trade Unions, the World Federation of Trade unions and the International Federation of Christian Trade Unions. Therefore the ILO Conference is also attended by the representatives of these non-governmental international organizations.

The International Labour Organization is the supreme body of the ILO organization. It directs and supervises all the work of the Governing Body and the International Labour Office and also elects the members of the Governing Body. The International Labour Organization acts as a world parliament for all the labour and social issues and questions. It has created standard Conventions and Recommendation, which are considered as world-wide uniform standards of labour.

The procedure of the Conference is regulated by its own. It can appoint different committees to discuss and present a report on any matter.

2. The Governing Body

Earlier the Governing Body consists of 24 members that includes 12 government representatives of 12 member states, 6 members represent employers' organizations and 6 members represents workers' organizations. Currently the Governing Body consists of 56 members, out of which 28 members represents government, 14 members represents employers organization and 14 members represents workers organizations.

Ten seats out of the twenty-eight government seats are permanently allotted to the ten states of chief industrial importance. Presently the ten permanent members are Canada, China, France, India, Italy, Japan, Soviet Union, the United Kingdom, USA and Germany. The employers and workers delegates of International Labour Conference elect the employers and workers representatives of the Governing Body. It is mandatory that at least two representatives each of the employers and the workers should from non-European countries.

The tenure of office for the members of the Governing Body is three years. The members will remain in the office of the Governing Body until the elections are held for the Governing Body, even after the completion their three period. The Governing Body elects a Chairman and two Vice-Chairmen, to ensure participation of all the representatives.

The Governing Body itself regulate the procedure and time of meeting. In case a special meeting is to be arranged, it should be approved in written by the at least sixteen representatives of the Governing Body.

The Governing Body works under the general direction of the International Labour Conference. It appoints the Director General of the International Labour Office. It decides and prepares agenda, which is to be discussed in the International Labour Conference. It also performs all tasks that are assigned to it by the Conference.

3. The International Labour Office

The International Labour Office acts as:

- Secretariat
- World information centre
- Publishing house

The main function of the International Labour Office is to collect and distribute information on different subjects related to the international adjustment of the conditions of industrial life and labour.

ILO declaration on fundamental principles and rights at work

The ILO declaration on Fundamental Principles and Rights at Work, adopted by the International Labour Conference in June 1998, declares *inter alia* that all member states, whether they have ratified the relevant conventions or not, have an obligation to respect, promote and realize the principles concerning the fundamental rights which are the subject of those conventions, namely:

(*a*) freedom of association and the effective recognition of the right to collective bargaining;

(*b*) elimination of all forms of forced or compulsory labour;

(*c*) effective abolition of child labour; and

(*d*) elimination of discrimination in respect of employment and occupation.

The primary goal of the ILO today is to promote opportunities for women and men to obtain decent and productive work in conditions of freedom, equity, security and human dignity. The goal is not just the creation of jobs but the creation of jobs of acceptable quality.

The Government of India has ratified Convention 122 on Employment and Social Policy in 1998. Article 1 of the Convention lays down:

1. With a view to stimulating economic growth and development, raising levels of living, meeting manpower requirements, and overcoming unemployment and under employment, each member shall declare and pursue, as a major goal, an active policy designed to promote full, productive and freely chosen employment.
2. The said policy shall aim at ensuring that:
   (*a*) There is work for all who are available for and seeking work;
   (*b*) Such work is as productive as possible;
   (*c*) There is freedom of choice of employment and fullest possible opportunity for each worker to qualify for, and to use skill and the endowments in a job for which he is well suited, irrespective of race, colour, sex, religion, political opinion, national extraction or social origin.
3. The said policy shall take due account of the state and the level of economic development and mutual relationships between employment objectives and other economic and social objectives, and shall be pursued by methods that are appropriate to national conditions and practices.

The aforesaid convention was ratified by India at a time when unemployment levels were high. One, therefore, has to presume that the government is now committed to pursue an active policy designed to promote full, productive and freely chosen employment.

From the commitments of the Government of India, it can be deduced that the following rights of workers have been recognized as inalienable and must, therefore, accrue to every worker under any system of labour laws and labour policy. These are:

(*a*) Right to work of one's choice

(*b*) Right against discrimination

(*c*) Prohibition of child labour

(*d*) Just and humane conditions of work

(*e*) Right to social security

(*f*) Protection of wages including right to guaranteed wages

(*g*) Right to redressal of grievances

(*h*) Right to organize and form trade unions and right to collective bargaining

(*i*) Right to participation in management

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Functions of ILO

The functions of ILO are related to the objectives laid in the Conference. The major activities of ILO focus on the following:

- Improving the working conditions of the workers
- Developing human resources and social institutions
- Research and planning

The major functions of ILO are:

- **Means Adopted:** ILO should maintain international standards, which is to be followed by all the employers' and workers' organizations. Conventions and recommendations is a way to set international standards. There are other ways and procedures to set international standards, such as:
  - o Resolution and conclusion adopted by expert committees
  - o Resolution and reports adopted different labour organizations
  - o Resolution of autonomous bodies dealing with social and security question of workers
- **Creation of international standards of labour:** ILO creates international standards of labour on matters that are related with working and social conditions of workers. It adopts the Conventions and Recommendations, which consider various areas such as basic human rights, employment, condition of work, industrial relations and labour administrations.
- **Promotion of employment:** ILO guides and assists all the countries to maintain a higher level of productive employment. ILO makes the following efforts to increase employment:
  - o Exploring effects of alternative development strategies on the short-term and long-term employment
  - o Helping for the employment, income and organizational requirements of unprotected labour in developing countries
  - o Guiding the functioning of labour markets through appropriate policies and measures
  - o Encouraging productivity in formal and informal sectors
- **Collection and distribution of information and publication:** ILO acts as the world repository of information about social and working condition of labour. ILO collects these information and provides them to the member countries. ILO also publish major labour and social issues, code of practice on occupational safety and health, workers' education material, textbooks on management and many more.

- **Research and Studies:** ILO also carried out numerous researches and studies related to labour and social issues. The most notable areas on which ILO has worked are industrial relations, social security, working conditions and manpower development.
- **Improvement of working conditions and environment:** ILO has adopted various means of action to improve the working and environmental conditions of the workers. It persuades its member countries to adopt the international standards of labour and also provides relevant information and technical co-operation to the member countries.

Check Your Progress

5. When was the ICFTU dissolved?
6. When was the WFTU formed?
7. What are the main principles of the ILO?

4.5 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. The early trade union movement was led by philanthropists and social reformers.
2. Sound financial position is an essential ingredient for the effective functioning of trade unions, because in the process of rendering services or fulfilling their goals, trade unions have to perform a variety of functions and organise programmes which require enormous financial commitments.
3. The Third Five Year Plan (1961–66) envisaged a marked shift in the policy of recognition of trade unions. It was stated in the plan that 'the basis for recognition of unions, adopted as a part of the Code of Discipline will pave the way for the growth of strong and healthy trade unionism in the country. A union can claim recognition if it has a continuing membership of at least 15 per cent of the workers in the establishment over a period of 6 months and will be entitled to be recognized as a representative union for an industry or a local area, if it has membership of at least 25 per cent of workers.
4. The Trade Unions and Industrial Disputes (Amendment) Bill, 1988, seeks to provide for the constitution of a bargaining council to negotiate and settle industrial disputes with the employer.
5. The ICFTU was dissolved on 31 October 2006 when it merged with the World Confederation of Labour (WCL) to form the International Trade Union Confederation (ITUC).
6. The World Federation of Trade Unions (WFTU) was established in 1945 to replace the International Federation of Trade Unions.

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7. The main principles of ILO are as follows:
   - Labour is not a commodity.
   - Freedom of expression and of association are essential to sustained progress.
   - Poverty anywhere constitutes danger to prosperity everywhere.
   - The war against want requires to be carried on with unrelenting vigour within each nation and by continuance and concerted international effort in which the representatives of workers and employers, enjoying equal status with those of the governments, join with them in free discussion and democratic decision with a view to promotion of common welfare.

4.6 SUMMARY

- One of the significant features of the Indian Trade Union Movement is outside leadership. The early trade union movement was led by philanthropists and social reformers.
- At present, the union depends for their leaders mainly on social workers, lawyers and other professionals and public men. A few of these have interested themselves in the movement in order to, secure private and personal ends.
- Since Independence, inter-union and intra-union rivalries, primarily based on political considerations, leading to disputes between rival sets of office-bearers of trade unions, have become sharper.
- Multiple unionism both at the plant and industry levels pose a serious threat to industrial peace and harmony in India.
- The income and expenditure of trade unions in India over the years is such, with few exceptions is bad, that the financial position of the union is generally weak, affecting their functioning.
- Immediately after India became a sovereign democratic republic, the Trade Unions Bill, 1950, concerning the recognition of trade unions through planning was accepted and a Planning Commission was constituted.
- The labour movement is a broad term for the development of a collective organization of working people, to campaign for better working conditions and treatment from their employers and governments, in particular through the implementation of specific laws governing labour relations.
- A number of international union organizations have been established in an attempt to facilitate international collective bargaining, to share information and resources and to advance the interests of workers generally.
- The International Labour Organization (ILO) has played a key role in promoting international labour standards. It was set up in 1919 under the Treaty of Versailles.

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4.7 KEY WORDS

- **International Trade:** It is the exchange of capital, goods, and services across international borders or territories.
- **Bona Fide:** Something or someone who is genuine or real.
- **Acquittances:** They are written receipts attesting the settlement of a fine or debt.

4.8 SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. Write a short-note on how multiple unions harm industrial peace.
2. Discuss the financial position of trade unions.
3. Discuss briefly the World Federation of Trade Unions.

Long Answer Questions

1. Examine the problems associated with trade unions
2. Discuss the history and evolution of trade union recognition in India.
3. Describe the origin, history, objectives and functions of the International Labour Organization.

4.9 FURTHER READINGS

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BLOCK - II
IR MACHINERY AND FUNCTIONS

UNIT 5 INDUSTRIAL RELATIONS MACHINERY: OBJECTIVES AND FUNCTIONS

Structure

5.0 INTRODUCTION

Development of any country mostly depends upon the growth of industries and business. The growth of industries is largely related to the welfare of the worker. Labour Welfare may include anything done for the intellectual, physical, moral and economic betterment of the workers, whether by employers, by Government or by other agencies such as. Trade Unions, Trusts etc

Cordial industrial relations and lasting industrial peace require that the causes of industrial disputes should be eliminated. In other words, preventive steps should be taken so that industrial disputes do not occur. But if preventive machinery fails then the Government should activate the industrial Settlement machinery because non-settlement of disputes proves to be harmful not only for the workers, but also the management and the society as a whole.

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5.1 OBJECTIVES

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

- Analyse the conventions and recommendations of the IR machinery
- Discuss the PCR rights and duties
- Describe the voluntary and statutory welfare measures
- Explain the concept of welfare funds
- Analyse the various training schemes of education

5.2 CONVENTIONS AND RECOMMENDATIONS

International labour standards are legal instruments drawn up by the ILO's constituents (governments, employers and workers) and setting out basic principles and rights at work. They are either conventions, which are legally binding international treaties that may be ratified by member states, or recommendations, which serve as non-binding guidelines. In many cases, a convention lays down the basic principles to be implemented by ratifying countries, while a related recommendation supplements the convention by providing more detailed guidelines on how it could be applied. Recommendations can also be autonomous, i.e. not linked to any convention.

Conventions and recommendations are drawn up by representatives of governments, employers and workers and are adopted at the ILO's annual International Labour Conference. Once a standard is adopted, member states are required under the ILO Constitution to submit them to their competent authority (normally the parliament) for consideration. In the case of conventions, this means consideration for ratification. If it is ratified, a convention generally comes into force for that country one year after the date of ratification. Ratifying countries commit themselves to applying the convention in national law and practice and reporting on its application at regular intervals. The ILO provides technical assistance if necessary. In addition, representation and complaint procedures can be initiated against countries for violations of a convention they have ratified.

The ILO's Governing Body has identified eight conventions as "fundamental", covering subjects that are considered as fundamental principles and rights at work: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation. These principles are also covered in the ILO's Declaration on Fundamental Principles and Rights at Work (1998). There are currently over 1,367 ratifications of these conventions, representing 91.4% of the possible number of ratifications. A further 129 ratifications are still required to meet the objective of universal ratification of all the fundamental.

The eight fundamental conventions are:

1. Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
2. Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
3. Forced Labour Convention, 1930 (No. 29)
4. Abolition of Forced Labour Convention, 1957 (No. 105)
5. Minimum Age Convention, 1973 (No. 138)
6. Worst Forms of Child Labour Convention, 1999 (No. 182)
7. Equal Remuneration Convention, 1951 (No. 100)
8. Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

India has ratified 6 out of 8 core ILO conventions. The conventions which are yet to be ratified are: Freedom of Association and Protection of Right to Organised Convention (No.87) and Right to Organise and Collective Bargaining Convention (No.98).

The ILO's Governing Body has also designated another four conventions as "priority" instruments, thereby encouraging member states to ratify them because of their importance for the functioning of the international labour standards system. The ILO Declaration on Social Justice for a Fair Globalization, in its follow-up, underlined the significance from the viewpoint of governance of these Conventions.

The four governance Conventions are:

- Labour Inspection Convention, 1947 (No. 81)
- Employment Policy Convention, 1964 (No. 122)
- Labour Inspection (Agriculture) Convention, 1969 (No. 129)
- Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)

5.3 PCR: RIGHTS, DUTIES AND FUNCTIONS

The Untouchability (Offence) Act, 1955 has been renamed as The Protection of Civil Rights, 1955.

Background

An Act to prescribe punishment for the [preaching and practice of - "Untouchability"] for the enforcement of any disability arising there from for matters connected therewith.

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Salient Provisions of the Act: Rights, Duties and Functions

- Any person who prevents a person belonging to Scheduled Caste community from entering places like a public temple, using a well, water room, hotel, inn, shall be prosecuted under the Act
- In case if a barber disagrees to cut the hair of a member belonging to Scheduled Caste or a laundryman refuses to wash his clothes, they shall also be considered as offenders under this Act.
- It would be considered an offence if a member of Scheduled Caste community is prevented from occupying a seat along with other people without any discrimination at the place of religious service or prayer at a public place in the village.
- It would also be considered an offence under this Act if a member belonging to a scheduled caste is treated with any discrimination at flour mill.
- The persons who maintain separate set of utensils for members of the Scheduled Caste at the water tank and hotel shall also be considered as offender under this Act.
- All the offences of untouchability under this Act are cognizable offences (arrest without warrant).
- There is no provision for compromise under this Act.
- A person committing an offence under this Act for the first time is punishable with a minimum of 1 month imprisonment and a fine of ₹100 and a maximum of 6 months imprisonment and a fine of ₹ 500.
- If a person commits an offence for the second time, he is liable to be punished with imprisonment for a period from 6 months to 1 year and a fine of ₹ 200 to ₹ 500.
- If a person commits an offence for the third time he is liable to be punished with imprisonment for a period from one to two years and a fine of ₹ 500 to ₹ 1000.
- If a person propagates "untouchability" or its practice in any form, an offence can be registered under this Act against such person.
- Any person who justifies, whether on historical, philosophical or religious grounds or on the ground of any tradition of the caste system or on any other ground, the practice of "untouchability" in any form, shall be considered as an offender.

5.4 WELFARE MEASURES

Let us analyse the two categories of welfare measures.

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5.4.1 Voluntary Welfare Measures

These are provided 'Voluntarily' or by 'Agreeing Mutually' with the workers. The non-statutory schemes differ from organization to organization and from industry to industry. Non-statutory welfare schemes include the following schemes:

1. **Personal Health Care (Regular medical check-ups):** Some of the companies provide the facility for extensive health check-up.
2. **Flexi-time:** The main objective of the flexitime policy is to provide opportunity to employees to work with flexible working schedules. Flexible work schedules are initiated by employees and approved by management to meet business commitments while supporting employee personal life needs.
3. **Maternity & Adoption Leave**: Employees can avail maternity or adoption leaves. Paternity leave policies have also been introduced by various companies.
4. **Employee Assistance Programs**: Various assistant programs are arranged like external counselling service so that employees or members of their immediate family can get counselling on various matters. (Eg. SCL-Talk to ME)
5. **Harassment Policy**: To protect an employee from harassments of any kind, guidelines are provided for proper action and also for protecting the aggrieved employee. (E.g.: SCL- awareness posters)
6. **Mediclaim Insurance Scheme**: This insurance scheme provides adequate insurance coverage of employees for expenses related to hospitalization due to illness, disease or injury or pregnancy.
7. **Employee Referral Scheme**: In several companies employee referral scheme is implemented to encourage employees to refer friends and relatives for employment in the organization.

5.4.2 Statutory Welfare Measures

Factories Act, 1948 prescribed a separate chapter for welfare related provisions:

Washing facilities (Sec. 42).—In every factory— (a) adequate and suitable facilities for washing shall be provided and maintained for the use of the workers therein; (b) separate and adequately screened facilities shall be provided for the use of male and female workers; (c) such facilities shall be conveniently accessible and shall be kept clean.

Facilities for storing and drying clothing (Sec. 43).—The State Government may, in respect of any factory or class or description of factories, make rules

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requiring the provision therein of suitable places for keeping clothing not worn daring working hours and for the drying of wet clothing.

Facilities for sitting. **(Sec. 44)**—In every factory suitable arrangements for sitting shall be provided and maintained for all workers obliged to work in a standing position, in order that they may take advantage of any opportunities for rest which may occur in the course of their work.

First-aid appliances. (Sec. 45)—There shall in every factory be provided and maintained so as to be readily accessible during all working hours first-aid boxes or cupboards equipped with the prescribed contents, and the number of such boxes or cupboards to be provided and maintained shall not be less than one for every one hundred and fifty workers ordinarily employed 1 [at any one time] in the factory.

Canteens. **(Sec. 46)—**The State Government may make rules requiring that in any specified factory wherein more than two hundred and fifty workers are ordinarily employed, a canteen or canteens shall be provided and maintained by the occupier for the use of the workers.

Shelters, rest rooms and lunch rooms. **(Sec. 47)**—In every factory wherein more than one hundred and fifty workers are ordinarily employed, adequate and suitable shelters or rest rooms and a suitable lunch room, with provision for drinking water, where workers can eat meals brought by them, shall be provided and maintained for the use of the workers: Provided that any canteen maintained in accordance with the provisions of section 46 shall be regarded as part of the requirements of this sub-section: Provided further that where a lunch room exists no worker shall eat any food in the work room.

Crèches. **(Sec. 48)**— In every factory wherein more than 2 [thirty women workers] are ordinarily employed there shall be provided and maintained a suitable room or rooms for the use of children under the age of six years of such women.

Welfare officers. **(Sec. 49)**—In every factory wherein five hundred or more workers are ordinarily employed the occupier shall employ in the factory such number of welfare officers as may be prescribed.

5.4.3 Welfare Funds

Labour welfare fund is a statutory contribution managed by individual state authorities. The state labour welfare board determines the amount and frequency of the contribution. The contribution and periodicity of remittance differs with every state. In some states the periodicity is annual (Andhra Pradesh, Haryana, Karnataka, Tamil Nadu, etc) and in some states it is to be contributed during the month of June & December (Gujarat, Madhya Pradesh, Maharashtra, etc).

Labour welfare is an aid in the form of money or necessities for those in need. It provides facilities to labourers in order to improve their working conditions, provide social security, and raise their standard of living.

To justify the above statement, various state legislatures have enacted an Act exclusively focusing on welfare of the workers, known as the Labour Welfare Fund Act. The Labour Welfare Fund Act incorporates various services, benefits and facilities offered to the employee by the employer. Such facilities are offered by the means of contribution from the employer and the employee. However, the rate of contribution may differ from one state to another.

5.5 EDUCATION AND TRAINING

Training is undertaken by organizations to improve the performance, quality, skill and knowledge of their employees. Thus, it is a vital phase in the development of industrial relations.

Training: Concepts and Features

McFarland defines several concepts used in the development of human resources. Although training and education are closely connected, these concepts differ from each other in crucial ways. While the term 'training' relates to imparting specific skills for specific objectives, the term 'education' involves the development of the whole individual socially, intellectually and physically. Accordingly, training forms only a part of the entire educational process. Moreover, education is more akin to the concepts of growth and development than training. The term development can be defined as the nature and direction of change taking place among personnel through educational and training processes.

Nature of tasks and responsibilities as a determinant

The relative amount of training and education changes with the nature of tasks and responsibilities in organizational settings. As one goes upward in the organization, the requirement of training usually diminishes and the requirement of education goes up. Explicitly, non-managerial personnel require more job or trade-related skills than managerial personnel demanding the generalized conceptual skills and human relations insights. Accordingly, there is a difference between employee training and management development. Thus, employee training relates to the process by which non-managerial employees are imparted job skills. This type of training is largely task-centred instead of career-centred, and supplements basic skills and job training obtained in trade schools.

Development as applied to managers

On the other hand, development as applied to managers involves the processes by which managerial personnel accomplish not only skills in their present jobs, but also competence for prospective assignments of enhanced difficulties and scope. The higher responsibilities embrace complex conceptual thoughts and analyses, and decision-making abilities. The development process relates to the pressures, changes and growth patterns. Thus, development as applied to managers embraces

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all those recognized and controlled measures, which exert a marked influence towards the improvement of abilities of the participant to accomplish his present job more effectively, and enhance his potential for prospective higher responsibilities.

Narrow and broad perspectives

However, Dunn and Stephens do not limit the term 'development' to managerial personnel only. According to them, 'Training refers to the organization's efforts to improve an individual's ability to perform a job or organizational role, whereas development refers to the organization's efforts (and the individual's own efforts) to enhance an individual's abilities to advance in his organization to perform additional job duties.' Thus, training provides knowledge and skills required to perform the job. It may involve showing a lathe operator how to produce a new component, demonstrating to supervisors how to handle grievances, and improving a plant manager's skill to negotiate a contract with the trade union. Accordingly, training can be viewed as job-oriented leading to an observable change in the behaviour of the trainee in the form of increased ability to perform the job.

On the other hand, although development is still job-related, it is much broader in scope. This is implied in management development programmes purporting to prepare managers for higher level positions. It enhances general knowledge related to a job as well as the ability to adapt to change. Thus, training is narrow in scope and largely relates to the acquisition of skills, while development embraces a broader scope. The concept of 'education' relates to the acquisition of knowledge of a general nature.

Present and future orientations

Thus, as Fitzgerald observes, training provides employees with specific skills or helps them to overcome deficiencies in their present performance. On the other hand, development provides employees with that the abilities that the organization will need in the future.

Training versus development

According to Yoder, although the terms 'training' and 'development' appear synonymous, there is a recognized difference between these concepts. Earlier, training programmes stressed preparation for an improved performance in largely specific rank-and-file jobs. With the growth of organizations, several problems developed specifically at the supervisory level. Accordingly, supervisory training programmes were launched enabling them to deal with distinctive problems. During the training of the supervisors, the need to train their bosses appeared significant. Therefore, special developmental programmes for middle managers were organized. Later on, the development programmes were started for the top management as well. These programmes indicated the significance of the concept of development, and thus training appeared to be an improper designation for learning a wide variety of complex, difficult and intangible functions of managerial personnel.

Thus, the concept 'training' was degraded. As managers themselves remarked, 'training is for dogs, people are developed'. Today, the terms 'development' and 'education' are more suitable than the term 'training'. It is not the training but the full development of personality that enables the human resources to exert their full potential. Accordingly, training and development programmes are combined together for developing skills as well as basic attitudes, leading to a continued personal growth. These programmes purport to improve job performance, minimize waste and scrap, prepare individuals for promotions, reduce turnover, enable individuals to accept organizational changes, facilitate understanding of the organizational goals and attain allied behavioural objectives. Obviously, the basic problem in development is to integrate the individual's achievement, motivation and self-interest with the goals of the organization.

Difference from four standpoints

Likewise, Gomez-Mezia et al. visualized that training tends to focus on immediate organizational needs, while development focuses on long-term requirements. While the scope of development is on the whole work group of the organization, the scope of training is restricted to an individual employee. The two concepts also differ vis-à-vis their goals. While training overcomes current skill deficiency, development prepares the employees for future work demands. Training is concerned with the current job, whereas development relates to both current and future jobs. Accordingly, it is necessary to remember these differences while evolving and evaluating training programmes.

Thus, the use of training programmes to influence long-range issues is likely to be ineffective. In the same way, the use of a development programme to improve current job performance will be futile.

Aims and Objects

Obviously, training provides a measure for modifying employee behaviour involving complex attitudes, knowledge and understanding and improving organizational effectiveness. Attempts are being made to determine the training needs for the entire organization rather than its specific departments and also to involve the top management in this programme. There is an urgent need for overcoming resistance to a training programme by demonstrating the concrete results of training, allowing the line personnel to determine its specific needs and perform its own training as much as possible. This approach ensures interest and involvement of the line personnel and minimize conflicts between the line and staff personnel.

5.5.1 Schemes

In this country we can identify three different classes of managers. In the early days of business enterprise in India, a businessman was supposed to be born and so was a manager. This has created a class of high priests of business management who monopolized most of the entrepreneurship and the control of industries in this

country. With the advent of institutes of management and other institutions conferring degrees and diplomas in business administration, another class of managers—the professional managers—has been created in the industrial society. If in the earlier generation, managers were 'born', in the new generation they achieved managership. There is also a third class of business administrators on whom managership is 'thrust'; they are civil servants or bureaucrats of the public enterprises who have come into prominence from the time the business of government was no longer confined to the government of the country but was extended to the government of business.

In as much as management is now regarded as a profession, formal training for it becomes necessary like all professional education. However, in India until very recently, managers were expected to learn their job through experience or through job rotation. Recently, a welcome change is noticeable in more progressive organizations. Many organizations send their top and middle management members to attend executive development programmes organized by various staff colleges and professional institutions.

A survey of the existing status of management training in India will be useful. In-service training in management subjects was introduced in India during the 1930s by companies owned by foreigners. At that time the university system did not offer any teaching programmes in management except in a few subjects, such as accounting, finance, commerce and economics as part of the existing commerce curriculum.

The establishment of the Indian Institute of Social Welfare and Business Management in 1945 marks the beginning of management education in India. In that year the Institute started the Diploma Course in Social Work (Labour Welfare). This institute enjoys the pride of position being the forerunner both in the field of education in personnel management as well as business and industrial management.

The first major effort to establish management education in India started in the early 1950s when the government sought the cooperation of the International Labour Organization, the Ford Foundation and some American Universities like Massachusetts Institute of Technology. Following the recommendations of the ILO and the Urwick Orr Missions to India, the government established a Productivity Centre at Bombay which has since then run training courses in management techniques and related subjects. It was in the 1950s that a number of universities started part-time and full-time courses in management.

NPC: Established by the Ministry of Industrial Development, the National Productivity Council with as many as 30 local councils runs a large number of training courses in industrial engineering.

Universities: During the 1950s, seven universities including Calcutta, Bombay, Delhi and Andhra started management education, mostly as three-year part-time diploma course in business and industrial management. Today, 30 universities run two-year Master's level programmes and three-year post-graduate

part-time diploma courses. Calcutta University has recently introduced a Masters in business management (MBM) course and Burdwan University has introduced a Diploma in industrial relations and personnel management (DIRPM) course, which is equal to Diploma in social work (DSW) course.

Institutes of management (IIM): It was, however, with the establishment of the two institutes of management by the Government of India—one in Calcutta and the other in Ahmedabad—that management education in this country has got a tremendous boost. Both these institutes did pioneering work in taking Indian management education to levels comparable to those in advanced countries. The IIM Calcutta has a tie-up with the Massachusetts Institute of Technology, and the IIM Ahmedabad with Harvard University. In addition to the Master's level programmes and the Ph. D. level programme, these institutes conduct a number of short programmes designed for senior and middle management personnel.

The Government of India established the third national management institute at Bangalore in 1972. It offers a two-year post-graduate programme with orientation toward the needs of the public sector. The fourth IIM has been set up at Lucknow.

The National Institute for Training in Industrial Engineering came into existence in 1963. Though designed for instructions in industrial engineering, it has since added a large number of management programmes to its repertoire and has been running them successfully.

Banks: The National Institute of Bank Management in Bombay came into being in the 1960s, endowed and patronized by the Association of Banks and the Reserve Bank. It conducts training courses for bank personnel and is engaged in a considerable amount of research relating to the banking sector. The Institute of Financial Management was established in Madras mainly to evolve study and offer instruction in the novel and emergent principles of development banking. It receives financial support from the Industrial Credit and Investment Corporation of India and other financial institutions.

In 1974, the Management Institute was established at Delhi. This is being supported by financial institutions and runs a large number of short courses for senior and top management personnel employed by financial institutions as well as for client companies. The nationalized banks have established their own staff training institutes to train their personnel. The Reserve Bank of India has two such institutes for in-service training—one at Bombay and the other at Madras.

Defence: The Defence Institute of Work Study was established in the 1960s at Mussourie. It runs short-term programmes for training Defence personnel. The Institute of Defence Management came into being during the mid-1960s at Hyderabad. It runs a number of short- and long-duration courses in management. Over the last few years, an attempt has been made to introduce management courses in other teaching institutes of the Ministry of Defence, such as College of Military Engineering at Pune and the Defence Staff College at Wellington in the Nilgiris.

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Public administration: The Indian Institute of Public Administration at Delhi runs a number of courses on management subjects in addition to its own courses dealing with public administration proper.

Small industry: The Small Industries Extension Training Institute at Hyderabad was established in the 1950s by the Ministry of Industry. It has been conducting a large number of short courses in management and entrepreneurship suited to the needs of small industry. There are a few Small Industry Service Institutes (SISI) located in important cities in India which run programmes mostly for the development of entrepreneurial talent.

Sectoral institutes: The following institutes run management courses with specialized course of study: (1) the Ahmedabad Textile and Industrial Research Association, (2) The South Indian Textile Research Association, Coimbatore, (3) Sri Ram Centre for Industrial Relations, Delhi, (4) The Institute of Social Studies, Delhi, (5) Vaikunth Mehta National Institute of Co-operative Management, Poona, and (6) National Institute of Labour Management, Mumbai.

Numerous private organizations such as Datamatics Corporation, Davar's College and Bharatiya Vidya Bhavan, run short courses and evening classes in management subjects. International Institute of Management Sciences, Kolkata, runs regular as well as correspondence classes in management.

Professional bodies also offer a number of part-time management courses, e.g., The Indian Institute of Industrial Engineers, the National Association of Material Engineers, the Computer Society of India, the Institute of Production Engineers, the O&M Society, the Operations Research Society of India, and the Indian Institute of Personnel Management.

Industrial enterprises: Perhaps the largest input of short-term courses in management comes from the business and industrial sectors. Many organizations have their own staff college. Hindustan Aeronautics at Bangalore, the Hindustan Steel Staff College at Ranchi, the Hindustan Lever Staff College at Mumbai and the Bharat Heavy Electrical Staff College at Tiruchirapally deserve special mention.

Management today is faced with numerous challenges emanating from all possible quarters. Management today has to tackle problems which were unknown to its predecessors even a decade back and this has made management all the more challenging. The challenges call for managers with better competence, greater creativity, higher standard of integrity and added resourcefulness. Herein lies the pivotal role of management education to revive, nourish and sharpen talents and faculties for fruitful and purposeful action. Gone are the days of intuitive management or management by the rule of the thumb. We can neither afford to wait for the 'genius' to appear anymore, nor can we undertake management on trial and error basis. Both these techniques have outlived their utility.

In the context of dynamic challenges, managements have necessarily to reorient their outlook, approach and attitude. Management must keep pace with

the time. This calls for management training as the best insurance for continued growth and success as against obsolescence and decay.

Management education in India has been under fire for some time. There is a mismatch between the quality of graduates turned out by most management institutes and what the country needs. It is simply degenerating into a sort of new 'public school education' producing more of 'mods' and 'Beatles'. Management education will lose its significance if it cannot relate itself to the problems and needs of the country; management education in our country should be tailor-made. Unless the training programmes are adjusted to specific needs, there is the risk of dilution of efforts which needs to be certainly avoided. The blind imitation of foreign styles of management may not be good for the country. We must not attempt to plan something that is alien to the environment and will not give the desired result.

Management training is as yet a very much neglected aspect of management in India. The training aspect of personnel management has not taken roots in our country yet and there is a lack of proper appreciation for the value of training. In many cases, training officers have been appointed just to maintain the image of a progressive outlook. Nevertheless, the realization of the role of training as a management tool is gaining ground.

The Central Board for Workers Education (CBWE) is an autonomous body under the Ministry of Labour & Employment, Government of India. It is registered under the Societies Registration Act, 1860. Started in 1958, the Workers Education Scheme in India has been playing a very significant role in our national development; creating an enlightened and disciplined work force and bringing about desirable behavioural changes in our workforce in the organized, unorganized and rural sectors.

The Scheme of Workers Education aims at achieving the objectives of creating and increasing awareness and educating the workforce for their effective participation in the socio-economic development of the country. To achieve these objectives, various training programmes are conducted by the Board for the workers of formal and informal sectors at national, regional and unit levels through a network of 50 Regional and 09 Sub-Regional Directorates spread all over the country and an apex Training Institute viz. Indian Institute of Workers Education (IIWE) at Mumbai.

To change the mind-set to facilitate promotion of harmonious industrial relations many programmes are conducted by the Board such as:

- Advanced Training Programme for Activists of Trade Union Organizations/Federations
- Joint Educational Programme for New Members of Joint Councils at Enterprise Level
- Joint Educational programme on Participative Management

- Personality Development Programme
- Programme for Training of Trainers
- Need based seminars

NOTES

The Board imparts training to the different segments of workers. The training programmes cover workers from the following sectors:

- Organised Sector
- Unorganised Sector
- Rural Sector

Organised Sector

First level – training is given to the candidates selected through a country-wide advertisement for employment as Education Officers under the Board. After successful completion of training at IIWE, Mumbai, these Education Officers are posted at different Regional Directorates.

Second level, workers from different establishments, sponsored by the Trade Unions and released by employers, are trained at the Regional Directorates. The workers so trained are called Workers Trainers.

Third level, which is the most important level, the Workers Trainers conduct classes for the rank and file of workers in their respective establishments.

Unorganised Sector

The Board has taken task of educating the workers of unorganised sector with a view to develop awareness about their problems. The workers of following units are covered under these programmes:

- Handloom
- Powerloom
- Khadi and Rural Industries
- Industrial Estates
- Small Scale Industries
- Handicrafts
- Sericulture
- Coir Industries
- Beedi Industries
- Other Categories

Rural Sector

The Board has launched the rural workers education scheme in 1977-78 with the following objectives:

- To promote among rural workers, awareness of the problems of their socio-economic environment and their privileges and obligations as workers, as members of the village community and as citizens;
- To educate rural workers to enhance their self-confidence and build up a scientific attitude;
- To educate the rural workers in protecting and promoting their individual and social interests'
- To educate rural workers in developing their organizations through which they can fulfil socio-economic functions and responsibilities in rural economy and strengthen democratic, secular and socialist fibre of rural society; and
- To motivate rural workers for family welfare planning and to combat social evils.

Check Your Progress

1. What are international labour standards?
2. State the four governance conventions.
3. What is a labour welfare fund?

5.6 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. International labour standards are legal instruments drawn up by the ILO's constituents (governments, employers and workers) and setting out basic principles and rights at work.
2. The four governance conventions are:
   - Labour Inspection Convention, 1947 (No. 81)
   - Employment Policy Convention, 1964 (No. 122)
   - Labour Inspection (Agriculture) Convention, 1969 (No. 129)
   - Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)
3. Labour welfare fund is a statutory contribution managed by individual state authorities. The state labour welfare board determines the amount and frequency of the contribution. The contribution and periodicity of remittance differs with every state.

5.7 SUMMARY

- International labour standards are legal instruments drawn up by the ILO's constituents (governments, employers and workers) and setting out basic

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principles and rights at work. They are either conventions, which are legally binding international treaties that may be ratified by member states, or recommendations, which serve as non-binding guidelines.

- Conventions and recommendations are drawn up by representatives of governments, employers and workers and are adopted at the ILO's annual International Labour Conference.
- The ILO's Governing Body has identified eight conventions as "fundamental", covering subjects that are considered as fundamental principles and rights at work: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation.
- The ILO's Governing Body has also designated another four conventions as "priority" instruments, thereby encouraging member states to ratify them because of their importance for the functioning of the international labour standards system.
- Voluntary welfare measures are provided 'Voluntarily' or by 'Agreeing Mutually' with the workers. The non-statutory schemes differ from organization to organization and from industry to industry.
- Labour welfare fund is a statutory contribution managed by individual state authorities. The state labour welfare board determines the amount and frequency of the contribution. The contribution and periodicity of remittance differs with every state.
- The relative amount of training and education changes with the nature of tasks and responsibilities in organizational settings. As one goes upward in the organization, the requirement of training usually diminishes and the requirement of education goes up.
- According to Yoder, although the terms 'training' and 'development' appear synonymous, there is a recognized difference between these concepts. Earlier, training programmes stressed preparation for an improved performance in largely specific rank-and-file jobs.
- Likewise, Gomez-Mezia et al. visualized that training tends to focus on immediate organizational needs, while development focuses on long-term requirements. While the scope of development is on the whole work group of the organization, the scope of training is restricted to an individual employee.

5.8 KEY WORDS

- **Convention:** A convention, in the sense of a meeting, is a gathering of individuals who meet at an arranged place and time in order to discuss or engage in some common interest.

- **Protection of Civil Rights**: An Act to prescribe punishment for the (Preaching and Practice of "Untouchability") for the enforcement of any disability arising there from and for matters connected therewith.

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5.9 SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. What are the eight fundamental conventions?
2. Write a short note on welfare funds.
3. Differentiate between training and development.
4. State the objectives of the rural sector.

Long Answer Questions

1. Analyse the rights, duties and functions of PCR.
2. Differentiate between the voluntary and statutory welfare measures.
3. 'The Board imparts training to the different segments of workers–unorganized, organised and rural.' Discuss.

5.10 FURTHER READINGS

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UNIT 6 INDUSTRIAL RELATIONS: CONCEPT AND ROLE OF DIFFERENT PARTIES

Structure

6.0 INTRODUCTION

In this unit, you will learn about the concept and social obligations of industrial relations. Industrial relations deal with the relationship between labour and management and their organization. The concept of 'industrial relations' is very broad and includes in its fold all the relationships in modern industrial society which arise out of employee-employer relationships and also the role of the state in these relations.

Explaining the concept of industrial relations, R.A. Lester observed: 'It involves attempt to workable solutions between conflicting objectives and values—between incentive and economic security, between discipline and industrial democracy, between authority and freedom and between bargaining and cooperation.' According to Professor Dunlop, an industrial relations system is regarded as comprising certain groups, certain contexts and a body of rules created to govern the interaction of the groups at the workplace.

6.1 OBJECTIVES

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

- Discuss the meaning, scope and objectives of industrial relations
- Identify the problems of industrial relations
- Describe the approaches to industrial relations
- Assess the significance of industrial relations
- Explain the principles of good industrial relations

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6.2 CONCEPT OF INDUSTRIAL RELATIONS

Industrial relations is a dynamic socio-economic process. It is a 'designation of a whole field of relationships that exist because of the necessary collaboration of men and women in the employment processes of industry'. It is not the cause but an effect of social, political and economic forces.

It has two faces like a coin—cooperation and conflict. The relationship, to use Hegal's expression, undergoes change from thesis to antithesis and then to synthesis. Thus, the relationship starting with cooperation soon changes into conflict and after its resolution, again changes into cooperation. This changing process becomes a continuous feature in an industrial relation.

Meaning, Concept and Scope of Industrial Relations

Industrial relations deal with the relationship between labour and management, and their organization. The concept of 'industrial relations' is very broad and includes in its fold all the relationships in modern industrial society which arise out of employee-employer exchanges and also the role of the state in these relations. Explaining the concept of industrial relations, R A Lester observed:

It involves attempt to workable solutions between conflicting objectives and values—between incentive and economic security, between discipline and industrial democracy, between authority and freedom and between bargaining and cooperation.

According to the Encyclopaedia Britannica, 'the concept of industrial relations has been extended to denote the relations of the state with employers, workers and their organizations'.

The International Labour Organization (ILO), while dealing with industrial relations, states that they deal with either the relationship between the State and employers and workers' organization or between the occupational organizations themselves.

The significance of industrial relations is aptly described by the (First) National Commission on Labour (1969) as follows:

> A quest for industrial harmony is indispensable when a country plans to make economic progress. Economic progress is bound up with industrial harmony for the simple reason that industrial harmony leads to more cooperation between employers and employees which results in more productivity and thereby contributes to all-round prosperity of the country. Healthy industrial relations on which industrial harmony depends cannot, therefore, be regarded as a matter in which employers and employees are concerned. It is of vital significance for the community as a whole.

The scope of industrial relations varies from time to time and place to place. According to Professor Richardson, the scope of industrial relations includes: 'How people get on together at their work, what difficulties arise between them, how

their relations including wages and working conditions are regulated, and what organizations are set up for the protection of different interests.'

Objectives of Industrial Relations

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It is difficult to precisely lay down the objectives of industrial relations. However, various authors on the subject attempted to highlight the main objectives of industrial relations.

Nair and Nair citing Kirkaldy (1947) state that there are four objectives for industrial relations:

(*i*) To improve economic conditions of workers;

(*ii*) For state control on industries for regulating production and promoting harmonious industrial relations;

(*iii*) For socialization or rationalization of industries by making state itself a major employer;

(*iv*) For vesting of the proprietary interest of the workers in the industries in which they are employed.

The objectives of industrial relations require examinations of following key features:

(*i*) ***Employer to individual employee relationships*:** This relates to management's policies and practices that ultimately affect the productivity and well-being of their employees as individuals. With a view to optimizing the interests of the employer and those of employees, necessary steps need be taken which may cover wages and salary administration, career prospects inclusive of planning and promotion, retirement and medical benefits, discipline and redressal of grievances, training and development, counselling, workers' compensation and other related issues such as insurance.

(*ii*) ***Management relations with trade union or group of workers:*** It covers rights and practices, regulated by law or legal machinery. It relates to:

(*a*) Collective agreements

(*b*) Settlement of industrial disputes

(*c*) Management's rights

(*d*) Formation and recognition of unions as representative body of workers

Another focus of labour management relations are health, safety and welfare of workers.

