COM-3056 (B)

GAUHATI UNIVERSITY

Centre for Distance and Online Education

MASTER OF COMMERCE

M.Com. Third Semester

(Under CBCS)

Paper : COM 3056 (Group-B)

INDUSTRIAL RELATIONS AND LABOUR LAWS

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ISBN: 978-81-989447-4-0

July, 2025

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Published on behalf of Gauhati University Centre for Distance and Online Education by the Director, and printed at Gauhati University Press, Guwahati-781014.

CONTENTS

		Page No.
Unit-1	: Industrial Workforce Analysis–Characteristics of Indian Labour	4-38
Unit-2	: Trade Union Movement in India: Problems of Trade Union	39-77
Unit-3	: Role of Trade Unions in Changed Economic Scenario	78-108
Unit-4	: Industrial Relations: Industrial Relations and Labour Policy Since Independence	109-132
Unit-5	: Factors Affecting Industrial Relations	133-152
Unit-6	: Industrial Conflicts: Resolution of Conflicts	153-192
Unit-7	: Bipartite and Tripartite Bodies	193-218
Unit-8	: Standing Orders and Grievance Procedure Standing Orders	219-238
Unit-9	: Ethical Codes: Indiscipline, Misconduct and Termination of Employment	239-261
Unit-10	: Punishment	262-275
Unit-11	: Settlement Machinery: Conciliation and Mediation	276-297
Unit-12	: Voluntary Vs. Compulsory Conciliation	298-311
Unit-13	: Arbitration and Investigation Procedure: Submission of Awards	312-337
Unit-14	: Adjudication: Labour Courts, Industrial and National Tribunals	338-366
Unit-15	: Unfair Labour Practices	367-382
Unit-16	: Labour Welfare and Social Security	383-425
Unit-17	: ILO: Conventions and Recommendations	426-458
Unit-18	: WTO: Labour Standards	459-483
Unit-19	: Related Legislations	484-506
Unit-20	: Case Studies	507-530

UNIT-1
INDUSTRIAL WORKFORCE ANALYSIS– CHARACTERISTICS OF INDIAN LABOUR

Unit Structure:

1.1 Introduction
1.2 Objectives
1.3 Historical Evolution of Industrial Labour in India
1.4 Composition of the Indian Workforce
1.5 Key Characteristics of Industrial Workers in India
1.6 Socio-Economic Profile of Industrial Workers in India
1.7 Sector-Wise Analysis of Industrial Labour
1.8 Summing up
1.9 Model Questions
1.10 References and Suggested Readings

1.1 Introduction

Industrial workforce analysis plays a vital role in understanding the size, composition, and dynamics of a nation's labour force, which is essential for shaping effective labour laws, industrial policies, and social welfare programs. India, with a labour force exceeding 500 million people, represents one of the largest and most diverse workforce in the world.

INSIGHT: According to the Economic Survey 2021-22, around 90% of India's workforce is engaged in the informal sector, lacking formal employment contracts and social security benefits.

The Indian labour market is characterised by a wide range of socio-economic disparities, including those based on sector (organised vs unorganised), region (rural vs urban), gender, caste, and educational attainment. The organised sector accounts for only about 10% of total

employment, while the unorganised sector contributes approximately 50% to India's Gross Domestic Product (GDP). Furthermore, female labour force participation remains alarmingly low at around 25.4% (PLFS 2022-23), reflecting persistent gender gaps and socio-cultural constraints.

Understanding these characteristics is crucial for formulating equitable and inclusive policies. This chapter delves into the structural composition of Indian labour, highlights key workforce traits, and examines the challenges and reforms that define India's contemporary industrial relations landscape.

Self-Asking Questions

If 90% of the Indian workforce is employed informally, what implications does this have for the effectiveness of national economic planning and welfare schemes?

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1.2 Objectives

After going through this chapter, the students will be able to-

- *understand* the composition of the Indian workforce: This includes analysing the structure of the organised and unorganised sectors, as well as informal employment patterns,
- *identify* key characteristics of Indian labour: Factors such as informality, education levels, gender participation, and migration trends are examined to understand the nature of labour in India,

- *evaluate* the socio-economic implications of workforce trends: The chapter explores how existing labour patterns influence income inequality, social mobility, and access to welfare benefits.

1.3 Historical Evolution of Industrial Labour in India

The evolution of industrial labour in India is a profound and complex story that mirrors the broader socio-economic, political, and technological transformations which the country has gone through over centuries. Labour, in its industrial form, did not exist in the pre-colonial era in the way it is understood today. Instead, it emerged through a gradual transition from artisanal and agrarian work to factory-based wage employment, deeply influenced by colonial interventions, indigenous industrialisation efforts, post-independence planning, and globalisation.

Industrial labour in India has been shaped by several key forces: the collapse of traditional industries during British rule; the setting up of modern industries like railways, plantations, and mills; the nationalist struggles for better labour rights; and post-1947 state-led industrialisation. Each phase brought about distinct changes in how labour was recruited, managed, and regulated. The conditions of industrial labour have been marked by exploitation, resistance, legislation, and reform.

The colonial period, in particular, set the foundation for India's contemporary labour market structures, where exploitation of cheap rural labour for urban industrial use became a norm. After independence, the focus shifted toward formalising labour relations, ensuring minimum standards, and protecting workers' rights, though unevenly across regions and sectors. In recent decades, liberalisation and the rise of new industries have led to the emergence of contract work, gig economy employment, and the informalisation of labour even in modern sectors.

Understanding this historical trajectory is crucial not only for academic analysis but also for policy formulation today. It highlights how past legacies of inequality, migration patterns, labour laws, and industrial practices continue to influence current challenges in employment generation, workers' welfare, and labour rights enforcement. A detailed historical overview allows us to trace the roots of contemporary issues such as informalisation, low social security coverage, and fragmented worker organisations.

Pre-Colonial Period

Before the advent of colonialism, India had a predominantly agrarian economy with flourishing handicrafts and artisanal production. Workers engaged in weaving, metalwork, pottery, carpentry, and other crafts typically operated within tightly knit guild-like community structures known as "jatis" or caste-based occupational groups. These artisanal communities maintained a rich tradition of craftsmanship and operated under informal codes of conduct, regulating quality, prices, and apprenticeships. Economic exchanges were largely local, and most workers were self-employed, working in family-owned businesses or small units. Labour mobility was extremely limited due to rigid caste hierarchies and strong familial ties to professions. Handicrafts such as textiles from Bengal, metal goods from South India, and carpets from Kashmir were internationally renowned.

INSIGHT: Historians estimate that India accounted for nearly 24-25% of the world's manufacturing output in the early 18th century, before British colonial policies systematically undermined indigenous industries.

Colonial Era and the Rise of Modern Industry

The British colonial period marked a profound transformation in India's labour history. Colonial policies led to the destruction of

traditional handicraft industries through unfair trade practices, imposition of tariffs, and competition from British manufactured goods. Modern industries such as railways, plantations (especially tea, coffee, and indigo), coal mining, and textiles emerged during the mid-19th century. Industrial labour was primarily recruited from the rural poor, often under coercive conditions facilitated by contractors known as "arkatis."

Stop to Consider

Labour migration to cities like Bombay (Mumbai), Calcutta (Kolkata), and Madras (Chennai) created new industrial working classes. Working conditions were extremely harsh, with long working hours (up to 14-16 hours a day), minimal wages, child labour, and unsafe workplaces. The Indian Factories Act of 1881, though a landmark, only made minor improvements, focusing on child labour restrictions and basic health standards. Nevertheless, it marked the beginning of state intervention in labour welfare.

Post-Independence Industrial Development

After India's independence in 1947, the government prioritised rapid industrialisation as a path to economic self-sufficiency and modernisation. Large-scale public sector enterprises (PSEs) like Hindustan Steel, Bharat Heavy Electricals Ltd (BHEL), and Indian Oil Corporation were established to drive industrial growth. Labour laws were expanded to guarantee rights to unionise, minimum wages, social security (via EPF and ESI), and dispute resolution mechanisms. The Industrial Disputes Act of 1947 and the Factories Act of 1948 became key legislative pillars. Trade unions grew substantially, often with strong political affiliations. However, excessive bureaucratic

controls and rigid labour regulations eventually discouraged private investment and slowed employment growth in the organised sector.

FACT: Public sector employment peaked during the 1970s and 1980s, providing relatively secure jobs, but the informal economy remained large. By the late 1980s, only about 15-20% of India's workforce had formal employment, highlighting the gap between policy intentions and actual outcomes.

Economic Liberalisation and Labour Market Changes

The 1991 economic liberalisation reforms unleashed a wave of changes in India's industrial labour structure. Reduced state control, privatisation of public enterprises, increased foreign direct investment, and exposure to global markets created new employment opportunities, especially in IT, telecom, pharmaceuticals, and retail. However, these changes also accelerated the trend toward informalisation and contractualisation of work. Permanent jobs declined, and flexible labour arrangements became the norm.

FACT: The share of contract workers rose sharply—from around 15% of the workforce in the early 1990s to over 34% by 2020. Small and medium enterprises (SMEs) became significant employers but typically avoided formal employment contracts.

During this phase the government initiated attempts to rationalise labour laws through the introduction of four consolidated labour codes, aiming to simplify compliance and encourage formal employment generation.

Contemporary Trends and Challenges

Today, India's industrial labour landscape is a complex mixture of formal and informal employment. The service sector has become the

dominant source of employment, yet manufacturing remains crucial for mass employment generation. Technological changes, such as automation and artificial intelligence, are reshaping skill requirements, demanding constant upskilling and reskilling of the workforce.

Stop to Consider

Youth unemployment remains high, hovering around 12-13% as per CMIE data, and women's labour force participation continues to be among the lowest globally at around 24%. Regional disparities persist, with states like Gujarat and Maharashtra exhibiting stronger industrial employment trends compared to states like Bihar and Uttar Pradesh.

The COVID-19 pandemic further exposed vulnerabilities, with millions of migrant workers facing livelihood losses overnight. Strengthening social security systems, ensuring decent work conditions, and bridging skill gaps are among the critical challenges that need urgent policy attention to build a resilient, equitable, and dynamic industrial labour market for India.

Self-Asking Questions

1. How have historical labour practices shaped today's employment trends?

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2. What lessons can be learned from colonial and post-colonial labour transitions?

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3. Could we have prevented some of the present-day labour challenges with better planning?

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1.4 Composition of the Indian Workforce

Understanding the composition of India's workforce is essential to grasp the overall labour dynamics, the challenges faced, and the opportunities available for economic growth and social development. India's workforce composition is influenced by factors like education, skills, urbanization, and economic reforms. It broadly comprises workers employed in the organised sector, the unorganised sector, and a growing segment of informal employment even within the formal sector.

Organised Sector

The organised sector in India refers to enterprises that are registered under various laws like the Factories Act, Companies Act, and Shops and Establishments Act. These establishments offer employment terms that include regular salaries, social security benefits, and legal protections.

INSIGHT: According to the Periodic Labour Force Survey (PLFS) 2022-23, approximately 10% of the total workforce in India is engaged in the organised sector. Within this sector, about 33% of employment is generated by government and public sector undertakings, while 67% is provided by private sector companies.

Industries such as banking, IT services, telecommunications, pharmaceuticals, and large-scale manufacturing dominate this sector. Despite India's sustained economic growth, job creation within the organised sector remains sluggish, with the sector growing employment at an average rate of only 1.8% per annum over the last decade. Moreover, regional disparities persist, with urban centres like Bengaluru, Mumbai, and Delhi witnessing concentrated organised sector employment, while rural regions lag far behind.

Unorganised Sector

The unorganised sector encompasses a vast range of economic activities including agriculture, small-scale manufacturing, construction, domestic work, street vending, and small retail businesses.

INSIGHT: According to the PLFS 2022-23, around 90% of India's workforce is employed in this sector, which contributes close to 50% of the country's GDP.

Workers in the unorganised sector often lack formal job contracts, regular income, social security, and access to grievance redressal mechanisms. The sector is characterised by low wages, irregular employment, and poor working conditions. For instance, the average daily earnings of informal sector workers are around 40–50% lower than those in the formal sector. Rural areas dominate the unorganised

economy, but even in urban centres, a significant proportion of workers are engaged informally in activities like construction, domestic work, and small shops. This overwhelming reliance on the unorganised sector highlights structural weaknesses in India's labour market and points to an urgent need for interventions promoting formalisation, skill development, and social protection.

Informal Employment within the Organised Sector

An emerging and concerning trend in India's labour market is the increasing prevalence of informal employment even within the organised sector. As per PLFS data, nearly 50% of workers employed in formally registered enterprises lack access to employment benefits like provident funds, health insurance, or written contracts. Employers often resort to hiring workers on a contractual or casual basis to minimize labour costs and maintain flexibility.

Stop to Consider

In sectors such as construction, logistics, and hospitality, a significant portion of the workforce remains informally employed despite being part of organised businesses. In the construction sector alone, around 35% of workers in registered companies are informal employees. These workers face challenges like wage theft, unsafe working conditions, and the absence of job security.

The rising trend of informalisation within the formal sector dilutes the advantages traditionally associated with organised employment, increases economic vulnerabilities, and necessitates regulatory reforms to ensure minimum labour standards are upheld for all workers.

Check Your Progress

1. Differentiate between the organised and unorganised sectors in India.

2. What are the key features of rural and urban workforce distribution?

3. How does gender composition vary in different employment sectors?

1.5 Key Characteristics of Industrial Workers in India

Industrial workers in India represent a diverse and dynamic segment of the workforce shaped by the nation's historical, economic, and social transformations. Understanding their key characteristics is vital for grasping the realities of India's industrial sector and for formulating effective labor policies. These characteristics reveal the heterogeneity in terms of employment patterns, work conditions, socio-demographic profiles, and the overall vulnerabilities faced by these workers. Below is a detailed exploration:

Heterogeneity and Diversity

One of the foremost characteristics of the Indian industrial workforce is its pronounced heterogeneity. Industrial workers come from a wide array of backgrounds distinguished by region, caste, religion, education, gender, and skill level. This diversity is reflected across industries—ranging from highly capital-intensive sectors like automobile manufacturing to labor-intensive sectors such as textiles, garments, and construction.

The workforce includes highly skilled technicians and engineers as well as unskilled daily wage laborers. Migrant workers from rural areas often work alongside urban residents; similarly, socially marginalized groups often fill the ranks of lower-paid or hazardous

jobs. This heterogeneity, while enriching the industrial sector with a broad spectrum of skills and experiences, also makes it challenging to implement uniform policies for worker welfare, wage regulation, or skill development. It underscores the need for customized and sector-specific approaches rather than one-size-fits-all solutions in industrial labor management.

Predominance of Informality

Informality is a defining characteristic of industrial employment in India. Despite rapid industrialization and formal sector growth, a large proportion of industrial workers remain employed informally, without formal contracts, written terms of employment, or social security benefits.

INSIGHT: According to the Periodic Labour Force Survey (PLFS) 2022-23, more than 70% of workers in the manufacturing sector were engaged in informal employment.

Informal industrial workers are typically deprived of job security, health benefits, retirement pensions, and other protections enshrined in labor laws. They often face arbitrary dismissals, unsafe working conditions, and irregular payment of wages. Informality is particularly rampant in small-scale industries (SSIs), cottage industries, and unorganized manufacturing units. The persistence of informality undermines workers' rights, perpetuates economic vulnerability, and limits the state's ability to regulate industrial employment effectively.

Low and Uneven Wages

Wage patterns among Indian industrial workers exhibit both low average earnings and wide disparities. While workers in sectors such as pharmaceuticals, IT hardware manufacturing, and automobiles

command relatively higher wages, a majority employed in sectors like textiles, construction materials, and small-scale manufacturing earn low incomes barely sufficient to meet basic needs.

The wage structure is also marked by significant gender, caste, and regional disparities. Women workers, Scheduled Castes (SCs), Scheduled Tribes (STs), and migrant workers are generally paid less than their male, upper-caste, or local counterparts, even for identical work. Additionally, contract and daily wage workers earn far less than permanent employees. These income disparities perpetuate socio-economic inequalities and contribute to a cycle of poverty among large sections of the industrial workforce.

Prevalence of Contractual and Casual Labour

The shift towards flexible labor markets has led to the increasing casualization of industrial employment. Companies often prefer hiring workers on a contract basis to minimize labor costs, evade regulatory compliances, and maintain flexibility in workforce management. According to PLFS data, about one-third of industrial workers in India today are engaged as casual or contract laborers.

Stop to Consider

Contract workers typically have no job security, minimal access to social security benefits, and are often excluded from union representation. They are frequently employed under exploitative conditions with little bargaining power. The casualization trend has weakened traditional employer-employee relationships and diluted collective bargaining mechanisms, leading to fragmented labor movements and deteriorating working conditions.

Migrant Workforce Dominance

Migration, both inter-state and rural-to-urban, is a dominant phenomenon among industrial workers in India. Millions of workers

migrate from economically backward states like Bihar, Uttar Pradesh, Jharkhand, and Odisha to industrial hubs like Maharashtra, Gujarat, Tamil Nadu, and Karnataka in search of employment opportunities.

Migrant workers typically occupy the most difficult, hazardous, and low-paying jobs. They often lack access to public services, housing, health care, and social security benefits in their destination states. Language barriers, discrimination, lack of documentation, and exclusion from local welfare schemes further marginalize migrant workers.

Check Your Progress

1. In what ways does the prevalence of contract and casual labour influence industrial productivity and employee loyalty?

Low Levels of Unionization

Despite a long tradition of trade unionism, the overall level of unionization among industrial workers in India remains relatively low, particularly among informal and contract workers.

STAT: The Indian Labour Conference (ILC) suggests that less than 10% of the total workforce is unionized, and union density is even lower among young, female, and migrant workers.

Several factors contribute to low unionization: the growth of the informal sector, rise in contract labor, employer resistance, fragmentation of unions, and weakening of traditional labor movements. Additionally, fear of retaliation, job loss, and lack of awareness discourage many workers from joining unions. Consequently, industrial workers have limited collective bargaining power to negotiate better wages, secure working conditions, and access social protections.

Poor Working Conditions

Working conditions for a majority of industrial workers are often hazardous and exploitative. Many work in poorly ventilated factories, use outdated machinery without proper safety measures, and are exposed to chemical hazards, dust, and noise pollution. Overtime work without adequate compensation is common, and in many sectors, workers are expected to work 10-12 hours per day in violation of labour laws.

Accidents and occupational diseases are frequent, yet access to compensation and medical care is limited, particularly for informal workers. The disregard for occupational health and safety (OHS) standards results from weak enforcement mechanisms, lack of worker awareness, and the priority given to production targets over worker welfare. This reality necessitates stronger regulation, better enforcement of existing safety standards, and workplace-based training programs.

Gender-Based Disparities

Gender inequality is a pronounced characteristic of India's industrial workforce. Women's participation remains low, and where women are employed, they are largely restricted to low-skill, low-paying jobs such as garment stitching, food processing, or assembly line work in electronics.

INSIGHT: Structural barriers like lack of maternity benefits, absence of crèche facilities, workplace harassment, and rigid gender norms limit women's ability to participate and progress in industrial employment.

Even in sectors where women predominate, such as the garment industry, they often hold the most precarious and least empowered positions. Addressing gender disparities requires a comprehensive

approach, including affirmative policies, workplace gender sensitization, provision of family support services, and enforcement of equal pay for equal work.

Vulnerability to Economic Cycles

Industrial workers are highly vulnerable to economic fluctuations. During periods of economic slowdown, global recessions, or domestic crises such as demonetization or the COVID-19 pandemic, industrial workers—particularly contract and informal workers—are often the first to lose their jobs.

Stop to Consider

Lack of job security, absence of unemployment insurance, and limited financial savings exacerbate their vulnerabilities. During such downturns, many workers are forced to return to their villages or accept even lower wages and more exploitative working conditions to survive.

Building resilience among industrial workers requires long-term policy interventions such as strengthening social security nets, promoting employment guarantee schemes, and facilitating reskilling during economic downturns.

Regional and Sectoral Concentrations

Industrial workers are not evenly distributed across India; they are heavily concentrated in certain regions and sectors. States like Maharashtra, Gujarat, Tamil Nadu, Karnataka, and Delhi NCR have a large share of industrial employment, while many eastern and northern states lag behind.

Similarly, within industry sectors, workers are concentrated in a few major industries: textiles and garments, construction, food processing, automobiles, and metal products. Emerging sectors such

as electronics manufacturing and renewable energy are gradually absorbing a new segment of the industrial workforce. These regional and sectoral concentrations have implications for regional inequality, migration patterns, infrastructure demands, and targeted skill development initiatives

1.6 Socio-Economic Profile of Industrial Workers in India

Understanding the socio-economic profile of industrial workers is crucial for identifying their living standards, educational levels, working conditions, and broader economic contributions. In India, the industrial workforce is not a homogeneous group; it reflects significant diversity based on factors such as caste, gender, region, educational background, and skill levels. These socio-economic determinants greatly influence the nature of employment, earning capacity, health outcomes, and prospects for upward mobility. An in-depth analysis of these aspects helps policymakers design interventions that ensure inclusive industrial growth and protect workers' rights.

1. Educational Background

Education is one of the strongest determinants of employment quality and wage levels in industrial settings. However, industrial workers in India often display low levels of formal education.

INSIGHT: According to the Periodic Labour Force Survey (PLFS) 2022-23, around 40% of industrial workers had education levels not exceeding primary schooling, while only 12% had completed education beyond the higher secondary level. The scarcity of educated workers is particularly prominent in traditional manufacturing and construction sectors, where manual labor predominates over technical expertise.

Low educational attainment restricts access to better-paid, supervisory, or technical positions, confining a majority of workers to unskilled and semi-skilled roles. Furthermore, limited literacy reduces awareness about labour rights, health precautions, and financial management, increasing vulnerability to exploitation. In the modern industrial economy, where technological skills and digital literacy are increasingly important, lack of formal education can severely restrict workers' ability to adapt, thereby affecting overall industrial productivity. Efforts to enhance workers' education through adult literacy programs, continuing education initiatives, and workplace-based learning are essential to foster a more resilient workforce.

2. Skill Levels and Vocational Training

The Indian industrial sector has a pronounced skill gap. As per PLFS 2022-23, only about 4.6% of workers reported having received formal vocational training. The rest of the industrial workforce primarily learn-on-the job through informal, experience-based skill acquisition without formal certification. While such informal learning suffices for manual and repetitive tasks, it falls short in sectors requiring specialized technical competencies such as precision manufacturing, electrical work, or machine operation.

The lack of formal skill certification hinders workers' career advancement, wage negotiation ability, and employability across sectors. It also means that many industries cannot find adequately trained manpower, despite high unemployment levels—a phenomenon often termed the "skills paradox."

Stop to Consider

Government schemes like Pradhan Mantri Kaushal Vikas Yojana (PMKVY) and the Skill India Mission aim to bridge this gap but have

yet to fully address the quality and industry-relevance of training provided. There is a growing need to align vocational training with emerging industrial requirements like automation, AI, machine learning, and sustainable manufacturing practices to ensure that the Indian workforce remains competitive globally.

3. Income and Wage Patterns

The income levels of industrial workers reveal stark socio-economic disparities within the sector. According to the Annual Survey of Industries (ASI) 2022, the average monthly wage for an industrial worker ranged between ₹12,000 to ₹15,000. This figure, while seemingly reasonable on a national average, is grossly inadequate in metropolitan cities where housing, healthcare, and education costs are substantially high. Moreover, a significant portion of informal industrial workers earn far below this average, often living at or below the poverty line.

INSIGHT: Wage disparities are not only evident between the formal and informal sectors but also within different social groups. For example, women industrial workers earn approximately 19% less than their male counterparts for performing similar work, according to the Monster India Gender Pay Gap Report, 2022.

Scheduled Caste (SC) and Scheduled Tribe (ST) workers, due to systemic marginalization, also consistently earn lower wages. Regional factors further compound these disparities; industrial workers in states like Maharashtra and Gujarat tend to earn much higher wages than those in Bihar or Assam. These wage inequalities contribute to the persistence of socio-economic hierarchies and act as barriers to achieving inclusive economic growth.

4. Social Security Coverage

Social security provisions among Indian industrial workers are alarmingly inadequate, particularly for those employed informally. Only about 20% of the workforce benefits from structured social security mechanisms such as Employees' Provident Fund (EPF), Employees' State Insurance (ESI), maternity benefits, or pension schemes. Workers in micro, small, and medium enterprises (MSMEs), which form the bulk of India's industrial base, are often entirely excluded from such benefits.

Lack of social security coverage leaves workers vulnerable to financial ruin in the event of accidents, illness, or old age. Many industrial workers also lack access to affordable health insurance, forcing them to rely on out-of-pocket expenses for medical care, often leading to indebtedness. Moreover, informal workers who lose their jobs due to business closures or seasonal fluctuations receive no unemployment benefits or retraining support. The new Labour Codes enacted in India attempt to universalize social security coverage by extending benefits to gig workers and platform workers; however, successful implementation remains a significant challenge, especially in reaching workers employed in small, informal establishments.

5. Living Conditions

Industrial workers in India often live in substandard and overcrowded accommodations, especially in urban centers where affordable housing remains scarce.

INSIGHT: According to the National Sample Survey (NSS) 2019, nearly 35% of urban industrial workers live in slums or informal settlements. These settlements often lack basic amenities such as clean drinking water, sanitation facilities, garbage disposal systems, and reliable electricity. Consequently, workers face significant health risks including exposure to communicable diseases like tuberculosis, dengue, and cholera.

The proximity of workers' housing to industrial zones often means exposure to air and noise pollution, further deteriorating health outcomes. Overcrowded living conditions also increase mental stress, impacting workers' productivity and psychological well-being. High rental costs relative to wages force workers to spend disproportionate shares of their income on shelter, leaving little for education, healthcare, or savings. The provision of affordable rental housing, improved urban planning, and worker-centric township models are urgently needed to address this aspect of workers' socio-economic vulnerability.

6. Health and Occupational Safety

Occupational health and safety (OHS) standards in India's industrial sector are often poorly enforced.

Stop to Consider

According to the Directorate General Factory Advice Service and Labour Institutes (DGFASLI) Annual Report 2022, fatal and non-fatal industrial accidents remain worryingly high, particularly in sectors like mining, construction, and chemicals. Informal sector workers are at even greater risk due to the near-total absence of regulatory oversight.

Workers often operate hazardous machinery without adequate training or protective equipment, leading to frequent injuries such as fractures, burns, respiratory illnesses, and hearing loss. Long working hours, poor ergonomic design of workplaces, and unsafe chemical exposure further compound health risks. Health problems resulting from unsafe working conditions reduce worker productivity, increase absenteeism, and place additional pressure on the public health system. Furthermore, many industrial workers lack access to

employer-provided health insurance or affordable healthcare facilities, making recovery from occupational injuries financially devastating. A stronger framework for workplace inspections, mandatory health insurance, and worker training on safety protocols is vital to address these issues.

7. Employment Status and Job Security

Job security for industrial workers in India has been steadily declining with the rise of contract-based employment practices.

STATS: According to PLFS 2022-23, approximately 35% of industrial workers are employed without a written contract. Temporary and contract workers generally receive lower wages, fewer benefits, and are more easily laid off during economic downturns compared to permanent employees.

The prevalence of casualisation undermines workers' long-term economic security and discourages investment in skill development. Contract workers often suffer from weaker bargaining power, reduced workplace rights, and higher job-related stress. Moreover, lack of job security exacerbates issues like housing instability, financial insecurity, and social exclusion. Policy interventions need to focus on regulating contract work, ensuring parity of benefits with permanent workers, and encouraging industries to adopt fair employment practices that foster workforce stability and economic resilience.

8. Gender Profile of Industrial Workers

The participation of women in India's industrial workforce remains low, and those employed often face systemic disadvantages. Women constitute about 20-25% of the industrial labour force, but they are predominantly concentrated in low-paying, labour-intensive sectors such as textiles, garments, food processing, and electronics assembly.

Even within industrial employment, women frequently occupy lower-skilled positions with limited opportunities for career advancement. Gender-based discrimination manifests in wage gaps, occupational segregation, limited access to training programs, and barriers to promotion. Issues related to workplace harassment and lack of maternity benefits further restrict women's participation. Social expectations related to caregiving responsibilities also force many women to exit the workforce prematurely. Enhancing gender inclusion requires targeted measures like mandatory gender audits, enforcement of equal pay legislation, establishment of crèche facilities, and skill development programs focused on women.

9. Regional Disparities

Regional disparities significantly influence the socio-economic conditions of industrial workers in India.

DID YOU KNOW: Industrialized states such as Maharashtra, Gujarat, Tamil Nadu, and Karnataka offer more job opportunities, higher wages, and better working conditions compared to states like Bihar, Uttar Pradesh, and Odisha. Consequently, there is massive rural-to-urban and inter-state migration of workers seeking better livelihoods.

However, migration itself brings challenges like informal employment, housing insecurity, and lack of access to state-sponsored welfare schemes in destination states. Industrial hubs often experience strained public infrastructure and rising social tensions due to the influx of migrant labour. Addressing regional disparities requires proactive policies promoting balanced industrial development across the country, investing in infrastructure in less-developed regions, and ensuring that migrant workers have portable rights and benefits irrespective of their state of origin.

Check Your Progress

1. What are some common socio-economic traits of India's industrial workers?

2. How do caste and region influence access to employment?

3. Discuss the role of education and skill level in shaping worker mobility.

10. Caste and Social Stratification

Caste remains a deeply embedded determinant of employment outcomes in India's industrial sector. Scheduled Castes (SCs) and Scheduled Tribes (STs) are overrepresented in the most hazardous, low-paid, and precarious jobs. Studies such as the Oxfam India Report (2022) indicate that Dalits are twice as likely to be engaged in casual labour compared to upper-caste workers, even in industrial settings.

Caste-based discrimination continues to hinder access to better-paying, formal sector jobs, promotions, and skill training opportunities. Even where legal protections exist, covert biases in recruitment, workplace interactions, and wage determination perpetuate inequality. Bridging caste-based inequalities in the industrial workforce requires not just reservation policies but also proactive affirmative action initiatives, anti-discrimination enforcement mechanisms, sensitization programs, and equal opportunity employment practices in both public and private sectors.

Self-Asking Questions

Q) In what ways do these characteristics impact productivity and social well-being?

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2. Can I connect any of these characteristics to what I observe in real life or internships?

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3. How might digitalisation or labour codes help address some of these issues?

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1.7 Sector-wise Analysis of Industrial Labour

Understanding the sector-wise distribution and characteristics of industrial labour is crucial to grasping the diversity, challenges, and opportunities within India's labour market. Different sectors not only vary significantly in the nature of work but also in employment conditions, wage structures, skill requirements, and worker vulnerabilities. Here, we discuss major industrial sectors, each of which employs a significant portion of India's workforce.

Manufacturing Sector

The manufacturing sector has historically been regarded as the backbone of industrial employment in India. It includes industries like textiles, garments, automobiles, steel, chemicals, and food processing.

FACT: According to the Annual Survey of Industries (ASI) 2022-23, manufacturing employs around 11.5% of India's total workforce.

Despite large employment figures, the sector remains heavily informalised — around 67% of manufacturing workers are engaged in unregistered or small-scale units with limited access to social security and labour rights.

Labour in manufacturing is often characterised by:

- Low wages compared to global standards.
- High prevalence of contract workers, particularly in textiles and garments.
- Gender-based segregation — women dominate sectors like apparel and food processing but are underrepresented in heavy manufacturing.
- Skill mismatches, as many workers are under-skilled for modern manufacturing requirements (e.g., automation, quality control). The sector faces intense global competition, and hence companies often attempt to cut costs by minimising labour expenses, which sometimes leads to poor working conditions. The "Make in India" initiative aims to boost manufacturing jobs, but achieving decent employment standards remains a persistent challenge.

Construction Sector

The construction sector is the second-largest employer of industrial workers after agriculture, employing about 10–11% of India's workforce (PLFS 2022-23). Construction includes building infrastructure (roads, bridges, buildings) and real estate activities.

FACT: Most construction labour is casual, seasonal, and migratory, and about 96% of workers in the sector are informally employed without any job security or social protection.

Key characteristics include:

- High degree of inter-state migration; for example, states like Bihar, Uttar Pradesh, and Odisha are major suppliers of construction labour to metro cities like Delhi and Mumbai.
- Extremely hazardous working conditions with limited enforcement of occupational safety laws.
- Wage payment issues are rampant — late payments, wage theft, and absence of legal recourse are common.
- Low levels of mechanisation mean labour-intensive work dominates, leading to physically demanding jobs. Even government-mandated worker welfare schemes (like Building and Other Construction Workers' Welfare Boards) are poorly implemented, and only a small percentage of eligible workers receive benefits like pensions or healthcare.

Information Technology (IT) and IT-Enabled Services (ITES)

The IT and ITES sector is one of India's most dynamic industries, employing over 5 million people directly (NASSCOM 2023). While it represents a relatively small share of the total workforce (~1%), it plays an outsized role in GDP contribution and exports.

Distinct features of IT/ITES employment:

- Highly formalised compared to other sectors — most employees have contracts, social security, and access to corporate benefits like health insurance.

- Relatively high wage levels compared to national averages; starting salaries are around ₹3-4 lakh per annum, with rapid growth for skilled workers.
- Significant gender diversity efforts, although women still only represent about 34% of the IT workforce
- High incidence of job stress, long working hours, and increasing job insecurity due to automation, Artificial Intelligence (AI), and global competition.
- Emergence of gig-based tech jobs (e.g., freelancing, app-based work), leading to new types of vulnerabilities.
- The sector demands constant skill upgrades, with companies investing in reskilling programs in areas like AI, cybersecurity, and cloud computing.

Logistics and Supply Chain Sector

The logistics sector, covering warehousing, transportation, and delivery services, employs around 22 million people (according to the Logistics Skill Council, 2022), making it one of the largest non-farm employment sectors in India.

Key labour characteristics:

- Largely informal employment with minimal worker benefits.
- Rising gig economy participation, with delivery partners in e-commerce companies like Amazon, Flipkart, Swiggy, and Zomato.
- Low average wages — many delivery workers earn between ₹12,000–₹20,000 monthly, often without additional benefits.
- Highly precarious work: pay-per-delivery models, lack of insurance coverage, and occupational risks like accidents.

- Demographic profile is skewed towards young male workers, often with secondary school education or less.
- The rapid growth of e-commerce has created millions of jobs, but most are unstable, with very little career progression prospects unless workers acquire higher logistics management skills.

Textiles and Garments Industry

The textiles and garments sector is a traditional employment powerhouse, employing around 45 million people directly and 60 million indirectly (Ministry of Textiles, 2022). It contributes approximately 12% to India's total export earnings.

Labour characteristics in this sector include:

- Dominance of women, especially in the ready-made garment (RMG) and handloom sectors — wome to n make up around 70% of the workforce in garment factories.
- Prevalence of small, decentralised production units, leading to informal working conditions.
- Low very low wages, especially in powerloom and home-based work segments.
- Poor occupational safety, long working hours, and cases of gender-based discrimination and harassment.
- Minimal access to social security, even though certain government schemes like the MGNREGA attempt to indirectly supplement incomes for rural textile workers.
- Despite its labour-intensive nature, the sector faces a skill gap in modern, value-added textiles (technical textiles, design, international compliance standards), limiting wage and employment growth potential.

Construction of Infrastructure Projects

Mega-infrastructure projects such as metro rail systems, airports, smart cities, and highways employ millions of semi-skilled and

unskilled workers on short-term contracts. According to the Ministry of Road Transport and Highways, infrastructure development absorbed about 7–8% of industrial workers between 2020-23.

- Workers are often migrants working on temporary contracts without legal protections.
- Labour camps are notorious for poor living conditions.
- Minimal or no health coverage is available despite high accident rates at project sites.
- Recruitment often happens through layers of sub-contractors, making accountability complex.
- Despite poor conditions, workers prefer infrastructure jobs for relatively higher daily wages compared to rural agricultural work.

Check Your Progress

1. What are the major sectors of employment for industrial labour in India?

2. Compare employment conditions in manufacturing and construction sectors.

3. Which challenges are unique to service sector workers?

1.8 Summing Up

In conclusion, India's industrial workforce is marked by a significant reliance on the informal sector, with a large portion of workers engaged in precarious, unorganised employment. Key characteristics such as informality, low skill levels, gender disparities, and regional imbalances continue to shape the labour market. These issues are rooted in the country's historical evolution, from pre-colonial artisanal work to colonial exploitation, followed by post-

independence industrialisation and recent trends driven by economic liberalisation.

The socio-economic profile of industrial workers highlights vulnerabilities like low wages, poor working conditions, and limited social security, further exacerbated by informal employment. While reforms and policy interventions have aimed at improving workers' rights, challenges remain in formalising the workforce, providing adequate protections, and addressing inequality.

To create a more equitable labour market, it is essential to strengthen labour laws, promote skill development, and expand social protection. By addressing these structural issues, India can move towards a more inclusive and sustainable labour market, ensuring long-term economic stability and better livelihoods for its workers.

1.9 Model Questions

Chose the Right option:

1. Which of the following sectors employs the largest number of workers in India?
   a) Manufacturing
   b) Services
   c) Agriculture
   d) Mining
2. What is a major feature of informal employment in India?
   a) High salaries
   b) Access to pensions
   c) Lack of social security and written contracts
   d) Government-sponsored jobs
3. Which legislative act was introduced first to regulate working conditions during British rule?
   a) Trade Unions Act

b) Industrial Disputes Act

c) Factories Act, 1881

d) Mines Act

4. The term ‘disguised unemployment’ primarily refers to:

   a) Underpaid workers in government jobs

   b) Multiple people engaged in a task meant for fewer individuals

   c) Workers with temporary contracts

   d) Hidden vacancies in the formal sector

5. Which of the following is a common characteristic of contract labour in India?

   a) Employment through government agencies

   b) Fixed-term retirement benefits

   c) Lack of job security and benefits

   d) Formal appointment letters

6. Which state is considered a major hub for industrial labour in India?

   a) Bihar

   b) Maharashtra

   c) Uttarakhand

   d) Meghalaya

7. Which initiative was launched to register unorganised sector workers digitally in India?

   a) Digital India

   b) Shram Suvidha Portal

   c) e-Shram Portal

   d) Skill India

8. A dual labour market in India indicates the coexistence of:

   a) Agricultural and industrial jobs

   b) Formal and informal employment structures

   c) Public and private sector employment

   d) Urban and rural employment

9. What is one key consequence of low skill levels in the Indian workforce?
   a) High mobility of workers
   b) More opportunities abroad
   c) Limited access to high-paying jobs
   d) Decreased use of manual labour
10. Which of the following best describes the socio-economic profile of most industrial workers in India?
   a) Highly educated and urban-based
   b) Skilled and unionised
   c) Low-skilled, rural migrants with limited social protection
   d) Employed in high-tech sectors

Answer in brief – (30-50 words)

1. What is meant by the informal sector?
2. State any two key characteristics of Indian labour.
3. Define organised sector with an example.
4. Mention two causes of informality in Indian labour markets.
5. What is contract labour?
6. Name any two labour codes introduced by the Indian government.
7. What do you understand by workforce composition?
8. Define industrial labour.

Short Questions – (150–200 words)

1. Briefly explain the composition of the Indian workforce.
2. Discuss any three characteristics of Indian labour.
3. Write a short note on the historical evolution of industrial labour in India.
4. What are the key features of the unorganised sector in India?
5. Explain the concept of informal employment within the organised sector.
6. Highlight the gender disparities in the Indian labour market.

7. Describe the socio-economic profile of Indian industrial workers.
8. What are the objectives of studying industrial workforce analysis?
9. How did economic liberalisation affect the Indian labour market?
10. Discuss the significance of labour law reforms in recent years.

Detailed essay-type questions – (300–500 words)

1. Critically analyse the key characteristics of Indian labour with examples and data.
2. Describe the historical evolution of industrial labour in India from the pre-colonial period to the present.
3. Examine the structure and composition of the Indian workforce. How does it impact industrial relations?
4. Discuss the socio-economic challenges faced by industrial workers in India.
5. Evaluate the effects of economic liberalisation on the nature of employment in India.
6. Analyse the role of the organised and unorganised sectors in India's labour market.
7. How do caste, gender, and regional factors affect labour participation and employment outcomes in India?
8. What are the implications of informalisation within the formal sector for Indian labour laws and worker welfare?
9. Suggest policy measures to formalise employment and improve labour conditions in India.
10. Examine the present status of industrial labour in India and the steps needed for inclusive growth.

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UNIT-2
TRADE UNION MOVEMENT IN INDIA: PROBLEMS OF TRADE UNION

Unit Structure:

2.1 Introduction
2.2 Objectives
2.3 Definition of Trade Union
2.4 Historical Background of the Trade Union Movement in India
2.5 Evolution of the Trade Union Movement in India
2.6 Current Scenario of Trade Unions in India
2.7 Problems of Trade Unions in India
2.8 Suggestions for Revitalizing Trade Unions in India
2.9 Summing Up
2.10 Model Questions
2.11 References and Suggested reading

2.1 Introduction

The trade union movement in India is one of the most significant pillars of the country's labour and industrial history. It represents the collective voice of the working class, advocating for rights, fairness, and dignity in the workplace. From its modest beginnings during the colonial era to its active involvement in the nationalist struggle and post-independence nation-building, trade unions have played a multifaceted role in shaping both industrial relations and social justice in India.

The emergence of trade unions in India can be traced back to the late 19th and early 20th centuries, when industrialization began to expand under British rule. Workers faced inhuman working conditions, low wages, long hours, and no social security. In response to this exploitation, workers began forming associations to press for better

treatment, marking the genesis of the Indian trade union movement. Over time, these associations evolved into formal unions with clearer structures, wider membership, and deeper political engagement.

The passing of the Trade Unions Act, 1926, marked a critical turning point by granting legal recognition to trade unions, thereby legitimizing their existence and functioning. Following independence, trade unions aligned with political parties and played an instrumental role in the evolution of labour laws, wage negotiations, and industrial dispute settlements.

However, the contemporary trade union movement in India faces a series of complex challenges. The rise of informal employment, rapid globalization, the spread of gig and platform-based work, contractualization, and the introduction of new labour codes have all impacted the relevance and functioning of trade unions. Additionally, internal problems such as union fragmentation, politicization, weak leadership, and low membership further undermine their effectiveness.

This unit seeks to provide a comprehensive understanding of the trade union movement in India. It covers the historical evolution of unions, examines current trends, discusses the structural and operational problems faced by trade unions, and offers practical suggestions for their revitalization. Through critical analysis and relevant case examples, the unit aims to help students appreciate the strategic importance of trade unions in protecting workers' interests and contributing to national development.

2.2 Objectives

After going through this chapter, the students will be able to-

- *understand* the historical evolution of Trade Union Movement in India,

- *define* the concept of Trade Union,
- *examine* the current scenario of Trade Unions in India,
- *identify* and critically analyze the problems of Trade Unions in India.

2.3 Definition of Trade Union

A Trade Union is an organized association of workers, formed voluntarily to protect and promote their rights, improve their working conditions, and collectively bargain with employers.

Legal Definition:

According to Section 2(h) of the Trade Unions Act, 1926,

"Trade union means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business."

This definition covers both industrial and non-industrial unions, and includes federations or associations of trade unions as well.

2.4 Historical Background of the Trade Union Movement in India

The trade union movement in India has a rich and evolving history that mirrors the country's economic transformation and sociopolitical struggles. It emerged as a response to industrial exploitation under colonial rule and later matured into a structured part of India's labour governance system. The movement can be broadly classified into several key phases:

Pre-Independence Period (1850–1947)

a) Early Associations and Worker Protests (1850–1918)

The initial stirrings of worker consciousness began in the latter half of the 19th century during British colonial industrial expansion. Workers faced harsh conditions—long hours, hazardous workplaces, meager wages, and no formal legal protection.

Example: One of the earliest recorded strikes was in 1877 by the workers of the Empress Mills in Nagpur, protesting wage reductions.

Stop to Consider

The establishment of the Bombay Mill Hands Association in 1890 by Narayan Meghaji Lokhande is considered the first organized labour association in India. Although it wasn't a trade union in the modern sense, it marked the beginning of organized worker representation.

Formation of Modern Trade Unions (1918–1926)

The end of World War I brought inflation, rising cost of living, and increased worker unrest. This period witnessed a wave of strikes and the formal birth of several trade unions.

Key Milestone: In 1918, B.P. Wadia founded the Madras Labour Union, the first modern trade union in India. It represented textile workers and fought against harsh disciplinary actions and low wages.

Other Unions: The Ahmedabad Textile Labour Association (1918) led by Anasuya Sarabhai and supported by Mahatma Gandhi, uniquely combined unionism with social welfare and was a model of Gandhian labour ideals.

Legal Recognition and Institutionalization (1926 Onwards)

With growing labour unrest and pressure from political leaders, the government enacted the Trade Unions Act, 1926. This was a landmark development that granted legal status to registered trade unions.

Impact: The Act allowed unions to operate as legal entities, sue or be sued, and hold property. It protected union officials from certain liabilities during legitimate union activities.

Nationalist Phase and Politicization (1920s–1947)

Trade unions began aligning themselves with emerging political ideologies, particularly those rooted in the nationalist movement, socialism, and communism.

- AITUC Formation (1920): The All India Trade Union Congress (AITUC) was established in 1920 under the leadership of Lala Lajpat Rai. It served both as a workers' organization and as a platform for anti-colonial resistance.
- Ideological Splits: The growing presence of socialists and communists led to ideological rifts. Multiple central trade unions emerged, such as the Indian Federation of Labour (1933) and the Red Flag Union, weakening collective bargaining strength.
- Trade Unions and Freedom Movement: Trade unions actively participated in protests like Non-Cooperation Movement, Civil Disobedience, and Quit India Movement, often facing repression and arrests.

Post-Independence Consolidation (1947–1960s)

Following independence, trade unions gained constitutional and institutional support, with labour rights being enshrined in Directive Principles of State Policy (Article 43) of the Indian Constitution.

- Formation of INTUC (1947): The Indian National Trade Union Congress (INTUC) was founded with the support of the Indian National Congress. Its creation marked a new phase where political parties began to sponsor their own trade unions.
- Tripartism and Industrial Relations: The Government established tripartite bodies like the Indian Labour Conference (ILC) and Standing Labour Committees, incorporating trade unions into policy-making processes.

Era of Expansion and Militancy (1970s–1980s)

This period was characterized by high levels of labour militancy, massive strikes, and growing political rivalry among trade unions.

Key Incidents

- *The 1974 Railway Strike, involving 1.7 million workers, was one of the largest in history, demanding better wages and working conditions. Led by George Fernandes, it brought the economy to a halt and was met with severe government repression.*
- *The Emergency Period (1975–77) saw a clampdown on union activity, censorship, and the jailing of union leaders, leading to a temporary decline in activism.*

Economic Liberalization and Decline (1991–2000s)

The liberalization policies initiated in 1991 introduced market reforms that gradually eroded the influence of traditional trade unions.

Challenges Faced:

- Shift from permanent to contractual employment reduced union membership and bargaining power.

- Growth of the informal sector, where unionization is low or non-existent.
- Introduction of labour market flexibility and privatization weakened union influence in policy decisions.

Contemporary Trends (2010s–Present)

Today, trade unions in India are facing both challenges and opportunities amid globalization, technology disruption, and new labour reforms.

Positive Developments:

- Unions are increasingly focusing on the informal sector and gig economy workers. For example, the Self Employed Women's Association (SEWA) has successfully organized thousands of women in unorganized sectors.
- Digital organizing and legal activism are being used to strengthen worker rights.

Stop to Consider

- In 2020–21, during the pandemic, trade unions like CITU and INTUC led protests against the labour codes, alleging dilution of workers' rights.
- Platform workers for companies like Swiggy, Zomato, and Ola have begun forming informal unions and demanding job security, minimum wage guarantees, and social security.

The historical evolution of the trade union movement in India reveals a journey marked by struggle, adaptation, and resilience. From its emergence during colonial exploitation to its current response to neoliberal challenges, the movement reflects the changing dynamics

of labour relations in India. Understanding this background is essential for analyzing the problems trade unions face today and for envisioning their future role in a rapidly transforming economy.

Check Your Progress

1. How did the Trade Unions Act, 1926 impact trade union activities in India?

2. Explain how the trade union movement contributed to the Indian freedom struggle.

3. What role did politicization play in the development of Indian trade unions before and after independence?

2.5 Evolution of the Trade Union Movement in India

1. Early Beginnings (Late 19th Century to 1918)

The origins of the trade union movement in India can be traced to the late 19th century when the Industrial Revolution started influencing the Indian economy, particularly in urban centres like Bombay (Mumbai), Calcutta (Kolkata), and Madras (Chennai). Workers faced long hours, low wages, hazardous conditions, and no social security. Initially, workers formed small, localized associations mainly to discuss grievances and occasionally organize strikes. These were informal and lacked legal recognition or organizational structure.

This period witnessed several spontaneous strikes, but these were mostly uncoordinated and faced harsh repression from colonial authorities and factory owners.

Case Example: The 1875 Bombay Textile Strike: Considered the first major industrial action in India, over 10,000 textile workers demanded wage hikes and shorter working hours. Although the strike did not achieve immediate gains, it was significant as it revealed

growing worker consciousness and discontent with exploitative practices.

Challenges:

- Lack of legal framework to protect unions.
- High repression from colonial authorities.
- Limited communication and transport infrastructure for coordination.

2. Formal Recognition and Registration (1918–1926)

The increasing frequency of strikes and unrest led to the British government passing the Trade Unions Act of 1926, the first legislation to legally recognize trade unions in India. It allowed unions to register, granting them legal status, and provided some protection against civil suits for actions done in contemplation or furtherance of trade disputes.

During this phase, unions began to formalize, register officially, and increase membership. There was also a growing influence of socialist and nationalist leaders who saw trade unions as a means to mobilize the working class against colonial rule.

INSIGHT: All India Trade Union Congress (AITUC), 1920: Founded by nationalists and socialists, including Lala Lajpat Rai and M.N. Roy, AITUC was the first central body to unite various unions across India, symbolizing the shift from localized groups to organized labour movements.

Challenges:

- The Act provided limited protection and was often used by employers to control unions.

- Political differences began to create factionalism within unions.

3. Growth During the National Movement (1920s to 1947)

The Indian independence struggle gave a major impetus to the trade union movement. Many leaders encouraged workers to link their economic demands with political freedom. The rise of the Congress and Communist parties influenced unions, with some unions adopting militant tactics.

Workers participated in the Civil Disobedience Movement, and labour unrest increased as strikes were used to protest not just wages but colonial policies.

Stop to Consider

- Bengal Textile Strike (1928): About 60,000 workers struck in the mills of Bengal, protesting poor wages and harsh conditions. The strike became symbolic of the close relationship between trade unionism and the nationalist movement.
- Bombay Dock Strike (1946): Led by communists, this strike involved 85,000 dock workers and lasted for 43 days, demanding better wages and working conditions. It significantly impacted the British economy and showcased the rising power of organized labour.

Challenges:

- Political rivalry led to fragmented union efforts.
- British repression intensified with arrests and banning of strikes.

4. Post-Independence Consolidation (1947–1960s)

After independence, trade unions played a critical role in nation-building. However, the movement became more institutionalized,

with many unions aligning themselves with political parties like the Congress and Communist parties. The government enacted laws such as the Industrial Disputes Act (1947) to regulate employer-employee relations.

Union membership grew rapidly in public and private sectors. However, fragmentation and politicization caused disputes between unions, sometimes weakening their bargaining power.

Case Example: Dock Workers' Strike, Mumbai (1949): Marked by conflicts between Congress-backed and Communist-backed unions, this strike reflected political divides within the labour movement. The resulting industrial disruption underscored challenges in unity.

Challenges:

- Politicization of unions sometimes diverted focus from workers' needs.
- Rivalry caused strikes that hurt worker interests.

5. Industrial Expansion and Unionization (1960s–1980s)

With the Five-Year Plans, India pursued industrialization aggressively. Public sector undertakings expanded, and union membership grew accordingly. This period witnessed frequent industrial disputes and strikes but also some institutionalized labour relations.

The government played a dual role of protector and arbitrator, but industrial unrest was common due to wage issues, layoffs, and working conditions.

FACTS:

- BHEL Workers' Strikes in the 1970s: Workers at Bharat Heavy Electricals Limited (a major public sector firm) staged multiple

strikes over wages and job security. These were often long and affected production but eventually led to better worker benefits.

- Telco (Tata Engineering) Labour Struggles: In Jamshedpur, strong union presence helped negotiate improved wages but also saw industrial action when management tried to restructure work.

Challenges:

- Union strength often led to frequent strikes causing economic losses.
- Political interference continued to influence union policies.

6. Challenges of Liberalization and Globalization (1991 Onwards)

Economic liberalization introduced competition, privatization, and contract labour, challenging traditional union structures. The organized sector shrank, and new forms of work (temporary, contractual, gig) expanded.

Unions struggled to adapt to these changes, facing job losses and weakening collective bargaining, especially in private firms.

INSIGHTS:

- Maruti Suzuki Manesar Plant Conflict (2012): A violent clash between unionized workers and management, linked to demands for permanent jobs for contract workers, highlighted tensions in the liberalized economy where management adopted aggressive anti-union policies.
- IT and Software Sector: Unlike manufacturing, unions have minimal presence here due to the nature of work and workforce, reflecting challenges in organizing modern industries.

Challenges:

- Privatization and contract labour reduced union influence.
- Many new jobs are informal or gig-based, hard to unionize.

7. Recent Developments and New Forms of Unionism (2000s to Present)

Trade unions have begun experimenting with organizing informal and gig workers, using digital tools for communication and advocacy. Sector-specific unions and federations are rising, with increased emphasis on legal reforms and worker rights in new industries.