(*iii*) ***Industrial peace and productivity:*** One of the most important object of industrial relations is to maintain industrial peace and harmony and, thereby, increase productivity. It depends on the quality of union-management relations at workplaces.

Significance of Industrial Relations

The significance of industrial relations is aptly described by the (First) National Commission on Labour (1969). According to it "a quest for industrial harmony is indispensable when a country plans to make economic progress. Economic progress is bound up with industrial harmony for the simple reason that industrial harmony leads to more cooperation between employers and, employees which results in more productivity and thereby contributes to all-round prosperity of the country. Healthy industrial relations on which industrial harmony depend cannot, therefore, be regarded as a matter in which employers and employees are concerned. It is of vital significance for the community as a whole."

Approaches to Industrial Relations

The important approaches to industrial relations are discussed as follows:

1. Psychological approach

It is based on the following assumptions:

- The general impression about a person is radically different when he is seen as a representative of management from that of the person as a representative of labour.
- The management and labour see each other as deficient in thinking regarding emotional characteristics and interpersonal relations.
- The management and labour see each other as less dependable

2. Sociological approach

It is based on the following assumptions:

- Industry is social world.
- Various individuals and groups.
- Social change cannot be overlooked.
- Role of state and political parties.
- Industrial relations are determined by power.
- Difference in individual attitudes and behaviour create problems.

3. Human relations approach

It is based on the following assumptions:

- Industrial relations are basically a problem of human relations, and are influenced, if not conditioned, by all the complex circumstances that affect the latter.
- While the apparent causes of good or bad labour management relations may not be difficult to classify, the real causes underlying outward and visible signs, over which there is seldom any unanimity, have their roots in historical,

NOTES

political, socio-economic factors and depend upon attitudes of workers and employers.

- Many times, work-stoppages which can be apparently ascribed to some simple demand, namely, economic or personnel, are found, on a deeper examination, to have complex roots in the social and cultural attitudes of the worker involved.
- At times, though strikes take place because of certain economic demands, harmonious relations are not necessarily restored even after the monetary benefits demanded are granted to workers.
- On the contrary, it is also possible that even without the apparent demand being satisfied or conceded, good relations are restored once the deeper cause, be it political, social or economic is properly tackled.
- A change in the leadership in the workers' union or a change in the management may radically alter the basic relationship between the management and the workers. As such, a particular state of industrial relations cannot be viewed in isolation from the political, social and economic characteristics obtaining therein nor the remedies to correct certain situations developed without giving due consideration to such factors.

4. Socio-ethical approach

It is based on the following assumptions:

- Labour–management relations survive within the social, economic and political structures of society.
- The aim of labour–management relations may state as maximum productivity. This would lead to fast economic growth and considerable understanding among employers, workers and the government.

5. Gandhian approach

It is based on the following assumptions:

- Any industrial relation should be based on fundamental principles of truth and non-violence.
- The worker is expected to seek redressal of reasonable demands only through collective action; he should avoid strikes and unionism.

Principles of Good Industrial Relations

Good industrial relations are based on the following principles:

- To provide fair redressal of employee grievance
- To provide satisfactory working conditions
- To pay fair and reasonable wages
- To develop infrastructure for training and education of employees

- To provide a proper communication system between employer and employee
- To motivate employees to adapt themselves for technological, social and economic changes
- To motivate employees to contribute to economic development of the country
- To recognize importance of collective bargaining

Contextual Framework

The relationship between labour and management is based on mutual adjustment of interests and goals. It depends upon economic, social and psychological satisfaction of the parties. Higher the satisfaction, healthier the relationship. In practice it is, however, found that labour and capital constantly strive to maximize their pretended values by applying resources to institutions. In this effort they are influenced by and are influencing others. Both of them try to augment their respective income and improve their power position.

The major issues involved in the industrial relations process are terms of employment such as wages, dearness allowances, bonus, fringe benefits, working conditions, leave, working hours, health, safety and welfare, non-employment, job security, personnel issues such as discipline, promotional opportunities and recognition of trade unions. However, in view of sharply divided and vociferously pressed rival claims, the objectives of labour and management are not amenable to easy reconciliation. This is all the more so because the resources are limited. Be that as it may, the means adopted to achieve the objectives which vary from simple negotiation to economic warfare adversely affect the community's interest in maintaining an uninterrupted and high level of production. Further, in a country like India where labour is neither adequately nor properly organized, unqualified acceptance of the doctrine of 'free enterprise', particularly between labour and management, strengthens the bargaining position of the already powerful management.

It is apparent that the State, with its ever-increasing emphasis on welfare aspect of a governmental activity, cannot remain a silent and helpless spectator in the economic warfare. The legislative task of balancing the conflicting interest in the arena of labour-management relations proves to be an extremely difficult one, in view of mutually conflicting interests of labour and management. The substantive issues of industrial relations are of perennial nature and thus, there can never be a 'solution for all times to come.' There can only be broad norms and guidelines as criteria in dealing with issues of industrial relations. The law plays an important role in shaping the structure of industrial relations. It represents the foundation from which the present system and procedure flows to deal with the problems of industrial relations.

Dimensions of the problems of industrial relations

India is primarily an agricultural country. As per the Census of India, 2001, the total employment in both organized and unorganized sector in the country was of the order of 40.22 crore. Out of this, about 2.65 crore were in the organized sector and the balance 37.57 crore in the unorganized sector. Out of 37.57 crore workers in the unorganized sector, 23.7 crore workers were employed in agriculture sector, 1.7 crore in construction, 4.1 crore in manufacturing activities and 3.7 crore each in trade and transport, communication and services. The workers in the unorganized sector fall in various categories but a large number of them are home-based workers engaged in occupations like *beedi* rolling, *agarbatti* making, *pappad* making, tailoring, *zari* and embroidery work. However, the largest chunk of unorganized labour, namely, 60 per cent being agricultural workers and cultivators including small and marginal farmers, who are badly in need of legal/social protection, have been left out. Be that as it may, the importance of industry cannot be minimized. Said J L Nehru:

> The alternative (to industrialization) is to remain backward, underdeveloped, poverty-stricken and a weak country. We cannot even retain our freedom without industrial growth.

According to a survey conducted by the National Sample Survey Organization in the year 2004–2005, out of 45.9 crore which constitute the total labour force, 43.3 crore persons are engaged in unorganized labour which constitutes 93 per cent of work force. They are denied job security, social security and other benefits. Most of the labour force, particularly in the unorganized sector, is unskilled, underemployed, self-employed, casual and unprotected. Rural development is essential for upgrading the living conditions of the overwhelming majority of people and providing minimal economic sustenance to the poverty-stricken sections of the community. But, industrial development is necessary for affluence and for bringing the benefit of scientific and technological progress to all sections of the community.

Out of the total of 40.22 crore in terms of 2001 census and 45.9 crore in terms of estimate of National Sample Survey 2004–2005, 12.7 crore were cultivators, 10.6 crore were agricultural labourers, 1.6 crore were in household industries and 15.1 crore were other workers. Most labour legislation is not applicable to them. However, an important recent initiative taken by the Ministry of Labour and Employment to safeguard the interest of unorganized workers has been the enactment of the Unorganized Workers' Social Security Act, 2008. The Act provides for constitution of National Social Security Board which will recommend formulation of social security schemes for unorganized workers from time to time. Accordingly, the National Board was constituted in 2009 which recommended that the social security schemes viz; *Swavalamban Yojna, Rashtriya Swasthya Bima Yojana* (RSBY) providing for health insurance, *Janashree Bima Yojana* (JBY) providing death and disability cover and Indira Gandhi National Old Age Pension Scheme (IGNOAPS) providing for old age pension which may

be extended to building and other construction workers, MNREGA workers, Asha workers, Anganwadi workers and helpers, porters/coolies/gangmen and casual and daily wagers.

Industrial unrest and work-stoppages

The importance of sustained industrial production underlines the need of avoiding work-stoppages and loss of production. The economics of work-stoppages may be recapitulated. Between 1921 and 2010, India lost about 8.62 million man-days in work-stoppages caused by industrial disputes between workmen and employers.

The alarming magnitude of the statistical data is even more awe-inspiring considering that in the 2001 census, 402.3 million workers were at a standstill for about 5 days. If one were to add the secondary and tertiary effects of work stoppages, the figures would be gigantic. Thus, it is said that India loses the highest number of man-days and has the highest rate of absenteeism.

Barriers to Improving Industrial Relations

Unemployment and underemployment are the most important economic evils in a welfare state. India is no exception. In India, one-sixth of the total population of the country is either unemployed or chronically underemployed. As per the Government of India report, upto the end of June, 2009, 1.07 lakh pensions had been placed on employment exchange. The total number of jobseekers by June, 2009 were about 2 lakh. These are the phenomena of Indian industries that have affected to a considerable extent the standard of living and have also created disparity in the working class. They have hampered the growth of the labour movement and trade unions. Political parties may take advantage of the unemployed millions and divert them from the search for gainful employment towards unproductive political actions. Further, underutilization of human resources in the agricultural sector is likely to divert agriculturist section of job-seekers to industrial sectors. Unemployment poses a serious threat to development programmes. Government planners should be sensitive to the present problem of unemployment. Labour law can be modelled or remodelled to implement law, policies and programmes to provide relief to unemployed.

Other difficulties in healthy growth of industrial relations through labour law policy

1. ***Low wages:*** Discontent amongst industrial workers revolves round the question of wages. Low wages figure prominently both in industrial and agricultural sectors.
2. ***Ignorance and illiteracy:*** Another malady of Indian workers is illiteracy. Out of 2.81 million workers employed in tea plantations, mines, jute, cotton textiles, iron, and steel, 2.08 million workers are illiterate. The workers do not fully realize the social and economic implications of the modern industrial

NOTES

system and evils arising therefrom and, therefore, are less likely to insist on reforms. Lack of education among industrial workers has also given rise to the evolution of outside leadership.

Access to regular employment is mainly limited to better educated workforce. Only 4 per cent of illiterate workforce has access to regular employment. In contrast, approximately 40 per cent of them are casual labourers. Only 9 per cent workers with primary education have access to regular employment while an overwhelming 35 per cent of them are casual labourers. The table below tabulates the percentage distribution of workers with different levels of education by employment status in 2004–05.

Similarly, workers with higher educational achievements are likely to get higher wages as compared to those who are less educated. Again, as in case of access to regular employment, wages increase significantly only after certain thresholds of educational status (say secondary level) are reached both in rural as well as urban areas. In rural and urban areas, there is not much difference in wages of illiterates and of those up to primary level of education. Even middle level of education brings marginal difference in daily earnings. Wages increase significantly only after minimum secondary level of education.

For growth to be inclusive, it must create adequate livelihood opportunities and add to decent employment commensurate with the expectations of a growing labour force. The Eleventh Five Year Plan (2007-12) aimed at generation of 58 million work opportunities. The NSSO quinquennial survey has reported an increase in work opportunities to the tune of 18 million under the current daily status (CDS) between 2004-5 and 2009-10. However, the overall labour force expanded by only 11.7 million. This was considerably lower than in comparable periods earlier, and can be attributed to the much larger retention of youth in education and also because of lower labour force participation among working-age women. As a result, unemployment in absolute terms came down by 6.3 million. The lower growth in the labour force is not expected to continue as educated youth are expected to join the labour force in increasing numbers during the Twelfth Plan and in the years beyond. This means that the pace of job/livelihood creation must be greatly accelerated. The Twelfth Plan Approach Paper, therefore, lays greater stress on skill building which can be viewed as an instrument for improving the effectiveness and contribution of labour to overall production. This will push the production possibility frontier outward and take the economy on to a higher growth trajectory and can also be viewed as a means of empowerment.

3. ***Heterogeneity:*** Another characteristic of Indian labour is its heterogeneity. India is 'a vast country where customs and traditions differ considerably from one part to another. There are distinctions based on caste, creed and religion and provincial jealousy (where residents of one state look down

upon residents of another state). In spite of the provisions in the Constitution that there would be no distinction on the basis of caste, creed, etc., there is no denying that these vices are widely prevalent. The effect of this is that workers do not unite for better conditions *inter se* and for reform.

4. ***Absenteeism:*** Absenteeism has been a cause of great concern in most of the organizations in India. There is no hard and fast rule to deal with this problem. Industry-wise and state-wise, absenteeism rate, i.e., percentage of man-days lost due to absence to the number of man-days scheduled to work were 10.01 and 8.96 respectively during 2004. However, it is certain that it requires a great deal of expertise to effectively bring down the cases of absenteeism.

   Disciplining is, of course, the last resort to curb and control absenteeism but now with advancement of behavioural science, some psychological methods have also proved to be very useful which is known as human relations approach.

5. ***Women workers:*** Employment of women in industrial establishments is common in almost all countries—developed and developing. India is no exception. Special provisions of labour law exist to deal with the special problems of women workers employed in factories, mines, plantations and other industrial establishments.

   Women constitute a significant part of the work force in India. According to 2001 census, the total number of women in the country was 494.82 million out of the total population of 1,025.25 million. This means women accounted for 48.26 per cent of the total population. Employment of women in the organized sector (both public and private as on 31 March 2006 was 5.12 million which constituted 19 per cent of the total organized sector employment in the country).

   According to 2001 census, out of 127.73 million cultivators, only 41.89 million constituted female cultivators. Out of the agricultural labourers of 106.77 million in the same year, women agricultural labourers constituted 49.44 million. In case of agricultural labourers, there is parity between men and women.

   The employment of women workers in modern industrial system has given rise to several problems. First, a set of major social evils involved in the employment of women is widespread disorganization of family life. The lack of domestic care of the development of a child's personality may continue even in his adult life. The increasing number of juvenile delinquents, stillborn children, abortions, morbidity of women, abnormal pregnancies and premature births are clear reflections of employment of women. 'Second, the economic problem involved in industrial employment of women is in no way less significant. The inadequacy of family income and the desire to supplement the meagre family income compels women workers to work in

industry. But employment in such an establishment does not provide them adequate wages. They are generally placed either in lower jobs or in traditional jobs which carry lower salaries and are not generally given higher posts. Third, 'equal pay for equal work' for both men and women has not been fully implemented and despite legislation, there is disparity of pay between men and women. Fourth, the employment of women in industry creates a variety of other problems such as hours of work (particularly during night), overtime, health, safety, welfare and maternity leave. Fifth, the legal protection afforded to women workers is also inadequate and involves problems of inadequate inspecting staff. Sixth, working women face the problem of sexual harassment for which norms have been laid down by the Supreme Court for prevention and regulation.

6. ***Child labour:*** Another major problem of industrial relations is that of child labour. It is a common and serious problem for the country. It ultimately affects the personality and creativity of children. Data regarding the extent of employment of child labour are inadequate. According to the 2001 census, the estimated figure of working children was 12.6 million. This figure rose to 17.02 million according to the estimates of the 43rd National Sample Survey conducted in 1987–88. However, the incidence of child labour in India has declined from around 5 per cent in 1993–94 is approximately 3 per cent in 2004–05.

The evil of employment of children in agricultural and industrial sectors in India is a product of economic, social and, among others, inadequate legislative measures. Social evils involved in the employment of children are widespread illiteracy resulting in lack of development of child's personality which may continue even in his adult life and negligence and indifference of the society towards the question of child labour. There is also lack of proper appreciation on the part of parents as to how continuance of child education would benefit his employment prospects and improve the standard of living. The economic problems involved in the employment of children are in no way less significant. Poverty resulting in inadequate family income and the desire to supplement it compels children to work. Indeed, the parents of low income groups like artisans cannot afford to educate their wards even if education is free. For them, an uneducated child is an asset; desire to be educated becomes a double liability because of: (*a*) loss of earning if the child does not work; and (b) expenditure on education, howsoever, small. Thus, the economic evils have not only deprived children at work from education but also led to high infant mortality, morbidity and malnutrition, particularly in weaker sections of the society in urban areas. The indifference of legislators to provide adequate legislation to regulate employment of children has failed to minimize the growth of child labour. The socio-legal problems involved in the employment of children in agriculture and industries are: (*a*) is it feasible to abolish child labour particularly of those: (*i*) who are orphans, destitutes, neglected, and abandoned children; (*ii*) children who have to work for livelihood; (*iii*) children

belonging to migrant families; and (*iv*) handicapped children? If not, what should be done mediately and immediately (*b*) Should child labour be banned in hazardous employment? If so, what are the alternatives? (*c*) What should be the minimum age for different kinds of employment? (*d*) What should be the duration of their work including rest interval? Is it desirable to adjust the working hours in such a manner as to provide for schooling of children? (*e*) What privileges should be afforded to them in matters of leave and holidays? (f) What protection should be afforded to them in matters of health, safety and welfare?

The legislature has met the first problem by providing certain minimum standards of age, physical fitness and sometimes educational attainments. The second problem has also been dealt with by the legislature by prohibiting employment in certain establishments or part of establishments. The third problem has been met by prohibiting employment of women and children in certain dangerous work. The rest of the problems have been met by the legislature by imposing various restrictions on the conditions of work such as limited hours of work, provisions for holidays, rest intervals, leave, health, safety and welfare amenities.

India has been following a proactive policy in the matter of tackling the problem of child labour by undertaking constitutional, statutory and developmental measures that are required for its elimination. The recently enacted Right of Children to Free and Compulsory Education Act, which came into effect from 1 April, 2011 is a major initiative taken by the government in this direction. Steps have been initiated to realign National Child Labour Policy with the provisions of the Right to Education Act. Under the National Child Labour Policy, 100 National Child Labour Projects (NCLPs) are in operation for rehabilitation of about 2.11 lakh working children. A major activity undertaken under the NCLP is the establishment of special schools to provide non-formal education, vocational training, supplementary nutrition, stipend, health care, etc., to children withdrawn from employment. So far, 1.87 lakh children from special schools of NCLPs have been mainstreamed into formal education system. The target is to eliminate child labour in a sequential manner, beginning with its elimination from hazardous occupations through a determined move towards its complete elimination from other occupations. Besides, a large number of NGOs are working for elimination of child labour under the grant-in-aid scheme.

Apart from continuing the existing 100 NCLPs during the Tenth Plan, government has approved setting up of additional 150 NCLPs in child labour endemic districts during the 10th Plan. The expanded scheme in additional 50 districts has already been launched in January, 2004 and states have been asked to set up NCLPs in these identified 50 districts. In the remaining 100 districts, the scheme would be launched after additional 100 districts are identified on the basis of the 2001 census report which is in process. Government has also launched the INDOUS (INDUS) Child Labour Project on 16 February 2004 during the visit of Mr Arnold Levine, Deputy Undersecretary, US Department of Labour and Mr Kari Tapiola, Executive Director, International Labour Organization to India.

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6.3 SOCIAL OBLIGATIONS OF INDUSTRY

In India, the social obligations of industry is governed by Corporate Social Responsibility. The term "Corporate Social Responsibility (CSR)" can be referred as corporate initiative to assess and take responsibility for the company's effects on the environment and impact on social welfare. The term generally applies to companies efforts that go beyond what may be required by regulators or environmental protection groups

As per Companies Act, 2013: Every company having net worth of rupees five hundred crore or more, or turnover of rupees one thousand crore or more or a net profit of rupees five crore or more during any financial year shall ensure that the company spends, in every financial year, at least two per cent of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its Corporate Social Responsibility Policy.

The Policy recognizes that corporate social responsibility is not merely compliance; it is a commitment to support initiatives that measurably improve the lives of underprivileged by one or more of the following focus areas as notified under Section 135 of the Companies Act 2013 and Companies (Corporate Social Responsibility Policy) Rules 2014:

(i) Eradicating hunger, poverty & malnutrition, promoting preventive health care & sanitation & making available safe drinking water;

(ii) Promoting education, including special education & employment enhancing vocation skills especially among children, women, elderly & the differently unable & livelihood enhancement projects;

(iii) Promoting gender equality, empowering women, setting up homes & hostels for women & orphans, setting up old age homes, day care centers & such other facilities for senior citizens & measures for reducing inequalities faced by socially & economically backward groups;

(iv) Reducing child mortality and improving maternal health by providing good hospital facilities and low cost medicines;

(v) Providing with hospital and dispensary facilities with more focus on clean and good sanitation so as to combat human immunodeficiency virus, acquired immune deficiency syndrome, malaria and other diseases;

(vi) Ensuring environmental sustainability, ecological balance, protection of flora & fauna, animal welfare, agro forestry, conservation of natural resources & maintaining quality of soil, air & water;

(vii) Employment enhancing vocational skills

(viii) Protection of national heritage, art & culture including restoration of buildings & sites of historical importance & works of art; setting up

public libraries; promotion & development of traditional arts & handicrafts;

(ix) Measures for the benefit of armed forces veterans, war widows & their dependents; x. Training to promote rural sports, nationally recognized sports, sports & Olympic sports;

(x) Contribution to the Prime Minister's National Relief Fund or any other fund set up by the Central Government for socio-economic development & relief & welfare of the Scheduled Castes, the Scheduled Tribes, other backward classes, minorities & women;

(xi) Contributions or funds provided to technology incubators located within academic institutions, which are approved by the Central Government;

(xii) Rural development projects, etc

(xiii) Slum area development.

6.4 ROLE OF GOVERNMENT, EMPLOYERS AND UNIONS IN INDUSTRIAL RELATIONS

In this section, you will learn about the role of state, employers and trade unions in industrial relations.

Role of the State in Industrial Relations

In the sphere of industrial relations, the state cannot remain a silent spectator. It has to play a persuasive and sometimes coercive role in regulating industrial relations in so far as they concern collective bargaining and the consequent direct action which either party may resort to for the realization of its claims. The state's anxiety about work stoppages arises because of two factors: (*i*) the impact on the community by way of inconveniences inflicted by interruption in supply of essential goods/services; and (*ii*) social cost to the parties themselves in the form of loss of wages/production. It has, therefore, a special interest in the methods chosen by the parties for regulation of their mutual relations. For instance, adoption of collective bargaining will require well-organized unions and employers' associations. The state, when it moves towards this goal, takes upon itself the task of formulating rules for maintenance of discipline, social justice, labour welfare and peace and harmony. It may intervene through conciliation process or compulsory adjudications. In the process, it will have to define permissible area of intervention.

As a corollary to its role in maintaining peace, the state has provided for conciliation and adjudication machinery to settle industrial disputes under the Industrial Disputes Act, 1947. This can be best performed either by creating conditions in which adjudication would succeed in preference to strife or by compelling the parties to accept direct intervention of the state in public interest. In either case, better results are achieved where the existence of the third party is not overtly felt.

Quite apart from the above roles played by the state, there are others which have a special significance in our context. The first is that of the state as an employer, which has two aspects, i.e., direct employment of labour by the state and employment in industrial corporations constituted by the state. Handling of industrial relations in the case of its own employees, to whom all legislation framed for industry is applicable, falls in this category. This function of the state as an employer has been there over a very long period; it has been there even prior to Independence. To this was added another when, as a matter of policy, it was decided to operate a mixed economy wherein industries were to be run by both private entrepreneurs and the state. The role of the state in these matters has been watched with great interest in recent years. The policy statements in this regard show that as an employer, the state binds itself to the rules which it frames for private employers. Where standards of good employment are disparate, the state seeks to set standards with a view to influencing employers in the private sector. While this is the policy, in practice, it so happens that there is a fair amount of interaction between what the employers do for their employees in the two sectors. And this interaction is influenced by the new consciousness among the workers and ease of communication within the working class.

Role of Trade Unions and Employers in Industrial Relations

The First National Commission on Labour has suggested that employers' associations should accept the following functions:

(i) Undertake promotion of collective bargaining at various levels;

(ii) Encourage observance and implementation by its members of bipartite and tripartite agreements in real spirit and form;

(iii) Expedite implementation of wage awards by members without undue delay and reservations;

(iv) Work towards elimination of unfair labour practices by employers;

(v) Encourage adoption by members of personnel policies conducive to productivity and industrial peace;

(vi) Promote rationalization of management or organization to improve productivity;

(vii) Arrange employers' education (a) in the concept of labour partnership in industry, (b) for ensuring identity of interests of labour and management and (c) for promoting harmony between the goals of industry and of the community; and

(viii) Work towards the collective welfare of its members through training, research and communication in the field of labour management relations.

We do not propose statutory provisions to compel employers' associations to undertake the above functions, but hope that these functions would voluntarily be adopted and discharged by them.

Role of employers

The role played by the employers in the country's development needs no elaboration. Consistent with their interests, they have contributed to the national progress. However, the community will be directly concerned with employers' organizations only when it fails to get goods of approved quality at reasonable prices. Service and courtesy to customers are really an indication of good employer practices. Employers' organizations should see that their members do not exploit the community through combines, trusts or monopoly operations. These observations have a special relevance in the context of other developments in the economy. The surpluses that are generated in an industry are a social product; their distribution has to be according to the contribution made by labour and capital, keeping in view that the community has an equal claim on the increases in production and productivity.

Employers' organizations have a stake in the success of the national plans for economic development. In this context, important aspects of social responsibilities of employers are in the following fields:

(i) **Promotion of national integration:** Employers' organizations can help to achieve national integration by paying due regard to the sentiments of the local people where a project is located. But this has to be within the overall national interest.

(ii) **Eliciting responsive cooperation from the unions in improving levels of production and productivity:** This does not require elaboration in view of the more detailed discussion elsewhere.

(iii) **Maintaining high standards of quality and competitive prices in the international market:** Difficulties of foreign exchange are well known; these have hit employers in their expansion plans. What is suggested, therefore, falls within employers' enlightened self-interest.

(iv) **Helping civic authorities and seeking their cooperation in matters connected with improvement of the area in which the establishment is located:** Where an establishment is set up in an already settled town, this function acquires special significance. By the very setting up of a unit, particularly if the size is large, civic amenities get taxed. It is true that the employer in turn is taxed on that score, but the duty of the employer should not end there. He has to see that by establishing his unit he does not make the life of persons in the area more difficult. The advantages that accrue through an industrial establishment are looked upon by the people as a matter of right; not so the inconveniences.

(v) **Bridging the gap in regional disparities in the economic development of the country:** This is indeed a governmental function, but the employers' organizations can certainly help.

NOTES

(vi) **Pursuing of policies that are conducive to the development of industry and economy:** This is essential for the fulfilment of priorities of planned development from time to time.

Check Your Progress

1. What does the concept of industrial relations include?
2. What is the basis of the relationship between labour and management?
3. Identify the major issues involved in the industrial relations process.
4. What are the causes of the state's anxiety about work stoppages?
5. What are the social responsibilities of employers?

6.5 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. The concept of 'industrial relations' is very broad and includes in its fold all the relationships in modern industrial society which arise out of employee-employer exchanges and also the role of the state in these relations.
2. The relationship between labour and management is based on mutual adjustment of interests and goals.
3. The major issues involved in the industrial relations process are terms of employment such as wages, dearness allowances, bonus, fringe benefits, working conditions, leave, working hours, health, safety and welfare, non-employment, job security, personnel issues such as discipline, promotional opportunities and recognition of trade unions.
4. The state's anxiety about work stoppages arises because of two factors: (*i*) the impact on the community by way of inconveniences inflicted by interruption in supply of essential goods/services; and (*ii*) social cost to the parties themselves in the form of loss of wages/production.
5. Social responsibilities of employers are as follows:
   (i) Promotion of national integration
   (ii) Eliciting responsive cooperation from the unions in improving levels of production and productivity
   (iii) Maintaining high standards of quality and competitive prices in the international market
   (iv) Helping civic authorities and seeking their cooperation in matters connected with improvement of the area in which the establishment is located

6.6 SUMMARY

- Industrial relations is a dynamic socio-economic process. It is a 'designation of a whole field of relationships that exist because of the necessary collaboration of men and women in the employment processes of industry'.
- Industrial relations deal with the relationship between labour and management, and their organization.
- With a view to optimizing the interests of the employer and those of employees, necessary steps need be taken which may cover wages and salary administration, career prospects inclusive of planning and promotion, retirement and medical benefits, discipline and redressal of grievances, training and development, counselling, workers' compensation and other related issues such as insurance.
- The relationship between labour and management depends upon economic, social and psychological satisfaction of the parties. Higher the satisfaction, healthier the relationship.
- The importance of sustained industrial production underlines the need of avoiding work-stoppages and loss of production.
- Discontent amongst industrial workers revolves round the question of wages. Low wages figure prominently both in industrial and agricultural sectors.
- In the sphere of industrial relations, the state has to play a persuasive and sometimes coercive role in regulating industrial relations in so far as they concern collective bargaining and the consequent direct action which either party may resort to for the realization of its claims.
- Trade unions, also known as labour unions in the United States, are organizations of workers in a common trade who have organized into groups dedicated to improving the workers' work life.

6.7 KEY WORDS

- **Industrial relations**: The relationship between the State and employers and workers' organization or between the occupational organizations themselves.
- **Antithesis**: A person or thing that is the direct opposite of someone or something else.

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6.8 SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. What are the principles of good industrial relations?
2. What is the significance of industrial relations?
3. How is child labour a barrier to harmonious industrial relations?
4. What is the role of the state in industrial relations?

Long Answer Questions

1. Discuss the objectives of industrial relations.
2. Explain the role of trade unions and employer unions in industrial relations.
3. 'The role played by the employers in the country's development needs no elaboration.' Discuss.

6.9 FURTHER READINGS

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UNIT 7 INDUSTRIAL RELATIONS MACHINERY AND NEGOTIATIONS

Structure

7.0 INTRODUCTION

The government has legislated various Acts to deal with disputes and also for providing a better working environment for workers. There are various machinery for the settlement of industrial disputes. In this unit, you will learn about different statutory measures aimed at curtailing industrial disputes. You will also learn about the different measures of bipartite and tripartite negotiations.

7.1 OBJECTIVES

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

- Analyse the machinery of industrial relations
- Discuss joint consultation and works committee
- Describe the different types of negotiations
- Explain the meaning of conciliations

7.2 INDUSTRIAL RELATIONS MACHINERY

Cordial industrial relations require that the causes of industrial disputes should be eliminated. In other words, preventive steps should be taken so that industrial disputes do not occur. But if preventive machinery fails then the Government should activate the industrial settlement machinery because non-settlement of disputes

proves to be harmful not only for the workers, but also the management and the society as a whole.

7.2.1 Joint Consultation/Negotiations and its Types

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Labour management relations is a dynamic social process. In this process both parties try to argument their resources. In this process the interest of one party may come in conflict with the other party. Many a time the conflict avoidable syndrome may not work. Whatever may be the reason for conflict in order to maintain peace and avoid loss of production negotiation plays an important role. Such negotiations may be either:

(i) Bipartite or

(ii) Tripartite

(i) Bipartite Settlement/Negotiations: In this process both labour and management try to resolve their differences by mutual discussion and continuous meetings. In this process various measures have been suggested.

Section 2 (b) of the Industrial Disputes Act defines settlement to include a written agreement between employers and workmen arrived at otherwise than in the course of conciliation proceedings.

(ii) Tripartite Negotiation/Settlement: If both the parties are unable to resolve the dispute mutually, the third party, namely the conciliation officer intervenes. He tries to persuade both the parties to arrive at a settlement. He acts as a facilitator and not a decision-maker. A conciliation officer is a Government servant.

When negotiation/settlement is required

1. If one party makes a demand and the other party refuses to accept the demand.
2. When there is a deadlock and one or both parties feel a need to break the deadlock and enter into negotiation.
3. When negotiation is crucial to one or all the parties.

Approaches to Negotiation/Settlement

Following are various alternative approaches for negotiations:

1. Controlling: It is the best style when (i) quick decisive action is vital and (ii) you know you are right
2. Collaborating: It is best when the objective is to integrate different points of view.
3. Avoiding: It is best when (i) issues are not important (ii) there are more pressing issues (iii) to gain time to collect more information.

NOTES

4. Accommodating: It is best when (i) one party finds that he is wrong (ii) one wishes is be seen reasonable (iii) the issues are more important to one party (iv) Harmony is desired.
5. Compromising

Tripartite Settlement and the Law

(*a*) *Concept of settlement.* Section 2 (p) defines "settlement" to mean, a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding, where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate Government and the Conciliation Officer.

An analysis of the aforesaid definition reveals that there are two modes of settlement of industrial disputes: (i) settlement arrived at in the course of conciliation proceedings, *i.e.,* one which is arrived at with the assistance and concurrence of the Conciliation Officer, who is duty bound to promote a settlement and to do everything to induce the parties to come to a fair and amicable settlement of the dispute, and *(if)* a written agreement between employer and workmen arrived at otherwise than in the course of conciliation proceedings.

It also appears from the above definition that "unless an agreement arrived at between the parties is a settlement in its grammatical or ordinary signification, such an arrangement although arrived at in a conciliation proceedings will not be a **settlement within the meaning of Section** 2 **(p)."** Further, the expression **"in** the **course of conciliation proceedings" refers** to the duration when the conciliation proceedings are pending. Moreover, for the validity of this kind of settlement **"it** is **essential that the parties thereto** should have subscribed to **it in the prescribed manner and a copy thereof** should have been sent to an officer **authorised in this behalf by the appropriate** Government and the Conciliation Officer."

(*b*) *Nature of settlement.* The nature of proceedings before the Conciliation Officer is not judicial or quasi-judicial but administrative. Let us examine the requirements, in order to examine its nature.

(i) Settlement must be "in writing". The industrial Disputes Act, 1947, requires the settlement arrived at in the course of conciliation proceedings by the Conciliation Officer and Board of Conciliation to be "in writing". The purpose is to minimise area of disputes over the contents thereof and to have permanent record in matters affecting labour management relations.

NOTES

(ii) Writing must be signed by the parties. The Industrial Disputes Act 1947, requires the "settlement arrived at in the, course of conciliation proceedings by the Conciliation Officer or by the Board to be signed by the parties to the dispute. Thus, clause (2) of Rule 58 of the Industrial Disputes (Central) Rules provides:

> the settlement shall be signed by (a) in the case of employer, by the employer himself, or by his authorised agent, or when the employer is an incorporated company or other body corporate, by the agent, manager or other principal officer of the corporation; (b) in the case of workmen by an officer of a trade union of the workmen or by five representatives of the workmen duly authorised in this behalf at a meeting of the workmen held for the purpose.

The provision raises several problems. First, what if the parties do not sign it? Second, what is the position of an individual workman who is not a member of any union whatsoever and his erstwhile co-workers are not prepared to help him? Third, what is the position of individual workman who is made a scapegoat by his own union?

As to the first it is significant to note that Sections 12 (3) and 13 (3) make it obligatory upon the Conciliation Officer and the Board of Conciliation to submit the report with a "memorandum of the settlement signed by the parties to the dispute".

The second and third problems are not easy to answer. It would be observed that Rule 59(2) (b) does not at all recognise an individual workman. This is all the more so in view of the fact that his erstwhile co-workers are not prepared to help him. Under the circumstances he will be helpless, and will be bound by the settlement arrived at by the union. This view is fortified by the provisions of Section 18.

(*c*) *Settlement must be in the prescribed form***.** Should the settlement be one document signed by both the parties, or can it be gathered from documents which have been separately signed by the parties, e.g. correspondence? Gause (i) of Rule 58 provides that "settlement arrived at in the course of conciliation proceedings or otherwise, shall be in form 4".

(d) Publication of the settlement by Board of Conciliation. Section 17(1) which deals with the publication of award by the appropriate Government provides:

> Every report of a Board... together with any minute of dissent recorded there with .... shall, within a period of thirty days from the date of its receipt by the appropriate Government, be published in such manner as the appropriate Government thinks fit.

The aforesaid provision raises several issues: the key question is whether the aforesaid provision is mandatory or directory? Second, what will be the effect of withholding the publication of the report? Third, whether the publication of the report after the expiry of statutory period of thirty days will make the settlement invalid or unenforceable? Fourth, whether the report

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will be taken to have been published on the date of the Government's notification or the date on which such notification appeared in the gazette?

(e) *Settlement must be fair, just and bonafide.* The Apex Court in The *K.C.P. Ltd.* v. *The Presiding Officer & Ors.J* held that a Court or Tribunal must satisfy itself that a settlement was not *ex facie* unfair, unjust or *mala fide.*

(f) *Period of Operation of Settlement.* (i) *Commencement,* Sub-section (1) of Section 19 provides:

> A settlement shall come into operation on such date as is agreed upon by the parties to the dispute and if no date is agreed upon, on the date on which the memorandum of the settlement is signed by the parties to the dispute.

Thus, the settlement shall come into operation on the date agreed upon by the parties or, if none, the date on which the memorandum of settlement is signed by them.

(ii) ***Termination.*** Sub-section (2) of Section 19 provides for other terminus of the settlement.

> Such settlement shall be binding for such period as is agreed upon by the parties, and if no such period is agreed upon, for a period of six months from the date on which the memorandum of settlement is signed by the parties to the dispute, and shall continue to be binding on the parties after the expiry of the period aforesaid, until the expiry of two months from the date on which a notice in writing, of an intention to terminate the settlement is given by one of the parties to the other party or parties to the settlement.

The object of the provision under sub-sections 1 and 2 is to ensure that once a settlement is arrived at there prevails peace, accord and cordiality between the parties during the period agreed upon and if the settlement does not require to be altered for some reasons or the other the same climate prevails by extension of the settlement by operation of law. Section 19 is not dead and freezing (in) all manner... There is an option given to either party to terminate the settlement by a written intimation after the expiry of two months from the date of such notice. This is in accord with the policy of settlement of industrial disputes which is the principal object underlying the provisions of the Act.

(d) where a party referred to in clause (a) or clause (b) is composed of workmen, all persons who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.

It is evident from above that the settlement arrived at in the course of conciliation proceedings shall be binding on all categories of persons mentioned above. In extending the operation of such a settlement beyond the parties thereto, Section 18 (3) of the Industrial Disputes Act makes a departure from the ordinary law of contract which leads towards collective

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bargaining. The object of this section is to promote industrial peace and harmony between the parties. It is with this object that wide coverage has been given to Section 18 (3) and this can be done possibly when settlement would bind all the parties. In *Virudhachalam P. & Ors.* v. *Mgmt. Of Lotus Mills & Anr* The Supreme Court ruled that once a written settlement is arrived at during the conciliation proceedings such settlement under Section 12 (3) has a binding effect not only on the signatories to the settlement but also on all parties to the industrial dispute which would cover the entire body of workmen, not only existing workmen but also future workmen. Such a settlement during conciliation proceedings has the same legal effect as an award of Labour Court, or Tribunal or rational Tribunal or an Arbitration award. They all stand on par. It is easy to visualise that settlement contemplated by Section 12(3) necessarily means a written settlement which would be based on a written agreement where signatories to such settlement sign the agreement. Therefore, settlement under Section 12(3) during conciliation proceedings and all other settlements contemplated by Section 2(p) outside conciliation proceedings must be based on written agreements. Written agreements would become settlements contemplated by Section 2(p) read with Section 12(3) of the Act when arrived at during conciliation proceedings or even outside conciliation proceedings. Thus, written agreements would become settlements after relevant procedural provisions for arriving at such settlements are followed. Thus, all settlements necessarily are based written agreements between the parties.

(f) Persons on whom settlement is binding. The Industrial Disputes Act, 1947 draws a distinction between a settlement arrived at by agreement between the parties and settlement arrived at in the course of conciliation proceedings. Whereas the first category of settlement 'shall be binding only on the parties to the agreement", the second one is binding not only on "all parties to the industrial dispute" but also on:

(b) all other parties summoned to appear in the proceedings as parties to the dispute unless the Board Arbitrator, Labour Court, Tribunal or National Tribunal as the case may be, records the opinion that they were so summoned without proper clause;

(c) where a party referred to in clause (a) or clause (b) is a employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates.

7.2.2 Works Committee

The institution of works committee was introduced in 1947 under the Industrial Disputes Act 1947, to promote measures for securing and preserving amity and good relations between employers and workmen. It was meant to create a sense of partnership or comradeship between employers and workmen. It is concerned with problems arising in day-to-day working of the establishment and to ascertain grievances of the workmen.

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A. Constitution of Works Committee

Industrial Disputes (Central) Rules

The Industrial Disputes Act, 1947 empowers the appropriate government to require an employer having 100 or more workmen to constitute a works committee. Such a committee shall consist of representatives of employers and workmen engaged in the establishment. However, the number of representatives of the workmen shall not be less than the number of representatives of the employer.

The Industrial Disputes (Central) Rules, 1957, Rule 39 contemplates that the number of representatives of the workmen shall not be less than the number of representatives of the employer and further that the total number of members shall not exceed 20. Rule 40 contemplates that the representatives of the employer shall be nominated by the employer and shall, as far as possible, be officials in direct touch with or associated with the working of the establishment. Rule 41 envisages that the employer shall ask the registered trade union of the workmen in the concerned establishment to inform the employer in writing as to how many of the workmen are members of that union and how their membership is distributed among the sections, shops or departments of the establishment. In other words, the employer is required to ask the registered trade union to supply him the nominal roll of members of the trade union. The election held without consultation with the trade union is liable to be set aside. Rule 42 provides that on receipt of the said information from the registered trade union, the employer shall provide for the election of representatives of the workmen on the works committee in two groups: (i) those to be elected by the workmen who are members of the registered trade union and (ii) those to be elected by the workmen who are not members of the registered union. It is further provided that the number of two groups should bear same proportion to each other as the union members in the establishment bear to the non-members. The first proviso to this rule contemplates that where more than half the workmen are members of the union or any one of the unions, the above kind of division in two groups shall not be made. This shows that where in an industrial establishment the majority of workers are members of a registered trade union, the distribution of the elected representatives as provided in Rule 42 in two groups will not be necessary. In other words, in that situation, the representatives of the workmen will be elected in a single group without any kind of division. It is not provided that if the union has majority of the workers as its members, then nomination of the representatives of the workmen may be done by the employer in consultation with the trade union. Thus, there cannot be any nomination of representatives of workmen on the works committee. The scheme of these rules for constitution of works committee has been fully explained in *Union of India* v. *M T S S D Workers Union,* as follows:

(a) Where there is a registered trade union having more than 50 per cent membership of the workers in that establishment, the total number of members of the works committee will be elected without distribution of any constituencies,

NOTES

(b) if in an industry no trade union registered under Trade Unions Act represents more than 50 per cent of the members, then only the election will be held in two constituencies, one from the members of the registered trade union or unions and the other from non-members of the trade unions and it is only in this contingency, it is further provided that if the employer thinks proper, (he) may further subdivide the constituency into department, section or shed.

In *B Chinna Rao* v. *Naval Civilian Employees Union*, Andhra Pradesh High Court was invited to interpret Rule 41 of the Industrial Disputes (Central) Rules, 1957 which reads as under:

Rule 41: Consultation with trade unions:

(i) Where any workmen of an establishment are members of a registered trade union; the employer shall ask the union to inform him in writing (a) how many workmen are members of the union, and (b) how their membership is distributed among the sections, shops or departments of the establishment.

(ii) Where an employer has reason to believe that the information furnished to him under sub-rule (i) by any trade union is false, he may, after informing the union, refer the matter to the assistant labour commissioner (central) concerned for his decision; and the assistant labour commissioner, after hearing the parties shall decide the matter and his decision shall be final.

While interpreting the aforesaid provisions, the Court held that reference to the commissioner has to be made when the employer has 'reason to believe that the information furnished to him by the trade union is false'. False doubt expressed by the employer need not necessarily entail a reference. If a mere perusal of the list furnished by a trade union enables an employer to form a definite opinion, he can certainly act accordingly. Since the reference to the commissioner would have the effect of postponing the election, recourse must be had only when it is otherwise necessary and mandatory.

B. Functions of Works Committee

The main function of the works committee is 'to promote measures for securing and preserving amity and good relations between the employers and workmen and, to that end, to comment upon matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters.' Thus, the works committees are normally concerned with problems of day-to-day working of the concern. They are 'not intended to supplant or supersede the union for the purpose of collective bargaining. They are also not entitled to consider real or substantial changes in the conditions of service. Their task is only to reduce friction that might arise between the workmen and the management in the day-to-day working. The decision of works committee is neither agreement nor compromise nor arbitrament. Further, it is neither binding on the parties nor

enforceable under the Industrial Disputes Act. It is true that according to the Supreme Court the 'comments' of the works committee are not to be taken lightly but it is obvious that the observation has relevance only where a third party gets involved in the claim adjustment process. As between the disputants, these comments, have only added persuasive value. But, by no stretch of imagination can it be said that the duties and functions of the works committee include the decision on such an important matter as an alteration in conditions of service.'

C. Operation and Assessment

We shall now turn to discuss the functioning of the works committee and assess its working.

A survey of the functioning of the works committee reveals that during 1997, 869 works committees were actually formed in the central sphere establishment involving 8,16,924 workers out of the 1,131 works committees to be formed involving 11,79,577 workers. Be that as it may, the works committees on the whole failed to deliver the goods. Several factors are responsible for the same. *First*, in the absence of strong industry-wise labour organization, the politically-oriented trade unions consider works committees to be just another rival. The elaborate provisions for securing representation of registered trade unions for proportional representation of union and non-union workmen and the possibility of further splitting of electoral constituencies into groups, sections, departments or shops not only accentuates the problem of rivalry but also weakens the strength of workmen in such committees. Second, notwithstanding the parity between workmen's and employers' representatives, the fact that the chairman of the committee is nominated by the employer from amongst his own representatives, has often helped the management to maintain an upper hand in the proceedings. Unwelcome items on the agenda are promptly declared to be out of order on one ground or the other. Absence of statutory provisions defining jurisdiction of these committees only helps the recalcitrant employer. *Lastly*, although tribunals and courts feel that 'agreed solution between the works committee and the management are always entitled to great weight and should not be readily disturbed', the fact remains that there is no machinery to enforce the decisions of these committees. Indeed, there is nothing to prevent by-passing of works committee. Perhaps it will be incorrect to say that most of the disputes that come up for adjudication have never been discussed in the works committee. Confronted with this situation, particularly in the absence of statutory provisions, the tribunals and courts have invariably held that non-discussion is no bar to reference by the government.

D. Remedial Measures

The [First] National Commission on Labour suggested the following measures for the successful functioning of a works committee:

(*a*) A more responsive attitude on the part of management

(*b*) Adequate support from unions

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(*c*) Proper appreciation of the scope and functions of the works committee

(*d*) Whole-hearted implementation of the recommendations of the works committee

(*e*) Proper coordination of the functions of the multiple bipartite institutions at the plant level now in vogue

The Commission also added:

> It is the creation of an atmosphere of trust on both sides. Unions should feel that management is not sidetracking the effective union through a works committee. Management should equally realize that some of their known prerogatives are meant to be parted with. Basic to the success of such unit level committees is union recognition.

It is submitted that for the success of a works committee, the following steps should be taken: (*i*) Trade unions should change their attitude towards the works committee. The unions should feel that management is not sidetracking the effective union through a works committee, (*ii*) The management should also realize that some of their known prerogatives are meant to be parted with, (*iii*) Recognition of trade unions should be made compulsory and the provisions therefore should be incorporated in the Trade Unions Act, 1926.

7.2.3 Conciliations

Conciliation is a persuasive process of settling industrial disputes. It is a process by which a third party persuades disputants to come to an equitable adjustment of claims. The third party, however, is not himself a decision-maker: he is merely a person who helps the disputants through persuasion to amicably adjust their claims. The ultimate decision is of the disputants themselves. For this purpose, the Industrial Disputes Act, 1947, provides for the appointment of conciliation officers and constitution of the Board of Conciliation by the appropriate government for promoting settlement of industrial disputes. For the successful functioning of the conciliation machinery, the Act confers wide powers and imposes certain duties upon them.

The conciliation as a mode of settling industrial disputes has shown remarkable success in many industrialized countries. It is said that it has proved to be a great success in Sweden.

In India, it has generally been reported that the conciliation machinery has played an important role in resolving industrial disputes. Statistics no doubt, support this claim. During 1959–66 the percentage of disputes settled by the conciliation machinery varied from 57 to 83 in the central sphere. About 10,106 disputes were referred to a conciliation officer during 1988s, out of which the number of failure reports received was 3,183 in the central sphere. The failure report of conciliation was 2,691 out of 4,685 cases referred to conciliation in Haryana, 336 out of 2,126 referred in Karnataka, 4,471 out of 9,918 referred in Punjab, 4,430 out of 4,530 in Delhi and 22 out of 230 cases referred to conciliation in Goa.

During 1997, Central Industrial Relations Machinery (CIRM), intervened in 783 cases of threatened strikes and its conciliatory efforts succeeded in averting 696 strikes which represents a success rate of 88.88 per cent.

The statistics of the working of the conciliation machinery, however, reveals that the conciliation machinery on the whole is satisfactory in many states. It has, however, made no remarkable success in India. Several factors may be accounted for the same. *First*, failure of conciliation proceedings may lead to the reference to adjudicating authorities under the Industrial Disputes Act, 1947. *Second*, lack of proper personnel, inadequate training and low status enjoyed by conciliation officers and too frequent transfer of conciliation officers result in the failure of conciliation. *Third*, undue emphasis on legal and formal requirements also lead to the failure of conciliation. *Fourth*, considerable delay in the conclusion of conciliation proceedings also makes the conciliation machinery ineffective. *Fifth*, failure of conciliation machinery has been attributed to the lack of adequate powers of the conciliation authorities.

Conciliation Authorities

1. ***Constitution of Conciliation Authorities***
   (*a*) *Appointment of Conciliation Officer*. Under Section 4, the appropriate government is empowered to appoint conciliation officers for promoting the settlement of industrial disputes. These officers are appointed for a specified area or for specified industries in a specified area or for one or more specified industries, either permanently or for a limited period.
   (*b*) *Constitution of Board of Conciliation.* Where the dispute is of a complicated nature and requires special handling, the appropriate government is empowered to constitute a Board of Conciliation. The Boards are preferred to conciliation officers. However, in actual practice, it is found that Boards are rarely constituted. According to Section 10(1) (a) the appropriate government is empowered to refer the existing or apprehended dispute to a Board. The Board is constituted on an ad hoc basis. It shall consist of an independent person as Chairman and one or two nominees respectively of employers and workmen. The Chairman must be an independent person. A quorum is also provided for conducting the proceedings.
2. ***Qualifications and Experiences.*** Unlike the adjudicating authorities, the Act does not prescribe any qualification and/or experience for a conciliation officer or member of a board of conciliation. A report of the study committee of the [First] National Commission on Labour, however, reveals that one of the causes of failure of the conciliation machinery is lack of proper personnel in handling the dispute. The conciliation officer is sometimes criticized on the ground of his being unaware of industrial life and not having received the requisite training. It is, therefore, suggested that the Act should prescribe

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qualification and experience for conciliation officer which may include proper and adequate training and adequate knowledge of handling labour problems.

3. ***Filling of Vacancies.*** The proviso to Section 5(4) requires that where the services of the chairman or any other member have ceased to be available, the Board shall not function until the appointment of a Chairman or member, as the case may be, is made. Section 8 deals with the manner in which the vacancy in the office of chairman or other member of a Board will be filled.
4. ***Jurisdiction.*** Conciliation Officers are appointed by the Central and State Governments for industries which fall within their respective jurisdiction.
5. ***Powers of Conciliation Authorities.*** (a) *Powers of a Conciliation Officer:* The Act confers certain powers upon the Conciliation Officer to conciliate and mediate between the parties. The Conciliation Officer is deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code. He is empowered to enforce the attendance of any person for the purpose of examination of such a person or call for and inspect the documents which he has ground for considering (*i*) to be relevant to the industrial dispute or (*ii*) to be necessary for the purpose of verifying the implementation of any award or carrying out any other duty imposed on him under the Act. For this purpose, he enjoys the same powers as are vested in the Civil Court under the Code of Civil Procedure, 1908. The Conciliation Officer is also empowered for the purposes of enquiry into any existing or apprehended industrial dispute to enter the premises occupied by any establishment to which the disputes related, after giving reasonable notice. Failure to give any such notice does not, however, affect the legality of conciliation proceedings.

   (*b*) *Powers of the Board of Conciliation.* The Board of Conciliation acts in a judicial capacity and enjoys more powers than conciliation officers. Under the Act every Board of Conciliation enjoys the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, when trying a suit. It can enforce the attendance of any person and examine him on oath, compel the production of documents and material objects, issue commission for examination of witnesses, make discovery and inspection, grant adjournment and receive evidence taken on affidavit. Every enquiry by a Board is deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code and Sections 345, 346 and 348 of the Code of Criminal Procedure, 1973. The proceedings are normally held in public but the Board may at any stage direct that any witness be examined or proceedings be held in camera.

   The Board is empowered, subject to the rules in this behalf to follow such procedure as it may think fit. The rules provide for the place and time of hearing of the industrial dispute by the adjudication or arbitration authorities as the case may be, administration of oath by the adjudication or arbitration

authorities, citation or description of the parties in certain cases, the issuance of notices to the parties, the circumstances when the Board can proceed *ex parte* and correction of clerical mistakes or errors arising from accidental slip or omission in any award. The Board also has to keep certain matters confidential in the award. The Board can accept, admit or call for evidence at any stage of the proceedings before it in such manner as it thinks fit. The representatives of the parties have the right to examine, cross-examine, and address the Board when any evidence has been called. The witnesses who appear before a Board are entitled for expenses in the same way as witnesses in the civil court.

6. ***Duties of Conciliation Authorities.*** The Industrial Disputes Act provides for the appointment of Conciliation Officer, 'charged with the duty of mediating in and promoting the settlement of industrial disputes'. Where an industrial dispute exists or is apprehended, the conciliation officer may, or where the dispute relates to a public utility service and a notice under Section 22 has been given, he shall hold conciliation proceedings in the prescribed manner. He may do all such things which he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the disputes.' Further, Section 12 (2) directs the Conciliation Officer to investigate 'without delay' the dispute and all matters affecting merits and right settlement thereof. If the settlement is arrived at, the Conciliation Officer shall send a report together with a memorandum of settlement signed by the parties to the dispute, to the appropriate government or an officer authorized on his behalf. If no settlement is arrived at, the Conciliation Officer is required to send a report to the appropriate government containing (*i*) a full report setting forth the steps taken by him for ascertaining the facts and circumstances of the dispute and for bringing about a settlement thereof, (*ii*) a full statement of facts and circumstances leading to the dispute, and (*iii*) the reasons why a settlement could not be arrived at. It is a mandatory duty on the part of a Conciliation Officer to submit the failure report. His omission to do so is culpable, if not motivated. Be that as it may, it is for the appropriate Government to consider whether on the basis of the failure report and other relevant materials, it should refer the dispute for adjudication or not. If on a consideration of the report, the appropriate government is satisfied that there is a case for reference to the Board or Adjudicating Authority it may make a reference. Where it does not make a reference it shall record and communicate to the parties concerned its reasons thereof. Sub-section 6 of Section 12 provides that the report 'shall be submitted' either within 14 days of the commencement of the conciliation proceedings or earlier if required by the appropriate government, or later if all the parties to the dispute agree in writing.

The Industrial Disputes Act, 1947, draws a distinction between public utility services and non-public utility services. Thus, while in a public utility service the

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Conciliation Officer is bound to hold conciliation, he is not bound to do so in a non-public utility service.

The power of the Conciliation Officer is not adjudicatory but is intended to promote a settlement of dispute. However, a special responsibility has been vested in the conciliation officer to see that the settlement arrived at is fair and reasonable and he should then give his concurrence. This is so because the settlement arrived at, in the course of conciliation proceedings, is binding not only on all parties to the industrial dispute but all other parties summoned to appear in the proceedings and where a party is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates, and where a party is composed of workmen, all persons who were employed in the establishment or part of the establishment, as the case may be to which the dispute relates on the date of the dispute and all persons who subsequently become employed in that establishment or part.

Duties of Board of Conciliation

A Board to which a dispute is referred must investigate the dispute and all matters affecting the merits and the right settlement thereof and do all things for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute without delay.

If a settlement is arrived at, the Board should send a report to the appropriate government together with a memorandum of the settlement signed by the parties to the dispute. If no settlement is reached, the Board must send a full report together with its recommendation for the determination of the dispute.

In case of failure of settlement by a Board, the 'appropriate government' may refer the dispute to a Labour Court, Tribunal or National Tribunal. The government is, however, not bound to make a reference. However, where the government does not make a reference in a public utility service after receiving a report from a Board, it must record and communicate to the parties concerned its reasons for not doing so.

A Board is required to submit its report within two months of the date on which the dispute was referred to it or within such shorter period as may be fixed by the appropriate government. The time limit for the submission of a report can be extended by the appropriate government or by agreement in writing by all the parties to the dispute.

Check Your Progress

1. When is negotiation and settlement required?
2. When was the institution of works committee introduced?
3. What is the main function of the works committee?

7.3 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

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1. Negotiation/settlement is required :
   - If one party makes a demand and the other party refuses to accept the demand.
   - When there is a deadlock and one or both parties feel a need to break the deadlock and enter into negotiation.
   - When negotiation is crucial to one or all the parties.
2. The institution of works committee was introduced in 1947 under the Industrial Disputes Act 1947, to promote measures for securing and preserving amity and good relations between employers and workmen.
3. The main function of the works committee is 'to promote measures for securing and preserving amity and good relations between the employers and workmen and, to that end, to comment upon matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters.'

7.4 SUMMARY

- Cordial industrial relations require that the causes of industrial disputes should be eliminated. In other words, preventive steps should be taken so that industrial disputes do not occur.
- Labour management relations is a dynamic social process. In this process both parties try to argument their resources. In this process the interest of one party may come in conflict with the other party. Many a time the conflict avoidable syndrome may not work.
- Section 2 (p) defines "settlement" to mean, a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding, where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate Government and the Conciliation Officer.
- The institution of works committee was introduced in 1947 under the Industrial Disputes Act 1947, to promote measures for securing and preserving amity and good relations between employers and workmen. It was meant to create a sense of partnership or comradeship between employers and workmen.

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- The Industrial Disputes Act, 1947 empowers the appropriate government to require an employer having 100 or more workmen to constitute a works committee. Such a committee shall consist of representatives of employers and workmen engaged in the establishment. However, the number of representatives of the workmen shall not be less than the number of representatives of the employer.
- The main function of the works committee is 'to promote measures for securing and preserving amity and good relations between the employers and workmen and, to that end, to comment upon matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters.'
- A survey of the functioning of the works committee reveals that during 1997, 869 works committees were actually formed in the central sphere establishment involving 8,16,924 workers out of the 1,131 works committees to be formed involving 11,79,577 workers. Be that as it may, the works committees on the whole failed to deliver the goods. Several factors are responsible for the same.
- Conciliation is a persuasive process of settling industrial disputes. It is a process by which a third party persuades disputants to come to an equitable adjustment of claims. The third party, however, is not himself a decision-maker: he is merely a person who helps the disputants through persuasion to amicably adjust their claims.

7.5 KEY WORDS

- **Conciliation:** A process by which a third party persuades disputants to come to an equitable adjustment of claims.
- **The Industrial Disputes Act**: This Act extends to the whole of India and regulates Indian labour law so far as that concerns trade unions as well as Individual workman employed in any Industry within the territory of Indian mainland.

7.6 SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. Write a short note on Bipartite or Tripartite settlement.
2. Write a short note on works committee.
3. State the duties of board of conciliation.

Long Answer Questions

1. Discuss the functions of works committee.
2. Explain the functioning of the works committee and assess its working.
3. Describe the joint consultation/negotiations and its types.

7.7 FURTHER READINGS

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UNIT 8 ARBITRATION AND GRIEVANCE PROCEDURE

Structure

8.0 INTRODUCTION

In this unit, you will learn about the procedure of adjudication and voluntary arbitration. You will also study worker participation in management. Worker participation is a broad concept. It varies from country to country and industry to industry. Being a dynamic subject, no rigid limits can be laid down for worker participation for all industries and for all times. It can be elastic enough to include worker representation even at the top level, namely Board of Directors. It can also be confined to the extremely limited domain of consultation at the lowest level such as 'to promote measure for securing and preserving amity and good relations between the employer and workmen and to that end, to comment upon matters of their interest or concern and endeavour to compose any material difference of opinion in respect of such matters.

8.1 OBJECTIVES

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

- Describe the origin and growth of adjudication system
- Explain the concept of voluntary arbitration
- Discuss the procedure for grievance redressal
- Describe the modes of workers participation in industry

8.2 ADJUDICATION

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The final stage in the settlement of industrial disputes (which the parties are unable to settle either through bipartite negotiations or through the good offices of the conciliation machinery or through voluntary arbitration) is compulsory arbitration that envisages governmental reference to statutory bodies such as Labour Court, Industrial Tribunal or National Tribunal. Disputes are generally referred to adjudication on the recommendation of the Conciliation Officer who had dealt with it earlier. However, the appropriate government has discretion either to accept or not accept his recommendation and accordingly to refer or not to refer the case for adjudication. The percentage of disputes referred to adjudication varied from State to State.

The system of adjudication by Labour Court, Tribunal and National Tribunal has perhaps been one of the most important instruments of regulating the rights of the parties in general and wages, allowances, bonus, working conditions, leave, holidays and social security provisions in particular. The setting of such norms, in advanced countries is done through the process of collective bargaining between the employers and the trade unions, while in India it had to be done by adjudication system because the trade union movement was weak and is in no position to negotiate with the employer on an equal footing. However, this system has been criticized for its unfavourable effects on the trade union movement. Further, undue dependence on compulsory adjudication has deprived the trade unions of the incentive to organize themselves on a strong and efficient basis and has rendered the unions mere petitioning and litigant organizations arguing their cases before tribunals. The system of adjudication has also been criticized because of long delays involved in the final settlement of disputes, particularly where one or the other party chooses to go in appeal against an award. Such delays, it is argued, are themselves responsible for much industrial strife. Be that as it may, it is beyond doubt that the labour judges occupy a very important position in adjudicating the disputes between management and labour. The disputes that are brought before the labour judiciary involve huge stakes, both for the management as well as the workers.

Origin and Growth of Adjudication System

In the era of laissez faire, employers enjoyed the unfettered right to 'hire and fire'. They had vastly supervisor bargaining powers and were in a position to dominate workmen in every conceivable way. They preferred to settle the terms and conditions of employment of workmen and abhorred statutory regulations thereof, unless, of course, it was to their advantage. However, this tendency coupled with a rise in the incidence of the strikes and lockouts made it necessary for the government to intervene in labour management relations. While voluntary and persuasive processes had been playing their role in settling industrial disputes since 1929,

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World War II marked the beginning of compulsory adjudication. Rule 81A of the Defence of India Rules, 1942 empowered the government *inter alia*, to refer any trade dispute to adjudicators and to enforce the awards. After the end of hostilities these measures with a number of innovations and modifications were incorporated in the Industrial Disputes Act, 1947. The Act 'substitutes for free bargaining between the parties a binding award by an impartial Tribunal'. The Tribunal is not bound by contractual terms between the parties but can make a suitable award for bringing about harmonious relations between the employer and the workmen. 'The Industrial Tribunal is not lettered by any limitation on its power. The only limitation on its power is to bring about harmonious relationship between the employer and the workmen.' In the original Act, only one constituting body, namely the Industrial Tribunal was designated for the compulsory settlement of industrial dispute. Within a short span of nine years of its working, it was found that a large number of cases were referred to it. This led to the introduction of the three-tier system, viz., the Labour Court, Tribunal and National Tribunal in 1956.

Composition of the Labour Court, Tribunal and National Tribunal

The issue of composition of the Labour Courts and Tribunals has an important bearing on their working. The present system of reference to adjudication is, however, open to criticism. *First*, from 'the workers' side, it is often urged that with various restrictions placed on strikes, the recourse to judicial determination of disputes should not be barred by the Government.' *Second*, the decision to refer disputes or to withhold reference is sometimes not made on any strict principle and the system is open to pressurization.

The Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956, introduces a three-tier system for industrial adjudication. The machinery provided under the Act consists of Labour Courts, Industrial Tribunals and National Tribunals. The appropriate government is empowered under Section 7 and 7A to constitute one or more Labour Courts and Industrial Tribunal with limited jurisdiction, to adjudicate 'industrial disputes', and the Central Government is authorized under Section 7B to constitute the National Tribunal. The Labour Courts, Industrial Tribunals and National Tribunals are ad hoc bodies and consist of a single member called presiding officer. The appointment of the tribunal may, however, be for a limited duration.

Appointment of Assessors. There is no provision for the appointment of assessors in Labour Courts, but in case of Industrial Tribunal or National Tribunal, the appropriate government may appoint two persons as assessors to advise the Tribunal in the proceedings before it. The assessors are supposed to be experts having special knowledge of the matter under consideration and can be appointed only when the dispute involves technical matters and requires expert knowledge for its settlement. This provision has never been used and for all practical purposes is defunct.

Jurisdiction of Labour Court, Tribunal and National Tribunal

The Labour Court has jurisdiction to adjudicate industrial disputes which may be referred to it under Section 10 of the Act by the appropriate government and which relates to: (1) The propriety or legality of an order passed by an employer under the standing orders; (2) the application and interpretation of standing order; (3) discharge or dismissal of workmen including reinstatement of, or grant of relief to, workmen wrongfully dismissed; (4) withdrawal of any customary concession or privilege; (5) illegality or otherwise of strike or lock-out; and (6) all matters other than those specified in the Third Schedule.

The Industrial Tribunals have jurisdiction to adjudicate industrial disputes referred under Section 10 which relates to: (1) wages, including the period and mode of payment; (2) compensatory and other allowances; (3) hours of work and rest intervals; (4) leave with wages and holidays; (5) bonus, profit-sharing, provident fund and gratuity; (6) shift working otherwise than in accordance with standing orders: (7) classification by grades; (8) rules of discipline; (9) rationalization; (10) retrenchment of workmen and closure of establishment; and (11) any other matter that may be prescribed.

The National Tribunals have jurisdiction to adjudicate industrial disputes which, in the opinion of the Central Government, involves questions of national importance or are of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such disputes and which may be referred to them by the Central Government.

Under the Industrial Disputes Act, 1947, the Labour Court, Tribunal and National Tribunal can acquire jurisdiction only when there is in existence an apprehension of an industrial dispute and a reference of such dispute has been made by the appropriate Government under Section 10. The Labour Courts, Tribunals and National Tribunals are also required to deal with complaints. The Labour Courts are also required to decide the question of amount of money due under Section 33 C (2) of the Industrial Disputes Act, 1947.

Powers and Functions of the Labour Court, Tribunal and National Tribunal

The Labour Court, Tribunal and National Tribunal have a statutory duty to hold the proceedings expeditiously and shall, as soon as it is practicable on the conclusion thereof submit its award to the appropriate government. They are empowered, subject to the rules in this behalf, to follow such procedure as they may think fit. The rules provide for place and time of hearing of the industrial dispute by adjudication or arbitration authorities as the case may be.

Power to Set Aside an Ex parte Award

Even though there is no provision either in the Industrial Disputes Act or in the rules framed thereunder to empower the Labour Tribunals to set aside an ex parte award, the Supreme Court through the process of judicial legislation has invested

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in them such powers. However, the Industrial Tribunal becomes *functus officio* if the application is not moved within 30 days of the publication of the award in the Official Gazette. Thereafter, the interim award stands vacated. The Tribunal may also cancel the promotion order passed by the management where it finds that person were superseded on account of *mala fide* or victimisation. In this regard, the Tribunal may also frame rules of promotion in consultation with the management and union and direct the management to give promotions or upgradation in accordance with those norms/rules. The Industrial Tribunals, while deciding upon the wage scales of the employees of an establishment have full liberty to propose an ad hoc increase of salaries as a part of the revision of wages. Further, increment is a part of revision of pay scales.

The Tribunal, however, under Section 36A has no power to determine the question about propriety, correctness or validity of any provision or the powers conferred under any statute. Further, the Tribunal has no power to amend or modify its award after it becomes final except to correct clerical mistakes and so that the powers under Section 11(3) could be exercised by the tribunal after the proceedings pending before it have been terminated.

Power to Grant Interim Relief

The Supreme Court in *Hotel Imperial* vs *Chief Commissioner* ruled that interim relief may be granted (*i*) if there is a prima facie case, (*ii*) Tribunal, interference is necessary to protect a party from irreparable loss or injury, and (*iii*) the balance and convenience. The Bombay High Court in *Bharat Petroleum Corporation Ltd* vs *R.J. Tiwari* held that even full wages may be granted by way of interim relief.

But 'where a quasi-judicial Tribunal or arbitrator records findings based on no legal evidence and the findings are either his *ipse dixit* or based on conjectures and surmises, the enquiry suffers from the additional infinity of non-application of mind and stands vitiated. The Industrial Tribunal or the arbitrator or a quasi-judicial authority can reject not only such findings but also the conclusion based on no legal evidence or... on surmises and conjectures unrelated to evidence on the ground that they disclose total non-application of mind.'

Powers of the Tribunal under Section 11A

Quite apart from these, the Labour Court, Tribunal, National Tribunal and Voluntary Arbitrator are also empowered to go into the question of adequacy of the punishment. They are empowered under Section 11A to direct 'reinstatement of the workman on such terms and conditions, if any, as (they) think fit or give such relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case require.' The purpose for which Section 11A has been enacted is to enlarge the powers of the Labour Court, Tribunal or National Tribunal, as the case may be, so that in appropriate cases even if the Labour Court or the Tribunal finds that the enquiry had been held

properly and the charge is borne out by the evidence, the Labour Court or the Tribunal may still give some relief to the worker if it finds the punishment to be disproportionate to the charges held.

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1. **Jurisdiction to record evidence under S. 11A**
   - It is exercisable even in cases where the opportunity of hearing was given and principles of natural justice complied with before passing the order of dismissal but the Appellate Authority finds it necessary to record evidence in order to draw its own conclusion as to whether the person dismissed was or was not guilty of the charges framed against him.
   - Where the employer had filed an application to produce evidence in support of the charges and the Appellate Authority without disposing of that application, set aside the order of dismissal merely on omission of any enquiry, the Appellate Authority committed a grave error.
   - Omission of affording opportunity during domestic enquiry is curable by adducing evidence before the Appellate Authority.
2. **Scope of consideration of the Labour Court/Tribunal under S. 11A**
   - Where domestic enquiry conducted by management is found defective.
   - Where the Labour Court grants an opportunity to the management and workmen to adduce evidence.
   - Where, evidence, the Labour Court agrees with the management's conclusion that misconduct was proved and also declared the dismissal order to be justified.
3. **Production of additional evidence**

   The Supreme Court in *Bharat Forge Company Ltd* vs *A.B. Zodge* held that under Section 11A of the Industrial Disputes Act, 1947, the employer is entitled to adduce evidence for the first time, before the tribunal even if the employer had not conducted any enquiry or the enquiry conducted by him is found to be perverse. A domestic enquiry may be vitiated either for non-compliance of rules of natural justice or for perversity. Disciplinary action taken on the basis of a vitiated enquiry does not stand on a better footing than a disciplinary action with no enquiry. The right of the employer to adduce evidence in both the situations is well recognized.
4. **When can the Labour Court permit parties to adduce fresh evidence?**

   In *Rajendra Jha* vs *Labour Court*, the Supreme Court held that even when the application for permission to adduce further evidence is not made in the pleading the Labour Court is empowered to permit the management to adduce evidence before the court and therefore, it should allow the parties to adduce evidence to prove the misconduct. However, the court has observed that the request of the employer to adduce evidence should be made at the earliest opportunity or the delay be explained. However, such request must be made before the closure of the proceedings.

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5. Obligation of asking the parties to adduce evidence

The Tribunal is neither under a duty to give an opportunity to the parties to adduce evidence nor under an obligation to acquaint parties before it for their rights to adduce evidence under Section 11A.

6. Recommendation of the (Second) National Commission on Labour

The Second National Commission on Labour has recommended that Section 11A of the ID Act, 1947, may be retained. However, the law may be amended to the effect that where a worker has been dismissed or removed from service after a proper and fair enquiry on charges of violence, sabotage, theft and/or assault, and if the labour court comes to the conclusion that the grave charges have been proved, then the court will not have the power to order reinstatement of the delinquent worker.

7. Powers of the High Court under Article 226

The High Court in exercise of writ jurisdiction can exercise similar powers and discretion as exercised by the Labour Court under Section 11A.

8.2.1 Voluntary Arbitration

Voluntary arbitration is one of the effective modes of settlement of industrial dispute, it supplements collective bargaining. When negotiation fails, arbitration may prove to be a satisfactory and most enlightened method for resolving industrial dispute. It provides 'a new focus for set-up animosities'. It has been found that in 'many arbitration cases, in which the parties start out angry at each other, they end up less so. The winning party is satisfied, and the losing party is likely to feel aggrieved, not at the other party, but at the arbitrator'. Further, informal arbitration offers an opportunity to dissipate hard feelings which the industrial dispute may have aroused.

It is important because it is (*i*) expected to take into consideration the realities of the situation; (*ii*) expected to meet the aspiration office parties: (*iii*) based on voluntarism; (*iv*) is not compromising the fundamental position of the parties, and finally; (*v*) expected to promotes mutual trust. However, it is unfortunate that despite the government's stated policy to encourage collective bargaining and voluntary arbitration, India adopted only a compulsory adjudication system ever since independence and did not give legal sanctity to voluntary arbitration till 1956. The severe criticism of conciliation and adjudication led to the introduction of Section 10 A relating to voluntary arbitration through the Industrial Disputes (Amendment) Act, 1956. The 1956 Amendment to some extent has tried to give legal force to voluntary arbitration but still it stands on a lower footing than the adjudication as it permits the parties to adopt recourse to arbitration prior to reference to adjudication. Further, the 1956 Amendment also did not place an arbitrator on the same footing as that of adjudicators. The 1964 Amendment did try to bridge the gap but still the disparity lies in several respects.

Processes involved in Reference of Dispute to a Voluntary Labour Arbitrator

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Choice of Dispute Settlement

Section 10A (1) of the Industrial Disputes Act, 1947, authorizes the parties to make reference to the voluntary arbitrator. However, before the reference may be made to the arbitrator, four conditions must be satisfied:

1. The industrial dispute must exist or is apprehended.
2. The agreement must be in writing.
3. The reference must be made before a dispute has been referred under Section 10 to a Labour Court, Tribunal or National Tribunal.
4. The name of arbitrator/arbitrators must be specified.

The Conditions Precedent

A perusal of the aforesaid provisions may conveniently be delineated with reference to:

1. ***Parties to Arbitration.*** Under the Industrial Disputes Act, 1947, a reference to the voluntary arbitrator under Section 10 A can only be made if a dispute arises between employers and employers, or between employers and workmen, or between workmen and workmen.
2. ***Subject Matter of Reference.*** The Industrial Disputes Act, 1947, seeks to resolve the industrial disputes. The parties can only make a reference of an 'industry dispute' to an arbitrator. If, for instance, parties refer a dispute which is not an 'industrial dispute', the arbitrator will have no jurisdiction to make a valid award.
3. ***Time for Making the Agreement.*** Section 10A of the Industrial Disputes Act, *inter alia*, provides that the reference to the arbitrator should be made at any time before the dispute has been referred under Section 10 to a Labour Court, Tribunal or National Tribunal.

Selection of Arbitrator

The next phase is the selection of the arbitrator. The parties acting under Section 10A are required to select any person or persons including the presiding officer of a Labour Court, Tribunal or National Tribunal to arbitrate in a dispute. Further, the parties may select or appoint as many arbitrators as they wish. However, where a reference is made to an even number of arbitrators, the parties by agreement should provide for appointment of an umpire who shall enter upon the reference and if the arbitrators are equally divided in their opinion, the award of umpire shall prevail and be deemed to be the 'award'. However, Section 10A unlike the 'procedure for voluntary arbitration of labour disputes' as approved by the National Arbitration Promotion Board or Section 7 (1) of the Industrial Relations Bills,

1978, does not provide for any agreement if the parties on their own fail to agree to an arbitrator or arbitrators.

Arbitration Agreement

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1. ***Agreement must be in writing.*** Once the parties agree to refer the dispute to arbitration, it is required to make such arbitration agreement in writing.
2. ***Form of the Agreement.*** The other requirement of Section 10A (2)(d) is that the arbitration agreement should be in the prescribed form and Rule 7 of the Industrial Disputes (Central) Rules, 1957, provides that it should be in Form C. How far and to what extent the aforesaid requirement should be complied which formed the subject-matter of dispute in the *North Orissa Workers' Union* vs *State of Orissa*. The Court held that it is not necessary that the agreement must be made in the prescribed Form 'C'. It would be enough if the requirements of that form are substantially complied with.
3. ***Signature of the Parties.*** Section 10A (2) further requires that an arbitration agreement shall be signed by the parties thereto in such a manner as may be prescribed in the rules framed by the appropriate government. However, decided cases reveal that the validity of the award or arbitration agreement has often been questioned on the basis of non-compliance of signature of all parties on the arbitration agreement. This has been a ground for not issuing the notification by the appropriate government and enabling the government to refer such dispute to labour tribunals. This tendency of appropriate government has, however, been scrutinized by the judiciary.
4. ***Consent of Arbitrator(s).*** Even though the Act does not expressly require that the arbitration agreement must be accompanied by the consent of arbitrator, the Industrial Disputes (Central) Rule, 1957, provides that the arbitration agreement must be accompanied by consent, in writing, of the arbitrator or arbitrators. However, for the purposes, it is enough if there is a substantial compliance to this rule.
5. ***Submission of the Copy of Arbitration Agreement.*** Once an arbitration agreement has been entered into and executed in the prescribed form under Section 10A, a copy of the arbitration agreement shall be forwarded to the appropriate government and the Conciliation Officer. Non-submission of a copy of the arbitration agreement to the appropriate government would make the award made thereon outside the purview of Section 10A of the Industrial Disputes Act, 1947, because Section 10A (4) is interlinked with Section 10A (3) and only on satisfaction of the mandates of Section 10A will there would be an investigation into the dispute and the award would be made by the Arbitrator and then forwarded to the appropriate government.
6. ***Publication of Arbitration Agreement.*** The appropriate government comes into picture in the process of reference to arbitrator only after the receipt of a copy of a valid arbitration agreement. If this is done:

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.... the appropriate government shall, within one month from the date of the receipt of such copy publish the same in the Official Gazette.

The aforesaid provision raises a question whether the publication of the agreement is mandatory or directory. A corollary of this issue is: whether the appropriate government can override the wishes of the parties to refer the matter to the arbitration by making a reference to the Labour Court, Tribunal or National Tribunal. This issue may be discussed under two heads: (*i*) Publication of arbitration agreement, and (*ii*) time of publication.

(*a*) *Publication of Arbitration Agreement.* In *Karnal Leather Karamchari Sangathan* vs *Liberty Footwear Co.*, the Supreme Court was invited to consider whether the publication of arbitration agreement under Section 10A(3) is obligatory. The Supreme Court answered the question in the affirmative and observed:

'The voluntary arbitration is a part of the infrastructure of dispensation of justice in the industrial adjudication. The arbitrator thus falls within the rainbow of statutory tribunals. When a dispute is referred to arbitration, it is therefore, necessary that the workers must be made aware of the dispute as well as the arbitrator whose award ultimately will bind them. They must know what is referred for arbitration, who is their arbitrator and what is in store for them. They must have an opportunity to share their views with each other and if necessary, place the same before the arbitrator.'

The Court held that the arbitration agreement must be published before an arbitrator considers the merits of the disputes. Non-compliance of this requirement will be fatal to the arbitration award.

(*b*) *Time for Publication.* The high courts are divided on the issue: whether the requirement of publication of agreement within one month is mandatory or directory. While the Division Bench of the Madhya Pradesh High Court in *K.P. Singh* vs *S.K. Gokhale* and the Orissa High Court in *North Orissa Workers' Union* vs *State of Orissa* has taken the view that the requirement is mandatory, the High Court of the Punjab and Haryana in *Landra Engineering and Foundary Workers* vs *Punjab State*, the Delhi High Court in *Mineral Industrial Association* vs *Union of India*, Madhya Pradesh High Court in *Modern Stores Cigarettes* vs *Krishnadas Shah* and *Aftab-e-Jadid, Urdu Daily Newspapers* vs *Bhopal Shramjivi Patrakar Sangh* has taken the opposite view and held that the requirement is only directory. The decisions of these three high courts which held that provisions to be directory said:

... on the true construction of ... Section 10A(3) that the other requirement namely, its notification within one month from its receipt is only directory and not imperative.

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Voluntary Labour Arbitrator

1. ***Nature of Voluntary Arbitrator.*** It is exceedingly difficult to maintain a distinction between statutory and private arbitrator on the basis of nomenclature because both are the product of statute: the former is made under the Industrial Disputes Act, 1947, while the latter under the Arbitration Act, 1940. However, such distinction has not come to stay through a series of judicial decisions.
2. ***Conduct of the Arbitrator.*** The Industrial Disputes Act, 1947, does not prescribe how the conduct of the arbitrator is to be regulated. However, the decided cases of the Supreme Court and High Courts reveal that an arbitrator should be impartial and he must build up a relationship of confidence with both the parties. Thus, he or any of his near relatives should not accept any hospitality or favour from any party to the disputes before him, because justice should not only be done but it must be seen to be done. If he does so that would be an act of misconduct. Similarly, if he does not hear the party or exceeds his jurisdiction or fails to determine an important question referred to him, his decision is liable to be interfered.
3. ***Jurisdiction of the Voluntary Arbitrator.*** An arbitrator under Section 10A comes into existence when appointed by the parties, and he derives his jurisdiction from the agreement of the parties. If the arbitrator decides matters not referred to him by the parties, he acts beyond his jurisdiction. For instance, in *Raza Textile Labour Union* vs *Mohan*, three disputes upon which the arbitrator gave the award were not covered by 167 matters of disputes which were referred to him. The Court quashed the award as these matters were beyond the jurisdiction of the arbitrator. Similarly, in *Rohtas Industries Ltd* vs *Workmen,* the Patna High Court held that the award regarding dearness allowance was vitiated by the fact that it was not in accordance with the terms of agreement. Likewise, the Madras High Court in *Vaikuntam Estate* vs *Arbitrator* quashed the interim award of arbitrator where he exceeded the terms of reference. Further, unlike the jurisdiction of adjudicatory bodies, the arbitrator cannot arbitrate upon matters 'incidental to' or 'any matter appearing to be connected or relevant' to the dispute. However, unlike adjudicatory authorities under the Act, the arbitrator has a wider power to decide upon all 'industrial dispute' referred to him under an arbitration agreement irrespective of the fact whether it falls either under Schedule II or III of the Industrial Disputes Act, 1947.
4. ***Powers of Arbitrator.*** Section 11A merely provides: Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such

terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge of dismissal as the circumstances of the case may require.

It does not specifically mention 'arbitrator'. It, therefore, raises a question whether the arbitrator has the power to interfere with the punishment awarded by the management under Section 11A. Justice Krishna Iyer in *Gujarat Steel Tubes Ltd* vs *Gujarat Steel Tubes Mazdoor Sabha* answered the question in the affirmative. He stated:

> Section 11 did clothe the arbitrator with similar powers as tribunals, despite the doubt created by the abstruse absence of specific mention of 'arbitrator' in Section 11 A.

In *Rajinder Kumar* vs *Delhi Adminisration*, the Supreme Court explained the powers of the Arbitrator and the Supreme Court:

> 'In exercise of the jurisdiction conferred by Section 11A of the Industrial Disputes Act, 1947, both arbitrator and ... (the Supreme Court) can reappraise the evidence led in the domestic enquiry and satisfy themselves whether the evidence led by the employer established misconduct against the workman. It is too late in the day to contend that the arbitrator has only the power to decide whether the conclusions reached by the enquiry officer were plausible one deducible from the evidence led in the enquiry and not to re-appraise the evidence itself and to reach the conclusion whether the conduct alleged against the workman has been established or not.'

The Court added:

> 'Where the findings of misconduct are based on no legal evidence and the conclusion is one to which no reasonable man would come, the arbitrator appointed under Section 10A or this court in appeal under Art 136 can reject such findings as perverse. The industrial tribunal or the arbitrator or a quasi-judicial authority can reject not only such findings but also the conclusion based on no legal evidence or if it is merely based on surmises and conjectures unrelated to evidence on the ground that they disclose total non-application of mind.'