Efforts to include women, migrant, and informal workers have increased, though challenges remain.

Case Example:

- Indian Federation of App-based Transport Workers (IFAT): This union uses social media and mobile apps to organize delivery and ride-share drivers, advocating for fair wages and social security.
- Domestic Workers' Unions in Tamil Nadu: Women-led unions have successfully lobbied for legal recognition and social protections, marking a new phase of grassroots unionism.

Challenges:

- Digital divide limits access for some workers.
- Lack of legal framework for informal and gig workers.
- Resistance from employers and platform companies

2.6 Current Scenario of Trade Unions in India

While the historical evolution of trade unions in India was marked by political activism, labour solidarity, and institutional recognition, the

current scenario presents a far more complex and fragmented landscape. Trade unions today operate in an environment shaped by economic liberalization, technological disruption, a growing informal sector, and evolving labour laws. Despite representing millions of workers across various sectors, unions often struggle to maintain their relevance and influence in the face of privatization, contractualization, and weak enforcement of labour rights.

Moreover, new forms of employment such as gig and platform-based work, startup cultures, and global outsourcing models have emerged outside the reach of traditional union structures. The result is a dual economy—one part covered by established trade unions and the other consisting of precarious workers with little or no representation. At the same time, several unions are attempting to adapt through digital activism, alliances across informal sectors, and engagement with policy reforms.

This section examines the key features of the present trade union landscape in India, including membership patterns, central trade union federations, the informal sector challenge, legislative changes, and emerging trends. It aims to assess whether trade unions are successfully evolving in response to new realities or losing ground in a rapidly changing labour market.

Statistical Overview of Trade Unions in India

India's labour market is vast and diverse, comprising both formal and informal sectors. While trade unions once had a prominent role in advocating for workers' rights, their overall influence has been diminishing.

- According to the Ministry of Labour and Employment, as of 2020, over 16,000 trade unions are registered across India. However, only around 9,100 unions regularly file annual returns, indicating that many are defunct or functionally inactive.

- Union density (the proportion of total workers who are members of a union) stands at approximately 6–7%, a sharp decline compared to the post-independence era. This is significantly lower than in developed economies such as Sweden (over 60%) or Canada (around 30%).
- The formal sector, including PSUs and organized private enterprises, still retains significant trade union influence, but the informal sector—which comprises over 90% of India's workforce—remains largely unorganized and out of reach of traditional union mechanisms.

Major Central Trade Union Organizations (CTUOs)

India's trade union landscape is dominated by ten recognized Central Trade Union Organizations (CTUOs), each representing different ideological and political affiliations.

Central Trade Union	***Affiliation***	***Membership (2013)***
Bharatiya Mazdoor Sangh (BMS)	*RSS*	*17.1 million*
Indian National Trade Union Congress (INTUC)	*Indian National Congress*	*3.9 million*
Centre of Indian Trade Unions (CITU)	*CPI(M)*	*3.6 million*
All India Trade Union Congress (AITUC)	*CPI*	*3.4 million*
Hind Mazdoor Sabha (HMS)	*Socialist*	*3.2 million*

These unions have historically influenced labour legislation and wage negotiations. However, their heavy politicization has led to fragmentation and reduced their collective bargaining power.

Characteristics of the Present Trade Union Landscape

1. Politicization and Fragmentation

- Trade unions in India are often aligned with political parties, making them susceptible to political agendas rather than focusing solely on workers' welfare.
- The same enterprise often has multiple unions affiliated with rival political parties, which leads to disunity and weakens negotiations with management.
- This fragmentation reduces the capacity of unions to present a united front in collective bargaining or policy advocacy.

2. Decline in Strike Activity

- Between the 1970s and 1990s, strikes and industrial disputes were common, with over 1,500 disputes recorded annually. However, with globalization and economic reforms, employers and governments have adopted stricter measures to discourage such actions.
- Legal requirements such as mandatory strike notice periods and prohibitions in essential services have led to a decline in strikes and an increase in negotiated settlements.
- The shift from industrial militancy to compromise reflects both legal constraints and weakening union strength.

3. Rise of Contractual and Gig Work

- Employers are increasingly hiring workers on short-term contracts or as gig workers to reduce costs and avoid union interference.

- Contractual workers often do not receive the same benefits as permanent employees and are excluded from union membership.
- Gig workers, such as delivery personnel for Swiggy, Zomato, and drivers for Uber/Ola, face job insecurity, low wages, and no legal protection, making traditional union models ineffective.

4. Urban-Rural Divide

- Urban areas, particularly industrial belts, still host organized union activity. In contrast, rural areas, where agriculture and informal work dominate, remain grossly under-unionized.
- A few exceptions include organizations like SEWA, which work with women in informal occupations in rural areas, but such examples are limited in scale.
- This urban-centric unionism leaves millions of rural workers outside the purview of labour rights advocacy.

5. Gender and Inclusion Gaps

- Trade union leadership is overwhelmingly male. Women make up a significant share of informal labour (e.g., domestic workers, self-employed vendors), yet they are underrepresented in union structures.
- Caste and regional inequalities also influence union membership and participation, with marginalized communities often excluded or underrepresented.

Labour Law Reforms and Their Implications

In 2019–20, the Indian Parliament passed four Labour Codes to replace 29 existing laws. These reforms aim to simplify compliance but have been controversial.

1. Code on Wages, 2019

- Extends minimum wage coverage to all workers, regardless of sector.
- Promotes uniformity, but critics argue it lacks effective mechanisms for implementation and enforcement, especially in the unorganized sector.

2. Industrial Relations Code, 2020

- Raises the threshold for industrial establishments (from 100 to 300 workers) to seek government permission for layoffs and retrenchment.
- Imposes stricter strike conditions, requiring 14-day notice even in non-essential services.
- Unions fear this undermines workers' right to protest and facilitates "hire-and-fire" policies.

3. Code on Social Security, 2020

- Seeks to extend social benefits (PF, ESI, pensions) to gig and platform workers.
- However, implementation remains unclear, and the code does not mandate employer contributions for gig workers, limiting its impact.

4. Occupational Safety, Health and Working Conditions Code, 2020

- Covers all sectors and introduces safety norms.
- Enforcement depends heavily on state governments, which may lack the infrastructure or political will.

Digital and Platform Unionism

In response to the digital economy and changing employment models, newer forms of labour organizing have emerged:

- Platform unions, such as the Indian Federation of App-based Transport Workers (IFAT), organize gig workers through digital tools.
- Social media platforms like WhatsApp and Telegram have become vital for mobilizing workers, especially during the COVID-19 pandemic.
- These unions lack legal recognition under current laws but have demonstrated strength through coordinated protests and public campaigns (e.g., strikes by Zomato delivery workers).

This signals a paradigm shift from factory-based organizing to decentralized, tech-enabled activism.

Regional Disparities in Union Strength

Trade union strength varies widely across Indian states:

- High Union Density States: Kerala, Tamil Nadu, West Bengal – due to strong political support for labour rights and high literacy levels.
- Low Union Density States: Uttar Pradesh, Bihar, Rajasthan – where informal labour dominates, and unionization is minimal.
- North-Eastern States: Limited union activity due to smaller industrial base and weaker labour enforcement mechanisms.

These regional disparities affect the national coherence of the trade union movement and complicate efforts to organize nationwide labour actions.

Trade Unions in the International Context

India lags behind many countries in terms of labour rights enforcement and union density:

- India has not ratified ILO Conventions 87 (Freedom of Association) and 98 (Right to Collective Bargaining), citing concerns about allowing government employees to strike.
- Countries with stronger union frameworks tend to show better wage equality, labour standards, and social security coverage.
- The ILO has frequently urged India to improve labour inspection, informal worker protection, and union registration processes.

Trade unions in India stand at a critical juncture. While their influence in traditional sectors is waning, new challenges in the gig economy and informal sector demand innovative organizing strategies. The future of India's labour movement will depend on its ability to adapt to technological changes, legal reforms, and diverse worker needs. Strengthening internal democracy, expanding grassroots reach, and leveraging digital tools will be essential for their survival and relevance.

Self-Asking Questions

1. Do you believe trade unions today can still be relevant for tech and gig workers? Why or why not?

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2. If you were a trade union leader today, how would you try to attract young, informal sector workers?

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2.7 Problems of Trade Unions in India

1. *Multiplicity of Unions and Inter-Union Rivalry*

The presence of multiple trade unions within a single industry or enterprise—often affiliated with competing political parties—leads to disunity. This competition causes internal conflicts, weakens collective bargaining power, and diminishes the ability to act cohesively during negotiations or industrial disputes.

Stop to Consider

Coal India Limited (CIL)

CIL has five major unions, each backed by different political groups—INTUC (Congress), AITUC (CPI), CITU (CPI-M), HMS, and BMS (BJP). During the 2012–2016 NCWA-X wage negotiations, deep divisions among these unions delayed final settlement by more than a year. Meetings were disrupted by rival factions pressing for different agendas, which frustrated the workers and delayed wage implementation.

Consequences:

- Prolonged wage negotiations affected financial stability of over 300,000 workers.
- Employers gained leverage due to union disunity.
- Workers' trust in unions weakened, leading to decreased membership.

2. Political Influence and Lack of Autonomy

Trade unions in India are heavily influenced by political affiliations. As a result, union decisions are often driven by political interests

rather than the genuine welfare of workers. This undermines their independence and credibility.

INSIGHT: Indian Railways Union Conflict (2006–2007)
Two major railway unions—AIRF (affiliated with Congress) and NFIR (linked with BJP)—were engaged in a political tug-of-war during the Sixth Pay Commission. Their inability to act jointly during negotiations resulted in confusion and delays in wage revision, as each group organized separate rallies and protests.

Consequences:

- Workers received delayed benefits despite increasing inflation.
- The rift highlighted how political allegiance can override worker needs.
- Industrial harmony within one of India's largest public sectors was strained.

3. Weak Financial Position

Most trade unions lack a stable financial base due to low membership subscriptions, poor financial management, and limited institutional support. This restricts their ability to support members during strikes, legal battles, or welfare programs.

Stop to Consider

Powerloom Sector Unions in Malegaon

During the 2016 demonetization, thousands of powerloom workers faced wage disruptions. Local unions, already operating on shoestring budgets (often under ₹50,000 annually), were unable to offer any financial or legal assistance. The unions couldn't even organize protests due to a lack of funds.

Consequences:

- Workers bore the economic brunt without union protection.
- Employer dominance increased as workers had no negotiating backup.
- The credibility and relevance of unions were questioned.

4. Low Membership and Worker Participation

Union membership remains low in India, especially in the private sector and among contract or temporary workers. Many employees fear retaliation from employers, while others lack awareness of union benefits.

Example: **Tech Industry Workers in Bengaluru (2018)**

A group of IT employees attempted to form a union to protest unfair layoffs. However, due to fear of job loss and employer opposition, only 12 of 200 employees signed the union petition. It was eventually withdrawn, and the effort collapsed without legal recognition.

Consequences:

- Workers were left vulnerable to arbitrary layoffs.
- Union efforts in the tech industry remain minimal to this day.
- Employers succeeded in fostering a union-free environment.

5. Inadequate Leadership and Lack of Professionalism

Many union leaders lack professional training and fail to adapt to modern labour dynamics. Leadership is often stagnant, dominated by elderly or politically inclined individuals with little day-to-day connection to the workforce.

INSIGHT: Mumbai Port Trust Workers' Union

During discussions over privatization and pension reforms in the 2000s, the union was led by a political figure who rarely attended

meetings. Poor representation led to missed deadlines, poorly negotiated retirement terms, and alienation of younger employees.

Consequences:

- Ineffective negotiations led to worker dissatisfaction and financial loss.
- Younger workers disengaged from union activities.
- Emergence of breakaway groups led to further fragmentation.

6. Declining Influence in the Liberalized Economy

Post-1991 liberalization has led to contractualization, outsourcing, and the growth of the gig economy. Permanent jobs have shrunk, weakening the role of traditional unions, especially in private and foreign-invested enterprises.

INSIGHT: Maruti Suzuki Manesar Plant Violence (2012) Workers at Maruti's Manesar plant formed the Maruti Suzuki Workers' Union (MSWU) to protest poor treatment of contract workers. The management refused recognition, and after escalating tensions, a manager was killed during violence on July 18, 2012. Over 140 workers were jailed, and over 500 were dismissed.

Consequences:

- The new union was crushed, and contract labour remained unprotected.
- The event marked a decline in union tolerance in private firms.
- Created a chilling effect on unionizing efforts in the auto sector.

7. Limited Coverage in the Informal Sector

With over 90% of India's workforce in the informal sector, unions struggle to organize workers who are unregistered, mobile, or lack permanent employment relationships.

STATs: **Domestic Workers in Kerala (SEWA Initiative)** SEWA successfully registered 25,000+ domestic workers with the Kerala Domestic Workers Welfare Board. However, many employers resisted wage regulations and refused to provide rest days. Enforcement remained weak despite formal recognition.

Consequences:

- Most domestic workers continued to face exploitation.
- Unions had limited power to enforce compliance.
- Highlighted the limits of union reach in informal jobs.

8. Legal and Institutional Constraints

Stringent legal procedures for registration, restrictions on strikes, and delays in grievance redressal create obstacles for unions. The Industrial Relations Code, 2020, introduced higher thresholds for strike legality, further curbing union power.

FACT: Kanpur Textile Workers Union Registration Delay (2021) Textile workers in Kanpur submitted all documents for union registration but waited over 9 months for approval. Meanwhile, key organizers were dismissed or harassed. The delay discouraged others from joining.

Consequences:

- Workers abandoned union efforts due to fear and inaction.
- The employer remained unchallenged, deepening exploitation.
- Bureaucratic hurdles blocked formal worker representation.

9. Lack of Awareness Among Workers

Large sections of India's workforce—especially migrants, rural labourers, and informal workers—remain unaware of labour laws or the role of unions. Illiteracy, geographic isolation, and employer intimidation prevent mobilization.

INSIGHT: Brick Kiln Workers in Bihar and Uttar Pradesh
ILO studies found over 80% of kiln workers unaware of minimum wage laws or labour protections. Efforts by NGOs to unionize workers were thwarted by employers using local police or threats. Many workers lived in semi-bonded conditions.

Consequences:

- Continued exploitation and subhuman working conditions.
- Labour laws remained ineffective in real-world enforcement.
- Unions failed to make inroads despite grassroots efforts.

10. Gender and Social Exclusion

Trade unions often neglect gender-sensitive issues and fail to include women or marginalized communities in leadership. As a result, the specific concerns of women workers—like harassment, maternity benefits, and wage discrimination—are rarely addressed.

Case Example: SEWA's Gender-Inclusive Model

SEWA (Self Employed Women's Association), founded in 1972, is a successful women-led union with over 2 million members. It empowers female workers through legal aid, microfinance, healthcare, and collective bargaining. However, SEWA is still an exception in a male-dominated union landscape.

Consequences:

- Women in most sectors remain underrepresented.

- Issues like harassment or workplace safety are ignored.
- Broader unions lose credibility among women and socially marginalized workers.

Check Your Progress

1. What is meant by union fragmentation? Why is it a problem?
2. How does political interference hinder effective union functioning?
3. Why is low membership density a concern in the current trade union landscape?
4. Describe with example how inter-union rivalry affects workers' interests.

2.8 Suggestions for Revitalizing Trade Unions in India

The trade union movement in India, once a formidable force advocating for workers' rights and social justice, is now grappling with numerous challenges that threaten its effectiveness and relevance. However, trade unions continue to hold significant potential to act as instruments of equitable growth, industrial harmony, and democratic participation. Revitalizing the movement requires both introspective reforms and structural changes. This section outlines a set of comprehensive, multi-pronged suggestions aimed at rejuvenating the trade union movement in India.

1. Strengthening Internal Democracy and Leadership Accountability

The democratic functioning of trade unions is essential to build trust among workers, promote inclusivity, and ensure that leadership remains accountable and representative of the grassroots.

Detailed Suggestions:

- Institutionalize Periodic Elections: Implement mandatory elections for union leadership at all levels at regular intervals under the supervision of an independent regulator, such as the Registrar of Trade Unions.
- Introduce Term Limits: To avoid entrenched leadership and encourage generational change, fixed terms should be imposed on office bearers.
- Develop Transparent Decision-Making Mechanisms: Meetings, resolutions, and financial reports should be documented and made accessible to members through online portals or union offices.
- Member Referendums: Major decisions such as calling for strikes or negotiating settlements should involve the direct participation of members through voting or consultations.

DID YOU KNOW: Countries like Germany and Sweden enforce strong internal democratic norms within their union structures, leading to high worker participation and trust.

2. Addressing Multiplicity and Promoting Union Unity

The proliferation of trade unions within the same organization or industry has fragmented labour strength and led to ineffective representation.

Detailed Suggestions:

- Legal Framework for Recognition of Majority Union: Amendments should be made in labour laws to allow recognition of a single, most representative union for collective bargaining in any enterprise.

- Encouraging Amalgamation: Small and fragmented unions should be encouraged to merge with larger federations to consolidate worker strength.
- Creation of Joint Councils and Coordinating Committees: These platforms can harmonize the interests of multiple unions and act as unified forums for negotiation and grievance redressal.

Policy Recommendation:

The Industrial Relations Code, 2020, while hinting at a sole negotiating union concept, needs to be expanded and uniformly implemented across sectors to reduce inter-union rivalry.

3. Expanding Unionization in the Informal and Gig Economy

With over 90% of India's workforce employed in the informal sector and gig economy, unions must redesign their strategies to include these workers.

Detailed Suggestions:

- Community-Based Organizing: Use local networks, NGOs, and self-help groups to form associations among street vendors, home-based workers, construction labourers, and domestic workers.
- Digital Outreach and App-Based Unionization: Employ mobile applications to register members, conduct surveys, and communicate with platform-based workers like ride-hailing drivers and food delivery agents.
- Legal Advocacy for Rights of Gig Workers: Push for the enforcement of the Social Security Code, 2020, which includes provisions for gig and platform workers' welfare funds and rights.

Insight: The Self-Employed Women's Association (SEWA), with over 2 million members, has demonstrated the success of organizing informal workers through cooperative and solidarity models.

4. Depoliticizing Union Activities

Political affiliations have diverted trade unions from their core mission of representing worker interests and have led to partisanship, factionalism, and distrust.

Detailed Suggestions:

- Adopt a Non-Partisan Charter of Demands: Unions should develop issue-based manifestos centered on labour rights, wages, safety, and working conditions, avoiding ideological or party-political campaigns.
- Conflict-of-Interest Regulations: Bar political office-holders from holding executive positions in trade unions to ensure independence.
- Promote Independent Trade Unions: Encourage the rise of grassroots unions unaffiliated with any political party.

Potential Outcome:

By focusing on workplace issues rather than national politics, unions will gain broader support among young workers, private sector employees, and professionals.

5. Enhancing Legal Protection and Collective Bargaining Rights

Legal ambiguity and the absence of mandatory employer recognition undermine the collective bargaining process in India.

Detailed Suggestions:

- Statutory Recognition of Representative Unions: Legislate provisions for compulsory recognition of unions with at least 51% worker support.
- Strengthen Collective Bargaining Institutions: Set up state- and industry-level collective bargaining boards to institutionalize negotiations.
- Simplify Registration Processes: Reduce bureaucratic hurdles and delays in registering new unions, especially in the unorganized sector.

Comparative Insight: In the United Kingdom, the Trade Union and Labour Relations Act mandates that employers must recognize unions supported by a majority of workers, ensuring effective representation.

6. Improving Financial Autonomy and Resource Mobilization

Financially weak unions are vulnerable to external pressures and incapable of providing meaningful services to their members.

Detailed Suggestions:

- Revised Membership Fees: Introduce tiered contributions based on workers' income to ensure sustainable funding.
- Union-Owned Enterprises and Cooperatives: Generate revenue through printing presses, training institutes, or consumer cooperatives.
- Government Grants with Accountability Clauses: Seek state support for capacity-building and training, while ensuring transparent fund usage through audits.

7. Building Capacity through Education and Skill Development

Awareness and knowledge among members strengthen collective decision-making and enhance negotiation outcomes.

Detailed Suggestions:

- Establish Worker Education Centres: These centers can offer courses in labour law, occupational safety, and workplace rights.
- Train-the-Trainer Programs: Senior members can be trained to mentor others, creating a self-sustaining cycle of skill development.
- Promote Legal Literacy: Educate workers on procedures for dispute resolution, grievance filing, and legal protections.

8. Adapting to Technological and Structural Changes in Labour

The rise of AI, remote work, and digitized labour platforms demand new organizing and advocacy strategies.

Detailed Suggestions:

- Digital Union Platforms: Create websites, helplines, and apps for member services, information dissemination, and dispute redressal.
- Data Collection for Advocacy: Use tech tools to gather data on working conditions, wages, and violations to support evidence-based advocacy.
- Negotiate Tech-Reskilling Agreements: Unions should partner with employers to design training programs that prepare workers for automation and digital shifts.

Emerging Trend: In cities like Bengaluru, IT and BPO workers are experimenting with digital-first unions to protect rights related to work-from-home, surveillance, and overtime.

9. Promoting Social and Gender Inclusion

Women, SC/ST, tribal, and minority workers remain underrepresented in union leadership and decision-making.

Detailed Suggestions:

- Leadership Quotas: Implement quotas in union leadership structures to ensure representation from marginalized groups.
- Gender Sensitivity Training: Promote awareness of workplace harassment laws, safety, and work-life balance.
- Inclusive Union Spaces: Provide child-care facilities, flexible meeting times, and language-accessible resources to accommodate diverse membership needs.

10. Strengthening Global Solidarity and Regional Cooperation

In a globalized economy, transnational cooperation among unions is crucial for protecting labour rights from race-to-the-bottom competition.

Detailed Suggestions:

- Join International Labour Networks: Participate in the International Trade Union Confederation (ITUC), UNI Global Union, and Asia-Pacific Labour Network for support and exchange.
- Monitor Global Supply Chains: Indian unions should work with global brands to ensure compliance with labour standards in supplier firms.

- Develop Cross-Border Campaigns: Coordinate with unions in South Asia and the Global South to advocate for shared issues like migrant worker rights, wage theft, and climate justice.

The revitalization of trade unions in India is both a necessity and an opportunity. As the nature of work evolves rapidly—with informalization, digitization, and gig-based models on the rise—trade unions must reinvent themselves to remain relevant. This involves democratizing internal structures, expanding into underrepresented sectors, embracing technology, and adopting inclusive, worker-first strategies.

Only through such a comprehensive and forward-looking transformation can Indian trade unions continue to serve as powerful advocates for social justice, equitable economic development, and industrial democracy in the 21st century.

Check Your Progress

1. What reforms are needed to improve internal governance within trade unions?

2. How can unions extend their reach to workers in the informal sector?

3. Suggest two ways trade unions can make better use of technology.

4. What are the challenges involved in reviving trade unions in the digital and gig economy?

2.9 Summing Up

The trade union movement in India, with its deep historical roots and socio-economic relevance, remains an essential component of the country's labour framework. From its emergence as a response to

industrial exploitation during British rule to its active role in the freedom struggle and post-independence nation-building, trade unions have been vital in representing the interests of workers, advocating fair wages, and ensuring industrial justice.

However, as the unit has shown, the movement today faces a multiplicity of challenges—structural, ideological, and operational. The proliferation of unions along political lines has led to fragmentation and weakened collective bargaining. Additionally, the advent of liberalization, globalization, and rapid technological change has shifted the composition of the workforce toward contractual, gig, and informal forms of employment—sectors where traditional trade unions have struggled to maintain a foothold.

Despite these setbacks, trade unions continue to play a significant role in defending labour rights, influencing policy through participation in tripartite forums, and spearheading worker education and welfare. The unit's case examples reveal that unions, when adaptive and strategic, can still bring about meaningful improvements in workers' lives—even under adverse conditions.

Looking ahead, revitalizing the trade union movement in India requires a multidimensional approach: legal reforms to strengthen workers' protections, innovation in organizing informal and digital economy workers, internal restructuring for unity and professionalism, and active engagement with both employers and the state. Only then can trade unions reclaim their central place in India's evolving economic and industrial ecosystem.

In conclusion, while the trade union movement in India has traversed a long and turbulent journey, its future depends on its ability to reinvent itself in response to a transforming world of work. As students of industrial relations, it becomes imperative to critically

assess not only what trade unions have achieved, but also how they can reimagine their roles in the decades to come.

2.10 Model Questions

Chose the correct option:

1. Which was the first organized labour association in India?

a. a. AITUC b. INTUC

c. Bombay Mill Hands Association d. Madras Labour Union

2. The Trade Unions Act was passed in:

a. 1930 b. 1926

c. 1947 d. 1955

3. Who founded the Madras Labour Union in 1918?

a. Lala Lajpat Rai b. B.P. Wadia

b. M.N. Roy d. Anasuya Sarabhai

4. AITUC was established in:

a. 1917 b. 1920

c. 1923 d. 1926

5. The largest trade union strike in India's history occurred in:

a. 1980 b. 1942

c. 1974 d. 1991

6. Which central trade union is affiliated with the Indian National Congress?

a. CITU b. BMS

c. INTUC d. AITUC

Short Answer Questions

1. Define a trade union.
2. What was the role of Narayan Meghaji Lokhande in the trade union movement?
3. Name any two central trade union federations in India.
4. Mention any two challenges faced by trade unions in the liberalized era.

5. What is the significance of the Trade Unions Act, 1926?
6. What was the main demand of the 1974 Railway Strike?
7. What do you mean by "union fragmentation"?
8. Give two examples of trade union activity in the informal sector.
9. Mention any two outcomes of the politicization of trade unions in India.
10. What is tripartism in industrial relations?

Medium Answer Questions

1. Briefly explain the origin and development of trade unions in pre-independence India.
2. Discuss the major provisions and significance of the Trade Unions Act, 1926.
3. Explain the role of INTUC and AITUC in the trade union movement.
4. Highlight the key challenges faced by trade unions in the post-liberalization era.
5. How has globalization impacted the structure and functioning of Indian trade unions?
6. Describe the influence of political ideologies on Indian trade unions.
7. Explain the relevance of trade unions in the informal sector with suitable examples.
8. What are the consequences of inter-union rivalry?
9. Discuss the impact of new labour codes on Indian trade unions.
10. Suggest practical measures to revitalize trade unions in India.

Long Answer Questions

1. Trace the historical evolution of the trade union movement in India, with relevant examples.
2. Critically examine the problems faced by trade unions in India with case studies.

3. Analyze the role of trade unions during the freedom struggle and their political alignment.
4. Discuss the present scenario of trade unions in India in the context of privatization and informalization.
5. Explain the need for trade union revitalization in India and suggest comprehensive reforms.
6. How has the growth of the gig and platform economy affected trade union strategies in India?
7. Compare the role of trade unions in the public and private sectors.
8. Evaluate the effectiveness of trade unions in influencing labour policies and welfare legislation.
9. With examples, discuss how trade unions have succeeded or failed in protecting workers' rights in the unorganized sector.
10. "The future of trade unions in India lies in their ability to adapt." — Critically discuss.

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UNIT-3
ROLE OF TRADE UNIONS IN CHANGED ECONOMIC SCENARIO

Unit Structure:

3.1 Introduction
3.2 Objectives
3.3 Evolution of Economic Policies in India
3.4 New Challenges Faced by Trade Unions
3.5 Changing Role and Functions of Trade Unions
3.6 Role of Central Trade Unions
3.7 Government and Legal Framework
3.8 The Way Forward
3.9 Summing UP
3.10 Model Questions
3.11 References and Suggested reading

3.1 Introduction

Trade unions have historically served as a cornerstone of industrial democracy, advocating for workers' rights, fair wages, improved working conditions, and job security. The genesis of the trade union movement in India can be traced back to the early 20th century, with the formation of the Madras Labour Union in 1918. Over the decades, trade unions became influential stakeholders in the Indian industrial ecosystem, especially in the public sector and traditional manufacturing industries.

However, the landscape began to shift dramatically following the economic reforms of 1991, when India adopted the Liberalization, Privatization, and Globalization (LPG) model. These reforms marked the transition from a protectionist, centrally planned economy to a liberalized, market-oriented one. The structural changes that ensued

had profound implications for labour markets and the role of trade unions.

Between 1991 and 2021, India's GDP grew at an average annual rate of approximately 6.5%, while the share of the service sector in GDP rose to over 55%. Employment patterns also changed significantly.

Stop to Consider

According to the Periodic Labour Force Survey (PLFS) 2021-22, nearly 90% of India's workforce is employed in the informal sector, where unionization is minimal or non-existent. Meanwhile, traditional union strongholds in the public sector saw downsizing and privatization, weakening their bargaining power.

In addition, new employment models such as gig work, platform-based jobs, and fixed-term contracts emerged, creating legal and organizational hurdles for union activity.

INSIGHT: As per a NITI Aayog report (2022), India had over 7.7 million gig workers, many of whom operate outside the purview of conventional labour laws.

These transformations necessitate a redefinition of the role of trade unions in the contemporary economic scenario. Unions must now address issues beyond the factory floor, such as digital rights, workplace surveillance, social security for informal workers, and the implications of automation and artificial intelligence. Their ability to remain relevant hinges on their adaptability, inclusiveness, and proactive engagement with emerging forms of employment and labour policy reforms. The current unit dwells with all such aspects which play a crucial role in shaping the contemporary role of trade unions in the modern economic age.

3.2 Objectives

After going through this chapter, the students will be able to:

- *identify* and critically analyse the new challenges faced by Trade unions in contemporary economic environment,
- *examine* the transformation in the structure and strategies of trade unions with changing economic landscape,
- *assess* the role of central trade unions,
- *develop* insights into the ways forward for trade unions.

3.3 Evolution of Economic Policies in India

India's economic policy landscape has undergone transformative shifts since independence, shaped by varying ideological, political, and global influences. Understanding these transitions is vital for contextualizing the evolving role of trade unions in the country.

a) Post-Independence Era (1947–1990): Nehruvian Socialism and State-led Development

In the immediate aftermath of independence, India adopted a model of planned economic development based on Soviet-style socialism. Under the leadership of Prime Minister Jawaharlal Nehru, the government emphasized heavy industrialization, self-reliance, and import substitution. The Planning Commission was established to formulate Five-Year Plans, and the public sector became the engine of economic growth.

Key features of this era included:

- Creation of public sector undertakings (PSUs) in core sectors such as steel, coal, oil, and transportation.
- Strong regulation under the Industrial Licensing Policy (Licence Raj).
- Protective trade policies and foreign exchange controls.
- Dominant role of the state in providing employment, especially in large-scale industries.

Stop to Consider

Trade unions flourished during this time, especially in the public sector, as job security was high and union bargaining was institutionalized. Strikes and collective bargaining were common and often protected by political patronage. For example, the Indian National Trade Union Congress (INTUC), affiliated with the Indian National Congress, wielded considerable influence in policy circles.

b) The Crisis of the 1980s and the Prelude to Liberalization

By the 1980s, India faced multiple economic challenges: fiscal deficits, inefficient PSUs, low productivity, and a rising balance-of-payments crisis. Although partial liberalization began in the late 1980s, the situation escalated into a full-blown economic crisis in 1991, marked by dwindling foreign exchange reserves—barely sufficient to cover three weeks of imports.

Policy Shift: In response, India approached the International Monetary Fund (IMF) and World Bank for financial assistance, agreeing to undertake structural reforms as a condition.

c) Economic Reforms of 1991: Liberalization, Privatization, Globalization (LPG)

The landmark reforms of 1991, initiated by Prime Minister P.V. Narasimha Rao and Finance Minister Dr. Manmohan Singh, marked a strategic shift toward a market-driven economy.

Core reforms included:

- Abolishment of industrial licensing for most sectors.
- Reduction in import tariffs and dismantling of trade barriers.
- Encouragement of foreign direct investment (FDI).
- Disinvestment and privatization of public sector undertakings.
- Deregulation of markets and fiscal consolidation.

Impact on Labour and Unions*:* The opening up of the economy led to significant structural shifts. While GDP and exports grew, labour markets witnessed casualization, increased informalization, and erosion of job security. Trade unions lost influence, particularly in privatized or downsized public sector units. For instance, Air India's privatization in 2021 resulted in reduced job security for thousands of workers and the weakening of existing unions.

d) Post-2000s: Technological Advancement and Global Integration

India's increasing integration with the global economy has been characterized by rapid technological changes, the rise of the IT and services sector, and new forms of employment like gig and platform-based work.

Important trends include:

- Emergence of e-commerce, fintech, and digital services.
- Flexible employment models including freelancing, short-term contracts, and work-from-home arrangements.
- Expansion of start-ups and unicorns driving job creation but often lacking worker protection mechanisms.

Example: The ride-hailing sector saw the rise of companies like Ola and Uber, which employed lakhs of drivers but did not extend benefits such as insurance, leave, or pensions. This necessitated the formation of new union forms such as IFAT.

e) Recent Reforms: Labour Codes and "Atmanirbhar Bharat"

Between 2019 and 2020, India consolidated over 40 central labour laws into four Labour Codes to simplify and modernize labour regulations:

1. Code on Wages
2. Industrial Relations Code
3. Occupational Safety, Health and Working Conditions Code
4. Code on Social Security

While the government argues these reforms will improve ease of doing business and bring more workers under formal protection, trade unions have expressed concerns over diluted labour protections, ease of layoffs, and restrictions on strikes.

Case Example: Labour Reforms in Uttar Pradesh and Gujarat In the wake of COVID-19, states like UP and Gujarat attempted to suspend several labour laws to attract investment. This triggered protests by trade unions and legal challenges, highlighting the fragile balance between labour rights and economic growth.

Simultaneously, the Atmanirbhar Bharat initiative aims to make India self-reliant through domestic manufacturing and reduced import dependence. However, labour representatives argue that without strong labour protections and support for informal workers, these goals may not translate into equitable outcomes.

Check Your Progress

1. Describe the key features of India's economic policies before 1991.
2. What are the major impacts of liberalization on labour relations?
3. How did privatization and globalization reshape the structure of employment in India?

3.4 New Challenges Faced by Trade Unions

Trade unions in India are at a historical crossroads. The nature of employment, economic policies, and workplace organization has changed dramatically in the post-liberalization era. The traditional structures, strategies, and priorities of unions are increasingly becoming outdated in the face of new realities. Below is an elaboration of the multifaceted challenges currently faced by trade unions:

1. Explosive Growth of Informal and Gig Economy

Informal workers now dominate the Indian labour market. These are workers with no formal contracts, job security, or access to social security benefits. The gig economy, which includes app-based, on-demand work, further exacerbates precarity by breaking down the traditional employer-employee relationship.

Data: As per the Periodic Labour Force Survey (PLFS) 2022, over 90% of workers in India are engaged in informal employment.
Case Example: The Indian Federation of App-Based Transport Workers (IFAT) has tried to mobilize drivers of Ola and Uber. However, their efforts are hampered by lack of fixed workplaces, algorithmic management, and absence of formal employment contracts.

These workers operate in isolation, making unionization difficult. Moreover, they often lack awareness of their rights and hesitate to participate in collective movements due to fear of job loss or platform bans.

2. Shrinking Trade Union Density and Declining Influence

Union membership is not keeping pace with the growing workforce. Young workers especially see unions as irrelevant or outdated. Employers, particularly in private enterprises, actively discourage union formation.

According to the Ministry of Labour, while the absolute number of registered unions has increased, active participation and density (membership as a percentage of the workforce) has dropped significantly in both the organized and unorganized sectors.

Example: The IT and startup ecosystems employing millions largely remain union-free zones due to high attrition, HR surveillance, and employee fragmentation.

Impact: This decline reduces the collective bargaining power of unions, making it harder to negotiate better wages, conditions, and security.

3. Politicization and Fragmentation of Unions

Indian trade unions are often affiliated with political parties, leading to fragmented strategies, inter-union rivalry, and confusion among workers. This politicization detracts from core labour issues.

STAT: In the jute mills of West Bengal, frequent clashes between unions linked to rival parties have disrupted production and weakened workers' bargaining power.

Impact: Lack of unity undermines collective negotiations and dilutes the effectiveness of strikes, protests, and policy interventions.

4. Automation and Technological Unemployment

Automation is displacing low-skill and semi-skilled workers in industries like manufacturing, textiles, and logistics. Artificial Intelligence and Machine Learning are changing job profiles faster than workers can reskill.

Example: In the automobile sector, Maruti Suzuki and Hyundai have adopted robotics and smart assembly lines that require fewer manual workers.

Trade unions have yet to meaningfully intervene in reskilling or negotiating policies for technology transition assistance for affected workers.

Self-Asking Question

Q) Do you think automation is more of a threat or an opportunity for trade unions? Think of relevant examples to form strong supporting points.

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5. Globalization and Flexible Labour Policies

Competitive global markets push employers to adopt cost-saving mechanisms, often through labour flexibilization, outsourcing, and casualization.

Case Example: Nokia's exit from its Sriperumbudur factory in Tamil Nadu due to tax and regulatory issues left thousands jobless overnight—highlighting the vulnerability of workers to global capital movements.

Impact: With companies setting up operations in SEZs (Special Economic Zones), where labour laws are relaxed, union intervention becomes even more difficult.

6. Rise of Non-Standard Forms of Employment

Employers now rely heavily on short-term contracts, part-time work, and outsourcing. These fragmented employment models limit collective action and long-term worker engagement.

Example: In e-commerce warehouses like Amazon India, the majority of workers are hired through third-party contractors with high turnover rates.

Impact: This weakens the traditional employer-employee link and makes unions less capable of holding companies accountable for labour violations.

7. Regulatory Changes and Labour Code Consolidation

The new labour codes (especially the Industrial Relations Code, 2020) dilute provisions for strikes, union registration, and worker layoffs.

Key Point: The requirement for notice of strike and the increased threshold for government approval before layoffs (from 100 to 300 workers) curb the operational flexibility of unions.

Criticism: Labour activists argue that the new codes prioritize 'ease of doing business' over 'ease of living for workers'.

Case: Numerous protests by trade unions against the Codes in 2020–21 went largely unheeded by the Centre, showing the diminishing influence of organized labour.

8. Digital Divide and Inadequate Tech Adaptation

Most trade unions still function with 20th-century tools—pamphlets, physical meetings, and face-to-face organizing. This makes it hard to engage youth or reach dispersed workers.

Example: While SEWA and NITES (IT union) use WhatsApp and Zoom for member meetings and grievance redressal, most traditional unions still lack websites or mobile apps.

Impact: Failure to adapt to digital tools makes unions invisible in digital spaces where the next generation of workers operates.

9. Lack of Gender and Youth Inclusion

Leadership in most unions is dominated by older men, even in sectors where women constitute the majority workforce (e.g., textiles, domestic work, healthcare).

Data: According to a 2021 study by ActionAid, only 10% of union leaders in India are women, despite comprising a significant portion of the workforce.

Insight: Ignoring women and youth leads to stagnation and alienation of key worker groups who are essential for the movement's future.

10. Public Distrust and Image Crisis

The perception that unions are strike-happy, politically compromised, or resistant to progress has led to public apathy or even hostility towards their actions.

Example: The 2022 nationwide strike by ten central trade unions against the new labour codes received little sympathetic coverage despite involving millions of workers.

Unions must rebuild their image as modern, progressive, and essential institutions for economic justice—not as relics of the past.

Self-Asking Questions

1. What specific challenge do you think are the most critical for trade unions today?
2. How would you address the problems posed by gig economy platforms?
3. Why do younger workers hesitate to join trade unions?

3.5 Changing Role and Functions of Trade Unions

As India transitions through a complex phase of economic modernization, trade unions are redefining their roles and expanding their functional domains. The traditional perception of trade unions as militant bodies focused solely on wage negotiations and strikes is now outdated. Today's trade unions are increasingly required to be multi-dimensional organizations that advocate for broader labour rights, social security, policy reforms, and worker welfare in both formal and informal sectors.

1. From Wage Bargaining to Comprehensive Advocacy: While wage-related demands remain important, trade unions are now engaging in holistic advocacy for better health benefits, retirement security, workplace safety, gender equality, and skill development.

Example: The Hind Mazdoor Sabha (HMS) has introduced training programs for workers to learn digital literacy and soft skills, thus preparing them for new job markets.

2. Representation of Informal and Gig Workers: Trade unions are increasingly focusing on unorganized workers, who constitute the majority of India's workforce. This includes rickshaw drivers, domestic workers, construction labourers, and gig economy workers.

STATS*: SEWA (Self Employed Women's Association)* SEWA has pioneered unionization in the informal sector, especially among women workers. It not only advocates for rights but also provides

financial literacy, healthcare, and microfinance services to over 2 million members.

3. Digital Engagement and Mobilization: To overcome geographical and logistical limitations, trade unions are using digital platforms to engage members, circulate information, and conduct virtual meetings and campaigns.

Example: The Indian Federation of App-based Transport Workers (IFAT) has used WhatsApp groups, Twitter, and Zoom to organize protests and conduct meetings, especially during the COVID-19 pandemic.

4. Policy Lobbying and Legal Intervention: Modern trade unions are actively participating in policy debates and filing Public Interest Litigations (PILs) to influence labour laws and government regulations.

CASE EXAMPLE*:* In 2020, multiple trade unions jointly filed petitions against the new Labour Codes, arguing they weakened worker protections. They also lobbied state governments to extend social security to gig workers.

5. Shift from Strikes to Dialogue: While industrial actions are still used, there is an increasing preference for dialogue, mediation, and tripartite consultations involving the government, employers, and unions.

Example: The Bharatiya Mazdoor Sangh (BMS) often works within the framework of national tripartite discussions facilitated by the Ministry of Labour and Employment.

Self-Asking Question

In today's context, should trade unions focus more on negotiation or collaboration with employers and the state?

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6. Role in Social Welfare and Community Development: Trade unions are now engaging in social issues like education, healthcare, and disaster relief. This expands their influence and garners broader community support.

Stop to Consider

INTUC's Rural Empowerment Programs, The Indian National Trade Union Congress (INTUC) has launched vocational training and healthcare camps in rural areas as part of its social outreach strategy.

7. Advocacy for Women and Marginalized Workers: Unions are increasingly emphasizing the inclusion of women, Dalits, and other marginalized groups in leadership and decision-making.

Example: SEWA has been at the forefront of gender-inclusive unionism, while newer unions like the Domestic Workers' Forum advocate for labour dignity and policy inclusion of women workers.

8. International Alliances and Global Campaigns: Indian trade unions are collaborating with international bodies like the International Labour Organization (ILO), International Trade Union Confederation (ITUC), and UNI Global Union to campaign for decent work, fair trade practices, and ethical labour sourcing.

Example: Indian textile worker unions have partnered with global

brands and NGOs to ensure compliance with international labour standards under the "Ethical Trading Initiative."

9. Skill Development and Employability: Recognizing the growing importance of skill upgradation in a dynamic job market, unions are facilitating training and certification programs to improve worker employability.

Example: The HMS has collaborated with National Skill Development Corporation (NSDC) to provide skill training to youth in the unorganized sector.

10. Environmental and Occupational Safety Advocacy: Trade unions are now addressing environmental issues and occupational health hazards, particularly in industries like mining, construction, and chemicals.

FACT: The Centre of Indian Trade Unions (CITU) has campaigned for stricter enforcement of workplace safety regulations in thermal power plants and industrial belts in Chhattisgarh and Odisha.

The role of trade unions in India is undergoing a dynamic transformation to stay relevant in a liberalized, digital, and increasingly informalized economy. By broadening their focus, engaging new worker segments, and adopting innovative tools and strategies, trade unions are evolving from traditional bargaining agents into multi-functional labour institutions. This change is not just strategic but essential for the survival and future impact of trade unionism in India.

Self-Asking Questions

1. Can you identify how unions have adapted their strategies in recent years?

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2. In what ways can unions be proactive instead of reactive?

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3. If you were a union leader, what new roles would I prioritize for future sustainability?

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3.6 Role of Central Trade Unions

Central Trade Unions (CTUs) in India have historically played a pivotal role in shaping the country's labour movement and advocating for workers' rights on a national level. Registered with the Ministry of Labour and Employment, these unions represent diverse sectors and ideologies, and act as crucial intermediaries between workers, employers, and the government.

1. Collective Representation at the National Level: CTUs represent the voice of organized labour in national forums, such as the Indian Labour Conference (ILC) and various tripartite bodies. They participate in shaping labour policy, welfare schemes, and industrial relations frameworks.

Example: CTUs were actively involved in consultations for the formulation of the four Labour Codes passed in 2020. Although they opposed several provisions, their participation influenced certain amendments, especially regarding social security coverage.

2. Mobilizing Nationwide Protests and Strikes: Central Trade Unions have the organizational strength to mobilize millions of workers across the country. They play a major role in calling nationwide general strikes to protest anti-labour policies, price rise, privatization, and changes in employment conditions.

Stop to Consider

Bharat Bandh (2020) Ten central trade unions called a nationwide strike on November 26, 2020, protesting the new labour codes, privatization of public sector undertakings (PSUs), and erosion of social security. Over 250 million workers reportedly participated, making it one of the largest coordinated protests globally.

3. Policy Advocacy and Social Dialogue: CTUs actively engage in lobbying the government to implement and improve labour welfare schemes such as Employees' Provident Fund (EPF), Employee State Insurance (ESI), and Minimum Wages Act.

Example: The All-India Trade Union Congress (AITUC) and Centre of Indian Trade Unions (CITU) have consistently advocated for an increase in minimum wages and universal pension schemes, particularly for informal sector workers.

4. Support for Sectoral and Regional Movements: CTUs provide institutional support and legal expertise to sectoral and regional unions during disputes, strikes, and negotiations.

STAT*:* During the 2021 farmers' agitation, CTUs extended solidarity and logistical support. Similarly, in the Tamil Nadu textile industry strikes, CTUs provided legal aid and helped coordinate protests.

5. Training and Capacity Building: Many CTUs conduct educational programs, leadership training, and workshops for union members to develop their knowledge of labour rights, negotiation strategies, and policy engagement.

Example: Bhartiya Mazdoor Sangh (BMS) conducts regular training camps for its grassroots members to improve awareness of workplace rights and grievance mechanisms.

6. International Representation: CTUs also represent Indian labour concerns in international labour forums and collaborate with global trade union federations.

CASE EXAMPLE*:* INTUC and HMS have represented India at the International Labour Organization (ILO) General Conference, contributing to global debates on decent work, forced labour, and gig economy regulations.

7. Role During Crises: CTUs often play a humanitarian role during national crises by distributing aid, advocating for relief measures, and ensuring wage continuity.

INSIGHT: *COVID-19 Pandemic Response* During the pandemic, several CTUs demanded income support for workers, transport arrangements for migrant labourers, and moratoriums on layoffs. Some unions set up relief camps and provided ration kits to stranded workers.

8. Facilitating Unionization in New Sectors: Recognizing the rise of new industries, CTUs are now supporting unionization in IT, telecom, retail, and gig platforms by setting up specialized wings.

Example: INTUC has a dedicated wing for IT employees in Bengaluru, focusing on grievance redressal, job security, and gender-sensitive policies.

9. Promoting Inclusivity and Gender Equity: Central unions are increasingly promoting women's participation in leadership and advocating for gender-equitable policies at the workplace.

Example: CITU has established a women's committee to address gender wage gaps, workplace harassment, and maternity benefits, especially in sectors like garments and education.

10. Coordinated Action and Unity Platforms: Despite ideological differences, CTUs often come together on common platforms to address nationwide concerns such as deregulation, labour law dilution, and job insecurity.

EXAMPLE*:* The Joint Platform of Central Trade Unions brings together diverse unions for united action and policy engagement, particularly during budget sessions and major legislative changes.

Central Trade Unions remain critical actors in India's socio-economic landscape. Their roles have evolved from confrontational models to more strategic, policy-oriented, and inclusive frameworks. By adapting to contemporary challenges and engaging proactively with policy, legal, and grassroots mechanisms, CTUs continue to shape the narrative of labour rights in India's changing economic environment.

CHECK YOUR PROGRESS

1. Name any three central trade union organizations in India.
2. What roles do central trade unions play in shaping national labour policy?
3. How do central trade unions respond to legislative changes such as the new labour codes?

3.7 Government and Legal Framework

The Government of India plays a pivotal role in shaping the environment in which trade unions operate. This includes enacting legislation, setting up institutional mechanisms for industrial relations, and developing policies that affect the rights and responsibilities of trade unions and workers.

1. Constitutional and Legal Provisions: The right to form associations or unions is a fundamental right guaranteed under Article 19(1)(c) of the Constitution of India. Several key legislations govern the functioning and recognition of trade unions:

- *The Trade Unions Act, 1926*: Provides legal status to trade unions and lays down the process of registration and rights of recognized unions.
- *The Industrial Disputes Act, 1947*: Deals with the investigation and settlement of industrial disputes and provides mechanisms such as conciliation, arbitration, and adjudication.
- *The Industrial Relations Code, 2020*: Consolidates earlier laws and introduces changes that affect union formation, recognition, and workers' rights to strike.

CASE EXAMPLE: The Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (MRTU & PULP Act) is a state-specific legislation that provides a detailed mechanism for union recognition and addresses unfair labour practices. It has often been cited as a model for fair union representation.

2. Labour Law Reforms and Trade Unions: In 2020, the Government of India consolidated 29 central labour laws into four major codes:

- Code on Wages

- Industrial Relations Code
- Occupational Safety, Health and Working Conditions Code
- Code on Social Security

While these reforms aim to streamline compliance and attract investment, trade unions have raised concerns over dilution of workers' rights, restrictions on the right to strike, and easier procedures for layoffs.

Stop to Consider

Under the Industrial Relations Code, the requirement for companies to seek government approval before laying off workers has been raised from 100 to 300 employees. Unions argue that this change weakens their bargaining power and exposes workers to abrupt termination.

3. Tripartite Mechanisms: Tripartite forums like the Indian Labour Conference (ILC), Standing Labour Committee, and State Labour Advisory Boards provide platforms for dialogue among the government, employers, and workers.

Example: The Indian Labour Conference, though not convened regularly in recent years, has historically served as a forum where trade unions presented views on minimum wages, contract labour, and social security policies.

4. Government Welfare Schemes and Institutional Support: The government implements various schemes targeting workers' welfare, including:

- Employees' State Insurance (ESI)
- Employees' Provident Fund (EPF)
- Rashtriya Swasthya Bima Yojana (RSBY)
- e-Shram Portal for informal workers

These schemes provide support for healthcare, pension, and insurance, though implementation and awareness vary.

INSIGHT*:* The e-Shram portal launched in 2021 aims to create a national database for unorganized workers. Trade unions have supported the move but criticized delays in benefit disbursement and the absence of guaranteed job security.

5. Judiciary's Role in Labour Rights: Indian courts have played a significant role in interpreting and expanding labour rights. Judgments by the Supreme Court and High Courts have shaped the understanding of 'workman,' contract labour regulation, and the right to strike.

LANDMARK JUDGMENT*:* In the case of *Bandhua Mukti Morcha v. Union of India* (1984), the Supreme Court upheld the right to dignified work as a fundamental right. In *T.K. Rangarajan v. Government of Tamil Nadu* (2003), the Court ruled that government employees do not have a fundamental right to strike, sparking nationwide debate on strike rights.

6. Role of Labour Departments and Enforcement: The Ministry of Labour and Employment and state labour departments are responsible for enforcing labour laws, resolving disputes, and registering unions. However, limited staffing and resource constraints hinder effective monitoring.

FACT: India has fewer than 1 labour inspector per 100,000 workers, leading to under-enforcement of labour standards, especially in the informal and MSME sectors.

7. Government Attitude Toward Unionization: The government's stance on unions has varied across political regimes. While some

governments actively engage with unions through consultative mechanisms, others have been accused of marginalizing union input in policymaking.

Example: The resistance from trade unions to the 2020 labour codes was met with minimal accommodation from the central government, leading to widespread protests and strikes.

The government and legal framework significantly influence the trajectory of trade unionism in India. While legislative reforms and welfare schemes present opportunities for modernization, there is a growing need to balance pro-business reforms with the protection of workers' rights. Strengthening tripartite dialogue, enhancing enforcement mechanisms, and ensuring judicial accountability will be critical in ensuring trade unions continue to function as effective representatives of labour in a dynamic economic context.

3.8 The Way Forward

In order to remain relevant and effective in the current economic scenario, trade unions must undergo a strategic and structural transformation. The traditional models of unionization need to be reimagined to suit the new contours of work, employment, and industrial relations.

1. Digitalization and Technological Adaptation: Trade unions must harness digital technologies to connect with members, organize protests, conduct awareness campaigns, and negotiate with employers. Virtual meetings, social media platforms, and mobile applications can be employed to coordinate activities and reach dispersed workers.

Example: The Indian Federation of App-based Transport Workers (IFAT) uses WhatsApp and Telegram groups to communicate with gig workers across cities. This strategy allowed them to mobilize support and conduct digital protests against unfair practices by platform companies.

2. Focus on Informal and Gig Economy Workers: A renewed emphasis must be placed on organizing workers in the informal and gig sectors, where traditional union structures are absent. Unions should tailor their demands to include minimum wages, social security benefits, health insurance, and legal recognition.

CASE EXAMPLE*:* SEWA (Self-Employed Women's Association) successfully unionized over 1.5 million women working in informal sectors by focusing on health care, microfinance, legal aid, and collective bargaining. Its community-based approach has served as a model for other informal worker unions.

3. Legal Advocacy and Policy Intervention: Trade unions need to invest in legal literacy, advocacy, and active participation in labour law reforms. Strategic litigation, policy briefs, and partnerships with labour lawyers and academic institutions can help shape a more inclusive labour framework.