Signing of an Award

Sub-Section (4) of Section 10A requires that the arbitration award shall be signed by the arbitrator or all the arbitrators, as the case may be. The provisions of the section are mandatory. The award of arbitrator shall be void and inoperative in the absence of signature in view of mandatory term of the section.

Submission of an Award

Section 10A (4A) of the Act enjoins upon the arbitrator to investigate the dispute and submit its award to the appropriate government. The non-submission would render the award in-operative.

Publication

Sub-section (3) of Section 10A requires that a copy of the arbitration agreement shall be forwarded to the appropriate government and the Conciliation Officer

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and the appropriate government shall within one month from the date of receipt of such copy, publish the same in the Official Gazette.

Power of Superintendence of the High Court Article 227 of the Constitution over Voluntary Arbitrators

In addition to Article 226, Article 227 confers upon the high court a power of superintendence over all lower courts and tribunals within its jurisdiction. A question, therefore, arises whether a high court can interfere under Article 227 with an award of an arbitrator (under Section 10A). The Supreme Court in *Engineering Mazdoor Sabha* vs *Hind Cycles Ltd*., answered it in the negative and placed Article 227 at a par with Article 136. It held that:

> Like Article 136, Article 227 refers to Courts and Tribunals and what we have referred to the requirements of Article 136 may *prima facie* apply to the requirements of Article 227.

The net effect of the aforesaid statement is that the high court is not competent to have power of superintendence over voluntary arbitrators under Section 10A because the 'arbitrator' was not a 'Tribunal'.

However, in *Rohtas Industries Ltd* vs *Rohtas Industries Staff Union,* even though Justice Krishna Iyer conceded that the position of arbitrator under Section 10A (as it then stood) vis-a-vis Article 227 might have been different but in view of the changed situation after the amendment in the Industrial Disputes Act by XXXVI of 1964 observed:

> Today, however, such an arbitrator has the power to bind even those who are not parties to the reference or agreement and the whole exercise under Section 10A as well as the source of the force of the award on publication derive from the statute. It is legitimate to regard such an arbitrator now as part of the methodology of the sovereign's dispensation of justice, thus falling within the rainbow of statutory Tribunals amenable to judicial review.

The aforesaid view was reiterated in the majority judgement in *Gujarat Steel Tubes* case.

However, one is tempted to ask if the Court's decision would have been different if the Government does not issue a notification under sub-section 3A of Section 10A on the ground that persons making a reference do not represent the majority of each party. An answer in the affirmative would revive the view stated in *Engineering Mazdoor Sabha (supra)*. Under the circumstances, it is suggested that Parliament may clarify the position by legislative amendment.

In *Association of Chemical Workers* vs *B.D. Borude*, the Bombay High Court ruled:

> 'If the findings of an arbitrator are perverse and not based on the evidence available on record or contrary thereto or no reasonable person would come to such a conclusion, while interpreting and applying the provisions of Section 11A of the Industrial Disputes Act, this Court can always interfere, with the Award passed by an Arbitrator appointed under Section 10A of the ID Act.'

Check Your Progress

1. Define voluntary arbitration.
2. What is the final stage in the settlements of industrial disputes?

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8.3 WORKERS PARTICIPATION IN INDUSTRY

The worker participation has been differently viewed by sociologists, psychologists, economists and lawyers. The sociologists view worker participation as an instrument of varying potentialities to improve industrial relations and promote industrial peace. The psychologists consider participation as a mental and emotional involvement of a person in a group situation which encourages workers to share managerial responsibility. According to them, worker participation is a psychological process by which workers become self-involved in an establishment and see that it works successfully. The economists think that the real basis of worker participation is the higher productivity of labour and utilization of collective experience of workers in order to advance the qualitative and quantitative conditions of production. Lawyers, however, view workers participation as a legal obligation upon the management to permit and provide for involvement of workers of industrial establishment through proper representation of workers at all levels of management in the entire range of managerial action.

Modes of Worker Participation in Management

Within the broad range mentioned above, the scope of worker participation varies from country to country not only in form but also in the degree of participation. Worker participation in management has been classified into five stages. These are informative, consultative, associative, administrative and decisive participations, the extent of each depending upon the quality of management and the character of the employee. K.C. Alexander has, however, suggested different modes of worker participation *viz.*,

(*i*) Collective bargaining

(*ii*) Joint administration

(*iii*) Joint decision-making

(*iv*) Consultation

(*v*) Information sharing.

Issues over which the interest of workers and management are conflicting such as wages, bonus, working hours, holidays and leave, etc. are amenable through collective bargaining. On the other hand, issues over which both parties are equally concerned, such as the efficient management of provident fund money, canteen, labour welfare facilities, would form subjects of joint administration, joint decision-

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making or consultation. The difference between joint administration, joint decision-making and consultation though narrow, is nevertheless significant. Whereas in joint administration, workers and management jointly share responsibility and power of execution, in joint decision-making even though the two groups participate in deciding the policies, execution is generally carried-out by the management. In the consultation form, the management merely invites worker opinion or suggestions on certain matters of common interest but retains itself the authority and responsibility of making decision and executing them. According to Kenneth F. Walker, various forms of worker participation in management are ascending participation, descending participation, disjunctive participation and informal participation. In ascending participation, workers may be given an opportunity to influence managerial decision at higher levels, through their elected representatives to Works Committee Shop or Joint Council or Board of the establishment. In descending participation, they may be given more powers to plan and make decisions about their own work. They may participate through collective bargaining. They may also participate informally when, for example, a manager adopts a participative style of supervision of workers. These and other forms of participations have played a significant role in transforming the scope and concept of worker participation.

Historical Development

Rapid industrial development and the attainment of economic self-reliance are the two major tasks which the country, among others, has set out to accomplish. The key to achieving these objectives is increased production. Output cannot be increased unless there is effective co-operation between the labour and management at all levels. The way to ensure this is to satisfy their social and psychological need besides economic ones. Worker participation in management is one of the most significant modes of resolving industrial conflicts, and encouraging among the workers, a sense of belonging to the institution where they work. It affords due recognition to the workers and enables them to contribute their best in all round prosperity of the country in general and industrial prosperity in particular. Moreover, for India which has launched a vast programme of industrialization, the need for worker participation is all the more important. It is in recognition of these needs that under the Second, Third, Fifth and Seventh plans specific measures have been suggested for worker participation. The last five decades have witnessed a striking development in the arena of worker participation. Although the institution of a works committee consisting of the representatives of employers and workmen was provided as early as 1947 which seeks 'to promote measures for securing and preserving amity and good relations between the employer and the workmen and to discuss day-to-day problem of the industry', the scheme of Joint Management Council, popularly known as the Worker participation in management, was introduced on voluntary basis only after over a decade. However, the scheme of Joint Management Council for various reasons could not succeed. In order to meet this unhappy state of affairs and to secure greater measure of co-operation

between the labour and management to increase efficiency in public service, the Government of India on October 30 1975, introduced a scheme of worker participation in management at shop floor and plant levels. In addition to these, there are voluntary schemes of making the worker shareholders and Directors in the Board of Management. The inclusion of the concept of Worker participation in management in the Directive Principles of State Policy through the Constitution (Forty-second) Amendment Act, 1976 gave a momentum to the institution of worker participation in management.

Thus, Articles 43-A of the Constitution (42nd Amendment) Act, 1976 provides:

> 'The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishment or other organizations engaged in any industry.'

The principle underlying the inclusion of worker participation in the Directive Principles of State Policy is to give due recognition to the workers and to create among them a sense of partnership. It being a constitutional imperative, the State is under an obligation to take suitable measures, legislative or otherwise to secure effective worker participation in management.

After the Constitutional Amendment, the Central Government expressed its intention to amend the 1975 scheme and to provide for effective participation of workers in production processes and accordingly amended the scheme in January1977.

Another scheme was introduced in December 1983. This scheme of workers participation in management was made applicable to central public sector undertakings (except those which are exempted from the operation of the scheme by the administrative ministry/department concerned in consulation with the Ministry of Labour). All undertakings of the central government, which are departmentally run, were excluded from the scheme as they were covered under the scheme of JCM.

The Government of India convened the 11th meeting of the Tripartite Committee on Employees Participation in Management on 3rd October 1997, with the object of revising the Employees' Participation in Management Scheme, 1983 which is currently operating in the Central Public Sector Undertakings. Earlier, in February 1996, under the Plan Scheme for Education and Training in order to promote Employees Participation in Management ' 45,000/- was released to the Central Board for Workers Education to conduct training programmes.

Forms of Worker Participation in Management

The forms of workers participation in management vary from industry to industry and country to country depending upon the political system, pattern of management relations and subject or area of participation. The forms of worker participation may be as follows:

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1. Joint Consultation Model
2. Joint Decision Model
3. Self-Management, or Auto Management Scheme
4. Workers Representation on Board

1. **Joint consultation model:** In the joint consultation model the management consults with the workers before taking decisions. The workers represent their view through 'Joint consultative Committees'. This form is followed in United Kingdom, Sweden and Poland.
2. **Joint decision model**: In this form both the workers and management jointly decide and execute the decisions. This form of participation is followed in U.S.A. and West Germany.
3. **Self-management of auto management**: In this model, the entire control is in the hands of workers. Yugoslavia is an example to this model. Where the state industrial units are run by the workers under a scheme called 'Self-Management or Auto Management Scheme'.
4. **Worker representation on board**: Under this method, the workers elect their representative and send them to the Board to participate in the decision making process.

The worker participation in management may be informal or formal. In the formal form of workers participation in management takes the formal structures such as Works Committee, Shop Councils, Production Committee, Safety Committee, Joint Management Councils, Canteen Committee etc. The informal form of workers participation may be such as the supervisor consulting the workers for granting leave, overtime, and allotment of worked or transfer of workers from one department to another.

Schemes of Worker Participation in Management

1. The 1975 Scheme of Worker Participation in Industries

The introduction by the Government of India of the scheme of worker participation in industries at the shop and floor levels on October 30 1975, opened a new chapter in the history of the employer–employee relations in Indian industries. The other consultative machinery now existing are Works Committees and Joint Management Council. While the former one is statutory and has been set up under the Industrial Disputes Act, 1947, the latter scheme like the present one is non-statutory. This scheme has been formulated to make the worker realise that he is an active participant in the society's apparatus of production.

A feature of the scheme is that there is no legal sanction. Further, it provides that the Shop Council should be set up at floor levels and Joint Council at plant level. Moreover, the scheme has been designed to be a flexible one so as to allow variations to suit local conditions and for the system to work properly. The scheme also provides for its implementation through executive action.

Scope and coverage

The scheme applies in manufacturing and mining industries (whether in the public, private or co-operative sector, including departmentally run enterprises) employing 500 or more persons. In practice it is however found that though the scheme is confined to only manufacturing and mining industries, some other industries have also accepted the scheme. Some States have extended the application of this scheme even in establishments employing less than 500 workers. For instance, Punjab has extended the scheme in establishment, employing 200 or more workers.

2. The 1983-Scheme of Worker Participation in Management

A new comprehensive scheme of worker participation in management was notified by the Government of India on 30th December 1983. The scheme is applicable to all public sector undertakings. The State Governments and Private Sector enterprises have also been asked to implement the scheme. A committee consisting of representatives of the employing Ministries, State Governments, Central Public Sector Enterprises, Central Worker Organizations and representatives of the private sector manufacturers' organizations was set up in August 1984, to monitor the progress in the implementation of the scheme. According to 1987-88 (Annual Report of the Ministry of Labour), as per the information available, 100 public sector enterprises have adopted the Scheme of December 1983 at shop floor and plant levels. Another 33 public sector enterprises have implemented their own scheme/variant of scheme notified by the Government. About 64 public sector enterprises have not been able to implement the scheme. Majority of large enterprises employing large number of persons and with larger investments, like SAIL, BHEL, IOL, HMT, Cement Corporation of India have implemented the scheme. No enterprise has implemented the scheme at Board level.

The scheme has no legislative backing. The workers and management have equal representative in the shop/plant forums.

Levels of Participation

1. Making workers shareholders

The other method of involvement of the workers in industries is to make them shareholders in the company. This may be done by allotting shares to workers and inducing them to buy equity shares. The management may promote the scheme by allowing the workers to make payments in instalments. The company may also advance loan or even give financial assistance to such workers to enable them to purchase shares. The idea underlying the scheme is that workers can take more interest in the Company for which they are working. This scheme was mooted in a background paper at one of the Indian Labour Conferences. According to official spokesmen, the scheme would create a sense of partnership among the workers and make them feel that they have certain interest in the concern to which they belong. It has also been asserted that by becoming shareholders, a sense of

attachment will follow among workers and this will prompt them to work with dedication and sincerity for the prosperity of the establishment.

Working of the scheme in Indian industries

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As an experimental measure the scheme of making workers shareholders was introduced in Sehgal Sanitary Fittings near Jalandhar and 40 per cent of shares were allotted to the workers. It has been found that the concern was doing well and was exporting goods and earning good profits. A similar experiment was also made in the Rajasthan Spinning & Weaving Mills Ltd. Another private sector, namely a heavy machinery manufacturing firm in Rourkela has introduced a scheme known as Employees' Share Participation Loan Scheme. The Tamil Nadu Government also introduced a scheme of giving up to 24 per cent equity capital to the workers in the state-owned Gheran Transport Corporation and referred to it as a progressive step in the real socialist path. It proposed to extend the scheme to other transport Corporations. Similarly, the State Trading Corporation, a public sector undertaking, offered equity shares to its employees in order to create a greater sense of involvement in the Corporation.

2. Representation of workers on board of directors

One of the effective methods of including among the workers a sense of partnership and belonging to the establishment is to involve them at the highest level of management, namely by giving them representation on the board of directors. It is claimed that this scheme will satisfy the ego of the workers and will give them greater opportunity to realise their responsibility towards the industry to which they are employed.

Working of the scheme

The Government of India on an experimental basis introduced a scheme for appointing worker representative on the Board of Management in two public sector undertakings, viz., Hindustan Antibiotics Ltd., Pimpri and the Hindustan Organic Chemicals Ltd., Kolaba. The scheme envisages that the Council will do their best to resolve problems at the shop floor level but in case no consensus or agreement has reached, the same will be referred to the Board of Management. The scheme provides for a worker representative in the Board of Management. The worker representative is to be nominated by the recognized Union in the undertaking who is required 'to submit a panel of name of three persons from whom one person is to be selected for nomination as Director. A person for being eligible for nomination should have attained the age of 25 years, should have a minimum of 5 years' service in the undertaking and should not attain the age of superannuation during his term of appointment as Director.'

The working group of the Administrative Reforms Commission also considered the feasibility of statutory representation of workers on the Board of Management of the companies. The Commission observed:

'..... the time had not yet arrived for any such provision in our law. Nor did the demand for such representation on the Board of Management of companies appear to be particularly strong or insistent.'

'We are inclined to take the view that it is only after further improvements have been made in worker right and more systematic and comprehensive use has been made of a wide range of joint determination within an enterprise in its day-to-day activities that statutory representation of workers in management of companies whether at the top (Board), middle (Executive Management) or lower (Shop Floor) levels can be considered. Before any attempt is made to provide for the statutory representations of the workers at any desired levels in company management, efforts should be made to improve the education and training of workers for some of the elementary task of management.'

'We do not consider that it is necessary at present to provide in the Companies Act for compulsory representation of workers at any level of management. But it is our hope that it may be possible for the management of companies increasingly to associate the worker representatives particularly at the shop floor level so that all managements' decisions that affect the interest of workers can be taken in the full light of the discussion with worker representation.'

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Conflict/confusion: The appointment of workers as Director on the Board of Management raises several issues:

(i) Selection of the workers to the Board of Directors would lead to many complications. Various pressure groups inside and outside the Union will also claim representation in the Board. Further, the political affiliation of Trade Union is likely to complicate the situation.

(ii) The role of worker directors will create difficult situations for the labour leader who will occupy such position. They would be misunderstood and misrepresented by both the labour and management. It may also broaden the gap between the workers and their director and ultimately the director will not have control over them whom they represent on the Board.

(iii) The workers will be primarily interested only in matters relating to or affecting employment, non-employment, terms of employment and conditions of service of any workman and they will hardly participate in other management functions of the concern as they will have neither knowledge nor interest in other activities. Matters relating to investment planning, production, sales, price policies, etc. will be hardly of any interest to the labour leader.

(iv) It is difficult to say how far the worker director will share the responsibility of the industry jointly with other members of the Board for the matters adversely affecting the working class.

(v) The nomination of one or two worker representatives in the Board of Management would place them in minority while the decision would be taken by majority.

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(vi) Multiplicity and rivalry among trade unions would lead to difficulties in selection of trade union. Further, the absence of statutory provisions for recognition of trade union would also make the selection of worker representative difficult.

3. Worker participation in winding up operation

A milestone in the area of worker participation in winding up proceedings was reached with the pronouncement of a majority judgement of the Supreme Court in *National Textile Workers Union* v. *P.R. Ramakrishnan*. Here the Supreme Court, by a majority of 3 as against 2 ruled that merely because the right to apply for winding up a company is not given to the workers, it does not mean that they cannot appeal to support or oppose a winding up petition under Section 439 of the Companies Act. To deny the participation of the workers in the winding up proceedings would, according to the Court, violate the basic principle of fair procedure. Further, to hold that the workers, who have contributed to the building of enterprise, have no right to be heard in the winding up proceedings would lead to demolition of the centre of economic power. In view of this, the Court held that:

(*i*) The workers are entitled to appear at the hearing of the winding up petition whether to support or to oppose it so long as no winding up order is made by the Court.

(*ii*) The workers have a locus to appear and be heard in the winding up petition both when the winding up petition is admitted and when an order for advertisement is made as also after the admission and advertisement of the winding up of the company.

(*iii*) If a winding up order is made and the workers are aggrieved by it, they would also be entitled to prefer an appeal and contend in the appeal that no winding up order should have been made by the company.

(*iv*) the workers have a right to be heard even when an application for appointment of a provisional liquidator is made in a winding up petition, because the appointment of a provisional liquidator may adversely affect the interest of the workers.

Venkataramaiah and A.C. Sen JJ., on the other hand, refused to concede any such right to the workers or their Trade Unions since they have not been given any right under the Companies Act. Venkataramaiah J. was of the view that once this right is conceded to workers there would be no stopping point. He felt that there is no reason why such right not be available to others like agents, dealers, consumers and the local community. Moreover, the workers have at their disposal the Industries (Development and Regulation) Act, 1951 under which they can ask the Central Government to takeover their unit which is facing winding up. Sen J. was also not in favour of giving to the employees as of right to appear and convey their point of view to the Court particularly where it is of opinion that a proper disposal of the matter would require consideration of worker position also.

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4. Worker Right to Run Sick industries

Navneet R. Kamwni v. *R.R. Kaniani* is an epoch-making judgement on the worker right to run sick units. Here the Supreme Court, for the first time, conceded the demands of the workers to own and manage a sick industry. The Supreme Court also reduced the value of Rs 10 per share to Re 1 per share and directed the transfer of shares to the employees.

The aforesaid line of thinking found expression in the summary of recommendations of the Inter-Ministerial Group on Industrial Restructuring wherein it is recommended that sick units which are taken over by workers cooperatives should be provided special concessions by the Central Government, FIs banks and the State Governments. Besides, writing-off loans, National Renewal Fund can be utilized to provide equality to units managed by worker cooperatives.

Worker Participation in Management: Situation in India

The Industrial Dispute (Amendment) Bill, 1990 was introduced in the Rajya Sabha. Three reasons were advanced for the introduction of such a Bill, namely:

(*i*) It is a step required to be taken under Article 43 of the Constitution.

(*ii*) The non-statutory schemes for worker participation in management failed to provide an effective framework for a meaningful participation of workers in management at all level.

(*iii*) The statutory Works Committee has been proved to be ineffective.

The Bill abolishes the institution of Works Committee under Section 3 of the Industrial Disputes Act, 1947.

The Bill extends to whole of India. It shall come into force on such date as the Central Government may notify. The Central Government is required to give not less than three months' notice of its intention so to do. However, the Central Government may fix different dates of application of different provisions of the Act and for different classes of industrial establishments.

Constitution of Council

The Bill requires every industrial establishment to constitute one or more 'Shop Floor Council' at the shop floor level and an 'Establishment Council' at the establishment level. However, no 'Shop Floor Council' is required to be constituted in establishment having only one shop floor.

The Shop Floor Council and Establishment Council shall consist of equal number of representatives of employer and workmen. The number of representatives of employer and workmen is required to be determined by the appropriate Government in consultation with the employer.

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Issues of Labour Flexibility Participation

The issue of labour flexibility participation was discussed in the 28th, 29th, 32nd and 33rd session of ILC as well. The broad outcome of the discussions in these sessions were:

(a) The envisaged statutory framework should be flexible enabling the Government to introduce the scheme in a phased manner beginning with the establishments above a certain size.

(b) The mode of representation of the workers should be decided in consultation with the recognized Trade Union and in other cases by secret ballot. Dismissed employees whose cases are subjudice should not be eligible for participation.

(c) The participation should be on equal basis between the workers and employers. However, there were differences as regards the participation at the board level. While the worker representatives felt that in the board level also the workers representation should be 50 per cent, the employers representatives felt that to begin with the representation of workers at the board level should be confined only to one representative as workman director. The majority of the state labour ministers were of the opinion that at the board level the representation of workers should be limited to 25 per cent (except the labour minister of West Bengal who wanted that the workers should be given 50 per cent representation on the board).

(d) The question relating to participation in equity should be kept separate from the proposed statutory scheme.

(e) In the 32nd session of the ILC the worker representatives by and large favoured a legal framework for worker participation in management whereas the employers' representatives expressed their opposition to the same and they suggested that this should be left to the voluntary initiatives of the employers.

8.3.1 Grievance Procedure

Experience shows that in the day-to-day running of business, the disputes between the employer and workman are resolved by administrative processes referred to as grievance procedures. The Indian Labour Conference has also adopted a similar concept of a grievance in its following recommendations:

Meaning and Concept of Labour Grievance

Complaints, affecting one or more individual workers in respect of their wage payments, overtime, leave, transfer, promotion, seniority, work assignment, working conditions and interpretation of service agreement, dismissal and discharges would constitute grievance. Where the points of dispute are of general applicability or of considerable magnitude, they will fall outside the scope of grievance procedure.

The aforesaid concept has also been adopted in the guiding principles for a grievance procedure appended to the Model Grievance Procedure in India. Further, clause 15 of the Model Standing Orders in Schedule I of the Industrial Employment (Standing Orders) Central Rules, 1946, specifies that 'all complaints arising out of employment including those relating to unfair treatment or wrongful exaction on the part of the employer or his agent, shall be submitted to the manager or the other person specified in this behalf with the right to appeal to the employers.' Moreover, the State Governments have framed rules under the Factories Act, 1948, requiring a welfare officer to ensure the settlement of grievances.

The Voluntary Code of Discipline adopted by the Sixteenth Session of the Indian Labour Conference in 1958 also provides that: (*a*) the management and unions will establish, upon a mutually agreed basis, a grievance procedure which will ensure a speedy and full investigation leading to settlement, and (*b*) they will abide by the various stages in the grievance procedures. However, there is no legislation in force which provides for a well-defined and adequate procedure for redressal of day-to-day grievances in industrial establishment. In order to meet the shortcoming, the Industrial Disputes (Amendment) Act, 1982, provides for setting up of Grievance Settlement Authorities and reference of certain individual disputes to such authorities. Section 9C of the amended Act provides:

(1) The employer in relation to every industrial establishment in which 50 or more workmen are employed or have been employed on any day in the preceding 12 months, shall provide for, in accordance with the rules made in that behalf under this Act, a Grievance Settlement Authority for the settlement of industrial disputes connected with an individual workman employed in the establishment.

(2) Where an industrial dispute connected with an individual workman arises in an establishment referred to in sub-section (1), a workman or any trade union of workmen of which such workman is a member, refer, in such manner as may be prescribed, such dispute to the Grievance Settlement Authority provided for by the employer under that sub-section for settlement.

(3) The Grievance Settlement Authority referred to in sub-section (1) shall follow such procedure and complete its proceedings within such period as may be prescribed.

(4) No reference shall be made under Chapter III with respect to any dispute referred to in this section unless such dispute has been referred to the Grievance Settlement Authority concerned and the decision of the Grievance Settlement Authority is not acceptable to any of the parties to the dispute.

The Industrial Disputes (Amendment) Act, 1982 excludes hospitals, educational institutions, institutions engaged in any charitable, social or philanthropic service, khadi or village industries and every institution performing sovereign functions. For these institutions, the Hospitals and other Institutions (Settlement of

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Disputes) Bill, 1982, enjoins upon an employer to constitute, within a specified period, a Grievance Settlement Committee for the resolution of individual disputes and Consultative Council and a Local Consultative Council for the resolution of industrial disputes of a collective nature. The Bill also provides for the arbitration of disputes not resolved by the Grievance Settlement Committee or the Local Consultative Council or Consultative Council. However, these provisions of the Industrial Disputes (Amendment) Act, 1982, have not yet been enforced presumably because the Hospitals and other Institutions (Settlement of Disputes) Bill, 1982, has not so far been passed. Further, no rules have been framed under the unenforced Section 9C. The (Second) National Commission on Labour has recommended that a Grievance Redressal Committee for organisation employing 20 or more workers be constituted.

Grivance Redressal Procedures

In 2010, the Industrial Disputes (Amendment) Act, 2010 inserted new chapter IIB on grievance redressal machinery. Section 9C of the Amendment Act provides as follows:

1. Every industrial establishment employing 20 or more workmen shall have one or more grievance redressal committees for the resolution of disputes arising out of individual grievances.
2. The grievance redressal committee shall consist of equal number of members from the employer and the workmen.
3. The chairperson of the grievance redressal committee shall be selected from the employer and from among the workmen alternatively on rotation basis every year.
4. The total number of members of the grievance redressal committee shall not exceed six:

   Provided that there shall be, as far as practicable, one woman member if the grievance redressal committee has two members and in case the number of members are more than two, the number of women members may be increased proportionately.
5. Notwithstanding anything contained in this section, the setting up of grievance redressal committee shall not affect the right of the workman to raise industrial dispute on the same matter under the provisions of this Act.
6. The grievance redressal committee may complete its proceedings within 30 days on receipt of a written application by or on behalf of the aggrieved party.
7. The workman who is aggrieved of the decision of the grievance redressal committee may prefer an appeal to the employer against the decision of grievance redressal committee and the employer shall, within one month from the date of receipt of such appeal, dispose of the same and send a copy of his decision to the workman concerned.

8. Nothing contained in this section shall apply to the workmen for whom there is an established grievance redressal mechanism in the establishment concerned.

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Check Your Progress

3. What is workers participation?
4. State the forms of workers participation.

8.4 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. Voluntary arbitration is one of the effective modes of settlement of industrial dispute, it supplements collective bargaining. When negotiation fails, arbitration may prove to be a satisfactory and most enlightened method for resolving industrial dispute. It provides 'a new focus for set-up animosities'.
2. The final stage in the settlement of industrial disputes (which the parties are unable to settle either through bipartite negotiations or through the good offices of the conciliation machinery or through voluntary arbitration) is compulsory arbitration that envisages governmental reference to statutory bodies such as Labour Court, Industrial Tribunal or National Tribunal. Disputes are generally referred to adjudication on the recommendation of the Conciliation Officer who had dealt with it earlier.
3. According to them, worker participation is a psychological process by which workers become self-involved in an establishment and see that it works successfully. The economists think that the real basis of worker participation is the higher productivity of labour and utilization of collective experience of workers in order to advance the qualitative and quantitative conditions of production.
4. The forms of worker participation may be as follows:
   - Joint Consultation Model
   - Joint Decision Model
   - Self-management, or Auto Management Scheme
   - Workers Representation on Board

8.5 SUMMARY

- The final stage in the settlement of industrial disputes (which the parties are unable to settle either through bipartite negotiations or through the good offices of the conciliation machinery or through voluntary arbitration) is

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compulsory arbitration that envisages governmental reference to statutory bodies such as Labour Court, Industrial Tribunal or National Tribunal.

- The system of adjudication by Labour Court, Tribunal and National Tribunal has perhaps been one of the most important instruments of regulating the rights of the parties in general and wages, allowances, bonus, working conditions, leave, holidays and social security provisions in particular.
- 'The Industrial Tribunal is not lettered by any limitation on its power. The only limitation on its power is to bring about harmonious relationship between the employer and the workmen.'
- The Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956, introduces a three-tier system for industrial adjudication. The machinery provided under the Act consists of Labour Courts, Industrial Tribunals and National Tribunals.
- Industrial peace, prosperity and progress depend upon the efficiency of the labour Judiciary. The Labour Judiciary is thus the centre of the system of industrial adjudication in India. These appointments of the presiding officers of the Labour Judiciary are made by the appropriate Central Government.
- The Labour Court, Tribunal and National Tribunal have a statutory duty to hold the proceedings expeditiously and shall, as soon as it is practicable on the conclusion thereof submit its award to the appropriate government.
- Every Labour Court, Tribunal and National Tribunal enjoys the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, when trying a suit. It can enforce the attendance of any person and examine him on oath; compel the production of documents and material objects; issue commission for examination of witness, make discovery and inspection grant adjournment; and receive evidence on affidavit.
- Voluntary arbitration is one of the effective modes of settlement of industrial dispute, it supplements collective bargaining. When negotiation fails, arbitration may prove to be a satisfactory and most enlightened method for resolving industrial dispute. It provides 'a new focus for set-up animosities'.
- The Industrial Disputes Act, 1947, does not prescribe how the conduct of the arbitrator is to be regulated. However, the decided cases of the Supreme Court and High Courts reveal that an arbitrator should be impartial and he must build up a relationship of confidence with both the parties.
- The worker participation has been differently viewed by sociologists, psychologists, economists and lawyers. The sociologists view worker participation as an instrument of varying potentialities to improve industrial relations and promote industrial peace.
- The economists think that the real basis of worker participation is the higher productivity of labour and utilization of collective experience of workers in order to advance the qualitative and quantitative conditions of production.

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8.6 KEY WORDS

- **Adjudication:** It is the legal process by which an arbiter or judge reviews evidence and argumentation, including legal reasoning set forth by opposing parties or litigants to come to a decision which determines rights and obligations between the parties involved.
- **Tribunal:** A tribunal, generally, is any person or institution with authority to judge, adjudicate on, or determine claims or disputes—whether or not it is called a tribunal in its title.

8.7 SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. Write a short note on the origin and growth of adjudication system.
2. How are the vacancies filled when the presiding officers of Labour Courts and Industrial Tribunals cease to be available?
3. Write a short note on worker participation in winding up operation.

Long Answer Questions

1. Discuss the powers and functions of the labour court, tribunal and national tribunal.
2. 'Voluntary arbitration is one of the effective modes of settlement of industrial dispute, it supplements collective bargaining.' Explain.
3. Explain the modes of worker participation in management.

8.8 FURTHER READINGS

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BLOCK - III
COLLECTIVE BARGAINING PROCESS

UNIT 9 COLLECTIVE BARGAINING AND CODE OF DISCIPLINE

Structure

9.0 INTRODUCTION

Industrial harmony is essential for economic progress and the concept of Industrial harmony wants the existence of undertaking, cooperation and sense of partnership between employers and employees. There may be conflicting interests between employer and workmen but this attitude leads to an understanding for achieving common goals, such as production and prosperity. The phrase collective bargaining was first coined by Sidney and Beatrice Webb. This was widely accepted, particularly in the developed countries.

9.1 OBJECTIVES

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

- Analyse the factors affecting successful collective bargaining in India
- Describe the principles and process of collective bargaining
- Explain the process of code of conduct and code of discipline
- Discuss bipartisan in agreements

9.2 COLLECTIVE BARGAINING: MEANING AND PROCESS

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The legal recognition of united power is based upon the strong bargaining power of management as against of the weak and unorganized workmen. Collective bargaining is the foundation of this movement and it is in the interest of labour that statutory recognition has been accorded to trade unions, and their capacity to represent workmen, who are members of such bodies. Of course, there are limits that have been stipulated, for otherwise, it may stifle the freedom of an individual worker. It is not the law that every workman must necessarily be a member of the Trade Union, and that outside its fold, he cannot exercise any volition or choice in matters affecting his welfare. The representative powers of the labour organization, with regard to enactments, such as the Industrial Disputes Act, will have to be interpreted in the light of the individual freedoms guaranteed in the Constitution and not as though such freedoms did not independently exist, as far as organized labour is concerned.

Meaning of Collective Bargaining

The expression 'collective bargaining' was coined by Sydney Webb and Beatrice Webb. This was widely accepted in the United States of America.

The meaning of the expression 'collective bargaining' has been a controversial matter. It is defined in a variety of ways. Harbison defines 'collective bargaining' as, 'a process of accommodation between two institutions which have both common and conflicting interests'.

In 1960, the manual published by the International Labour Office defined 'collective bargaining' as the 'negotiations about working conditions and terms of employment between an employer, a group of employers or one or more employers' organisation on the one hand, and one or more representative workers organisations on the other, with a view to reaching agreement'.

Golden, however, treats collective bargaining as 'a measure to distribute equitably the benefits derived from industry among all the participants including the employees, the unions, the management, the customers, the supplier and the public'.

The aforesaid definitions of collective bargaining indicate that there is no unanimity among the authors regarding the meaning of collective bargaining. Be that as it may, collective bargaining is a process by which the terms of employment and conditions of service are determined by agreement between the management and the union. In effect, 'it is a business deal (which) determines the price of labour services and the terms and conditions of labour's employment'.

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An analysis of 'collective bargaining' requires the description of:

(*i*) parties to collective bargaining,

(*ii*) subject-matter of collective bargaining and

(*iii*) objects of collective bargaining. Let us turn to discuss them.

Parties to collective bargaining

Collective bargaining involves two parties, namely, the management represented either alone or through the Employers' Association or Federation of Employers on the one hand and workers represented either through a union or worker federation, on the other hand. The latter one, where provisions exist under law are known as bargaining agent. These two parties are directly involved in the process of collective bargaining. It has, however been debated time and again that a representative of the public should also be included to represent the interest of the public at the bargaining table, but has not yet been used much.

The subject matter of collective bargaining

The International Labour Organization has divided the subject matter of collective bargaining into two categories:

(*i*) That which sets out standards of employment which are directly applicable to relations between an individual employer and worker.

(*ii*) That which regulates the relations between the parties to the agreement themselves and have no bearing on individual relations between employers and workers.

The first category includes subjects like wages, working hours (including overtime), holidays with pay and period of notice for termination of contract. The second category according to ILO includes eight items viz.,

(*i*) Provisions for enforcement of collective bargaining.

(*ii*) Methods of settling individual disputes.

(*iii*) Collective disputes including grievance procedure and reference to conciliation and arbitration.

(*iv*) Recognition of an union as the bargaining agent for the workers.

(*v*) Giving the preference in recruitment to union members seeking employment.

(*vi*) The duration of the agreement.

(*vii*) Undertaking not to resort to strike or lock-out during the period and

(*viii*) Procedures for the negotiation of new agreements.

Objectives of Collective Bargaining

The International Confederation of Free Trade Union called collective bargaining 'A Workers's Bill of Rights'. It enumerated the following objects of the union in collective bargaining:

1. To establish and build up union recognition as an authority in the work place.
2. To raise worker standard of living and win a better share in company's profits.
3. To express in practical terms the worker desire to be treated with due respect and to achieve democratic participation in decisions affecting their working conditions.
4. To establish orderly practices for sharing in these decisions and to settle disputes which may arise in the day-to-day life of the company.
5. To achieve broad general objectives such as defending and promoting the worker interests throughout the country.

The ILO also states that 'In collective bargaining the object is to reach agreement on wages and other conditions of employment about which the parties begin with divergent viewpoints but try to reach a compromise. When a bargain is reached the terms of the agreement are put into effect'.

Thus, it is evident that the prime object of collective bargaining is to resolve the differences between the parties with respect to employment, non-employment, terms of employment and conditions of service of the members of the union.

Prerequisites for Collective Bargaining

The prerequisites for collective bargaining as follows:

1. Freedom of association

In order to achieve collective bargaining, it is essential to ensure that the denial of such freedom negates collective bargaining. In this respect, it is significant to note that the International Labour Organization adopted 'Convention No. 87 concerning the freedom of association and the protection of the right to organize' which seeks to provide for the freedom of association. India has, however, not, formally ratified that convention perhaps due to administrative and constitutional problems. However, Article 19(1) (c) of the Constitution of India guarantees 'the right to form associations or unions'. Earlier, the Trade Unions Act, 1926, impliedly conceded the freedom of association by conferring certain rights, duties and immunities upon members of registered trade unions. However, there is a need to ratify the ILO Convention.

2. Strong and stable trade unions

For the success of collective bargaining, it is also essential that there be strong, independent, democratic and well as organized trade unions. Unorganized labour constitute a hurdle in the success of collective bargaining. In India, however, the unions are generally weak. Rivalry on the basis of caste, creed, religion is another characteristic of Indian Trade Unions which come in the way of successful collective bargaining. Further, the division of unions on the basis of political ideologies further

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retards the growth of trade unions. Moreover, most of the workers are illiterate. Lastly, the financial position of trade unions are weak and some of them are even unable to maintain a proper office.

3. Recognition of trade unions

The recognition of trade unions as a bargaining agent is the backbone of collective bargaining. We have already discussed the problems relating to the recognition of trade unions in the previous chapter.

4. Willingness to give and take

The mutual trust and appreciation of the viewpoints of the management and union is also essential. Said the ILO, 'The fact of entering into negotiations implies that the differences between two parties can be adjusted by compromise and concession in the expectation that agreement can be reached. Obviously, if one or both sides merely make demands when they meet, there can be no negotiation or agreement'.

5. Regulation of unfair labour practices or victimization

Statutory provisions for unfair labour practice or victimization is another prerequisite of collective bargaining.

Significance of Collective Bargaining

Collective bargaining has been preferred over the compulsory adjudication system for several reasons like:

(*i*) It is a system based on bipartite agreements and is as such superior to any arrangement involving third party intervention in matters which essentially concern employers and workers.

(*ii*) It is a quick and efficient method of settlement of industrial disputes and avoids delay and unnecessary litigation.

(*iii*) It is a democratic method of settlement of industrial disputes.

However, according to Willcox, it has two vital defects: One is that there are situations in which a serious strike and a prolonged strike simply cannot be tolerated. The second great flaw in collective bargaining as a solvent for labour disputes is the lack of representation of public interest at the bargaining table. Whether prices can be raised without strangling the ability to sell goods or services, unions and companies are in a position to agree on wage increase that will cause higher prices; and the consumer must shoulder the full burden of their agreement.

Collective Bargaining in India

Collective bargaining as a method of settlement of industrial disputes is comparatively a recent development. However, it has been debated ever since the days of the Royal Commission of Labour. The planners paid considerable attention to the adoption of the system of collective bargaining to solve labour disputes in India.

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Factors affecting successful collective bargaining in India

Labour laws have affected the formation of trade unions in two ways. *First*, it has weakened the protest movement. *Second*, it has failed to give adequate protection to the members of a union for their trade union activities.

The history of trade union movement across different countries of the world shows that economic dependence on industrial employment, oppressive conditions of work in industrial undertakings, economic exploitation of workers and management and impersonal handling of their personal problems have generally built up the protest movement and the urge to form unions to combat the management's superior powers. However, in India, the Minimum Standard Statutes like The Factories Act, 1948; The Mines Act, 1952, The Minimum Wages Act, 1948; the Payment of Wages Act, 1936; the Payment of Bonus Act, 1965; and Social Security Statutes like the Employees' State Insurance Act, 1948; the Workmen's Compensations Act, 1923; the Employees' Provident Fund and the Miscellaneous Provisions Act, 1952, and the Payment of Gratuity Act, 1972 are not only far in advance of the level dictated by the strength of workers but also of those dictated by the significant protest movement. Moreover, institutions such as a works committees and adjudication system have, in general, tended to minimize the value of trade unions. Further, the institution of standing orders, the procedure for their certification and the provisions regarding the adjudication, disputes relating to their interpretation and application mitigate the necessity of forming trade unions.

Members of trade unions need as much protection from the common law doctrines of criminal conspiracy and restraint of trade as from employers' wrath. However, it has to be noted that the Trade Unions (Amendment) Act, 1947, which prohibited certain forms of unfair practices on the part of management, have not yet been enforced.

Even the protection granted against the common law doctrine of criminal conspiracy, civil conspiracy and restraint of trade under Sections 17, 18 and 19 of the Trade Unions Act are hardly sufficient. The expression 'unless the agreement is an agreement to commit an offence' renders Section 17 almost meaningless. The expression 'on the ground only' severely curtails the benevolent aspect of Section 18.

Further, the law relating to labour management relations and the adjudication system prevalent in our country reveals that, labour law had not been to a great extent responsive to the bargaining power of Indian workers. Thus, the Industrial Disputes Act, 1947, restricts the striking power of Indian workers. It regulates the use of the instruments of economic coercion. Of course, Article 19 (1) (c) of the Constitution guarantees 'the right to form associations or unions' but after the Supreme Court decision in the *All India Bank Employees case* that the Article merely guarantees the 'right to form associations or unions' and, in particular, does not guarantee the right to strike, the usefulness of the Article is extremely limited.

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Moreover, Section 7 of the Criminal Law (Amendment) Act, 1932, renders it impossible for the workers to indulge in several kinds of labour activities. It, adversely affects the workmen's right to picket. It prohibits obstruction of access and intimidation of person or employees or loitering at places of residence or business with the intent of deterring others from entering or approaching or dealing at such place. The Bombay High Court in *Damodar Ganesh v. State* has, however, held that Section 7 prohibits even peaceful picketing. It has, therefore, severely affected the bargaining power of trade unions.

Moreover, the surplus labour market (which exists in India) affects the bargaining power of the Indian labour. It will be observed that 'the backlog of unemployed which stood at 3 million at the commencement of the First Five-Year Plan was estimated to be above 10 million in 1968. This is in spite of 31 million jobs created during the first three plans which is almost equivalent to the size of the entire economically active population of a number of countries like West Germany, United Kingdom and Pakistan.' In addition about 1.8 crore–1.9 crore job opportunities were created during the Fourth Five-Year Plan. They further estimated that even if the entire plan projects were successfully implemented over 40 lakhs would represent the backlog at the end of the Fourth Five-Year Plan.