Example: The Centre for Labour Research and Action (CLRA) collaborates with unions to file petitions and raise awareness about labour code ambiguities affecting migrant and contract workers.

4. Promote Gender Equity and Inclusivity: Unions must ensure the representation of women, LGBTQ+ individuals, and marginalized communities in leadership roles. Training programs, quotas, and safe grievance redressal mechanisms can foster inclusive participation.

Example: SEWA not only focuses on informal employment but also trains women in leadership roles, helping bridge the gender gap in union participation and representation.

5. Youth Engagement and Education: There is a critical need to engage the younger generation in trade union activities through educational campaigns, internships, and youth-specific platforms.

Digital storytelling and social media can be powerful tools for educating youth about labour rights and the relevance of unions.

SURVEY INSIGHT*:* A study by the Indian Labour Journal (2021) noted that less than 15% of Indian students in professional courses were aware of labour rights. Integrating labour education into school and college curricula could help bridge this awareness gap.

6. Cross-Sectoral Alliances and Global Solidarity: Trade unions must collaborate with NGOs, civil society organizations, and international labour organizations like the ILO to pool resources, share strategies, and campaign for common causes. These alliances can enhance bargaining power and bring international attention to domestic labour issues.

Example: The 2013 global campaign led by the International Trade Union Confederation (ITUC) against unsafe working conditions in Bangladesh's garment factories pressured multinational brands to improve worker conditions. Indian unions can adopt similar global solidarity strategies.

7. Organizational Restructuring and Professionalism: Unions should modernize their internal management with the help of professional staff, strategic planning, and performance measurement. Accountability and transparency in operations will also attract members who seek result-oriented representation.

8. Digital Labour Rights and Data Privacy: In the age of algorithmic management, platform surveillance, and artificial intelligence, unions must advocate for workers' digital rights. This includes data transparency, protection from surveillance, and fair algorithmic evaluations.

CASE IN POINT*:* Globally, unions are negotiating clauses to include algorithm accountability in employment contracts, particularly in gig and e-commerce sectors. Indian unions must adapt similar strategies to protect platform workers.

9. Policy Dialogue and Institutional Participation: Unions should actively participate in national and state-level policy discussions, labour advisory boards, and industrial tribunals. Constructive engagement with policymakers can lead to pragmatic reforms and inclusive economic development.

Example*:* Central trade unions' engagement in the tripartite Indian Labour Conference (ILC) has historically shaped key labour legislations. However, greater consistency and unity in their participation are needed moving forward.

10. Capacity Building and Member Services: Beyond wage bargaining, unions can evolve into service-oriented bodies that provide skill training, legal help, mental health support, and career counseling. These services can help retain membership and attract a younger, diversified workforce.

The future of trade unions in India depends on their ability to evolve with the changing socio-economic context. By embracing technology, promoting inclusivity, focusing on informal workers, and participating actively in legal and policy reforms, unions can regain their relevance. A forward-looking, proactive, and adaptive approach will ensure that trade unions continue to play a crucial role in shaping a fair, equitable, and just world of work.

Check Your Progress

1. What are two ways trade unions can remain relevant in the gig and platform economy?
2. Why is digital engagement important for the future of unions?

3. How can trade unions better include women and youth in their structure?

3.9 Summing Up

The role of trade unions in India is undergoing a profound transformation. From being institutions that primarily focused on wage negotiations and job security in traditional industries, they are now being called upon to address a far broader set of challenges in a rapidly changing economic landscape. With the rise of the gig economy, automation, and informal employment, trade unions must adapt their strategies to remain relevant and effective.

The analysis presented in this unit underscores the multi-faceted nature of the challenges facing trade unions today — including declining membership, legal constraints, disintegration of long-term employment, and the emergence of non-traditional work models. Simultaneously, there are opportunities for reinvention. Progressive examples like SEWA, IFAT, and the efforts by unions in the IT sector show that innovative, inclusive, and flexible models of unionism are both possible and impactful.

Moreover, central trade unions and government policy frameworks will continue to play a pivotal role in shaping the future of industrial relations in India. The need for modernized legislation, effective enforcement of labour rights, and proactive engagement between employers, employees, and the state has never been more critical. Global case studies also reflect that strategic partnerships with civil society organizations and the use of digital tools can significantly expand the reach and relevance of unions.

In conclusion, the survival and success of trade unions in the changed economic scenario will depend on their capacity to redefine their mission, broaden their outreach, and become vehicles for collective empowerment beyond traditional industrial settings. By embracing

diversity, technology, and innovative advocacy, trade unions can reclaim their place as champions of social justice and equitable economic development in 21st-century India.

3.10 Model Questions

Chose the correct option:

1. Which economic reform model was introduced in India in 1991?
   A) Socialist model
   B) LPG model
   C) Command economy
   D) Mixed economy
2. What is the primary role of trade unions?
   A) Maximizing profits
   B) Enhancing exports
   C) Protecting workers' rights
   D) Promoting privatization
3. Which of the following is an example of a central trade union in India?
   A) IFAT
   B) FICCI
   C) INTUC
   D) NASSCOM
4. What percentage of India’s workforce is in the informal sector according to PLFS 2021-22?
   A) 60%
   B) 75%
   C) 85%
   D) 90%
5. SEWA primarily works for which group?
   A) Male factory workers
   B) Informal sector women workers

C) Corporate professionals

D) Government officials

6. Which labour code raised the threshold for mandatory government approval for layoffs?

   A) Code on Wages

   B) Social Security Code

   C) Industrial Relations Code

   D) Occupational Safety Code

7. Which Indian company faced protests by over 5000 contract workers in 2017?

   A) Tata Motors

   B) Mahindra & Mahindra

   C) Maruti Suzuki

   D) Ashok Leyland

8. What is a major challenge for trade unions in the IT sector?

   A) High union penetration

   B) Lack of qualified employees

   C) Anti-union corporate culture

   D) High government regulation

9. Which of the following is a challenge posed by digital transformation to unions?

   A) Reduced taxes

   B) Increased exports

   C) Automation-led job displacement

   D) Trade deficit

10. What was the impact of the closure of Nokia's Chennai plant?

    A) Tax and Regularity issues

    B) Decrease in wages

    C) Displacement of over 6000 workers

    D) Improved unionization

Short Answer Questions (2 Marks Each)

1. Define a trade union.
2. What does the LPG model stand for?
3. Mention any two functions of trade unions.
4. Name any two central trade unions in India.
5. What is gig work?
6. Mention two challenges faced by trade unions in the gig economy.
7. What is SEWA known for?
8. State any two legal limitations posed by recent labour codes.
9. What is the role of digital platforms in modern trade union activism?
10. Mention two outcomes of the Maruti Suzuki worker protests.

Medium Answer Questions (5 Marks Each)

1. Explain the impact of economic liberalization on the structure of trade unions in India.
2. Discuss the major features of the gig economy and how they affect trade unions.
3. Analyze the key challenges faced by trade unions in the IT and services sectors.
4. Describe the role of central trade unions in shaping labour policy in India.
5. Evaluate the effectiveness of SEWA as a model for inclusive unionization.
6. How have legal changes like the Industrial Relations Code affected trade unions?
7. Discuss how digitalization and automation have reshaped trade union strategies.
8. Illustrate with examples the issue of contract labour and its impact on union activity.
9. What role can trade unions play in ensuring social security for informal workers?

10. Explain the fragmentation of trade unions in India and its consequences.

Long Answer Questions (10 Marks Each)

1. Elaborate on the changing roles and functions of trade unions in India post-1991 reforms with examples.
2. Analyze the various new challenges faced by trade unions in the context of globalization and technological change.
3. Evaluate the role of government and the legal framework in supporting or restricting trade union activities in India.
4. Discuss in detail the way forward for trade unions in adapting to the changing economic and labour landscape.
5. Present and critically assess at least two major case studies that show the evolving role of trade unions in India.

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UNIT-4

INDUSTRIAL RELATIONS: INDUSTRIAL RELATIONS AND LABOUR POLICY SINCE INDEPENDENCE

Unit Structure:

4.1 Introduction

4.2 Objectives

4.3 Industrial Relations and Labour Policy Since Independence in India

- 4.3.1 Liberalization and the Second National Commission on Labour (1991–2019)
- 4.3.2 Key Labour Legislations and Institutions

4.4 The Four Labour Codes (2019-2020)

- 4.4.1 Code on Wages, 2019
- 4.4.2 Code on Industrial Relations, 2020
- 4.4.3 Code on Social Security, 2020
- 4.4.4 Code on Occupational Safety, Health and Working Conditions, 2020

4.5 Summing Up

4.6 Model Questions

4.7 Answers to Check Your Progress

4.8 References and Suggested Readings

4.1 Introduction

In today's industrial society, which is marked by fast change, industrial unrest, and competing ideologies on national and global scale, industrial relations represent one of the most delicate and complicated issues. It is a dynamic concept which depends upon the pattern of society, economic system and political set-up of a country

and changes with the changing economic and social order. Industrial relations can be seen as the practice of working and coexisting harmoniously to achieve goals like production, efficiency, human well-being and industrial development. It comprises of a web of organizations tied together by a set of shared ideas and goals, including employers, collective bargaining, trade unionism, the state, and the law.

The concept of industrial relations is very broad-based drawing variety of contributions from various disciplines like Social Sciences, Humanities and Behavioural Sciences as well as Labour Laws and etc. In a restricted sense, industrial relations can be defined as the relationship between management and union or between representatives of employees and representatives of employers. In a wider sense, the term industrial relations refer to all aspects of work and employment relations between and among the parties to an employment relationship.

4.2 Objectives

After studying this chapter, students will be able to:

- *understand* the historical development of industrial relations and labour policy in India from the pre-independence to post-independence era,
- *explain* the role of the Constitution of India in shaping labour legislation, particularly through the Directive Principles of State Policy,
- *identify* and describe key labour legislations enacted since independence, including their purposes and impact on workers and employers,
- *analyze* the institutional framework for industrial relations in India, including the role of trade unions, employers' associations, and government bodies,

- *examine* the formation and recommendations of the Second National Commission on Labour (2002), and its significance in shaping modern labour reform,
- *understand* the structure, scope, and implications of the Four Labour Codes (2019–2020), and how they aim to simplify and modernize labour regulation in India.

4.3 Industrial Relations and Labour Policy Since Independence in India

Pre-Independence Era

In order to reduce the competitive advantage of local employers over British enterprises, the British government in India was primarily concerned with regulating working conditions and imposing fines for contract violations. The beginning of industrial relations in India may be traced back to a number of legislative initiatives that were passed in the second half of the nineteenth century. Because of the changed social, political, and economic circumstances brought about by the end of World War 1, people began to hope for a new social order, which gave labour policy a new twist. Because workers' incomes did not keep up with rising prices and their aspirations, there was a great deal of labour unrest. India's industrial relations policies and labour laws were significantly impacted by the 1919 founding of the International Labour Organisation (ILO). Another important development in the history of industrial relations in India was the rise of the trade unions, especially the establishment of the All India Trade Union Congress (AITUC) in 1920.

During the British colonial period, industrial relations in India were deeply influenced by the socio-economic and political environment of the time. The process of industrialization began with the establishment of cotton and jute mills in Bombay (now Mumbai)

and Calcutta (now Kolkata), followed by railways, coal mining, and iron and steel industries. However, this industrial development was largely driven by British interests, and Indian workers were subjected to extremely poor working conditions. Long working hours, low wages, absence of job security, lack of basic amenities, no legal protection, and the exploitation of women and child labor were common features. There was no state machinery or legal system to address industrial disputes or protect workers' rights.

Initially, the British government followed a **laissez-faire policy**, meaning non-interference in labor matters, and employers had unchecked control over their workers. However, increasing worker dissatisfaction and repeated strikes forced the government to take some steps toward regulation. The first notable labor unrest occurred in the late 19th century, especially in the textile mills of Bombay and the jute mills of Calcutta. In 1890, the **Bombay Mill Hands Association**, India's first labor organization, was founded by N.M. Lokhande. It marked the beginning of the organized labor movement, though it was still in a nascent stage.

The early 20th century witnessed further growth in trade unions and labor activism. The Russian Revolution (1917), the rise of socialist ideas, and the growing nationalist movement under leaders like Mahatma Gandhi and B.R. Ambedkar inspired Indian workers to demand better rights. The First World War (1914–1918) further intensified labor problems due to increased workloads, inflation, and deteriorating working conditions. This resulted in numerous strikes and protests. In response, the British government passed the **Factories Act of 1911**, which attempted to regulate working hours and conditions to some extent, especially for women and children, but it was still inadequate.

The landmark **Trade Unions Act of 1926** was the first major legislation to recognize and protect trade unions in India. It provided for the registration of trade unions and gave them legal status and

certain immunities from civil and criminal prosecution. Although a progressive step, this Act was limited in scope and did not address industrial disputes comprehensively. The inter-war years saw the formation of several trade unions, often aligned with political ideologies, such as the All India Trade Union Congress (AITUC) in 1920, which was linked with nationalist and socialist movements. The growing alignment of trade unions with political parties added a new dimension to industrial relations, as labor became a part of the larger national struggle for independence.

Towards the end of the colonial period, the **Royal Commission on Labour in India (1931)** highlighted the deplorable working conditions and the urgent need for state intervention. The **Government of India Act, 1935**, gave provinces the power to legislate on labor welfare, paving the way for some provincial labor laws. As labor unrest continued, the British government introduced the **Industrial Disputes Act in 1947**, just before India gained independence. This Act aimed to provide mechanisms for the investigation and settlement of industrial disputes and laid the foundation for post-independence labor policy.

Post-Independence Period (After 1947)

After gaining independence in 1947, India adopted a **socialist-inspired mixed economy**, and the state assumed a more active and responsible role in promoting industrial development and ensuring labor welfare. The Constitution of India, adopted in 1950, enshrined several labor-related provisions under the Directive Principles of State Policy, such as the right to work, equal pay for equal work, forbidding forced labour, and just and humane conditions of work and empowered both the Centre and States to legislate labour affairs (Concurrent List). The emphasis was placed on building a welfare state that would ensure social justice, economic equity, and industrial peace. As a result, industrial relations in independent India became institutionalized and legally regulated.

Number of labour laws was enacted in the first decade of independence to establish minimum standards and dispute resolution mechanisms. One of the earliest and most important labor laws continued from the colonial period was the **Industrial Disputes Act, 1947**, which was retained and strengthened by the Indian government. It provided for the establishment of works committees, conciliation officers, labor courts, industrial tribunals, and the National Tribunal for the resolution of disputes. The Act also regulated strikes, lockouts, layoffs, retrenchment, and closure of establishments. Other key central acts include: The **Factories Act, 1948**, which aimed at improving the working conditions in factories by setting standards for health, safety, welfare, working hours, and employment of women and children; The **Minimum Wages Act, 1948**, which ensured the payment of minimum wages in specified industries. Other important laws such as the **Employees' State Insurance Act, 1948**, and the **Employees' Provident Fund Act, 1952**, provided social security and retirement benefits to workers. The Plantation Labour Act (1951) and Mines Act (1952) addressed sector-specific hazards, introduced social security for formal workers. Notably, labour legislation covered issues such as equal pay and social welfare: for example, the Equal Remuneration Act (1976) mandated gender pay parity, and the Payment of Bonus Act (1965) and Payment of Gratuity Act (1972) guaranteed a share of profits and retirement benefits for employees. Occupational safety was further strengthened by laws like the Bonded Labour (Abolition) Act (1976) and Child Labour (Prohibition and Regulation) Act (1986). In all, more than 100 state laws and about 40 central laws eventually regulated various aspects of wages, working conditions, industrial disputes and social security.

These laws were implemented in a heavily controlled, unionized industrial relations environment. During the 1950s and 1960s, the public sector expanded, leading to a surge in trade unionism.

Registered union membership in formal industries almost doubled between 1951 and 1962. Major union federations emerged along political lines like, the Indian National Trade Union Congress (INTUC), All India Trade Union Congress (AITUC) and others. Hence Trade unions became more powerful and widespread but were also fragmented along political lines. This led to rivalry among unions and weakened collective bargaining. The period witnessed several significant strikes in key sectors like textiles, steel, coal, and railways. The government often had to intervene through compulsory adjudication. However, the system of industrial adjudication was criticized for being slow and ineffective, leading to a backlog of cases and delay in justice.

The Industrial Disputes Act (1947), in particular, established the foundation of industrial relations. The law established works committees, conciliation officers, labor courts, and tribunals to address disputes and set procedures for layoffs, retrenchments, and closures (with legal limitations and compensation. Strikes and lockouts were regulated, with legitimate work stoppages requiring a 14-day notice under the IDA. Certain industries (mines, railways, energy) were exempted or restricted. These provisions served to keep industrial conflicts to a minimum, at least in formal establishments.

The government also played a significant role in shaping industrial relations through **tripartite bodies** like the Indian Labour Conference and the Standing Labour Committee, which included representatives from workers, employers, and the government. These bodies formulated labor policies and attempted to resolve disputes through consensus. **Wage Boards** and **Industrial Relations Boards** were also constituted to advise on wage fixation and promote industrial harmony. The state also encouraged **workers' participation in management** through joint management

councils and similar initiatives, though these had limited success due to lack of employer interest and weak union structures.

The period from the 1980s onwards saw growing recognition of the need to modernize and reform the industrial relations system. The **economic liberalization of 1991** marked a turning point in India's industrial landscape. With the introduction of market-oriented reforms, privatization, globalization, and foreign investment, employers sought greater flexibility in hiring and firing, use of contract labor, and freedom from excessive labor regulation. This led to a shift from state-dominated labor relations to **enterprise-level** negotiations and **human resource management** strategies. Trade unions struggled to retain their relevance in the face of contract labor, informalization of work, declining permanent jobs, and the rise of the service sector.

The liberalization era also saw increased demand for **labor law reforms**, especially to simplify complex legislation and promote ease of doing business. In response, the Indian government introduced four **new labor codes** between 2019 and 2020 — the **Code on Wages**, **Industrial Relations Code**, **Code on Social Security**, and the **Occupational Safety, Health and Working Conditions Code** — aiming to consolidate and rationalize over 29 existing labor laws. These codes focus on promoting transparency, reducing compliance burden, facilitating fixed-term employment, and encouraging collective bargaining, though they have also faced criticism from trade unions for potentially diluting workers' rights and protections.

In recent years, industrial relations in India have been influenced by technology, digitization, gig economy platforms (like Uber, Swiggy), and remote work models. The rise of non-traditional employment has raised new issues such as lack of job security, absence of social security, and poor representation of workers in new-age sectors. The government is also attempting to balance labor

rights with investment promotion through initiatives like “Make in India” and “Startup India.”

Check Your Progress

1. What were the major factors influencing labour policy during the colonial period?
2. Name three important labour laws introduced in the first decade after independence.
3. How did the Constitution of India influence labour legislation?
4. What role did trade unions play in shaping industrial relations in the early post-independence era?

4.3.1 Liberalization and the Second National Commission on Labour (1991–2019)

The 1991 economic reforms marked a shift in India’s policy environment. As India opened to global markets, policymakers and industry leaders argued that rigid labour laws were hindering growth and formal employment. Post-1991, successive governments sought to liberalize other sectors (trade, finance) and also began to address labour regulations. In this milieu, the Second National Commission on Labour (SNCL) was constituted (1999) to holistically review labour laws and social security in light of globalization.

National Commission on Labour is an Indian statutory body to recommend the changes in the labour laws. The first National Commission on Labour was set up on 24 December 1966 under the Chairmanship of Justice P. B. Gajendragadkar. The Commission submitted its report in August, 1969 after detailed examination of all aspects of labour problems, both in the organised and unorganised sectors.

The second National Commission on Labour (NCL) was set up on 15 October 1999 under the chairmanship of Ravindra Varma which submitted its report to the then Prime Minister Atal Bihari Vajpayee on 29 June 2002. The first National Commission on Labour recommended that works committee be set up in any unit which has a recognized union.

The second such commission was in favour of setting up wages boards for fixing wage rates for workers in any industry. The 2002 report from the SNCL noted that the current legal system was "complex, with archaic provisions and inconsistent definitions." It recommended rationalizing the 50+ central and 100+ state laws into broader categories (industrial relations, wages, safety, welfare, social security). Among its main recommendations, the SNCL supported an umbrella social insurance program for unorganized workers as well as more flexibility in labor laws (such as easing hiring and layoff procedures). It also called for ending child labor and promoting industrial harmony through communication and efficient dispute resolution. Therefore, the goal of the SNCL was to strike a compromise between the necessity for a competitive labor market and worker protection.

Check Your Progress

5. What were the economic changes introduced in 1991 that influenced labour reform?
6. Who was the chairperson of the Second National Commission on Labour?
7. List two key recommendations of the SNCL in 2002.
8. Why did the SNCL recommend simplifying and categorizing labour laws?

4.3.2 Key Labour Legislations and Institutions

Throughout these periods, India's labour policy encompassed a wide array of central statutes. Some of the most important laws enacted since independence include:

- Industrial Disputes Act, 1947 – Established machinery (works committees, conciliation officers, tribunals) for resolving industrial conflicts and regulated layoffs, retrenchment, layoffs and strikes. (This remains a foundational law for union-management relations.)
- Factories Act, 1948 – Set standards for health, safety, and working conditions in factories (hours, leave, welfare facilities).
- Minimum Wages Act, 1948 – Mandated that governments fix minimum wages in scheduled industries and regions.
- Payment of Wages Act, 1936 – (Retained post-1947) Required timely payment of wages. Employees' State Insurance Act, 1948 – Introduced a social insurance scheme for sickness, maternity, disability and medical care for wage workers.
- Employees' Provident Funds Act, 1952 – Created a compulsory retirement savings scheme (managed by the EPFO).
- Trade Unions Act, 1926 – (Colonial-era but retained) Legalized trade unions and gave them limited immunities.
- Payment of Bonus Act, 1965 – Guaranteed a share of company profits to workers as bonus.
- Contract Labour (Regulation & Abolition) Act, 1970 – Regulated conditions of employment for contract workers and aimed to gradually abolish contract labour in core processes.
- Payment of Gratuity Act, 1972 – Made gratuity payable to workers on termination after a period of service.
- Bonded Labour (Abolition) Act, 1976 – Abolished bonded labour and provided for rehabilitation of freed labourers.

- Equal Remuneration Act, 1976 – Enforced equal pay for men and women doing the same work.
- Inter-State Migrant Workmen Act, 1979 – Regulated employment and conditions of workers migrating between states for work.
- Child Labour (Prohibition & Regulation) Act, 1986 – Banned or regulated employment of children in hazardous industries.
- Building & Construction Workers Act, 1996 – Provided for welfare boards and safety standards for construction workers.
- Unorganized Workers' Social Security Act, 2008 – Framework to extend social security (pensions, health, maternity, disability benefits) to unorganized workers (still limited in practice).

4.4 The Four Labour Codes (2019-2020)

Building on earlier commissions' recommendations, the Indian government in 2019–2020 enacted a historic reform: replacing many separate laws with four omnibus Labour Codes. These codes were passed by Parliament in late 2019 and September 2020. The four codes are:

4.4.1 Code on Wages, 2019

- The Code on Wages applies to all establishments and to all employees in both organised and unorganised sectors.
- This labour code envisages uniform applicability of the provisions of timely payment of wages and minimum wages to all employees and bonus payments in all employments where any industry, business, trade or manufacture is carried out.
- It introduces the concept of a floor wage, which is to be determined by the Centre after taking into account the minimum living standards of workers which may be different for different geographical areas.

- The state government can, under no circumstance, fix a minimum wage rate lower than the floor rate determined by the Centre.
- The minimum wages decided by the central or state governments should be above the floor wages. In case the existing minimum wages are higher than the floor wages, the central or state governments cannot reduce the minimum wages.
- While fixing the minimum wages, the government should take into account the difficulty level of the work, and the workers' skill levels also.
- The Code prohibits gender discrimination in wages and recruitment of people for the same work or work of similar nature. Work of a similar nature is defined as work for which the skill, effort, experience, and responsibility required are the same.
- Wages include salary, allowance or any other monetary component. It does not include bonuses and travelling allowances.
- The number of working hours will be fixed by the central or state governments. In the case of overtime work, the worker is entitled to overtime compensation which should be at least twice the standard wages.
- The employer can fix the wage period as either daily, weekly, fortnightly, or monthly.
- Advisory boards will be constituted which will advise the governments on minimum wage fixing and increasing the employment opportunities for women.
- The Code specifies penalties for offences committed by an employer for Contravention of any provision of the Code, Paying less than the minimum wage and the maximum punishment is three-month imprisonment along with a fine of Rs. 1 lakh.

4.4.2 Code on Industrial Relations, 2020

- This labour code amalgamates three existing laws and expands the definition of worker to include persons employed in a skilled or unskilled, manual, technical, operational and clerical capacity.
- Besides, persons employed in a supervisory capacity and earning less than Rs. 18,000 per month have been brought under the definition.
- The code introduces a new provision for fixed-term employment, giving employers the flexibility to engage a worker on the basis of a written contract. Fixed-term employees will get the same benefits as permanent employees.
- The minimum number of workers employed for an establishment to have standing orders has been raised to 300. With the increased threshold, it becomes more flexible and easier to hire and fire thus leading to increased employment according to the government.
- The new industrial relation code would also improve the ease of doing business by allowing firms with up to 300 workers to go ahead with lay-offs, retrenchment and closure without government permission.
- The new Code also proposes the setting up of a re-skilling fund for training retrenched workers with a contribution from the employer, of an amount equal to 15 days last drawn by the worker.
- Efforts made by the Government to quickly resolve disputes of the workers include a Compulsory facility for the Helpline for the redressal of problems of migrant workers. Making a national database of migrant workers. Provision for the accumulation of one day of leave for every 20 days worked when work has been done for 180 days instead of 240 days.
- Equality for women in every sphere: Women have to be permitted to work in every sector at night, but it has to be

ensured that provision for their security is made by the employer and consent of women is taken before they work at night.

- In the event of the death of a worker or injury to a worker due to an accident at his workplace, at least 50 % share of the penalty would be given. This amount would be in addition to the Employee's Compensation.
- The provision of a "Social Security Fund" for 40 Crore unorganized workers along with GIG and platform workers will help Universal Social Security coverage.

4.4.3 Code on Social Security, 2020

- The definition of employees has been widened to include inter-state migrant workers, construction workers, film industry workers and platform workers/ gig workers.
- It subsumes nine laws and empowers the Centre to notify various social security schemes like the EPF, EPS and ESI for the benefit of workers in all sectors.
- The facility of ESIC would now be provided in all 740 districts. At present, this facility is being given in 566 districts only.
- It also empowers the Centre to frame any other schemes for the self-employed, unorganised workers, gig workers and platform workers and the members of their families.
- EPFO's coverage would be applicable to all establishments having 20 workers. At present, it was applicable only to establishments included in the Schedule.
- Firms employing more than 20 workers have to mandatorily report vacancies online under this code.
- The Code has a provision for the creation of a social security fund for workers in the unorganized sector.
- The Code proposes the establishment of a National Social Security Board for recommending to the central government the

formulation of schemes for the various sections of unorganised, gig and platform workers.

- Provision for Gratuity has been made for Fixed Term employees and there would not be any condition for a minimum service period for this.
- The gratuity period for working journalists has been reduced from 5 years to 3 years.
- With the aim of making a national database for unorganised sector workers, registration of all these workers would be done on an online portal and this registration would be done on the basis of Self Certification through a simple procedure.

4.4.4 Code on Occupational Safety, Health and Working Conditions, 2020

- It amalgamates 13 existing labour laws into the labour code and applies to factories (as the code expands the definition) having at least 20 workers if the manufacturing process is being carried on with the aid of power and 40 if the manufacturing process is being done without power.
- Under this code, employers are required to ensure that the workplace is free from hazards which cause injury or occupational disease to the employees and provide free annual health examinations or tests, free of cost to certain classes of employees.
- The Code defines an inter-state migrant worker as someone who has come on his/her own from one state and received employment in another state and earns up to Rs.18000 per month.
- Portability benefits for inter-state migrant workers: They can avail of benefits in the destination state as regards ration and benefits of building and other construction worker cess.

- The Code also proposes a Journey Allowance – this is a lump sum fare amount to be paid by the employer for the journey of the worker from his/her native state to the place of employment.
- To encourage formalisation in employment, A legal right for getting an Appointment Letter given to workers for the first time is covered.
- Cine Workers have been designated as Audio Visual workers so that more and more workers get covered under the OSH code. Earlier, this security was being given to artists working in films only.
- The Code removes the manpower limit on hazardous working conditions and makes the application of the Code obligatory for contractors recruiting 50 or more workers (earlier it was 20).
- The Code fixes the daily work hour limit to a maximum of eight hours.
- The Code empowers women to be employed in all kinds of establishments and at night (between 7 PM and 6 AM) subject to their consent and safety.

Since independence, India has had a complex system of labour laws to protect workers and regulate industrial relations. However, over the decades, these laws became difficult to follow due to overlaps and outdated provisions. To simplify this, the Government of India introduced a major reform in 2020 by merging 29 different central labour laws into these four aforementioned broad Labour Codes. The main aim of this reform was to create a transparent and easier legal system for both businesses and workers, especially to suit the modern business environment and improve the ease of doing business. The government said this would reduce paperwork, increase formal employment, and bring more workers under the social security net. However, many trade unions and labour rights activists raised concerns. They argued that these laws made it easier for employers to hire and fire workers, especially because

companies with up to 300 workers no longer needed government permission to lay off employees. While the new codes do include some protections like mandatory compensation for retrenched workers and the need for employer-union discussions before certain decisions, critics believe that workers may lose bargaining power. These reforms did not happen in isolation; before 2020, several states like Rajasthan and Gujarat had already relaxed labour laws to attract investment. During the COVID-19 pandemic, some states even temporarily suspended many labour protections to support industries. Overall, the 2020 Labour Codes reflect a major shift in India's labour policy, focusing more on economic flexibility and centralized regulation, but they also raise important debates about the balance between business growth and workers' rights.

Check Your Progress

1. What are the names of the four Labour Codes enacted in 2019–2020?
2. What is the purpose of the "floor wage" under the Code on Wages?
3. Under the Industrial Relations Code, up to how many workers can an employer lay off without government approval?
4. How has the definition of "worker" been expanded in the new codes?
5. What are some benefits introduced for gig and platform workers under the Code on Social Security?

Self-Asking Questions

1. If you were an employer, how would these new Labour Codes affect how you manage your workforce?

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2. If you were a trade union leader, what concerns might you have about the labour reforms?

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3. How do you think labour reforms can support both worker welfare and economic growth?

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4. Why is it important for labour laws to be updated regularly in a changing economic environment?

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5. What could be the challenges in implementing the Labour Codes across different states?

4.5 Summing Up

This unit provides a comprehensive overview of the evolution of industrial relations and labour policy in India, tracing developments from the pre-independence era to the present day. It explains how early labour reforms during British rule laid the groundwork for the post-independence legal framework, including the impact of the International Labour Organisation (ILO), the emergence of trade unions, and the 1926 Trade Unions Act. After 1947, India adopted a

welfare-oriented approach, enacting several labour laws such as the Industrial Disputes Act (1947), the Factories Act (1948), and the Minimum Wages Act (1948), aiming to protect workers' rights and promote industrial peace.

The chapter highlights the growing institutionalization of industrial relations through tripartite bodies, wage boards, and industrial tribunals, while also acknowledging the challenges of political unionism and delays in adjudication. With the economic liberalization of 1991, the focus shifted toward flexibility, privatization, and enterprise-level negotiations. The **Second National Commission on Labour (2002)** played a key role in recommending the simplification of over 100 labour laws into broader categories.

This culminated in the introduction of the **Four Labour Codes (2019–2020)** — the Code on Wages, Industrial Relations Code, Code on Social Security, and the Occupational Safety, Health and Working Conditions Code — which aim to modernize and streamline India's labour laws while balancing economic growth with worker welfare. The unit also addresses emerging issues like the gig economy, digital platforms, and the need to extend social protection to informal and platform workers. Overall, the unit emphasizes the dynamic relationship between law, labour, and economic policy in India's industrial development.

4.6 Model Questions

1. What were the major factors influencing labour policy during the colonial period?
2. Name three important labour laws introduced in the first decade after independence.
3. How did the Constitution of India influence labour legislation?
4. What role did trade unions play in shaping industrial relations in the early post-independence era?

5. What are the major provisions of the Industrial Disputes Act, 1947?
6. Write a note on the impact of economic liberalization on industrial relations in India.
7. What were the main features of labour conditions during the colonial period?
8. Explain the concept of 'floor wage' under the Code on Wages, 2019.

4.7 Answers to Check Your Progress

1. What were the major factors influencing labour policy during the colonial period?

   Labour policy during the British period was shaped by poor working conditions, long hours, low wages, absence of legal protection, and increasing worker unrest. The establishment of the ILO in 1919, growing trade union activity, and the rise of nationalist and socialist movements also pushed the colonial government to begin labour regulation.

2. Name three important labour laws introduced in the first decade after independence.

   The first ten years after independence saw the introduction of several important laws such as the Industrial Disputes Act, 1947**,** which established dispute resolution mechanisms; the Factories Act, 1948**,** which focused on worker safety and welfare; and the Minimum Wages Act, 1948**,** which ensured fair wages in specified industries.

3. How did the Constitution of India influence labour legislation?

   The Constitution played a key role by including labour rights in the Directive Principles of State Policy, such as equal pay for equal work, right to work, and humane working conditions. Labour was also placed in the Concurrent List, giving both Centre and States the power to legislate on labour matters.

4. What role did trade unions play in shaping industrial relations in the early post-independence era?

   Trade unions became powerful voices for workers, often aligned with political parties. They influenced wage policies, participated in tripartite bodies, and led strikes and negotiations. However, rivalry among unions sometimes weakened collective bargaining efforts.

5. What were the economic changes introduced in 1991 that influenced labour reform?

   The liberalization of the Indian economy in 1991 brought in globalization, privatization, and reduced state control. This created a need for greater labour flexibility, encouraging reforms to make hiring, layoffs, and industrial relations more business-friendly.

6. Who was the chairperson of the Second National Commission on Labour?

   The Second National Commission on Labour (SNCL) was chaired by Ravindra Varma**,** and submitted its report in 2002.

7. List two key recommendations of the SNCL in 2002.

   The SNCL recommended (i) simplifying and merging more than 100 central and state labour laws into broader categories, and (ii) introducing more flexibility in labour laws**,** such as in hiring and layoff procedures. It also stressed the need for social security for informal workers.

8. Why did the SNCL recommend simplifying and categorizing labour laws?

   The commission found existing laws to be complex, outdated, and inconsistent**,** making compliance difficult for businesses and enforcement challenging for the state. Simplification would help promote industrial harmony, ease of doing business, and better coverage of workers**,** especially in the unorganized sector.

9. What are the names of the four Labour Codes enacted in 2019–2020?

The four codes are:

1. Code on Wages, 2019
2. Industrial Relations Code, 2020
3. Code on Social Security, 2020
4. Occupational Safety, Health and Working Conditions Code, 2020

They replaced 29 older central labour laws.

10. What is the purpose of the "floor wage" under the Code on Wages?

The floor wage is the minimum national wage set by the central government, considering cost of living. States must set their minimum wages at or above this level to ensure no worker is paid below a basic threshold.

11. Under the Industrial Relations Code, up to how many workers can an employer lay off without government approval?

Employers can now lay off or retrench workers without government permission if the firm has 300 or fewer workers. This threshold was earlier 100 workers.

12. How has the definition of “worker” been expanded in the new codes?

The definition now includes people doing skilled, unskilled, manual, technical, and clerical work, and even supervisors earning below ₹18,000 per month, offering broader legal coverage.

13. What are some benefits introduced for gig and platform workers under the Code on Social Security?

For the first time, gig and platform workers (like Swiggy or Uber workers) are covered under social security schemes. They are eligible for insurance, health, pension, and benefits from a Social Security Fund.

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UNIT-5
FACTORS AFFECTING INDUSTRIAL RELATIONS

Unit Structure:

5.1 Introduction

5.2 Objectives

5.3 Parties Involved in Industrial Relations

5.4 Factors Affecting Industrial Relations

5.5 Summing Up

5.6 Model Questions

5.7 Answers to Check Your Progress

5.8 References and Suggested Readings

5.1 Introduction

Industrial relations (IR) refer to the ongoing relationship and interactions between management, workers, and the government within industry. It is the complex of interrelations among workers, managers and government, emphasizing that it involves not just the employer-employee link but also broader institutional actors like unions and the state. While strained industrial relations can result in conflicts, good industrial relations foster productivity and industrial harmony. In reality, a variety of factors outside of the immediate workplace influence IR. In the backdrop of India, with its varied workforce and strict regulations—knowing these things is essential. The key economic, political, legal, technological, psychological, cultural, and organizational elements that affect labor relations are covered in the sections that follow, with examples from India.

5.2 Objectives

After studying this unit, the students will be able to-

- *understand* the concept and importance of industrial relations in modern organizational settings,
- *identify* and explain the major factors—organizational, political, legal, economic, social, psychological, and technological—that influence industrial relations,
- *analyze* how internal elements such as management style, company structure, and communication systems affect employee-employer relationships,
- *examine* the impact of external factors such as government policy, trade unionism, globalization, and economic conditions on the industrial relations climate,
- *evaluate* the role of trade unions, employer associations, and the HR department in maintaining industrial peace and resolving disputes,
- *explore* the effects of technological change and workforce diversity on employment relations and conflict management,
- *develop* a critical understanding of how leadership behavior, motivation, and employee morale shape workplace harmony.

5.3 Parties Involved in Industrial Relations

The different persons holding distinct positions in the organization and the external or internal associations involved in the process of building strong industrial relations can be bifurcated into the following two categories:

5.3.1 Primary Parties

Those persons or associations which are directly associated with or influenced by the functions of industrial relations are as follows:

- **Employees**: Employees share their views, suggestions, ideas with the management to improve the business operations and become a part of organizational decision-making, and ensuring the betterment of the working conditions
- **Employers**: They are responsible for:

- Providing a good work environment for the employees and taking strategic decisions such as mergers, acquisitions, or shutting down of the organization, etc.
- Motivating the employees to give their best and gaining their trust and commitment.
- Improving the overall efficiency and ensuring effective communication among the employees and the management.

- **Government:** Government started regulating the industrial relations through labour courts and tribunals, for the following reasons:

- Safeguarding the interest of both the parties.
- Ensuring that both the employer and the employee, abide by the legal terms and conditions.

5.3.2 Other Parties

The parties which impact the industrial relations within an organization are as follows:

- **Employers' Association**

- Employers Association refers to an authoritative body, formed to protect the interest of the industrial owners.
- They represent the owners in collective bargaining with the employees or government, national issues, and provide insight into employee relations in an organization.

- **Trade Unions**

- Trade Unions mean when the workers unite together to form an association and elect a representative among themselves and to raise their demands in front of the management.
- They demand better working conditions and higher job security for the workers by safeguarding the interest of the employees by demanding control over the decision-making at various levels.

- **Courts and Tribunals**

The judiciary includes the 'courts' to resolve the legitimate conflicts and the 'judicial review' to administer the justice of the constitution. These courts and tribunals play an essential role in the settlement of industrial disputes by eliminating the possibilities of Judicial flaws, conflicting judgment, poor evaluation of penalty, and Confusing terms and conditions.

- **International Labor Organization (ILO)**

International Labor Organization aimed to look into matters like Worker's compensation, employee's work duration and days, women employment, employee's safety, security, and medical facilities with maternity protection.

- **Human Resource Department**

The human resource department or team acts as a mediator between the organization and its employees for dealing with personnel issues and conflicts. HR professionals address the disputes at the initial level, act as a change agent by bringing a mental revolution and perform the role of an administration expert and a strategic partner.

5.4 Factors affecting Industrial Relations

5.4.1 Organisational Factors

Within each enterprise, management practices and organizational structure strongly shape IR. Key organizational factors include size and structure of the organisation, financial performance, management style, communication channels, and internal policies.

- **Size and Structure of the Organization:** The size and structure of a company can affect industrial relations. Generally, smaller businesses have a flat organizational structure and fewer employees, which encourages informal communication and a more personal relationship between employers and employees. Disputes, grievances, or misunderstandings can usually be resolved directly without the use of formal mechanisms, but this informality may also result in the lack of standardized procedures for addressing employee issues. In contrast, larger organizations typically have a more formal and hierarchical structure, with well-established departments and a larger workforce. Because of their size and complexity, these organizations usually adopt formal policies for grievance redressal, disciplinary actions, and collective bargaining. Trade unions are also more active in larger enterprises, and labour laws are implemented more strictly. Therefore, the size and structure of an organization significantly influence the nature and effectiveness of its industrial relations system.
- **Financial Performance:** The financial health of a company can influence its ability to meet employee demands for better wages and benefits. When a company is financially healthy, it can afford to offer competitive compensation packages and benefits, fostering employee satisfaction and loyalty. A struggling company might prioritize cost-cutting measures, which can lead to reduced wages, benefits, or even layoffs, potentially creating tension with employees and impacting morale.
- **Management Style**. Autocratic management (top-down, command-control style) can breed resentment, whereas participative or democratic styles (involving workers in decisions) tend to build goodwill. For instance, many Indian companies have moved toward “participative management” by

instituting works committees or joint-management councils, giving workers a voice. Where management is perceived as inflexible or authoritarian, trade unions may become adversarial; where managers are approachable and fair, unions often cooperate.

- **Communication and Grievance Handling**. Transparent communication is vital. Companies that maintain open dialogue channels (regular meetings, feedback systems) generally have smoother IR. For example, a high-quality grievance redress system – where worker complaints are heard and addressed promptly – can defuse tensions.
- **Trade Union Presence**. IR is impacted by the presence and existence of trade unions within a firm. One point of bargaining is offered by a stable, representational union, which may lessen factional conflict. On the other hand, an increase in competing unions may cause labour to become fragmented and make agreements challenging. Conversely, rise of rival unions can fragment labour and make agreements hard. Prominent national unions include the All India Trade Union Congress (AITUC), Indian National Trade Union Congress (INTUC), Bharatiya Mazdoor Sangh (BMS), Centre of Indian Trade Unions (CITU), and Hind Mazdoor Sabha. A union-led workforce can better articulate collective demands, but strong unions also raise the bar of negotiation good if handled through dialogue, problematic if rigid.

In summary, organizational factors – how the company is managed and communicates – interact with worker organizations (unions) to create the immediate industrial relations climate. In India, where hierarchical norms and communication gaps often exist, managements that prioritize fairness, transparency and worker welfare tend to maintain more harmonious IR.

Check Your Progress

1. How does the size and structure of an organization influence industrial relations?
2. In what ways can financial performance impact employee-management relations?
3. Why is management style considered a key factor in determining the quality of industrial relations?
4. How does effective communication help in maintaining industrial harmony?
5. What role do trade unions play in shaping industrial relations within large enterprises?

5.4.2 Government policies and politics

The broader political climate and government policies shape IR. Government ideology (pro-labour vs pro-industry) influences labour laws and enforcement. For instance, a pro-business government might pursue labour law reforms to allow easier hiring/firing, aiming to boost growth, while a pro-labour government might strengthen worker protections. In India, debates over labour law flexibility versus security are ongoing. State-level politics also play a role; states with more labour-friendly governments (for example, those controlled by leftist parties) may enforce labour laws more strictly, affecting local IR climate. Political parties often interact with trade unions, and those party conflicts can spill into workplace relations. For example, many national unions in India (like INTUC, CITU or BMS) are affiliated with political parties, so political struggles sometimes influence union demands or strategies.

- Policies of the Government: Government policies and the dominant political ideology have a big influence on labor relations. Strong labor regulations that encourage unionization,

for example, may make relations more hostile, whereas deregulation-friendly policies may give businesses more control.

- Labor Laws and Regulations: The legal framework defining working conditions, minimum salaries, and the right to form a union influences the balance of power between employers and employees. While lax rules may expose workers to danger, rigorous ones may limit corporate flexibility.
- Unions and Employer Associations: The type of collective bargaining and the general atmosphere of industrial relations are influenced by the existence and power of labor unions and employer associations. While strong business groups might oppose their requests, strong unions can fight for improved working conditions.

Check Your Progress

6. How do government policies affect industrial relations?
7. What is the role of labour laws in protecting both employers and employees?
8. How can political party influence lead to industrial disputes in workplaces?

5.4.3 Economic Factors

- Ownership: The difference between private and public sector ownership of businesses can have an impact on labor relations. While private businesses may place a higher priority on flexibility and cost-cutting tactics, public sector workplaces may have more uniform procedures and a bigger union representation.
- Economic Situation: The state of the economy, which includes elements like industry growth, unemployment rates, and

inflation, can have a big impact on industrial relations. Employees become more concerned about their job security during recessions, which may encourage them to work more cooperatively with their bosses. On the other hand, prosperous economic times may give workers the confidence to demand higher pay and benefits.

Check Your Progress

9. What effect does a poor economic situation have on industrial relations?
10. How does the ownership structure (public vs. private) affect IR practices?

5.4.4. Social Factors

- Values and Social Norms: Industrial relations can be impacted by societal perceptions of government, worker rights, and unions. There may be less pressure on unions to defend fundamental worker rights in communities with robust social safety nets.
- Workforce Demographics: The workforce's age, educational attainment, and cultural background can all have an impact. Younger generations may view industrial relations differently than older generations since they have different expectations for their jobs.
- India’s social and cultural environment deeply influences IR. Cultural values such as collectivism, hierarchy, and family ties affect workplace relations. For example, Indian workers may value collective action (trade unionism) as a way to support not just themselves but family/community welfare. Social factors like caste and religion sometimes influence union composition

or employer preferences, although formal IR tries to be non-discriminatory. Traditional respect for authority (higher power distance) can mean workers are less likely to strike overtly, but this can also suppress grievances until they explode.

- Population dynamics (youth bulges, rural-urban migration) are also relevant. A large young workforce may have higher unemployment, raising the chance of conflict. Demographic pressures were noted by one study which lists population and tradition under "social and cultural factors" affecting IR. Ethnically diverse workplaces may face communication or trust issues across groups.
- Education and literacy affect how workers organize and negotiate. In earlier decades, limited education and high informal employment made collective bargaining weak. As literacy and awareness rise, workers are more likely to form independent unions and articulate demands through legal channels. This evolving social context means IR must adapt: what worked in a small-town mill may not work in a modern city factory with educated, multimedia-savvy employees.

5.4.5 Psychological Factors

- **Attitudes and Perceptions:** The attitudes and perceptions of employers and employees towards each other significantly impact industrial relations. A culture of trust and mutual respect fosters cooperation, while suspicion and hostility can lead to conflict.
- **Leadership Styles:** The leadership style of management, whether authoritarian or collaborative, can influence employee morale and their willingness to engage in collective bargaining.

Check Your Progress

11. What social values influence the way workers and employers interact in India?
12. How do leadership styles affect employee attitudes and workplace behaviour?
13. In what way does worker education and awareness contribute to better industrial relations?

5.4.6. Global Factors

International trade agreements and the movement of jobs overseas can influence industrial relations within a country. Increased competition from foreign companies might lead to pressure on domestic companies to reduce labor costs. This can manifest as wage stagnation or decreases for low-skilled workers and job insecurity. Foreign businesses some of which may have lower labour costs are a bigger threat to domestic companies as a result of international trade agreements and the relocation of jobs abroad. Moreover, domestic businesses may attempt to lower labour costs in order to stay competitive which could result in wage stagnation or reductions for certain employees, particularly those in low-skilled positions. Domestic workers may also experience job insecurity as a result of companies outsourcing to nations with cheaper labour costs. As a result, globalisation may cause changes in the labour market, with some industries seeing job losses and others seeing increases

5.4.7. Technological Changes

Technological advancements can impact industrial relations by altering job roles, workflows, and skill requirements. Automation and digital tools may lead to job displacement or changes in work

patterns, requiring negotiations over training, job security, and work conditions. Staying ahead of technological changes and managing their implications is crucial for maintaining positive industrial relations.

When new technologies are introduced, jobs may be lost and new skill sets may be needed. Unions that represent traditionally skilled workers may have difficulties as a result, and industrial relations procedures may need to change.

Technological change and innovation affect IR by altering the nature of work and the skills demanded. Automation, mechanization and new production methods can increase efficiency but may also reduce jobs or shift job types. Workers displaced by machines or new processes may demand protection or compensation, leading to conflict. For example, the introduction of automated textile machines in India in recent decades led to skill gaps and tensions in some factories as traditional jobs declined. Conversely, tech can improve IR: introduction of information systems for payroll, safety, and communication can reduce misunderstandings and enhance worker welfare, improving relations. Overall, the pace and type of technology adoption – whether capital-intensive or labour saving – is an important factor.

Check Your Progress

14. How can automation and digitalization affect job roles and industrial peace?

15. In what ways does globalization challenge or support industrial relations in India?

Self-Asking Questions

1. How can the HR department act as a bridge between the employer and employees during conflict?

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2. What are the advantages and disadvantages of having multiple trade unions in the same workplace?

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3. How do changes in government policies or political parties impact worker rights and employer decisions?

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4. Why is it important for a business manager to stay updated about labour law changes?

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5. How do economic downturns or inflation influence wage negotiations and employee expectations?

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6. If a company is losing money, how can it maintain healthy industrial relations without cutting jobs or pay?

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7. How do personal values and cultural backgrounds affect relationships between workers and management?

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8. If I were an employee, what psychological needs (security, recognition, belonging) would influence my loyalty to the company?

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9. How might rapid automation at workplace affect job security and employee morale?

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5.5 Summing Up

The unit explores the various internal and external factors that influence industrial relations within an organization. It begins by highlighting the key parties involved in industrial relations-employees, employers, government, trade unions, employers' associations, courts, tribunals, the ILO and the HR department each

playing a unique role in maintaining workplace harmony. Organizational factors such as the size and structure of the company, financial performance, management style, and communication systems play a major role in shaping day-to-day interactions between employers and employees. While smaller business could rely on informal systems. Larger companies often adhere to formal protocols. Political and legal factors include government policies, labour laws, and the political affiliations of trade unions. These directly impact how disputes are resolved and how fairly workers are treated. Economic factors such as the business cycle, inflation, ownership type (public or private), and unemployment levels influence wages, working conditions, and job security. During economic downturns, tensions may rise due to layoffs or wage freezes. Social and psychological factors cover values, work culture, leadership styles, employee morale, and individual expectations. Trust, respect, and open communication are key to preventing and resolving disputes. Technological factors refer to automation and digitalisation, which can disrupt job roles and skill requirements, necessitating changes in industrial relations strategies to address worker concerns. Global factors, such as globalization and international competition, create pressures on domestic industries to become more efficient, often impacting employment practices and worker expectations.

Overall, the unit emphasizes that industrial relations are not shaped by any single element but by a combination of structural, human, political, and economic forces. For harmonious and productive industrial relations, it is important for management to understand these factors and adopt fair, transparent, and inclusive policies.

5.6 Model Questions

1. Define industrial relations.
2. What is participative management?

3. Name two national trade unions in India.
4. What is meant by collective bargaining?
5. State one psychological factor that affects industrial relations.
6. Discuss the organizational factors that affect industrial relations with relevant examples.
7. Examine how political and legal factors influence the industrial relations climate in India.
8. Explain the impact of economic and technological factors on industrial relations.
9. Describe the role of trade unions and employer associations in shaping industrial relations.
10. How do psychological and social factors contribute to harmonious or strained industrial relations?
11. Write a short note on the role of the HR department in managing industrial relations.
12. Explain how workforce demographics influence industrial relations.
13. How does leadership style affect employee-management relations?
14. What is the significance of grievance redressal systems in improving IR?
15. Mention any three global factors that influence industrial relations today.

5.7 Answers to Check Your Progress

1. The size and structure of an organization significantly affect how industrial relations are managed. In small organizations, communication tends to be informal and direct, often allowing for faster conflict resolution. However, the lack of formal grievance procedures may lead to inconsistency. In contrast, large organizations adopt a more formal and hierarchical structure, requiring established procedures for grievance

handling, collective bargaining, and disciplinary actions. Larger firms also tend to have active trade unions and more legal oversight.

2. A financially strong company is better positioned to offer fair wages, bonuses, and employee benefits, leading to better morale and positive relations with employees. On the other hand, companies facing losses or economic difficulties may resort to cost-cutting, wage freezes, or layoffs. This can lead to dissatisfaction, strikes, or reduced trust between workers and management.
3. The way management interacts with employees directly affects the working environment. An autocratic or rigid management style may cause fear, resentment, and resistance among employees. In contrast, a participative or democratic style—where employees are involved in decision-making—promotes mutual respect and cooperation, resulting in more stable and positive industrial relations.
4. Clear and transparent communication reduces misunderstandings and prevents misinformation from spreading among employees. When workers feel heard and informed through proper communication channels, such as suggestion boxes, meetings, or grievance systems, they are more likely to cooperate with management, trust decisions, and avoid conflict.
5. Trade unions act as the collective voice of workers, advocating for better wages, job security, and working conditions. In large organizations, they often engage in collective bargaining with the employer and may also participate in dispute resolution. A strong and responsible union can help maintain industrial peace, but poorly managed unions may also cause disruption if demands are not handled reasonably.
6. Government policies influence the balance of power between workers and employers. A pro-worker government may

introduce stricter labour laws and enforcement mechanisms, ensuring better job security. Conversely, a pro-industry policy may focus on flexibility and ease of doing business, which could reduce worker protections. These policy shifts directly impact how industrial relations are managed.