Further, the absence of any statutory provisions at centre for the recognition of a representative trade union by an employer also affects the bargaining power of trade unions. Again, the rights of unions has jeopardized the striking power of unions. Moreover, the government's unfettered discretion in referring a dispute for adjudication and for issuing prohibitory order under Section 10 of the Industrial Disputes Act has adversely affected the labour's interests.

Labour laws have also not given any special status to a trade union. Section 36 of the Industrial Disputes Act, 1947, enables a worker, if he so desires, to be represented by a union, but it does not enable a union to represent its members. Indeed, apart from the general law of agency, a union cannot bind, by its decision, its own member far less the non-union member in the establishment.

Principles and Process of Collective Bargaining

There is no theory of collective bargaining but many contributors, such as like John Dunlop, Walton and Mckersic have developed important theories of collective bargaining which are discussed as follows:

1. Industrial relations systems approach of Dunlop

John Dunlop evolved the 'Industrial Relations Systems' approach. This emphasizes the environmental context in which industrial relations is viewed as one of several sub systems operating within a total social system encompassing the entire nation. In Dunlop's industrial relations system three sets of actors are recognized:

(i) The workers and their organization;

(ii) A luerarchy of managers and their organization; and

(iii) A group of government agencies directly involved in labour-management relations. The aforesaid actors interact with three related environmental contexts of the industrial relations system–the technology, the market or budgetary constraints, and the power relations in the larger community–to determine the 'we of rules' that govern the workplace.

Source: Nirmal Singh and S.K Bhatia Industrial Relations and Collective Bargaining: Theory and practice Deep and Deep, 2000

Emerging trends in collective bargaining

(i) The institution of collective bargaining is being decentralized and being replaced by unit performing, individual banning and commercial bargaining collaborative burpaing.

(ii) Labour law has also influenced collective bargaining and provide for tripartite settlement.

(iii) Courts and Tribunal interferes in the area of collective bargaining by providing ruling to workers and employers.

Collective bargaining has now become a highly technical and complex job, almost a profession, requiring the services of bargaining specialists possessing an intimate knowledge of the needs of industry as well as of workers. Factual data pertinent to agreements has to be collected and interpreted. The small bargaining unit is not only highly defensive and circumscribed in outlook but lock the resources needed to making the bargaining effective. It is this context that larger bargaining units industry wide or national can play a key role in the bargaining process.

The view that a strong employers association is an impediment to the development of trade unionism is far from correct.

2. Productivity Bargaining

Experience shows that in day-to-day running of industry, management faces a series of problems to manage its workplace. Such problems arise when workmen are absent without leave, take unauthorized breaks, abandon work place, insist on getting overtime as a prerequisite or object to introduction of new technology or more efficient drive for effective work. This may displace or interfere in the day-to-day functioning of the management periodicity and high cost of the production, which is unwarranted.

In such a situation a need was felt to enter into productivity bargaining.

Productivity bargaining is a process of making and entering into an agreement between management and workers with not only a view to increase production or productivity but to link workers wages, allowances and other benefits with production or productivity. There is a corresponding increase or decrease in wages and benefit in relation is the standard productivity norms/index/output. The norms/index/output is finalized through negotiations.

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An analysis of the productivity bargaining reveals the following:

(i) It is performance based.

(ii) workers share in prosperity of the unit is linked with the productivity index.

3. Negotiation and collective bargaining: Walton and Mckersée principle

Collective bargaining and negotiations are often used synonymously. It would be more logical and meaningful to consider negotiations as part of collective bargaining. 'Collective Bargaining' refers to the structural and/or institutional arrangements of Union Management Relations and also covers the parties, goals, environments, and content as well as the process frequently used for resolving the conflict of interest between the management and unions. Whereas the negotiation process has been described by Walton and McKersieas as 'the deliberate interaction of two or more complex social units which are attempting to define or redefine the terms of their interdependence', Gottschaik 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 Michael Salamon, is '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.

Negotiating is a means of getting what you want from others. It is back-and-forth communication designed to reach an agreement when you and the other side have some interests that are shared and others that are opposed. Based on this definition, it is clear that certain conditions must exist for negotiations to take place:

- There must be mutual dependence between the parties: each party must have, or be capable of supplying, something that the other party wants or needs. If one party does not have the ability to fulfil any of the wants or needs of the other party, there is no point in negotiating.
- Some interests must be shared and others opposed. If there are no differences, then there is nothing to negotiate.
- One party should not have, or be unwilling to use, coercive power in the old 'command and control' management strategy. It was believed that the manager had the power to coerce employees into performing tasks that they would normally be unwilling to do. However, this sort of management style only works in the short run, since employees do have power, power to not work to their capabilities, to phone in sick at inopportune times or to find a job elsewhere.

Walton and Mckersie have brought the new idea of bargaining process in negotiations. According to them, labour negotiations is a fruitful setting for the study of the larger field of social negotiations: 'a deliberate inter action of two or more complex social units which are attempting to define or redefine the terms of their inter-dependence'. This analytical framework identifies four sub-processes or types of bargaining in labour negotiations namely:

(*i*) ***Distributive Bargaining*****,** where the objectives of the parties on particular issues are in conflict and the outcome represents a gain for one party and a loss for the other.

(*ii*) ***Integrative Bargaining,*** where the objectives of the parties on particular issues are not fundamental conflict. It is the situation in which management and the union work to solve a problem to the benefit of both. Most quality of work life changes involve integrative bargaining

(*iii*) Attitudinal structuring implies an approach where the objective of the bargaining action is an ongoing relationships between the parties or shaping of attitudes toward one another. It presupposes trust and confidence in each other. Four dimensions of this relationship have been identified by various authors.

(*a*) Indicators whether the interaction will be competitive or cooperatives.

(*b*) Beliefs about the legitimacy of the other party's right to bargain.

(*c*) Level of trust in conductive affairs (belief in the integrity and honesty of other party).

(*d*) Degree of friendliness (whether the interactions are friendly or hostile).

As the bargaining process proceeds, these attitudes may be altered. The attitudes emerging from the negotiations will have a serious impact on the administration of the contract and on future negotiations.

(*iv*) ***Intra-organizational Bargaining****,* where the objective is to obtain consensus within the negotiator's own organisation on the bargaining issues. During negotiations, the bargaining teams from both sides may have to engage in intra-organisational bargaining or conferring with their constituents over changes in bargaining positions. Management negotiations may have to convince management to change its position on an issue—for instance, to agree to a higher wage settlement. Union negotiators must convince their members to accept the negotiated contract, so they must be sensitive to the demands of the membership but be realistic as well.

Other writers concern themselves with particular aspects of the bargaining process, no doubt influenced by their own backgrounds and personal predilections. Thus, some writers consider collective bargaining negotiations as a form of bilateral monopoly or a function of market forces, others as a 'form of industrial government (in which) sovereignty in the work place is shared by management and worker representatives', and still others as 'a form' of management method for making

NOTES

business decisions —a sharing of management.

Importance of negotiation skills

There is an age of negotiation. Almost each and every aspect of our lives is subject to one 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-power negotiation between Israel and the Arabs or the 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 a private kind of environment, partly to have an edge over competitors and to protect the company's image.

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 interest groups negotiate every day. Retailers negotiate their margins with their suppliers. Community action groups negotiate with their local authorities/government for various social welfare, rights and amenities. Negotiated settlement for marriage between the parents of a prospective couple for the size of dowry, has been a common practice and a far more decisive factor than the compatibility of the prospective partners. Now negotiation has become quite common and effective in divorce settlements. Lawyers specialise in representing their clients in such negotiations. Husbands, wives and lovers negotiate. One thing which is common in all such cases, and which 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.

Skills for negotiation

Negotiation is considered an art. Some believe that it is learnt by experience, but some of the common skills of successful negotiation are identified, which are as follows:

1. Set clear objectives
2. Do not hurry
3. When in doubt, call for a caucus
4. Be prepared
5. Remain flexible

6. Continually examine why the other party acts as it does
7. Respect face-saving tactics employed by the opposition
8. Attempt to ascertain the real interest of the other party by the priority proposed
9. Actively listen
10. Build a reputation for being fair but firm
11. Controls emotions
12. Remember to evaluate each bargaining move in relation to all others
13. Measure bargaining moves against ultimate objectives
14. Pay close attention to the wording of proposals
15. Remembers that compromise is the key to successful negotiations; understand that no party can afford to win or lose all
16. Try to understand people
17. Consider the impact of present negotiations on the future relationship of the parties

9.2.1 Problems and Prospects

Let us analyse the problems and prospects of collective bargaining.

Advantages and Disadvantages of Collective Bargaining

A. Advantages of Collective Bargaining

Collective bargaining has been preferred over compulsory adjudication system for several reasons;

(*i*) it is a system based on bipartite agreements and as such is superior to any arrangement involving third party intervention in matters which essentially concern employers and workers;

(*ii*) it is a quick and efficient method of settlement of industrial disputes and avoids delay and unnecessary litigation;

(*iii*) it is a democratic method of settlement of industrial disputes.

B. Disadvantages of Collective Bargaining

According to Willcox, it has two vital defects: One of these defects is that there are situations in which a serious strike and a prolonged strike simply cannot be tolerated. The second great flaw in collective bargaining as a solver of labour disputes is the lack of representation of the public interest at the bargaining table. Whether prices can be raised without affecting the ability to sell goods or services, unions and companies are in a position to agree on wage increase that will cause higher prices; then the consumer must shoulder the full burden of their agreement.

NOTES

Labour laws have affected the formation of trade unions in two ways. *First*, it has weakened the protest movement. *Second*, it has failed to give adequate protection to the members of a union for their trade union activities.

History of trade union movement in different countries of the world shows that economic dependence on industrial employment, oppressive conditions of work in industrial undertakings, economic exploitation of workers and impersonal handling of their personal problems have generally built up the protest movement and the urge to form unions to combat the management's superior powers. However, in India, minimum standard statutes like Factories Act, 1948, Mines Act, 1952, Minimum Wages Act, 1948, Payment of Wages Act, 1936, Payment of Bonus Act, 1965 and Social Security Statutes like Employees' State Insurance Act, 1948, Workmen's Compensations Act, 1923, Employees' Provident Fund and Miscellaneous Provisions Act, 1952, and Payment of Gratuity Act, 1972, which are not only far in advance of the level dictated by the strength of workers but also of those dictated by the significant protest movement. Moreover, institutions such as a works committees and adjudication system, have in general, tended to minimize the value of trade unions. Further, the institution of standing orders, the procedure for their certification and the provisions regarding the adjudication, disputes relating to their interpretation and application mitigate against the necessity of forming trade unions.

Members of trade unions need as much protection from the common law doctrines of criminal conspiracy and restraint of trade as from employers' wrath. However, it has to be noted that the Trade Unions (Amendment) Act, 1947, which prohibited certain forms of unfair practices on the part of management, have not yet been enforced.

Even the protections granted against common law doctrine of criminal conspiracy, civil conspiracy and restraint of trade under Sections 17, 18 and 19 of the Trade Unions Act are hardly sufficient. If the expression 'unless the agreement is an agreement to commit an offence' renders Section 17 almost meaningless. The expression 'on the ground only' severely curtails the benevolent aspect of Section 18.

Further, law relating to labour management relations and adjudication system prevalent in our country reveals that the labour law had not been to a great extent responsive to the bargaining power of Indian workers. Thus, the Industrial Disputes Act, 1947, restricts the striking power of Indian workers. It regulates the use of instruments of economic coercion. Of course, Article 19 (1) (c) of the Constitution guarantees 'the right to form associations or unions' but after the Supreme Court decision in *All India Bank Employees case* that the Article merely guarantees the 'right to form associations or unions' and, in particular does not guarantee the right to strike, the usefulness of the Article is extremely limited.

Moreover, Section 7 of the Criminal Law (Amendment) Act, 1932, renders it impossible for the workers to indulge in several kinds of labour activities. It,

adversely affects the workmen's right to picket. It prohibits obstruction of access and intimidation of persons or employees or loitering at places of residence or business with the intent of deterring others from entering or approaching or dealing at such place. The Bombay High Court in *Damodar Ganesh* v. *State* has, however, held that Section 7 prohibits even peaceful picketing. It has, therefore, severely affected the bargaining power of trade unions.

Moreover, the surplus labour market (which exists in India) affects the bargaining power of Indian labour. It will be observed that 'the backlog of unemployed which stood at 3 million at the commencement of the First Five Year Plan, was estimated to be above 10 million in 1968. This is in spite of 31 million jobs created during the first three plans which is almost equivalent to the size of the entire economically active population of a number of countries like West Germany, United Kingdom, and Pakistan.' In addition, about 18 to 19 million job opportunities were created during the Fourth Five-Year Plan. They further estimated that even if the entire plan projects were successfully implemented, over 4 million would represent the backlog at the end of the Fourth Five-Year Plan.

Further, the absence of any statutory provisions at central level for the recognition of a representative trade union by an employer also affects the bargaining power of trade unions. Again, the right of unions has jeopardized the striking power of unions. Moreover, the government's unfettered discretion in referring a dispute for adjudication and for issuing of prohibitory order under Section 10 of Industrial Disputes Act has adversely affected the labour's interests.

Labour laws have also not given any special status to a trade union. Section 36 of the Industrial Disputes Act, 1947, enables a worker, if he so desires, to be represented by a union, but it does not enable a union to represent its members. Indeed, apart from the general law of agency, a union cannot bind by its decision, its own member, far less the non-union member in the establishment.

9.2.2 Bipartisan in Agreements

In India, collective bargaining agreements are divided into three classes:

- Bipartite (or voluntary) agreements are drawn up in voluntary negotiations between the employer and the trade union. As per the IDA, such agreements are binding. Implementation is generally non-problematic because both parties reached the agreement voluntarily.
- Settlements are tripartite in nature, as they involve the employer, trade union and conciliation officer. They arise from a specific dispute, which is then referred to an officer for reconciliation. If during the reconciliation process, the officer feels that the parties' viewpoints have indeed been reconciled, and that an agreement is possible, he may withdraw himself. If the parties finalize an agreement after the officer's withdrawal, it is reported back to the officer within a specified time and the matter is settled. However, it should be noted that the forms of settlement are more limited in nature than

NOTES

bipartite agreements, because they must relate to the specific issues referred to the conciliation officer.

- Consent awards are agreements reached while a dispute is pending before a compulsory adjudicatory authority, and incorporated into the authority's award. Even though the agreement is reached voluntarily, it becomes part of the binding award pronounced by the authority constituted for the purpose

Check Your Progress

1. Who coined the term collective bargaining?
2. State any four tactics of negotiation.

9.3 EMPLOYEE DISCIPLINE

Discipline means systematically conducting the business by the organizational members who strictly adhere to the essential rules and regulations. It pertains to improving employee performance through a process of assisting the employee (at least at first) to learn so he or she can perform more effectively.

Aspects and Objectives of Discipline

There are two aspects of discipline. They are:

(a) Positive aspect

(b) Negative aspect

(a) Positive aspect: Employees comply with rules not out of fear of punishment but out of an inherent desire to cooperate and achieve goals. Where the organizational climate is marked by two-way communication, clear goals, effective leadership, and adequate compensation employees need not be disciplined in the traditional way. This type of approach is called positive approach or constructive discipline or self-discipline. According to Spriegel, 'positive discipline enables an employee to have a greater freedom in that he enjoys a greater degree of self-expression in striving to achieve the group objective, which he identifies as his own.'

(b) Negative aspect: Employees sometimes do not believe in and support discipline. As such, they do not adhere to rules, regulations and desired standards of behaviour. Hence, disciplinary programme forces and constraints the employees to obey orders and function in accordance with set rules and regulations through warnings, penalties and other forms of punishment. This approach to discipline is called negative approach or corrective approach or punitive approach. Negative or punitive discipline is one in which management has to exert pressure or hold out threat by imposing penalties on wrongdoers. When this pressure becomes increasingly

severe each time a man is disciplined, it is called 'progressive' or 'corrective' discipline. The fear of punishment puts the employee back on rails. According to Spriegel, 'discipline is the force that prompts an individual or a group to observe the rules, regulations and procedures which are deemed to be necessary to the attainment of an objective.'

Negative discipline connotes that personnel are forced to observe rules and regulations on account of fear or reprimand, fine, demotion, or transfer. But these are helpful in extracting just minimum standards of work from the employees since they work on account of fear. In contrast, if the authority is exercised arbitrarily, or if rules of conduct are unreasonable or if employees do not have sense of adhering to the rules and regulations, discipline is threatened and if it is prolonged, it affects the organizational health. Any programme of discipline will be effective and successful only when it is used to supplement and strengthen self-discipline.

V.S.P. Rao summarizes the differences between the two approaches as follows:

Table 9.1 *Differences between Positive and Negative Discipline*

Point	*Negative Discipline*	*Positive Discipline*
CONCEPT	It is adherence to established norms and regulations, out of fear of punishment.	It is the creation of a conducive climate in an organzation so that employees willingly conform to the established rules.
CONFLICT	Employees do not perceive the corporate goals as their own.	There is no conflict between individual and organizational goals.

Source: VSP, Rao. 2000. *Human Resource Management—Text and Cases*. New Delhi: Excel Books, p. 433.

Objectives of discipline

The objectives of discipline are:

(a) To gain willing acceptance of the rules, regulations, standards and procedures of the organization from the employees

(b) To develop the feeling of cooperation among the workers

(c) To create an atmosphere of respect for the human personality and human relations and to maintain good industrial relations in the organization

(d) To increase the working efficiency and morale of the employees so that their productivity is stepped up and the cost of production is decreased

(e) To develop a sense of tolerance and respect for human dignity

(f) To give and seek direction and responsibility

NOTES

Causes of Indiscipline

The common causes of indiscipline in an organization may be stated as follows:

- **Lack of effective leadership:** Effective leadership is a must for maintaining the discipline, which means to seek cooperation of the followers (subordinates) to achieve the desired objectives. In India, effective leadership could not be provided either by the management or by the trade unions which caused indiscipline in the industries.
- **Defective supervision:** Supervisor is the immediate boss of the workers and many disciplinary problems have their in faulty supervision. The attitude and behavior of the supervisor may create many problems. As the maintenance of the discipline is the discipline is the core f supervisory responsibilities, indiscipline may spring from the want of the right type of supervision.
- **Varying disciplinary measures:** Consistent disciplinary actions must be there in the organization to provide equal justice to all concerned. At different times and for everyone, the same standard of disciplinary measures should be taken otherwise it may give rise to growing indiscipline in the industry in future i.e., the judicious function on the past of management must be free form may bias, privilege or favouritism.
- **Divide and rule policy:** Many mangers in the business obtain secret information about other employees through their trusted assistants. The spying on employees is only productive of a vicious atmosphere and of undesirable in the organization. Henry Fayol has rightly pointed out that dividing enemy forces to weaken them is clever, but dividing one's own team is grave sin against the business. No amount of management skill is necessary for dividing personnel, but integrating personnel into a team is the challenging task of sound management.
- **Lack of well-defined Code of Conduct:** There must be a code of discipline in every organisation enlisting sufficient rules regulations or customary practices for the guidance and information of all employees. Such code should be communicated to all concerned in a clear and simple language so as to be followed by the concerned in a clear and simple language so as to be followed by the concerned parties in its true spirit. To be effective, the code should be adopted by the joint consultation of managers and the subordinates. In the absence of a well-defined code of discipline, the disciplinary actions emanate form personal whims and temperaments which create indiscipline.
- **Deferring settlement of employee grievances:** The employee grievances cannot be put off by deferring or neglecting their solutions. The grievances should properly be inquired into and settled by the managers in a reasonable period. Neglect of grievances often results in reduced performance, low morale and indiscipline among the employees. Strikes and work stoppages stem in many cases form the utter neglect of employee grievances.

- **Inadequate attention to personal problems:** Actions or reactions of people are the direct outcome of their attitudes. Attitudes influence human beings and their activities. Discipline is the by-product of these attitudes and the attitudes in turn, is determined by the personal problems of employees. In order to maintain the discipline, understanding of the personal problems and individual difficulties as well as counselling with employees, is necessary. Inadequate attention to the personal problems, thus, gives rise to indiscipline.
- **Victimization and excessive pressures:** Sometimes the manager or the supervisor develops ill-feelings in him about some persons and victimises them in his own way. It contributes to indiscipline. Moreover, the supervisor puts excessive pressure of work on the employees under his strict control which they feel suffocative. It may result in indiscipline.
- **Misjudgment in promotion and placements:** Misjudgment in personnel matters like promotion and placements contribute to the growth of indiscipline in an enterprise. Cases of mis-judgment are carefully noted, widely circulated, and hotly debated by the employees. Expecting discipline from misruled people is not possible. Sometimes, undesired persons are placed on the jobs which makes the employees discontented, then giving rise to the problem of indiscipline.

9.3.1 Code of Conduct

To foster a partnership between management and unions/employees, harnessing the efforts of both to:

(i) develop a motivated and productive workforce to achieve business excellence;

(ii) realise employees' full potential to enable them to earn higher incomes and live a better life;

And to contribute towards a harmonious workplace environment, strengthen tripartite collaboration and enhance Singapore's overall competitiveness for economic growth.

Management and unions are committed to working together to meet new challenges, resolve differences and seize opportunities in a rapidly changing business environment.

Characteristics of Code of Conduct

- **Collaboration, not confrontation:** An adversarial and confrontational attitude reinforces differences and creates distrust. Opportunities to leverage on each other's ideas and experience are lost, and solutions are reached only as last resort compromises. Conducting industrial relations with such attitude creates instability and industrial strife, leading to economic and social outcomes unfavourable to all.

NOTES

On the other hand, a consultative and partnership approach which takes into consideration each other's needs and concerns, promotes mutual understanding and win-win outcomes. At the same time, constructive interaction fosters a spirit of camaraderie and builds lasting relationships.

- **Mutual trust and respect, understanding and integrity:** Mutual trust, respect and understanding are key qualities which promote open and constructive dialogue, and strengthen bonds. They enable the parties to appreciate each other's constraints and concerns; and work together to meet challenges for mutual benefit. Integrity, honesty and good faith are the pillars of good inter-personal relationships, which are the building blocks of successful consultation and co-operation. While differences of view are inevitable, these moral principles will strengthen trust and bring about amicable resolution of differences.
- **Leadership and mandate:** Leaders should provide direction and guidance based on the collective interests of the stakeholders, bearing in mind the larger concerns of the company. Leaders should also lead by example, particularly in times of adversity. Voluntarily accepting greater responsibility and sacrifices enables leaders to have the moral authority to lead and cope with crises more effectively. Management and union representatives should have necessary mandate to negotiate and commit to agreements reached. They should also have the appropriate authority to resolve disputes and safeguard employees' interest.
- **Mutuality of purpose:** The viability and success of a company are not only concerns of management but also of employees. Both should have a shared vision of corporate interests and goals in the conduct of industrial relations. The shared vision unifies the interests of the parties and directs them to place long-term objectives above short-term gains, wider interests above sectional interests, and cocreates win-win solutions that fulfil the needs and purpose of management, trade unions and employees.

  Measures: Identify common objectives, build a shared vision and formulate win-win solutions. Meet challenges and seize opportunities together for mutual benefit. Place long-term goals above short-term gains and wider interests above sectional interests.
- **Professionalism:** Professionalism requires technical competency and objectivity in dealing with issues. A professional takes into account the interests of all stakeholders and evaluates relevant facts before drawing conclusions. A professional is honest and fair. He is expeditious in resolving conflicts, provides appropriate solutions, and seeks mediation where necessary. He understands business and economic principles, including the close link between productivity and wages, as well as good human relations. He also establishes a fair and effective grievance procedure.

  Measures: Conduct industrial relations professionally and competently based on sound business and economic principles and understanding of

human relations. Work together to resolve issues fairly, effectively and expeditiously. Seek mediation where necessary. Establish an effective procedure to resolve grievances.

- **Sharing of information:** Information is a catalyst which promotes open and constructive dialogue, and facilitates decision-making and dispute resolution. Constructive dialogue and informed decisions cannot happen unless relevant information is forthcoming, Negotiations will be bogged down and conflict will escalate. Disclosure of information demonstrates good faith and a sincerity to work together towards agreements and creative solutions.

  Measures: Share information and engage in dialogue with openness and transparency to promote trust, assist in decision-making and facilitate dispute resolution. Information sharing promotes transparency and eliminates suspicion and distrust.

9.3.2 Code of Discipline

In the arena of industrial relations, most pressing ethical issues relate to (i) employer – employee relations (ii) sexual harassment of women at workplace (iii) equal pay for equal work (iv) discrimination in employment (v) minimum standards of employment (vi) social security for workers (vii) privacy of employees (vii) unfair labour practice on the part of trade unions and employers (viii) just and humane conditions of work (ix) protection of interest of consumers (x) voluntary code of conduct for recognition of trade union.

The need for Voluntary Code of Discipline was felt in 1957 in order to create awareness among the parties to industrial relations about their obligations under labour laws, as also to create in them an attitude of willing acceptance of their responsibilities and a readiness to discharge them. It was in this context that the Code of Discipline found approval at the sixteenth Indian Labour Conference, and was formally announced in June, 1958. The Code was ratified by the central organization of workers and employers. The Code has been accepted by a majority of private and public sectors. The Code, primarily as a result of the persuasive efforts of Central Implementation and Evaluation division, has been accepted by 166 trade unions and 180 employers affiliated to Central Workers' and Employers' Organisation.

The Code applies to all public sector undertakings run as companies and corporations except in defense, railways and ports and docks. Among those, where the Code of Discipline applies with certain modifications include Reserve Bank of India, State Bank of India and the Department of Defence Production. Under the Code, management and union(s) agree that:

(i) No unilateral action should be taken in connection with any industrial matter and that disputes should be settled at appropriate level.

(ii) The existing machinery for settlement of disputes should be utilized with the utmost expedition.

NOTES

(iii) There should be no strike or lockout without notice.

(iv) They affirm their faith in democratic principles and they bind themselves to settle all future differences, disputes and grievances by mutual negotiation, conciliation and voluntary arbitration.

(v) Neither party will have recourse to (a) coercion (b) intimidation, (c) victimization, or (d) go-slow.

(vi) They will avoid (a) litigation, (b) sit-down and stay-in strikes, and (c) lockouts.

(vii) They will promote constructive cooperation between their representatives at all levels and as between workers themselves and abide by the spirit of agreements mutually entered into.

(viii) They will establish upon a mutually agreed basis, a grievance procedure which will ensure a speedy and full investigation leading to settlement.

(ix) They will abide by various stages in the grievance procedure and take no arbitrary action which would bypass this procedure.

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

In order to ensure better discipline in industry, the Code provides for: (i) a just recognition by employers and workers of the rights and responsibilities of either party as defined by the laws and agreements, (including bipartite and tripartite agreements arrived at all levels from time to time) and (ii) proper and willing discharge by either party of its obligations consequent on such recognition.

In the second set, the management agree (i) not to increase work-loads unless agreed upon or settled otherwise; (ii) not to support or encourage any unfair labour practice; (iii) to take prompt action for (a) settlement of grievances, and (b) implementation of settlements, awards, decisions and others; (iv) to display in conspicuous places in undertaking the provisions of this Code in local language(s); (v) to distinguish between actions justifying immediate discharge and those where discharge must be preceded by a warning, reprimand suspension or some other form of disciplinary action and to arrange that all such disciplinary actions should be subject to an appeal through normal grievance procedure; (vi) to take appropriate disciplinary action against its officers and members in cases where enquiries reveal that they were responsible for precipitating action by workers leading to indiscipline; (vii) to recognize the union in accordance with the prescribed criteria.

The third set imposes an obligation upon the unions:

(i) Not to engage in any form of physical duress.

(ii) Not to permit demonstrations which are not peaceful and not to permit rowdyism in demonstration.

(iii) That their members will not engage or cause other employees to engage in any union activity during working hours, unless as provided for by any law, agreement or practice.

NOTES

(iv) To discourage unfair labour practices such as, (a) negligence of duty, (b) careless operation, (c) damage of property and (d) insubordination.

(v) To take prompt action to implement awards, agreements, settlements and decisions.

(vi) To display in conspicuous places in the union offices, the provisions of this code in the local language(s).

(vii) To express disapproval and to take appropriate action against office-bearers and members for indulging in actions against the spirit of this Code.

Check Your Progress

3. State three objectives of discipline.
4. When was the need for voluntary code of discipline felt?

9.4 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. The expression 'collective bargaining' was coined by Sydney Webb and Beatrice Webb. This was widely accepted in the United States of America.
2. Four tactics of negotiation are:
   - Anticipate the demands and work-out alternatives
   - Do the preparation/homework well in advance
   - Build the negotiating team and inculcate team spirit. Identify a leader in the team
   - While negotiating, separate the personality from problems - hard on merit, soft on people
3. Three objectives of discipline are:
   - To gain willing acceptance of the rules, regulations, standards and procedures of the organization from the employees
   - To develop the feeling of cooperation among the workers
   - To create an atmosphere of respect for the human personality and human relations and to maintain good industrial relations in the organization
4. The need for Voluntary Code of Discipline was felt in 1957 in order to create awareness among the parties to industrial relations about their obligations under labour laws, as also to create in them an attitude of willing acceptance of their responsibilities and a readiness to discharge them.

NOTES

9.5 SUMMARY

- The legal recognition of united power is based upon the strong bargaining power of management as against of the weak and unorganized workmen. Collective bargaining is the foundation of this movement and it is in the interest of labour that statutory recognition has been accorded to trade unions, and their capacity to represent workmen, who are members of such bodies.
- The meaning of the expression 'collective bargaining' has been a controversial matter. It is defined in a variety of ways. Harbison defines 'collective bargaining' as, 'a process of accommodation between two institutions which have both common and conflicting interests'.
- Collective bargaining involves two parties, namely, the management represented either alone or through the Employers' Association or Federation of Employers on the one hand and workers represented either through a union or worker federation, on the other hand.
- The ILO also states that 'In collective bargaining the object is to reach agreement on wages and other conditions of employment about which the parties begin with divergent viewpoints but try to reach a compromise. When a bargain is reached the terms of the agreement are put into effect'.
- The National Commission on Labour, which was appointed by the Government of India in 1966, made a comprehensive investigation in almost all the problems relating to labour. It also made a series of recommendations to promote collective bargaining.
- Members of trade unions need as much protection from the common law doctrines of criminal conspiracy and restraint of trade as from employers' wrath. However, it has to be noted that the Trade Unions (Amendment) Act, 1947, which prohibited certain forms of unfair practices on the part of management, have not yet been enforced.
- Discipline means systematically conducting the business by the organizational members who strictly adhere to the essential rules and regulations. It pertains to improving employee performance through a process of assisting the employee (at least at first) to learn so he or she can perform more effectively.
- In the arena of industrial relations, most pressing ethical issues relate to (i) employer – employee relations (ii) sexual harassment of women at workplace (iii) equal pay for equal work (iv) discrimination in employment (v) minimum standards of employment (vi) social security for workers (vii) privacy of employees (vii) unfair labour practice on the part of trade unions and employers (viii) just and humane conditions of work (ix) protection of interest of consumers (x) voluntary code of conduct for recognition of trade union.

NOTES

9.6 KEY WORDS

- **Collective Bargaining**: It is a process of negotiation between employers and a group of employees aimed at agreements to regulate working salaries, working conditions, benefits, and other aspects of workers' compensation and rights for workers.
- **Distributive Bargaining**: It is a situation where the objectives of the parties on particular issues are in conflict and the outcome represents a gain for one party and a loss for the other.
- **Integrative Bargaining**: It is a situation where the objectives of the parties on particular issues are not fundamental conflict. It is the situation in which management and the union work to solve a problem to the benefit of both. Most quality of work life changes involve integrative bargaining.

9.7 SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. Write a short note on the parties of collective bargaining.
2. What is productivity bargaining?
3. Write a short note on bipartisan in agreements.

Long Answer Questions

1. Analyse the factors affecting successful collective bargaining in India.
2. Describe the principles and process of collective bargaining.
3. Explain the process of code of conduct and code of discipline.

9.8 FURTHER READINGS

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UNIT 10 WAGE BOARDS AND STRIKES

NOTES

Structure

10.0 INTRODUCTION

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

They function industry-wise with broad terms of reference, which include recommending the minimum wage, differential cost of living compensation, regional wage differentials, gratuity hours of work, etc.

10.1 OBJECTIVES

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

- Analyse the measures to stop lockouts and strikes
- Discuss the four heads of the problem of industrial dispute
- Explain the impact, causes and measures of prevention of industrial disputes
- Differentiate between conciliation, arbitration and adjudication

10.2 WAGE BOARDS AND THEIR REPORTS

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

In the 1950s and 60s, when the organized labour sector was at a nascent stage of its development without adequate unionization or with trade unions without adequate bargaining power, Government in appreciation of the problems which arise in the arena of wage fixation, constituted various Wage Boards. The Wage Boards are tripartite in character in which representatives of workers, employers and independent members participate and finalize the recommendations. With the passage of time, it was felt that Government need not set the wage rates in respect of employees in different sectors and can be left to the industry itself. However wages are still decided by the Wage Boards for journalists and non-journalists newspaper and news-agency employees, since the award given by the Wage Boards are non-statutory in nature, recommendations made by these Wage Boards are not enforceable under the law.

The importance of the non-statutory Wage Boards has consequently declined over a period of time and no non-statutory Wage Board has been set up after 1966, except for sugar industry, where last such Wage Board was constituted in 1985. The trade unions, having grown in strength in these industries, are themselves able to negotiate their wages with the management. This trend is likely to continue in future.

The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (45 of 1955) (in short, the Act) provides for regulation of conditions of service of working journalists and non-journalist newspaper employees. The Section 9 and 13 C of the Act, inter-alia, provide for constitution of two Wage Boards for fixing or revising the rates of wages in respect of working journalists and non-journalist newspaper employees, respectively. The Central Government shall, as and when necessary, constitute Wage Boards, which shall consist of:

- Three persons representing employers in relation to Newspaper Establishments;
- Three persons representing working journalists for Wage Board under Section 9 and three persons representing non-Journalist newspaper employees for Wage Board under Section 13 C of the Act.
- Four independent persons, one of whom shall be a person who is, or has been a judge of High Court or the Supreme Court, and who shall be appointed by the Government as the Chairman thereof.

Since 1955, the government has constituted 6 wage boards for the working journalists and non-journalist newspaper employees.

Evaluation of Wage Boards

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The boards have been successful in fulfilling their primary object of promoting industry – wise negotiations and active participation by the parties in the determination of wages and other conditions of employment. The following quotation point to the success of this institution: The board's deliberations and awards have contributed significantly towards the development of a national and 'development oriented' outlook on questions pertaining to particular areas and sectors. They have given serious attention to the impact (of wage increase) on factors like prices, employment and the profitability of the industry. The committee setup by the National Commission on Labour identified three major problems from which the wage boards suffer:

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

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

Remedies

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

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

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

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

10.3 MANAGEMENT OF STRIKES AND LOCKOUTS

In retrospect, it appears commonplace to appreciate that capital, raw materials, tools and labour are essential prerequisites for industrial production. The owner of any one or more of these ingredients yields a vital economic power and, subject to the prevailing environmental conditions, he can use this power to his advantage in negotiating with the owner or owners of the other ingredients regarding the terms and conditions for the supply of that which he owns. In particular, withholding of labour until the stated terms and conditions of employment are conceded is a potent instrument of economic coercion.

Though the use of the term 'strike' to describe workmen's instrument of economic coercion in labour management relations is of relatively recent origin, the strategy of withholding labour as an instrument of economic coercion has been known for several centuries. Indeed, prohibition, direct or indirect, or withholding labour as an instrument of economic coercion is not unknown.

Forms of Strikes

Most of the cases present relatively simple instances of '*cessation of work*', 'refusal to continue to work' or 'refusal to accept employment'. While negotiating for the settlement of an industrial dispute, workmen may resort to the use of instruments of economic coercion to get their point of view accepted by the management. The workmen may remain at their respective homes or at any place other than the place of their work or may even be present at, near or within the premises of the place of employment but not at their seats. However, difficult questions arise when workmen deviate from traditional methods. What about stay-

in-strike, pen-down strike, tool-down strike, go-slow, hunger strike, sympathetic strike, and work-to-rule? Do these fall within the meaning of the definition of strike as defined in Section 2 (q) of the IDA?

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1. ***Stay-in-Strike, Sit-Down Strike, Pen-Down Strike, or Tool-Down Strike:*** Decision-makers and writers have used the expressions 'stay-in strike', 'sit-down strike', 'pen-down strike" and 'tool-down strike' as synonyms of each other.

   In *Punjab National Bank Ltd.* v. *Their Workmen*, one Sabbarwal, a typist and Secretary of the Punjab National Bank Employees' Union of Delhi, applied for 7 days' leave. The management declined to grant him leave. Even so Sabbarwal absented himself from duty. On resumption of duties, he was charge-sheeted for absence without leave. However, Sabbarwal refused to accept the show-cause notice. The management thereupon sent it to him by registered post and, pending further enquiry, suspended him. Thereupon, the Employee's Union instructed employees to stick to their seats and refuse to work until police intervened and threatened arrest or until orders of discharge or suspension were served on them. This the co-employees of Sabbarwal did. Meanwhile, a turbulent crowd gathered outside the premises of the Bank. Some of the persons in the crowd shouted slogans in support of the action of the employees. The management suspended 60 of the aforesaid participating employees. This led to an industry-wide strike in Delhi and Uttar Pradesh. The Bank gave notice that unless the strikers resumed their duties by a specified date, they would be treated as having voluntarily ceased to be employees and on their failure to report to duty on the specified date, terminated the services of 150 of its employees after giving them another chance to resume their duties.

   On these facts, a question arose as to what is the nature of the employees' activities in sticking to their seat but refusing to work. The Supreme Court recognized that the main grievance of the bank was that the employees not only sat in their places and refused to work but they did not vacate their seats when they were asked to do so by their superior officers. However, it considered such an element of insubordination to be 'a different matter' and not relevant for interpreting the definition of 'strike'.

2. ***Go-Slow:*** Not infrequently, workers deliberately slow-down the pace of production. There is no 'cessation of work' or 'refusal to continue to work' or 'refusal to accept employment'. Nevertheless, the economic implications are very serious: the cost of production goes up, the delivery schedule gets upset and very often, raw material and machinery are adversely affected.

   Workers adopt this practice to circumvent the statutory restrictions. On go-slow, however, when they are disciplined for misconduct, they assert that the practice amounts to a strike. Obviously, they cannot be permitted to blow hot and cold at the same time. But then the all-important question is whether this practice, popularly called 'go-slow' is 'strike'. The definition

of 'strike' uses the phrases 'cessation of work', 'refusal to continue to work' and 'refusal to accept employment'.

3. ***Hunger Strike:*** Hunger strike is a strike with fasting by some or all strikers, or even outsiders super added to exert moral force or perhaps what may be more aptly described as coercion, for acceptance of the demands. Its usage, however, is complicated because, like the word strike, it is used to describe all protest fasts, whether or not the particular protest activity is in furtherance of an industrial dispute.
4. ***Lightning or Wildcat Strike:*** The characteristic feature of this type of withdrawal of labour is that the workmen suddenly withdraw their labour and bargain afterwards. Such strikes are prohibited in public utility services under the Industrial Disputes Act, 1947 and all industrial establishments in public utility services in UP, Maharashtra and Gujarat, where notice is required to be given. Further, the standing orders of the company generally require a notice. Since no notice is required in industrial establishment other than the public utility concern, a question arises whether the Act in such a situation would be a misconduct or unjustified strike. These questions have been the subject matter of judicial controversy.
5. ***Work-to-Rule:*** In this form of concerted activity, employees, though remaining on the job, do the work literally in accordance with the rules or procedure laid down for the purpose, decline to do anything not mentioned therein, take all permissible time of the job, and do the work in such a manner that it results in dislocation of the work. Usually, rules of work are stretched and followed in such a manner that under the shelter of complying with rules the very purpose of these rules, namely, harmonious working, for maximizing production, is frustrated. In these tactics, the workers literally work according to rules but in spirit therefore they work against them; though they are called 'work to rule' tactics, in substance they amount to work against rule tactics.

   These tactics are generally employed as an alternative to traditional strikes, particularly where traditional strikes cannot be called. Whatever may be the form of compliance of the rules and whatever may be the outward manifestation, in substance, the conduct of employees amounts to compliance in a manner not commensurable with the prevailing normal practice and in harmony with the expectations then entertained, it amounts to bringing about unilateral changes in the working system by the employees and it is a misconduct for which the employer is justified in taking action.

   In the US, these tactics are recognized as a form of strike. But in India, they are not covered by the definition of 'strike'. As in go-slow, so here, there is no 'stoppage' of work. Again for the very reason because of which we are against the extension of the definition of 'strike' to include go-slow, we are also against inclusion of work-to-rule within the ambit of 'strike'. The

NOTES

(Second) National Commission on Labour has recommended that work to rule must be regarded as misconduct.

6. ***Why Workmen go on Strike:*** We have already seen how the Industrial Disputes Act, 1947 defines a 'strike'. A question arises whether strike is a means to achieve ends other than getting time-off or an end in itself, *i.e.*, to get time off on the very day the workmen indulge in cessation of work. Further, if a strike is merely a means to an end, whether the three forms of withdrawal of labour, *viz*., 'cessation of work', 'refusal to continue to work' and 'refusal to accept employment' are means to further 'trade dispute objectives' of the participants or even to achieve political and other non-trade dispute objectives.

Lockouts (As per Industrial Relations Act, 1947)

The use of the term 'lockout' to describe the employer's instruments of economic coercion dates back to 1860 and is more recent than its counterparts in the hands of workers–strike–by one hundred years. Formerly, the instrument of lockout was resorted to by an employer or group of employers to ban union membership; the employers refused employment to workers who did not sign a pledge not to belong to a trade union. Later the lockout was declared generally by a body of employers against a strike at a particular work by closing all factories until the strikers returned to work.

India witnessed a lockout twenty-five years after the 'lockout' was known and used in the arena of labour management relations in industrially advanced countries. Karnik reports that the first known lockout was declared in 1895 in Budge Budge Jute Mills.

10.3.1 Measures to Stop Strikes and Lockouts

Let us analyse the different measures to stop strikes and lockouts.

General Prohibition of Strikes and Lockouts

Section 23 which prohibits strikes and lockouts provides:

No workman who is employed in any industrial establishment shall go on strike in breach of contract and no employer of any such workman shall declare a lockout:

(a) during the pendency of conciliation proceedings before a Board and seven days after the conclusion of such proceedings;

(b) during the pendency of proceedings before a Labour Court, Tribunal or National Tribunal and two months after the conclusion of such proceedings;

(c) during the pendency of arbitration proceedings before an arbitrator and two months after the conclusion of such proceedings, where a notification has been issued under sub-section (3A) of section 10 A; or

(d) during any period in which a settlement or award is in operation in respect of any of the matters covered by the settlement or award.

The aforesaid provisions do not limit illegality only to strikes (or lockouts) which cover demands which are the subject-matter of the pending proceedings. Thus, a strike (or lockout) which is called during the pendency of conciliation proceedings or pendency of adjudication or arbitration proceedings is illegal, although it is in respect of demands which are not covered by conciliation or adjudication proceedings.

Additional Restrictions on Strikes and Lockouts in Public Utility Services

Strikes and lockouts adversely affect the interest of the community in maintaining a high level of production and uninterrupted public utility services. Section 22, which regulates strikes and lockouts in public utility services, *inter alia*, directs that:

(1) No person employed in a public utility service shall go on strike, in breach of contract–

(a) without giving to the employer notice of strike, as hereinafter provided, within six weeks before striking;

(b) within fourteen days of giving such notice;

(c) before the expiry of the date of strike specified in any such notice as aforesaid; or

(d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

(2) No employer carrying on any public utility service shall lockout any of his workmen–

(a) without giving them notice of lockout as hereinafter provided, within six weeks before locking-out; or

(b) within fourteen days of giving such notice;

(c) before the expiry of the date of lockout specified in any such notice as aforesaid;

(d) during the pendency of any conciliation proceedings before a Conciliation Officer and seven days after the conclusion of such proceedings.

Check Your Progress

1. State the constituents of wage boards.
2. What are the features of wildcat strike?
3. Define the term 'lockout'.

10.4 DISPUTES: IMPACT, CAUSES AND PREVENTION

NOTES

Section 2 (k) of the Industrial Disputes Act, 1947, defines 'industrial dispute' to mean:

> Any dispute or difference between employers and employers or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person.

The dimensions of the aforesaid definition determine the permissible area of both community intervention in industrial relations as well as labour activity.

Stated broadly, the definition of 'industrial dispute' contains two limitations. (*i*) The adjective 'industrial' relates to the disputes of an industry as defined in the Act, and (*ii*) it expressly states that not all sorts of dispute and differences but only those which bear upon the relationship of employers and workmen regarding employment, non-employment, terms of employment and conditions of labour are contemplated.

Broadly speaking, the definition of 'industrial dispute' may be analysed under four heads:

(i) Factum of industrial dispute;

(ii) Parties to the dispute;

(iii) Subject matter of the dispute; and

(iv) Origin of the dispute

1. Factum of industrial dispute

The existence of a dispute or difference is the key to the expression 'industrial dispute'. The expression 'dispute or difference' connotes a real and substantial difference having some element of persistency and continuity till resolved, and likely, if not adjusted, to endanger the industrial peace of the undertaking or the community. When the parties are at variance, and the dispute or difference is connected with the employment, or non-employment or the terms of employment or with the conditions of labour, there comes into existence an industrial dispute. But there is divergence of opinion among the courts on the issue whether a mere demand to the appropriate government or to the conciliation officer without a dispute being raised by the workmen with the employer regarding such demand can become an industrial dispute.

2. Parties to the industrial dispute

In order to fall within the definition of an 'industrial dispute', the dispute must be between: (*i*) employers, or (*ii*) employers and workmen, or (*iii*) workmen and workmen.

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Besides interpreting the key words, namely 'employer' and 'workman', which are statutorily defined and will be discussed in another section, tribunals and courts have indulged in judicial legislation.

Trade unions as such are not mentioned in the definition of 'industrial dispute' because they act on behalf of the workmen and, therefore, when a trade union raises a dispute, the workmen are deemed to be parties to the dispute.

However, the parties to the industrial dispute do not include disputes (*i*) between government and an industrial establishment or (*ii*) between workmen and non-workmen.

The words 'employers and employers' which did not occur in the Trade Disputes Act, 1929, were inserted in the Industrial Disputes Act, 1947, in order to give the definition of 'industrial dispute' a wide coverage. The disputes between employers and employers may arise in respect of wage matters in an area where labour is scarce or disputes of similar character.

The words 'workmen and workmen' occur in Section 2 (k) to include the disputes between them either directly or through their trade unions. Such a dispute may be demarcation dispute, inter-union dispute, etc. Inter-union dispute has, however, not been held to be an 'industrial dispute'.

The aforesaid three expressions, namely, between employers and employers or between employers and workmen, or between workmen and workmen read with Section 13 (2) of the General Clauses Act, 1897 lead us to make the following categorizations:

(*i*) Where both parties include more than one person: employers and employers, employers and workmen, workmen and workmen.

(*ii*) Where only one of the parties includes more than one person: employer and employers, employer and workman, employers and workman, workmen and workman.

(*iii*) Where both the parties are in singular: employer and employer, employer and workman, workman and workman.

(*iv*) Where both the parties as in category (*i*) include more than one person, the dispute would be a collective dispute. Further, where one of the parties include more than one person, it may be categorized as 'collective dispute'. However, doubts have been expressed whether the dispute between 'employers and workman' would be a 'collective dispute'. Moreover, where both the parties as in category (*ii*) above are composed of single individuals, the case falls into the category of 'individual dispute'.

3. Subject matter of industrial dispute

In order to be an 'industrial dispute', the dispute must be:

> ...connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person.

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In practice, however, it is exceedingly difficult to draw a line between various expressions used to indicate the subject-matter of industrial dispute. Generally speaking, the expressions used in Section 2(k) are of wide amplitude and have been put in juxtaposition to make the definition thoroughly comprehensive. Thus, the phrase 'conditions of labour' is wide enough to include 'terms of employment' as well as matters connected with unemployment. Similarly, the expression 'terms of employment' includes certain matters relating to 'employment or non-employment'.

It is however, doubtful if the legislature intended any water-tight compartmentalization. The words 'in connection with' widen the scope of 'industrial disputes' and do not restrict it by any means.

The legislature used these phrases in the definition of 'industrial dispute' so that all aspects of labour problems may be resolved through the industrial relations machinery provided under the Industrial Disputes Act, 1947. Any attempt to draw a rigid line would limit, or at least create an impression of limiting the scope of 'industrial dispute' which, it must be emphasized, deals not only with the disputes between employers and workmen but also between 'employers and employers' and between 'workmen and workmen'. However, since every expression used by the legislature indicates certain meaning and idea, it is necessary to examine them.

'Employment' brings in the contract of service between the employer and the employed. The concept of employment involves three ingredients: (*i*) employer, (*ii*) employee and (*iii*) the contract of employment. The employer is one who employs, *i.e*., one who engages the services of other persons. The employee is one who works on hire basis. The employment is the contract of service between the employer whereunder the employee agrees to serve the employer, subject to his control or supervisions.

'Unemployment' is the opposite of 'employment' and would mean that disputes of workmen which arise out of service with their employers are within the ambit of the definition. It is the positive or negative act of the employer that leads to employment or unemployment. It may relate to an existing fact of unemployment or a contemplated unemployment. Four illustrations were cited by the Federal Court in *Western Indian Automobiles Association* v. *Industrial Tribunal* in support of the aforesaid explanations. Of them, two are in respect of 'employment and two are in respect of unemployment.' A dispute is as to 'employment' or connected with or arising out of employment if:

(*i*) An employer has already employed a person and a trade union says 'please do not employ him'.

(*ii*) An employer gives notice to a union saying that he wishes to employ two particular persons. The union says 'no'.

A matter raises a dispute as to unemployment or contemplated unemployment if:

(*i*) An employer may dismiss a man, or decline to employ him.

(*ii*) An employer contemplates turning out those who are already in his employment.

The failure to employ or the refusal to employ are actions on the part of employer which would be covered by the expression 'employment or unemployment'. Accordingly, the expression 'unemployment' is sufficiently elastic to include all cases of (*i*) termination of service either voluntary or by act of parties (as employer or workmen). The instances of this kind are dismissal, discharge, retrenchment, compulsory retirement, etc. It also includes temporary unemployment, *e.g*., suspension, layoff, compulsory leave, lockout, strike, etc. Further, it would include within its scope the words arising out of unemployment, *e.g*., reinstatement, re-employment, compensation and back wages for wrongful termination of service.

The expression 'terms of employment' and 'conditions of labour' indicate the kind of conflict between those engaged in industry on the opposite but cooperative sides. These words connote dispute to be the share in which the receipts in a commercial venture shall be divided.

The expression 'terms of employment' generally covers basic wages, dearness allowance and other allowances, wages on promotion, wages on demotion, wages on transfer out of town, wages for over-time work, wages for work on holiday, payment of wages, recovery of wages, bonus, retiral benefits, *e.g*., pension, provident fund, gratuity, pension, etc.

The expression 'conditions of labour' is much wider in scope and refers to the conditions of service under which they work and the amenities provided or to be provided to them. This expression may include hours of work, holidays, leave, health, safety and welfare of labour.

Quite apart from those matters which have been said to be covered in the subject-matter of industrial dispute, an analysis of decided cases reveals that following matters have also been included in the definitions: (i) alteration of conditions of service of employees (ii) demand for modification of standing orders (iii) disputes regarding contract labour (iv) dispute on lockout in disguise of closure (v) dispute of workmen whose cases are left unsettled (vi) transfer of workman from one place to another.

4. Origin of industrial dispute

The scope of the expression 'any person' occurring in the last part of the definition of 'industrial dispute' has been a subject matter of controversy. The question has arisen in several cases before the high courts and also before the Supreme Court as to what exactly is the scope of the expression 'any person' as contemplated in Section 2 (k). If construed literally, it may mean and include both natural as well as artificial persons. On the contrary, if interpreted narrowly, the expression 'of any person' may be equated with 'workman'. How and where to draw a line is not easy to answer.

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Causes of Industrial Disputes

Industrial disputes arise due to variety of causes, which may be broadly be termed as: (i) Economic, (ii) Non-Economic.

1. Economic causes

Economic causes may be briefly summed up as those relating to wages, payment of bonus, dearness allowance, conditions of work and employment, working hours, ill-treatment by the supervisory staff, ill-behaviour of the jobbers, unjust dismissals and demand for re-instatement of one or more workers, leave and holidays with pay, delay in the implementation or non-implementation of awards, enactments, agreements, etc. The causes may also be termed as internal causes, that is, those which are connected with the industry, the employer and the employee. Victimization of workers, and the refusal of the employers to recognize workers' unions have also been such causes of disputes. The introduction of schemes of rationalization or automation leading to or threatening retrenchment of workers has also resulted in many strikes. Development in technology not only disturbs the existing employment patterns but also determines the size of the work force to be employed. These have a direct impact on labour–management relations especially in a developing country where surplus labour is available. Most of the strikes in India, we find have been on the problems of wages, dearness allowances, bonus, termination of service, hours of work, rationalization schemes, and so on.

2. Non-economic causes

Among the non-economic causes, or the causes which are not directly connected with the industry, political causes have been the most important. Till 1947, India had been a dependency of the British and the labour movement in the country was intimately connected with the national movement for independence. As early as 1908, there was a mass strike in Bombay against the sentence of six years imprisonment on Tilak. A number of such strike were also during the Khilafat and Non-cooperation and Civil Disobedience Movements. Strikes also took place on account of dismissals or disciplinary actions against the workers for attending trials of political leaders, for refusing to handle foreign goods, for taking part in political demonstrations, for assaulting European managers, or for serving as Congress volunteers. After independence also, we find that many strikes and stoppages of work have taken place due to agitations of political parties and on questions like reorganization of states, national language, and so on. Strikes have also occurred on account of victimization of workers having communist sympathies. Sometimes, strikes have also been encourage by speculators whose interest has been to raise prices by stoppage of work and production, and with that end in view, many speculators have spread false rumours, and supported the workers with money and have, thus, encouraged many disputes.

Thus, we find that both economic and non-economic causes have been responsible for industrial disputes. In recent years, we find that the gulf between

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the employers and the workers had been greatly widened and acute discontentment prevails. There had been a great change in the psychology of the workers, who are demanding a greater and greater share in the profits of the industry. Political changes, world forces, spread of communist ideas, uncertain economic conditions and high cost of living, have been the factors responsible for this attitude. Combined with it is the political propaganda of various parties which, in order to create trouble for the government in power, have organized many strikes by capturing the trade unions of the workers. However, the economic causes have been the most powerful factors for industrial unrest in the country. The words of the Royal Commission on Labour, which hold good even to this day, are very significant in this respect. The Commission remarked: Although workers may have been influenced by persons with nationalist, communist or commercial ends to serve, we believe that there has rarely been a strike of any importance which had not been due entirely or largely to economic reasons. 'We may add that the breeding ground for communism is the poverty of the labourers. The workers also feel insecure as they are not able to understand the economic system which permits co-existence of the capitalist and the socialist forms of institutions to go side by side.'

One of the important reasons for the gulf between the employers and the workers in India had also been the absence of close touch and understanding between the employers and the employees due to differences of race and language. A large portion of the industrial establishments in the early stages of industrialization in India, was managed by foreigners who had a very poor knowledge of the Indian language and depended mostly on the reports of the intermediaries who often misrepresented the workers. Even now when the managers are Indian, they and the workers in most cases belong to different states or castes and have different traditions. The lack of strong trade unions among the workers is another difficulty in this respect. The outside leaders are yet another difficulty in this respect. They are sometimes responsible for many strikes. An enquiry conducted in to the strike of Premier Automobiles Ltd, Bombay (by Shri R. L. Mehta) in 1958, showed that the strike was on a 'Personal issue (of the leader) and not over any industrial question of wages or bonus or similar claims.'

It may also be noted that, sometimes, there are stoppages known as hartals or bandhs which are often meant as protests against acts in which, the employer may have had no share, e.g., action by the government or by the police. In times of political forment they tend to become frequent and, though they may be short-lived, they cause in the aggregate appreciable dislocation of industry.

Forms of Industrial Disputes

There may be several types of industrial disputes. Unsatisfactory working conditions, wages not at par with peers in other organizations, unfair dismissal, poor staff and boss relations, discrimination and introduction to new technology without specific training, limited growth opportunities. These conditions give rise to dissatisfaction

among staff and may lead to demonstration and revolt. The Industrial Dispute can arise in any of the following forms:

- Strike
- Lockout
- Gherao

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10.5 INDUSTRIAL PEACE: CONCILIATION, ARBITRATION AND ADJUDICATION

Industrial dispute settlements help in maintaining peace. Some of the major industrial dispute settlement machinery are as follows:

- Conciliation
- Court of Inquiry
- Voluntary Arbitration
- Adjudication

This machinery has been provided under the Industrial Disputes Act, 1947. It, in fact, provides a legalistic way of setting the disputes. Its goal is to create an environment where the disputes do not arise at all.

Even then if any differences arise, the judicial machinery has been provided to settle them lest they should result into work stoppages. In this sense, the nature of this machinery is curative for it aims at curing the aliments. This machinery comprises following organs: 1. Conciliation, 2. Court of enquiry, 3. Voluntary arbitration and 4. Adjudication (Compulsory arbitration). We have already discussed these in Unit 8. Let us revisit these topics in brief.

Conciliation, Arbitration and Adjudication

Conciliation, is a form of mediation. Mediation is the act of making active effort to bring two conflicting parties to compromise. Mediation, however, differs from conciliation in that whereas conciliator plays only a passive and indirect role, and the scope of his functions is provided under the law, the mediator takes active part and the scope of his activities are not subject to any statutory provisions.

Court of Enquiry

The government can appoint a Court of Inquiry to enquire into any matter connected with or relevant to industrial dispute in case of the failure of the conciliation proceedings to settle a dispute. The court is expected to submit its report within six months. The court of enquiry may consist of one or more persons to be decided by the appropriate government.

Voluntary Arbitration

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

Adjudication

Adjudication consists of settling disputes through intervention by the third party appointed by the government. The law provides the adjudication to be conducted by the Labour Court, Industrial Tribunal of National Tribunal.

10.5.1 Government Machinery

Central laws relating to labour relations are currently present in the Industrial Disputes Act 1947, the Trade Unions Act 1926 and the Industrial Employment (Standing Orders) Act, 1946. Mention must also be made of the Sales Promotion Employees (Conditions of Service) Act, 1976, and other specific Acts governing industrial relations in particular trades or employments.

Industrial Disputes Act, 1947

> Section 2(k) of the Industrial Disputes Act, 1947, defines 'industrial dispute'to mean: any dispute or difference between employers and employers or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person.

The dimensions of the aforesaid definition determine the permissible area of both community intervention in industrial relations as well as labour activity.

Stated broadly, the definition of 'industrial dispute' contains two limitations,

(*i*) The adjective 'Industrial' relates to the dispute of an industry as defined in the Act, and (*ii*) it expressly states that not all sorts of disputes and differences but only those which bear upon the relationship of employers and workmen regarding employment, non-employment, terms of employment and conditions of labour are contemplated.

Legislative Response: Insertion of Section 2A

Before the introduction of Section 2A, as a result of judicial legislation, an individual workman who was discharged, dismissed, retrenched or whose service was otherwise terminated or who had been transferred, suspended or was subject to any other punishment had no remedy under the Industrial Disputes Act, unless his case was sponsored by his fellow workmen or by a trade union. In such a situation, he had been left with no alternative but to approach the civil court and involve himself in lengthy and expensive civil remedy. Section 2A of the Industrial Disputes (Amendment) Act, 1965 attempts to mitigate some of the hardships caused as a result of judicial pronouncements. Section 2A came into force on 1 December

NOTES

1965. By this section it is provided that a dispute or difference between an individual workman and his employer connected with or arising out of (*i*) discharge. (*ii*) dismissal, (*iii*) retrenchment, (*iv*) or otherwise termination of service of an individual workman, shall be deemed to be an 'industrial dispute' even though no fellow workmen or any union of workmen is a party to the said dispute. The net effect of Section 2A is that by legislative action such a dispute is deemed to be an industrial dispute even where it is not espoused by a trade union or by an appreciable number of workmen. Thus, the result of the insertion of Section 2A was that, what was not an 'industrial dispute' as per the interpretation of the Supreme Court would be deemed to be an 'industrial dispute' in the stated circumstances.

Industry

Section 2(j) of the Industrial Disputes Act, 1947 defines 'industry' to mean any business, trade, undertaking, manufacture or calling of employers. It also specifically states that the expression 'industry' includes any calling, service, employment, handicraft or industrial occupation or avocation of workmen.

The aforesaid words are of wide import and transgress the popular meaning of the word.

Prohibition on Lay-off

Till 1976 there was no provision for preventing lay-off in the Industrial Disputes Act. 1947. In 1970, a number of cases of large-scale lay-off were reported.

This resulted in all-round demoralizing effect on the workmen. In order to prevent avoidable hardship and to maintain higher tempo of production and productivity, the Industrial Disputes Act, 1947, was amended in 1976 whereby restrictions were imposed on the employers' right to lay-off by Section 25M. However, following the decision of the Supreme Court in the Excel Wear case, some high courts declared invalid the provisions contained in Section 25M. In order to remove the anomaly Section 25M was re-drafted and substituted by the Industrial Disputes (Amendment) Act, 1984 which came into force on 18 August 1984. Section 25M applies to every industrial establishment (not of seasonal character) in which not less than 100 workmen are employed on the average per working day for the preceding 12 months. Thus, Section 25M, which imposes prohibition on lay-off, provides:

1. No workman (other than a *badli* workman or a casual workman) whose name is borne on the muster rolls of an industrial establishment to which this chapter applies shall be laid-off by his employer except with the prior permission of the appropriate government or such authority as may be specified by that government by notification in the Official Gazette (hereinafter in this section referred to as the specified authority), obtained on an application made in this behalf, unless such lay-off is due to shortage of power or to natural calamity, and in the case of a mine, such lay-off is due also to fire, flood, excess of inflammable gas or explosion.

NOTES

2. An application for permission under sub-section (1) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended lay-off and a copy of such application shall also be served simultaneously on the workmen concerned in the prescribed manner.
3. Where the workmen (other than *badli* workmen or casual workmen) of an industrial establishment being a mine, have been laid-off under sub-section (1) for reasons of fire, flood or excess of inflammable gas or explosion, the employer, in relation to such establishment, shall, within a period of 30 days from the date of commencement of such lay-off, apply, in the prescribed manner, to the appropriate government or the specified authority for permission to continue the lay-off.
4. Where an application for permission under sub-section (1) or sub-section (3) has been made, the appropriate government or the specified authority, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen concerned and the persons interested in such lay-off, may, having regard to the genuineness and adequacy of the reasons for such lay-off, the interest of the workmen and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.
5. Where an application for permission under sub-section (1) or sub-section (3) has been made and appropriate government or the specified authority does not communicate the order granting or refusing to grant permission to the employer within a period of 60 days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of 60 days.
6. An order of the appropriate government or the specified authority granting or refusing to grant permission shall, subject to the provisions of sub-section (7), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order.
7. The appropriate government or the specified authority may, either on its own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under sub-section (4) or refer the matter or, as the case may be, cause it to be referred to a Tribunal for adjudication:

   Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of 30 days from the date of such reference.
8. Where no application for permission under sub-section (1) is made, or where no application for permission under sub-section (3) is made within the period specified therein, or where the permission for any lay-off has been refused, such lay-off shall be deemed to be illegal from the date on

NOTES

which the workmen had been laid-off and the workmen shall be entitled to all the benefits under any law for the time being in force as if they had not been laid-off.

9. Notwithstanding anything contained in the foregoing provisions of this section, the appropriate government may, if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order, direct that the provisions of sub-section (1), or, as the case may be, sub-section (3) shall not apply in relation to such establishment for such period as may be specified in the order.
10. The provisions of Section 25 C (other than the second proviso thereto) shall apply to cases of lay-off referred to in this section.

Explanation. For the purposes of this section, a workman shall not be deemed to be laid-off by an employer if such employer offers any alternative employment (which in the opinion of the employer does not call for any special skill or previous experience and can be done by the workmen) in the same establishment from which he has been laid-off or in any other establishment belonging to the same employer, situated in the same town or village, or situated within such distance from the establishment to which he belongs that the transfer will not involve undue hardship to the workman having regard to the facts and circumstances of his case, provided that the wages which would normally have been paid to the workman are offered for the alternative appointment also.

Retrenchment

Section 25F provides a safeguard to retrenched workers:

1. ***Legislature response.*** Parliament has laid down two standards in respect of retrenchment compensation to industrial employees: (i) Section 25F shall be applicable to those industrial establishments in which less than 50 workmen have been employed in a preceding calendar month, *(if)* Section 25N, which was inserted in 1976 and later amended in 1984, lays down conditions for retrenching workmen in industrial establishments in which 100 or more workmen have been employed in 12 months.
2. ***Requirement of notice or wages in lieu thereof.*** Section 25F requires that a workman employed in any industry should not be retrenched until he has been given either (i) one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired; or (ii) the workmen had been paid in lieu of such notice wages for the period of notice. However, where retrenchment notices state that most of projects were complete and there was no other job available For the employees it is not a valid notice as there is no complete closure. The latter provision permits the employer to retrench the workman on paying him wages in lieu of one month's notice prescribed in the earlier part of the clause and that, if the employer decides to retrench a workman, he is not required to give one month's notice in

writing and wait for the expiration of the said period before he retrenches him. He can proceed to retrench him straightway on paying him his wages in lieu of the said notice.

3. ***Compensation under Section 25 F (b).*** Clause (b) of Section 25F provides another safeguard in the interest of the workmen. It provides that no workman employed in any industry, who has been in continuous service for not less than one year under an employer, shall be retrenched until he has been paid at the time of retrenchment, compensation, which 'shall be equivalent to 15 days' average pay for every completed year of service or any part thereof in excess of six months. The Supreme Court has held the compliance of this provision mandatory and failure to do so would render the retrenchment invalid and inoperative in law.
4. ***Industrial Disputes (Amendment) Act, 1984.*** The redrafted provisions of Section 25N relating to closure which were inserted by the Industrial Disputes (Amendment) Act. 1984. This Section lays down conditions precedent upon the power of the employer employing 100 or more workmen in the industrial establishment in retrenching his workmen.

Check Your Progress

4. What are the four heads of the definition of industrial disputes?
5. List the forms through which an Industrial Dispute can arise.

10.6 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. The Central Government shall, as and when necessary, constitute Wage Boards, which shall consist of:
   - Three persons representing employers in relation to Newspaper Establishments;
   - Three persons representing working journalists for Wage Board under Section 9 and three persons representing non-Journalist newspaper employees for Wage Board under Section 13 C of the Act.
   - Four independent persons, one of whom shall be a person who is, or has been a judge of High Court or the Supreme Court, and who shall be appointed by the Government as the Chairman thereof.
2. The characteristic feature of wildcat strike is that the workmen suddenly withdraw their labour and bargain afterwards. Such strikes are prohibited in public utility services under the Industrial Disputes Act, 1947 and all industrial establishments in public utility services in UP, Maharashtra and Gujarat, where notice is required to be given.

NOTES

3. The use of the term 'lockout' to describe the employer's instruments of economic coercion dates back to 1860 and is more recent than its counterparts in the hands of workers–strike–by one hundred years.
4. The definition of 'industrial dispute' may be analysed under four heads:
   (i) Factum of industrial dispute;
   (ii) Parties to the dispute;
   (iii) Subject matter of the dispute; and
   (iv) Origin of the dispute
5. The Industrial Dispute can arise in any of the following forms:
   - Strike
   - Lockout
   - Gherao

10.7 SUMMARY

- Wage boards are set up by the Government, but in selection of members of wages boards, the government cannot appoint members arbitrarily. Members to wage boards can be appointed only with the consent of employers and employees.
- The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (45 of 1955) (in short, the Act) provides for regulation of conditions of service of working journalists and non-journalist newspaper employees.
- Most of the cases present relatively simple instances of '*cessation of work*', 'refusal to continue to work' or 'refusal to accept employment'. While negotiating for the settlement of an industrial dispute, workmen may resort to the use of instruments of economic coercion to get their point of view accepted by the management.
- The use of the term 'lockout' to describe the employer's instruments of economic coercion dates back to 1860 and is more recent than its counterparts in the hands of workers–strike–by one hundred years. Formerly, the instrument of lockout was resorted to by an employer or group of employers to ban union membership; the employers refused employment to workers who did not sign a pledge not to belong to a trade union.
- The temporary closing of a place of employment or the suspension of work, or the refusal by an employer to continue to employ any number of persons employed by him. A delineation of the nature of this weapon of industrial warfare requires description of (i) the acts that constitute it; (ii) the party who uses it; (iii) the party against whom it is directed; and (iv) the motive that prompts it.

- A strike or lockout shall be illegal if it is continued in contravention of an order made under Sub-section (3) of Section 10 or Sub-section 4A of Section 10A. The reason underlying the prohibition is that industrial disputes should be tried in a spirit of amity and no party should be in a position to coerce the other during the pendency of such proceedings.
- The existence of a dispute or difference is the key to the expression 'industrial dispute'. The expression 'dispute or difference' connotes a real and substantial difference having some element of persistency and continuity till resolved, and likely, if not adjusted, to endanger the industrial peace of the undertaking or the community.
- 'Employment' brings in the contract of service between the employer and the employed. The concept of employment involves three ingredients: (*i*) employer, (*ii*) employee and (*iii*) the contract of employment. The employer is one who employs, *i.e.*, one who engages the services of other persons.
- Industrial peace is maintained through industrial dispute settlements. Some of the major industrial dispute settlement machinery are as follows: 1. Conciliation 2. Court of Inquiry 3. Voluntary Arbitration 4. Adjudication.
- The Industrial Disputes Act 1947, does not provide for the procedure to be adopted before declaring a lay-off. The procedure is, however, provided in the Industrial Disputes (Central Rules) 1957.

10.8 KEY WORDS

- **Conciliation**: It is the process of bringing opponents to harmony. It is the activity of bringing together the parties in a dispute so that the dispute can be settled.
- **Wildcat Strike**: A wildcat strike action, often referred to as a wildcat strike, is a strike action undertaken by unionized workers without union leadership's authorization, support, or approval; this is sometimes termed an unofficial industrial.

10.9 SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. Differentiate between conciliation, arbitration and adjudication.
2. Write a short note on Industrial Disputes Act, 1947.
3. Comment on the origin of industrial dispute.

NOTES

Long Answer Questions

1. Analyse the measures to stop lockouts and strikes.
2. Discuss the four heads of the problem of industrial dispute.
3. Explain the causes of industrial disputes.

10.10 FURTHER READINGS

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UNIT 11 EMPLOYEE SAFETY PROGRAMME

NOTES

Structure

11.0 INTRODUCTION

Healthy employees help in increasing the production. On the other hand, poor health of employees increases absenteeism of employees. This affects the production process. Thus, you can say that healthy employees are more productive, confident in their work and are always regular. As far as industrial relations are concerned, the most significant contribution of the current period has been in the area of social security.

The Employees State Insurance Act, 1948 introduced a scheme of compulsory health insurance and provides for certain benefits in the event of sickness, maternity and employment injury to workmen employed in or in connection with the work of non-seasonal factories.

11.1 OBJECTIVES

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

- Discuss the essentials of employee safety programme
- Explain the health-related provisions in the Factory Act, 1948
- Analyse the problems of industrial relations in the public sector
- Discuss the growth of trade unions 195and the importance of code of conduct

11.2 EMPLOYEE SAFETY PROGRAMME: AN INTRODUCTION

NOTES

In an industrial plant, the health of the employees working there plays a vital role in the production. If the workers are not in a good health, they will not be able to give good output and this will directly affect the production. Hence, we can say that health of employees and production are directly proportional to each other.

Bad health of employees increases absenteeism of employees and hence, affects the production process. On the other hand, healthy employees help in increasing the production. Therefore, we can say that healthy employees are more productive, confident in their work and are always regular. The common health hazards that affect the employees physically are shown in Table 11.1.

These days the mental health of employees has become a matter of concern for the employers. There are three main factors that are increasing the mental problems of the employees. The first factor is the mental breakdown that occurs because of the result of pressures and tensions. The second factor is the mental disturbance of different types, which results in reduced productivity and hence decreases the company profit. The third and last factor is the mental illness, which arises due to personal disputes among the employees and high employee turnover.

Table 11.1 *Common Health Hazards Affecting the Employees*

Health Hazards	*Causes*
Lung Cancer	Coke oven emission, asbestos, active or passive cigarette smoke
White Lung Cancer	Asbestos
Black Lung Cancer	Coal Dust
Brown Lung Cancer	Cotton Dust
Leukemia	Benzene, Radiation
Cancer of other organs	Asbestos, Radiation, Vinyl Chloride, Coke oven emission
Reproductive problems	Radiation
Deteriorating Eye-sight	Chemical fumes, Office equipments
Hearing Impairment	High noise levels

Noise control

The noise problems till the past few years were considered due to old age or they were not taken so seriously. Health problems due to noise came into existence with the invention of machineries for almost all the productions. These days noise from the machineries has increased problems like hearing impairment among the employees. It is said that exposure of an individual to noise for a long period of

time results in deafness. Hearing impairment is not the only result of exposure to noise, other problems such as hormonal imbalance, changes in blood circulation, dizziness, increase in respiratory rate, heartburn, sleep disturbance and fatigue, also occur because of noise. The Factories Act, 1948 and Workmen's Compensation Act 1923 also includes noise problems as a disease that should be taken care of by the management.

It seems that the workers are used to with the noise but their body slowly suffers from the noise problems.

Work stress

Stress is defined as the reaction of disturbing factors around the environment and the result of those reactions. The factors that cause stress can be physical, psychological and behavioural. These factors are called the stressors. Stress can be positive or negative. Positive stress is the one from which an individual can gain something. Such stress is also called the Eustress. For example, when you do any kind of exercise, you stress yourself but the result of the exercise is a good health. Negative stress is the one from which an individual loses something.

The level of experiencing stress for each individual is not the same. These levels depend on how an individual reacts to stressors. Some might react to stressors in a faster pace and get deeply stressed while others might react slowly. The reaction of an individual to stressor depends on: the person's way to the situation, the past experience of the person, the presence of the social support and the difference between the individual's way of taking the stress.

Measures for improving health of industrial workers

In 1952, the ILO adopted a comprehensive Convention No. 102 concerning Minimum Standards of Social Security in which provisions of medical care, sickness benefits, unemployment benefit, old-age and invalidity benefits, employment injury benefit, family and maternity benefit have been made. The concept of social security has been further widened, so as to include provisions for housing, safe drinking water, sanitation, health, educational and cultural facilities as also a minimum wage which can guarantee workers a decent life.

The organized sector workers which constitute about 7% of the total workforce of about 400 million in the country are covered under various legislations providing social security to these workers. The major legislations providing social security to these workers are: the Employees' State Insurance Act, 1948 and the Employees Provident Fund & Miscellaneous Provisions Act, 1952 etc. These two legislations provide for medical and health insurance and provident fund & pension to the workers respectively.

The unorganized sector workers are those who have not been able to pursue their common interests due to constraints like casual nature of employment, invariably absence of definite employer-employee relationship, ignorance, illiteracy, etc. The unorganized workers are also generally low paid and a majority of them

NOTES

are devoid of any of the social security benefits like life and medical insurance, health care, maternity benefits, and old age pension etc. which are available to the workers in the organized sector under the Employees State Insurance Act, 1948; the Employees Provident Funds and Other Miscellaneous Provisions Act, 1952 and the Factories Act, 1948, etc. (important provisions of these Acts will be discussed in the next section).

The Unorganized Sector Workers Social Security ACT, 2008 is an Indian Act related to Industrial Law to provide for the social security and welfare of unorganised workers and for other matters connected therewith or incidental thereto. Central Government empowered to make appropriate welfare schemes related to:

- Life and disability cover
- Health and maternity benefits
- Old age protection
- Any other benefit as may be determined by the Central Government

The National Commission for Enterprises in the Unorganized Sector (NCEUS) also presented its report on Social Security for Unorganized Sector Workers in May, 2006. The recommendations of the NCEUS's report , amongst other, included that any worker registered with the National Social Security Scheme for the unorganized workers, on payment of prescribed contribution, shall be entitled to National Minimum Social Security benefits including health insurance, maternity benefit, insurance to cover natural and death due to accident, old age pension to Below Poverty Line (BPL) workers above the age of 60 years and Provident Fund for above poverty line (APL) workers.

The National Common Minimum Programme (NCMP) of the present Government highlights the commitment of the Government towards the welfare and well-being of all workers, particularly, in the unorganized sector. The NCMP states that: "The UPA Government is firmly committed to ensure the welfare and wellbeing of all workers, particularly those in the unorganized sector who constitute 93% of our workforce. Social security, health insurance and other schemes for such workers like weavers, handloom workers, fishermen and fisherwomen, toddy tappers, leather workers, plantation labour, beedi workers, etc. will be expanded."

Industrial safety

The life of an industrial worker is a hazardous one. An industrial accident may be defined as 'an occurrence which interferes with the orderly progress of work in an industrial establishment'. According to the Factories Act, industrial accident is 'an occurrence in an industrial establishment causing bodily injury to a person which makes him unfit to resume his duties in the next 48 hours'.

Causes of accidents: Accidents are usually the result of a combination of factors. According to safety experts there are three basic causes. These are:

1. Unsafe conditions: Also known as 'technical causes'. They arise when there are improper or inadequate safety guards on machines, when mechanical

or construction designs are defective and unsafe; or when there is an absence of proper maintenance and supervision of these devices.

2. Unsafe acts: These acts may be the result of lack on the part of the employee or certain bodily defects or wrong attitudes on the part of the employee.
3. Other causes: These refer to unsafe situational and climate conditions and variations – such as bad working conditions, rough and slippery floors, excessive glare, etc.

Accident prevention

According to the National Safety Council USA, accident prevention depends on three E's.

- Engineering – the job should be engineered for safety.
- Employees – employees should be educated in safe procedure and
- Enforcing safety – safety rules should be properly enforced.

Accident prevention can be achieved through two basic activities:

1. Reducing unsafe conditions, i.e., removing and reducing physical hazards.
2. Reducing unsafe acts. This can be implemented through proper selection and placement of employees, providing training to new employees in safety practices and through persuasion and propaganda.

Occupational diseases

Occupational diseases are the result of physical conditions and the presence of industrial poisonous and non-poisonous dust in the atmosphere. Occupational diseases usually develop over an extended period of time. They are slow and generally cumulative in their effect. Occupational diseases are the result of constant exposure to the influence of toxic substances of micro-organisms, of air-borne contaminants and stress-producing elements.

Health Provisions under the Factories Act, 1948

The Factories Act, 1948 provides for health safety and Welfare. We explain below the relevant sections pertaining to Health and Safety of workers is explained below:

The Act, provides detailed instructions on cleanli-ness, disposal of wastage, ventilation, lighting, over-crowding, etc. The factors which influence the general health of the worker is the working environment which tends to produce ill health. Every employee should protect his employees against health hazards by:

(i) Devoting adequate attention to working conditions

(ii) Substituting a less toxic substance for the hazardous one

(iii) Providing protective clothing

Sections 11 to 20 of the Factories Act provide detailed instructions. These are:

NOTES

Sec 11 Cleanliness: Every factory shall be kept clean and free from effluvia and dirt. Accumulation of dirt shall be removed daily by some effective method.

Sec 12 Disposal of Wastes: Effective arrangements shall be made in every factory for the treatment of wastes due to the manufacturing process carried on therein, so as to make them harmless and for their disposal.

Sec 13 Ventilation and Temperature: Effective and suitable provision shall be made in every factory for securing and main-taining in every workroom, adequate ventilation by the circula-tion of fresh air and such a temperature as will secure to work-ers therein reasonable conditions of comfort and prevent injury to health.

Sec 14 Dust and Fume: Where dust or fume or impurity of such a nature as is likely to be injurious or offensive to the workers is given off as a result of the manufacturing process being carried on in a factory, effective measures shall be taken in the factory for prevention of inhalation or accumulation of dust and fumes in workrooms.

Sec 15 Artificial Humidification: In respect of all factories in which the humidity of the air is artificially increased, the State Government may make rules prescribing standards of humidification.

Sec 16 Overcrowding: There shall not be overcrowding in any room of the factory so as to be injurious to the health of the workers employed therein. There shall be at least 14.2 cubic meters of space for every worker.

Sec 17 Lighting: In every part of a factory where workers are working, there shall be provided and maintained sufficient and suitable lighting, natural or artificial or both.

Sec 18 Drinking Water: In every factory, effective arrange-ments shall be made to provide and maintain at suitable points conveniently situated for all workers employed therein as suffi-cient supply of drinking water.

Sec 19 Latrines and Urinals: In every factory, separate en-closed accommodation of latrine and urinals of prescribed types for male and female workers shall be provided for. Such accommodation shall be conveniently situated and accessible for workers at all times.

Sec 20 Spittoons: In every factory, there shall be provided a sufficient number of spittoons in convenient places and they shall be maintained in a clean and hygienic condition.

Safety Provisions under the Factories Act, 1948

Prevention of accidents is an objective which requires no expansion. This is one area in which there is complete identity of employer-employee interests. The employee does not want to be injured and the employer does not want to incur the cost of injuring him. The Act provides 20 different sections on obliga-tory safety measures.

NOTES

Sections 21 to 41 of the Factories Act provide detailed instructions. They are discussed below.

Sec 21 Fencing of Machinery: Every dangerous part of every machinery shall be securely fenced by safeguards of substantial construction which shall be constantly maintained and kept in position while the parts of machinery they are fencing are in motion or in use.

Sec 22 Work on Near Machinery in Motion: Where in any factory it becomes necessary to examine any part of machinery while the machinery is in motion, such examination shall be made only by a specially trained adult male worker wearing tight fitting cloth-ing. The clothing shall be supplied by the occupier.

Sec 23 Employment of Young Persons on Dangerous Machines: No young person shall be required or allowed to work on any machine unless -

(a) He has been fully instructed as to the dangers and the pre-cautions to be observed.

(b) He has received sufficient training or is under adequate supervision by an experienced person.

Sec 24 Striking Gear and Devices for Cutting off Power: When a device, which can inadvertently shift from 'off' to 'on' position is provided, arrangements shall be provided for locking the device in safe position. This is to prevent accidental starting of the machinery.

Sec 25 Self-action Machine: No traversing part of a self-acting machine shall be allowed to run on its outward or inward traverse within a distance of 45 centimetres from any fixed structure which is not part of the machine.

Sec 26 Casing of New Machinery: All machinery driver by power and installed in any factory, shall be completely encased unless it is safety situated, to prevent danger.

Sec 27 Prohibition of Employment of Women and Children Near Cotton: Openers.

Sec 28 Hoists and Lifts: In every factory every hoist and lift shall be of good mechanical construction, sound material and adequate strength.

Sec. 29 Lifting Machines, Chains, Ropes and Lifting Tackles: In every factory, cranes and other lifting machines shall be of good construction, sound material, adequate strength, free from defects and properly maintained.

Sec 30 Revolving Machinery: In every factory in which the process of grinding is carried on, there shall be permanently kept near each machine a notice indicating

(a) Maximum safe working speed

(b) The diameter of the pully.

Sec 31 Pressure Plant: If in any factory any plant or any machinery is operated at above the atmospheric pressure, effec-tive measures shall be taken to ensure that the safe working pressure is not exceeded.

NOTES

Sec 32 Floors, Stairs and Means of Access: All floors, steps stairs passages and gangways shall be of sound construction and properly maintained.

Sec 33 Pits Slumps, Openings in Floors, etc: In every factory, pits, slumps, fixed vessels, tanks, openings in the ground or in the floor shall be securely covered or securely fenced.

Sec 34 Excessive Weights: No person shall be employed in any factory to lift, carry or move any load so heavy as to be likely to cause him injury.

Sec 35 Protection of Eyes: Screen or suitable goggles shall be provided for the protection of persons employed on or in immedi-ate vicinity of any process which involve any danger or injury to the workers' eyesight.