7. Labour laws define the rights, duties, and responsibilities of both parties. They provide legal guidelines for issues like minimum wages, working hours, and dispute settlement. This helps create a fair work environment and ensures that both employers and employees are protected against exploitation or unfair practices.
8. When trade unions are affiliated with political parties, workplace issues may become politicized. Rival unions backed by different parties may clash, leading to disruption and disputes. Political influence may also pressure management or the government to act in certain ways, complicating negotiations and conflict resolution.
9. During an economic downturn, companies may cut costs through layoffs, wage reductions, or suspension of bonuses. This can lower employee morale and increase the chances of strikes or unrest. Workers may become more cooperative to retain their jobs, but frustration can grow if poor conditions persist.

10. Public sector enterprises usually have standardized policies, stronger union presence, and are more influenced by government regulations. In contrast, private companies often focus on efficiency, cost-cutting, and flexibility. This difference in priorities can shape how each sector handles employee relations and disputes.
11. In India, cultural values like respect for authority, collectivism, and family responsibilities influence employee behavior and expectations. For example, workers may hesitate to openly challenge management but may support collective action

through unions. Caste, religion, and community ties may also shape group dynamics and workplace unity.

12. Leadership plays a vital role in setting the tone of industrial relations. A collaborative leader who values employee input creates a positive and motivating work culture. In contrast, authoritarian leadership may suppress dissent temporarily but can lead to built-up resentment and future conflicts.
13. Educated workers are more likely to understand their rights and responsibilities. They are better equipped to use formal grievance channels, engage in constructive dialogue, and avoid impulsive action. They may also form unions that are more organized, lawful, and negotiation-oriented.
14. While technology can increase efficiency, it may also displace traditional jobs or require new skills, leading to job insecurity. Workers may resist change if they fear layoffs, and unions may demand retraining or compensation. If not managed properly, such transitions can create tension.
15. Globalization increases competition and forces domestic companies to be more efficient. This can pressure employers to cut labour costs, outsource jobs, or restructure operations, which may create unrest among workers. However, it can also lead to higher standards, better policies, and professional HR practices that support better industrial relations if balanced well.

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UNIT-6
INDUSTRIAL CONFLICTS: RESOLUTION OF CONFLICTS

Unit Structure:

6.1 Introduction
6.2 Objectives
6.3 Industrial Conflicts Meaning
6.4 Methods for the Prevention and Resolution of Industrial Disputes
6.5 Authorities for Resolution of Industrial Disputes
6.6 Summing Up
6.7 Model Questions
6.8 Answers to Check Your Progress
6.9 References and Suggested Readings

6.1 Introduction

Conflict is inevitable in any setting, institution, or organization because people have different needs, wants, perceptions, and views. It is often understood to be an adversarial state of opposition, disagreement, or incompatibility between two or more parties. Conflicts may either be sustained and organized or random and unorganized. They may manifest themselves actively in a strike or a go-slow, which are calculated attempts to apply pressure so as to alter the situation. The passive expression of conflicts consists of the withdrawal of effort, resulting in poor productivity, absenteeism, and poor timekeeping. Strikes, considered the last resort, are the tip of the iceberg. Below this tip lies the entire range of relationships between labour and management and their differing of interests.

Industrial conflicts have been a source of major concern due to the disruption of economic development and losses involved for everyone concerned- workers, owners and public. Conflict is inevitable in the industrial society. Conflict in itself is not unhealthy or dysfunctional. The absence of conflict or strikes may not always mean that everything is smooth or normal. In unorganized sectors, it is said that the absence of strikes could be a measure of the misery of the workers. Industrial conflicts are a fact of industrial society and should be handled carefully to ensure the viability of the organization, remove the discontentment among workers and avoid hardship to the society.

6.2 Objectives

After studying this unit, the students will be able to:

- *understand* the difference between industrial conflicts and industrial disputes,
- *identify* the major causes of industrial disputes in India,
- *explore* various types and classifications of industrial disputes,
- *study* the impact and consequences of industrial disputes,
- *examine* voluntary and statutory methods for prevention and resolution of conflicts,
- *understand* the roles of authorities like conciliation officers, tribunals, and courts.

6.3 Industrial Conflicts meaning

Industrial conflicts refer to *broad workplace tensions or disagreements* between employers and employees, which may remain latent like; unaddressed grievances, distrust, or manifest openly e.g., protests. Industrial disputes, however, are a *formal*

subset of conflicts that escalate to legal recognition under labor laws, such as strikes, lockouts, or wage disagreements, governed by statutory frameworks like the Industrial Disputes Act, 1947. While conflicts encompass informal or unresolved issues, disputes require structured resolution mechanisms (conciliation, arbitration) due to their formal and legal nature.

The Industrial Disputes Act defines an industrial dispute as "any dispute or difference between employees and employees, or between employees and employers, or between employers and employers, which is connected with employment, non-employment, terms of employment, or conditions of work for any person."

While the terms are sometimes used interchangeably, industrial conflict is a broader concept encompassing all workplace tensions, whereas industrial disputes are formalized conflicts addressed through legal frameworks. Understanding this distinction is critical for legal compliance and effective conflict management in organizations.

At the organisation level, industrial conflict can occur due to interactions-

(i) Within the work organization, between union leaders and managers.

(ii) Within the union organization, between union leaders and the workers.

(iii) Between the work organisation and union organisation represented by the management and union leaders.

When these industrial conflicts acquire specific manifestation, it becomes an industrial dispute Various terms such as 'Labour dispute', 'Industrial dispute' or 'Trade dispute' are used in different countries to identify the differences between employers and workers

and unions. The term industrial conflict is a general term which, when expressing itself on concrete form, become a dispute. In this book however, these terms are regarded as equivalent and for the sake of simplicity only, the term industrial dispute has been used.

6.3.1 Definition and Essentials of Industrial Dispute

According to the Industrial Disputes Act 1947, Section 2(k), "Industrial dispute means any dispute or difference between employers and employees, or between employers and workmen or between workmen and workmen, which is connected with the employment or non-employment or terms of employment or with the conditions of labour of any person."

For a dispute to become an industrial dispute, it should satisfy the following essentials:

(i) there must be a dispute or difference
(a) between employers and employees,
(b) between employers and workmen, and
(c) between workmen and workmen;

(ii) it is connected with the employment or non-employment or the terms of employment or with the condition of labour of any person (but not with the managers or supervisors), or it must be pertaining to any industrial matter;

(iii) the relationship between the employer and the workman should be in existence.

Check Your Progress

1. What is an industrial conflict?
2. What is the difference between an industrial conflict and an industrial dispute?

3. Why is conflict not always considered negative in industrial relations?
4. How does the absence of strikes sometimes indicate deeper worker dissatisfaction?

6.3.2 Causes of Industrial Disputes

The strained relations between the employer and the workers may be due to many causes which are rooted in historical, political and socio-economic factors and in the attitude of workers and their employers. All these causes can be grouped into the following four categories:

(a) Industrial factors,
(b) Management's attitude to labour,
(c) Government machinery, and
(d) Other causes,

A. Industrial Factors:

It includes:

(1) An industrial matter relating to employment, work, wages, hours of work, privileges, the rights and obligations of employees and employers, terms and conditions of employment including matters pertaining to:

(a) dismissal or non-employment of any person:
(b) registered agreement, settlement or award; and
(c) demarcation of the functions of an employee.

(ii) Disputes arising because of

(a) the rapidly increasing population which has no opportunities for gainful employment. There is, therefore, no improvement in the standard of living of employees who put forward demands for

higher wages, which if not accepted, often leads to strained industrial relations and strikes.

(b) the rising unemployment partly due to increasing population and partly due to the implementation of the schemes of rationalisation and setting up of more capital intensive units requiring less and less of labour. All this creates dissatisfaction particularly among the young workers.

(iii) The rising prices of essential commodities, their shortages, non-availability etc., as a result, the real wages of the workers go down. Existing wage structure is inadequate, unjustified, confusing, chaotic and full of anomalies; and fixation of D.A (Dearness Allowance) as per the price index based on latest data, have created dissatisfaction among the workers compelling them to demand higher wages.

(iv) Even the attitude and temperament of industrial workers have changed because of their education, their adoption of urban culture and the consequent change in social values, the growth of public opinion and progressive legislation enacted for their benefit. They are, therefore, very conscious of their rights and will not put up with any injustice or wrong done to them.

(v) The trade unions have often failed to safeguard the interests of workers. The main reasons behind their failure to protect workers' interests are:

(a) Rivalry among and multiplicity of trade unions have destroyed the solidarity of the working class:

(b) Non-recognition of some trade unions as bargaining agents of their members;

(c) Compulsory adjudication for the wages and working conditions of industrial employees has made trade unions seem redundant:

(d) The trade unions are unstable and ephemeral:

(e) The trade union leadership aims at fulfilling ulterior motives leading to thwarting the attempts of trade union unity.

B. Management's Attitude towards Workers

(i) Management is generally not willing to talk over any dispute with their employees or their representatives or refer it to arbitration even when trade unions want them to do so. This enrages the workers.

(ii) The management's unwillingness to recognise a particular trade union is also an important source of industrial strikes.

(iii) Even when representative trade unions have been recognized by employers, they do not, in a number of cases, delegate enough authority to their officials to negotiate with their workers to negotiate with mgt on behalf of their workers, even though the representatives of labour are willing to commit themselves to a particular settlement.

(iv) The management's insistence that they alone are responsible for recruitment, promotion, transfer, merit awards etc. and that they need not consult their employees in regard to any of these matters, generally annoys the workers, who become un-co-operative and unhelpful and often resort to strikes.

C. Government Machinery

Though there is a plethora of enactments for the promotion of harmonious relations, yet it is ineffective and unsatisfactory in most of the cases due to the following reasons:

(i) The Govt. machinery is not successful in implementing labour laws.

(ii) Inability of conciliation machinery to do its job and consequently employees and management's loss of confidence in the conciliation machinery.

(iii) Irrelevance of certain provisions of labour laws and their inadequate role in the context of challenges of present industrial climate and imperatives of development due to competitive environment.

(iv) The officers associated with conciliation proceedings have very little training in handling the problems or disputes which are referred to them.

D. Other Causes.

Among these may be included the following:

(i) Affiliation of the trade unions with the political party. Each political party, somehow, "engineers" strikes, gheraos and bandhs to demonstrate its political strength. Invariably, the political party which is in power, favour that trade union organisation which is affiliated to it, leading to labour conflicts and disputes.

(ii) Political instability, Centre-State relations, general responsibility of all fronts are reflected in industry resulting in industrial conflicts.

(iii) Other potential factors, such as rampant corruption in industry and public life, easy money, conspicuous consumption, permissive society, character crisis and general breakdown in the national morale have brought disgrace and degradation of social values and social norms. All these have contributed in one way or the other towards unrest including industrial unrest.

So, there is increasing tendency among industrial workers to resort to strikes and militancy. They forget that strike is the last resort in their armoury.

Check Your Progress

5. What are the main categories of causes for industrial disputes?
6. Explain any two management-related causes of conflict.
7. How does the political environment contribute to industrial unrest?

6.3.3 Classification of Industrial Disputes

The common practice is to make a distinction between three main types of disputes. They are:

1. Interest disputes.

These disputes are called 'Conflict of interests' or 'Economic disputes'. These disputes relate to the establishment of new terms and conditions of employment for the working population as a whole. In most cases, the disputes originate from trade union demands or proposals for improvement of wages, fringe benefits, job security or other terms of employment. These disputes arise when the parties fail in their negotiations to reach an agreement on the outstanding issues.

The expression "conflict of interests' describe the nature of the issues involved. Since there are generally no mutually binding standards that can be relied upon to arrive at a settlement of interest disputes, recourse must be had to bargaining power, compromise and sometimes a test of economic strength for the parties to reach an agreed solution. Since, the issues involved in such disputes are compromisable, they lend themselves best to conciliation and bargaining between the parties.

2. Grievance disputes.

These disputes also known as 'Conflicts of Rights' arise from day-to-day working relations in the undertaking, usually as a protest by the worker or workers concerned against an act of management that is considered to violate workers' rights or alleged unfair treatment by the management.

Grievances typically arise on such questions as discipline and dismissal, the payment of wages and other fringe benefits, working time, overtime, time-off entitlements, promotions, demotions, transfers, rights deriving from seniority, rights of supervisors and unions officers, job classification problems, the relationship of work rules to the collective agreement and the fulfilment of obligations relating to safety and health laid down in the agreement.

The relevant provisions of the collective agreement, employment contract, work rules or law, customs and usage are resorted to settle such grievance issues. In some countries, Labour Courts or Labour Tribunals adjudicate on grievance disputes.

3. Disputes over unfair labour practices.

This category covers disputes arising from acts of interference with the exercise of the right to organise or acts commonly known as unfair labour practices. In industrial relations the most common unfair labour. In industrial relations, the most common unfair practices, are attempts by management to discriminate against workers for being trade union members or for trade union activity. Other unfair labour practices are generally concerned with interference, restraint or coercion of employees from exercising their right to organise or join or assist a union, refusal to bargain collectively in good faith with the recognised union, failure to implement an award, settlement or agreement and so forth.

In many countries special procedure is available under the law, for the prevention of such practices. In the absence of such procedure, the disputes are settled according to the normal procedure laid down under the Industrial Dispute Act.

4. Recognition disputes.

The disputes over the right of a trade union to represent a particular class or category of workers for purposes of collective bargaining are referred as Recognition Disputes.

Issues in recognition disputes differ according to the cause which has led the management to refuse recognition. These causes may be

(i) The management dislikes a particular trade union-problem of attitude.

(ii) There are several unions in the undertaking making conflicting claims to recognition-problem of existence or non-existence of rules for determining the representative character of the union.

Such rules may not always be laid down by law. In many cases they may be conventional or derived from the prevailing practices in the country. In many countries the guidelines for trade union recognition have been laid down in voluntary Codes of Discipline.

Check Your Progress

8. What is an interest dispute? Give an example.
9. Define a grievance dispute. How is it different from an interest dispute?
10. What are recognition disputes, and why do they arise?

6.3.4 Consequences/Impact of Industrial Disputes

Industrial disputes disturb the economic, social and political life of a country.

(1) Industrial disputes result in huge wastage of manpower and dislocation in the production processes.

(ii) If the struck commodity happens to be used in other production operations, then other producers also suffer

(iii) Stoppage of work leads to the short supply of consumer goods, consequently prices shoot up besides their non-availability in the open market.

(iv) The employers suffer heavy losses due to stoppage of production, reduction in sale, loss of profits, loss of market share due to inability to supply goods, huge expenditure involved for suppressing down the strikes, engaging the strike breakers, maintaining police force and guards etc. Besides the loss of mental peace, respect and status in the society is beyond quantification.

(v) The workers suffer equally in the form of loss of wages for the strike period. They get entangled in debt to meet their day to day expenses. Disruption in the family life, personal hardships, mental agony and tensions develop and persist. The workers are prosecuted, victimized or kidnapped and given severe beating by the goondas and repressed by police. The strike if it ends unsuccessfully will demoralize, disappoint & sullen the workers.

(vi) A strike in the public utility services such as water supply, power and gas supply, Post & Telegraph departments, railways, roadways, hospitals etc. disorganize the entire public life and throws the economy out of gear and people in the society are subject to unnecessary hardships

(vii) Industrial conflicts create law and order problems necessitating increased vigilance on the part of the State, causing additional expenditure out of Government Exchequer.

Check Your Progress

11. How do industrial disputes affect employers and workers?
12. What is the impact of a strike in public utility services?
13. Mention two social consequences of prolonged industrial conflict.

6.4 Methods for the Prevention and Resolution of Industrial Disputes

Industrial conflicts are an unavoidable aspect of employer-employee relations in any industrial setup. When such conflicts arise, it is essential to address them quickly, fairly and efficiently to maintain workplace harmony and productivity. The Indian industrial relations system provides a structured set of mechanisms for managing and resolving these disputes. These are broadly referred to as conflict resolution machineries.

In our country the various methods for the prevention and resolution of industrial disputes operate at two levels: Voluntary and Statutory

A) Voluntary Level

At the voluntary level these methods are:

1. Collective Bargaining.
2. Code of Discipline,
3. Arbitration,
4. Joint Consultative Machinery, and
5. Tripartite Bodies.

1. Collective Bargaining

Collective bargaining is a voluntary negotiation process between an employer and employees' representatives (typically trade unions),

aimed at establishing mutually acceptable terms and conditions of employment such as; wages, working hours, safety standards, and benefits. In India, it acts as both a preventive and resolution mechanism, by providing a structured forum for discussing and addressing employee concerns before they escalate, it helps avoid formal disputes. When differences do surface, collective bargaining remains an effective settlement tool, as it allows both parties to negotiate outcomes directly—thus preventing the need for strikes or legal intervention.

Indian collective bargaining typically takes several distinct forms. In terms of issue focus, it can be distributive, dealing with zero-sum issues like wage divisions; integrative, aiming for win–win solutions on broader employment terms; productivity bargaining, linking employee incentives to productivity increases; concessionary bargaining, where workers accept concessions to preserve jobs; and composite bargaining, covering multiple interrelated topics. Based on parties and legal standing, it includes: bipartite agreements, reached directly between union and management; settlements, formal agreements resulting from conciliation processes; and consent awards, which become legally binding when incorporated into tribunal orders. Together, these diverse forms enable flexible and context-specific resolution of industrial disagreements.

2. Code of Discipline

This code was approved by all central organisations of workers and employers at the Sixteenth Session of the Indian Labour Conference in June, 1958 at the initiative of the then Union Labour Minister G.L. Nanda. It has also been accepted by a large number of other employers' and workers' organisations. The code applies to all public sector companies and corporations except defence, railways and ports and docks and with certain modifications, to the Reserve Bank of India, State Bank of India and the Department of Defence

Production. The code consists of three sets of principles to be followed by the parties to labour relations. These are as under:

I. Management and Union(s) agree

(a) that no unilateral action should be taken in connection with any industrial matter and that disputes should be resolved at appropriate level;

(b) that the existing machinery for resolution of disputes should be utilised with the utmost expedition;

(c) that there should be no strike or lock-out without notice;

(d) that affirming their faith in democratic principles, they bind themselves to resolve all future differences, disputes and grievances by mutual negotiation, conciliation and voluntary arbitration;

e) that neither will have recourse to (a) coercion, (b) intimidation, (c) victimisation, and (d) go-slow;

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

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

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

(i) that they will abide by various stages in the grievance procedure and take no arbitrary action which would bypass this procedure; and

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

II. Management agrees

(a) not to increase work-loads unless agreed upon or resolved otherwise;

(b) not to support or encourage any unfair labour practice such as: interference with the right of employees to enroll or continue as union members; discrimination, restraint or coercion against any employee because of recognised activity of trade unions; and victimisation of any employee and abuse of authority in any form;

(c) to take prompt action for resolution of grievances, and implementation of resolutions, awards, decisions and orders;

(d) to display in conspicuous places in the undertaking the provisions of this code in local language(s);

(e) to distinguish between action justifying immediate discharge and that where discharge must be preceded by a warning, reprimand, suspension or some other form of disciplinary action and to arrange that all such disciplinary action should be subject to an appeal through normal grievance procedure;

f) to take appropriate disciplinary action against its officers and members in cases where enquiries reveal that they were responsible for precipitate action of workers leading to indiscipline; and

(g) to recognise the union in accordance with the criteria evolved at the 16th session of the Indian Labour Conference held in May, 1958.

III. Union(s) agree

(a) not to encourage any form of physical duress;

(b) not to permit demonstrations which are not peaceful and not to permit rowdyism during demonstration;

(c) that their members will not engage or cause other employees to engage in any union activity during working hours, unless as provided for by law, agreement or practice;

(d) to discourage unfair labour practices such as: negligence of duty, careless operation, damage to property, interference with or disturbance to normal work, and insubordination;

(e) to take prompt action to implement awards, agreements, settlements and decisions;

(f) to display in conspicuous places in the union offices, the provisions of this Code in the local language(s); and

(g) to express disapproval and to take appropriate action against office-bearers and members for indulging in action against the spirit of this Code.

The Code isn't legally binding, but it's considered a moral and normative contract that shapes behavior and builds trust. When followed sincerely, it helps prevent disputes from arising and ensures that, if they do, they're resolved through dialogue—not coercion or litigation. This makes it a valuable preventive mechanism in India’s conflict-resolution framework.

3. Arbitration

Arbitration, particularly voluntary arbitration, plays a critical role in managing industrial disputes in India. As provided under Section 10A of the Industrial Disputes Act, 1947, parties (employers and workers) can voluntarily agree in writing to refer a dispute—whether already existing or anticipated—to arbitration. This mechanism allows disputing parties to bypass formal adjudication in labour courts or tribunals. Once an arbitration agreement is registered and published, the dispute is referred to the appointed arbitrator(s), who conduct hearings, review evidence, and issue a

binding award submitted to the government. The award carries legal validity, similar to a tribunal's decree, and strikes or lockouts cannot be initiated during the arbitration process. By creating a binding and time-bound forum managed by consensus, arbitration helps resolve disagreements discreetly and efficiently, often preserving industrial harmony and avoiding the combative nature of litigation.

Under Sec. 10A of the Industrial Disputes Act a dispute may be referred to arbitration on fulfilment of the following conditions:

1. There exists or is apprehended an industrial dispute in an establishment.

2. The employer and the workmen of that industrial establishment agree in writing to refer the dispute to arbitration. The arbitration agreement must be in the prescribed form and signed by the parties thereto.

3. The dispute must be referred to arbitration at any time before it has been referred to a labour court or tribunal or national tribunal under Sec. 10 of the Act.

4. The reference must be to certain person or persons specified in the arbitration agreement to act as arbitrator or arbitrators. If the number of arbitrators is even, the parties should provide for the appointment of an umpire whose award will them prevail if the arbitrators are equally divided in their opinion.

5. The arbitration agreement must set forth the issue or issues to be decided by arbitration.

6. The copy of the arbitration agreement must be sent to the appropriate government and the conciliation officer.

Voluntary arbitration is the most commonly structured form under Indian labour law, where both parties consent to the arbitrator's appointment and abide by the outcome. Such involvement ensures

neutrality and acceptance of the award, reducing the risk of work stoppages or adversarial courtroom battles. The arbitrator may be a single individual, a panel, or an umpire, and the process is governed by the Industrial Disputes Act—not the mainstream Arbitration and Conciliation Act—which allows faster resolution tailored to labour issues. Arbitration offers several benefits: flexibility in procedures, confidentiality, quicker resolution, and cost-effectiveness. However, its uptake has been limited due to factors like lack of awareness, absence of trusted arbitrators in certain industries, and reliance on tribunal adjudication. Overall, arbitration presents a balanced system for dispute resolution—combining voluntary participation with enforceable results—contributing both to conflict prevention and settlement in India's industrial relations framework.

4. Joint Consultative Machinery

We have also the Joint Consultative Machinery (JCM) for dealing with issues related to service conditions in the Government sector. This not only covers the industrial employees of the Central Government who come under the definition of a workman under the Industrial Disputes Act but also class III and class IV employees of different Ministries and their subordinate organisations which may not be industrial in character. The machinery has three tiers. There is National Council at the national level to deal with matters affecting all Central Government employees generally like minimum remuneration, dearness allowance, pay, etc. The National Council may have two standing committees-one to deal with matters relating to non-industrial staff and the other to deal with matters concerning industrial staff.

There are also Departmental Councils at the departmental levels and Regional or Office Councils at the regional or local levels.

If there is no agreement between the two sides then issues relating to pay and allowances, weekly hours of work and leave must be referred to compulsory arbitration and all other issues can be decided by the Government itself according to its own judgement. In case of arbitration also, Government has power to modify the award in the national interest.

5. Tripartite Bodies

There are several tripartite bodies (Committees/Boards) which operate under the Central Ministry of Labour. These committees are mainly advisory or consultantive bodies that the Government consults in relation to the implementation/enforcement of different labour laws and policy formulation. A few of these committees are non-statutory, like the Industrial tripartite Committees on sugar, cotton, textile, jute, engineering, chemical, road transport, etc. safety committees and the governing body of the Central Board of Workers' Education, etc. Statutory committees are constituted under specific labour laws. The Second National Commission on Labour has drawn attention to a number of drawbacks which these bodies suffer from. Some of them are as under:

1. There is no fixed criterion for the selection and nomination of members on these bodies.

2. There is no fixed periodicity for holding the meetings of these bodies.

3. Very often, members attend the meetings of these bodies without adequate preparation.

This affects the quality of deliberations and sometimes the meetings are reduced to rituals.

4. The meetings of these bodies are held at various places and a significant expenditure is incurred on travel and arrangements.

In view of the above drawbacks, the Commission feels that the Labour Ministry should rigorously scrutinise the necessity, utility and efficiency of these bodies.

The only high-level tripartite body which has played an important role in maximising support from all concerned sections on various labour matters is the Indian Labour Conference. The Conference came into being in 1940. Though the recommendations which it arrives at in its annual meetings are only advisory in nature, they carry considerable weight with the government, workers, and employers. Some important measures agreed to by the Indian Labour Conference in the past are:

- Setting up of bipartite works committees, joint consultative and production committees;
- Adoption by employers and unions of a voluntary Code of Discipline;
- Following proper grievance and disciplinary procedures;
- Deciding norms for fixing need-based wages;
- Rationalising and revising wage structures of important industries through non-statutory wage boards; and
- Encouraging voluntary arbitration for the settlement of industrial disputes.

Check Your Progress

14. How does collective bargaining help prevent industrial disputes?
15. What is the Code of Discipline and is it legally binding?
16. Under what conditions can a dispute be referred to arbitration?

B) Statutory Level

The Industrial Disputes Act, 1947 makes important provisions both for preventing industrial disputes and for resolving them.

Prevention of Disputes

The Act tries to prevent disputes by:

1. Giving a list of unfair labour practices and making them punishable,

2. Regulating strikes and lock-outs,

3. Laying down law relating to lay-off, retrenchment and closure, and

4. Prohibiting change in conditions of service of a worker.

The Following is a brief description of each of the above points:

Unfair Labour Practices

Formerly the Code of Discipline (which has been described under the voluntary machinery above) was the only document which contained a reference to these practices. Now, Section 2(r)(a) of the Industrial Disputes Act (which has been inserted by the Amendment Act of 1982 and brought into force from 21-8-84) defines unfair labour practices as those which are specified in the Fifth Schedule to the Act, thus:

On the part of employers and their unions:

1. To interfere with, restrain from, or coerce workmen in the exercise of their right to organise, form, join or assist a trade union or to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, that is to say:

(a) threatening workmen with discharge or dismissal, if they join a trade union;

(b) threatening a lock-out or closure, if a trade union is organised; and

(c) granting wage increases to workmen at crucial periods of trade union organisation, with a view to undermining the efforts of the trade union at organisation.

2. To dominate, interfere with or contribute support, financial or otherwise, to any trade union, that is to say:

(a) an employer taking an active interest in organising a trade union of his workmen; and

(b) an employer showing partiality or grating favour to one of several trade unions attempting to organise his workmen or to its members, where such a trade union is not a recognized trade union.

3. To establish employer-sponsored trade unions of workmen.

4. To encourage or discourage membership in any trade union by discriminating against any workmen, that is to say:

(a) discharging or punishing a workman, because he urged other workmen to join or organise a trade union;

(b) discharging or dimissing a workman for taking part in any strike (not being a strike which is deemed to be an illegal strike under this Act);

(c) changing seniority rating of workmen because of trade union activities;

d) refusing to promote workmen to higher posts on account of their trade union activities;

(e) giving unmerited promotions to certain workmen with a view to creating discord amongst other workmen, or to undermine the strength of their trade union; and (discharging office-bearers or

active members of the trade union on account of their trade union activities.

5. To discharge or dismiss workmen:

(a) by way of victimisation;

(b) not in good faith, but in the colourable exercise of the employer's rights;

(c) by falsely implicating a workman in a criminal case on false evidence or on concocted evidence;

(d) for patently false reasons;

(e) on untrue or trumped up allegations of absence without leave;

(f) in utter disregard of the principles of natural justice in the conduct of domestic enquiry or with undue haste; and

(g) for misconduct of a minor or technical character, without regard to the nature of the particular misconduct or the past record or service of the workman, thereby leading to a disproportionate punishment.

6. To abolish work of a regular nature performed by workmen, and to assign such work to contractors as a measure to break a strike.

7. To transfer a workman mala fide from one place to another, under the guise of following management policy.

8. To insist upon individual workmen, who are on a legal strike, to sign a good conduct bond as a pre-condition to allowing them to resume work. (But if the workman who is on strike has also indulged in violence and sabotage, the employer may insist on a good conduct bond.)

9. To show favouritism or partiality to one set of workers regardless of merit.

10. To employ workmen as 'badlis', casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of permanent workmen.

11. To discharge or discriminate against any workman for filing charges or testifying against an employer in any enquiry or proceeding relating to any industrial dispute.

12. To recruit workmen during a strike which is not an illegal strike.

13. To fail to implement award, settlement or agreement.

14. To indulge in acts of force or violence.

15. To refuse to bargain collectively, in good faith with the recognised trade unions.

16. Proposing or continuing a lock-out deemed to be illegal under this Act.

Under Sec. 25-U of the Act an employer committing any of the aforesaid unfair labour practice is punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

On the part of workmen and trade unions:

1. To advise or actively support or instigate any strike deemed to be illegal under this Act.

2. To coerce workmen in the exercise of their right to self-organisation or to join a trade union or refrain from joining any trade union, that is to say-

(a) To force a trade union or its members to picketing in such a manner that non-striking workmen are physically debarred from entering the work places; and

(b) to indulge in acts of force or violence or to hold out threats of intimidation in connection with a strike against non-striking workmen or against managerial staff.

3. To Force a recognised union to refuse to bargain collectively in good faith with the employer.

4. To indulge in coercive activities against certification of a bargaining representative.

5. To stage, encourage or instigate such forms of coercive actions as wilful 'go-slow', squatting on the work premises after working hours or 'gherao' of any of the members of the managerial or other staff.

6. To stage demonstrations at the residences of employers or the managecial staff members.

7. To incite or indulge in wilful damage to employer's property connected with the industry.

8. To indulge in acts of force or violence or to hold out threats of intimidation against any workman with a view to prevent him from attending work.

The punishment for committing any of these unfair labour practices is the same as in the case of employer.

6.5 Authorities for Resolution of Industrial Disputes

The Act provides for the setting up of the following authorities for the resolution of industrial disputes:

1. Works Committee
2. Conciliation Officers
3. Boards of Conciliation
4. Court of Enquiry
5. Labour Court, Tribunal and National Tribunal

1. Works Committee.

A works committee is a group that helps maintain good relations between employers and workers in an industrial establishment. It is meant to resolve small disputes before they turn into bigger industrial conflicts. According to Industrial Disputes Act of India, appropriate government can order the employer to set up a works committee if they currently have employed more than 100 employees in the last 12 months in the organisation. The works committee members should comprise an equal number of workmen (employees) and individuals representing employers. The committee consists of a maximum of 20 members, both management and worker representatives. It is an Advisory Body hence decisions are not legally binding, it only makes recommendations. (cannot enforce decisions) Also, it cannot handle major industrial disputes it simply discuss the grievances.

2. Conciliation Officer.

Conciliation refers to the process by which representatives of workers and employers are brought together before a third party with a view to persuading them to arrive at an agreement by mutual discussion between them. The work of a conciliation officer is to induce both the parties to the dispute to come to a fair and amicable settlement. For this purpose he goes from one camp to the other and finds out the common measure of agreement. The term 'mediation' is sometimes used for conciliation but this is not correct because the two terms have different connotations. In conciliation, the disputants may negotiate with each other on the basis of the proposals made by the conciliator, whereas in mediation they typically negotiate on the basis of their own proposals, with the mediator facilitating the discussion. In neither case can the third party impose a settlement.

The appropriate government has the power to appoint any number of conciliation officers as it deems necessary through a formal notification in the Official Gazette (a government publication that contains official notices, announcement and documents), either permanently or temporarily. The conciliation officer enjoys some of the powers of a civil court, (requiring documents, summoning witnesses etc.) He/She is expected to submit a report of the settlement to the government within 14 days of the commencement of the conciliation proceedings. If no settlement is reached, the conciliation officer submits a failure report to the government. If a settlement is reached during conciliation proceedings and signed by both parties is legally binding.

In view of its objective to settle disputes as quickly as possible, conciliation is characterized by the following features:

- The conciliator tries to resolve the difference between the parties.
- He/She persuades the parties to consider the matter with a problem-solving approach, i.e, with a give-and-take approach.
- He/She only persuades the disputants to reach a solution and never imposes his/her own viewpoint. (He/She help in reaching settlements).

3. Board of Conciliation.

In case the conciliation officer fails to resolve the dispute between the disputants, the appropriate government can appoint a Board of Conciliation. Thus, the Board of Conciliation is not a permanent institution like conciliation officer. It is an adhoc (temporary) body consisting of a chairman and 2 or 4 other members nominated in equal numbers by the parties to the dispute. (The number of members is decided by the government based on the complexity of the dispute.) The board enjoys the power of civil court. It admits

disputes only referred to it by the Government and follows the same conciliation proceedings as is followed by the conciliation officer. The Board is expected to send the settlement report within 2 months of the date on which the dispute was referred to it. Moreover, it cannot impose its own terms and conditions to the parties.

If no settlement is arrived at, the appropriate government may refer the matter to the Labour Court, Industrial Tribunal, National Tribunal.

4. Court of Inquiry.

The Courts of Inquiry are special bodies constituted by the appropriate government (Central or State) to investigate industrial disputes and provide factual findings. The appropriate government may, as occasion arises by notification in the Official Gazette constitute a Court of Inquiry for inquiring into any matter relevant to an industrial dispute. The purpose of this court is to investigate any matter related to an industrial dispute. A court may consist of one independent person or multiple independent persons as the appropriate Government may think necessary. If the court consists of 2 or more members, one of them shall be appointed as the chairman.

Unlike a Conciliation Officer or Board of Conciliation, which focuses on settlement, a Court of Inquiry investigates and finds the facts of the case. This means that even if an industrial dispute is not resolved, the Court can provide a detailed report to help further decision making. It is an investigating body, not a dispute resolver.

5. Labour Court, Industrial Tribunal and National Tribunal.

The final phase in the settlement of disputes (which are not settled either through bipartite negotiations or through the good offices of the conciliation machinery, or through voluntary arbitration) is compulsory arbitration or adjudication. The Industrial Disputes Act

provides for a three-tier system for adjudication of industrial disputes. The machinery provided under the Act consists of Labour Courts, Industrial Tribunals and National Tribunals.

Under Sec. 10 of the Industrial Disputes Act the appropriate government has a large measure of discretion to refer a dispute to adjudication at any time and at any stage. In the normal course, adjudication reference is made when after the failure of conciliation proceedings arbitration is not accepted by the parties. But there is no time limit within which the appropriate government should do so. We should also remember that there are two situations when it is obligatory for the appropriate government to make a reference to adjudication. One, when both the parties to a dispute apply in the prescribed manner either jointly or separately, for a reference, the appropriate government has to refer the dispute to adjudication provided it is satisfied that the persons applying represent the majority of each party. Two, when the dispute relates to a public utility service and a notice of strike or lock-out according to law has been given, the appropriate government has to make a reference to adjudication. However, if the appropriate government considers that the notice of strike or lock-out is frivolously or vexatiously given or it is inexpedient to make a reference, no such reference may be made. The opinion of the appropriate government is very material here.

Whereas a Labour Court or an Industrial Tribunal can be constituted by an appropriate government (which may be the Central or State Government), a National Tribunal can be constituted only by the Central Government notwithstanding whether the subject matter referred to pertains to the state government or the central government.

Labour Courts can be constituted for dealing with the following matters (as set out in the Second Schedule) and for performing such other functions as may be assigned to them under the Act:

1. The propriety or legality of an order passed by an employer under the standing orders;

2. The application and interpretation of standing orders;

3. Discharge or dismissal of workmen including reinstatement of or grant of relief to workmen wrongfully dismissed;

4. Withdrawal of any customary concession or privilege;

5. Illegality or otherwise of a strike or lock-out; and

All matters other than those specified in the Third Schedule. It is to be noted that the labour court can also exercise jurisdiction in respect of any matter included in the Third Schedule provided the dispute is not likely to affect more than 100 workmen and the appropriate government makes the reference of that dispute to it.

Industrial tribunals can be constituted for dealing with the following matters (as set out in the Third Schedule) in addition to all those matters which fall within the jurisdiction of a Labour Court:

1. Wages, including the period and mode of payment;
2. Compensatory and other allowances;
3. Hours of work and rest intervals;
4. Leave with wages and holidays;
5. Bonus, profit-sharing, provident fund and gratuity;
6. Shift working, otherwise than in accordance with standing orders;
7. Classification by grades;
8. Rules of discipline;
9. Rationalisation;
10. Retrenchment of workmen and closure of establishment; or
11. Any other matters that may be prescribed.

A National Tribunal can be constituted by the Central Government to deal with a dispute which in the opinion of the Central Government involves a question of national importance or is of such a nature that industrial establishments situated in more than one State are likely to be interested in or affected by such dispute. The subject-matter of this dispute may relate to matters covered by the Second or Third Schedule.

All the three types of courts must consist of one presiding officer only to be appointed by the appropriate government.

Labour courts and Tribunals are now required to submit award to the appropriate government within the time specified in the order of reference which must not exceed three months in the case of individual disputes.

Every award of a Labour Court, Industrial Tribunal or National Tribunal must be published by the appropriate government within 30 days from the date of its receipt. Unless declared otherwise by the appropriate government every award shall come into force on the expiry of 30 days from the date of its publication and shall remain in operation for a period of one year thereafter.

Check Your Progress

14. What is the difference between a Labour Court and an Industrial Tribunal?
15. Under what conditions can a National Tribunal be constituted?
16. What powers does a conciliation officer have under the Industrial Disputes Act?

Self-Asking Questions

1. Why should employees care about understanding the Industrial Disputes Act, 1947?

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2. What should an union leader do when negotiation with management fails?

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3. Can voluntary mechanisms really work without legal backing?

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4. What are the risks of not addressing minor grievances early?

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5. Why is arbitration considered better than adjudication in some cases?

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6. How do authorities like Labour Courts ensure fairness in dispute resolution?

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6.6 Summing Up

This chapter explores the concept of industrial conflict, distinguishing it from formal industrial disputes as defined by Indian labour law. It covers the causes, classification, consequences, and mechanisms for preventing and resolving such conflicts. Both

voluntary (like collective bargaining, code of discipline, arbitration, joint consultative machinery, and tripartite bodies) and statutory methods (as per the Industrial Disputes Act, 1947 and Industrial Relations Code, 2020) are discussed in detail. It also explains the roles of various authorities like Works Committees, Conciliation Officers, Boards of Conciliation, Labour Courts, and Tribunals. The chapter emphasizes the importance of resolving disputes efficiently to maintain industrial peace and socio-economic stability.

6.7 Model Questions

1. Discuss the various causes of industrial disputes in India.
2. Explain the statutory and voluntary mechanisms for prevention and resolution of industrial disputes.
3. Describe the classification of industrial disputes with suitable examples.
4. What is collective bargaining?
5. Define interest disputes and grievance disputes.
6. What is the Code of Discipline?
7. Name two tripartite bodies.
8. What is the main function of a **Works Committee** in industrial establishments?
9. Who appoints a **Conciliation Officer**, and what are their key powers?
10. What is the role of a **Board of Conciliation**?
11. How is an **Industrial Tribunal** different from a **Labour Court** in terms of jurisdiction?

12. Under what circumstances is a **National Industrial Tribunal** constituted?
13. What kind of disputes can be referred to a **Labour Court** under the Industrial Disputes Act?
14. What is the legal nature of the **award** passed by an Industrial Tribunal?
15. How does a **Court of Inquiry** function and why is it now less commonly used?

6.8 Answers to Check Your Progress

1. An industrial conflict refers to any disagreement or unrest between employers and employees or among workers themselves that arises due to issues related to employment conditions. These include disputes over wages, bonuses, working hours, leave, job security, or disciplinary action. Such conflicts may or may not take a legal form but often impact the industrial peace and productivity of the organization.
2. While the terms are often used interchangeably, there is a technical difference. An industrial conflict is a broad term covering any tension, disagreement, or unrest in the workplace. An industrial dispute, however, is a conflict that is legally recognized under the Industrial Disputes Act, 1947. Only certain conditions qualify a disagreement as a "dispute" under law, which means it can then be referred to legal authorities for settlement or adjudication.
3. Conflict is not inherently negative; when handled constructively, it can lead to improvement in workplace conditions and communication. It allows workers to voice concerns, promotes accountability from management, and often results in better

policy or structural reforms. Suppressing conflict may only postpone deeper issues from being resolved, so healthy conflict can be a sign of a functioning industrial democracy.

4. While a strike is an open form of industrial conflict, its absence doesn't always indicate harmony. Sometimes workers avoid striking out of fear, pressure, or lack of union support. In such cases, dissatisfaction remains hidden and can lead to passive resistance, low productivity, or even mass resignations. This silent form of conflict may be more dangerous as it is harder to detect and resolve.

5. Industrial disputes can arise due to economic causes (such as wages, bonuses, and allowances), managerial causes (like unfair discipline, workload, or promotions), political influences, poor communication between workers and management, union rivalries, and social conditions like inequality or discrimination. Each of these can trigger unrest if not handled sensitively and systematically.

6. Firstly, strict or biased disciplinary actions, such as favoritism in promotions or arbitrary suspensions, can make workers feel discriminated against and cause resentment. Secondly, lack of participation in decision-making, where workers are excluded from decisions affecting their job roles, may lead to feelings of alienation and a breakdown in trust, causing conflict to arise.

7. Political parties often support or influence trade unions, leading to politicization of labour movements. When political motives drive union activities, strikes and protests may occur not for industrial reasons, but for larger political gains. This disrupts genuine dialogue between employers and workers and creates instability in the industrial environment.

8. An interest dispute arises when workers and employers disagree on new employment conditions such as wages, allowances, or working hours. These are forward-looking disputes where workers demand better terms or new benefits. For example, a demand by a union for a wage hike due to increased inflation is an interest dispute.

9. A grievance dispute refers to conflict arising from the violation or non-implementation of existing agreements or employment terms. Unlike interest disputes, which are about future demands, grievance disputes are backward-looking. For instance, if an employee is denied a promotion as per existing service rules, it becomes a grievance dispute.

10. Recognition disputes occur when multiple trade unions in an establishment compete to be recognized as the official representative body for collective bargaining. These disputes arise due to lack of a clear majority or disagreements over which union is more representative. This can cause confusion, weaken negotiation processes, and lead to internal conflicts among workers.

11. Industrial disputes have serious consequences for both employers and workers. For employers, disputes result in loss of productivity, damage to reputation, and increased operational costs. For workers, prolonged disputes can lead to wage loss, job insecurity, stress, and deterioration in working relationships. Ultimately, both parties suffer, and industrial growth is hampered.

12. Strikes in essential services like water supply, transport, hospitals, or electricity cause significant inconvenience to the general public and can lead to economic paralysis. Recognizing this, the law places special restrictions on strikes in public

utilities, requiring advance notice and sometimes prohibiting them altogether in the interest of public welfare.

13. Firstly, industrial disputes that continue for long periods can lead to the breakdown of families due to loss of income and mental stress. Secondly, they can trigger social unrest in the community, particularly in towns dependent on a major industry, affecting law and order and weakening social cohesion.

14. Collective bargaining promotes dialogue and cooperation between management and employees. It allows workers to present their demands in a structured manner and negotiate terms of employment. By addressing concerns before they turn into open conflicts, it plays a preventive role in maintaining industrial peace.

15. The Code of Discipline is a voluntary agreement adopted in 1958 by trade unions and employer organizations to ensure discipline in industry. It outlines mutual obligations such as avoiding strikes and lockouts without notice and respecting collective agreements. Though not legally enforceable, it is widely respected and helps build a framework for industrial harmony.

16. A dispute can be referred to voluntary arbitration when both the employer and workers agree in writing and notify the appropriate government. This must be done before the dispute is referred to adjudication or during conciliation. The arbitration award becomes binding once published in the Official Gazette.

17. Labour Courts generally deal with individual or smaller disputes such as misconduct, dismissal, or legality of strikes, while Industrial Tribunals handle broader and more complex issues like wage revisions, retrenchment, or closure. Industrial Tribunals also have wider jurisdiction and powers under the law.

18. A National Tribunal is constituted by the Central Government when a dispute involves industries located in more than one state or when the matter is of national importance. These tribunals handle large-scale disputes that require a central resolution mechanism and have jurisdiction across state boundaries.

19. A conciliation officer is appointed by the government to mediate between disputing parties. They can summon parties, examine witnesses, and try to bring about a settlement. If successful, the settlement is recorded; if not, they submit a failure report to the government. They help avoid litigation and promote amicable solutions.

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UNIT-7

BIPARTITE AND TRIPARTITE BODIES

Unit Structure:

7.1 Introduction

7.2 Objectives

7.3 Introduction to Tripartite Bodies

7.3.1 Tripartite Bodies

7.3.2 Evolution of Tripartite Bodies

7.3.3. Tripartite Bodies

7.3.4 Committee on Conventions

7.3.5 Industrial Committees

7.3.6 Other Important Tripartite Committees

7.4 Bipartite Bodies

7.4.1. Evolution of Such Bodies

7.4.2. Bipartite Bodies

7.5Bipartism and its link with Tripartism

7.5.1. Introduction

7.5.2. Tripartism's contribution to Bipartism

7.5.3. Bipartism's Contribution to Tripartism

7.6 Summing Up

7.7 Model Questions

7.8 Answers to Check Your Progress

7.9 References and Suggested Readings

7.1 Introduction

Bipartite and tripartite bodies play a significant role in labor relations and industrial harmony as they develop frameworks for negotiation, cooperation, and dispute resolution between employers, workers, and governments (where the government is usually represented by a ministry), with bipartite bodies involving only two

parties—the employer and the worker—and tripartite bodies adding an extra third party: the government. This unit examines how bipartite and tripartite bodies have evolved, the role they play in industrial relations today, and their contributions.

7.2 Objectives

By the end of this unit, students will be able to:

- *understand* the concept and structure of bipartite and tripartite bodies,
- *identify* the roles and responsibilities of each stakeholder in bipartite and tripartite structures,
- *analyze* the contributions of tripartism to bipartism, and vice versa, in fostering labor peace,
- *evaluate* how bipartite and tripartite frameworks contribute to policymaking in labor relations.

7.3 Introduction to Tripartite Bodies

Trade unions or workers' representatives, employers, and the government are the three main parties involved in tripartite bodies. The purpose of these organizations is to guarantee that all important parties have a voice in the formulation of labor laws and that the interests of all parties are taken into account when making decisions. By working together, these organizations hope to reach an agreement on matters pertaining to labor relations, guaranteeing that laws, rules, and agreements safeguard workplace peace while benefiting both employers and employees.

7.3.1Tripartite Bodies

Tripartism is a concept of labour relations which views the state, employers and employees as independent but interdependent partners that pursue shared goals and take part in choices that impact

them in a mutually beneficial and reciprocal manner. As the name implies, tripartism entails three parties that work together to reach a common ground over issues of industrial dispute. It is a consultative machinery which aims to bring the three parties together for mutual settlement of differences in a spirit of co-operation and goodwill.

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

Tripartite consultation is an important feature of India's industrial relations system. It has a long history in India as it was set up as early as 1942. The Indian Labour Conference (ILC) and the Standing Labour Committee (SLC) are two main forums for Tripartite Consultation. The objectives of Tripartite Consultation could be mentioned as under:

i) To foster uniformity in labour legislation

ii) To lay down a process for settlement of industrial conflicts.

iii) To consider matters of significance to both the employers and employees.

Tripartite bodies are consultative machineries that are responsible for evolving norms, standards and policies, primarily in the form of in the form of non-binding guidelines. They operate both at the Central and State levels. The Indian Labour Conference, Standing

Labour Committees, Wage Boards and Industrial Committees operate at the Central level and State Labour Advisory Boards operate at the state level. All these bodies play an important role in reaching at voluntary agreements on various labour matters. Although the decisions and recommendations made by these forums are only advisory in nature they still carry considerable weight with the government, workers and employers. Over the years, the Indian Labour Conference in particular have played a pivotal role in shaping India's labour policies. Some of the important measures agreed to by the Indian Labour conference in past are:

i) Establishment of Bipartite and Tripartite bodies: The ILC recommended setting up of works committee, joint committees and production committees within industrial establishments to promote harmony and prevention of conflicts at the enterprise level.

ii) Voluntary Code of Discipline: The adoption of a code of conduct by employers and trade unions to maintain industrial peace, avoid strikes and lockouts without proper notice, and settle disputes amicably.

iii) Grievance Redressal and Disciplinary Procedures: It promoted the adoption of standardized procedures for handling employee grievances and disciplinary issues in a fair and transparent manner.

iv) Need-Based Minimum Wages: The ILC played a role in formulating guidelines for determining wages based on the minimum needs of workers and their families, aligning with social justice principles.

v) Wage Rationalization through Wage Boards: Wage Boards were recommended for key industries to rationalize and revise wage structures without resorting to compulsory adjudication.

These boards operate on a non-statutory basis and function through consensus.

vi) Encouragement of Voluntary Arbitration: The ILC advocated for resolving industrial disputes through voluntary arbitration instead of litigation or compulsory adjudication, promoting quicker and less adversarial settlements.

7.3.2 Evolution of Tripartite Bodies

The Whitley Commission in 1931 recommended the need for consultation on issues related to labouron the standards set by the I.L.O. It called for a statutory organization which should be adequately large to ensure requisite representation of the various parties involved; but not too large that the members feel prevented from making individual contributions to the discussion. The meeting of the representatives of employers, workers and government in conference should be regular. The commission also recommended that labour members should be elected by registered trade unions and employers 'representatives should be elected by their associations. But the recommendation was not implemented and nothing could be done in this respect till the outbreak of the Second World War, which necessitated the need for maintenance of industrial peace. During the Second World War separate consultations with the representatives of labour and employers were held in1941 and 1942 by the Government of India to finalize post-war labour programmes. The experience of these consultations highlighted the necessity ofholding joint meetings of the representatives of the government, workers and employers, thus, providing a common platform for the resolution of differences between the employers and workers by means of discussion and mutual understanding. Accordingly, the Fourth Labour Conference

was held in August1942. It set up a permanent tripartite collaboration machinery and constituted a Preliminary Labour Conference (later named as the Indian Labour Conference –ILC) and the Standing Labour Advisory Committee (which subsequently dropped the word Advisory from its title SLC). Initially the ILC consisted of 44members whereas the SLC was about half the size of the ILC. The pattern of representation was governed by the obtaining in the International Labour Conference. It ensured:

i) Government and Non-government representatives had equal representation.

ii) Employers and employees were equally represented

iii) Organized employers and labourers could choose their own representatives.

iv) Where necessary, the government could nominate the representatives of certain interests (unorganized employers and workers) on an adhoc basis. Each delegate could also bring one official and one non-official adviser with them.

7.3.3. Tripartite Bodies

Indian Labour Conference (ILC) and Standing Labour Committee (SLC) are two important constituents of tripartite bodies. They play a vital role in shaping, the Industrial relation system of the country.

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

a. To bring about uniformity in labour laws across the country;

b. To establish a process for resolving labour conflicts effectively and peacefully; and

c. To discuss onissues of national significance concerning the interests of both employers and employees.

The primary role of the Indian Labour Conference is to advise the Government of India on matters that are referred to it for consultation, taking into account suggestions and recommendations submitted by state governments, provincial governments and national level organizations representing workers and employers.

The Standing Labour Committee (SLC) serves as a supportive body to the ILC. Its main function is to consider and examine on specific issues referred to it by either the Plenary Conference or the Central Government. Like ILC, they also give recommendations taking into account the suggestions made by various government bodies, workers and employers.

The representatives of the workers and employers on both the ILC and SLC are nominated by the Central Government in consultation with the all-India organizations of workers and employers. This ensures fair and broad-based representation in both forums.

The meeting agenda for ILC and SLC is settled by the Labour Ministry after taking into account the suggestions submitted to it by the member organizations.

To encourage free and fuller discussions among the members, both ILC and SLC operate with minimum procedural restrictions. In terms of meeting frequency, The ILC convenes once a year, bringing together all the stakeholders to discuss on matters of national significance whereas the SLC meets as required depending on the urgency and importance of the matters needing attention.

a. The 30th Session of the Indian Labour Conference

The 30th Session of the ILC was held on September 7-8, 1993 at New Delhi. After deliberations, it arrived at the following conclusions

1. On the impact of New Industrial Policy, the chairman referred to the assurance by the Prime Minister that it would not lead to any human distress and the legitimate interests of labour would be protected.

2. The conference emphasized the need to identify workers for retraining and redeployment. It recommended creating schemes for redeployment across industries and occupations and assigning a dedicated agency for the task. It also raised the question of how employees would transition between units.

3. To absorb excess labor, if any, to ensure better utilization, the conference suggested diversification and running industrial units continuously throughout the week.

4. Concern was raised over low productivity in Indian industries. The conference resolved to improve productivity, quality, and competitiveness, promoting better discipline and work ethics across all levels. It supported formalized joint efforts (bipartism) to enhance output and standards.

5. The Trade Unions demanded:

i. The removal of ceiling on bonus both for eligibility and for computation by promulgation of an ordinance;

ii. The immediate implementation of the DA rate of Rs.2 per point of the Consumer Price Index (1960 series).

iii. Permission for the managements of the public sector units to commence negotiations with the unions on their charter of demands immediately.

iv. Clearance by government to the agreement regarding pension and for the pension scheme for its early introduction.

v. Enhancement of the rate of interest on Employees 'Provident Fund to at least 13 per cent.

vi. Enhancement of the limits of exemption of income tax substantially.