Sec 36 Precautions Against Dangerous Fumes: No person shall be required or allowed to enter any chamber, tank, vat, pit, flue or other confined space in any factory in which any gas, fume vapour or dust is likely to be present to such an extent as to involve risk to persons being overcome thereby unless it is provided with a manhole of adequate size or other effective means of exit.

Sec 37 Precautions Against Explosive or Inflammable Dust, Gas, etc: When in any factory any manufacturing process produces dust, gas fume or vapour which is likely to explode on ignition, all practicable measures shall be taken to prevent any such explosion.

Sec 38 Precautions in Case of Fire: In every factory, all practicable measures shall be taken to prevent outbreak of fire and its spread both internally and externally and to provide and maintain safe means of escape.

Sec 39 Power to Require Specifications of Defective Parts or Tests of Stability: If it appears to the Inspector that any building, machinery or plant may be dangerous to human life or safety he may ask the manager to carry out tests to prove their safety.

Sec 40 Safety of Building and Machinery: If any building, machinery or plant is dangerous to human life or safety, the Inspector may prohibit to use until it has been properly repaired or altered.

Sec 40 A—Maintenance of Building: Any building is in a state of disrepair, the inspector may ask the manager specifying the measures to be taken for such repairs.

Sec 40 B—Safety Officers: Wherein 1000 or more workers are employed and the manufacturing process involves any risk of injury, hazard to health, safety officers may be appointed.

11.3 TYPES OF SAFETY ORGANIZATIONS: FUNCTIONS, IMPLICATIONS AND FEATURES

The Constitution of India provides detailed provisions for the rights of the citizens and also lays down the Directive Principles of State Policy which set an aim to

which the activities of the state are to be guided. On the basis of these Directive Principles as well as international instruments, Government is committed to regulate all economic activities for management of safety and health risks at workplaces and to provide measures so as to ensure safe and healthy working conditions for every working man and woman in the nation. Government recognizes that safety and health of workers has a positive impact on productivity and economic and social development. Prevention is an integral part of economic activities as high safety and health standard at work is as important as good business performance for new as well as existing industries.

11.3.1 Industrial Relations Problems in the Public Sector

Although a lot of importance has been given to industrial relations in the public sector but industrial relations in this sector has not been extensively examined. Most analyses describes the process but does not attempt to underline the major forces and factors that might affect and perhaps, shape the future of the relationship. Mostly, the description contrasts the structures, rights and the process with that in the private sector. Here in this section we will describe the characteristics of the public sector and industrial relations and will outline discernible trends emerging in the relationship between the government and the trade unions in the public sector.

The problems of industrial relation in the public sector can be discussed as follows:

1. The public sector employer is akin to the government and is armed with great legislative and executive powers that are often used in its relation with the employees. The government-employer being a sovereign entity cannot be held ransom for whatever cause. The Government has always adopted a tough stand especially if unions begin to impose terms and act in a confrontational manner.
2. The policy decisions regarding the terms and conditions of public employment is within the purview of the federal government even though there are three levels of governments, Therefore, the federal government is the focal point in the conduct of public sector industrial relations. The governmental activities unlike private sector is highly diverse comprising of almost all activities in the economy. This creates the need to deal with more issues and generally a greater concern to establish some equity across different occupations and trades.
3. Public employees are generally prohibited from joining trade unions. Public employees in the managerial categories however, have assembled themselves into various associations. These promote their vocational and industrial interests. These associations, although not legally trade unions, are still incorporated into the National Joint Councils to represent the interests of their members. Public sector trade unions do not enjoy the provisions of the Industrial Relations Act (1967) which spells out the rights of trade unions

NOTES

and employers, the process of seeking recognition, conducting collective bargaining and seeking help from the Ministry or court to resolve disputes. The relationship between public sector trade unions and the employer is set and regulated through executive and administrative orders.

4. The public sector understandably has higher degree of unionisation of thirty-five per cent. This is in an economy where the overall unionisation is about ten per cent. The higher union membership is due to higher educational level of the public employees, greater awareness towards trade unions and greater homogeneity of the employees. Also, the public sector has a great multiplicity of trade unions as result of the law and perhaps also due the preference for small unions.

11.3.2 Growth of Trade Unions

Trade unions in India, as in most other countries, have been the natural outcome of the modern factory system. The development of trade unionism in India has chequered history and a stormy career. As discussed in Unit 3, during the British rule, Britishers set up textile mills in Madras, Bombay, Surat and Calcutta.

A boom in the textile industry took place in late 19th century. This lead to massive recruitment in these mills. This gave rise to the need for a regulating law.

The British enacted the Factories Act in 1881. This Act laid down some strict laws. These laws favoured owners over the workers.

As the First World War began, these textile mills faced more work. But more work did not mean more staff. Working conditions deteriorated further. That is how unionism in India started.

11.3.3 Codes of Conduct

Code of conduct is a set of conventional principles and expectations that are considered binding on any person who is a member of a particular group. We have already studied this in Unit 9.

Features of the Code of Conduct

Let us discuss the features of code of conduct.

- The code compels the parties not to indulge in strikes and lockouts without notice.
- It restrains both the parties from unilateral action.
- Employers are required to recognize the majority union in an establishment.
- The code of conduct is a government induced self-imposed and mutually agreed voluntary principle of discipline.
- It aims at preventing disputes.
- It requires that constructive co-operation should be encouraged between workers and managements at all levels.

- It enjoins upon the management to take prompt action for the settlement of grievances, and implementations of awards and agreements.
- Any action that stands in the way of cordial relations and is against the spirit of the code on the part of both managements and trade unions should be avoided.
- Both the central and state governments should rectify any shortcomings in the machinery they constitute for the administrations of labour laws.
- The code of discipline stipulates: In order to maintain discipline in industry both the public and private sectors.

Check Your Progress

1. Define stress.
2. What are occupational diseases?
3. When did the boom in the textile industry take place?

11.4 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. Stress is defined as the reaction of disturbing factors around the environment and the result of those reactions.
2. Occupational diseases are the result of physical conditions and the presence of industrial poisonous and non-poisonous dust in the atmosphere. Occupational diseases usually develop over an extended period of time.
3. A boom in the textile industry took place in late 19th century. This lead to massive recruitment in these mills. This gave rise to the need for a regulating law.

11.5 SUMMARY

- In an industrial plant, the health of the employees working there plays a vital role in the production. If the workers are not in a good health, they will not be able to give good output and this will directly affect the production.
- According to the Factories Act, industrial accident is 'an occurrence in an industrial establishment causing bodily injury to a person which makes him unfit to resume his duties in the next 48 hours'.
- The Factory Act provides 20 different sections on obligatory safety measures.
- The Constitution of India provides detailed provisions for the rights of the citizens and also lays down the Directive Principles of State Policy which set an aim to which the activities of the state are to be guided.

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- Although a lot of importance has been given to industrial relations in the public sector but industrial relations in this sector has not been extensively examined. Most analyses describes the process but does not attempt to underline the major forces and factors that might affect and perhaps, shape the future of the relationship.
- Although a lot of importance has been given to industrial relations in the public sector but industrial relations in this sector has not been extensively examined. Most analyses describes the process but does not attempt to underline the major forces and factors that might affect and perhaps, shape the future of the relationship.
- Public employees are generally prohibited from joining trade unions. Public employees in the managerial categories however, have assembled themselves into various associations. These promote their vocational and industrial interests.
- Trade unions in India, as in most other countries, have been the natural outcome of the modern factory system. The development of trade unionism in India has chequered history and a stormy career.
- Code of conduct is a set of conventional principles and expectations that are considered binding on any person who is a member of a particular group.

11.6 KEY WORDS

- **Industrial Accident**: An occurrence which interferes with the orderly progress of work in an industrial establishment.
- **Occupational Diseases**: Result of physical conditions and the presence of industrial poisonous and non-poisonous dust in the atmosphere.

11.7 SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. What are the three factors that increase the mental problems of the employees?
2. State the causes of industrial accidents.
3. What are the safety provisions under the Factory Act, 1948?
4. Write a short note on accident prevention.

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Long Answer Questions

1. Explain the health-related provisions in the Factory Act, 1948.
2. Analyse the problems of industrial relations in the public sector.
3. Discuss the growth of Trade Unions and the importance of code of conduct.

11.8 FURTHER READINGS

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BLOCK - IV
WELFARE SAFETY COMMITTEE MEASURES

NOTES

UNIT 12 SAFETY COMMITTEE AND GRIEVANCE REDRESSAL

Structure

12.0 INTRODUCTION

The Factories Act, 1948 deals with the safety of factory workers in India. Section 21 to 41 of the Act deal with the safety provisions. The safety of the workers is the prime responsibility of the owner of the factory. Grievance is a feeling of discontentment or dissatisfaction, distress or suffering or grief among the workers. The dissatisfaction when expressed becomes a complaint and when the employee believes that some injustice is being committed it becomes a grievance. This unit discusses these two aspects in detail.

12.1 OBJECTIVES

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

- Analyse the working of the safety committee in an organization
- Explain the steps that should be taken to prevent industrial accidents
- Discuss the procedure for grievance handling
- Describe damage control system

12.2 SAFETY COMMITTEE

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Safety means freedom from the occurrence or risk of injury or loss. Industrial safety or employee safety refers to the protection of workers from the danger of industrial accidents.

Providing safety to the employees has moral as well as legal dimensions. Safety is important on humane grounds. Managers must undertake accident prevention measures to minimise the pain and suffering the injured worker and his family are often exposed to as a result of the accident. An employer has no right to cause accident to an employee which might incapacitate him or her or kill the person.

There are legal reasons for undertaking safety measures. There are laws covering occupational health and safety and penalties for non-compliance have become more severe. The responsibility extends to the safety and health of the surrounding community.

The Factories Act, 1948 deals with the safety of factory workers in India. Section 21 to 41 of the Act deal with the safety provisions. The safety of the workers is the prime responsibility of the owner of the factory. The requirements provided under the Act are absolute and are in no way dependent upon previous notice or warning from the inspector of factories. The provisions dealing with the safety of workers in different states are supplemented by rules framed by each state government. So in relation to a factory in a particular state, the rules of the government of that state must be referred to The Supreme Court held.

An enterprise which is engaged in a hazardous or inherently dangerous industry which poses a potential threat to the health and safety of the persons, working in the factory and industry in the surrounding areas, owes an absolute and non-delegable duty to the community to ensure that no harm results to anyone on account of the hazardous or inherently dangerous nature. This implies unlimited liability.

The civil law establishes the extent of damages or compensation. Under the criminal law, sentences are prescribed under the pollution control laws. There is legal ceiling on the extent of liability. Financial losses which accompany accidents can be avoided if the plant is accident free.

The safety programme deals with the prevention of accidents and with minimising the resulting loss and damage to persons and property.

Five basic principles which are given by the safety programme of an organisation are as under:

1. Industrial accidents result from a multiplicity of factors such as faults in the management system arising from prior leadership, inadequate supervision, insufficient attention to the design of safety into the system, an unsystematic approach to the identification, analysis and elimination of hazards and poor training facilities.

NOTES

2. The safety programme should identify potential hazards, provide effective safety facilities and equipment and take prompt remedial measures.
3. The safety policies of the organisation should be determined by the top management and it must be continuously involved in monitoring safety performance and in ensuring that corrective action is taken when necessary.
4. The management and the supervisors must be made fully accountable for safety performance in the working areas they control.
5. All employees should be given thorough training in safe methods of work

Safety policy is an important element in the safety programme. A safety policy specifies the company's goals and designates the responsibilities and authority for their achievement. It may also provide caveats and sanctions for filling to fulfil them. A safety policy must contain a declaration of the organisation's intent and the means by which the intent is to be realised. As a part of the intent the statement should emphasize four fundamental points.

- The safety of the employees and the public.
- Safety will take precedence over expediency.
- Every effort will be made to involve all managers, supervisors and employees in the development and implementation of safety procedures, and
- Safety legislation will be complied with in the spirit as well as the letter of the law.

Ilo convention 155 concerning occupational safety and health and the Working Environment Action at the level of the undertaking requires constitution of a safety committee. It says that every factory employing 100 or more workers should have standing arrangements at the plant level to ensure continued participation of workers in matters connected with safety. The arrangements may be in the form of safety committees.

Safety has entered the agenda of collective bargaining in a big way since the Bhopal tragedy on 2 December, 1984 where several thousand employees and others were killed in an accident in the Union Carbide Plant and many others were maimed for life. The Factories Act was amended, incorporating several tough provisions in Chapter IVA relating to hazardous process. Safety committees consisting of equal representations for both workers and management have been made statutory and the members of the committee have been vested with rights. Even workers right to information is explicitly mentioned in the amended Act.

Nearly a decade later some of the central trade union federations have also formed an umbrella organisation called Trade Union Programme for Environmental Protection (TUPEP). Convention no. 155 of international Labour Organisation

gives employees the right to refuse to work if the workplace is considered potentially unsafe. The 1987 Bank Computerisation Agreement Concedes the pregnant women employees in banks the right to refuse to work before computer terminals. In quite a few cases, safety and health issues for a cash compensation or allowance to the extent, gave employees and their unions a say on matters concerning their own safety. It is a welcome development.

Typically safety committees serve in advisory capacities and are responsible for such tasks as reviewing safety procedures making recommendations for eliminating specific safety and health hazards, investigating accidents, fielding safety related complaints from employees and monitoring statutory compliance.

Many companies employ specialists to design and handle the day to day activities of the safety programme. Responsibility of employee safety depends upon the HR department whose task is to coordinate the activities of all those concerned with safety.

The top management cannot absolve itself of the responsibility of ensuring employee safety. In fact, the managing director of the company is held responsible for an accident and is punishable with fine, imprisonment or both.

12.3 ERGONOMICS

Ergonomics is the scientific study of the relationship between man and his working environment it takes into consideration not only the physical environment in which man works, but also his tools, materials and the method and organisation of his work. It is concerned with the whole man– the physical, mental, biological and behavioural aspects.

Ergonomics is concerned with designing and shaping jobs to fit the physical abilities of individuals so that they can perform their jobs effectively. Ergonomics helps employers to design jobs in such a way that workers physical abilities and job demand are balanced. Ergonomics does not alter the nature of job tasks but the location of tools, switches and other facilities, keeping in view that handling the job is the primary consideration.

Ergonomics focuses on minimising the physical demands and risks of works. This approach helps ensure that job demands are consistent with people's physical capabilities to perform them with least risks. It involves the design of aids (ranging from computer software to instruments) used to perform tasks where jobs are well designed through ergonomics, workers report less physical effort and fatigue, fewer, aches and pains and hence fewer health complaints. The likelihood of accidents, is reduced and employees have more favourable attitudes towards their work and experience job satisfaction. But on the cost side, equipment investments are high and training requirements tend to increase.

Ergonomics has become more relevant now because employees stay in the workforce longer and jobs are altered to meet their changing physical needs. Its

NOTES

relevance is also felt more now because of the need to accommodate individuals with physical disabilities (e.g. impaired hearing or loss of mobility in the limbs).

In early 1960s economic studies focused on the design of machine controls, levers, knobs and buttons on the visual displays carried by instruments, on workplace, plant layout on the chairs and tables, on the design of hand tools and on the manual handling of heavy workloads. Aspects such as noise, vibration, ventilation, temperature, etc, began to be taken into account subsequently. Eventually, the entire spectrum of the working environment began to be encompassed in ergonomic research so that job design and organisation, monotony and fatigue also could be taken into account.

The rapid industrialization in developing countries led to a massive transfer of technology and importing of plant and machinery that had high safety standards in western industrialized countries, but when these were put to use in a different physical (climatically), psychological and social environment new problems began to surface for safety and health. Application of ergonomics principles pointed out the need to use different designs for factory layout depending upon whether they are built in tropical zones or cooler climates. For instance, in a hot and dry climate steal rolling mills should be built without walls to allow maximum air movement through the mill and factory walls, constructed of huge louvers, which are kept open during the dry season and closed when the monsoon begins. Additional hazards in the use of movable machinery in activities such as construction and mining could also be tackled by the application of scientific principles. The most common accidents in mining are cave-ins and root falls due to poor timbering or dangerous tunneling techniques.

Over the years ergonomics studies have contributed immensely to make the workplaces not only safer but also convenient and productive. Ergonomic studies teach us how to take full advantage of human finite capacities with the potential of modern technology. They also seek to put restraints on people working beyond their optimal range of abilities which may lead to errors that can cause accidents and injuries.

Ergonomics cannot solve all problems related to occupational health and safety. Occupational health and safety problems are often compounded by the lack of safety equipment, awareness and expertise coupled with poor maintenance. In addition, usually there is a lag in understanding and coping with the ramifications of modern technology and materials on occupational health and safety. The recent revelations and the health effects of asbestos and radiation effects of computer screens point to this.

12.3.1 Damage Control Systems

A damage control is the emergency control of situations that may cause hazard in the organisation. Controlling refers to the task of ensuring that activities are producing the desired results. Controlling is monitoring the outcome of activities, reviewing feedback information about the outcome and if necessary take corrective action.

NOTES

Since the beginning of the present century, employee safety and health problems at work have been engaging attention of the psychologists, sociologists and industrial engineers. Psychologists are concerned with the theoretical considerations of accident causation and the research into accident control, through proper selection, training and education of the employee and the social and psychological factors that influence the individual's behaviour in general. Engineers and safety officers usually render necessary practical advice on certain aspects of safety in industry. They look upon prevention of accidents basically as an engineering problem to be tackled through proper designing of mechanical safety devices. In fact, accident prevention and safety are inter-related and therefore require a multi-dimensional approach. Its importance has increased because of large scale industrialisation in which human beings are subject to mechanical, chemical, electrical and radiation hazards. Besides modern industry is characterized by complicated mechanising, intricate job requirements and fast moving production, lines. One of the important consequences of all this is increased dangers to human life, through accidents.

The life of industrial workers is full of risks and hazards. Every year lakhs of employees are injured in factories, mines, railways, ports and docks leading to acute ailments or permanent handicaps. The injuries may be caused as a result of any unsafe activity or act on their part or chance occurrences of as a result of some unsafe work conditions or unsafe acts of employees themselves. It could also happen due to defective plant or shop layout, inadequate ventilation, unsafe and insufficient lighting arrangements or insufficient space for movement inside the plant or shop, etc.

Causes for accidents are many and various. These causes may be classified into two groups –human failure and machine failure. Human failure leads to an accident when the employee ignores safety precautions and commits to an unsafe act. Majority of accidents occur because of human failure. Machine failure refers to faulty mechanical or physical conditions leading to accidents.

A Tripartite Technical Conference Organised by International Labour Organisation (ILO) in 1948 formulated a Model code of safety Regulations for Industrial Establishments for the guidance of governments and industry. Rule 82 of the code specifically deals with guarding machinery. According to the code, the guards should be properly designed, constructed and used so that they will:

(a) provide positive protection
(b) prevent all access to the danger zone
(c) cause the operator no discomfort or inconvenience
(d) interfere unnecessarily with production
(e) operate automatically or with minimum effort
(f) constitute preferably a built in feature
(g) be suitable for the job and the machine
(h) provide for machine oiling inspection, adjustment and repair
(i) withstand long use with minimum maintenance

NOTES

(j) resist normal wear and stock

(k) be durable and free erosion resistant

(l) not constitute a hazard by themselves and

(m) protect against unforeseen operational contingencies.

It is informed that consortium approach is spreading in safety too. In Mumbai, a handful of companies have taken the initiative in setting up mutual aid programme. They have written a ready reckoner called the Mutual Aid Response Group (MARG). In the event of a hazard, expertise is pooled in by the companies to ward off or control the hazard.

There are several ways by which accident can be prevented. The methods and devices for the prevention of accidents are now available in plenty. Experiences and the relentless was waged by independent organisation like the safety council and the stringent rules framed by the government have all resulted in the development of new methods and devices for the prevention of accidents. If an accident occurs now, it is not because of the lack of safety facilities but because of the indifferent attitude of the management, carelessness of the workers and predilections of enforcing agencies.

The National Safety Council USA says that accident prevention depends on three Es – Engineering, Education and Enforcement. The job should be engineered for safety, employees should be educated in safe procedures and safety rules should be properly enforced.

The following steps may be taken to prevent industrial accidents:

1. **Proper Safety Measures:** There should be proper safety measures to avoid accidents. Government also gives guidelines for enacting measures for checking accidents, these should be properly followed. Physical hazards should be avoided, machines should be properly guarded, danger areas should be fenced, etc.
2. **Proper Selection:** Any wrong selection of employees will create problems later on. Sometimes employees are accident prone, they may not be properly suitable for the job. The selection of employees should be based on properly devised tests so that their suitability of the job is determined.
3. **Safety Conscious:** The employees should be made conscious of several measures. There should be proper workings, slogans and advices to the employees for making them conscious.
4. **Enforcement of Discipline:** There should be disciplinary action against those who flout safety measures. There may be negative punishments like warnings, fines, layoffs, terminations, etc. Proper enforcements of discipline will force workers to follow the various safety instructions.
5. **Incentives:** Workers should be given incentives for maintaining safety. There may also be safely contests among workers. Those who follow safety instructions in toto should be given monetary and non-monetary incentives.

6. **Safety Committees:** Safety measures are in the interests of both workers and management. There should be committees having representatives of worker and employees for devising and enforcing safety programmes. Such committees will be more effective in implementing safety devices because various measures will have the consent of workers through their representatives.
7. **Proper maintenance of Machines Equipment:** Accident may occur due to the fault in the machines or equipment. There should be proper maintenance of machines. There should be regularly greased safety devices which should be frequently inspected by engineering department personnel.
8. **Safety Training:** The workers should be given training in safety measures. They should know the hazards of the machines, the areas of accidents proneness and the likely precautions in case of some accident. The training programme should be arranged both for the workers and supervisions.

12.3.2 Safety Insurance

Risk management is becoming very common these days. A typical modern corporation carries a portfolio of risks. They include risks associated with industrial safety, process technology, hazards insurance, materials management and environment degradation. The simplest way of safeguarding oneself is insurance. But insurance to cover all risks may not be available or will be expensive; if available industrial risks management is the answer to the problem. The job of risk management is to assess all risks for frequency, probability and severity and to take necessary steps to avoid or reduce the impact of potential losses, besides monitoring the results.

The trend nowadays is to constitute a separate department for risk management. Essar company for example has a 22 member department which is called the department of environment, risk and insurance management. The team comprises experts in insurance and risk management, chemicals, electronics, mechanical and electrical engineering and environmental science.

Group life insurance scheme provides insurance cover to several employees working under one employer as long as they remain in service of that employer. The employer enters into a master contract with the insurance company on behalf of all employees covered therein. The premium is paid jointly by the employer and the employee. It is paid to the insurance company at a flat rate without taking note of the age on salary of the employee. The insurance cover is on each employee's life and in case of injury or death the compensation received from the insurance company is paid to the employee or his nominee. Since the premium is very low, it is highly attractive to salaried people in the low income category.

Personal injuries (Compensation Insurance) Act, 1963 is a supplemental enactment to Workmen's Compensation Act. It seeks to impose on employers a liability to pay compensation to workers sustaining personal injuries and to provide

for the insurance of employers against such responsibility. This Act is applicable only to certain classes of workers and not to all the categories as defined in the Workmen's Compensation Act, 1923.

NOTES

12.3.3 Grievance Redressal

The human behaviour differs from person to person. Every employee has certain expectations which he thinks must be fulfilled by the organisation he is working in. It is not possible for the management to satisfy the feelings and ego of all the employees. It is, therefore, but natural the workers have grievances against their immediate supervisor or against the managements as a whole or against the systems and practices which are followed in the organisation.

Grievance is a feeling of discontentment or dissatisfaction or distress or suffering or grief among the workers. The dissatisfaction when expressed becomes a complaint and when the employee believes that some injustice is being committed it becomes a grievance.

Grievances are but natural to arise in an organisation where thousands of workers are employed. But these should be removed as early as possible for creating good labour management relations and promoting efficiency. Grievances should not be allowed to accumulate because grievances will give rise to further grievances. The effect of grievances will be:

(i) Sense of frustration, disloyalty and non-cooperation among workers

(ii) Loss of interest in work

(iii) Affect on the quality and quantity of output

(iv) Indiscipline which may take the form of absenteeism, work to rule demonstration violence and strikes.

A proper machinery for handling of grievances is very necessary for harmonious industrial relations and for maintaining industrial peace. The employees do not have sufficient knowledge of the human nature or of the many social forces impinging on. Sometimes they do not even know their actual grievances but still feel dissatisfied and they tend to file grievances about something else.

It is, therefore, very essential that a systematic-procedure should be evolved and followed to settle the grievances. Such a procedure is known as the Grievances Handling Procedure.

The redressal of the grievances is a must to maintain good labour management relations and industrial peace. Thus the management should ensure that the grievances should be received and settled promptly, so that the workers get the necessary sense of satisfaction. The following steps should be taken in the handling the grievances.

- The nature of grievance should be defined, expressed and described clearly as early as possible so that the wrong complaint may not be handled.

- After the real issue is located all the relevant facts should be gathered about the issue. Such fact gathering may involve interviewing and listening to employees. This will help in finding out how and where the incidence took place and the circumstances under which it happened.
- After gathering the relevant facts the management may get a real picture of the grievance. Thus, the management should make a list of alternate solutions.
- Before finally announcing the decision, management should gather additional information for checking tentative solutions to find out the best one. Past company records or past experience of the executives may help in this exercise of choosing the final solution.
- Next step should be to convey the final decision to the employee concerned, in very clear and unequivocal terms.
- Last step should be the follow up action. It is very essential to know whether the grievance has been handled satisfactorily or not. Attitude of the employees must be studied to see whether they are satisfied with the decision or not.

Every management should lay down a procedure for getting the grievances redressed. There is no legislative provision for a well-defined and adequate grievance procedure. The management can adopt any of the following two procedures of grievance handling.

1. Common Procedure

Clause 15 of model standing orders provides that "all complaints arising out of employment shall be submitted to the manager or the other persons specified in this behalf with the right of appeal to the employer."

The usual common and informal procedure is first to approach the immediate supervisors for the grievance and failing to get a satisfactory answer the second step is to go directly to the departmental head or personal relations officer in the personnel department. If the worker is not satisfied here also, he should approach the top executive, but this is very rarely resorted to.

Some companies provide that if the complaint remains unsatisfied from the response of the top executive, the grievance should be referred to the arbitration or joint grievance committees consisting of the representatives of both the parties. The decision of this committee should be final.

2. Model Grievance Procedure

The draft model grievance procedure accepted by Labour Conference in 1958 is as follows:

(i) An aggrieved employee shall present his grievance verbally in person to the officer designated by the management for this purpose. The officer shall

NOTES

give the response within 48 hours of the presentation of the complaint. If the worker is not satisfied with the decision of the officer or fails to receive the answer within 48 hours, he will present his grievance to the head of the department.

(ii) The head of the department shall give his answer within 3 days or if action cannot be taken within this period, the reason for delay should by recorded. If the worker is dissatisfied with the decision of the departmental head, he may request that his grievance be forwarded to the grievance committee.

(iii) The grievance committee shall make its recommendation to the manager within 7 days of the worker's request. If decision cannot be given within this period, reason should be recorded. Unanimous decision of the committee shall be implemented by the management. If there is difference of opinion among the members of the committee, the matter shall be referred to the manager along with the views of the members and the relevant papers for final decision.

(iv) In either case, the final decision of the manager shall be communicated to the employee within three days from the receipt of the grievance committee's recommendations.

(v) If the worker is not satisfied even with the final decision of the manager he may have the right to appeal to the manager for revision. In making this appeal, he may take a union official along with him to facilitate discussion with the management. The management will communicate the decision within 7 days of workman's revision petition.

(vi) If the workers is still not satisfied the matter may be referred to voluntary arbitration.

Where a worker has taken a grievance for redressal under the grievance procedure, the formal conciliation machinery shall not intervene till all steps in the procedure have exhausted. A grievance shall be presumed to assume the form of a dispute only when the final decision of the top management is turned down by the worker. The grievance committee shall consist of 4 to 6 members.

This is the modal procedure of grievance handling. The organisation may make the necessary amendments wherever it thinks proper, in the procedure with the consent of the workers or trade union.

3. Grievance Legislation

In Indian Industry, adequate attention has not been paid to the settlement of grievances. Legislative frameworks only indirectly deals with the redressal of individual grievances. At present there are three legislations dealing with grievances of employees working in industries.

The Industrial Employment (Standing Orders) Act, 1946, requires that every establishment employing 100 or more workers should frame standing orders. These

should contain among other things, a provision for redressal of grievances of workers against unfair treatment and wrongful actions by the employer or his agents.

The Factories Act, 1948 provides for the employment of a welfare officer in every factory ordinarily employing 500 or more workers. They will look after proper implementation of the existing labour legislation. Besides, individual disputes relating to discharge, dismissal or retrenchment can be taken up for relief under the Industrial Disputes Act, 1947 amended in 1965.

Industrial Disputes (Amendment) Act, 1982 has provided for the setting up of a grievance settlement committee. Any employer of any industrial undertaking employing 50 or more workers is required to provide for a grievance settlement authority for settlement of industrial disputes connected with an industrial worker. Where such a dispute arises, the worker or the trade union of which he is a member, may in the manner prescribed, refer the dispute to such authority for settlement. Any reference so made to the authority shall not be referred to Conciliation Board, Labour Court, Industrial or National Court unless it has been decided and the decision of the authority is not acceptable to one of the parties to the dispute.

Check Your Progress

1. What does the Factories Act, 1948 deal with?
2. What is ergonomics?
3. What is a damage control system?

12.4 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. The Factories Act, 1948 deals with the safety of factory workers in India. Section 21 to 41 of the Act deal with the safety provisions.
2. Ergonomics is the scientific study of the relationship between man and his working environment. It takes into consideration not only the physically environment in which man works, but also his tools, materials and the method and organisation of his work
3. A damage control is the emergency control of situations that may cause hazard in the organisation. Controlling refers to the task of ensuring that activities are producing the desired results.

12.5 SUMMARY

- Safety means freedom from the occurrence or risk of injury or loss. Industrial safety or employee safety refers to the protection of workers from the danger of industrial accidents.

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- There are legal reasons for undertaking safety measures. There are laws covering occupational health and safety and penalties for non-compliance have become more severe. The responsibility extends to the safety and health of the surrounding community.
- An enterprise which is engaged in a hazardous or inherently dangerous industry which poses a potential threat to the health and safety of the persons, working in the factory and industry in the surrounding areas, owes an absolute and non-delegable duty to the community to ensure that no harm results to anyone on account of the hazardous or inherently dangerous nature.
- Industrial accidents result from a multiplicity of factors such as faults in the management system arising from prior leadership, inadequate supervision, insufficient attention to the design of safety into the system, an unsystematic approach to the identification, analysis and elimination of hazards and poor training facilities.
- Safety policy is an important element in the safety programme. A safety policy specifies the company's goals and designates the responsibilities and authority for their achievement.
- Ergonomics is the scientific study of the relationship between men and his working environment it takes into consideration not only the physically environment in which man works, but also his tools, materials and the method and organisation of his work.
- Ergonomics cannot solve all problems related to occupational health and safety. Occupational health and safety problems are often compounded by the lack of safety equipment, awareness and expertise coupled with poor maintenance.
- A Tripartite Technical Conference Organised by International Labour Organisation (ILO) in 1948 formulated a Model code of safety Regulations for Industrial Establishments for the guidance of governments and industry Rule 82 of the code specifically deals with guarding machinery.

12.6 KEY WORDS

- **Ergonomics:** It is the process of designing or arranging workplaces, products and systems so that they fit the people who use them.
- **Damage Control System**: It is an integrated control and monitoring system able to interface all the safety systems on board, from complex ones to simple sensors and actuators.

12.7 SELF ASSESSMENT QUESTIONS AND EXERCISES

NOTES

Short Answer Questions

1. State the five basic principles of the safety programme of an organization.
2. What is the focus of ergonomics?
3. Write a short note on safety insurance.
4. Write a short note on grievance legislation.

Long Answer Questions

1. Analyse the working of the safety committee.
2. 'Ergonomics is concerned with designing and shaping jobs to fit the physical abilities of individuals so that they can perform their jobs effectively.' Discuss.
3. Explain the steps that should be taken to prevent industrial accidents.
4. Analyse the procedure for grievance handling.

12.8 FURTHER READINGS

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UNIT 13 EMPLOYEE COMMUNICATION

NOTES

Structure

13.0 INTRODUCTION

Communication is an essential part of maintaining relations. It is no wonder that employee communication is at the root of industrial relations management. No matter how many laws are in force or how many trade unions are working, all will come to a stall if the communication between the different groups is not carried out efficiently. Employee communication not only allows the transfer of information, but also incorporation of suggestions and along with addressing the complaints and concerns. In this unit, you will learn the basics of employee communication, some of its type and the importance of personal counselling and mental health management.

13.1 OBJECTIVES

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

- Discuss the concept of employee communication
- Describe varied important types of employee communication
- Explain the importance of personal counselling and mental health management as a part of employee communication

13.2 EMPLOYEE COMMUNICATION: AN OVERVIEW

NOTES

Communication is the process of transmition and receipt including comprehension of thought, perception instruction or information.

According to Keith Daeis, communication is a way of reaching others with ideas, facts thoughts and values. It is a bridge of meaning among people, so that they can feel and share what they feel and know. By using this bridge, a person can safely cross the river of misunderstanding that sometimes separates people.

In the absence of communication, an organization would cease to exist. Its significance is greater to modern complex organizations which are based on minute division of labour and specialization, and direction of individual efforts to secure overall coordination of various activities in the organization. The mode of their achievement and the interrelationship between the work being performed by various individuals can be achieved only though communication.

According to William V. Harvey, communication is imminently essential in business, in government, in military organization, hospitals, schools, community houses — anywhere people deal with one another. It is difficult, in fact, to imagine any kind of interpersonal activity which does not depend on communication.

All managerial acts should pass through the bottleneck of communication. Any management idea will only be an armchair thought until they are put into effect through communication.

The two primary functions in the process of management can be stated to be decision making and communication. Communication is the process of carrying the signals from one portion of the complex system to another and also to the central coordinating agency through which the entire system is kept in balance and functioning. The origin of the word communication is from the Latin word 'communies' meaning common. It is not known when man first learned to talk.

Communication being a process has some elements to complete the process. The elements of communication are sender, message, encoding, channel, receiver, decoding and feedback.

1. Sender

Sender of the message is the person who contacts other persons with the objective of passing the message. In organizational context, the sender may be a superior, a subordinate a peer, or any other person. The organizational position of the sender determines the direction of communication in the organization. A message flowing from a superior to a subordinate is known as downward communication and a message flowing from the subordinate to the superior is known as upward communication. A message flowing from a person to another person working at some hierarchical level is known as horizontal communication.

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2. Message

Message is the subject matter of the communication which is intended to be passed to the receiver from the sender message may be in the form of ideas, opinions feelings, views, orders suggestions etc. Sometimes people use message and communication inter changeably, for example, A asks B have you received any communication from your company on this issue.

3. Encoding

Since ideas, opinions, views, feelings, orders, suggestions, etc., which are the subject matter of communication are abstract and intangible, their transmission requires the use of certain symbols such as words, pictures, gestures and other body language. The process of converting the message into meaningful symbols is known as encoding.

4. Channel

Message converted into symbols is transmitted like written words in the forms of either or electronic mail, spoken words through personal contact or telephone depending on the situation of the parties—sender and receiver. Gestures are used with spoken words.

5. Receiver

Receiver is the person to whom message is sent. The receiver may be a superior a subordinate, a peer, or any other person in the organizational context. This is true for an inter-personal communication in a group communication the receiver is in the form of a group of person, for example, addressing a group or employees by a manager in an organization.

6. Decoding

In decoding the receiver converts the communication symbols transmitted by the sender into message. Decoding should be meaningful so that the receiver understood the message in the sense which is intended by the sender.

7. Feedback

Feedback in communication required to ensure that the receiver has received the message and understood in the same sense as the receiver intended. Feedback is a system that helps in understanding whether the system is working properly. If it is not working properly, corrective actions are taken.

In modern times, because of the industrial revolution and intensive and economic exploitation of resources and increasing consumption of goods and services, huge companies or corporations and organizations are a necessity. It is very necessary that all these companies and organizations explain the message of money providers and consumers and why and how they are performing along with how first their services could be utilized by the consumers. This is one of the

most important aspects of public information and relations that every corporate organization has to undertake – while newspapers could be useful only for a traction of 30% of the literate people in India, mass communication media like radio and Television are the most effective and economic means of mass information. Huge organizations become powerful because of their size and hence become more and more impersonal and bureaucratized. Customers and may be even workers will find themselves helpless in understanding or reacting with these organizations. Various communication media, including video cassettes and electronic reproduction methods enable a public instructional programme to be carried out easily. They are the means by which minds can be informed and influenced for the achievement of an organization's goals and for the transformation of the society.

Management communication is a prerequisite and receives due attention – intra management communication helps managers to arrive at sound decisions.

Inadequate information to manager often affect the broad areas of performance. Most companies use such practices as newsletter, bulletins, special booklet, management journals, management lunch or coffee rooms to keep managers informed of policies services and productions.

For effective management communication, the following universally accepted ways should be tired.

1. The management must think clearly before communicating. It must give proper attention to the attitudes of the reviewing audience.
2. The purpose of communication must be clearly known as to what is to be achieved and how it can be achieved. It should be ensured that multiple objectives are achieved with one single communication.
3. The audience must be thoroughly known, as also the timing and the media of communication.
4. Before communicating, it is always better to consult someone who knows about communication. This will lend objectivity to the approach.
5. The language used, the tone of voice, expression and emotion should receive proper attention.
6. The management should be prepared to help the receiving audience and make the information clear to it.
7. It should encourage comments, also questions, follow up and encourage feedbacks. Without these, communication will go haywire.
8. Communication should be based not only on present requirements but also on future needs.
9. Communication should always be supported with appropriate action, for action speak louder than words.
10. The management should cultivate the habit of listening.
11. If the communication process is to function effectively, reciprocal confidence and trust on the part of the members of the organization is absolutely essential.

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Researches have shown that the average executive spends nearly 70 percent of his working time in communication – in writing, reading, speaking and listening. Clearly the management of today and tomorrow must be advice communications since all management actions such as planning, leading, organizing and evaluating must be communicated. In the succeeding sections, we will discuss some of the types of employee communication and the importance of mental health in industrial relations.

Check Your Progress

1. State the two primary functions in the process of management.
2. What determines the direction of communication in the organization?

13.3 TYPES OF EMPLOYEE COMMUNICATION

Let us discuss the different types of employee communication.

13.3.1 House Journal

House Journal is a publication produced by a particular firm, institution or society and dealing mainly with its own activities. It is a type of newspaper, produced by a company to tell employees what is happening in the company. It is a medium of communication which project the image of a company or an organization outside with the purpose of improving employee morale. It is a magazine or periodical published by a company or organization for its customers, employees, union members, political party members so on. It is a useful platform to provide objective news service by the management to the employees and the customers and to improve relations with them.

When the management decides to bring about a house journal it has to take certain decisions. These decisions are regarding whether the journal shall have internal or external readership or both, and the main reasons for having it, whether the house journal has to be in the form of newspaper or magazine and how frequently it has to be published — weekly, forthrightly, monthly quarterly etc. and about appointing a full time professional editor and allocation of adequate budget. The editor has to be in close touch with top management and other senior staff and maintain balance between staff and company news. He has to include photographs and illustrations and follow such a standard and style of writing which can be easily understood by all the readers and print the magazine in English and local language.

Many of the house magazines published in our country tend to be work horses, instead of just management megaphones of intangible value, or a familiar element of corporate propaganda. This is indicative of the fact that it has yet to develop and become popular.

The house publication is versatile. It can be narrowly edited to massage the ego of its sponsor. It can be narrowly edited to shed on human objectives or public issues only remotely associated with its sponsor. Or it can mix the two, in a

format as simple as memorandum or as lavish in appearance as popular news-stand magazines.

All house publications have a few characteristics in common. They satisfy the desire of an organization to go on record for its own purposes. They permit the organization to select its audience. They let the organization express itself on paper in its own words, in its own way, without interruption. A good house journal is one that does not lack the guidelines of definite polices and clearly stated objectives. Failure to follow a definite policy leads inescapably to much waste of money and manpower. Below are some sound guidelines:

NOTES

1. The publication should fill the needs of both the company and its employees.
2. It should provide useful meaningful information, not small talk.
3. If distributed externally, it should go to the group leaders of the community, as well as to customers and prospects.
4. It requires the joint interest and effort of management and its appointed editor or council.

Most editors strive for a workable compromise between what the organization wants its audience to know and what those audience want to read. Properly viewed, the house publication is a direct channel to specific audience and not a vaguely conceived morale booster. To justify the expenses and effort involved, a publication, must accomplish something useful for the sponsor. A house paper has no intrinsic value, its only value is that put into it by the editor, guided by definite objectives – intelligent editors do not confuse reader with baits rather grab their attention with such purpose and substance that the publication determines its character and impact. Its substance and tone provides the bases for talk in the office canteen or cafeteria and working area.

Efforts should be made in the direction of making the publication two-way inviting questions and making surveys of attitudes, then reporting them. It has been a tough for organizations to get readers to subject questions. Nonetheless, house publications provide an excellent mechanism for feedback.

In the average budget set-up, effective use of the house publication can be attained without straining for special effects. Extravagant covers are not essential. The prime needs are intelligent selection of subject matter that combines the objects of the sponsor with interests of the readers in a simple format, with the purpose of helping readers learn as much about matters of common interest as they desire.

A journal without an editorial is a journal without soul. Unless the personality of a person is evident the journal might as well be produced by a computer. It is essential that some sort of rapport be built up between the readers and the editor, or as in, the case of good house journals, the editor and the public relations manager. The editor should of course, meet as many of its readers as possible, preferably on their home ground rather, than in the editorial office, and he must also be in

communication with them by telephone and correspondence, but there should also be something in each issue which is seen to spring directly from the editor or the human resource department.

NOTES

13.3.2 Notice Board

A notice board is a board which is usually attached to a wall in order to display notices giving information about something. It is a board on a wall on which notices can be fixed. It may be a bulletin board, pin board on a surface intended for the posting of public messages for example to announce events, or provide information or advertise items wanted or for sale.