6. Employers sought to delay changes to bonus ceilings for a year and favored a productivity-linked bonus system.

7. Trade unions proposed forming a second National Commission on Labour, as 25 years had passed since the first.

8. The conference recommended reviving the Labour Cell in the Planning Commission to ensure trade union consultation in labor-related policy formulation.

b. 31st Session of I.L.C

This session of I.L.C was held at Delhi on 3rd-4th January 1995. In this session various problems of industrial relations in the context of changed economic environment were discussed. The various resolutions adopted at the said conference are as under.

1. The institution of the Indian Labour Conference should be strengthened further.

2. Collaboration between central/state governments and stakeholders was encouraged to implement an effective industrial relations law supporting productivity, job creation, and living standards.

3. Productivity of economic enterprises as a whole is of paramount importance.

4. The government should give special attention to streamlining the public distribution system, particularly in centers of concentration of working people.

5. The government was urged to expedite wage negotiations in Central Public Sector Enterprises (CPSEs).

6. Workers pushed for removal of bonus limits, while employers called for a quick decision on implementing DA slabs.

7. Immediate introduction of a pension scheme for EPF members was advocated, including tripartite consultations, with professional management of social security funds for better investment returns.

8. Prompt investigation and resolution of issues in sick units under BIFR were suggested to minimize hardships for both workers and employers.

9. The role and effectiveness of the National Renewal Fund were to be reassessed for better outcomes in industrial regeneration and job creation.

10. Training programs should be implemented under a structured, well-planned strategy.

11. Prioritization of elementary and vocational education, especially for women, was recommended.

12. Labor laws covering agricultural and construction workers were to be enacted urgently.

13. The Labour Ministry should form an advisory panel to periodically review women's status in labor.

14. The Child Labour Advisory Committee's composition should be updated to represent all social partners.

15. Workers' and employers' representatives should be included in the Indian delegation to global forums like the World Summit for Social Development.

16. Vocational training systems should be reorganized.

17. The conference endorsed the 32nd SLC session's resolutions on social clauses, child labor elimination, and bonded labor, urging further actions by stakeholders.

18. While acknowledging the opportunities presented by the new international economic order, the conference emphasized formulating policies that minimize potential distress.

c. 31st Session of the Standing Labour Committee (SLC), 1992

Held on July 25, 1992, in New Delhi, this session concluded:

1. Future SLC meetings should focus on fewer, more detailed agenda items.
2. The government should bring specific proposals for new industrial relations legislation, reflecting changes in the national and global economic scenario.
3. A tripartite sub-committee would be established to assess how key labor laws were being implemented.
4. Autonomous bipartite productivity councils should be created at multiple levels — national, regional, industrial, and plant.

d. 32nd Session of the Standing Labour Committee, 1994

This session, held on October 27, 1994, in New Delhi, focused on employment, vocational training, child labor, bonded labor, labor standards, and international trade. Three key resolutions were adopted:

1. **Social Clause**: It was agreed that India should oppose any linkage of international trade to labor standards (social clauses) in the ILO or elsewhere. Instead, the country should pursue labor standards improvements through independent efforts without trade conditions.
2. **Child Labour**: The Central and State Governments, along with employers and workers' organizations, should jointly eliminate child labor in hazardous jobs by 2000 and gradually in other areas. A time-bound plan should be implemented to withdraw

children from work and provide education, training, healthcare, and support for their families.

3. **Bonded Labour**: All states should conduct new surveys to identify, release, and rehabilitate bonded laborers and introduce measures to prevent recurrence of such exploitation.

Check Your Progress A

a) Define tripartism.

b) Name the two main tripartite forums operating at the national level.

c) What is the main function of the Standing Labour Committee (SLC)?

d) What are the primary **o**bjectives of Tripartite Consultation in India?

7.3.4 Committee on Conventions

Established in 1954, this is a tripartite body composed of three members. Its primary objectives are:

1. To review International Labour Organization (ILO) conventions and recommendations that India has yet to ratify.
2. To propose measures for the systematic and expedited implementation of ILO standards within the country.

7.3.5 Industrial Committees

The Industrial Committees were established following a decision made during the eighth session of the Indian Labour Conference (ILC) in 1947. These committees are tripartite in nature, comprising

equal representation from employers and workers, and are intended to address industry-specific challenges. Their main function is to discuss pertinent issues related to particular industries and submit their findings to the ILC for coordinated action. Unlike standing committees, these do not meet on a regular basis; meetings are convened as needed. Initially, the committees were constituted for key industries such as plantations, cotton textiles, jute, coal mining and other mining sectors, cement, tanneries and leather goods, iron and steel, building and construction, chemical industries, road transport, engineering and metal trades, electricity, gas and power, and banking.

In response to concerns about the performance of public sector undertakings (PSUs), especially under the new industrial policy, a special tripartite committee was formed by the Ministry of Labour in November 1992. After reviewing data from the Department of Public Enterprises, the committee recognized that some PSUs were chronically unviable and in need of restructuring. Based on its recommendations, six industry-specific tripartite committees were revived—covering cotton textiles, jute, chemicals, engineering, electricity (generation and distribution), and road transport. The committee emphasized the need for a case-by-case review of sick units and recommended that the Board for Industrial and Financial Reconstruction (BIFR) take into account the views of tripartite committees before making final decisions.

Additionally, it was suggested that revival plans should be prepared jointly by workers and management at the enterprise level, using data provided by the relevant administrative ministry, and subsequently reviewed by the concerned sectoral tripartite committee.

a. Other committees

(1) Committee on NTC Turnaround

On June 26, 1993, the Ministry of Labour formed a special committee to devise a turnaround strategy for the National Textile Corporation (NTC). A sub-committee was later established to oversee the strategy's implementation. After eight rounds of meetings, the final agreement on NTC's modernization was reached on April 9, 1994.

(2) Committee on Plantation Labour

To facilitate amendments to the Plantation Labour Act, 1951, a Tripartite Committee on Plantation was reconstituted. The first meeting took place on April 27, 1994, followed by a sub-committee session addressing issues such as medical facilities. The discussions led to a consensus on amending the Plantations Labour (Amendment) Bill, 1992, which had earlier been introduced in the Rajya Sabha.

During the 41st session of the Labour Ministers' Conference, held on August 13, 1992, the following key outcomes were recorded:

i) The Ramanujam Committee Report on trade unions was discussed and considered for presentation at the next ILC.

ii) A Labour Ministers' Committee was proposed to evaluate the recommendations of the National Commission on Rural Labour (NCRL), focusing on:

1. Social security
2. Central legislation for agricultural workers
3. Laws for construction workers
4. A National Commission on Bonded Labour

iii) It was decided to convene alabour minister conference to assess health services under the ESI Scheme.

iv) The employment of inter-state migrant workers and restrictions on outside employment were highlighted as issues needing attention from both inter-state councils and the National Integration Council.

v) The Child Labour (Prohibition and Regulation) Act, 1986 was recommended for stronger implementation and further amendment to protect child labourers more effectively.

7.3.6 Other Important Tripartite Committees

Beyond the committees mentioned, several other tripartite bodies contribute significantly to maintaining a unified and consistent labour policy across the country. These include:

a) Steering Committee on Wages

Originally created in 1956 as a study group, this committee was later renamed. It includes representatives from employers, workers, state governments, and an economist. Its functions are:

i) To analyze trends in wages, production, and prices.

ii) To plan for data collection for creating a comprehensive Wage Map of India.

iii) To produce reports every now and then which will act as principles for guiding wage-fixing authorities.

(b) Central Implementation and Evaluation Machinery

As recommended in the 18th session of the Standing Labour Committee (1957), this central and state-level mechanism ensures the effective enforcement of labour awards, agreements, and the Code of Discipline. At the central level, it consists of:

i) An Evaluation and Implementation Division

ii) A Tripartite Implementation Committee, including four representatives each from central employer and worker organizations, chaired by the Union Labour Minister

(c) Central Board for Workers' Education

This board was formed to strengthen the trade union movement by promoting informed and responsible worker participation. It comprises the representatives from employers, workers, and both central and state governments.

(d) National Productivity Council (NPC)

The National Productivity Council includes representatives from the government, employer associations, trade unions, and independent experts. Its primary objective is to promote and enhance productivity across various sectors in India.

Check Your Progress B

a) What is the role of Industrial Committees?

b) What issues were discussed in the 41st session of the Labour Ministers' Conference?

c) Describe the objective of the National Productivity Council.

7.4 Bipartite Bodies

Bipartism refers to a system of industrial relations where the trade unions and management engage in discussions on social and labour issues are, usually at the enterprise level. The bipartite consultative machinery mainly comprises two key components: the works committees and the joint management councils. These bodies are

purely advisory in nature and not a negotiating one. This joint consultative joint machinery is designed to address issues concerning the workplace or industry, which features equal representation from both employers and employees.

7.4.1. Evolution of Such Bodies

The need for bipartite consultative machinery was first recognized as early as in 1920, when the government of India introduced joint committees in some of its printing presses. Around the same time, they were also introduced in Tata Iron and Steel company at Jamshedpur.

The significance of bipartite consultation gained further recognition during India's First Five-Year Plan. The plan emphasized the need for close collaboration between employers and employees through the consultative committee at all levels for the purpose of boosting production, enhancing quality, cutting costs and minimizing waste. The second Five-Year Plan also stressed the need for joint consultation and progressively associating the workers and technicians, wherever feasible, in management.

7.4.2 Bipartite Bodies

The two major constituents of bipartite consultative machinery are-

(A) Works Committee

(B) Joint Management Councils.

A concise review of both the bodies are given below-

A) Works Committees

These committees have been recognized as a vital instrument of industrial democracy. They function as statutory bodies established

within industrial establishments consisting the representatives of both the management and the workers. They are primarily designed to address and resolve disputes at the unit level.

Any organization employing 100 or more employees is eligible to constitute a works committee. Its objectives are:

i) To resolve day-to-day workplace grievances by offering an effective mechanism for grievance redressal;

ii) To promote mutual understanding and goodwill between employers and employees

iii) To serve as a useful adjunct in establishing continuing bargaining relationship

iv) To Encourage voluntary dispute resolution, thereby minimizing the reliance on formal dispute-settling methods like conciliation, arbitration, and adjudication. This is achieved by commenting upon matters of concern or endeavour to compose any material difference of opinion in respect of such matters.

B) Joint Management Council

Joint Management Councils are established to create a greater sense of employee participation in organizational decision-making and to infuse a spirit of mutual cooperation between employees and management. These councils aim to build a collaborative framework without infringing upon the respective domains and prerogatives of either party.

JMCs serve several functions:

- They facilitate active interaction between labour and management, which helps maintain industrial peace and fosters a cooperative environment for negotiation and conflict resolution.

- They aim to enhance employee participation in management, aligning the functioning of privately owned enterprises with broader national interests.
- In nationalized sectors, they act as a representative supervisory body, contributing to more transparent and inclusive governance.

Ultimately, these councils seek to improve industrial relations by promoting mutual understanding and trust. The functions assigned to such committees yield benefits for both employers and employees, strengthening the overall industrial climate. They help in developing a spirit of cooperation between employers and employees without infringing upon each other's authority, rights, or responsibilities. By facilitating mutual communication and interaction, they contribute to minimizing industrial tensions and creating a cooperative environment conducive to negotiation and conflict resolution. They also aim at empowering employees to have an effective say in managerial decisions; ensuring that private enterprises operate in conformity with national interests and providing a representative body to supervise the functioning of nationalized enterprises. Concisely, these committees focus on enhancing industrial goodwill and fostering harmonious relationships through mutual understanding between management and workers. And to achieve these goals, they are assigned specific functions that benefit both employers and employees, contributing to a balanced and stable industrial relations framework.

Check Your Progress C

a) Define bipartism.

b) List any three functions of the Works Committee that contribute to industrial peace.

c) List any three key functions performed by Joint Management Councils.

7.5 Bipartism and its Link with Tripartism

7.5.1. Introduction

Bipartism complements tripartism at both national and other levels of industrial relations. Both are interconnected and support each other—essentially two sides of the same coin and rely on similar foundational principles, such as mutual respect among parties, the freedom to form associations, the right to engage in collective bargaining, and democratic methods of decision-making.

While tripartite mechanisms—which involve the government, employers, and workers—tend to be shaped more by political factors and state involvement, bipartite arrangements—typically between employers and employees—are more responsive to economic concerns. This is especially relevant in the current context, where collective bargaining is increasingly taking place at the decentralized levels of firms and plants in response to structural changes and economic challenges.

The structure and strength of industrial relations institutions within a country significantly influence how effectively bipartism and tripartism can respond to broader economic policies and shifts at the macro level.

7.5.2. Tripartism's Contribution to Bipartism

Tripartite consultations and agreements play a vital role in guiding and shaping collective bargaining and overall industrial relations. According to Kochan's (1987) three-tier framework, tripartism

functions effectively at the macro level, setting the foundation for bipartite processes such as collective bargaining, communication, information sharing, and employee participation at the industry and enterprise levels.

Tripartite initiatives have been instrumental in establishing procedures for dispute resolution, union recognition, grievance handling, and cooperative workplace practices. They have also influenced national legislation, helped create international labour standards, and led to significant national-level agreements in industrial relations and human resource management.

In India, certain tripartite declarations have notably shaped bipartite interactions and agreements, especially in areas like union recognition, industrial modernization, and automation. Key examples include:

i) Code of Discipline

ii) Code of Conduct

iii) Automation Without Tears

7.5.3. Bipartism's Contribution to Tripartism

Bipartism particularly through collective bargaining—can often reduce the need for tripartite intervention. However, when bipartite mechanisms fail to resolve disputes or achieve agreements, tripartism steps in through tools like mediation, conciliation, arbitration, or adjudication.

Bipartite arrangements can enhance the effectiveness of tripartite dialogue in several ways:

1. Improving Representativeness:

In economies dominated by the informal or unorganized sectors, tripartite discussions may not truly represent the wider workforce. In such contexts, a bottom-up approach starting with bipartite dialogue at the enterprise level—ensures broader inclusion and practical relevance.

2. Evaluating Policy Impact:

   Many government policies (e.g., fiscal, trade, taxation) have indirect but significant effects on employers and workers. These are often more accurately identified and addressed through bipartite consultations and agreements, which allow the stakeholders to assess and respond to these impacts more effectively than through centralized tripartite forums.

3. Building Practical Consensus:

   Consensus-driven approaches are more sustainable when they are built at the workplace level with direct stakeholder involvement**.** Locally developed agreements tend to be more effective than externally imposed decisions. Thus, bipartism facilitates stronger ownership and implementation of social dialogue outcomes.

Check Your Progress D

a) What are the foundational principles shared by both bipartism and tripartism?

b) Name any three national-level tripartite initiatives in Indiathat have influenced bipartism.

c) How can successful bipartite arrangements reduce the need for tripartite intervention?

7.6 Summing Up

Through our examination of bipartite and tripartite bodies so far in this unit, we have seen that while the government and workers may be consulted on broader negotiations about national labor standards and contributing to industrial peace, bipartite bodies will focus on direct employer-employee negotiation around local issues. We can see how the interaction between bipartism and tripartism is essential to developing an equitable industrial relations framework at each level by examining their evolution, functions, and contributions.

7.7Model Questions

i) Discuss the evolution and role of Tripartite Bodies in India with reference to ILC, SLC, and other committees.
ii) Evaluate the impact of the Tripartite Committees on labour legislation and industrial harmony in India.
iii) Trace the early development of Tripartite and bipartite consultative bodies in India.
iv) Describe how bipartite consultations can be useful in evaluating the impact of macroeconomic policies.
v) Compare and contrast bipartism and tripartism in terms of structure, function, and scope.
vi) Imagine you are an HR manager in a factory with 120 workers. What steps would you take to establish a Works Committee and how would you ensure its effectiveness?

7.8Answers to Check Your Progress

(A)

i) Tripartism consist of three parties that work together to reach a common ground over issues of industrial dispute. It is a

consultative machinery which aims to bring the three parties together for mutual settlement of differences in a spirit of co-operation and goodwill.

ii) a) Indian Labour Conference (ILC) b) Standing Labour Committee (SLC)

iii) The main function of the SLC is to review labor-related issues and policies and act as advisory body to the government.

iv) a. To bring about uniformity in labour laws across the country;

b. To establish a process for resolving labour conflicts effectively and peacefully; and

c. To discuss on issues of national significance concerning the interests of both employers and employees.

(B)

i) Their main function is to discuss pertinent issues related to particular industries and submit their findings to the ILC for coordinated action.

ii) The 41st session, held on August 13, 1992, discussed the Ramanujam Committee Report on trade unions, reviewed the National Commission on Rural Labour's recommendations on social security, labour laws for agricultural and construction workers, and bonded labour. It also addressed health services under the ESI Scheme, issues concerning inter-state migrant workers, and called for stricter implementation and amendment of the Child Labour Act, 1986.

iii) Its primary objective is to promote and enhance productivity across various sectors in India.

(**C)**

i) Bipartism refers to a system of industrial relations where the trade unions and management engage in discussions on social and labour issues are, usually at the enterprise level.

ii) Functions of Works Committee-

a) To promote measures for securing and preserving amity and good relations between employer and workers.

b) To address and resolving day-to-day issues in the workplace.

c) To enhance mutual understanding and cooperation between management and workers.

iii) Functions of Joint Management Council-

a) They Promote collaboration between labour and management to maintain industrial peace.

b) they encourage employee participation in management decisions.

c) they act as supervisory bodies in nationalized sectors for inclusive and transparent governance.

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UNIT-8

STANDING ORDERS AND GRIEVANCE PROCEDURE STANDING ORDERS

Unit Structure:

8.1 Introduction
8.2 Objectives
8.3 Evolution of Standing Orders
8.4 Grievance Introduction
8.5 Concept of Grievance
    8.5.1 Causes of Grievances
    8.5.2 Effects of Grievance
    8.5.3 How to Identify Grievances?
8.6 Summing Up
8.7 References and Suggested Reading

8.1 Introduction

Before the passing of Industrial Employment Act in 1946, there was a widespread lack of clarity regarding the terms of employment for the workers which led to non-standardized practices, poor working conditions and frequent conflicts between the employer and the employee. The concept of Standing Orders was introduced in India as a response to the growing need for structured and standardized employment practices in industrial establishments. They refer to the written rules and regulations that define the terms of employment in an industrial or organizational setting. They serve as a formal code of conduct that governs the day-to-day activity of the workplace. They specify the duties and responsibilities of both the employers and employees, ensuring clarity in roles and expectations. It lays down specific rules and procedures regarding working hours, wage rates, holidays, attendance, grant of leave to employees, termination,

suspension and addressing misconduct, temporary stoppages of work and provisions related to grievance handling and maintaining discipline. Along with that, they also require the employees to adhere by the rules and regulations stated in the Standing Orders and help each other to establish favorable environment for attaining industrial peace.

8.2 Objectives

The main objective of standing orders is to promote clarity, consistency, and fairness in the relationship between employers and employees. Its objectives are-

1. To establish a uniform set of guidelines specifying the conduct and responsibilities of employers and employees.
2. To ensure that the employees are clear with their duties, rights and rules governing their employment.
3. To promote industrial harmony.
4. To ensure that the rules are equally applied to all the employees
5. To avoid ambiguity in terms of employment and thereby minimizing the occurrence of industrial disputes and grievances.

8.3 Evolution of Standing Orders

Before the enactment of the Industrial Employment (Standing Orders) Act in 1946, only a limited number of industries had written the terms of employment for their workers. As a result, there was a lack of uniformity in employment conditions across factories. The first legislative attempt to regulate the formulation of standing orders was made through the Bombay Industrial Disputes Act of 1932.

Specifically, Section 26 under Chapter V of this Act addressed the matter:

"Every employer, in respect of any industry or occupation to which this Section has been applicable, shall within 2 months from the date of application, submit to the commissioner of Labour for approval in such manner as may be prescribed, Standing orders regulating the relations between him and his employees with regard to industrial matters mentioned in Schedule I."

The matters mentioned in the Schedule I were:

(i) Classification of employees- whether permanent, temporary, apprentices, probationers, or badlis:

ii) Manner of notification to employees of the period and hours of work, holidays, pay days and wage rates:

iii) Shift working

iv) Attendance and late coming

v) Leave and holidays and conditions, procedure and authority for the grant of these:

vi) Liability to search and entry into premises through certain gates;

vii) Temporary ceasing of work and rights and liabilities of employers and employees arising thereform;

viii) Termination of employment and notice to be given by employer and employee;

ix) Suspension or dismissal for misconduct and acts of ommissions which constitute misconduct; and

x) Means of redress for employees against unfair treatment or wrong exactions on the part of the employer or his agent or servant."

Prior to the enactment of centralized legislation, the textile mills of Bombay (now Mumbai) were among the first in India to adopt

codified conditions of employment through Standing Orders. These Standing Orders, as finally settled by the Industrial Court, provided a formal framework governing various aspects of employment, including classification of workers, hours of work, leave entitlements, procedures for disciplinary action, and definitions of misconduct. They played a crucial role in maintaining industrial discipline and clarity in employer-employee relationships.

Until the passage of the **Industrial Employment (Standing Orders) Act, 1946**, no comparable legislation existed in any other part of the country. Nevertheless, in the absence of statutory compulsion, several textile mills located in other important industrial centres—such as Ahmedabad, Kanpur, and Madras—chose to formulate their own Standing Orders.

In Kanpur**,** the textile mills largely adhered to the Standing Orders framed by the Employers' Association of Northern India, which served as a standard reference for employment conditions. Similarly, in southern India, a number of textile mills followed the Standing Orders prepared by the South India Millowners' Association. In the jute sector, the Jute Mills Association developed its own set of rules outlining service conditions for workers in jute mills.

Large industrial enterprises also instituted independent frameworks to govern employment relations. For instance, Tata Iron and Steel Company (TISCO) in Jamshedpur had formulated detailed service rules regulating the conditions of employment. Other notable establishments that had their own service rules included the Delhi Cotton Mills**,** Bangalore Cotton, Woollen and Silk Mills, certain engineering concerns in Bombay and Calcutta, as well as ordnance factories**.** These rules often provided structured guidelines on appointments, discipline, leave entitlements, and safety measures.

However, the existence and comprehensiveness of such Standing Orders were far from universal. A vast segment of the industrial workforce, particularly those employed in seasonal and unregulated industries such as rice mills, cigarette factories, mica mines, and paper mills, operated in the absence of formal standing orders. In such cases, management decisions were final and binding, leaving little scope for worker participation or legal recourse.

The Rege Committee, which investigated conditions of labour prior to independence, provided further insight into this fragmented landscape. It observed that in certain establishments, the standing orders were sufficiently comprehensive to cover procedures for appointments, reversions, discharges, and apprenticeship rules, including the conduct of trade tests. These standing orders also included provisions for service cards, safety rules, accident prevention, and detailed stipulations concerning working conditions, holidays, and leave. However, the Committee noted that such comprehensive standing orders were present in only a small number of units. In contrast, seasonal and unregulated industries, as well as mines and plantations, typically lacked any formal standing orders, and employers' decisions were final in all matters related to employment.

The Committee, therefore, emphasized the necessity of framing clear and written rules of employment, asserting that every industrial worker is entitled to be informed of the terms and conditions of their employment, as well as the disciplinary codes they are expected to observe. It expressed concern that, in most instances, service rules in Indian industry functioned as unwritten laws—flexible and vague enough to serve the employer’s convenience. The Committee further observed that, where such rules did exist, they were often unilateral in character, formulated without any consultation with workers'

organizations or government authorities, and differed widely from one establishment to another.

Therefore, the necessity of framing Standing Orders was formally recognized during the Fifth Indian Labour Conference held in 1943. A consensus emerged that Standing Orders should be made mandatory for industrial establishments employing 250 or more workers. It was also agreed that these orders should have a statutory basis to ensure uniformity and legal enforceability. Furthermore, it was suggested that the Industrial Court could serve as the appropriate authority for resolving disputes related to Standing Orders.

Subsequently, the matter was revisited in the Sixth Indian Labour Conference in 1944, where deliberations focused on whether a statutory authority was needed to enforce Standing Orders, whether they should be included under the Trade Disputes Act, 1929, or whether a separate piece of legislation was required.

These discussions ultimately led to the enactment of the Industrial Employment (Standing Orders) Act, 1946 with the aim to regulate and standardize the conditions related to recruitment, discharge, disciplinary procedures, and holidays for workers employed in industrial undertakings.

In regard to standing orders, the obligations of the employers are:

a) to submit draft Standing Orders containing all the required particulars to the Certifying Officer for approval. This submission must be made within the time frame prescribed under the Act.

b) To act in conformity with the certifying Standing orders in the day to day dealings with the workman

c) To modify certified standing orders only with the approval of the certifying officer

d) To post prominently the text of the certified standing orders in

English or any other language understood by the majority of the workmen. This display should be placed near the main entrance used by most workers and in all departments where workmen are employed.

The obligations of the workmen are:

a) To work in conformity with the certified standing orders

b) comply with the provisions of the Act and the Model Standing Orders, particularly in matters relating to the modification or interpretation of the Standing Order.

Check Your Progress A

a) What are Standing Orders and why were they introduced in Indian industry?

b) State any three duties of employers under the Industrial Employment (Standing Orders) Act, 1946.

c) Mention any four aspects of employment regulated by Standing Orders.

d) What were the key concerns raised by the Rege Committee regarding employment practices?

e) Why was there a need for statutory backing for Standing Orders?

8.4 Grievance Introduction

Every employee within an organization naturally holds certain expectations regarding their workplace. When these expectations are not met, employees may experience dissatisfaction and a sense of

discontent. If an employee perceives unfair treatment or inequity within the organization, this is referred to as a grievance**.**

Unaddressed grievances by the management can lead to indiscipline among employees, which may negatively impact both individual performance and overall organizational productivity. To mitigate such issues, it is essential for organizations to have clearly defined disciplinary and grievance procedures. These procedures offer a transparent and structured framework for addressing conflicts or concerns from both the employer's and employee's perspectives.

In this unit, you will explore the grievance handling procedure and the disciplinary action process**.**

8.5 Concept of Grievance

In every organization, employees may experience dissatisfaction related to various aspects of their work environment. These may include issues with managerial attitudes, company policies, working conditions, or interpersonal relationships with colleagues. While employers sometimes attempt to ignore or suppress such discontent, grievances cannot be overlooked indefinitely.

A **grievance** is defined as any dissatisfaction or sense of injustice connected to an employee's work situation that is brought to the attention of management. It encompasses any real or perceived unfairness—whether expressed or unexpressed, valid or otherwise—that the employee believes to be inequitable. If left unresolved, a grievance can escalate into a formal complaint. In fact, most complaints stem from unaddressed grievances. Therefore, effective grievance handling is a critical function of Human Resource Management (HRM), aimed at minimizing—if not eliminating—workplace complaints.

The **National Commission on Labour** defines grievances as:

"Complaints affecting one or more individual workers in respect of their wage payments, overtime, leave, transfer, promotion, seniority, work assignment, and discharges."

8.5.1 Causes of Grievances

To manage grievances effectively, it is essential to identify and analyze their root causes. When a grievance is found to be genuine, prompt corrective action should be taken. Indicators such as high employee turnover, increased absenteeism, and declining work quality often signal the presence of unresolved grievances. These issues can escalate if not properly addressed.

Grievances generally fall into the following three categories:

1. Grievances Arising from Working Conditions

- Poor job-role fit or mismatching of employee and job
- Sudden or frequent changes in work schedules or procedures
- Lack of access to appropriate tools, machinery, or equipment
- Unrealistically high performance expectations
- Unsatisfactory physical working conditions
- Strained employer–employee relationships

2. Grievances Arising from Management Policies

- Issues related to wage payments and job classifications
- Unfair or unclear leave policies
- Disputes regarding overtime
- Concerns about seniority and promotional opportunities
- Unjust or poorly managed transfers
- Inconsistent or harsh disciplinary actions

3. Grievances Arising from Personal Factors

- Over-ambition or unrealistic career expectations

- Excessively high self-regard
- Impractical or negative attitudes towards work and life

By understanding and addressing the underlying causes of grievances, organizations can promote a more harmonious and productive work environment.

8.5.2 Effects of Grievance

When the grievances are not timely addressed they often result in-

1. Indiscipline
2. High absenteeism and turnover
3. Low production and morale
4. Loss of faith in management
5. Greater dependence on unions
6. Increased stress and anxiety
7. Lesser job satisfaction
8. Negative image of the organization

8.5.3 How to identify grievances?

A good management redresses grievances as they arise while an excellent management can for see them and prevent them from arising. A manager can know about employee grievances through several means-

Exit interview

An exit interview serves as a valuable tool for organizations to identify and address employee grievances. By conducting structured conversations with departing employees, companies can uncover underlying issues that may not have been previously reported. These interviews provide insights into workplace challenges, management practices, and organizational culture that may have contributed to the

employee's decision to leave. Addressing the feedback gathered can lead to improved employee satisfaction, reduced turnover, and a more positive work environment. however it is to be noted that an employee who believes in keeping their relationship cordial with the organization, may not speak about his/her grievances for they never know when their paths may cross again.

Gripe boxes

A gripe box is a tool used by organizations to anonymously collect employee grievances and feedback. Typically placed in accessible areas like break rooms or near time clocks, these boxes allow employees to submit written complaints or concerns without revealing their identity. This anonymity encourages employees to voice issues they might otherwise withhold due to fear of retaliation. They are different to suggestion boxes in which employees drop their named suggestions in objective of receiving certain rewards.

Opinion surveys

An employee opinion survey is a structured tool used by organizations to anonymously gather feedback on various aspects of the workplace. These surveys along with group meetings, periodical interviews, collective bargaining sessions serve as a proactive method to identify and address employee dissatisfaction before they escalate into a grievance.

Check Your Progress B

a) What is meant by the term 'Grievance'?
b) List out any three causes of grievance.
c) What are the effects of grievance?
d) Mention few means through which through manager can identify employee grievance.

Grievance Handling Procedure: Importance and Framework

Maintaining a high quality of work life is a critical concern for any organization. An effective grievance handling procedure plays a key role in fostering a harmonious workplace environment. Managers must be trained to understand the significance of grievance redressal and their role in nurturing positive employee relations, particularly in coordination with employee unions.

Grievance handling is an essential component of human resource management (HRM), aimed at ensuring fairness, transparency, and productivity within the organization. The grievance procedure should be flexible enough to accommodate organizational needs and simple enough to be easily understood by all employees.

Although procedures may vary across organizations, the following **fundamental principles** should be observed when designing a grievance redressal mechanism:

Key Principles of Grievance Handling

1. **Resolution at the Lowest Level**

   Grievances should first be addressed at the immediate supervisory level. Early resolution minimizes escalation and often settles the matter promptly.

2. **Clear Appeal Pathways**

   Employees must be informed of the available channels of appeal in case they are not satisfied with the resolution at the initial level.

3. **Timely Resolution**

   Grievances should be addressed swiftly to prevent frustration and disengagement.

4. **Employee Participation**

   The grievance procedure should be developed with active input from employees. The finalized policy should be transparent, inclusive, and applicable across the organization.

Step in grievance handling procedure

1. **Acknowledgment of grievance**

   Recognizing and formally acknowledging the receipt of the grievance. The management should also ensure that the employee is aware of their concern being taken seriously.

2. **Listening to the complainant**

   Providing a confidential setting for the employee to express their concerns in detail and practicing active listening to fully understand the nature and context of the grievance.

3. **Defining the grievance**

   They should clearly articulate the specific issue or complaint raised by the employee by determining whether the grievance pertains to company policies, interpersonal conflicts, or other matters.

4. **Gathering information**

   The management should collect all relevant facts, documents, and testimonies related to the grievance.

5. **Analysis and developing solution**

   Analyzing the gathered information to identify underlying causes. This can be done by exploring multiple potential solutions, considering their feasibility and selecting the most appropriate resolution that addresses the grievance effectively.

6. **Implementation of the solution**

   Once the solution is selected, it has to be put into action. Communicate the steps taken to the employee and other relevant parties.

7. **Follow-Up**

   It is crucial to take follow up at each stage to ensure that the employee's grievance has been resolved satisfactorily.

Model Grievance Procedure

The Model Grievance Procedure in India was formulated based on the Code of Discipline adopted by the Indian Labour Conference in 1957. This code emphasized the importance of a mutually agreed-upon grievance mechanism between management and trade unions. The main objective of this procedure is to ensure that employee grievances are addressed in a fair, prompt, and structured manner, thereby promoting industrial harmony and preventing disputes from further escalating.

Presently, the Model grievance procedure in India provides for five successive time bound steps, each leading to the next in case the aggrieved employee prefers an appeal. These are-

1. At first, an aggrieved employee shall present their grievance verbally and personally to an officer designated by the management. This officer is required to provide a response within 48 hours. If the employee does not receive a response within the stipulated time or is dissatisfied with the reply, the grievance may then be taken to the head of the department, either personally or with the assistance of a departmental representative.
2. The head of the department is then expected to address the grievance and provide a response within three days. If immediate action is not possible, the reason for the delay must be recorded.

Should the employee remain dissatisfied with the department head's response, the grievance is forwarded to the Grievance Committee for further consideration.

3. The Grievance Committee, typically consisting of four to six members, must examine the grievance and offer its recommendation to the manager within seven days. If the committee reaches a unanimous decision, the management is obliged to implement it. However, if the committee members hold differing opinions, all views and relevant documents are forwarded to the manager for a final decision.

4. The manager is then required to communicate this final decision to the employee within three days of receiving the Grievance Committee's recommendation. If the employee is still not satisfied with the outcome, they have the right to appeal to the manager for a revision. In this step, the employee may be accompanied by a union official to support the discussion process.

5. The management must then issue its decision within seven days of receiving the revision petition.

6. If after all these steps, the employee remains unsatisfied, the grievance may be referred to voluntary arbitration.

It is important to note that until all stages of the grievance procedure are completed, the formal conciliation machinery, such as labour officers or industrial tribunals, will not intervene. A grievance is considered to become an industrial dispute only when the final decision of the top management is rejected by the employee.

Essentials of an effective Grievance Procedure

1. **Conformity with existing legislation**

   The grievance procedure must align with the existing legal framework. Wherever possible, it should make use of such machinery as the law might have already provided for.

2. **Mutual Acceptability**

   The procedure should be acceptable to both management and employees. This can be achieved through joint consultation among management, workers, and trade unions. A fair and just process that involves the union in a meaningful way helps build trust among all parties.

3. **Simplicity and Clarity**

   The grievance procedure should be easy to understand and follow.

   - The process must be clearly communicated to all employees.
   - Employees should know whom to approach at each stage.
   - The structure should be simple and practical, with clearly defined steps and responsible authorities.

4. **Speed and Timeliness**

   Quick resolution of grievances is crucial. To ensure promptness, the procedure should include:

   - Resolution of issues at the lowest possible level.
   - Ideally, only one level of appeal.
   - Referral of different types of grievances to appropriate authorities.
   - Strict time limits for each step, which must be followed without delay.

5. **Training for Effective Handling**

   Proper training should be given to supervisors and union representatives to handle grievances effectively. They should be fully informed about the policies and their roles in the process.

6. **Follow-up**

   The personnel or HR department should regularly review the grievance procedure to ensure its effectiveness and necessary updates and improvements should be made based on feedback and changing needs.

Check Your Progress C

a) What are the key principles of an effective grievance handeling?

b) Why is it important to resolve grievances at the lowest possible level?

c) What role does the Grievance Committee play in the model procedure?

d) Mention any three essentials of a sound grievance handeling mechanism?

True or False

a) Grievance redressal procedures should involve employees in the development process. (True/False)

b) Once a grievance reaches arbitration, the formal conciliation machinery like labour tribunals must intervene. (True/False)

c) One of the essentials of an effective grievance procedure is simplicity and clarity. (True/False)

Self-Assessment Questions

a) Discuss the historical evolution of Standing Orders in India, with special reference to the Bombay Industrial Disputes Act, 1932.

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b) Explain the objectives of Standing Orders. How do they contribute to industrial peace and discipline?

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c) Critically analyze the importance of grievance handling procedures in maintaining a high quality of work life. Illustrate with examples.

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d) Explain the framework for grievance handling in an organization. How can mutual consultation enhance its effectiveness?

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e) Discuss the role of managers and unions in effective grievance resolution and prevention of industrial conflicts.

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8.6 Summing Up

In this unit, we examined two important aspects of industrial relations that are necessary to maintain discipline, harmony, and order in an organization: Standing Orders and Grievance Procedures. In order to standardize the terms and conditions of employment across industries, India implemented Standing Orders in 1946 through the Industrial Employment (Standing Orders) Act. Employment practices were generally erratic and frequently capricious prior to this legislation, which frequently resulted in conflicts. Employers were required by the Act to specify employment terms in detail, including working hours, leave, termination, disciplinary measures, and more. The foundation for industrial peace and legal accountability was laid by these written regulations, which brought about clarity, uniformity, and fairness. A well-structured grievance redressal framework, based on principles like employee participation, timeliness, transparency, and early resolution at the supervisory level, is necessary for organizations to prevent and resolve grievances. A fair and methodical approach to resolution is provided by structured procedures, such as the Model Grievance Procedure, while tools such as exit interviews, opinion surveys, and gripe boxes aid in the identification of grievances. In summary, grievance procedures and standing orders both significantly contribute to the improvement of employer-employee relations. Together, grievance procedures protect justice and employee well-being and standing orders guarantee uniformity and clarity in employment conditions, creating a stable, equitable, and effective workplace.

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UNIT-9

ETHICAL CODES: INDISCIPLINE, MISCONDUCT AND TERMINATION OF EMPLOYMENT

Unit Structure:

9.1 Introduction
9.2 Objectives
9.3 Evolution of the code
9.3.1 Principles of the code
9.3.2 Objectives of the Code of Discipline
9.3.3 Code of Discipline in Industry
9.4 Introduction to Discipline
9.4.1 What is Discipline?
9.4.2 Types of Discipline
9.5 Indiscipline/ Misconduct
9.5.1 Causes of Misconduct
9.5.2 Forms of Misconduct
9.5.3 Disciplinary Action
9.6 Termination of Employment
9.6.1 Types of Termination
9.6.2 Causes of Termination
9.7 Summing Up
9.8 Model Question
9.9 Answer to Check Your Progress
9.10 References and Suggested Readings

9.1 Introduction

The Code of Discipline in Industry was formally adopted in 1958 at the 15th Indian Labour Conference (ILC) held in New Delhi and became operative from 1 June, 1958. It marked a significant

milestone in the evolution of industrial relations in India. It was introduced with the objective of promoting harmonious industrial relations and ensure long-term workplace stability, applicable to both public and private sector enterprises. This code serves as a voluntary framework aimed at encouraging responsible behavior, mutual respect, and cooperation between employers and employees. It lays down a set of obligations and commitments for both management and workers, emphasizing the avoidance of unfair labour practices and peaceful resolution of disputes by encouraging cooperation between their representatives. The Code thus, plays a vital role in instilling a sense of awareness among both parties regarding the need of adhering to certain principles aimed at promoting industrial peace.

9.2 Objectives

After going through this unit you will be able to-

- *understand* ethical Codes in industry,
- *know* the concept of discipline,
- *examine* process of termination of employment.

9.3 Evolution of the Code

Following the post-war period, India witnessed significant labour legislation and growing awareness among workers. However, this gradually escalated into widespread industrial unrest marked by defiance, strikes, and even acts of violence and intimidation by certain labour unions. This unrest reached a critical level by 1955–56, with man-days lost due to industrial disputes rising alarmingly from an average of 3.5 million to over 7 million. Tactics like “go-slow,” “pen-down,” and “stay-in” strikes became common, posing a serious threat not just to productivity but also to public order.

In response to this crisis, the 15th Indian Labour Conference convened in July 1957 in New Delhi. It was a pivotal moment where both employers and workers acknowledged the need to reorient labour policy to restore industrial discipline. The Union Labour Minister at the time, Shri G.L. Nanda, emphasized the necessity of improving industrial relations by ensuring employment security, prompt grievance redressal, and freedom of unionization.

After extensive deliberation, a special tripartite committee comprising representatives of the government, employers, and workers formulated a set of guiding principles. These principles were later adopted with modifications as the Code of Discipline at the 16th Session of the Standing Labour Committee in October 1957. Since then, the Code has been ratified by major central employers' and workers' organizations, who pledged to uphold and implement it among their members.

9.3.1 Principles of the Code

In July 1957, the fifteenth Indian Labour Conference laid down the following general principles:

a)There should be no strikes or lockouts without prior notice.
b)No party should take unilateral action regarding any industrial issue.
c) The use of “go-slow” tactics should be strictly avoided.
d) There should not be any deliberate damage to plant, machinery, or property.

e) Any acts involving violence, threats, coercion, or incitement should not be resorted to.

f) The established mechanisms for dispute resolution must be fully utilized.

g) Awards and agreements should be implemented promptly and in good faith.

h) Any agreement likely to disrupt cordial industrial relations should be avoided.

These principles were subsequently reviewed and refined by a sub-committee. With certain modifications, they formed the basis of what came to be known as the Code of Discipline. This Code was formally accepted by the four Central National Labour Organizations: INTUC, AITUC, HMS, and UTUC, on behalf of the workers, and by employer bodies including the Employers' Federation of India, the All India Organisation of Industrial Employers, and the All India Manufacturers' Organisation**.**

9.3.2 Objectives of the Code of Discipline

i) To ensure the maintenance of peace and orderly conduct within industrial establishments.

ii) To encourage constructive and collaborative engagement among all stakeholders across different levels of management.

iii) To prevent interruptions in work through the avoidance of strikes, lockouts, or other forms of work stoppages.

iv) To promote the settlement of disputes and grievances through mutual negotiation, conciliation, or voluntary arbitration.

v) To facilitate the development of trade unions.

vi) To promote mutual recognition of the rights and responsibilities of both employers and employees.

vii) To eliminate all forms of force, threats, and violence in industrial relations.

viii) To maintain discipline.

9.3.3 Code of Discipline in Industry

I. To Maintain Discipline in Industry (both in public and private sector)

To uphold discipline within industry, it is essential that:

1. **Mutual Acknowledgement of Rights and Duties**

   Employers and employees must recognize and respect each other's rights and responsibilities as defined under existing laws and agreements. This includes bipartite and tripartite settlements concluded at various levels over time.

2. **Faithful Discharge of Obligations**

   Both parties should willingly and properly fulfill the obligations arising from such mutual recognition.

   The Central and State Governments, in turn, will review and address any inadequacies in the mechanisms established for enforcing labour legislation.

II. To Ensure Better Discipline in Industry, Management and Union(s) Agree

Management and trade unions mutually agree:

1. **No Unilateral Actions**

   Not to take any independent action on industrial matters; all issues should be resolved at appropriate levels.

2. **Timely Use of Dispute Resolution Mechanisms**

   To make full and prompt use of existing dispute settlement machinery.

3. **Advance Notice for Strikes/Lockouts**

   That no strike or lockout will be initiated without prior notice.

4. **Commitment to Democratic Resolution Methods**

   To resolve all future disputes, grievances, and disagreements through mutual discussions, conciliation, and voluntary arbitration, in line with democratic ideals.

5. **Avoidance of Coercive Measures**

   Neither party shall engage in coercion, intimidation, victimization, or resort to go-slow tactics.

6. **Avoidance of Disruptive Actions**

   To refrain from legal confrontations, sit-down or stay-in strikes, and lockouts.

7. **Fostering Constructive Cooperation**

   To actively promote cooperation between representatives at every level, as well as among workers themselves, and to honor the spirit and terms of mutual agreements.

8. **Establishing a Grievance Procedure**

   To set up a mutually agreed grievance redressal process aimed at ensuring thorough and timely investigation and resolution.

9. **Respecting Grievance Procedure Stages**

   To comply with each step of the grievance procedure and avoid any unilateral actions that might circumvent it.

10. **Education and Awareness**

    To educate both management personnel and workers about their respective duties and responsibilities to one another.

III. Management Agrees

(i) Not to increase workloads unless mutually agreed upon or resolved through proper channels.

(ii) Not to encourage or engage in any unfair labour practices, such as:

(a) Interfering with employees' right to join or remain members of trade unions;

(b) Discriminating against or exerting pressure on any employee for engaging in legitimate trade union activities;

(c) Victimizing employees or abusing authority in any form.

(iii) To take prompt steps for:

(a) Resolving grievances effectively, and

(b) Implementing settlements, awards, legal decisions, and orders without undue delay.

(iv) To prominently display the provisions of this Code in local languages within the workplace.

(v) To differentiate between actions that warrant immediate dismissal and those that require a warning, reprimand, suspension, or other disciplinary measures, and to ensure all such actions are open to appeal through the existing grievance mechanism.

(vi) To take appropriate disciplinary action against officers and members of management if internal inquiries reveal that their actions led to worker unrest or indiscipline.

(vii) To recognize trade unions based on the criteria formulated during the 16th Indian Labour Conference held in May 1958.

IV. UNION(S) AGREE

(i) Not to engage in or promote any kind of physical coercion.

(ii) To ensure that demonstrations remain peaceful and to prevent unruly behavior during such events.

(iii) That union members will refrain from engaging in union activities during working hours unless specifically allowed by law, agreement, or prevailing practice.

(iv) To actively discourage unfair labour practices such as:
(a) Neglect of duties,

(b) Careless operation of equipment or processes,

(c) Deliberate damage to property,

(d) Disruption or interference with routine work, and
(e) Disobedience or insubordination.

(v) To take timely action in implementing settlements, awards, agreements, and decisions.

(vi) To display this Code in local languages in clearly visible areas of union offices.

(vii) To disapprove and take suitable disciplinary action against office-bearers and members who act in violation of the spirit and principles of this Code.

Check Your Progress A

State True/False

i) The Code relies on voluntary compliance rather than statutory enforcement.

ii) The Code allows "go-slow" tactics when management deadlines are unreasonable.

iii) One principle of the Code is that there should be no strike or lockout without prior notice.

iv) Unions are required to take disciplinary action against their members who violate the Code.

v) The Code permits unilateral management decisions on workload increases without consultation.

9.4 Introduction to Discipline

Employee discipline is a crucial foundation for any successful organization. One of management's key responsibilities is to ensure the enterprise operates smoothly, efficiently, and profitably. Achieving this requires employees to adhere to reasonable standards of conduct in the workplace. The effectiveness of employee performance largely depends on their willingness to follow the directions of their superiors and comply with the organization's rules and guidelines.

9.4.1 What is Discipline?

Discipline refers to maintaining order, obedience, and appropriate subordinate behavior within the workplace, while also placing necessary limits on individual freedom. It involves training that shapes, improves, and reinforces employee conduct. From a management perspective, discipline is the enforcement of organizational standards and expectations. It also encourages self-discipline, where individuals voluntarily follow rules and procedures through practice and internal motivation. Discipline reflects a structured and orderly environment, built on respect for the superior-subordinate hierarchy. Fundamentally, it means following established norms and correcting undesirable behavior, making it both a behavioral force and a mindset shaped by culture and environment.

9.4.2 Types of Discipline

i) Negative Discipline

Negative discipline relies on external control or compulsion. It follows the traditional view where discipline is enforced strictly, and

any deviation from rules results in punishment. This approach is centered around instilling fear of consequences in employees to ensure compliance. The threat of penalties acts as a deterrent against misconduct. However, this method has become less effective over time due to various limitations in modern work environments.

ii) Positive Discipline

Positive discipline, on the other hand, is based on the employee's willingness to follow rules, driven by their commitment to shared organizational goals rather than fear. Here, discipline is achieved through cooperation, mutual understanding, and internal motivation. It encourages a harmonious environment by reducing emotional conflict and increasing job satisfaction. Because employees are more engaged and aligned with the organization's values, there is less reliance on formal authority. This method not only supports the organization's objectives but also helps individuals fulfill their personal aspirations. At its core, positive discipline emphasizes the internal acceptance of behavioral standards and goals, fostering self-discipline and proactive engagement.

9.5 Indiscipline/ Misconduct

Every act of indiscipline is called a misconduct. Employment with a specific employer is governed by certain rules and standards of discipline. Any action that goes against these established rules is considered misconduct. In the context of industrial law, misconduct refers to behaviour by a worker which makes him/her liable to disciplinary action or punishment.

9.5.1 Causes of Misconduct

i) Unfair labor practices and employer victimization — such as wage disparities, unfair decisions regarding bonus payments, improper

work assignments, and faulty grievance redressal system often leads to employee dissatisfaction and misconduct.

ii) Poor working conditions**,** lack of clear communication from superiors, and weak leadership can result in such a work environment that is prone to indiscipline.

iii)Socio-economic factors like poverty, frustration, and heavy debt burdens can emotionally affect workers, leading to unrest and disciplinary issues.

iv) Direct behavioral violations such as absenteeism, insubordination, dishonesty, disloyalty, breach of workplace rules, gambling, incompetence, damaging equipment or property, and engaging in strikes, all contribute to industrial indiscipline.

9.5.2 Forms of Misconduct

According to the Clause 14 of the Model Standing Orders the following acts and omissions are misconducts:

vi) Willful insubordination or disobedience, whether alone or in combination with others, to any lawful and reasonable order of a superior.

vii) Theft, fraud or dishonesty in connection with the employer's business or property.

viii) Willful damage to or loss of employer's goods or property.

ix) Taking or giving bribe or any illegal gratification.

x) Habitual absence without leave or absence without leave for more than ten days.

xi) Habitual breach of any law applicable to the establishment.

xii) Riotous, or disorderly behaviour during working hours at the establishment or any act subversive of discipline.

xiii) Habitual negligence or neglect of work.

xiv) Frequent repetition of any act or omission for which a fine may be imposed to a maximum of 2% of the wages in a month; and

xv) Resorting to a strike or inciting others to go for strike in contravention of the provisions of any law or rule having the force of law.

Apart from the above acts, the scope of misconduct can extend to the following cases.:

a) where the act of employee is inconsistent with the peaceful discharge of his or her duty towards the employer;

b) where the act of the employee makes it unsafe for the employer to retain him or her in service;

c) where the act of the employee is so grossly immoral that all reasonable persons would not trust the employee;

d) where the conduct of the employee is such as to open before him or her ways for not discharging the assigned duties properly;

e) where the conduct of the employee is such that the employer cannot rely on his or her loyalty/faithfulness;

f) where the conduct of the employee is insulting and insubordinate to such a degree as to be uncomfortable with the continuance of a superior-subordinate relationship;

g) where the employee is abusive or disturbs the peace at the place of his or her employment; and

h) where the employee is habitually negligent in respect of the duties for which he or she is engaged.

9.5.3 Disciplinary Action

Whenever an employee engages in misconduct or exhibits indiscipline, the manager is responsible for taking appropriate disciplinary action. However, there is no rigid or fixed rule for

handling such behavior. The positive approach to discipline, which we discussed earlier, emphasizes self-discipline. This approach assumes that most employees, if not all, generally behave in accordance with the established norms and procedures. To foster this positive discipline, the manager must ensure that:

1. Rules and regulations are fair, clear, and legitimate.
2. Employees participate in creating the rules and regulations to encourage their voluntary acceptance.
3. Clear prior notice is given regarding the consequences of rule violations.
4. Punishments are consistent and uniform.
5. Employee dignity is respected.
6. The manager sets high standards by example.

This form of self-discipline can be termed as PREVENTIVE DISCIPLINE, as it focuses on taking actions before any indiscipline occurs, aiming to prevent it by promoting self-discipline. Additionally, other types of disciplinary actions include:

1. **Corrective Discipline**: In this case, the employee is given a corrective measure, such as a warning or suspension, in response to misconduct. This action is typically taken by the immediate supervisor but is authorized by higher management. Corrective discipline is a proactive measure designed to reform the employee's behavior, ensuring that similar indiscipline is avoided in the future and fostering effective group standards.
2. **The Hot Stove Rule**: This principle builds on corrective discipline. Just as touching a hot stove elicits an immediate and automatic response, disciplinary measures should be prompt, impersonal, and firm. Before taking action, the employee must receive a clear warning so everyone understands the potential

consequences. Because the response is swift, employees immediately connect the misconduct with its penalty. Equally important, punishments must be applied uniformly to avoid any sense of unfairness.

3. **Progressive Discipline**: Under this system, repeated infractions lead to increasingly severe penalties, motivating employees to correct their behavior and avoid further sanctions. It also gives the organization an opportunity to address the root causes of an employee's misconduct. A typical progression (after K. Davies, 1981) might include:
    - A verbal warning from the supervisor
    - A written warning placed in the personnel file
    - Suspension for one to three days
    - Suspension for one week or longer
- Termination

Beyond these disciplinary steps, managers can further curb indiscipline through counseling and training. Preventive strategies—such as enriching jobs to boost engagement, maintaining effective grievance procedures, and providing development opportunities—help foster a disciplined, motivated workforce. Ultimately, a fair and consistent formal system of discipline preserves both morale and performance.

Check Your Progress B

i) Explain the concept of discipline in the workplace.
ii) How does positive discipline differ from negative discipline?
iii) What is considered misconduct in the workplace?
iv) Name two major causes of employee misconduct.
v) What is the purpose of the Hot Stove Rule in disciplinary action?

9.6 Termination of Employment

Termination of employment refers to the end of an employee's service with an organization. This can occur either voluntarily, when the employee chooses to leave, or involuntarily, based on the employer's decision. Employers may terminate employees for various reasons such as downsizing, unsatisfactory performance, or redundancy of roles.

However, if an employee is temporarily not working due to reasons like illness, approved leave, they are still regarded as employed, provided there has been no official notice ending the employment relationship.

The Model Standing Orders provide for the termination of employment by notice or as punishment for misconduct or by retirement on reaching the age of superannuation.

9.6.1 Types of Termination

1. Voluntary Termination

This type of termination is initiated by the employee, who chooses to leave the organization based on personal or professional considerations.

a) Resignation

Resignation occurs when an employee voluntarily submits their intent to leave the organization. It may be driven by factors such as better job prospects, relocation, further education, or dissatisfaction with the current role.

b) Retirement

Retirement refers to the cessation of employment due to the employee reaching the age of superannuation. It can also be voluntary under

schemes such as the Voluntary Retirement Scheme (VRS), where employees opt to retire before the standard age in return for certain financial benefits.

c) Constructive Dismissal

Constructive dismissal arises when the employee is compelled to resign due to intolerable working conditions or unjust treatment by the employer like giving low salary or harassing the employees. Though the resignation appears voluntary, it is legally treated as a forced termination initiated by the employer.

d) Abandonment of Service

This occurs when an employee remains absent from work without authorization for a prolonged period and shows no intent to return. The employer may treat such absence as implied resignation, subject to issuing notices and following procedural requirements

2. Involuntary Termination

Involuntary termination is initiated by the employer and typically arises due to performance issues, organizational restructuring, or disciplinary grounds.

a) Dismissal or Discharge

Dismissal refers to the termination of an employee on account of misconduct, breach of discipline, or violation of company policies. Such a dismissal must follow the principles of natural justice—such as issuing a charge-sheet, conducting a fair inquiry, and providing an opportunity for defense.

Discharge, on the other hand, may occur without attributing fault, such as in cases of prolonged illness or physical incapacity.

b) Retrenchment

Retrenchment involves the termination of services of an employee due to redundancy, economic downturn, or reorganization. It is

governed by Section 2(oo) and Section 25F of the *Industrial Disputes Act, 1947*, which mandates prior notice and compensation to the affected workers.

c) Lay-off

Lay-off is a temporary termination wherein the employer is unable to provide employment due to external reasons such as shortage of raw materials, breakdown of machinery, or market conditions. Workers are not permanently separated but are temporarily out of work, often entitled to compensation under certain conditions.

d) Closure

Closure refers to the permanent shutting down of a business or its part, leading to termination of all associated employees. According to Section 25-O of the *Industrial Disputes Act*, prior government approval is required in certain establishments.

3. Termination Due to Contract Expiry

In this form of termination, the employment ends automatically upon the completion of a pre-defined contractual period or project. If the contract is not renewed, the employment relationship ceases without further legal formalities.

4. Termination by Mutual Consent

This type of termination occurs when both the employer and the employee mutually agree to end the employment relationship. It is often documented through a settlement or severance agreement, ensuring that both parties are protected legally.

5. Termination on Medical Grounds

In certain cases, an employee may be terminated due to physical or mental incapacity to continue performing job responsibilities. This must be supported by medical evidence and should comply with applicable labour laws and human rights considerations.

9.6.2 Causes of Termination

Termination of employment may arise due to various factors, depending on whether it is initiated by the employer or the employee. Understanding both viewpoints provides a balanced perspective on workforce separations in industrial relations.

A. Causes from the Employer's Perspective

1. **Consistently Low Performance**

   Employers may terminate an employee who fails to meet job expectations, productivity standards, or assigned targets despite being given support and opportunities to improve.

2. **Violation of Company Policies**

   Employees who breach organizational rules such as misuse of company property, failure to follow protocols, or ethical violations may face termination.

3. **Disciplinary Issues**

   Acts of indiscipline, such as repeated absenteeism, insubordination, or inappropriate behavior, may lead to termination after appropriate disciplinary procedures.

4. **Harassment or Misconduct**

   Any form of workplace harassment whether sexual, verbal, physical, mental, or emotional constitutes a serious offense and can lead to immediate dismissal.

5. **Lack of Teamwork and Negative Attitude**

   Employees who fail to cooperate with colleagues, disrupt team harmony, or consistently demonstrate a negative or resistant attitude may be let go in the interest of workplace morale.

6. **Breach of Confidentiality or Trust**

   Disclosing sensitive or proprietary information to competitors or unauthorized parties is a grave offense and grounds for termination.

B. Causes from the Employee's Perspective

1. **Better Career Opportunities**

   Employees may choose to resign when they receive a more rewarding job offer, with better salary, role, or benefits.

2. **Limited Growth and Promotion Prospects**

   A perceived or actual lack of advancement, learning, or promotion opportunities within the organization can prompt employees to seek opportunities elsewhere.

3. **Lack of Interest or Job Satisfaction**

   A mismatch between the employee's skills, interests, or aspirations and the job role may lead to disengagement and eventual resignation.

4. **Personal Goals: Education, Business, or Retirement**

   Employees might terminate their employment to pursue higher studies, start a business, or retire after years of service.

5. **Personal or Family Issues**

   Health problems, family responsibilities, or relocation due to spouse or dependents may compel an employee to leave the job.

6. **Unhealthy Work Environment or Conflict**

   A toxic workplace, poor management practices, or strained relationships with supervisors and coworkers may lead to voluntary separation.

Check Your Progress C

Choose the correct answer to the following questions:

1. Termination of employment refers to:

A. Annual leave

B. Promotion to a higher role

C. End of an employee's service with the organization

D. Job transfer to another department

2. Which of the following is a voluntary form of termination?

A. Dismissal B. Resignation

C. Lay-off D. Retrenchment

3. Dismissal of an employee must be based on:

A. The employer's mood B. Company size

C. Misconduct or disciplinary issues

D. Number of leaves taken

4. Retrenchment is governed under which Act?

A. Industrial Disputes Act 1947

B. Employees' Provident Fund Act

C. Payment of Gratuity Act

D. Factories Act

5. Which of the following is NOT an employer-side cause of termination?

A. Breach of company policies

B. Better career opportunities

C. Harassment of co workers

D. Negative attitude at work

9.7 Summing Up:

In this unit you have learned about what is meant by the term 'discipline', how the Code of Discipline came into being, its guiding principles, objectives and application within industrial relations, the meaning of discipline and different types of discipline that occur in an organization, indiscipline and misconduct, including their causes, forms and disciplinary action, and termination of employment (types and causes), which serves as a summary of the serious consequences for severe misconduct or persistent indiscipline.

9.8 Model Questions:

a) Explain the origin and objectives of the Code of Discipline in Industry. How does it aim to promote industrial peace?

b) Write short notes on any two principles laid down under the Code of Discipline.

c) Define misconduct and list any five examples as per the Model Standing Orders.

d) Imagine you are a manager and an employee under your supervision repeatedly disobeys instructions and behaves insubordinately. How would you handle the situation using a positive discipline approach?

e) Write short notes on:
   (a) Voluntary resignation,
   (b) Termination due to misconduct.

9.9 Answers to Check Your Progress A

i) True
ii) False
iii) True

iv) True

v) False

Answers to check your progress B

Q1. What is the concept of discipline in the workplace? Answer- Discipline in the workplace refers to maintaining order, obedience, and proper behavior among employees by setting limits on individual freedom and promoting adherence to organizational rules and standards, often through self-discipline and mutual respect.

Q2. How does positive discipline differ from negative discipline? Answer- Positive discipline is based on internal motivation and mutual understanding, encouraging voluntary compliance, while negative discipline relies on fear and punishment to enforce rules.

Q3. What is considered misconduct in the workplace? Answer- Misconduct is any act of indiscipline that violates established workplace rules, making an employee liable to disciplinary action.

Q4. Name two major causes of employee misconduct. Answer- Unfair labor practices and poor working conditions are two major causes of misconduct.

Q5. What is the purpose of the Hot Stove Rule in disciplinary action? Answer- The Hot Stove Rule ensures disciplinary action is immediate, impersonal, and consistent, with prior warnings to employees.

Answers to Check your progress C

1) C
2) B
3) C
4) A
5) B

9.10 References and Suggested Readings

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UNIT-10
PUNISHMENT

Unit Structure:

10.1 Introduction
10.2 Objectives
10.3 Types of Punishment
10.4 Procedure of Punishment
10.5 Summing Up
10.6 Model Questions
10.7 Answer to Check Your Progress
10.8 References and Suggested Readings

10.1 Introduction

Punishment refers to the disciplinary actions imposed by employers on employees who violate organizational rules, engage in misconduct, or fail to meet expected standards of behavior and performance. It is an essential aspect of maintaining workplace discipline, ensuring accountability, and promoting adherence to company policies.

The main goal of punishment in an organization is to prevent the occurrence of unacceptable or unwanted behavior from happening again and to encourage proper behavior. This is done through disciplinary actions that help guide employees toward following rules and expected standards.

Punishment works by reducing the chances of the unwanted behavior happening again. This can be done in two ways:

1. Positive Punishment – Adding an unpleasant consequence right after the wrong behavior, so the employee is less likely to repeat it.

2. Negative Punishment – Taking away something pleasant or valued after the behavior, which also reduces the chance of it happening again.

In both cases, the idea is to connect the behavior with its result that helps the employees to learn and act in the right way within the organization.

10.2 Objectives

After going through this chapter, the students will be able to-

- *understand* the types of Punishment,
- *know* the procedure of Punishment.

10.3 Types of Punishment

For various actions of misconduct there are different punishments. It can be classified as –

I. Minor Punishment

II. Major Punishment.

Minor punishment-

1. Oral Reprimand

This is the most basic and least severe form of disciplinary action. In this case, the supervisor verbally informs the employee that their behavior is unacceptable. It is typically used for minor issues such as breaking safety rules, smoking in restricted areas, sleeping during work hours, or performing poorly.

An oral reprimand does not involve any loss of pay or position and is therefore not considered a major punishment. However, because

employees usually care about the approval of their managers and coworkers, a simple verbal warning can often be effective. Still, it should not be overused. Frequent criticism can lead to stress, insecurity, and reduced morale in employees, which may result in even more mistakes and reluctance to take responsibility.

2. Written Reprimand

When an employee repeatedly misbehaves or performs poorly, a written reprimand may be necessary. This formal warning is recorded and can be used as evidence if stricter punishment is needed later. A written reprimand might also mention that certain benefits will be denied if the behavior continues. In some companies, a note may be added to the employee's record, and a copy shown to them as a clear warning.

The purpose is to make the employee fully aware of the consequences of continuing the unacceptable behavior. However, it's important that any future punishment is consistent with what was communicated in the warning.

3. Loss of Privileges

For offenses like frequent lateness or leaving the workplace without permission, employees may lose certain workplace privileges. These can include preferred job assignments, choice of tools or machines, or freedom of movement within the organization.

4. Fines

A fine is a deduction from an employee's salary as a penalty. Employers do not automatically have the right to deduct fines from wages unless this right is clearly stated in the employment contract or allowed under specific legal rules. Fines are considered a more serious form of punishment and are used only under certain conditions.

5. Punitive Suspension

Punitive suspension is a type of punishment given to a worker for doing something wrong. It is different from suspension during an enquiry, which is only a temporary step while the company investigates serious misconduct. In punitive suspension, the employee is not allowed to work and does not get paid during this period. But in a suspension pending enquiry, unless the employee's contract says otherwise, they usually get paid while the enquiry is going on.

Major Punishment-

a) Withholding of Increments

This means stopping an employee's yearly salary increase. It is a serious punishment and is usually given for big mistakes or bad behavior, sometimes the same kind that could lead to dismissal. The effect of losing an increment is big because it doesn't just affect one year's salary, but all future salaries too, since each year's raise builds on the last one.

b) Demotion

Demotion means moving an employee to a lower position than the one they currently have. Some people believe this should not be used unless the employee is truly not fit for the job. It is best used when the worker cannot meet the job's requirements or when the company is reducing staff and needs to shift roles. Demotion affects a person's status and should be used carefully.

c) Discharge

Under common law, when both parties to a contract have fulfilled their respective obligations, the agreement is considered discharged. In the context of employment, this means that if the employer and

employee mutually agree to end the employment either by serving the required notice or offering payment in its place the contract of service can be terminated without it reflecting any misconduct. For instance, an employee may be discharged due to redundancy, retirement, ill health, or similar reasons as outlined in their terms of service, and such termination does not imply any wrongdoing on the employee's part.

However, within the framework of industrial law, the term "discharge" can also refer to the removal of an employee as a disciplinary measure. Importantly, even when used this way, the term does not carry a negative mark or social stigma. Therefore, a discharged employee is not automatically barred from future job opportunities.

Discharge must be distinguished from what is known as discharge simpliciter which is a form of termination that does not necessarily involve any act of misconduct but is instead based on loss of trust or confidence in the employee. Even so, such a claim of lost confidence must be made in good faith, backed by reasonable evidence, and should not be used as a false excuse to remove an employee who is otherwise unwanted. In cases of discharge simpliciter, the employer is not legally required to conduct a formal enquiry.

d) Dismissal

Often referred to as the "capital punishment" of industrial discipline, dismissal represents the most serious form of action an employer can take against an employee. It results in the termination of employment and is used only in extreme cases. While both discharge and dismissal lead to the end of an employment contract, there are several key differences between the two.

i) Firstly, dismissal is always punitive, it is given as a direct consequence of serious misconduct whereas discharge may

happen for various non-disciplinary reasons and does not always imply wrongdoing.

ii) Secondly, dismissal carries a greater degree of severity and a negative label, which often results in the employee facing difficulty in securing future employment. Discharge, on the other hand, does not carry such a stigma.

iii) Thirdly, dismissal is usually immediate and referred to as *summary dismissal* where the employment contract is ended without giving the employee prior notice. This is considered acceptable because the misconduct involved is typically so serious that the employer has the right to protect the organization without delay. In contrast, discharge generally requires notice or payment in lieu, as agreed upon in the employment terms.

iv) Another distinction is that employees who are dismissed are often not eligible for post-employment benefits such as gratuity or provident fund, which is typically not the case for those who are discharged.

Because dismissal has such serious consequences, it is rarely used as a first option. Most managers attempt alternative strategies to deal with problematic employees without formally dismissing them. These alternatives include restructuring work processes so that the employee is excluded from meaningful tasks, prompting them to resign voluntarily. In some cases, the job may be formally abolished and the duties redistributed among others, only to be recreated and filled later after the employee leaves.

Sometimes, management may suggest resignation by indirectly warning the employee of possible disciplinary action. In higher-level positions, the employee may be "kicked upstairs" i.e., promoted to a role with no real responsibilities (such as a consultant who is never consulted) as a way to remove them without conflict. This may even

be financially less burdensome than keeping them in their original role. In other cases, the employee may be transferred to another department, thereby removing them from a problematic area without formal dismissal.

10.4 Procedure of Punishment

If an organization has certified Standing Orders that define the process for handling disciplinary cases, those procedures must be followed strictly. Any deviation from the specified process can make the punishment invalid. Regardless of whether Standing Orders are in place, the procedure for taking disciplinary action against workers must be based on key principles of natural justice, which include:

(a) The worker facing the charges must be allowed to present witnesses of their own choosing in support of their case.

(b) The worker must also be given the opportunity to cross-examine the witnesses presented by the management.

(c) All evidence brought by management should be presented in the presence of the accused employee.

(d) No material or evidence should be used against the employee unless they are first given a fair chance to respond.

(e) The enquiry must be fair and conducted by someone who is neutral and has no personal interest in the case.

(f) The punishment given should be appropriate and proportionate to the type and seriousness of the misconduct committed.

The punishment procedure should follow the steps below:

1. Preliminary Investigation:

The first and essential step is to conduct a preliminary enquiry to determine whether there is a clear, basic case of misconduct against

the employee. This initial investigation helps decide whether the issue needs to be taken to the next level.

2. Issue of a Charge-Sheet:

Once a basic case is found, the management should issue a charge-sheet to the employee. This is not a punishment on its own but a formal notice stating that the employee is accused of a particular wrongdoing and is being asked to explain their side. This gives the employee an opportunity to clarify their conduct. The charge-sheet is also commonly known as a "show cause notice." Employees sometimes refuse to accept it, especially if they believe they've done nothing wrong. In such cases, the management must clearly explain that the document is not punishment, but simply an invitation to respond.

While framing charges, the following points should be kept in mind:

a) Each charge should be specific, clear, and not vague.

b) Every separate accusation must be listed as a separate charge.

c) The same accusation should not be repeated multiple times under different charges.

d) The charges must not be based on matters that have already been resolved or addressed earlier.

There is a difference of opinion among High Courts on whether the proposed punishment should be mentioned in the charge-sheet. High Courts in Chennai, Andhra Pradesh, Kolkata, Punjab, and Haryana believe that including the proposed punishment appears biased, as it may suggest that the outcome is already decided, thereby compromising the fairness of the process. On the other hand, High Courts in Mumbai, Rajasthan, and Allahabad have held that merely mentioning the possible punishment does not make the enquiry unfair or biased, as long as the final decision is based on the findings of the

enquiry. In fact, some believe it helps the employee understand the seriousness of the situation and prepare a better defense. Still, to be cautious and neutral, employers are advised not to include the proposed punishment in the charge-sheet.

3. Suspension Pending Enquiry (If Necessary):

If the misconduct is serious and threatens discipline or safety at the workplace, the management may suspend the employee even before issuing a charge-sheet. In other cases, a suspension order may be issued along with the charge-sheet. According to Section 10A of the Industrial Employment (Standing Orders) Act, 1946, a suspended employee is entitled to a subsistence allowance: half of their regular wages for the first 90 days, and three-fourths of their wages for any extended period, provided the delay is not due to the employee's actions. The Second National Commission on Labour recommends that such suspensions should not last longer than one year under any circumstances.

4. Notice of Enquiry:

After receiving the employee's reply to the charge-sheet, one of the following may occur:

(i) If the employee fully accepts the charge without conditions, the employer can impose punishment without holding an enquiry.
(ii) If the employee denies the charges, but the offense is minor, the employer may still decide on a minor punishment without a full enquiry.
(iii) If the employee denies serious charges that may lead to major punishment, then a full domestic enquiry is required to investigate the matter.

In this case, a formal notice of enquiry must be sent to the employee in advance. The notice should mention the date, time, and location of the enquiry, along with the name of the enquiry officer. The employee

must be advised to be prepared with any documents or witnesses and to present all necessary evidence in their defense on the day of the enquiry.

5. Conduct of Enquiry:

This step involves three key aspects: selecting an enquiry officer, deciding on the procedure, and setting the order for witness examination.

If the organization's Standing Orders identify a specific person or position to conduct the enquiry, that rule should be followed. If not, an assistant manager, labour welfare officer, legal advisor, or even an external person may be chosen to act as the enquiry officer. The enquiry officer is expected to act like a judge and must be completely fair and unbiased. A person is considered unfit to act as enquiry officer if:

(a) They were personally involved in the incident.

(b) They have first-hand knowledge of the incident or gathered evidence for the case.

(c) They are the one who issued the charge-sheet.

(d) They directly report to the accused employee.

If the accused asks for a co-worker to help them during the enquiry, this request should be allowed. However, it is up to the management whether or not to permit an external union representative to assist in the defense.

Regarding the order of events, the management's witnesses should be presented first, and the accused employee must be present. The accused must be allowed to cross-examine these witnesses. After that, the employee and their witnesses are examined, and the management may cross-examine them in turn.

If the employee refuses to attend the enquiry without a valid reason, or chooses to walk out midway, the enquiry officer has the right to continue the process ex parte, meaning in the employee's absence. The company's case is usually presented by a Presentation Officer who handles the evidence and witness presentation on behalf of the management.

6. Recording of Findings by the Enquiry Officer:

At the end of the enquiry, the enquiry officer should prepare a report stating whether the charges are proved or not, along with the reasons for the decision. The officer should avoid recommending any specific punishment and leave that decision to the appropriate authority or management.

7. Awarding Punishment:

The final decision about punishment is made by the management. The severity of the punishment should depend on three factors: the findings of the enquiry, the seriousness of the misconduct, and the employee's past behavior.

It is important to remember that if a labour dispute is currently under conciliation, arbitration, or legal review, the employer cannot take disciplinary action related to that dispute without permission from the relevant authority (as stated in Section 33 of the Industrial Disputes Act). In the case of protected workmen (such as trade union officials), prior approval is needed for any disciplinary action, whether the issue is connected to the pending dispute or not. These protected workers are nominated by their unions, and their number should not exceed 1% of the workforce, with a minimum of five.

8. Communication of Punishment:

Once the decision has been made, the punishment must be communicated to the employee without delay. The letter should include:

i) A reference to the original charge-sheet.
ii) A summary of the enquiry process.
iii) The findings of the enquiry officer.
iv) The final decision on punishment.
v) The effective date from which the punishment will begin.

Check Your Progress

a) Explain the concept of Punishment.

b) What is the main difference between punitive suspension and suspension pending enquiry?

c) What is meant by 'domestic enquiry'?

d) What should the punishment letter include?

10.5 Summing Up

Punishment in industrial relations refers to the disciplinary steps taken against employees who break rules or behave improperly at work. Its main goal is to stop such behavior from happening again and to guide employees toward following workplace standards. Punishments can be minor (like oral or written warnings, loss of privileges, fines, and suspensions) or major (like withholding salary increments, demotion, discharge, or dismissal). While discharge may not always mean wrongdoing, dismissal is the most serious punishment and usually follows major misconduct.

A proper disciplinary procedure is essential and must follow natural justice—giving employees a fair chance to respond, present evidence, and be heard. Steps include a preliminary inquiry, charge-sheet, possible suspension, formal enquiry, findings, decision, and communication of punishment. If handled fairly and legally,

punishment helps maintain discipline, improve behavior, and support a productive and respectful workplace.

10.6 Model Questions:

a) What is the primary aim of punishment in industrial relations?

b) Explain the types of punishment in industrial discipline with examples.

c) Discuss the principles of natural justice that must be followed while taking disciplinary action.

d) Elaborate on the step-by-step process of handling employee misconduct in an organization.

10.7 Answers to Check Your Progress

a) Punishment refers to the disciplinary actions imposed by employers on employees who violate organizational rules, engage in misconduct, or fail to meet expected standards of behavior and performance.

b) Punitive suspension is a punishment where wages are withheld; suspension pending enquiry is temporary and usually paid unless otherwise stated.

c) Domestic Enquiry is an internal investigation held when an employee denies serious charges, before awarding any major punishment.

d) A punishment letter must include the following-

A reference to the charge-sheet, enquiry findings, final decision, and the date from which punishment is effective.

10.8 References and Suggested Readings

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UNIT-11

SETTLEMENT MACHINERY: CONCILIATION AND MEDIATION

Unit Structure:

11.1 Introduction

11.2 Objectives

11.3 Mediation and Conciliation Under the Industrial Disputes Act, 1947

- 11.3.1 Mediation: Meaning
- 11.3.2 Key Features of Mediation
- 11.3.3 Conciliation: Meaning
- 11.3.4 Relevant Sections of the Act
- 11.3.5 Conciliation Officers
  - 11.3.5.a Appointment of Conciliation Officers (Section 4)
  - 11.3.5.b Powers of Conciliation Officers (Section 11)
  - 11.3.5.c Duties of Conciliation Officers (Section 12)
  - 11.3.5.d Conciliation Proceedings
  - 11.3.5.e Role of Conciliation Officers
- 11.3.6 Board of Conciliation (Section 5)
  - 11.3.6.a Constitution of Board of Conciliation
  - 11.3.6.b Duties of Board of Conciliation (Sec 13)
- 11.3.7 Differences Between Duties of Conciliation Officer and Board of Conciliation

11.4 Role of Conciliation in Industrial Dispute Resolution

11.5 Effectiveness of Conciliation

11.6 Effects of Conciliation Proceedings

11.7 Differences Between Conciliation and Mediation

11.8 Summing Up

11.9 Model Questions

11.10 Answers to Check Your Progress

11.11 References and Suggested Readings

11.1 Introduction

Disputes are always inevitable for any industry, which may arise for several reasons. It is the conflict of interests between two or more parties that gives rise to a dispute. The parties involved in an industrial dispute are the employer and the employees. An employee has the right to be provided with wages along with other benefits depending on the amount and type of work delivered. It is the responsibility of the employer to provide employees with a reasonable amount of wages along with other conditions that are necessary for a person to earn a livelihood.

But all disputes arising in an industry cannot be termed as Industrial dispute or resolved in the same manner. An industrial dispute refers to a disagreement between employers and employees, or among employees themselves, concerning employment terms, conditions, or related aspects.

In India, the Industrial Disputes Act, 1947 was established to provide mechanisms for the investigation and settlement of industrial disputes. This Act defines an industrial dispute as any disagreement between employers and employers, employers and workmen, or workmen and workmen, connected with employment or non-employment, or the terms and conditions of employment. The Industrial Dispute Act,1947 has provided the mechanism of settling disputes. Some of the mechanisms for settlement of disputes are mediation, conciliation, arbitration and adjudication.

The industrial Relations Code, 2020, consolidates and amends the laws relating to Trade Unions, conditions of employment in industrial establishment or undertaking, investigation and settlement of industrial disputes and for matters connected therewith or incidental thereto. But the Act has not been enforced till date. Industrial Relations Code seeks to replace three major labour laws

of Indian Industrial legislation viz., The Industrial Disputes Act, 1947, The Trade Unions Act, 1926 and the Industrial Employment (Standing Orders) Act, 1946, which lays down the overall substantive rights of workers and trade unions in India. This Code is an attempt to transform the basis of industrial jurisprudence. Though Industrial Relations Code, 2020 claims to consolidate the provisions of the 3 major industrial laws, by retaining its fundamental features, certain significant changes have been made to the laws.

11.2 Objectives

This unit is an attempt to give an overview on mediation and conciliation under the Industrial Disputes Act, 1947 as well as Industrial Relations Code, 2020. After going through this unit, you will be able to-

- *understand* the meaning and key features of mediation and conciliation,
- *describe* the provisions relating to the appointment, powers and duties of the conciliation officer and board of conciliation,
- *explain* the conciliation proceedings,
- *differentiate* between the role of the conciliation officer and the board of conciliation,
- *differentiate* between conciliation and mediation,
- *describe* the role of conciliation in dispute resolution,
- *describe* the important provisions on mediation and conciliation under the Industrial Relations Code, 2020.

11.3 Mediation and Conciliation under the Industrial Disputes Act, 1947

The Industrial Disputes Act, 1947 provides mechanisms for resolving disputes between employers and workers to ensure

industrial peace and harmony. Two key methods under the Act are Mediation and Conciliation.

11.3.1 Mediation: Meaning

Mediation is a voluntary informal process in which a neutral third party helps disputing parties to negotiate and reach a mutually acceptable settlement. Under the Industrial Disputes Act, mediation is not explicitly mentioned as a separate dispute resolution mechanism. In this process the neutral third party who works as an intermediary between the disputant parties is known as mediator. Unlike a judge or arbitrator, the mediator does not impose a decision but facilitates communication and negotiation between the conflicting parties.

11.3.2 Key Features of Mediation:

Neutral third-party assistance: A mediator works as a neutral third-party who helps the disputing parties to communicate effectively for settlement of the dispute.

Non-binding process: The mediator does not have the authority to enforce a decision rather he facilitates negotiations between the parties.

Focus on mutual agreement: The process encourages compromise and win-win solutions.

Confidentiality: Discussions in mediation remain private.

Flexibility: Mediation is flexible and allows parties to maintain a good working relationship.

11.3.3 Conciliation: Meaning

Conciliation is a formal dispute settlement mechanism recognised under the Industrial Disputes Act, 1947. It is designed to amicably

resolve conflicts between employers and employees and thereby maintaining industrial harmony. This process involves the intervention of a neutral third party, referred as the Conciliation Officer or board of conciliation, who facilitates dialogue between disputing parties to reach a mutually acceptable settlement.

11.3.4 Relevant Sections of the Act:

Section 4: Appointment of Conciliation Officers.
Section 5: Establishment of a Board of Conciliation.
Section 11: Powers of Conciliation Officers.
Section 12: Duties of Conciliation Officers.
Section 13: Duties of the Board of Conciliation.

11.3.5 Conciliation Officers:

Conciliation Officers play a pivotal role under the Industrial Disputes Act, 1947, in mediating and promoting the settlement of industrial disputes between employers and employees. Their appointment, duties, and the procedures they follow are integral to maintaining industrial harmony in India.

11.3.5.a Appointment of Conciliation Officers (Section 4)

As per Section 4 of the Industrial Disputes Act, 1947, the appropriate government—either central or state—has the authority to appoint Conciliation Officers. These appointments are made through notifications in the Official Gazette. A Conciliation Officer may be designated for a specified area, specified industries within a specified area, or for one or more specified industries. The appointment can be either permanent or for a limited period, depending on the requirements.

Under Section 21 of the Indian Penal Code (IPC) a Conciliation officer shall be deemed to be a public servant. The Conciliation officer is empowered to exercise all quasi-judicial powers of a Civil Court under the Civil Procedure Code, 1908. (CPC) He is or has been a Deputy Chief Labour Commissioner (Central) or Joint Commissioner of the State Labour Department, having a degree in law and at least seven years' experience in the labour department including three years of experience as Conciliation Officer.

11.3.5.b Powers of Conciliation Officers (Section 11)

While the Act primarily outlines the duties of Conciliation Officers, it also grants them certain powers to effectively carry out their responsibilities. The Powers of conciliation officers as laid down in Section 11 of the Industrial Dispute Act, 1947 are:

Power to enter the premises: Conciliation Officer for the purpose of inquiring into an existing apprehended Industrial Dispute is empowered, after giving the notice to enter the premises occupied by the Industrial establishment.

Inspection of documents: Conciliation Officer is also empowered to call for and inspect any document which may be consider relevant to the dispute.

Summoning and Enforcing Attendance: Conciliation Officer enjoys the same powers as are available to the civil Courts in respect of compelling the parties, to appear and produce all the relevant documents.

Public servants: All Conciliation Officers can act as Public Servants within the meaning of Section 21 of the Indian Penal Code.

These powers are designed to ensure that Conciliation Officers can conduct thorough investigations and facilitate effective dispute resolution.

11.3.5.c Duties of conciliation officers (Section 12)

Section 12 ofvthe Act outlines the duties of the conciliation officers as follows:

Initiation of conciliation proceedings : when an industrial dispute exists or is apprehended , the conciliation officer may initiate conciliation proceedings. However , if the dispute pertaains to a public utility service and a notice under section 22 has been given, the officer is obliged to commence conciliation proceedings.

Investigation: The conciliation officer is required to investigate the dispute promptly and examine all related matters to understand the root causes and dynamics of the conflict

Facilitation of settlement: The primary role of the conciliation officer is to mediate between the disputing parties and promote a fair and amicable settlement of the dispute. This involves organising meetings and encouraging dialogues and assisting parties in understanding each other's perspectives to reach a mutual agreement.

Reporting: The conciliation officer is required to submit the report to the appropriate government on both successful settlement as well as failure to settle the dispute.

Successful settlement: The conciliation officer must send a report to the appropriate government along with a memorandum of settlement, signed by the parties involved. Settlement brought about by the consciliation officer is an administrative act and not a quasi judicial act.

Failure to settle: If no settlement is reached, the officer is required to submit a detailed report to appropriate garment, specifying the steps taken during the proceedings, the facts and the circumstances of the dispute and the reasons for the failure to settle.

The conciliation officer can only send a report but has no authority to pass a final order. He must submit the report of the settlement or non settlement of the dispute within 14 days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the appropriate Government.

11.3.5.d Conciliation Proceedings:

With regard to conciliation proceedings the conciliation officer has a special obligation where the dispute relates to public utility service. If an industrial dispute exists or is apprehended in such service/s, he must hold conciliation proceedings in the prescribed manner. In case of other industries his power is discretionary, i.e., he may or may not hold such proceedings. The conciliation officer has a lot of discretion about the procedure to be followed by him. The Act requires that "he may do all such things as he thinks fit for the purpose of inducing the partis to come to a fair and amicable settlement of the dispute. **[Section12 (2)]**

The process of conciliation involves several key steps:

Notification: The Conciliation Officer notifies the parties about the commencement of conciliation proceedings.

Meetings: The officer conducts joint or separate meetings with the disputing parties to understand their positions, grievances, and expectations.

Negotiation: Through mediation, the officer assists the parties in negotiating terms to resolve the dispute amicably.

Settlement Agreement: If a mutual agreement is reached, a settlement memorandum is drafted and signed by both parties, and a report of the same is send to the appropriate government.

Reporting: Regardless of the outcome of the conciliation proceedings the conciliation officer submits a report to the appropriate government detailing the proceedings and results.

11.3.5.e Role of Conciliation Officers

Conciliation Officers serve as neutral intermediaries who facilitate dialogue and understanding between conflicting parties. Their role is crucial in preventing disputes from escalating into strikes, lockouts, or prolonged litigation. By promoting amicable settlements, they help to maintain industrial peace and contribute to a stable economic environment. Conciliation Officers are instrumental in the proactive resolution of industrial disputes, ensuring that conflicts are addressed efficiently and equitably, thereby fostering harmonious industrial relations.

11.3.6 Board of Conciliation (Section 5)

According to Section 5 of the Industrial Disputes Act, 1947 the appropriate Government may as occasion arises by notification in the Official Gazette constitute a Board of Conciliation for promoting the settlement of an industrial dispute. However, the appropriate government is not empowered to constitute a board for criminal proceedings to it. Moreover, the board cannot enforce an award.

11.3.6.a Constitution of Board of Conciliation

A Board shall consist of a chairman who shall be an independent person i.e. not related to the dispute and two or four other members,

as the appropriate Government thinks fit. The other members shall be persons appointed in equal numbers to represent the parties to the dispute and any person appointed to represent a party shall be appointed on the recommendation of that party: Provided that, if any party fails to make a recommendation as aforesaid within the prescribed time, the appropriate Government shall appoint such persons as it thinks fit to represent that party.

11.3.6. b Duties of Board of Conciliation (Sec 13)

The duties of the Board of Conciliation are prescribed under Section 13 of the said Act are as follows:

(1) Investigation: Where a dispute has been referred to a Board under this Act, it shall be the duty of the Board to endeavour to bring about a settlement of the same and for this purpose the Board shall, in such manner as it thinks fit and without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as it thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.

(2) Settlement: If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings, the Board shall send a report thereof to the appropriate Government together with a memorandum of the settlement signed by the parties to the dispute.

(3) Failure to settlement: If no such settlement is arrived at, the Board shall, as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the proceedings and steps taken by the Board for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full

statement of such facts and circumstances, its finding thereon, the reasons on account of which, in its opinion, a settlement could not be arrived at and its recommendations for the determination of the dispute.

(4) Record and communication: If, on the receipt of a report under sub-section (3) in respect of a dispute relating to public utility service, the appropriate Government does not make a reference to a Labour Court, Tribunal or National Tribunal under Section 10, it shall record and communicate to the parties concerned its reasons therefor.

(5) Submission of Report: The Board shall submit its report under this section 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: Provided that the appropriate Government may from time to time extend the time for the submission of the report by such further periods not exceeding two months in the aggregate: Provided further that the time for the submission of the report may be extended by such period as may be agreed on in writing by all the parties to the dispute.

11.3.7 Differences between duties of conciliation officer and board of conciliation:

The differences between the duties of the Board and the Conciliation Officer are:

(i) Proceedings are initiated before a Board only on a reference by the appropriate government by notification in the Official Gazette.

(ii) When a Board sends a failure report, it has also inter alia, to send its memorandum for determination of the dispute.

(iii) The board has to submit its report within 2 months instead of 14 days in the case of proceedings before the Conciliation Officer.

Check Your Progress

1. Whether the Conciliation Officers are public servants?
2. Can a conciliation officer enter the premises occupied by the Industrial establishments during conciliation proceedings?
3. Within what period and to whom the conciliation officer must submit his Report of the conciliation proceedings?
4. How the conciliation officer's powers are different in case of conciliation proceedings in public utility service and other industries?
5. Within what period and to whom the board of conciliation must submit his Report of the conciliation proceedings?

11.4 Role of Conciliation in Industrial Dispute Resolution

Conciliation serves as a preventive mechanism to avoid prolonged industrial conflicts. It offers a platform for open communication, helping parties understand each other's perspectives and work towards a compromise. This process is less formal than adjudication and allows for flexible solutions tailored to the specific needs of the parties involved.

11.5 Effectiveness of Conciliation

The success of conciliation largely depends on the factors like:

- the skills and impartiality of the Conciliation Officer, and
- the willingness of the parties to negotiate in good faith.

When effective, conciliation can lead to quick and amicable settlements, preserving industrial peace and fostering better employer-employee relationships.

11.6 Effects of conciliation proceedings

Conciliation proceedings under the Industrial Disputes Act, 1947 play a crucial role in resolving disputes between employers and employees through negotiation facilitated either by a conciliation officer or a board of conciliation. The effects of conciliation proceedings are as follows:

1. Ban on Strikes and Lockouts

Under Section 22 of the Act, the Strike and Lockout in a public utility service is prohibited during the conciliation proceedings. This ensures industrial peace and prevents economic disruption while negotiations are ongoing.

2. Binding Nature of Settlement

Under Section 18(3) of the Act, if a settlement is reached during conciliation proceedings, it becomes binding on the parties. The settlement applies not only to the involved parties but also to all workmen present and future, in the establishment.

3. Duty to Maintain Industrial Harmony

Both parties i.e. employers and employees must refrain from taking actions that may escalate tensions and must cooperate with the conciliation officer during conciliation proceedings. The conciliation officer must act fairly and attempt to bring both parties to an amicable settlement.

4. Submission of Report by Conciliation Officer

If conciliation is successful, the conciliation officer submits a report along with the settlement terms to the appropriate government. If unsuccessful, the officer submits a failure report with recommendations, allowing the government to decide further action, such as referring the dispute to a labour court, tribunal, or national tribunal.

5. Prevention of Litigation

Conciliation helps in reducing industrial litigation by encouraging voluntary settlement without resorting to lengthy and costly legal proceedings. It fosters better employer-employee relations and ensures quick dispute resolution.

6. Government Intervention

The government may intervene and refer the dispute for adjudication if conciliation fails, ensuring that industrial disputes do not remain unresolved indefinitely.

Thus, Conciliation proceedings serve as a preventive and remedial mechanism for industrial disputes under the Industrial Disputes Act, 1947. By peaceful resolution of disputes and preventing strikes and lockouts the conciliation proceedings encourage industrial harmony and healthy employer employee relations.

11.7 Differences between conciliation and mediation:

Both conciliation and mediation are two different methods of resolving industrial disputes under the Industrial Disputes Act, 1947. We can distinguish between the two as follows:

Basis	Conciliation	Mediation
Definition	It is a process where a third party i.e. Conciliation Officer or Board of Conciliation facilitates discussion between disputing parties to help them reach an amicable settlement of the dispute.	It is a voluntary process where a neutral third party i.e. mediator assists in negotiations but does not have the authority to impose a settlement. The Industrial Disputes Act does not explicitly mention mediation, but it is informally used in industrial dispute resolution.
Legal Recognition	It is a legally recognized and structured process.	It is not specifically provided for under the Industrial Disputes Act but can be used as an informal dispute resolution method.
Authority Involved	Conducted by a Conciliation Officer or a Board of Conciliation (appointed by the government)	Conducted by a neutral mediator, usually chosen by mutual agreement of the parties.
Process	The officer or board tries to facilitate a compromise between the disputing parties and a formal report is	The mediator helps parties understand each other's viewpoints and suggests possible solutions, but does not

	submitted to the appropriate government.	submit any formal report.
Binding Nature	If a settlement is reached, it is binding and enforceable under the Act. If no settlement is reached, the dispute may be referred to adjudication (Labour Court/Industrial Tribunal).	The mediator does not impose a decision; the process is non-binding unless both parties agree to a settlement.
Confidentiality	The proceedings are recorded, and a report is submitted to the appropriate government.	Generally confidential, and discussions are not disclosed unless a settlement is reached.
Role of Government	The government actively participates by appointing conciliation officers or board of conciliation and monitoring the process.	The government is usually not involved; it is a private dispute resolution process.
Objective	To prevent disputes from escalating and ensure industrial peace.	To help parties voluntarily reach a mutually acceptable resolution of the dispute.

Thus, Conciliation is a statutory, government-led process with some level of enforcement, whereas mediation is voluntary, flexible, and informal method for settlement of disputes.

Check Your Progress

6. On what factors the success of conciliation proceedings depend?
7. Whether the Strike and Lockout in a public utility service is prohibited during the conciliation proceedings.
8. Whether the settlement reached during conciliation proceedings binding on the parties?
9. When and why Government intervenes in the conciliation proceedings?
10. How conciliation differs from mediation?

11.8 Summing up

- All disputes arising in an industry cannot be termed as Industrial dispute or resolved in the same manner.
- In India, the Industrial Disputes Act, 1947 was established to provide mechanisms for the investigation and settlement of industrial disputes.
- Mediation is a voluntary informal process in which a neutral third party helps disputing parties to negotiate and reach a mutually acceptable settlement. But in the Industrial Disputes Act, mediation is not explicitly mentioned as a separate dispute resolution mechanism.
- The mediator does not have the authority to enforce a decision rather he facilitates negotiations between the parties.
- Conciliation is a formal dispute settlement mechanism recognised under the Industrial Disputes Act, 1947, which involves the intervention of a neutral third party, referred as the

Conciliation Officer or board of conciliation, who facilitates dialogue between disputing parties to reach a mutually acceptable settlement.

- The appointment of conciliation officer can be either permanent or for a limited period, depending on the requirements.
- All Conciliation Officers can act as public Servants. They can enter the premises of the Industrial establishments for the purpose of enquiry, inspect the documents and summon and enforce attendance of the parties relating to the dispute.
- Regardless of the outcome of the conciliation proceedings the conciliation officer has to submit a report to the appropriate government detailing the proceedings and results.
- The conciliation officer must submit the report of the settlement or non-settlement of the dispute within 14 days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the appropriate Government.
- The appropriate government is not empowered to constitute a Board of Conciliation for criminal proceedings to it.
- The Board shall 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 in general.

11.9 Model Questions

Short –Answer questions

1. What is Mediation?
2. What is Conciliation?
3. State the features of mediation and conciliation as a dispute settlement mechanism under the Industrial Disputes Act, 1947.
4. Who and how does appoint a conciliation Officer?

5. When and how a Board of Conciliation is constituted?
6. How does the duties of a conciliation officer differ from the duties of a Board of Conciliation
7. What are the powers of conciliation officers under the Industrial Relations code,2020?
8. When does conciliation proceedings under the Industrial Relations code,2020 deem to be commenced and concluded?

Long-Answer Questions

1. Explain in brief the powers of a conciliation Officer.
2. Explain in brief the Duties of a conciliation Officer
3. Explain in brief the stages involved in the conciliation Proceedings.
4. Explain in brief the Duties of a Board of Conciliation.
5. Explain in brief the Role and effects of Conciliation in Industrial Dispute Resolution,
6. Differentiate between mediation and conciliation as a mechanism for dispute settlement under the Industrial Disputes Act, 1947.
7. State in brief the important provisions of Industrial Relations Code, 2020 on mediation and conciliation.

11.10 Answers to Check Your Progress

1. Under Section 21 of the Indian Penal Code (IPC) a Conciliation officer shall be deemed to be a public servant. The Conciliation officer is empowered to exercise all quasi-judicial powers of a Civil Court under the Civil Procedure Code, 1908. (CPC)
2. According to the section 11 of the Industrial Disputes Act, 1947 Conciliation Officer for the purpose of inquiring into an existing

apprehended Industrial Dispute is empowered to enter the premises occupied by the Industrial establishment after giving the notice.

3. According to the section 12 of the Industrial Disputes Act, 1947 Conciliation Officer must submit the report of the settlement or non-settlement of the dispute within 14 days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the appropriate Government.

4. With regard to conciliation proceedings the conciliation officer has a special obligation where the dispute relates to public utility service. If an industrial dispute exists or is apprehended in such service/s, he must hold conciliation proceedings in the prescribed manner, whereas in case of other industries his power is discretionary, i.e., he may or may not hold such proceedings.

5. The Board of conciliation should submit its report under section 13 of the Industrial Disputes Act, 1947 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.

6. The success of conciliation depends on the factors like the skills and impartiality of the Conciliation Officer, and the willingness of the parties to negotiate in good faith.

7. Under Section 22 of the Industrial Disputes Act, 1947, Strike and Lockout in a public utility service is prohibited during the conciliation proceedings.

8. Under Section 18(3) of the Industrial Disputes Act, 1947 if a settlement is reached during conciliation proceedings, it becomes binding on the parties. The settlement applies not only to the involved parties but also to all workmen present and future, in the establishment.

9. The government may intervene and refer the dispute for adjudication if conciliation fails, ensuring that industrial disputes do not remain unresolved indefinitely.
10. Conciliation is a statutory, government-led process with some level of enforcement, whereas mediation is voluntary, flexible, and informal method for settlement of disputes.

11.11 References and Suggested Readings

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UNIT-12

VOLUNTARY VS. COMPULSORY CONCILIATION

Unit Structure:

12.1 Introduction
12.2 Objectives
12.3 Voluntary Conciliation Meaning
12.4 Legal Provisions for Voluntary Conciliation Under the Industrial Disputes Act, 1947
12.5 Features of voluntary conciliation
12.6 Process of Voluntary Conciliation
12.7 Significance of Voluntary Conciliation
12.8 Challenges in Voluntary Conciliation
12.9 Compulsory Conciliation: Meaning
12.10 Legal Provisions for Compulsory Conciliation Under the Industrial Disputes Act, 1947
12.11 Features of Compulsory Conciliation
12.12 Process of Compulsory Conciliation
12.13 Significance of Compulsory Conciliation
12.14 Challenges in Compulsory Conciliation
12.15 Differences Between Voluntary and Compulsory Conciliation
12.16 Conclusion
12.17 Summing up
12.18 Model Questions
12.19 Answers to Check Your Progress
12.20 References and Suggested Readings

12.1 Introduction

The Industrial Disputes Act, 1947, was enacted to provide a legal framework for the resolution of industrial disputes in India. One of the key mechanisms introduced by the Act is conciliation, which

aims to settle disputes amicably between employers and employees, thereby avoiding prolonged industrial unrest. Conciliation can be either voluntary or compulsory, depending on the nature of the dispute and the intervention of conciliation officers or boards.

12.2 Objectives

This unit is an attempt to give an overview on voluntary and compulsory conciliation under the Industrial Disputes Act, 1947. After going through this unit, you will be able to

- *explain* the meaning and legal provisions for voluntary and compulsory conciliation,
- *discuss* the process of voluntary and compulsory conciliation,
- *explain* the significance and effectiveness of voluntary and compulsory conciliation in industrial dispute resolution,
- *differentiate* between voluntary and compulsory conciliation.

12.3 Voluntary Conciliation Meaning

Voluntary conciliation is a method of resolving industrial disputes where the disputing parties willingly agree to negotiate with the help of a neutral third party, known as a Conciliation Officer or a Board of Conciliation to resolve their issues without any legal obligation to do so. In case of voluntary conciliation participation is not mandated by law, and the outcome is binding only if both parties accept it.

12.4 Legal Provisions for Voluntary Conciliation under the Industrial Disputes Act, 1947

Section 4: This section provides for the appointment of conciliation officers by the appropriate government to mediate and promote the settlement of industrial disputes.

Section 5: It provides for the establishment of a Board of Conciliation if deemed necessary.

Section 12(1): This section allows the Conciliation Officer to intervene in disputes and promote negotiations, if requested by the parties.

12.5 Features of Voluntary Conciliation

The key features of voluntary conciliation are:

- Voluntary conciliation occurs only if both parties (employers and employees) agree to negotiate. There is no legal obligation to participate unless both sides consent.
- A Conciliation Officer (appointed by the government) or a Board of Conciliation helps to facilitate discussions and acts as a neutral third party to promote a fair settlement of the dispute.
- The process is non-compulsory—either party can withdraw at any time and are not legally bound to accept the proposed settlement.
- In Voluntary conciliation participation is not mandated by law, and the outcome is binding only if both parties accept it. Since participation is voluntary, employees can still go on strike and employers can impose a lockout during the conciliation process.
- Voluntary conciliation has no strict time constraints. The duration depends on the willingness and cooperation of both parties.
- If both parties mutually agree on a solution, a written settlement is signed and under section 18 of the Industrial Disputes Act, such a settlement becomes legally binding.

12.6 Process of Voluntary Conciliation

The steps involved in the voluntary conciliation process are:

Initiation: Either the employer or employees or both party in dispute may approach the Conciliation Officer or the Board of conciliation for mediation voluntarily without coercion.

Conciliation Proceedings: The conciliator facilitates dialogue and negotiations between the parties. The officer suggests possible solutions and encourages settlement.

Settlement Agreement: If the parties reach an agreement, a written settlement is drawn up and signed by both the parties to the dispute. This agreement becomes binding under Section 18 of the Act.

Failure of Conciliation: If no agreement is reached, the conciliator records the proceedings and submits a report thereon to the appropriate government. The government may then decide to refer the dispute to adjudication (Labor Court or Industrial Tribunal).

12.7 Significance of Voluntary Conciliation

Encourages Dialogue: It promotes mutual understanding and cooperation between the disputing parties i.e. employers and employees.

Flexibility: In voluntary conciliation there is no rigid procedure. Hence it is an adaptable dispute resolution mechanism.

Fosters Goodwill: This method of dispute resolution strengthens industrial relations by promoting amicable settlements.

Non-Coercive: Since participation is voluntary, there is no legal compulsion to accept any settlement under the process of voluntary conciliation.

Prevents Strikes and Lockouts: During conciliation proceedings since any kind of strikes and lockouts are prohibited it helps in resolving disputes before they escalate.

Faster and Cost-Effective: This mechanism of dispute resolution involves lesser legal expenses and delays compared to adjudication.

12.8 Challenges in Voluntary Conciliation

The effectiveness of voluntary conciliation is limited by challenges such as:

Lack of Awareness: Many workers and employers are unaware of voluntary conciliation mechanisms.

Non-Cooperation: Either party may refuse to engage in discussions voluntarily through conciliation.

Weak Enforcement: There is no legal obligation to accept the settlement unless agreed by both parties.

12.9 Compulsory Conciliation: Meaning

Compulsory conciliation, as the name suggests, is a legally mandated process under the Industrial Disputes Act, 1947, where the government requires disputing parties to engage in conciliation by appointing conciliation officer or a board of conciliation before resorting to strikes, lockouts, or adjudication to resolve an industrial dispute.

12.10 Legal Provisions for Compulsory Conciliation under the Industrial Disputes Act, 1947

Section 12: Mandates the Conciliation Officer to intervene in industrial disputes and mediate negotiations between the disputing parties to facilitate settlement.

Section 10: Provides the government the authority to refer disputes to conciliation and if unresolved escalate them to adjudication.

Section 22 & 23: Prohibits strikes and lockouts during conciliation proceedings to ensure industrial peace.

Binding Nature of Proceedings: Unlike voluntary conciliation, participation in compulsory conciliation is mandatory.

12.11 Features of Compulsory Conciliation

The key features of compulsory conciliation are:

- Once the government starts conciliation, all parties must take part; they cannot opt out.
- During the conciliation period, workers are not allowed to strike, and employers cannot declare a lockout.
- The process must be completed within a specific period to avoid prolonged or unresolved disputes.
- If conciliation does not succeed, the issue can be taken to legal adjudication through a labour court or tribunal for a formal decision.

12.12 Process of Compulsory Conciliation

Government Notification & Appointment of Conciliation Officer:

The appropriate government (State or Central) appoints a Conciliation Officer or forms a Board of Conciliation to intervene and settle the dispute between the parties.

Summoning the Disputing Parties:

The officer calls both employer and employees/unions to present their grievances.

Conciliation Proceedings:

The officer mediates discussions, collects facts, and encourages negotiations to reach a mutual settlement. The process must be completed within 14 days (or extended if needed).

Settlement or Failure Report:

If an agreement is reached, a written settlement is recorded and is binding on both parties.

If conciliation fails, the officer submits a failure report to the government, which may refer the dispute for adjudication.

12.13 Significance of Compulsory Conciliation

Legal Obligation: Ensures participation of both parties in conciliation efforts.

Prevention of Industrial Unrest: Since strikes and lockouts are prohibited, it prevents work stoppages.

Government Oversight: This mechanism ensures fairness and neutrality in dispute resolution due to government oversight.

Faster & Cost-Effective: It reduces the burden of dispute settlement on labour courts by resolving disputes early and is cost effective too.

Step towards Adjudication: If conciliation fails, the dispute can be referred to labour courts or tribunals.

12.14 Challenges in Compulsory Conciliation

The effectiveness of compulsory conciliation is limited by challenges such as:

Delays in Government Intervention: Due to government intervention bureaucratic inefficiencies may slow down the process of the settlement of the dispute.

Lack of Enforcement: Some settlements are not strictly implemented.

Uncooperative Parties: Employers or unions may participate unwillingly which may affect the outcomes of the conciliation proceedings.

12.15 Differences between Voluntary and Compulsory Conciliation

Both forms of conciliation play a crucial role in industrial dispute resolution. While voluntary conciliation fosters mutual agreements with flexibility, compulsory conciliation ensures legal compliance and industrial peace by preventing immediate strikes or lockouts. We can differentiate between the two as shown below:

Aspect	Voluntary Conciliation	Compulsory Conciliation
Definition .	A process where disputing parties voluntarily agree to negotiate with the help of a conciliator.	A legally mandated process where the government requires parties to participate in conciliation
Legal Basis	Governed under Section 4 & 5 of the Industrial Disputes Act. .	Governed under Section 10, 12, 22 & 23 of the Industrial Disputes Act
Nature of Participation	Optional – Parties willingly engage in conciliation.	Mandatory – The government requires parties to participate.