Notice boards are used in many different types of organizations for communication purposes. Notice Board are an effective way of displaying information and communicating with staff and visitors. Employees can be provided with personal notice boards to display their photos, messages, etc. It can help enhance employees' productivity and create a sense of unity. Employees can better contribute towards the meeting using these mobile boards.

A mobile notice board can be used for permanent or temporary use in company reception areas for displaying important notices, interview schedules or welcome notes for clients. Companies can use notice boards to display graphs, data, facts, and other relevant information on business trends for employees.

According to the section 61(1) of the Factories Act, 1948, a notice of periods of work for adults, showing clearly every day the periods during which adult workers, may be required to work, shall be displayed and correctly maintained in the factory in accordance with the provisions of Section 108(2).

Section 61(2) lays down that the periods shown in the notice required by sub-section (1) shall be fixed before-hand in accordance with the following provisions of the sections 51, 52, 54, 55, 56 and 58.

According to Section 108(1) regarding display of notice, in addition to the notices required to be displayed in any factory by or under this Act, there shall be displayed in every factory a notice containing such abstracts of this Act or the rules made there under as may be prescribed and also the name and address of the instructor and the certifying surgeon.

According to Section 108(2) all notices required by or under this Act to be displayed in a factory shall be in English and in a language understood by the majority of the workers in the factory, and shall be displayed at some conspicuous and convenient place at or near the main entrance to the factory and shall be maintained in a clean and legible condition.

Under Section 108 (3) the chief inspector may, be order in writing served on the manager of any factory, require that there shall be displayed in the factory any other notice or poster relating to the health safely or welfare of the workers in the factory.

13.3.3 Suggestions Schemes

NOTES

The suggestions scheme is designed to enlist the cooperation of subordinates in effecting improvements and in eliminating waste, and to provide an avenue for a working communication with the management.

Benefits of a suggestion scheme for the organization:

1. Employees are better aligned with corporate objectives
2. Cost savings
3. Improved staff retention
4. Gaining competitive advantage
5. An opportunity to use the talent within the organization
6. A culture change enables greater creativity and innovation
7. A safer working environment
8. More committed employees

For the suggester:

1. Increased job satisfaction
2. Personal recognition
3. Greater involvement in more meaningful work
4. A chance to be heard
5. Unleashing personal creativity
6. Personal development
7. Increased confidence
8. Increased confidence

Reasons for not making suggestions:

1. Lack of knowledge of the scheme existence
2. Lack of knowledge of how the scheme operates
3. A belief that it is not worth while taking part
4. Their manager does not support the programme
5. There is no publicity about the scheme
6. They do not believe that they have any idea
7. Not seen as cool by work colleagues
8. Nobody bothers if you take part or not
9. The award or recognition is not worth the effort
10. They do not believe they are eligible
11. It takes too long to hear anything
12. They think then ideas will be system

NOTES

In order to harness the creative potential of all workman the all employees involved plan should be introduced with the following objectives:

1. To provide suggestions directed at sustaining the process of continuous improvement in the areas of productivity quality, waste reduction, safe work practices and quality of work life etc.
2. To motivate all workman and create a culture of ownership, workmen participation and involvement in order to achieve the desired business objective.

Coverage

The plan should cover the regular workmen of all departments/modules and the workmen should provide suggestions within the scope outlined.

Procedure for providing suggestions:

1. Workmen who wish to provide suggestion may do so in the prescribed format available in the department.
2. Suggestion may be addressed to the suggestion scheme coordinators.
3. The suggestions should be collated on a weekly basis by the coordinators and evaluated by the suggestion scheme committee.
4. The suggestions should be screened processed and evaluated by the suggestion scheme committee in consultation with the concerned modules/ departments. Based on the merit of each suggestions, the contributors should be rewarded suitably. The decision of the suggestion scheme committee is final and binding.
5. People who contribute ideas are provided feedback on the status of the suggestion by the coordinators.

Guidelines

Suggestion from workmen can pertain to one or more of the following:

1. Improvement in product quality
2. Increasing productivity
3. Cost control and elimination of wasteful work process/system
4. Simplifying procedures/processes
5. Men, material, Equipment and product safety
6. Automation/technology up gradation
7. Inventory and WIP reduction
8. Environment health and safety areas
9. Improvement in house-keeping.

What does not constitute a suggestion?

1. Government policy/statute/legislation and enactment
2. Company polices and core operating principles
3. Repetitive or duplicate suggestions
4. Suggestions without solutions
5. Complaints and grievance

NOTES

Suggestion scheme serves a dual purpose, they encourage positive proposals for a charge or improvement in machines, devices techniques and procedures and provide an ever-ready means by which employees may ventilate their dissatisfaction with the existing facilities and particulars.

In India, this system has not proved very successful because of the following factors:

1. A fair monetary reward, usually a certain percentage of a year's saving is given to the employee for his suggestion.
2. The existence of a joint committee to operate the system promptly and efficiently.
3. Approaching individual employee with specific problems and helping them to formulate and submit their ideas.
4. Arousing an awareness in the management and the supervisory staff.
5. Disseminating full information about the suggestions secured from employees.

Check Your Progress

3. What are the decisions the management needs to take when bringing about a house journal?
4. State how the suggestion scheme serves a dual purpose.

13.4 UPWARD COMMUNICATION

Upward communication is from the workers to the immediate superior and from the latter to the higher management levels. The top management, which is always concerned with improvements and higher productivity, or which wants to know the reactions of employees to certain policies on procedures and the effectiveness of the orders that have been issued, will be isolated if there is poor upward communication. It is also necessary to discover areas of clashes of interest, reconcile conflicts and coordinate efforts for a better utilization of men and material resources. Upward communication may be concerned with projection of ideas comments, reactions, reports on production, excess or shortage in quantity, statistics on labour turnover and absenteeism, attitudes and behaviour, expression of dissatisfied feelings and grievances suggestions for improvement in quality, reduction in cost etc. They

NOTES

also include participation in decision-making and may provide evaluative inputs on individual and unit performance.

Upward communication encourages employees to participate in the decision-making process and to submit valuable ideas. It also provides feedback on how well subordinates have understood downward communication.

Furthermore, upward communication serves as a way for supervisors to know the subordinates, dispose misinterpretations, disclose the first symptoms of tension and difficulties and make subordinate's views more visible to superiors. In addition, when organizations give employees the opportunity to voice dissatisfaction to higher levels, employees tend to be more committed to the organization.

The most common forms of upward communication include suggestion, boxes, open door policies, group meetings, grievances, questions and feedback.

The basic problem in upward communications stems from the nature of the hierarchical organization. The traditional role of managers is to direct coordinate and control the people below them. Some managers are less in the habit of listening to their subordinates than in telling them how to perform. Subordinates too fall into a traditional mindset, they are expected to listen to their bosses rather than to be listened to.

Filtering of information may also take place, employees will not send those messages that supervisors do not want to hear this is especially true if the information affects the subordinates adversely. Subordinate will not only tell the supervisor what he/she wants to hear, but will also tell the supervisor only what they want the supervisor to know. Moreover, many subordinates perceive that full and objective reporting may be regarded as espionage by peers.

In general, employees tend to fear that expressing their true feelings about the company to their boss could be a dangerous act. The boss is often seen as untrustworthy and a person to whom it is dangerous to talk with full candour.

Additionally, employees have little opportunity to send communication upward as their managers are often not available. The nature of hierarchy also impedes upon communication as numerous employees attempt to communicate to one or a few managers in the organization. It is, therefore, difficult for a manager to communicate with many subordinates on an individual basis.

Another problem with upward communication is that organizations typically rely on lower level members to initiate it. Instead of actively soliciting information and providing channels for receiving it managers frequently adopt an open-door policy and assume that individuals who have something to communicate will do so voluntarily.

Management can develop upward communication by encouraging better listening, by building trust, and by responding to messages that are received. Various practices may also be used to improve upward communication. Such as counselling, grievance systems consultative supervision, meetings suggestion systems and job satisfaction surveys.

13.5 PERSONNEL COUNSELLING AND MENTAL HEALTH

NOTES

In this section, we will discuss the concept of personnel counselling and mental health.

13.5.1 Personnel Counselling

Counselling is a professional form of interpersonal communication whose purpose is to assist the employees with which eventually to question the knowledge stores. It is a planned systematic intervention in the life of an individual who is capable of choosing the goal and the direction of his own development. Counselling therefore is aimed at maximizing human freedom by increasing one's long term control over his environment and responses which are evoked by it. It is liberating in nature, develops responsible independence, increased autonomy and assists an individual to help himself.

Counselling techniques and practices have grown enormously in the recent decade, particularly in industrialized countries. Modern men and women needs for counselling has become much more than their ancestors at any time in history. Employment counselling, career counselling, vocational counselling, guidance psychotherapy all these have become different needs of the people. In industry and business there are diverse counselling services for different types of people. A new entrant needs induction counselling, a promote needs a counselling from superior, employees with job related problems need expert advice and technical counselling. Performance counselling is rendered in such a situation to improve and develop the job performance of the employee. This type of counselling is technical and professional job control. In many organizations, we come across employees who are frustrated, demoralized or suffer from emotional stress and stress related problems in varying degrees. Studies have shown that around ten per cent of employees in any given situation, in any organization suffer from emotional problems and maladjustments. The causes of emotional problems may be varied but all of them in some measure affect their works performance, the climate of the organization and the tenor of industrial relations. These workers need counselling and this area of counselling is called personnel counselling. The need for personnel counselling arises from a variety of factors and situations like frustration, stress and conflict.

In some organizations, there are full time counsellors. Some personnel officers are assigned the job. Some organizations have part time counsellors, while others have specialist functionaries. However, whoever does the counselling he/she should be professionally equipped to do the counselling. The basic attitude towards the counselee should be that each individual is unique, needs assistance and it is normal for an individual to have problems.

NOTES

Every individual is a normal person with problem. The problems have causes there is a complexity of causal relationship. Symptoms should not be confused with causes, causes may be deep rooted and problems and inter-related.

Counselling is a goal oriented continuous process. It is more preventive than curative it is a cooperative venture. It has to be in tune with the policy of the organization counselling is a slow process and should be handled with skill. Interviews should be properly scheduled after good preparations. The counselee should be accepted as he is. After establishing rapport with the counselee at ease and assure him of confidentiality. No inference should be drawn. There are two stages-development of trust, genuineness and empathy and mutual acceptance of defined goals and objective of helping relationships.

Termination of a counselling interview should be an experience of achievement for the counselee and fulfilment for the counsellor counselling is neither giving guidance nor advice. It is a help rendered to the counselee to understand all the accumulated data about himself and take independent and responsible decisions. It is an act of giving knowledge and enlightenment. It is assistance.

The objective of counselling is to enable the counselee to:

(a) become more aware of his own inner being, deny and distort less.

(b) come to accept more of his responsibility, own feelings and avoid blaming others or environment

(c) come more to grips with his own inner strengths and power and avoid feelings of helplessness

(d) clarify his own values, get a cleaner perspective of his problems and find within himself the resolution of conflicts and trust himself more fully and willing to extend himself

(e) become more conscious of possible alternatives and be more willing to make choices and accept consequences

13.5.2 Mental Health

Mental health of employees particularly that of executives has engaged the attention of employers in the recent years. There are three reasons for this development:

First, mental break downs are common in modern days because of pressures and tensions.

Second, mental disturbances of various, types result in reduced productivity and lower profits for the organization.

Third, mental illness takes its toll through alcoholism, high employee turnover, and poor human relationships.

A mental health service is generally rendered in the following ways:

1. Psychiatric counselling
2. Cooperation and consultation with outside psychiatrists and specialists

3. Education of company personnel in the nature and the importance of mental health
4. Development and maintenance of an effective human relations programme.

NOTES

Check Your Progress

5. List some of the common forms of upward communication.
6. What are the different forms of counselling in industry and business?

13.6 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. The two primary functions in the process of management can be stated to be decision making and communication.
2. The organizational position of the sender determines the direction of communication in the organization.
3. When the management decides to bring about a house journal it has to take certain decisions. These decisions are regarding whether the journal shall have internal or external readership or both, and the main reasons for having it, whether the house journal has to be in the form of newspaper or magazine and how frequently it has to be published — weekly, forthrightly, monthly quarterly etc. and about appointing a full time professional editor and allocation of adequate budget.
4. Suggestion scheme serves a dual purpose, they encourage positive proposals for a charge or improvement in machines, devices techniques and procedures and provide an ever-ready means by which employees may ventilate their dissatisfaction with the existing facilities and particulars.
5. The most common forms of upward communication include suggestion, boxes, open door policies, group meetings, grievances, questions and feedback.
6. In industry and business there are diverse counselling services for different types of people. A new entrant needs induction counselling, a promote needs a counselling from superior, employees with job related problems need expert advice and technical counselling. Performance counselling is rendered in such a situation to improve and develop the job performance of the employee.

13.7 SUMMARY

- Communication is the process of transmitting and receipt including comprehension of thought, perception instruction or information.

NOTES

- Communication being a process has some elements to complete the process. The elements of communication are sender, message, encoding, channel, receiver, decoding and feedback.
- Management communication is a prerequisite and receives due attention – intra management communication helps managers to arrive at sound decisions.
- Inadequate information to manager often affect the broad areas of performance. Most companies use such practices as newsletter, bulletins, special booklet, management journals, management lunch or coffee rooms to keep managers informed of policies services and productions.
- House Journal is a publication produced by a particular firm, institution or society and dealing mainly with its own activities. It is a type of newspaper, produced by a company to tell employees what is happening in the company.
- A notice board is a board which is usually attached to a wall in order to display notices giving information about something. It is a board on a wall on which notices can be fixed. It may be a bulletin board, pin board on a surface intended for the posting of public messages for example to announce events, or provide information or advertise items wanted or for sale.
- According to the section 61(1) of the Factories Act, 1948, a notice of periods of work for adults, showing clearly every day the periods during which adult workers, may be required to work, shall be displayed and correctly maintained in the factory in accordance with the provisions of Section 108(2).
- The suggestions scheme is designed to enlist the cooperation of subordinates in effecting improvements and in eliminating waste, and to provide an avenue for a working communication with the management.
- Suggestion scheme serves a dual purpose, they encourage positive proposals for a charge or improvement in machines, devices techniques and procedures and provide an ever ready means by which employees may ventilate their dissatisfaction with the existing facilities and particulars.
- Upward communication is from the workers to the immediate superior and from the latter to the higher management levels. The top management, which is always concerned with improvements and higher productivity, or which wants to know the reactions of employees to certain policies on procedures and the effectiveness of the orders that have been issued, will be isolated if there is poor upward communication.
- Upward communication encourages employees to participate in the decision-making process and to submit valuable ideas. It also provides feedback on how well subordinates have understood downward communication.
- Counselling is a professional form of interpersonal communication whose purpose is to assist the employees with which eventually to question the knowledge stores. It is a planned systematic intervention in the life of an

individual who is capable of choosing the goal and the direction of his own development.

- Mental health of employees particularly that of executives has engaged the attention of employers in the recent years. There are three reasons for this development: First, mental break downs are common in modern days because of pressures and tensions; second, mental disturbances of various, types result in reduced productivity and lower profits for the organization; and third, mental illness takes its toll through alcoholism, high employee turnover, and poor human relationships.

13.8 KEY WORDS

- **Communication:** It is a way of reaching others with ideas, facts thoughts and values. It is a bridge of meaning among people, so that they can feel and share what they feel and know.
- **House Journal:** It is a publication produced by a particular firm, institution or society and dealing mainly with its own activities.
- **Suggestions Scheme:** It is designed to enlist the cooperation of subordinates in effecting improvements and in eliminating waste, and to provide an avenue for a working communication with the management.
- **Upward Communication:** It refers to the communication from the workers to the immediate superior and from the latter to the higher management levels.
- **Counselling:** It is a professional form of interpersonal communication whose purpose is to assist the employees with which eventually to question the knowledge stores.

13.9 SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. What is the last element in the communication process?
2. What is the importance of notice boards in employee communication?
3. List the guidelines for inviting and incorporating suggestion schemes.
4. What are the ways in which mental health services are rendered?

Long Answer Questions

1. Explain the elements of the communication process.
2. What are universally accepted ways which should be tried for effective management communication?

3. Examine house journals as a type of employee communication.
4. Discuss, in detail, the benefits of suggestion schemes.
5. Explain the concept of upward communication.
6. Discuss personal counselling as a part of employee communication.

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13.10 FURTHER READINGS

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UNIT 14 EDUCATIONAL AND SOCIAL DEVELOPMENT

Structure

14.0 INTRODUCTION

A very important aspect of industrial relations deals with the welfare of the employees. This includes the educational and social development of employees and workers. This education allows the workers to get acquainted with the rights, duties and responsibilities whilst working for an industry. There are different types of government sanctioned schemes as well as laws which define varied aspects of what a labour is and what are their rights. The industry employers, too, must be aware of these initiatives so as to ensure that they are not only following the laid down laws but also ensuring that the motivation of the employees and workers are high. In this unit, you will learn about the employees and workers education programmes, the different types of labours and the concept of social assistance and security.

14.1 OBJECTIVES

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

- Discuss the concept of employees' and workers education
- Describe the different types of labour
- Explain the concept of social assistance and social security

14.2 EMPLOYEES' AND WORKERS' EDUCATION PROGRAMMES: AN OVERVIEW

The employees and workers are the most significant component of the community and they need to be socially and psychologically satisfied by providing for them

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opportunities for education and training. It has been aptly said 'the major capital stock of an industrially advanced country is not its physical equipment, it is the body of knowledge amassed from the tested findings and the capacity and the training of population to use this knowledge effectively.' It has now been increasingly realized that there is a growing need for the kind of education that will properly equip workers and trade works to meet their increasingly heavy economic and social responsibilities.

The basic objective of workers' education is to make the worker an efficient individual, disciplined trade union member and an intelligent corporate citizen so that he plays a vital role in the socio-economic development of the country. Traditionally, workers' education programme can be created as one which intends to:

- To foster workers' loyalty towards the union and imparting the necessary trading to them for intelligent and efficient participation in union activities. Besides teaching them trade union dynamics, history, etc., which they need to know as trade union members.
- To develop the worker for good and respectable civic life.
- To promote among workers a greater understanding of the problem of the country's economic environment and their privileges, rights and obligations as union members and citizens.
- To develop trade union leadership from the ranks and file thereby keeping the union away from the clutches of politicians, leading to democratization of trade union administration.
- To familiarize the workers a greater understanding of the problem of the country's economic environment and their privileges, rights and obligations as union members and citizens.
- To inculcate among workers a better understanding of their duties responsibilities and intricacies of work, so that they can effectively carry out their jobs.
- To enable the worker to realize the purpose of human life and raise him to the height of achievement.
- To equip organized labour to take its place in a democratic society, so that it plays a dominant role in the process of economic development and fulfils effectively it social and economic functions and responsibilities.

In fact, workers' education is the latent energy in economic development as it accelerates industrial progress and ensures full utilization of manpower for economic planning and is a measure of increasing productivity. It deals with human psychology in industry promotes equilibrium in the turbulent and the unorganized labour-force. It trains more responsible and enlightened workers for industrial progress and safeguards workers from exploitation as well. It can, through collective strength of workers defend their, standard of living and improve their mode of living. It also makes them prudent family heads.

In the words of Director General of the ILO, the primary aim of workers' education is to enable the worker to put his finger on the problems confronting him in his social group. He must acquire culture so that, in his capacity as an individual, he can locate his proper place within his own trade milieus. He himself has to realize the obstacles deriving from customer habit in his activity, he must understand both his position in the enterprise as well as the role of the enterprise itself within the general framework of national and economic development, he must know what man represents and how he should behave in society, family neighbourhood, workplace and nation.

According to an ILO publication, the workers education should:

- Always be a two-way system of communication.
- Aim not at the mere cramming of information but at developing new skills and greater power of judgement.
- Start from and be related to the actual experience of the worker-student.
- Be designed to promote intelligent social action and
- Be conducted in an atmosphere of cooperative research.

Workers' education is only a means; the end is usefulness in the workshop, the works committee or trade union and workers' educational programmes have to be related to this and since it is also voluntary and depends on the continued interest rather than such goals as examination, the keenness to learn has to be continuously stimulated and ensured.

Any scheme of workers education should be directed primarily to equip the worker to prepare himself for a modified life in the better social order, it may endeavour to strengthen the trade unions bargaining power by producing ardent and faithful workers; it may create aptitude among the workers to take an active interest in understanding labour legislation and it may familiarise the leaders of trade unions with the knowledge of the type that will be helpful in organizing and bargaining.

Ever since with the adoption of liberalized economic policies the country's industrial relations environment has undergone a sea change, which in turn has conferenced the objective of workers education, a few of which are as under:

- To acquaint the workers with the philosophy and rationale of liberalization so that a deserved change can be brought among them for making it a real success.
- To teach workers the ground realities of liberalization that are relevant to the present and future human resource scenario.
- To inculcate among workers a desired level of competitiveness and excellence needed for achieving targets of industrial growth.
- To train workers to effectively carry out their new role, i.e., role of change facilitator and

NOTES

- To teach workers the ways and means to keep pace with upcoming trends in the field of human resources management.

The aim of workers education is to arouse the social consciousness of the worker, promote his solidarity with other workers and enable him to perform his functions effectively by committing him to workers organizations for the defence of common interests.

The Central Board of Workers Education provides financial assistance, curriculum support and pedagogical inputs for conducting workers education and trade union training in a big way in the country. It was established by the Government of India with a tripartite governing body. Usually headed by a veteran trade union leader as the chairman, National trade union centres and industrial federations conduct training programmes often with support from international bodies within the trade union movement or organizations. Some management institutions also periodically conduct training programmes for trade union leaders.

The efforts and institutional arrangements for workers education and trade union training are weak largely ad hoc and hugely inadequate. Trade unions themselves have to take the initiative to overcome these lacunae trade unions themselves have to take the initiative to overcome these lacunae. For trade union training to become fully appreciated as an integral part of the union's programme of action, it must be recognized as a function that makes a positive contribution to the success of the union. Unionists should set up a part of their resources for education and training as is being done by unions in several industrialized and industrializing countries. This need is felt particularly in the current context where trade unions cannot secure job security for their members if the latter's skills are not in tone with the emerging needs.

Check Your Progress

1. Why is workers education called the latent energy in economic development?
2. State the aim of workers education.

14.3 DIFFERENT TYPES OF LABOUR

In this section, we will discuss the different types of labour.

NGOs (Non-Governmental Organizations)

Non-governmental organizations commonly referred to as NGOs are usually non-profit and sometimes international governmental organization though often funded by governments that are active in humanitarian educational, health care, public policy, social, human rights, environmental and other areas to affect changes according to their objectives. They are thus a subgroup of all organizations founded

by citizens which include clubs and other associations that provide services, benefits and premises only to members.

NGOs are usually funded by donations but some avoid formal funding altogether and are run primarily by volunteers. NGOs are highly diverse groups of organizations engaged in a wide range of activities and take different forms indifferent parts of the world. Some may have charitable status, while others may be registered for tax exemption based on recognition of social purposes. Others may be fronts for political, religious or other interests NGOs have had an increasing role in international development particularly in the fields of humanitarian assistance and poverty alleviation.

Today, according to the UN, any kind of private organization that is independent from government control can be formed as an NGO provided it is not for profit. Public surveys reveal that NGOs often, enjoy a high degree of public trust which can make them a useful but not always sufficient – proxy for the concerns of society and stakeholders.

Child Labour

The practice of employing child labour deprives children of their childhood and is harmful to their physical and mental development. Poverty, lack of good schools and its growth of the informal economy are considered to be the key causes of child labour in India.

Child labour is the practice of having children engage in economic activity on a part, or fulltime basis. Cheap wages and accessibility to factories that can produce the maximum amount of goods for the lowest possible price is one of the main reasons for employment of children in such industries. Laws which prohibit the employment of children in the factories are not being enforced effectively.

As per the Child Labour (Prohibition and Regulation) Act 1986, a child is defined as any person below the age of 14 and this Act prohibits employment of a child in any employment including as a domestic help. It is a cognizable criminal offence to employ a child for any work. Children between the age of 14 and 18 are defined as adolescents and the law allows adolescents to be employed except in the listed hazardous occupation and processes which include mining, inflammable substances and explosives related work and any other hazardous process as per the Factories Act, 1948.

Various laws in India such as the Juvenile Justice (care and protection) of Children Act, 2000 and the Child Labour (prohibition and abolition) Act, 1986 provide a basis in law to identify prosecute and stop child labour in India.

Female Labour

The most significant and welcome psychological readjustment we now see is the emergence of woman as having equality with men in the performance of political, social and economic roles liberation from many concepts of a woman's place is home is now a reality in India as well.

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Sociologists have rightly remarked that the employment of women is one of the key determinants of a country's social growth and development. Indian women lag far behind men considerably both in terms of level and quality of employment. This miserable plight of women workers is largely due to certain forces that are dominating the Indian labour market since pretty long. A few are given below:

- The gender bias against employment of women.
- The tendency to escape from the moral responsibility of providing special facilities to them during and after confinement.
- The industries using high technology like electronics, drugs and pharmaceuticals, engineering textiles etc., call for higher level of education and training, that is generally not available among women workers, hence their employment opportunities get limited.
- The prohibition on the employment of women during night shifts also reduces the scope of their employment.

The employment of women is the lowest in mines followed by factories and in plantation their employment is high. In factories, relatively lower degree of employment of women can be attributed to factors like:

- The factories that invariably use varying amount of technology often render the job difficult for women as they are mostly uneducated and untrained.
- The women workers due to their low level of training and the burden of home, often, develop an indifferent attitude towards work, hence invaluably resist change on one or the other pretext.
- The women workers cannot be employed for any job which is of dangerous nature. This legislative protection available to working women affects their participation in work force.

With the increased female literacy, their participation in the work force has increased. The working women in India represent many divergent and conflicting dimensions. For instance, the work of the housewife cuts across all differences and diversions. There is a fairly good amount of diversity in the lifestyles and working conditions of the vast majority of women in India. Their work in India is not accounted as family labour. The female work force participation in India reflects a low rate and declining rate of economic participation. The decline in female work participation over the past year is related to a number of other trends which adversely affect women i.e., decline in the female proportion of the population, declining representation in decision-making bodies, increasing gap in male and female in education, mobility and literacy rates, and unequal access to health and medical services.

With the growing awareness among women about their rights and status, coupled with their increasing educational status and the legislative protection available to women under the various labour laws, it is believed that in the year to come, their employment in all sectors of economy will get added thrust. A special

cell for the women and child labour is functioning under Ministry of Labour to pay attention to their problems. In respect of women's labour, the cell is responsible for the formulation of policies that aim to remove handicap under which they work, strengthen their bargaining positon to improve their wages and working conditions, to enhance their skills and open up better employment opportunities for them.

In the current scenario, there is a growing influx of women in the corporate sector. With more women in their fold, organizations need to understand their aspirations and expectations, their problems and needs attitudes of man, etc., if they wish to harness their potential optimally. Organizations differ in their work culture, policies, practices and style in relation to recruitment, induction and career growth for women workers. Some companies as a policy do not employ women, in others they are employed mainly in staff functions. There seems to be a lack of appreciation of the positive role women are capable of playing, which may result in their not getting groomed for wider job responsibilities.

Contract Labour

The contract labour is labour which is not carried on the payroll and is not directly paid. It is usually decided into two categories:

- Those employed on job contracts and
- Those employed on labour contracts

The large establishments offer job contracts for such operations as the loading and unloading of the metals by the meaning inducting or the construction of roads or buildings by Public Works Department. The contractor generally engages his own workers and pays them either on time or piece rate basis.

The occupations in which contract labour is largely employed range from purely unskilled categories of loaders, unloaders, cleaners, sweepers and khalasis to those of skilled categories, such as polishers, gas cutters, turners, riveters in oil distribution, and drillers, blaster, blacksmiths, carpenters and fitters in the mining industry.

Besides these, contract labour is common in certain regular processes such as:

- Nickel polishing and electroplating in engineering establishments
- Dyeing, bleaching, printing, folding and sizing in the cotton textile industry
- Cleaning grading and boiling in the woolen industry
- Designing and raising work in carpet manufacturing
- Building and construction industry including irrigation projects

Contract labour is more prevalent in the mining and construction industries where employment has been generated by construction activities because of the housing projects of the central and state governments. The laying down of new railway lines, water pipelines and the construction of village and other town roads have also attracted quite a significant number of workers under approved contractors.

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According to an ILO report, the advantages to the employer in employing contract labour are:

- Production at lower cost
- Engaging labour without having to extend such huge benefits as leave wages ESI or provident fund contributions and bonus
- General reduction in overhead costs and the administration burden of maintaining an establishment and
- The economics of farming out contracts for the manufacture of certain components rather than investing capital and installing plants for their manufacture.

The contract labour (Regulation and Abolition) Act, 1970 provides for the regulation of the conditions of work, health and safety, wages and other amenities for the welfare of contract labour. In pursuance of the recommendations of the Central Advisory Board, the Central Government has prohibited of contract labour in certain categories of work in railways and mining sector.

Construction Labour

A construction labour or worker is a trade person employed in the physical construction of the built environment and its infrastructure. Construction workmen often work under a construction foreman. All construction workers need to be educated on safety at each construction site to minimize injury. Most of the construction workers are forced to work in desert conditions for as little money as possible. There is a disparity in payment of wages between the male and female construction workers.

Agricultural Labour

Agricultural labour is one who is basically unskilled and unorganized and has little for its livelihood other than personal labour. These persons are engaged in raising crops an payment of wages. Around 58 per cent population of India depends on agriculture the government of India has taken measures to improve the conditions of agricultural labourers such as passing of minimum wages at abolition of bonded labourers providing land to landless labourers, provision of housing cities to homeless. More than 90 per cent of farmers are today using the most innovative practices and growing techniques to produce enough food and fiber for a growing world. There is use of chemical fertilizers, pesticides and insecticides and expansion of irrigational facilities.

Differently Abled Labour

Disabilities result from one of four forces, supernatural, medical, natural or societal. The disability is the measurable constant condition and the handicap is a consequence of disability. The individual's attitude in relation to society's view of physical condition determine the extent of handicap. A person with a disability has

either a physical or a mental condition that limits that person's activities or functioning. Disable persons have secure physical, mental or behavioural disorders.

The disabled person depends on others for daily living activities. The physically impaired persons may experience an attitude of rejection from peers. They are excluded from a variety of options in the work place.

In dealing with the physically disabled, a method of work sampling or assessment can be accomplished is on job training or in workshop settings the objective is to expose the pupil to a variety of work stations where practical job stills can be demonstrated work station experiences can include paper and pencil tests. Commercial exercises or job simulations with step-by-step instructions.

The physical or occupational therapists try to move the physically disabled person from dependence to independence by:

- Improving, developing or restoring functions impaired on lost through illness, injury or deprivation
- Improving ability to perform tasks for independent functioning when functions are impaired or lost
- Preventing through early intervention initial or further impairment or loss of function

BPO and KPO Labour

The globalization of work and continuing advances in technology are changing the nature of workforce. Knowledge workers are known for their special characteristics. They are people who can analyse, synthesize and evaluate information and use that information to solve various problems. Knowledge workers are highly educated, creative, computer literate and have portable skills that make it possible for them to move anywhere their intelligence or talent are needed. Knowledge workers basically use their intellect to transform ideas, products, services and processes. They own the knowledge, utilize it, and still own it. Their main value to an organization is their ability together and analyse information and make decisions that will benefit the company. They are also involved in a continuous learning process as they are aware that knowledge has a limited shelf life.

Several MNCs (Multinational Computers) have increasingly begun outsourcing also called business process outsourcing or (BPO). The activities formerly performed in house and concentrating their energies on a few functions. Outsourcing involves withdrawing from certain stages/activities and relying on outside vendors to supply the needed products, support services or functional activities. BPO is based on sound economic reasons outsourcing helps gain cost advantage as the activity can be performed billion or more cheaply by an outside supplier.

The HR managers are facing challenges in BPOs. The major challenge faced by a HR manager relates to retention of employees. Various estimates suggest that

the average time-to-profit time period for a new hire in the BPO industry is about 9 months suggesting that a fresher begins to break even the investments made on him or her and earn profit for the form only after merely months, exit of an employee before the 9-month period can cost upto five times of his or her paid salary.

According to Peter Drucker, the single greatest challenge executives will face over the next few years is to learn how to manage knowledge workers. He observes that the vast majority of companies mange employees as though the companies still controlled the means of production. In knowledge organizations however, it is each workers knowledge and intelligence that combine to form the means of production. The organization cannot control or own that. A worker can leave anytime, taking the means of production with him or her. We must learn to lead and manage people in a new way companies need to learn to look at employees as assets to be valued rather than as costs. The value in a knowledge company lies in the mends of the employees more than it does in the machinery on the factory floor.

Check Your Progress

3. How does the Child Labour (Prohibition and Regulation) Act defines a child?
4. List some of the factors responsible for the decline in female work participation.
5. What are the different categories of contract labour?

14.4 SOCIAL ASSISTANCE

Social assistance includes non-contributory benefits towards the maintenance of children, mothers, invalids, the aged, the disabled and other like the unemployed. Under this scheme, the government provides benefits to persons of small means insufficient quantity so that there minimum standards of needs could be satisfied.

The Social Security (Minimum Standards) Convention no. 102 of the International Labour Organization prescribes the following components of social security:

- Medical care
- Sickness benefit
- Old age or retirement benefits
- Employment injury benefit
- Family benefit
- Invalidity benefit
- Survivor's benefit

Benefits are offered to persons of small means by the government out of its general revenues. It is the state which takes the lead in offering certain benefits to common people, workers and employers do not contribute to such benefits in any manner. The benefits such as old age pension are granted as a matter of right they are provided free of cost – provided certain conditions are satisfied.

The principal features of social assistance schemes are as follows:

- The entire cost of the scheme is met by the state
- Assistance is given as of legal right of certain prescribed categories of individuals only
- In assessing the person need his other incomes and resources are taken into account
- Assistance is given to bring the persons total income to a certain predetermined minimum level. No account is taken of his previous earnings or customary standard of living.

Social Security Implications

Social security is a dynamic concept which is considered in all advanced countries of the world as an indispensable chapter of the national programme. With the development of the idea of the welfare stats, it has been considered to be most essential for the industrial workers, though it includes all sections of the society.

Social security is that security which the society furnishes through appropriate organization against certain risk or contingencies against which the individual cannot afford by his small means and by his ability, or foresight alone. To ensure the general well-being of the people, it is the duty of the state to promote social security which may provide the citizens with benefits designed to prevent or cure disease to support him when he is not able to earn and to restore him to gainful activity. To enjoy security, one must be confident that benefits will be available as and when required.

The term social security originated in USA in 1935, the Social Security Act, was passed there and the social security board was established to govern and administer the scheme of unemployment, sickness and old age insurance. In 1938, social security was adopted by New Zealand when it created for the first time a comprehensive social security system – a measure of income security for old citizens – later on the term was adopted in various countries in various forms conveying different meanings. Social security measures have been introduced in many countries decades ago, in India they were introduced only after the independence of the country.

Under the social security schemes, the following benefits are commonly provided in India as prescribed by the ILO:

- Medical care
- Sickness benefits in cash

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- Old age pension or retirement benefits
- Invalidity pension
- Maternity benefits
- Accident benefit
- Survivors benefit

Article 41 of the Constitution of India says that the state shall within the limits of its economic capacity and development make effective provision for securing the right to work, to education and to public assistance in cases of unemployment old age sickness and disablement and in other cases of undeserved want. The government of India has, more or less, supported the view that there would be no peace without social justice and no justice without social security. The social security benefits are offered to workers through various places of labour legislation.

The methods of providing social security largely depends upon the resources and needs of the country. Social security legislation in India provide security against loss of earning e.g., industrial accident and diseases sickness, invalidity maternity benefits retirement benefit and unemployment benefits in certain cases for certain industrial workers. The social security legislation also provides security in cases of:

- Loss of earning of bread winner and
- Death of bread winner

Moreover, it also makes provisions to meet special expenses such as funeral expenses, maternity benefits etc.

In our country, labour laws have been codified in consonance with the principle of state policy and thoughts of great leaders life Mahatma Gandhi, Pt. Nehru and Sardar Vallabh Bhai Patel, the universal declaration of Human rights and other principles recommended by International Labour Organisation. From time-to-time, the social security schemes provide protection and safeguards and security against various risks in workers life, some of the important labour enactments are:

- The Workmen's Compensation Act, 1923
- The Employees State Insurance Act, 1948
- The Employees Provident Funds and Miscellaneous Provisions Act, 1952
- The Maternity Benefits Act, 1961
- The Payment of Gratuity Act, 1972

The social security legislation of our country suffers from several draw backs such as duplication and overlapping in the provisions of various Acts, in adequate coverage, in adequacy of benefits and in effective implementation, and enforcement, therefore there is requirement of integrated social security measure providing for medical care and of coverage against maternity, employment injury old age and death.

Check Your Progress

6. When were the social security measures introduced in India?
7. What does the Article 41 of the constitution say about the social security?

14.5 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. Workers' education is the latent energy in economic development as it accelerates industrial progress and ensures full utilization of manpower for economic planning and is a measure of increasing productivity.
2. The aim of workers education is to arouse the social consciousness of the worker, promote his solidarity with other workers and enable him to perform his functions effectively by committing him to workers organizations for the defence of common interests.
3. As per the Child Labour (Prohibition and Regulation) Act 1986, a child is defined as any person below the age of 14 and this Act prohibits employment of a child in any employment including as a domestic help.
4. The decline in female work participation over the past year is related to a number of other trends which adversely affect women i.e., decline in the female proportion of the population, declining representation in decision-making bodies, increasing gap in male and female in education, mobility and literacy rates, and unequal access to health and medical services.
5. Contract labour is labour which is not carried on the payroll and is not directly paid. It is usually decided into two categories:
   - Those employed on job contracts and
   - Those employed on labour contracts
6. Social security measures have been introduced in many countries decades ago, in India they were introduced only after the independence of the country.
7. Article 41 of the Constitution of India says that the state shall within the limits of its economic capacity and development make effective provision for securing the right to work, to education and to public assistance in cases of unemployment old age sickness and disablement and in other cases of undeserved want.

14.6 SUMMARY

- The employees and workers are the most significant component of the community and they need to be socially and psychologically satisfied by providing for them opportunities for education and training. It has been

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aptly said 'the major capital stock of an industrially advanced country is not its physical equipment, it is the body of knowledge amassed from the tested findings and the capacity and the training of population to use this knowledge effectively.'

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- Non-governmental organizations commonly referred to as NGOs are usually non-profit and sometimes international governmental organization though often funded by governments that are active in humanitarian educational, health care, public policy, social, human rights, environmental and other areas to affect changes according to their objectives. They are thus a subgroup of all organizations founded by citizens which include clubs and other associations that provide services, benefits and premises only to members.
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- The most significant and welcome psychological readjustment we now see is the emergence of woman as having equality with men in the performance of political, social and economic roles liberation from many concepts of a woman's place is home is now a reality in India as well.
- Sociologists have rightly remarked that the employment of women is one of the key determinants of a country's social growth and development. Indian women lag far behind men considerably both in terms of level and quality of employment. This miserable plight of women workers is largely due to certain forces that are dominating the Indian labour market since pretty long.
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- The large establishments offer job contracts for such operations as the loading and unloading of the metals by the meaning inducting or the construction of roads or buildings by Public Works Department. The contractor generally engages his own workers and pays them either on time or piece rate basis.
- A construction labour or worker is a trade person employed in the physical construction of the built environment and its infrastructure.
- Agricultural labour is one who is basically unskilled and unorganized and has little for its livelihood other than personal labour. These persons are engaged in raising crops an payment of wages.
- Disabilities result from one of four forces, supernatural, medical, natural or societal. The disability is the measurable constant condition and the handicap is a consequence of disability. The individual's attitude in relation to society's view of physical condition determine the extent of handicap. A person with a disability has either a physical or a mental condition that limits that person's activities or functioning. Disable persons have secure physical, mental or behavioural disorders.
- The globalization of work and continuing advances in technology are changing the nature of workforce. Knowledge workers are known for their special characteristics. They are people who can analyse, synthesize and evaluate information and use that information to solve various problems. Knowledge workers are highly educated, creative, computer literate and have portable skills that make it possible for them to move anywhere their intelligence or talent are needed.

v Social assistance includes non-contributory benefits towards the maintenance of children, mothers, invalids, the aged, the disabled and other like the unemployed. Under this scheme, the government provides benefits to persons of small means insufficient quantity so that there minimum standards of needs could be satisfied.

14.7 KEY WORDS

- **Workers' Education:** It refers to an education which is aimed at making the worker an efficient individual, disciplined trade union member and an intelligent corporate citizen so that he plays a vital role in the socio-economic development of the country.
- **Contract Labour:** It refers to a labour which is not carried on the payroll and is not directly paid
- **Knowledge Workers:** These refers to those workers who are known for their special characteristics. They are people who can analyse, synthesize and evaluate information and use that information to solve various problems.

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- **Social Assistance:** It includes non-contributory benefits towards the maintenance of children, mothers, invalids, the aged, the disabled and other like the unemployed.
- **Social Security:** It refers to that security which the society furnishes through appropriate organization against certain risk or contingencies against which the individual cannot afford by his small means and by his ability, or foresight alone.

14.8 SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. What should workers education aim for as per an ILO publication the workers education?
2. List some of the causes for the miserable plight of women workers.
3. What are some of the advantages to the employer in employing contract labour?
4. Mention some of the ways through which the physical or occupational therapists try to move the physically disabled person from dependence to independence.
5. State some of the principle features of social assistance schemes.

Long Answer Questions

1. Explain the objectives of employees and workers education.
2. Describe the importance of BPO and KPO workers.
3. Discuss the female labour and the problems associated with their participation.
4. Examine the implications of social security for industrial workers.

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P.G. DIPLOMA IN HUMAN RESOURCE MANAGEMENT

421 14

INDUSTRIAL RELATIONS MANAGEMENT

I - Semester

ALAGAPPA UNIVERSITY

[Accredited with 'A+' Grade by NAAC (CGPA:3.64) in the Third Cycle and Graded as Category–I University by MHRD-UGC]

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