Initiation	Initiated by mutual agreement between the employer and employees.	Initiated by the government when it deems necessary for industrial peace.
Government Role	Minimal involvement – only facilitates negotiations.	Active involvement – Government appoints a Conciliation Officer or Board.
Prohibition of Strikes/Lockouts	No restrictions – parties can still go on strike or impose a lockout.	Strikes and lockouts are prohibited during the conciliation process.
Binding Nature	The agreement is binding only if both parties accept it.	Participation is mandatory, but the settlement is binding only if both parties agree.
Time Limit	No fixed time limit – depends on the willingness of parties.	Must be completed within 14 days (or extended if needed).
Escalation to Adjudication	If conciliation fails, parties may choose to take legal action.	If conciliation fails, the government may refer the dispute for adjudication (Labor Court or Tribunal).
Effectiveness	Effective when parties are cooperative and open to discussion.	Ensures industrial peace but may face resistance from unwilling parties.

12.16 Conclusion

Conciliation under the Industrial Disputes Act, 1947, plays a crucial role in maintaining industrial peace and resolving conflicts without resorting to strikes or litigation. While voluntary conciliation allows parties to negotiate freely, compulsory conciliation ensures mandatory government intervention in significant disputes. Both

mechanisms contribute to a balanced industrial relations system, but their success largely depends on the willingness of parties to engage in fair negotiations and the efficiency of conciliatory bodies. Hence to enhance the effectiveness of conciliation, the government should focus on creating awareness on conciliation among workers and employers, strengthening the role of conciliatory bodies, monitor for reducing delays in conciliation proceedings and stricter enforcement of conciliation settlements. By improving these aspects, conciliation can continue to be a vital mechanism in fostering industrial harmony and economic stability in India.

Check Your Progress

1. Is constitution of the Board of Conciliation in case of Conciliation compulsory?
2. Whether strikes and lockouts are prohibited under voluntary and compulsory conciliation?
3. Whether participation by the disputant parties in voluntary conciliation mandatory?
4. Whether the settlement in conciliation is binding on the parties?
5. What is the role of Government in enhancing the effectiveness of conciliation?

12.17 Summing Up

- In voluntary conciliation participation of the disputant parties is not mandated by law and the outcome is binding only if both parties accept it.
- In voluntary conciliation since participation is not mandated by law i.e. participation is voluntary, employees can go on strike

and employers can impose a lockout during the conciliation process.

- Voluntary conciliation is a flexible, non-coercive, and cost-effective method of resolving industrial disputes that encourages dialogue, fosters goodwill, and can prevent strikes and lockouts.
- The effectiveness of voluntary conciliation is limited by challenges such as lack of awareness, non-cooperation from parties, and the absence of legally binding enforcement unless both sides agree.
- Compulsory conciliation is a legally mandated process under the Industrial Disputes Act, 1947, where the government requires disputing parties to engage in conciliation proceedings which must be completed within a fixed period of time.
- Strikes and lockouts are prohibited during compulsory conciliation proceedings to ensure industrial peace.
- Compulsory conciliation ensures legal participation from both parties, helps prevent industrial unrest through strike and lockout restrictions, and allows for government-supervised, cost-effective dispute resolution.
- Compulsory conciliation serves as a preliminary step before adjudication.
- Compulsory conciliation faces challenges like bureaucratic delays, weak enforcement of settlements, and lack of cooperation from parties involved.
- Both voluntary and compulsory conciliation play a crucial role in industrial dispute resolution. While on the one hand, voluntary conciliation encourages mutual agreements with flexibility, compulsory conciliation ensures legal compliance

and industrial peace by preventing immediate strikes or lockouts during the conciliation proceedings.

12.18 Model Questions

Short –Answer questions

1. What is voluntary conciliation?
2. What is compulsory conciliation?
3. How government intervenes in compulsory conciliation.
4. State the significance of voluntary conciliation.
5. State the significance of compulsory conciliation over voluntary conciliation.

Long-Answer Questions

1. Explain in brief the legal provisions of Industrial Disputes Act, 1947 on voluntary conciliation and compulsory conciliation?
2. Make a comparative analysis on the advantages and challenges of voluntary conciliation and compulsory conciliation.
3. Explain the process of voluntary conciliation.
4. Explain the process compulsory conciliation.
5. Differentiate between voluntary conciliation and compulsory conciliation as a mechanism for dispute settlement under the Industrial Disputes Act, 1947.

12.19 Answers to Check Your Progress

1. According to Section 5 of the Industrial Disputes Act, 1947 in case of Conciliation the constitution of the Board of Conciliation is not compulsory. It provides for the establishment of a Board of Conciliation only if deemed necessary.

2. In Voluntary conciliation since participation is not mandated by law employees can go on strike and employers can impose a lockout during the conciliation process. But in case of compulsory conciliation since participation is mandated by the appropriate government strikes and lockouts are prohibited during the conciliation process.
3. In voluntary conciliation since participation is not mandated by law i.e. participation by the disputant parties is not compulsory.
4. In Voluntary conciliation only if both parties mutually agree on a solution and a written settlement is signed under section 18 of the Industrial Disputes Act, it becomes legally binding upon the parties. In case of compulsory conciliation since the participation is mandated by law the settlement is binding on the parties.
5. To enhance the effectiveness of conciliation, the government should focus on creating awareness on conciliation among workers and employers, strengthen the role of conciliatory bodies, monitor the conciliation proceedings and emphasis on stricter enforcement of conciliation settlements.

12.20 References and Suggested Readings

1. Industrial Dispute Act, 1947, Section 4, No. 14, Acts of Parliament 1947 (India)

2. Industrial Dispute Act, 1947, Section 5, No. 14, Acts of Parliament 1947 (India)

3. Industrial Dispute Act, 1947, Section 10, No. 14, Acts of Parliament 1947 (India)

4. Industrial Dispute Act, 1947, Section 12, No. 14, Acts of Parliament 1947 (India)

5. Industrial Dispute Act, 1947, Section 22, No. 14, Acts of Parliament 1947 (India)

6. Industrial Dispute Act, 1947, Section 23, No. 14, Acts of Parliament 1947 (India)

7. Industrial Dispute Act, 1947, Section 18 (C), No. 14, Acts of Parliament 1947 (India)

8. Mamoria Dr.C.B., Mamoria Dr. Satish, Gankar S.V. (2015), Dynamics of Industrial Relations, Himalaya publishing House, Mumbai.

9. Malhotra. O.P., The Law of Industrial Disputes, (1988), 5th ed. Vol. 1

11. https://labour.gov.in/sites/default/files/ir_gazette_of_india.pdf

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UNIT-13
ARBITRATION AND INVESTIGATION PROCEDURE: SUBMISSION OF AWARDS

Unit Structure:

13.1 Introduction

13.2 Objectives

13.3 Arbitration: Meaning

14.4 Types of Arbitration:

14.5 Features of Arbitration under the Act:

14.6 Legal Provisions on Arbitration under the Industrial Disputes Act, 1947: Voluntary Reference of Disputes to Arbitration (Section 10A)

14.7 Qualification of Arbitrators

14.8 Procedure for Arbitration under the Industrial Disputes Act

14.9 Procedure for Investigation

14.10 Submission of Award

14.11 Advantages of Arbitration in Industrial Disputes

14.12 Challenges and Limitations of Arbitration

14.13 Judicial Review of Arbitration Awards

14.14 Role of the Government in Voluntary Arbitration

14.15 Voluntary Arbitration in India

14.16 Case Studies: Voluntary Arbitration in Practice

14.17 Important Provisions of Industrial Relations Code, 2020 on Arbitration

14.18 Conclusion

14.19 Summing Up

14.20 Model Questions

14.21 Answers to Check Your Progress

14.22 References and Suggested Readings

13.1 Introduction

In India the Industrial Disputes Act, 1947, provides a framework for resolving industrial disputes. Among the various machineries for dispute settlement provided under this act, one is “arbitration”. The industrial Relations Code, 2020, an Act of Parliament which had received the assent of the President on the 28th September, 2020, but still waiting for its enforcement also includes certain important provisions with regard to arbitration as a dispute settlement mechanism. Arbitration is one of the essential mechanisms that allow parties to settle conflicts outside the formal judicial system. Arbitration under this Act is voluntary, and the award given by the arbitrator is binding upon the disputing parties.

13.2 Objectives

This unit is an attempt to explore arbitration as a method for dispute resolution under the Industrial Disputes Act, 1947, including its scope, procedure, advantages, and limitations etc. This unit would also focus on the provisions on arbitration under the Industrial Relations Code, 2020. After going through this unit, you will be able to

- *explain* the meaning, types and features of arbitration.
- *explain* legal provisions relating to arbitration
- *discuss* the investigation procedure and submission of awards through arbitration
- *explain* the significance and limitations of arbitration as a mechanism for dispute resolution.
- *describe* on a few case studies and role of government in voluntary arbitration in India.
- *differentiate* between conciliation and arbitration.

- *describe* the important provisions on arbitration under the Industrial Relations Code, 2020.

13.3 Arbitration: Meaning

Arbitration is a process where a neutral third party, known as an "arbitrator', is appointed to resolve a dispute between two or more conflicting parties. The arbitrator reviews the case and renders a decision, known as an "arbitral award", which is generally binding on the parties involved. Arbitration is widely used as a settlement mechanism in labour and industrial disputes due to its efficiency and flexibility.

14.4 Types of arbitration:

Arbitration may be voluntary or compulsory.

In case of **voluntary arbitration** both the employer and the workers voluntarily agree to refer their industrial dispute to arbitration. It is governed under section 10A of the industrial disputes act, 1947. The agreement is made through a written arbitration agreement specifying the arbitrator(s), who can be a single person or a panel of arbitrators. Once the arbitration agreement is signed, the dispute cannot be taken to a labour court or tribunal. The arbitrator's decision is binding and is published by the appropriate government in the official gazette. Voluntary arbitration is a quicker and more flexible alternative to adjudication through labour courts or tribunals.

On the other hand, in case of compulsory arbitration the government refers a dispute to arbitration without the consent of the parties. The government can make such a reference under Section 10 of the Act, sending disputes to an appropriate tribunal, labour court, or board of

arbitration. The decision in compulsory arbitration is binding on both parties.

14.5 Features of Arbitration under the Act

Arbitration as a mechanism for settlement of disputes under the Industrial disputes act, 1947, has the following features:

- Voluntary Process – Arbitration under the Act is not compulsory; both the conflicting parties i.e. employer and employees must mutually agree to resolve their dispute through arbitration.
- Reference by Agreement – The dispute is referred to arbitration through a written agreement between the employer and workers. This agreement is known as arbitration agreement. It must be signed by both the parties.
- Notification to the Government – Once the arbitration agreement is made, a copy must be sent to the appropriate government (Central or State Government), which then publishes it in the Official Gazette.
- Appointment of Arbitrator(s) – The arbitrator(s) may be a single person or a panel of arbitrators, as decided by the parties in the arbitration agreement.
- Binding Award – The arbitration award given by the arbitrator(s) is binding on both parties, just like an award by a Labour Court or Industrial Tribunal.
- Government Intervention – The government can intervene in case of public interest, especially if the dispute affects a large section of the workers or the industry.

- Limited Judicial Review – Courts generally do not interfere with arbitration awards unless there is a procedural violation, misconduct, or legal error.

Check Your Progress

1. Is arbitral award in case of voluntary arbitration binding upon the parties?
2. Whether arbitration under the Industrial Disputes Act, 1947 compulsory?
3. Who can be arbitrator/arbitrators?
4. When does the court interfere in arbitration?

14.6 Legal Provisions on Arbitration under the Industrial Disputes Act, 1947: Voluntary Reference of Disputes to Arbitration (Section 10A)

- Subsection (1) Where any industrial dispute exists or is apprehended and the employer and the workmen agree to refer the dispute to arbitration, they may, at any time before the dispute has been referred under section 10 to a Labour Court or Tribunal or National Tribunal, by a written agreement, refer the dispute to arbitration and the reference shall be to such person or persons (including the presiding officer of a Labour Court or Tribunal or National Tribunal) as an arbitrator or arbitrators as may be specified in the arbitration agreement.
- Subsection (1A) Where an arbitration agreement provides for a reference of the dispute to an even number of arbitrators, the agreement shall provide for the appointment of another person as umpire who shall enter upon the reference, if the arbitrators are equally •divided in their opinion, and the award of the umpire shall prevail and shall be deemed to be the arbitration award for the purposes of this Act

- Subsection (2) An arbitration agreement referred to in sub-section (1) shall be in such form and shall be signed by the parties thereto in such manner as may be prescribed.
- Subsection (3) A copy of the arbitration agreement shall be forwarded to the appropriate Government and the conciliation officer and the appropriate Government shall, within one month from the date of the receipt of such copy, publish the same in the Official Gazette.
- Subsection (3A) Where an industrial dispute has been referred to arbitration and the appropriate Government is satisfied that the persons making the reference represent the majority of each party, the appropriate Government may, within the time referred to in subsection (3), issue a notification in such manner as may be prescribed; and when any such notification is issued, the employers and workmen who are not parties to the arbitration agreement but are concerned in the dispute, shall be given an opportunity of presenting their case before the arbitrator or arbitrators.
- Subsection (4) The arbitrator or arbitrators shall investigate the dispute and submit to the appropriate Government the arbitration award signed by the arbitrator or all the arbitrators, as the case may be. The award shall be void or inoperative if it is not duly signed by the presiding officer or arbitrator.
- Subsection (4A) Where an industrial dispute has been referred to arbitration and a notification has been issued under sub-section (3A), the appropriate Government may, by order, prohibit the continuance of any strike or lock-out in connection with such dispute which may be in existence on the date of the reference.
- Subsection (5) Nothing in the Arbitration Act, 1940 (10 of 1940), shall apply to arbitrations under this section.

14.7. Qualification of Arbitrators

If arbitration is to be successful, the arbitrators must have the qualifications to ensure that the parties entrust them with the responsibilities for making decisions on the questions at issue. They should have the following qualifications:

• an understanding of the complexities of the labour-management relationship;

• a knowledge of collective bargaining and the operation of arbitration procedures, as well as skill and experience in the interpretation of collective agreements;

• familiarity with personnel policies, industrial discipline and human relations;

• high integrity, that is, they should be non-partisan persons with a deep sense of impartiality, which requires that they should be free from any commitment to, or prejudice in favour of, one side or the other;

• they must be committed to the maintenance of harmonious labour-management relations and have a strong belief in the importance of successful arbitration;

• they must be acceptable to the parties.

The two areas from where qualified arbitrators might be drawn are the legal profession and government servants, particularly those persons who have acquired a reputation for integrity and capability, who have acquired some experience of industrial problems through work in conciliation services or departments of labour or economic development, which might increase the appeal of such individual to both sides. The other areas from which arbitrators might be drawn are educational institutions, teachers of law, industrial relations, personnel management, psychology, business, economics or other

disciplines; civic leaders, and persons in other fields, such as engineering, where their daily activity may bring them into contact with the parties.

14. 8. Procedure for Arbitration under the Industrial Disputes Act

The procedure for arbitration under the Industrial Disputes Act, 1947 is governed by Section 10A, which lays down a structured approach to ensure fairness and transparency in the procedure for referring industrial disputes to arbitration. The key steps are:

I. Agreement for Arbitration

When an industrial dispute arises, the employer and the workmen can mutually agree to settle the dispute through arbitration agreement which must be in writing and signed by both the parties. The agreement must specify the dispute to be resolved and the consent in writing of the arbitrator(s) (either a single arbitrator or a panel of arbitrators) and also any other terms necessary for conducting the arbitration.

II. Notification to the Appropriate Government

Once the arbitration agreement is made, a copy must be sent to the appropriate government i.e. Central or State Government (depending on jurisdiction), who publishes the agreement in the Official Gazette to inform all concerned parties.

III. Conduct of Arbitration Proceedings

The appointed arbitrator(s) conducts hearings where both parties present their arguments, evidence, and witnesses. The proceedings follow principles of natural justice, ensuring that both sides get a fair chance to present their case. The arbitrator has the power to summon witnesses and call for documents, similar to a civil court.

IV. Making the Arbitration Award

After considering the facts, evidence, and arguments the arbitrator makes a decision known as the arbitration award. The award must be made within the agreed time frame or within the period prescribed by the government.

V. Submission and Publication of the Award

The arbitration award must be submitted to the appropriate government, which then publishes it in the Official Gazette. The award becomes binding on both parties from the date of publication.

VI. Enforcement of the Award

Once published, the arbitration award has the same legal effect as an award by a Labour Court or Industrial Tribunal. It is enforceable by law, and non-compliance can lead to legal action.

VII. Scope for Judicial Review

Courts generally do not interfere with arbitration awards. However, if the award is unfair, biased, violates natural justice, or involves misconduct, parties can challenge it in the High Court or Supreme Court.

14.9. Procedure for Investigation

After the dispute has been referred to the arbitrator, he will investigate into the dispute by hearing both the parties. Hearing involves mastery of the facts of a particular dispute as well as the relevant provisions of the collective agreement and of the past practices of the parties in relation to matters relevant to the dispute. The whole investigation process involves the following stages:

• **Investigation of the facts and circumstances:** An investigation of the facts and circumstances of the dispute is of great importance.

The investigation should aim at ascertaining who and what are involved in the dispute.

• **Calling the witnesses and collection of facts and supporting materials:** The arbitrator may call witnesses, get evidence and relevant records and documents, current and the past agreements; ordinances, court decisions, statutes (bearing on the case) and arbitration decisions by other arbitrators in similar cases, that may suggest a line of reasoning. When an important witness is unable to attend, sworn affidavit is often used.

• **Taking place of arguments:** After the collection of facts and supporting materials, arguments take place. Certain principles are followed by an arbitrator while dealing with a particular dispute. They are:

(i) Both the parties should be given an opportunity to be heard and cross-examined.

(ii) Each party should have due notice of proceedings, and it must know what are the issues involved and what part it has to play.

(iii) The party should be free to give any evidence which is relevant to the enquiry and on which it relies for its arguments. The evidence given by one party should be taken in the presence of the other party so that the other party may rebut and place counter evidence, if necessary.

(iv) The arbitrator should not rely on any document which is not shown and explained to the other party and to which a reply has not been received. He has to be completely impartial without any bias or prejudice against anybody.

14.10. Submission of Award

After investigating the dispute, the arbitrator has to submit his award to the government. The award will have the same legal force as the judgment of a labour court or tribunal. The award must be signed by the arbitrator.

While writing his award, the arbitrator has to ensure that:

(i) The award is in line with the terms of reference and that it does not go beyond its jurisdiction;

(ii) It must be precise and definite, that is, it must be clear, unambiguous and without any, vagueness, and that it is not in any way capable of being misunderstood or misinterpreted;

iii) It should be capable of being enforced or implemented; in other words, it should not contain directives or provision which apparently seem impossible of enforcement;

(iv) The award should contain a date or a specific period for its implementation;

(v) The award should not violate any provision of any existing law or settlement legally arrived at, or one which is binding on parties;

(vi) The award should contain sufficient justification or reasons for the settlement arrived at by the arbitrator.

Check Your Progress

5. When is a dispute is referred for arbitration?

6. Whether strikes and lockouts are prohibited during arbitration proceedings?

7. The procedure for arbitration under the Industrial Disputes Act, 1947 is governed by ----------. Fill up the gap.

8. The arbitration award becomes binding on both parties from the date of publication in the ----------. Fill up the gap.

9. Arbitration award is enforceable by law, State whether true or false.

10. On what principles should an arbitrator rely on while investigating during arbitration?

14.11 Advantages of Arbitration in Industrial Disputes

Arbitration is a popular mechanism for dispute resolution due to its various advantages over traditional court litigation. Here are some key advantages of arbitration:

a. **Voluntary & Mutually Agreed: Since** both employers and workers voluntarily agree to refer dispute for arbitration it ensures a fair and cooperative resolution without the need for court intervention.

b. **Speedier Resolution:** Arbitration avoids lengthy procedures, leading to quicker dispute settlement that often occur in labour tribunals or courts.

c. **Cost-Effective:** Compared to litigation, arbitration is less expensive for both employers and employees as it avoids prolonged legal procedures.

d. **Flexible and Less Formal:** Arbitration proceedings are more flexible and informal and allows parties to present their cases without rigid legal procedures.

e. **Expert Arbitrators:** Arbitrators can be chosen based on their expertise in labour laws and industrial relations ensuring fair decisions with an understanding of labour-related issues.

f. **Confidentiality:** Arbitration proceedings remain private, preventing unnecessary exposure of industrial disputes to the public which helps to maintain the company's reputation and avoids negative media coverage.

g. **Binding & Enforceable Awards:** Once an arbitration agreement is signed, the decision is legally binding on both parties ensuring compliance.

h. **Industrial Peace & Harmony:** Arbitration helps in maintaining a stable industrial environment by encouraging amicable dispute resolution, reducing strikes, lockouts, and workplace conflicts.

i. **Reduces Burden on Labor Courts & Tribunals:** Arbitration helps to resolve disputes without overloading industrial tribunals and courts.

14. 12 Challenges and Limitations of Arbitration

While arbitration has several advantages, it also has certain challenges and limitations too. Here are some key limitations of arbitration:

a. **Refusal to participate:** Since arbitration under the Industrial Disputes Act is voluntary, parties may refuse to participate, leading to prolonged conflicts.

b. **Enforcement Issues:** Although arbitration awards are binding, enforcement may require further legal action if a party refuses to comply.

c. **Risk of Bias:** There is a risk that arbitrators may favour one party, especially in cases where the employer has greater bargaining power.

d. **Limited Appeal Mechanism**: Unlike court judgments, arbitration awards have limited scope for appeal, which may be problematic if an unfair decision is made.

e. **No scope for strike or lockouts:** Arbitration leaves no scope for strikes or lockouts as there is often a provision in the agreement that during the continuance of the agreement both the parties i.e. employees and employers will refrain from strikes and lockouts.

14.13 Judicial Review of Arbitration Awards

While the arbitration award is binding, it is subject to judicial review under certain circumstances. In India, the award can be challenged in a high court under Article 226 (writ jurisdiction) or Article 227 (supervisory jurisdiction) of the Constitution. Grounds for challenging an arbitration award include:

- Lack of Jurisdiction: If the arbitrator(s) exceed their jurisdiction or decide matters not referred to them.
- Violation of Natural Justice: If the arbitration process violates the principles of natural justice, such as denying a party the opportunity to present their case.
- Illegality: If the award is contrary to the law or public policy.

Several landmark judgements have shaped the judicial approach to arbitration awards in India. For instance, in Engineering Mazdoor Sabha v. Hind Cycles Ltd. (1963), the Supreme Court held that an arbitral award under Section 10A of the Industrial Disputes Act is open to judicial review. Similarly, in Rohtas Industries Ltd. v. Rohtas Industries Staff Union (1976), the court expanded the scope of judicial intervention in arbitration awards.

14.14 Role of the Government in Voluntary Arbitration

While voluntary arbitration is primarily a private dispute resolution mechanism, the government plays a crucial role in supporting and regulating the process. Under the Industrial Disputes Act, the government is involved in arbitration in the following aspects:

Publication of Arbitration Agreements: The government ensures that arbitration agreements are published in the Official Gazette, giving them legal recognition.

Issuance of Notifications: The government may issue notifications under Section 10A(3A) to allow non-parties to the arbitration agreement, who are interested in the dispute, to present their case before the arbitrator(s).

Enforcement of Awards: The government can enforce arbitration awards, ensuring that the parties comply with the arbitrator's decision.

Regulation of Strikes and Lockouts: During arbitration proceedings, the government can prohibit strikes and lockouts to prevent disruptions in industrial activities.

14.15 Voluntary arbitration in India

Voluntary arbitration as a method of resolving industrial conflicts gained prominence when Mahatma Gandhi advocated its use for settling disputes in the textile industry in Ahmedabad. The Bombay Industrial Disputes Act and the Bombay Industrial Relations Act of 1946 recognized voluntary arbitration, along with state-established mechanisms for resolving employer-worker conflicts.

The International Labour Organization (ILO) also recommended voluntary arbitration as a preferable mode to settle disputes. This influenced the Government of India and in consequence, the

Industrial Disputes Act, 1947, was amended in 1956 to provide for the settlement of industrial disputes by voluntary reference to arbitration. This was done in Section 10-A of the Act of 1947, coming into effect on March 10, 1957. This amendment allowed disputing parties to refer their conflicts to arbitration through a written agreement before the matter was taken to adjudication. Official statements and policies have consistently emphasized the importance of voluntary arbitration as a dispute resolution method.

Apart from statutory provisions for recourse to voluntary arbitration, considerable emphasis has been placed on this mode of settling disputes in official pronouncements also.

The Code of Discipline, introduced in 1958, reinforced the commitment of employers and unions to voluntary arbitration when other resolution methods failed. However, despite of these provisions, arbitration has not been widely adopted in practice.

In 1962, the Indian Labour Conference once again highlighted the importance of voluntary arbitration. It recommended that arbitration should be the natural next step if conciliation efforts failed, except in cases where employers believed adjudication was necessary due to significant financial implications or the creation of new rights with broad consequences. In such cases, employers were required to provide a detailed explanation for their refusal to opt for arbitration.

The Industrial Truce Resolution of 1962 further reinforced the importance of arbitration, particularly for specific disputes such as dismissal, discharge, victimization, and retrenchment of individual workers.

The Labour Policy, outlined in the Third Five-Year Plan, stressed the need to expand the use of voluntary arbitration. It called on the government to take a more active role in forming arbitration panels. Further the subsequent Five-Year Plans also continued to emphasize

the benefits of voluntary arbitration as a means of settling industrial disputes efficiently and amicably.

Moreover, to make voluntary arbitration more acceptable to the parties and to co-ordinate efforts for its promotion, the government appointed, in July 1967, a National Arbitration Promotion Board with a tripartite composition. The functions of the Board are:

(i) to review the position periodically;

(ii) to examine the factors inhibiting a wider acceptance of this procedure and suggest measures to make it more popular;

(iii) to compile and maintain up-to-date panels of suitable arbitrators for different areas and industries and to lay down their fees;

(iv) to evolve principles, norms and procedures for the guidance of the arbitrator and the parties;

(v) to advise parties, in important cases, to accept arbitration for resolving disputes so that litigation in courts may be avoided;

(vi) to look into the cause or causes of delay and expedite arbitration proceedings, wherever necessary;

(vii) to specify, from time to time, the types of disputes which would normally be settled by arbitration in tripartite decisions.

14.16 Case Studies: Voluntary Arbitration in Practice

To understand the practical application of voluntary arbitration in labour law, let us examine few case studies where this method has been successfully used to resolve disputes:

1. Raza Textile Labour Union v. Maharaja Shri Umaid Mills Ltd. (1958)

In this case, the court quashed decisions made by an arbitrator who had acted beyond his jurisdiction. The case highlights the

importance of adhering to the terms of reference in arbitration agreements and the role of judicial review in ensuring fairness.

2. Vaikuntam Estate v. Arbitrator (1967)

The Madras High Court quashed an interim award where the arbitrator exceeded the terms of reference. The case underscores the importance of defining the scope of arbitration clearly in the agreement.

3. Gujarat Steel Tubes Ltd. v. Gujarat Steel Tubes Mazdoor Sabha (1980)

The Supreme Court ruled that amendments to the Industrial Disputes Act extended the application of Article 136 to arbitration awards under Section 10A. The case illustrates the evolving judicial approach to arbitration awards in labour disputes.

Check Your Progress

11. Whether arbitration award is subject to judicial review?
12. When and why National Arbitration Promotion Board was established?

14.17 Important provisions of Industrial Relations Code, 2020 on Arbitration

CHAPTER VI of the Industrial Relations Code, 2020 contains various provisions on Voluntary Reference of Disputes to Arbitration as a dispute resolution mechanism under various sections of the Code. Some of them are enumerated below:

Section 42(1): Where any industrial dispute exists or is apprehended and the employer and the workers agree to refer the dispute to arbitration, they may, by a written agreement, refer the dispute to

arbitration, and the reference shall be to such person or persons as an arbitrator or arbitrators as may be specified in the arbitration agreement.

Section 42 (2) Where an arbitration agreement provides for a reference of the dispute to an even number of arbitrators, the agreement shall provide for the appointment of another person as umpire who shall enter upon the reference, if the arbitrators are equally divided in their opinion, and the award of the umpire shall prevail and shall be deemed to be the arbitration award for the purposes of this Code.

Section 42 (3) An arbitration agreement referred to in sub-section (1) shall be in such form and shall be signed by the parties thereto in such manner as may be prescribed.

Section 42 (4) A copy of the arbitration agreement shall be forwarded to the appropriate Government and the conciliation officer.

Section 42 (5) Where an industrial dispute has been referred to arbitration and the appropriate Government is satisfied that the persons making the reference represent the majority of each party, the appropriate Government may issue a notification in such manner as may be prescribed; and when any such notification is issued, the employers and workers who are not parties to the arbitration agreement but are concerned in the dispute, shall be given an opportunity of presenting their case before the arbitrator or arbitrators: Provided that—

(i) where such industrial dispute is the industrial dispute other than the termination of individual worker by way of discharge, dismissal, retrenchment or otherwise, the workers shall be represented before the arbitrator,

(a) where there is negotiating union or negotiating council, by the negotiating union or negotiating council, as the case may be; or

(b) where there is no negotiating union or negotiating council, by the Trade Union; or

(c) where there is no Trade Union, by such representatives of the workers chosen in such manner as may be prescribed;

(ii) where such industrial dispute relates to termination of individual worker by way of discharge, dismissal, retrenchment or otherwise, the concerned workers shall be represented in person or through a representative authorised by him.

Section 42 (6) The arbitrator or arbitrators shall investigate the dispute and submit to the appropriate Government the arbitration award signed by the arbitrator or all the arbitrators, as the case may be.

Section 42 (7) Where an industrial dispute has been referred to arbitration and a notification has been issued under sub-section (5), the appropriate Government may, by order, prohibit the continuance of any strike or lock-out in connection with such dispute which may be in existence on the date of the reference.

Section 42 (8) Nothing in the Arbitration and Conciliation Act, 1996, shall apply to arbitrations

under this section.

Again according to Section 49(1) of Chapter VII of this code, subject to the provisions of this Code and the rules that may be made in this behalf, an arbitrator shall follow such procedure as the arbitrator may deem fit.

14.18 Conclusion

Arbitration under the Industrial Disputes Act, 1947 as well as Industrial Relations Code, 2020, is an effective alternative dispute resolution mechanism. It is a balanced approach to dispute resolution which offers the parties the opportunity to resolve conflicts in a manner that is fair, efficient and mutually acceptable. By fostering a culture of cooperation and trust, voluntary arbitration can contribute to a more harmonious and productive industrial environment. Voluntary arbitration is a valuable tool in labour law, offering a practical and efficient means of resolving industrial disputes. Its advantages, including speed, cost-effectiveness, confidentiality and flexibility, make it an attractive alternative to litigation. However, its success depends on the willingness of parties to engage in the process, the competence and impartiality of arbitrators and the availability of a supportive legal framework. As industries continue to evolve and labour relations become more complex, voluntary arbitration is likely to play an increasingly important role in maintaining industrial harmony in India.

14.19 Summing Up

1. Arbitration is a method of resolving disputes where a neutral third party (arbitrator) makes a binding decision called an arbitral award.
2. There are two types of arbitration viz. voluntary arbitration and compulsory arbitration. In case of voluntary arbitration, both parties agree to resolve the issue through a written agreement under Section 10A of the Industrial Disputes Act, 1947, and in case of compulsory arbitration, the government mandates arbitration without party consent under Section 10.

3. Under Section 10A of the Industrial Disputes Act, the arbitration process starts when both the employer and employees agree in writing to resolve a dispute through arbitration. The arbitrator conducts the proceedings fairly and issues a binding award within a set timeframe. This award is submitted to the government and published in the Gazette, after which it becomes legally enforceable.
4. Arbitration offers a practical and efficient alternative to court litigation in industrial disputes. The procedure is faster, cost-effective, and less formal, allowing flexibility for both parties. It promotes industrial peace by reducing conflicts and contributes to reducing the burden on labour courts and tribunals.
5. Arbitration in industrial disputes has some limitations too. Since participation is voluntary, so parties may refuse to engage, prolonging the conflict. Enforcement can be difficult if one party doesn't comply with the award, requiring legal intervention. There's also a risk of bias, especially when power imbalances exist, such as between employers and workers.
6. Although arbitration awards are binding, they can be challenged through judicial review in India under Articles 226 and 227 of the Constitution under certain circumstances.
7. The government grants legal validity to the arbitration agreements by publishing them in the Official Gazette and also plays a key role in enforcing the arbitration awards, ensuring that the decisions are implemented by the concerned parties.

14.20 Model Questions

Short –Answer questions

1. What is arbitration?

2. What is arbitral award?
3. What is arbitration agreement?
4. State the features of arbitration as a dispute settlement mechanism?
5. State the qualifications of Arbitrator.
6. On what grounds the arbitration award can be challenged for judicial review?
7. How government plays important role in voluntary arbitration?

Long-Answer Questions

1. Differentiate between voluntary arbitration and compulsory arbitration?
2. Elaborately discuss the l Legal Provisions on Arbitration under the Industrial Disputes Act, 1947:
3. Explain in brief Procedure for Arbitration under the Industrial Disputes Act.
4. How investigation is conducted in the arbitration process by the arbitrator?
5. While writing Arbitration award, what factors the arbitrator has to consider?
6. Explain in brief the advantages and limitations of arbitration as a dispute settlement mechanism,
7. State the functions of National arbitration Promotion Board?
8. State in brief the important provisions on arbitration under the Industrial Relations Code, 2020.

14.21 Answers to Check Your Progress

1. Once the arbitration agreement is signed the arbitrator's decision i.e. arbitration award is binding upon the parties.

2. Arbitration under the Industrial Disputes Act, 1947 is not compulsory; both the conflicting parties i.e. employer and employees must mutually agree to resolve their dispute through arbitration.

3. The arbitrator/arbitrator(s) may be a single person or a panel of arbitrators, as decided by the parties in the arbitration agreement.

4. Courts generally do not interfere with arbitration awards unless there is a procedural violation, misconduct, or legal error.

5. According to Subsection (1) of section 10 A of the Industrial Disputes Act,1947,where any industrial dispute exists or is apprehended and the employer and the workmen agree to refer the dispute to arbitration, they may, at any time before the dispute has been referred under section 10 to a Labour Court or Tribunal or National Tribunal, by a written agreement, refer the dispute to arbitration and the reference shall be to such person or persons (including the presiding officer of a Labour Court or Tribunal or National Tribunal) as an arbitrator or arbitrators as may be specified in the arbitration agreement.

6. According to Subsection (4A) of section 10 A of the Industrial Disputes Act, 1947 where an industrial dispute has been referred to arbitration and a notification has been issued under sub-section (3A), the appropriate Government may, by order, prohibit the continuance of any strike or lock-out in connection with such dispute which may be in existence on the date of the reference.

7. The procedure for arbitration under the Industrial Disputes Act, 1947 is governed by section 10A.

8. The arbitration award becomes binding on both parties from the date of publication in the official Gazette.

9. Arbitration award is enforceable by law- True.

10. Certain principles of natural justice are followed by an arbitrator while dealing with a particular dispute. They are:

    (i) Both the parties should be given an opportunity to be heard and cross-examined.

    (ii) Each party should have due notice of proceedings, and it must know what are the issues involved and what part it has to play.

    (iii) The party should be free to give any evidence which is relevant to the enquiry and on which it relies for its arguments. The evidence given by one party should be taken in the presence of the other party so that the other party may rebut and place counter evidence, if necessary.

    (iv) The arbitrator should not rely on any document which is not shown and explained to the other party and to which a reply has not been received. He has to be completely impartial without any bias or prejudice against anybody.

11. While the arbitration award is binding, it is subject to judicial review and can be challenged in a high court under Article 226 (writ jurisdiction) or Article 227 (supervisory jurisdiction) of the Constitution under certain circumstances.

12. The National Arbitration Promotion Board with a tripartite composition was appointed by the government in July 1967, to make voluntary arbitration more acceptable to the parties and to co-ordinate efforts for its promotion.

14.22 References and Suggested Readings

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UNIT-14

ADJUDICATION: LABOUR COURTS, INDUSTRIAL AND NATIONAL TRIBUNALS

Unit Structure:

14.1 Introduction

14.2 Objectives

14.3 Adjudication: Meaning

14.4 Adjudication: Types

14.5 Three-Tier System of Adjudication

- 14.5.a Labour Courts
- 14.5.b Industrial Tribunals
- 14.5.c National Industrial Tribunal

14.6 Model Principles for Reference of Disputes to Adjudication

14.7 Procedure for Settlement of Dispute Through Adjudication

14.8 Commencement and Conclusion of Proceedings

14.9 General Provisions for Reference of Dispute for Adjudication Under the Act.

14.10 Advantages of Adjudication

14.11 Challenges in the Adjudication Process

14.12 Important Provisions on Adjudication under the Industrial Relations Code, 2020

14.13 Conclusion

14.14 Summing Up

14.15 Model Questions

14.16 Answers to Check Your Progress

14.17 References and Suggested Readings

14.1 Introduction

The ultimate legal remedy for the settlement of an unresolved industrial dispute is its reference to adjudication by the government.

Adjudication involves the appointment of an impartial third party by the government to make a binding decision on the dispute's resolution. If conciliation fails, the government must determine whether it is appropriate to refer the issue to adjudication. The need for this intervention arises from the fact that developing countries cannot afford the economic consequences of prolonged strikes and lockouts, which lead to a loss of production. Additionally, the trade union movement in these countries may not yet be sufficiently strong or mature to rely solely on collective bargaining to protect workers' interests. Thus, government intervention is seen as necessary to maintain industrial peace and stability. To address this, the government utilizes the adjudication mechanisms provided under the Industrial Disputes Act of 1947. Moreover, the recent enactment of the Industrial Relations Code, 2020, an Act of Parliament which had received the assent of the President on the 28th September, 2020, also includes certain important provisions with regard to adjudication as a dispute settlement mechanism. But those provisions of the code on adjudication are still waiting for their enforcement.

14.2 Objectives

This unit is an attempt to give an overview on Adjudication as a mechanism for settlement of industrial disputes under the Industrial Disputes Act, 1947. After going through this unit, you will be able to

- *explain* the meaning and types of adjudication,
- *discuss* the three-tier system of adjudication with emphasis on their constitution and jurisdiction under the Act.,
- *discuss* the model principles for reference of disputes to adjudication,

- *discuss* the procedure for settlement of dispute through adjudication,
- *discuss* the advantages and challenges of adjudication,
- *discuss* the general provisions for reference under the Act.,
- *describe* the important provisions on adjudication under the Industrial Relations Code, 2020.

14.3 Adjudication: Meaning

Adjudication is a process by which a formal decision or judgment is made regarding a dispute. According to the Industrial Disputes Act, 1947, adjudication is the mechanism used to resolve conflicts between employers and employees, typically when informal or conciliatory methods fail. The process involves the intervention of a judicial or quasi-judicial authority such as a Labor Court, Industrial Tribunal, or National Tribunal to settle the dispute.

The aim of adjudication under the Industrial Disputes Act is to ensure industrial harmony, protect workers' rights, and address grievances related to conditions of employment, wages, layoffs, dismissals, retrenchment, and other industrial matters. It is a crucial element of labour law in India.

14.4 Adjudication: Types

Adjudication can be classified into **Voluntary Adjudication** and **Compulsory Adjudication** based on how the dispute is referred to the adjudicating body.

In case of voluntary adjudication, the parties involved i.e. employers and workers voluntarily agree to refer their dispute to adjudication without government intervention. Both parties mutually agree to

submit the dispute to an adjudicatory authority i.e. Labour Court, Industrial Tribunal, or National Tribunal.

On the other hand, in case of compulsory adjudication the government intervenes and compels the parties to refer the dispute to adjudication, even if they are unwilling. The Appropriate Government (Central or State) refers the dispute to a Labour Court, Industrial Tribunal, or National Tribunal under Section 10 of the Act. The government intervenes when conciliation fails, if the dispute affects public interest or essential services or if the government feels the dispute may lead to industrial unrest.

In case of both the types of adjudication the parties must accept the adjudicator's decision, and the award becomes legally binding on them.

14.5 Three-Tier System of Adjudication

Earlier the Industrial Dispute Act 1947 provided only for the establishments of Industrial Tribunals for adjudication of all industrial disputes. After the 1956 Amendment, the present three-tier machinery of Labour Courts, Industrial Tribunals and National Tribunal, is provided. According to it the National Tribunal is to be formed by the Central Government in exceptional situations, viz., to resolve disputes of national importance or disputes relating to the industrial establishments situated in more than one state, the Labour Courts and National Tribunals are the normal adjudicatory bodies formed by all the appropriate Governments i.e., the State Government and the Central Government, for adjudication of industrial disputes.

The 1956 Amendment Act draws a clear distinction between the matters specified in Second Schedule that are stated to be "matters within the jurisdiction of Labour Courts" and those in the Third

Schedule that are stated to be "matters within the Jurisdiction of Industrial Tribunals."

14.5.a Labour Courts

Section 7 of the Industrial Dispute Act, 1947 provides that "The appropriate Government may, by notification in the Official Gazette, constitute one or more Labour Courts for the adjudication of industrial disputes relating to any matter specified in the Second Schedule and for performing such other functions as may be assigned to them under this Act" and also specifies the qualification for the presiding officer of a Labour Court.

Constitution of Labour Court:

A labour Court shall consist of only one person as the Presiding officer, who:

- is or has been the Judge of a High Court
- has for a period of not less than 3 years been a district Judge or an Additional Judge.
- has held any Judicial office in India for not less than 7 years.
- has been the Presiding officer of Labour Court constituted under any provision of the Act for not less than 5 years.

Disqualification

Section 7-C of the Industrial Dispute Act, 1947 prescribes Disqualifications for the presiding officer appointed to the Labour Court. It Provides that no person shall be appointed to or continue in the office of a Labour Court, Tribunal or National Tribunal, if:

- he is not an independent person; or
- he has attained the age of sixty-five years.

Jurisdiction of Labour Courts

The jurisdiction of labour courts extends to the adjudication of the disputes relating to the matters specified in the Second Schedule of the Act, which are as follows:

- The propriety or legality of any order passed by an employer under the Standing Orders
- The application and interpretation of Standing Order.
- Discharge or dismissal of workmen, including reinstatement of, or grant of, or relief to, workmen wrongfully dismissed.
- Withdrawal of any customary concession or privilege.
- Illegality or otherwise of a strike or lockouts; and
- All matters other than those specified in the Third Schedule of the Act.

Though the labour court does not have jurisdiction over the matters specified in the Third Schedule, where the dispute relates to any matter specified in the Third Schedule and is not likely to affect more than 100 workers, the appropriate government may, if it thinks fit, refer the dispute to a labour Court.

Functions of Labour Court

Section 7 of the Industrial Disputes Act, 1947 itself provides for the functions of a Labour Court, which can be stated as follows:

- Adjudication upon Industrial disputes specified in Second Schedule of the said Act.
- Performance of some other functions as may be assigned to it under the Industrial Dispute Act, 1947. The other matters assignable to Labour Courts are:
  - Voluntarily reference of dispute by written agreement between the parties under Section 10A

- Arbitrations reference under Section 10A.
- Permission to or approval of the action of discharge under Section 33.
- Complaint by the aggrieved employees under Section 33A
- Application under Section 33(c)2 for the computation of any money or any benefit which is capable of being computed in the terms of money.
- Reference of awards or settlement for the interpretation in case of difficulty or doubt under Section 36A.

14.5.b Industrial Tribunals

Section 7-A of the Industrial Disputes Act, 1947 provides that "The appropriate Government may, by notification in the Official Gazette, constitute one or more Industrial Tribunals for the adjudication of industrial disputes relating to any matter, whether specified in the Second Schedule or the Third Schedule, and for performing such other functions as may be assigned to them under this Act".

Constitution of Industrial Tribunal:

The Act provides that an Industrial Tribunal shall consist of one person only to be appointed by the appropriate government, who

- is or has been a Judge of a High Court or
- is or has been a District Judge or Additional District Judge for a period of not less than three years;
- is or has been Deputy Chief Labour Commissioner (Central) or Joint Commissioner of the State Labour Department, having a degree in law and at least seven years' experience including labour department including three years of experience as Conciliation Officer: Provided that no such Deputy Chief Labour Commissioner or Joint Labour Commissioner shall be

appointed unless he resigns from the service of the Central Government or State Government, as the case may be before being appointed as the presiding officer or;

- is an officer of Indian Legal Service in Grade III with three years' experience in grade.

The government may, if it thinks fit, also appoint two persons as assessors to advise the tribunal in the proceedings before it.

Jurisdiction of Industrial Tribunal

The Industrial Dispute Act, 1947 assigned Industrial Tribunal to adjudicate upon industrial disputes provided in Second and Third Schedule of the Act or any matter appearing to be associated or relevant to such disputes, referred to it under Section 10 (1) (d) of the Act. It is immaterial whether any such matter appearing to be connected with or relevant to the basic dispute relates to any matter enumerated in Second Schedule or Third Schedule or not. The first provision of Section 10 provides that "the dispute relates to matter specified in the third schedule and it is not likely to affect more than a hundred workmen, the appropriate government has the discretion to make a reference to the Labour Court."

The following matters are specified in the Third Schedule:

- Wages, including the period and mode of payment
- Compensatory and other allowances.
- Hours of work and rest intervals.
- Leave with wages and holidays.
- Bonus, profit sharing, provident fund and gratuity
- Shift working otherwise than in accordance with standing orders;
- Classification by grades.
- Rules of discipline;

- Rationalisation;
- Retrenchment of workmen and closure of establishment; and
- Any other matter that may be prescribed.

Functions of Industrial Tribunal

According to Section 7-A of Industrial Disputes Act, 1947 the main function of Industrial Tribunal is to adjudicate industrial dispute enumerated under Second and Third Schedule of the Industrial Disputes Act, 1947 and for performing such others functions as may be assigned to them under the Act.

14.5.c National Industrial Tribunal

Section 7-B of Industrial Disputes Act, 1947 provides that "the Central Government may, by notification in the Official Gazette, constitute one or more National Industrial Tribunals for the adjudication of industrial disputes which, in the opinion of the Central Government, involve 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".

Constitution of National Tribunal:

Section 7-B of the Industrial Disputes Act, 1947 provides that the National Tribunal shall consists of only one person, who is to be appointed by the Central Government, who

- Is or has been a Judge of a High Court or
- Has held the office of the Chairman or any other member of the Labour Appellate Tribunal for a period of not less than two years.

The Central Government may, if it so thinks fit, appoint two persons as assessors to advise the National Tribunal on the proceedings before it.

Jurisdiction of National Tribunal

Section 10 (1-A) provides that: where the Central Government is of opinion that any industrial dispute exists or is apprehended and the dispute involves any question of national importance or is of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such dispute and that the dispute should be adjudicated by a National Tribunal."

Section 10 (2) provides that: when the parties to the industrial dispute apply to government to refer dispute to the National Tribunal and if the government satisfies it shall make the reference to the Industrial Tribunal."

Check Your Progress

1. Whether the award of the adjudicator binding upon the parties?
2. When was the three-tier machinery for adjudication included in the Industrial Disputes Act, 1947?
3. Which disputes are referred to Labour Courts under the Industrial Dispute Act 1947?
4. How many Presiding Officers shall consist of a Labour Court under the Industrial Dispute Act 1947?
5. Which disputes are referred to Industrial Tribunals under the Industrial Dispute Act 1947?
6. How many members shall consist of an Industrial Tribunal under the Industrial Dispute Act 1947?
7. How many members shall consist of an National Tribunal under the Industrial Dispute Act 1947?
8. What types of disputes are adjudicated by National Tribunals?

14.6 Model Principles for Reference of disputes to adjudication

The Indian Labour Conference held in Madras in July 1959 evolved a set of model principles for reference of disputes to adjudication, according to which the Central Industrial Relations Machinery has to take into consideration those principles into consideration before recommending adjudication, and the government is also required to consider them before referring to adjudication. The principles are:

(i) All disputes ordinarily be referred to adjudication on request.

(ii) Disputes may not, however, be ordinarily referred to adjudication:

(a) Unless efforts at conciliation have failed and there is no further scope for conciliation and the parties are not agreeable to arbitration;

(b) If there is a strike or lockout declared illegal by a court, or a strike or lockout resorted to without seeking settlement by means provided by law and without proper notice or in breach of the Code of Discipline as determined by the machinery set up for the purpose, unless such a strike or lockout, as the case may be, is called off;

(c) If the issues involved are such as have been the subject matter of recent judicial decisions or in respect of which an unduly long time has elapsed since the origin of the cause of action; and

(d) If, in respect of demands, other legal remedies are available, that is, matters covered by the Factories Act, Workmen's Compensation Act, Minimum Wages Act, Payment of Wages Act, etc.

(iii) Industrial disputes raised in regard to individual cases, that is, cases of dismissal, discharge or any other action of management on disciplinary grounds, may be referred for adjudication when the legality or propriety of such action is questioned, and in particular:

(a) If there is a case of victimization or unfair labour practice;

(b) If the Standing Orders in force or the principles of natural justice have not been followed; and

(c) If the conciliation machinery reports that injustice has been done to the worker.

Whenever an industrial dispute exists, or even where there is a mere apprehension that it will arise, the government may make a reference of the dispute for adjudication.

14.7 Procedure for Settlement of Dispute Through Adjudication

Where an industrial dispute has been referred to a labour court, tribunal or national tribunal for adjudication, it shall hold its proceedings expeditiously and shall, as soon as it is practicable, submit its award to the appropriate government after the conclusion of the proceedings. Unlike the limit of 14 days and 2 months under the conciliation proceedings and proceedings before a Conciliation Officer/Board of Conciliation respectively, no time limit has been fixed for tribunals. Tribunals have the power to make an award; and this award is binding on both the parties to the dispute and is submitted to the appropriate government.

Where the dispute is referred for adjudication to a labour court, tribunal or national tribunal by the government within two weeks of the date of receipt of the order of reference, the parties representing workers and employers involved in the dispute must file with these authorities a statement of demands relating only to such issues as are included in the order of reference. A copy of this statement must be forwarded to each one of the opposite parties involved in the said dispute. The time limit for filing the statement may be extended at the discretion of the above authorities. The opposite party is also

required to file its rejoinder with the above authorities within two weeks of the receipt of such statement, and simultaneously, forward a copy thereof to the other party. But such rejoinder must confine itself only to those issues which are included in the order of reference. The time limit for filing the rejoinder may be extended at the discretion of the authorities.

The next step after the filing of the statement and the rejoinder is to fix the date on which the first hearing of the dispute will take place; this date should be fixed within six weeks of the date on which it was referred for adjudication. The adjudication authority may fix a later date for the first hearing, but the reasons for that delay are to be recorded in writing. The adjudicating authority shall not ordinarily grant an adjournment for a period exceeding a week at a time and not more than three adjournments in all at the instance of one of the parties to the dispute. Where such adjournment is granted by the adjudicating authority, the reasons for it are to be recorded. If these reasons appear to be biased, arbitrary or prejudicial to any party, the aggrieved party may seek interference by the court.

The adjudicating authority enjoys the same powers as are vested in a civil court under the Code of Civil Procedure, 1908.

14.8 Commencement and Conclusion of Proceedings

The proceeding before a labour court, tribunal or national tribunal is deemed to have commenced on the date of the reference of the dispute for adjudication.

The proceedings before the labour court, tribunal or national tribunal are deemed to have concluded on the date on which the award becomes enforceable.

14.9 General Provisions for Reference of dispute for adjudication Under the Act

- **Steps Contemplated for Reference:** It is not necessary that all the steps contemplated (by Section 10 of the Industrial Disputes Act) for reference of disputes to court/tribunals should be taken one after the other.
- **Prohibition of Strike and Lock out on Reference:** Where an industrial dispute has been referred to a labour court, tribunal or a national tribunal, the government may by order prohibit the continuance of any strike or lockout in connection with such dispute which may be in existence on the date of reference (Section 10 (3)).
- **Limits of Adjudication:** Where, in an order referring an industrial dispute to a labour court, tribunal or national tribunal, or in a subsequent order, the government has specified the points of dispute for adjudication, these bodies shall confine themselves to those points and matters incidental thereto (Section 10 (4)).
- **Effects of Reference to National Tribunal:** Where any reference has been made to a national tribunal, a labour court or tribunal shall have no jurisdiction before the national tribunal and accordingly;

(a) if the matter under adjudication before the national tribunal is pending in a proceeding before a labour court or tribunal, in so far

as it relates to such matter, it shall be deemed to have been quashed on such reference to the national tribunal, and

(b) it shall not be lawful for the government to refer the matter under adjudication before the national tribunal to any labour court or tribunal for adjudication during the pendency of the proceedings in relation to such matter before the national tribunal.

- **Limitation for making Reference:** No period of limitation has been prescribed for reference of disputes to an industrial tribunal.
- **Power of Review:** The award of the tribunal becomes final on its affirmation and publication by the government. The tribunal has no power to alter, modify or even interpret the award, except a possible power to correct clerical errors.

14.10 Advantages of adjudication

Adjudication has several advantages, particularly in legal and dispute resolution contexts, which includes:

- Speedy Resolution – Adjudication is often faster than litigation.
- Cost-Effective – It is generally less expensive than court proceedings since it avoids lengthy trials and excessive legal fees.
- Expert Decision-makers – Adjudicators are often experts in the relevant field, ensuring effective decision making.
- Binding but Flexible decision– Although adjudication decisions are binding on the parties, but they may be reviewed in higher courts or arbitration, if necessary.
- Reduces Court Burden – By resolving disputes independently, adjudication helps in reducing burden of the courts.

- Confidentiality – Adjudication proceedings are usually private, protecting sensitive business information. Hence confidentiality of the cases can be maintained.

14.11 Challenges in the Adjudication Process:

The adjudication process under the Industrial Disputes Act, 1947 faces several challenges too, which may affect its efficiency and effectiveness in resolving industrial disputes. Some of the major challenges in the Adjudication Process include:

- Delay in Resolution: Due to procedural formalities, multiple hearings, and legal complexities there is often delay in the adjudication process. Moreover, existence of a large backlog of cases in Labour Courts, Industrial Tribunals, and National Tribunals leads to slow dispute resolution.
- Government Discretion in Reference of Disputes: Under Section 10, the appropriate government has the discretion to refer or not to refer disputes for adjudication, which may lead to biased or delayed decision-making.
- Lack of Specialization and Expertise: Due to lack of specialisation and expertise in the field of labour relations and labour laws on the part of the adjudicator quality decision may not be taken.
- High Costs of Litigation: Engaging legal professionals and following up on disputes in courts/tribunals involves high cost.
- Lack of Proper Implementation of Awards: Even after an award is passed, non-compliance is common, leading to further litigation and delay in justice.

- Limited Scope of Adjudication: The Act does not provide for speedy resolution mechanisms like alternative dispute resolution (ADR), making adjudication the only option, which is often lengthy and complex.
- Political and Administrative Interference: Government influence in the appointment of tribunal members and decision-making may lead to biased decision making.
- Unawareness of the worker: Many workers, especially in the unorganized sector, are unaware of their rights under the Industrial Disputes Act and face difficulties in filing cases and representing themselves.
- Multiple authorities for Dispute Resolution: The existence of multiple authorities like Labour Courts, Industrial Tribunals, and national tribunals sometimes creates confusion and delays, as parties struggle to navigate the correct forum.
- Limited Powers of Labour Courts and Tribunals: Industrial Tribunals and Labour Courts do not have strong enforcement mechanisms to ensure compliance with their awards, leading to non-execution of judgments.

Check Your Progress

9. When do the industrial disputes raised in individual cases referred for adjudication?

10. The adjudicating authority enjoys the same powers as are vested in a----------. Fill up the gap.

11. Whether strike and lockout is prohibited during adjudication?

12. Whether the award of the tribunal can be reviewed?

14.12 Important provisions on adjudication under the Industrial Relations Code, 2020:

The various provisions with regard to the use of adjudication as an industrial dispute settlement mechanism are included in CHAPTER VII of the Industrial relations code, 2020. Some of the important provisions among them are:

Section 44 (1): The appropriate Government may, by notification, constitute one or more **Industrial Tribunals** for the adjudication of industrial disputes and for performing such other functions as may be assigned to them under this Code.

Section 44 (2): Every Industrial Tribunal shall consist of two members to be appointed by the appropriate Government out of whom one shall be a Judicial Member and the other, an Administrative Member.

Section 44 (3): A bench of the Tribunal shall consist of a Judicial Member and an Administrative Member or single Judicial Member or single Administrative Member.

Section 44 (4): The qualifications for appointment, method of recruitment, term of office, salaries and allowances, resignation, removal and the other terms of conditions of service of the Judicial Member and the Administrative Member of the Tribunal constituted by the Central Government shall be in accordance with the rules made under section 184 of the Finance Act, 2017:

Provided that a person who has held a post below the rank of Joint Secretary to the Government of India or an equivalent rank in the Central Government or a State Government, shall not be eligible to be appointed as an Administrative Member of the Tribunal.

Section 44 (5): The term of office of the Judicial Member and the Administrative Member of a Tribunal constituted by the State

Government under sub-section (1), their salaries and allowances, resignation, removal and other terms and conditions of service shall be such as may be prescribed by the State Government.

Section 44 (7): The procedure of the Tribunal (including distribution of cases in the benches of the Tribunal) shall be such as may be prescribed and decide the cases only relating to—

(a) the application and interpretation of standing order;

(b) discharge or dismissal of workmen including reinstatement of, or grant of relief to, workmen dismissed;

(c) illegality or otherwise of a strike or lockout;

(d) retrenchment of workmen and closure of establishment; and

(e) Trade Union disputes,

and the remaining cases shall be entertained and decided by the bench of the Tribunal consisting either a Judicial Member or an Administrative Member of the Tribunal.

Section 46(1): The Central Government may, by notification, constitute one or more **National Industrial Tribunals** for the adjudication of industrial disputes which, in the opinion of the Central Government, involve 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.

Section 46 (2): A National Industrial Tribunal shall consist of two members to be appointed by the Central Government out of whom one shall be a Judicial Member and the other, an Administrative Member.

Section 46 (5): The Judicial Member shall preside over a National Industrial Tribunal.

Section 47 (1): The decision of a Industrial Tribunal or a National Industrial Tribunal, as the case may be, shall be by consensus of the members.

Section 47 (2): If the members of a Tribunal or a National Industrial Tribunal differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the appropriate Government.

Section 48: No person shall be appointed to, or continue in, the office of the member of a Tribunal or National Industrial Tribunal, respectively, if—

(a) he is not an independent person; or

(b) he has attained the age of sixty-five years.

Explanation. For the purposes of this section "independent person" means a person who is unconnected with the industrial dispute referred to a Tribunal or National Industrial Tribunal or with any industry directly affected by such dispute.

Section 49 (1): Subject to the provisions of this Code and the rules that may be made in this behalf Tribunal or National Industrial Tribunal shall follow such procedure as the Tribunal or National Industrial Tribunal may deem fit.

Section 49 (3): The Tribunal and National Industrial Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, when trying a suit, and every inquiry or investigation by Tribunal or National Industrial Tribunal, shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code.

Section 49 (6): All the members of a Tribunal or National Industrial Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Section 50 (1): Where the application under sub-section (6) of section 53 relating to an industrial dispute involving discharge or dismissal or otherwise termination of a worker has been made to a Tribunal or has been referred to a National Industrial Tribunal for adjudication, and, in the course of adjudication proceedings, the Tribunal or National Industrial Tribunal, as the case may be, is satisfied that the order of discharge or dismissal or otherwise termination was not justified, it may, by its award, set aside the order of discharge or dismissal or termination and direct reinstatement of the worker on such terms and conditions, if any, as it thinks fit, or give such other relief to the worker including the award of any lesser punishment in lieu of discharge or dismissal or otherwise termination, as the circumstances of the case may require.

Section 51 (1): On and from the date of commencement of this Code, the cases pending immediately before such commencement—

(a) in the Labour Court and the Tribunal constituted under the Industrial Disputes Act, 1947, shall be transferred to the Tribunal having corresponding jurisdiction under this Code;

(b) in the National Tribunal constituted under the Industrial Disputes Act, 1947 shall be transferred to the National Industrial Tribunal having corresponding jurisdiction under this Code.

Section 54 (1): The Central Government may refer an industrial dispute to a National Industrial Tribunal which in the opinion of such Government involves question of national importance or is of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by such industrial dispute.

Section 54 (2): Where an industrial dispute has been referred under sub-section (1) or transferred under section 92 by the Central Government to a National Industrial Tribunal for adjudication, it

shall hold its proceedings expeditiously and shall, within the period specified\ in the order referring or transferring such industrial dispute or further period extended by the Central Government, submit its award to that Government.

Section 55 (1): The award of a Tribunal or the National Industrial Tribunal shall be in writing and shall be signed electronically or otherwise, as the case may be, by both the Judicial Member and the Administrative Member or either by the Judicial Member or the Administrative Member by whom the award is delivered.

Section 55 (2): Every award of Tribunal or National Industrial Tribunal shall be communicated to the parties concerned and the appropriate Government.

Section 55 (3): An award made under this Code shall become enforceable on the expiry of thirty days from the date of its communication under sub-section (2): Provided that—

(a) if the appropriate Government is of the opinion in any case, where the award has been given by a Tribunal in relation to an industrial dispute to which it is a party; or

(b) if the Central Government is of opinion in any case, where the award has been given by a National Industrial Tribunal,

that it will be inexpedient on public grounds affecting national economy or social justice to give effect to the whole or any part of the award. The appropriate Government, or as the case may be, the Central Government may, by notification, declare that the award shall not become enforceable on the expiry of the said period of thirty days.

Section 56: Where in any case, a Tribunal or a National Industrial Tribunal by its award directs reinstatement of any worker and the employer prefers any proceedings against such award in a High

Court or the Supreme Court, the employer shall be liable to pay such worker, during the period of pendency of such proceedings, full wages last drawn by him, inclusive of any maintenance allowance admissible to him under any rule if the worker had not been employed in any establishment during such period and an affidavit by such worker had been filed to that effect in such Court.

Section 57 (3): An award of a Tribunal or National Industrial Tribunal which has become enforceable shall be binding on—

(a) all parties to the industrial dispute;

(b) all other parties summoned to appear in the proceedings as parties to the dispute,

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

(d) where a party referred to in clause (a) or clause (b) is composed of workers, 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.

Section 58 (1): 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.

Section 60 (3): Proceedings before a Tribunal or a National Industrial Tribunal under this Code shall be deemed to have commenced on the date of filing application or appeal or on the date of reference of the dispute for adjudication and such proceedings shall be deemed to have concluded on the date on which the award becomes enforceable.

14.13 Conclusion:

Adjudication plays a crucial role in ensuring industrial peace and protecting the rights of workers. Although the process is vital for resolving conflicts between workers and employers, there are still significant challenges related to delays, implementation, and ensuring fairness. Addressing these issues through reforms, faster dispute resolution mechanisms, and more efficient adjudicating bodies can strengthen the framework of industrial adjudication and help maintain harmony in Indian industries.

14.14 Summing Up

1. Adjudication under the Industrial Disputes Act, 1947, is a formal legal process for resolving industrial disputes between employers and employees, especially when conciliation or informal methods fail.
2. Adjudication involves judicial or quasi-judicial bodies like Labour Courts, Industrial Tribunals, or National Tribunals, aiming to ensure industrial harmony and safeguard workers' rights in matters such as wages, dismissals, layoffs, and employment conditions.
3. Adjudication can be either voluntary—where both parties mutually agree to refer the dispute for resolution—or compulsory—where the government mandates referral under Section 10 of the Act, often in the interest of public order or essential services. In both cases, the decision of the adjudicating authority is binding.
4. Following the 1956 amendment to the Act, a three-tier adjudication system was introduced comprising Labour Courts (handling issues under the Second Schedule), Industrial

Tribunals (for matters under the Third Schedule), and National Tribunals (for disputes of national importance or inter-state industrial issues).

5. The Model Principles for reference of disputes to adjudication, formulated by the Indian Labour Conference in 1959, guide the Central Industrial Relations Machinery and the government to ensure that only appropriate, unresolved, and significant disputes are referred to adjudication after all other resolution methods have been exhausted.

6. The adjudicating authority enjoys the same powers as are vested in a civil court under the Code of Civil Procedure, 1908.

7. Adjudication offers several advantages such as being faster and more cost-effective than traditional litigation, involving expert decision-makers, ensuring confidentiality, and reducing the burden on courts, with its decisions being binding yet reviewable; however, it faces key challenges including procedural delays, limited enforcement of awards, lack of specialization, political interference, high legal costs, government discretion in referring disputes, limited awareness among workers, and overlapping authorities that hinder swift and fair resolution.

8. From the date the Industrial Relations Code, 2020 would come into effect, all cases that were pending before its commencement under the Industrial Disputes Act, 1947 will be transferred to the appropriate forums established under the new Code. Specifically, cases pending in Labour Courts and Industrial Tribunals constituted under the earlier Act will be shifted to the corresponding Tribunals under the new Code, while those pending before the National Tribunal will be transferred to the National Industrial Tribunal under the new framework. These

provisions would ensure a smooth transition and continuity in the adjudication of on-going industrial disputes.

14.15 Model Questions

Short-answer questions

a) What is adjudication?
b) Differentiate between Voluntary and compulsory adjudication?
c) How the pending cases for adjudication would be dealt in in and from the date of commencement of the Industrial Relations Code, 2020

Long-answer questions

a) Explain in brief the three-tier machinery for settlement of industrial disputes.
b) Explain in brief the jurisdiction and functions of a Labour Court.
c) Explain in brief the jurisdiction and functions of an industrial Tribunal
d) Explain in brief the jurisdiction of a National Tribunal.
e) State the Model Principles for Reference of disputes to adjudication
f) Explain the Procedure for settlement of dispute through adjudication under the Industrial Disputes Act,1947.
g) Elaborately discuss the advantages and challenges of settling an industrial dispute through adjudication.
h) State the important provisions on adjudication under the Industrial Relations Code, 2020.

14.16 Answers to check your progress

1. In case of adjudication the award is legally binding on the parties.

2. After the 1956 Amendment in the Industrial Disputes Act, 1947 the three-tier machinery of Labour Courts, Industrial Tribunals and National Tribunal, is provided.
3. Disputes relating to any matter specified in the Second Schedule are referred to Labour Courts under the Industrial Dispute Act 1947.
4. One Presiding Officers shall consist of a Labour Court under the Industrial Dispute Act 1947
5. Industrial disputes relating to any matter, whether specified in the Second Schedule or the Third Schedule, and for performing such other functions as may be assigned to referred to Industrial Tribunals under the Industrial Dispute Act 1947.
6. The Act provides that an Industrial Tribunal shall consist of one person only to be appointed by the appropriate government. However, the government may, if it thinks fit, also appoint two persons as assessors to advise the tribunal in the proceedings before it.
7. Section 7-B of the Industrial Disputes Act, 1947 provides that the National Tribunal shall consist of only one person, who is to be appointed by the Central Government. However, the Central Government may, if it so thinks fit, appoint two persons as assessors to advise the National Tribunal on the proceedings before it.
8. Section 10 (1-A) provides that the dispute which involves any question of national importance or is of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, are reffered for adjudication to National Tribunal.

9. Industrial disputes raised in regard to individual cases may be referred for adjudication when the legality or propriety of such action is questioned.
10. The adjudicating authority enjoys the same powers as are vested in a civil court.
11. According to Section 10 (3)) of the Industrial Disputes Act, 1947, where an industrial dispute has been referred to a labour court, tribunal or a national tribunal, the government may by order prohibit the continuance of any strike or lockout in connection with such dispute which may be in existence on the date of reference.

The award of the tribunal becomes final on its affirmation and publication by the government. The tribunal has no power review the award except a possible power to correct clerical errors.

14.17 References and Suggested Readings

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3. Industrial Dispute Act, 1947, Section 7-C, No. 14, Acts of Parliament 1947 (India)
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5. Industrial Dispute Act, 1947, Third Schedule, No. 14 Acts of Parliament 1947 (India)
6. Industrial Dispute Act,1947, Section 10, No. 14, Acts of Parliament 1947 (India)

7. Industrial Dispute Act,1947, Section 10 (1-A), No. 14, Acts of Parliament 1947 (India)
8. Industrial Dispute Act,1947, Section 10 (2), No. 14, Acts of Parliament 1947 (India)
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UNIT-15
UNFAIR LABOUR PRACTICES

Unit Structure:

15.1 Introduction

15.2 Objectives

15.3 Unfair Labour Practices: Meaning

15.4 The Legal Framework on Unfair Labour Practices: Industrial Disputes Act, 1947

- 15.4.a Unfair Labour Practices: Section 2(RA)
- 15.4.b. Prohibition of Unfair Labour Practice: Section 25T
- 15.4.c. Penalty for Committing Unfair Labour Practices: Section 25U

15.5 Mechanisms for Addressing Unfair Labour Practices

15.6 Reporting an Unfair Labor Practice

15.7 Landmark Judgments on Unfair Labour Practices in India

15.8 Unfair Labour Practices Under the Industrial Relations Code, 2020

15.9 Conclusion

15.10 Summing Up

15.11 Model Questions

15.12 Answer to Check Your Progress

15.13 References and Suggested Readings

15.1 Introduction

The employer-employee relationship is fundamental to the functioning of any industrialised society. This relationship is governed by a complex set of laws and regulations which are designed to ensure fairness, protect workers' rights and promote industrial harmony. But in spite of the presence of these labour laws and regulations very often it has been observed that the employers

and employees involve in the unfair labour practices. Hence it is one of the most significant areas of concern within labour law. These practices are actions that violate the principles of fairness and equity that underpin labour relations and are strictly regulated by laws such as the Industrial Disputes Act, 1947.

15.2 Objectives

This unit is an attempt to give an overview on unfair labour practices under the Industrial Disputes Act, 1947 as well as Industrial Relations Code, 2020. After going through this unit, you will be able to

- *understand* the meaning of unfair labour practices,
- *explain* the Legal Framework on Unfair Labour Practices: Industrial Disputes Act, 1947,
- *describe* the Mechanisms for Addressing Unfair Labour Practices,
- *describe* the penalties for committing unfair Labour Practices,
- *have* an overview on the State Legislations on Unfair Labour Practices,
- *know* about some Landmark Judgments on Unfair Labour Practices,
- *describe* the legal framework on Unfair Labour Practices Under the Industrial Relations Code, 2020.

15.3 Unfair Labour Practices: Meaning

Simply Unfair labour practices refer to actions taken by employers, workers or their unions that violate the rights of workers or employers. They are often adopted with the intention to undermine the collective bargaining process or to create an unfair advantage.

These practices are detrimental to the harmonious relationship between employers and employees and are prohibited under various labour laws.

In India the Fifth Schedule of the Industrial Disputes Act, 1947 introduced by the Industrial Disputes (Amendment) Act, 1982, specifically enumerates the unfair labour practices.

15.4 The Legal Framework on Unfair Labour Practices: Industrial Disputes Act, 1947

The Fifth Schedule of the Industrial Disputes Act, 1947 introduced by the Industrial Disputes (Amendment) Act, 1982, outlines various forms of unfair labour practices and provides mechanisms for the resolution of disputes arising from such practices. The key provisions of the act on the unfair labour practices are as follows:

- **Section 2 (RA)**: Defines unfair labour practices.
- **Section 25-T**: Prohibits the commission of unfair labour practices by employers, workers or trade unions.
- **Section 25-U**: Prescribes penalties for committing unfair labour practices.

15.4.a Unfair Labour Practices: Section 2(RA)

Section 2(RA) of the Fifth Schedule of the Act enlists the specific actions that constitute unfair labour practices on the part of employers, unions of employers, workmen and trade unions of workmen. They are:

Unfair labour practices on the part of the Employers and the unions of employers

(1) To interfere, with restrain from, or coerce, in the exercise of their rights to organise, form, join or assist a trade union or to engage in

concerted activities for the purpose of collective bargaining or mutual aid or protection. Specific examples of such interference include:

(a) threatening workmen with discharge or dismissal, if they join a trade union;

(b) threatening a lockout or closure, if a trade union is organised;

(c) granting wage increase to workmen at crucial periods of trade union organisation, with a view to undermine the efforts of the trade union at organisation.

(2) To dominate, interfere with, or contribute support or otherwise, to any trade union. Specific examples of such interference include:

(a) an employer taking an active interest in organising a trade union of his workmen; or

(b) an employer showing partiality or granting favour to one of several trade unions attempting to organise his workmen or to its members, where such a trade union is not a recognised trade union.

(3) To establish employer-sponsored trade unions of workmen.

(4) To encourage or discourage membership in any trade union by discriminating against any workman. Specific examples of such interference include:

(a) discharging or punishing a workman because he urged other workmen to join or organise a trade union;

(b) discharging or dismissing a workman because he took part in a lawful strike;

(c) changing seniority rating of workmen because of trade union activities;

(d) refusing to promote workmen to higher posts on account of their trade union activities;

(e) giving unmerited promotions to any workmen with a view to creating discord amongst other workmen or to undermine the strength of their trade union;

(f) discharging office-bearers or active member of trade unions on account of their trade union activities.

(5) To discharge or dismiss workmen:

(a) by way of victimisation;

(b) not in good faith, but in exercise of the employers' rights;

(c) by falsely implicating a workman in criminal case on false evidence or on connected evidence;

(d) for patently false reasons;

(e) on untrue allegations of absence without leave;

(f) in utter disregard of the principles of natural justice in the conduct of domestic enquiry or with undue haste;

(g) for misconduct of a minor or technical character, without having any regard to the nature of the particular misconduct or the past record or service of the workman, thereby leading to a disproportionate punishment.

(6) To abolish the work of regular nature being done by workmen, and to give such work to contractors as a measure of breaking a strike.

(7) To transfer a workman mala fide from one place to another under the guise of following management policy.

(8) To insist upon individual workmen, who are on a legal strike to sign a good conduct bond, as a pre-condition to allowing them to resume work.

(9) To show favouritism or partiality to one 'set' or workers regardless of merit.

(10) To employ workmen as badlis, casuals, or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of permanent workmen.

(11) To discharge of discriminate against any workman for filing charges or testing against an employer in any enquiry or proceeding relating to any industrial dispute.

(12) To recruit workmen during a strike which is not an illegal strike.

(13) Failure to implement award, settlement or agreement.

(14) To indulge in acts of force or violence.

(15) To refuse to bargain collectively in good faith with the recognised trade unions.

(16) Proposing or continuing a lockout deemed to be illegal under the Act.

Unfair labour practices on the Part of Workmen and Trade Unions of Workmen

(1) To advise or actively support or investigate any strike deemed to be illegal under this Act.

(2) To coerce workmen in the exercise of their right to self-organisation or to join a trade union or refrain from joining any trade union. Specific examples of such activities include:

(a) for a trade union or its members to picketing in such a manner that non-striking workmen are physically debarred from entering the work places;

(b) to indulge in acts in force or violence or to hold out threats of intimidation in connection with a strike against non-striking workmen or against managerial staff.

(3) For a recognised union to refuse to bargain collectively in good faith with the employer.

(4) To indulge in coercive activities against certification of a bargaining collectively in good faith with the employer.

(5) To stage, encourage or instigate such forms of coercive actions as wilful "go slow". squatting in the work premises after working hours or "gherao" of any of the members of the managerial or other staff.

(6) To stage demonstration at the residences of the employers or the managerial or other staff.

(7) To incite or indulge in wilful damage to employer's property connected with the industry.

(8) To indulge in acts of force or violence or to hold out threats of intimidation against any workman with a view to prevent him from attending work.

15.4.b. Prohibition of Unfair Labour Practice: Section 25T

No employer or a workman or a trade union, whether registered under the Trade Union Act or not, shall commit any unfair labour practice.

15.4.c. Penalty for Committing Unfair Labour Practices: Section 25U

Any person who commits any unfair labour practice shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

15.5 Mechanisms for Addressing Unfair Labour Practices

Addressing unfair labour practices requires a robust legal and institutional framework that provides avenues for workers and employers to seek redress. The Industrial Disputes Act, 1947, outlines several mechanisms for the resolution of industrial disputes, which often arise from unfair labour practices. Some of such mechanisms are collective bargaining, conciliation. Arbitration and adjudication. Besides in India several states have enacted their own legislations to address unfair labour practices and manage industrial relations. Some of them are Bombay Industrial Relations Act, 1946, Madhya Pradesh Industrial Relations Act, 1960, Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971.

15.6 Reporting an Unfair Labour Practice

In India, the Industrial Disputes Act, 1947, is the primary legislation that governs the investigation and settlement of industrial disputes, including unfair labour practices. According to the provisions of the Act the process for reporting an unfair labour practice involves several steps and authorities, as described below:

1. Identify the unfair labour practice: Unfair labour practices as specified in the Fifth Schedule of the Industrial Disputes Act, 1947 need to be identified before reporting it to the appropriate authority.

2. Gather evidence: Collect evidence to support the claim of an unfair labor practice. This may include witness statements, documents, and other relevant information that demonstrates the violation of the Industrial Disputes Act, 1947.

3. Filing a complaint: A complaint should be filed within 90 days of the occurrence of the unfair labour practice. Any union,

employee, or Investigating Officer can file the complaint. The complaint should be submitted to the appropriate authority, such as the Industrial Tribunal or the Labor Court, and should include details of the unfair labour practice, the evidence supporting the claim and the relief sought.

4. Investigation: Upon receiving the complaint, the Industrial Tribunal or the Labor Court will initiate an investigation to determine the validity of the claim. This may involve gathering evidence, interviewing witnesses, and reviewing relevant documentation.

5. Court of Inquiry: In some cases, a Court of Inquiry may be set up to investigate the matter and make a report on the dispute within six months from the date of the complaint.

6. Decision and remedies: Based on the investigation, the Industrial Tribunal or the Labor Court will make a decision on the matter. If the complaint is found to be valid, the court may issue orders to remedy the unfair labour practice, such as reinstatement of the employee, awarding back wages, or taking other appropriate action

7. Appeal: If either party is dissatisfied with the decision, they may file an appeal with a higher court.

However, this process for reporting an unfair labour practice may vary based on the specific circumstances and the relevant labour laws. Hence it is advisable to seek legal counsel or guidance to ensure that the complaint is filed correctly and in accordance with the applicable regulations.

15.7 Landmark Judgments on Unfair Labour Practices in India

Several landmark judgments have shaped the interpretation and enforcement of laws related to unfair labour practices in India.

These cases have provided clarity on the application of the Industrial Disputes Act, 1947 and have established important legal precedents.

Eveready Flash Light Company v. Labour Court Bareilly, 1958

This case involved a worker who was terminated after being put on probation despite having been tried and tested for his role. The Labour Court found this to be an unfair labour practice, as the probationary period was used as a tactic to delay granting the worker permanent status.

Hind Construction and Engineering Co. Ltd. v. Their Workmen, 1965

In this case the Supreme Court ruled that the dismissal of workers for a single day of absence was unjustifiably severe and amounted to victimisation, establishing the principle that disproportionate punishment can constitute an unfair labour practice.

S.G. Chemical and Dyes Trading Employees' Union v. S.G. Chemicals and Dyes Trading Limited and Another, 1986

In this case, the trade union filed a complaint against the company for closing its office without paying employees their due wages. The Labour Court found the closure illegal and deemed the termination of services as an unfair labour practice, ordering compensation and reinstatement for the affected workers.

Regional Manager, SBI v. Mahatma Mishra, 2006

In this case the respondent was terminated without proper notice and the Labour Court ruled this as an unfair labour practice. The court held that the termination was not casual and that the management had engaged in unfair labour practices by not providing the respondent with due process.

Gangadhar Pillai v. Siemens Ltd., 2007

In this case, the appellant challenged his termination as an unfair labour practice. The Supreme Court held that intermittent engagement as a casual worker did not automatically grant permanent status and the burden of proving unfair labour practices was on the workman.

15.8 Unfair Labour Practices under the Industrial Relations Code, 2020

The industrial Relations Code, 2020, an Act of Parliament received the assent of the President on the 28th September, 2020. It is an Act to consolidate and amend the laws relating to Trade Unions, conditions of employment in industrial establishment or undertaking, investigation and settlement of industrial disputes and for matters connected therewith or incidental thereto. But the Act has not become effective till date. IR Code seeks to replace three major labour laws that are referred to as the 'mothers' of Indian Industrial legislation viz., The Industrial Disputes Act, 1947, The Trade Unions Act, 1926 and the Industrial Employment (Standing Orders) Act, 1946, which lays down the overall substantive rights of workers and trade unions in India. This Code is an attempt to transform the basis of industrial jurisprudence. Though Industrial Relations Code, 2020 claims to consolidate the provisions of the 3 major industrial laws, by retaining its fundamental features, certain significant changes have been made to the law.

This Code also includes certain important provisions relating to the unfair Labour practices, which are enumerated below:

Section 2. (zo) of the CHAPTER I: "unfair labour practice" means any of the practices specified in the Second Schedule. The practices specified in the Second Schedule of the Code are same as

those specified in Section 2(RA) of the Fifth schedule of the Industrial Disputes Act, 1947 introduced by the Industrial Disputes (Amendment) Act, 1982

Section 84 of CHAPTER XII: No employer or worker or a Trade Union, whether registered under this Code, or not, shall commit any unfair labour practice specified in the Second Schedule.

Section 86 (5) of CHAPTER XIII: Any person who commits any unfair labour practice as specified in the Second Schedule shall be punishable with fine which shall not be less than ten thousand rupees, but which may extend to two lakh rupees.

Section 101(1) of CHAPTER XIV: The Central Government may, by notification, add to or alter or amend the Second Schedule.

15.9 Conclusion

Unfair labour practices pose a significant challenge to maintaining fair and equitable labour relations. The Industrial Disputes Act, 1947 and Industrial Relations Code, 2020 provide a comprehensive legal framework for identifying and addressing these practices. By prohibiting actions that undermine workers' rights or disrupt industrial harmony, the Act seeks to promote a balanced relationship between employers and employees.

Mechanisms such as collective bargaining, conciliation, arbitration and adjudication play a crucial role in resolving disputes and preventing the escalation of conflicts. Additionally, state legislations such as the Bombay Industrial Relations Act, 1946 and the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, complement the national legal framework by addressing region-specific labour issues.

Check Your Progress

1. In India which Act specifically enumerates the unfair labour practices?
2. Fill up the gaps:

   a. Section -------- defines unfair labour practices.

   b. Section -------- prohibits the commission of unfair labour practices by employers, workers or trade unions.

   c. Section ---------- prescribes penalties for committing unfair labour practices.

3. Can employer or a workman or a trade union, commit any unfair labour practice?
4. What is the time limit for filing a complaint for the occurrence of the unfair labour practice?

15.10 Summing Up

1. Unfair labour practices refer to actions by employers, employees, or their unions that violate labour rights and disrupt fair industrial relations, often undermining collective bargaining.
2. In India, unfair labour practices are clearly defined and prohibited under the Industrial Disputes Act, 1947, particularly through the Fifth Schedule introduced by the 1982 amendment. The Act outlines specific actions that constitute unfair practices and provides legal mechanisms for addressing them.
3. Unfair labour practices are addressed through legal and institutional frameworks under the Industrial Disputes Act, 1947 and various state-specific laws. The key mechanisms include collective bargaining, conciliation, arbitration, and adjudication. States like Maharashtra, Madhya Pradesh, and Bombay have

their own legislations to manage labour relations and prevent unfair practices.

4. The Industrial Relations Code, 2020, which seeks to consolidate and modernize labour laws, includes similar provisions in its Second Schedule and introduces stricter penalties for unfair labour practices. Though yet to be fully implemented, it reflects an evolving legal approach to strengthening industrial relations and curbing unfair practices.

15.11 Model Questions

Short Questions:

a. What do you mean by unfair labour practice?
b. What is the penalty for committing unfair labour practice?
c. Give examples of few Landmark Judgments on Unfair Labour Practices in India.
d. State the Mechanisms for Addressing Unfair Labour Practices in India.
e. What is the impact of unfair labour practices on employer-employee relations?

Long Questions:

a. Elaborately explain the unfair labour practices as enlisted in the Section 2(RA) of the Fifth Schedule of the Industrial Disputes Act, 1947.
b. Briefly explain the process for reporting an unfair labour practice.
c. Explain in brief the Unfair Labour Practices Under the Industrial Relations Code, 2020.

15.12 Answer to Check Your Progress

1. In India the Fifth Schedule of the Industrial Disputes Act, 1947 introduced by the Industrial Disputes (Amendment) Act, 1982, specifically enumerates the unfair labour practices.

2. Fill up the Gaps:

a. Section 2(RA) defines unfair labour practices.

b. Section 25-T prohibits the commission of unfair labour practices by employers, workers or trade unions.

c. Section 25-U prescribes penalties for committing unfair labour practices.

3. According to Section 25T of the Industrial Disputes Act,1947 no employer or a workman or a trade union, whether registered under the Trade Union Act or not, can commit any unfair labour practice.

4. A complaint should be filed within 90 days of the occurrence of the unfair labour practice.

15.11 References and Suggested Readings

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UNIT-16

LABOUR WELFARE AND SOCIAL SECURITY

Unit Structure:

16.1 Introduction
16.2 Objectives
16.3 Meaning and Concept of Labour Welfare
16.4 Objectives of Labour Welfare
16.5 Types of Labour Welfare Measures
16.6 Agencies of Labour Welfare
16.7 Concept of Social Security
16.8 Historical and Legal Evolution of Social Security in India
16.9 Types of Social Security Schemes in India
16.10 Importance of Social Security in the Indian Context
16.11 Limitations and Challenges of Social Security in India
16.12 Summing Up
16.13 Model Questions
16.14 References and Suggested Readings

16.1. Introduction

The welfare of labour has been a subject of serious academic, political, and industrial discourse since the rise of organized industry in the 19th century. In a country like India—marked by a large and diverse workforce, deep economic inequalities, and a significant informal sector—labour welfare and social security are not merely policy considerations but fundamental instruments of human dignity and economic justice.

At its core, labour welfare refers to all services, amenities, and facilities provided to workers over and above their statutory entitlements, aiming to improve their working and living conditions. These include healthcare, education, housing, recreational facilities,

and better workplace environments. Welfare is both a social responsibility of employers and a legitimate expectation of workers. It embodies the idea that the working population should not be treated merely as a factor of production but as human beings with social, emotional, and physical needs.

Parallel to this, social security represents the protective framework within which workers are safeguarded from the economic and social uncertainties of life. Illness, maternity, accidents, old age, and unemployment pose serious threats to the well-being of workers and their families. Social security mechanisms provide either preventive measures (such as insurance and provident funds) or assistance programs (such as pensions and subsidies) to ensure that people do not fall into poverty during vulnerable periods.

This unit aims to provide a comprehensive understanding of the concepts, historical evolution, legal frameworks, types of welfare and social security measures, their limitations, and the urgent need for reform. It will also discuss emerging trends such as the gig economy, digital registration systems like e-SHRAM, and the implications of the Social Security Code, 2020. Through this unit, students will gain not only theoretical knowledge but also practical insights into one of the most pressing socio-economic issues in contemporary India.

Self-Asking Question

Do you think labour welfare should be viewed as an investment rather than a cost by employers?

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16.2 Objectives

After going through this chapter, the students will be able to:

- *trace* the historical evolution and development of labour welfare and social security systems in India,
- *identify* and analyse various types of labour welfare measures and social security schemes in India,
- *assess* the role of Government, employers, trade unions and voluntary agencies towards labour welfare and social security.

16.3 Meaning and Concept of Labour Welfare

Labour welfare encompasses a wide range of services, facilities, and amenities provided to workers to improve their standard of living, health, safety, and overall well-being. These measures can be both statutory (required by law) and voluntary (provided by employers out of goodwill or policy commitment).

According to the International Labour Organization (ILO):

"Labour welfare means such services, facilities, and amenities which may be established in or outside the premises of the undertaking to enable the persons employed to perform their work in healthy, congenial surroundings and to provide them with amenities conducive to good health and high morale."

Examples of Labour Welfare Measures:

- Provision of drinking water, restrooms, canteens, medical aid
- Educational facilities for workers' children
- Housing and transport support
- Recreational facilities like sports and libraries
- Grievance redressal mechanisms

16.4 Objectives of Labour Welfare

Labour welfare aims to improve the living and working conditions of workers, enabling them to lead a dignified and productive life. It is based on the principle of humanitarianism, economic efficiency, and social justice. Welfare measures go beyond wages and working hours to cover the broader physical, mental, and social well-being of workers.

1. Humanitarian Objectives

The primary objective of labour welfare is humanitarian—to ensure the well-being of workers by addressing their basic needs and improving their quality of life.

Key Humanitarian Aims:

- Protect workers from health hazards and poor living conditions.
- Promote dignity of labour and respect for human rights.
- Alleviate the hardships faced by workers due to poverty, illiteracy, and social backwardness.

Example: The establishment of creches and rest rooms under the Factories Act, 1948 for female workers is a humanitarian welfare measure that ensures comfort and safety.

2. Economic Objectives

Labour welfare also has important economic motivations, aimed at enhancing the productivity and efficiency of workers, reducing absenteeism and turnover, and minimizing industrial unrest.

Key Economic Goals:

- Improve health and efficiency of workers, reducing sickness and fatigue.
- Boost morale and motivation, leading to higher productivity.

- Reduce costs associated with strikes, accidents, and employee dissatisfaction.

Facts & Figures:

• According to an ILO study (2019), firms investing in worker welfare measures report up to 20% higher productivity.

• In India, companies providing welfare schemes like health insurance and canteen facilities have witnessed lower attrition rates and improved industrial relations.

3. Social Objectives

Labour welfare also addresses broader social objectives. It aims to promote equality, inclusiveness, and social integration, especially in countries like India with large sections of disadvantaged labour.

Key Social Aims:

- Bridge the socio-economic gap between different classes of society.
- Support the upliftment of marginalized sections, including women, tribal workers, and migrant labourers.
- Encourage responsible citizenship and social responsibility among employers.

Example: The Pradhan Mantri Shram Yogi Maandhan (PMSYM) pension scheme for unorganized workers helps integrate vulnerable groups into the social protection system.

4. Legal and Constitutional Objectives

Labour welfare serves the purpose of fulfilling constitutional directives and complying with legal obligations. The Indian Constitution under the Directive Principles of State Policy (DPSP) directs the State to promote welfare and social security.

Related Constitutional Provisions:

- Article 41: Right to public assistance in cases of unemployment, old age, sickness, etc.
- Article 42: Provision for humane work conditions and maternity relief.
- Article 43: Secures a living wage and decent standard of life for all workers.

Several statutes mandate welfare measures, such as:

- The Employees' State Insurance Act, 1948 – medical benefits
- The Maternity Benefit Act, 1961 – maternity leave and protection
- The Contract Labour (Regulation and Abolition) Act, 1970 – provision of basic amenities to contract workers

5. Psychological Objectives

Welfare programs also address the psychological needs of workers. These needs include recognition, social interaction, security, and opportunities for personal growth.

Psychological Benefits Include:

- Building a sense of belonging and loyalty to the organization.
- Reducing stress and improving mental health.
- Encouraging initiative and creativity among workers.

Example: Multinational companies like Infosys and TCS have established employee assistance programs (EAPs) that include mental health counselling, career development workshops, and recreational facilities.

6. Political Objectives

Labour welfare plays an important role in nation-building and maintaining political stability. It reduces class conflicts and fosters harmonious industrial relations, essential for democratic governance.

Political Significance:

- Promotes democratic values by protecting workers' rights.
- Helps in preventing exploitation and labour unrest.
- Strengthens the legitimacy of government in the eyes of the working class.

Stop to Consider

During the post-independence era, the Indian government promoted tripartite consultations (employer-employee-government) through platforms like the Indian Labour Conference to foster industrial democracy and worker participation in governance.

7. Strategic and Corporate Objectives

In today's competitive environment, labour welfare is also seen as a strategic tool for human resource management. Companies increasingly view welfare initiatives as a means to attract and retain talent, enhance brand reputation, and meet corporate social responsibility (CSR) goals.

Strategic Objectives:

- Attract skilled workers in a competitive job market.
- Improve employer branding and corporate image.
- Fulfil CSR and ESG (Environmental, Social, Governance) compliance.

Example: Under Section 135 of the Companies Act, 2013, many Indian companies use part of their CSR funds to support labour welfare programs such as skill development, healthcare, and housing for workers.

In summary, labour welfare is not only a matter of legal compliance or charity, but a strategic and moral imperative for organizations and the state. Its objectives span from improving workers' personal lives to boosting industrial productivity and ensuring social equity. A comprehensive welfare policy contributes to industrial peace, economic development, and social justice — the three pillars of a progressive labour system.

16.5 Types of Labour Welfare Measures

Labour welfare activities can be classified into various types based on their nature, scope, and source of initiation. This classification helps in understanding the breadth and depth of welfare measures undertaken for the holistic development of workers. Broadly, labour welfare measures can be grouped into the following categories:

1. Statutory Welfare Measures

These are welfare activities that employers are legally bound to provide under various labour laws enacted by the government. They are mandatory in nature, and non-compliance can lead to penalties, legal action, or cancellation of licenses.

Examples of Statutory Welfare Provisions:

- Provision of drinking water, lighting, ventilation, and sanitation under the Factories Act, 1948

- First aid appliances, canteen facilities, crèches for children, and rest rooms as required under the same Act
- Maternity benefits under the Maternity Benefit Act, 1961
- Safety and health provisions under the Mines Act, 1952
- Medical benefits and cash compensation under the Employees' State Insurance Act, 1948

Significance:

- Ensures minimum welfare standards across industries
- Protects vulnerable and low-income workers
- Promotes uniformity and accountability in labour practices

DID YOU KNOW: A textile manufacturing company employing more than 250 workers is mandated to provide canteen facilities as per the Factories Act, irrespective of its financial position.

2. Voluntary Welfare Measures

These are welfare activities undertaken voluntarily by employers out of goodwill, enlightened self-interest, or as part of their corporate social responsibility (CSR). These measures often go beyond legal requirements and aim at improving morale, loyalty, and well-being of employees.

Popular Voluntary Measures Include:

- Subsidized meals and snacks beyond legal requirements
- Educational scholarships for employees' children
- Recreation and sports facilities
- Skill development and upskilling programs
- Housing loans and transport assistance

Significance:

- Enhances employee satisfaction and retention
- Builds a positive organizational culture
- Creates a competitive advantage in talent acquisition

Example: Infosys, a leading IT firm in India, voluntarily provides facilities like gyms, libraries, innovation labs, and wellness centers at its campuses, far beyond statutory requirements.

3. Mutual Welfare Measures

These are welfare initiatives undertaken collectively by workers themselves, often through cooperative societies, trade unions, or mutual aid groups. They promote self-help, solidarity, and community spirit among workers.

Examples:

- Cooperative credit societies offering low-interest loans
- Trade union-run educational institutions or dispensaries
- Mutual insurance schemes or funeral funds
- Worker-led savings and thrift societies

Significance:

- Promotes financial independence and unity
- Helps workers support each other in times of need
- Encourages democratic participation and awareness

Example: In Kerala, many trade unions manage labour welfare cooperatives which provide healthcare services and distribute essential goods at subsidized prices.

4. Intra-Mural and Extra-Mural Welfare

Labour welfare activities can also be categorized based on their location and proximity to the workplace:

a) Intra-Mural Welfare Measures

These are facilities provided within the factory or workplace premises.

Examples:

- Clean drinking water
- Sanitation and proper ventilation
- Safety equipment
- First aid rooms
- Restrooms and crèches

b) Extra-Mural Welfare Measures

These are amenities provided outside the workplace, aiming at improving the overall life of workers and their families.

Examples:

- Housing facilities
- Educational institutions
- Medical camps and hospitals
- Community development activities
- Recreational and cultural centers

5. Corporate Social Responsibility (CSR)-Linked Welfare

Stop to Consider

Under the Companies Act, 2013, companies meeting certain financial criteria are required to spend 2% of their average net profit on CSR activities. Many companies channel this into labour welfare and skill development.

CSR Welfare Areas Include:

- Vocational training and skill development
- Healthcare and sanitation for workers and communities
- Affordable housing for labourers
- Support for migrant and contract workers

Fact: According to the Ministry of Corporate Affairs, companies spent over ₹20,000 crore on CSR activities in FY 2021–22, a significant portion of which went towards labour and community welfare.

Labour welfare is a multidimensional concept encompassing legal obligations, employer initiatives, community efforts, and worker cooperation. Whether statutory or voluntary, intra-mural or extra-mural, each type plays a critical role in ensuring the health, security, and dignity of workers. Understanding these types helps policymakers, managers, and students grasp how comprehensive welfare can create a more humane, productive, and socially responsible labour system.

Check Your Progress

1. Differentiate between statutory and voluntary welfare measures.
2. What are intra-mural and extra-mural welfare activities?
3. Give examples of statutory and non-statutory welfare facilities.

16.6 Agencies of Labour Welfare

Labour welfare in India is carried out through the coordinated efforts of multiple agencies. These agencies function at different levels—governmental, non-governmental, employer-based, and employee-based—to provide a comprehensive system of welfare that meets the diverse needs of the workforce.

The major agencies involved in labour welfare are:

1. Central Government
2. State Governments
3. Employers
4. Trade Unions
5. Non-Governmental Organizations (NGOs)
6. International Organizations

1. Central Government

The central government plays a pivotal role in formulating national policies, legislating welfare laws, and implementing welfare schemes. Through its various ministries and statutory bodies, it ensures the enforcement of minimum welfare standards across the country.

Key Functions:

- Enacting legislation like the Factories Act, 1948; ESI Act, 1948; and the Code on Social Security, 2020.

- ❖ Launching welfare schemes for unorganized workers, gig workers, and women workers.
- ❖ Setting up national-level bodies like:
  - ➢ Ministry of Labour and Employment
  - ➢ Employees' Provident Fund Organisation (EPFO)
  - ➢ Employees' State Insurance Corporation (ESIC)
  - ➢ Labour Welfare Funds (Central)

Stop to Consider

- e-Shram Portal (launched in 2021) by the Ministry of Labour and Employment created a national database of unorganized workers to facilitate access to welfare schemes.
- Pradhan Mantri Shram Yogi Maandhan (PMSYM) provides old age pensions to unorganized workers earning less than ₹15,000 per month.

2. State Governments

State governments are responsible for the implementation and supervision of welfare laws and schemes within their jurisdictions. They may also establish State Labour Welfare Boards and enact welfare rules tailored to local industries and worker needs.

Key Functions:

- ❖ Enforcing labour legislation through Labour Commissioners and Factory Inspectors.
- ❖ Managing State Labour Welfare Funds.
- ❖ Running state-specific welfare schemes like subsidized housing, education, and medical aid.

Facts:

• Kerala's Labour Welfare Fund Board supports education and medical aid for unorganized sector workers such as beedi workers and construction labourers.

• Tamil Nadu Construction Workers Welfare Board provides accident compensation, pension, and maternity benefits to registered construction workers

3. Employers

Employers are direct providers of both statutory and voluntary welfare to their employees. While they are legally obligated to ensure certain welfare provisions, many employers also extend voluntary benefits to enhance productivity and job satisfaction.

Some Statutory Responsibilities:

- ❖ Ensuring health and safety (Factories Act).
- ❖ Maternity benefits.
- ❖ Gratuity and provident fund contributions.

Some Voluntary Contributions:

- ❖ Subsidized housing, canteens, medical insurance
- ❖ Education and scholarship schemes
- ❖ Counseling, mental health support

Examples:

- Tata Steel has a long-standing tradition of labour welfare, including free schooling, subsidized housing, and sports facilities.
- Infosys offers flexible work hours, wellness centers, and learning and development programs for its employees.

4. Trade Unions

Trade unions act as collective representatives of workers and play a critical role in ensuring the implementation of welfare measures. They also initiate welfare programs independently and through negotiations with employers.

Major Roles of Trade Unions:

- Bargaining for better welfare facilities through collective bargaining.
- Running cooperative societies, educational institutions, and health clinics.
- Supporting legal aid, insurance, and emergency relief funds.

Examples:

- In Maharashtra, textile trade unions operate cooperative stores, housing schemes, and credit societies for mill workers.
- In West Bengal, trade unions in the jute industry run low-cost clinics and night schools for workers' children.

5. Non-Governmental Organizations (NGOs)

NGOs play an increasingly vital role in supplementing the efforts of the government and employers, particularly in the unorganized and informal sectors. They offer community-based welfare, advocacy, and capacity-building services.

Functions:

- Organizing health camps, vocational training, and education programs.
- Raising awareness about workers' rights and social security.
- Mobilizing workers to register for welfare schemes.

INSIGHTS:

SEWA (Self-Employed Women's Association) in Gujarat provides insurance, healthcare, and skill training to women workers in informal sectors.

Pratham runs educational programs and bridges learning gaps for children of low-income workers.

6. International Organizations

Global bodies contribute to labour welfare through technical assistance, policy guidance, and financial aid, especially in areas related to social security, child labour, and decent work conditions.

Major Agencies:

- International Labour Organization (ILO): Works with Indian government and trade unions to promote decent work, gender equity, and elimination of child labour.
- UNICEF and WHO: Collaborate on welfare issues related to child workers and workplace health.
- World Bank and ADB: Support large-scale labour and social security reform initiatives.

Example: The ILO's Decent Work Country Programme (DWCP) in India has supported efforts in improving working conditions in sectors like textiles, construction, and domestic work.

Comparative Table of Agency Roles

Agency Type	***Focus Area***	***Strength***
Central Government	Policy & legislation	National standardization and funding
State Governments	Implementation	Local customization and outreach
Employers	Direct welfare provision	Tailored to company workforce
Trade Unions	Worker representation	Collective bargaining and mobilization
NGOs	Grassroots intervention	Innovation and inclusiveness
International Bodies	Technical assistance	Global standards and cross-border support

The effective implementation of labour welfare requires multi-agency coordination. Each agency—governmental or non-governmental—has a distinct role to play in ensuring the holistic development, protection, and empowerment of workers. A synergistic relationship among these agencies leads to better coverage, efficient service delivery, and ultimately a more equitable and just labour system in the country.

As the world of work evolves with gig platforms, digital labour, and remote employment, these agencies must also adapt to ensure that no worker is left behind in accessing welfare and social security.

Self-Asking Questions

1. Who do you think should bear the greatest responsibility for labour welfare and why?

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2. How can collaboration between different agencies improve welfare delivery?

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16.7 Concept of Social Security

Social security refers to the protection provided by the state or other agencies to individuals and families against certain risks and contingencies that lead to a reduction or loss of income. These risks include unemployment, sickness, disability, old age, maternity, death of the breadwinner, and other economic vulnerabilities.

Social security ensures a minimum level of income and access to essential services, thereby safeguarding the basic dignity and well-being of individuals, especially those belonging to the working class, poor, elderly, women, and children.

Definitions of Social Security

1. International Labour Organization (ILO):

"Social security is the protection which society provides for its members through a series of public measures, against economic and social distress that otherwise would be caused by the stoppage or substantial reduction of earnings resulting from sickness, maternity, employment injury, unemployment, invalidity, old age, and death."

2. United Nations (UN):

"Social security is any programme of protection provided by legislation or other approved means to individuals and families during periods of retirement, disability, or unemployment, and also includes provisions for medical care."

3. Government of India – Ministry of Labour:

"Social security is the security that society furnishes, through appropriate organization, against certain risks to which its members are exposed. These risks are essentially contingencies against which an individual of small means cannot effectively provide."

Objectives of Social Security

- To provide income security in times of need and vulnerability.
- To reduce poverty and inequality.
- To support health and welfare of the labor force.
- To promote industrial peace and social justice.
- To fulfill the constitutional directive principles of ensuring human dignity and social justice (Articles 39, 41, 42, and 43 of the Indian Constitution).

16.8 Historical and Legal Evolution of Social Security in India

The evolution of social security in India is deeply intertwined with the country's socio-economic development, colonial legacy,

constitutional vision, and international commitments. It reflects the state's increasing role in protecting its citizens from income loss and social vulnerabilities arising from illness, disability, unemployment, old age, and death.

India's journey toward establishing a formal social security system began during the British colonial era, was shaped significantly post-Independence by constitutional mandates and Five-Year Plans, and has seen substantial legal reforms in recent decades, especially with the introduction of the Social Security Code, 2020.

1. Pre-Independence Developments

During the British era, early labor welfare initiatives were influenced by pressure from social reformers, the international labor movement, and British economic interests. However, these efforts were piecemeal and mostly targeted at the organized sector.

Key Milestones:

Factories Act, 1881

- The first labor legislation in India.
- Aimed at improving the working conditions in textile mills.
- Included provisions for limiting working hours and regulating child labor.

Workmen's Compensation Act, 1923

- **First social security law** in India.
- Mandated employers to compensate workers in case of injury or death due to occupational hazards.
- Covered only manual laborers and excluded large segments of the labor force.

Trade Unions Act, 1926

- Recognized trade unions and their role in advocating for workers' rights.
- Laid the groundwork for collective bargaining and worker welfare.

Royal Commission on Labour (1931)

- Recommended comprehensive reforms for labor welfare.
- Emphasized the need for state-supported social insurance schemes.
- Set the tone for future welfare legislation.

Case Insight: In Bombay (now Mumbai), textile workers led multiple agitations demanding fair wages and welfare benefits. This catalyzed attention toward labor rights even during colonial times.

2. Post-Independence Period (1947–1990)

After independence, social security became a constitutional priority. The State committed to promoting the welfare of workers through a combination of legislation, welfare schemes, and planning strategies.

Constitutional Foundation:

The Directive Principles of State Policy (DPSP) under the Indian Constitution (1950) provide a moral and policy framework for social security.

Article	**Provisions**
Article 38	Promote welfare of people by securing social order.
Article 39	Ensure adequate means of livelihood and prevent concentration of wealth.

Article	Provisions
Article 41	Right to work, education, and public assistance in cases of unemployment, sickness, and old age.
Article 42	Provision for just and humane working conditions and maternity relief.
Article 43	Right to a living wage and decent standard of life.

Major Legislative Landmarks:

Employees' State Insurance Act, 1948

- First post-independence law aimed at providing health and sickness benefits to factory workers.
- Covers sickness, maternity, employment injury, and medical care.

Employees' Provident Fund and Miscellaneous Provisions Act, 1952

- Introduced compulsory savings for retirement, with contributions from both employer and employee.

Maternity Benefit Act, 1961

- Mandated paid leave for female employees during pregnancy.
- A major step for gender-sensitive social protection.

Payment of Gratuity Act, 1972

- Provided financial security after retirement or long-term service.

Case Example – TISCO, Jamshedpur: Tata Steel was among the first private companies to implement worker welfare benefits voluntarily, even before the enactment of social security laws. Their model of **housing, health care, and provident fund contributions** influenced national labor policy.

3. Challenges in the Unorganized Sector

Despite the legal framework, social security coverage was largely limited to the organized sector, which accounts for only about 7–10% of India's workforce. The unorganized sector, comprising over 90%, remained vulnerable.

Response Measures:

- Building and Other Construction Workers' Welfare Act, 1996
- Unorganized Workers Social Security Act, 2008

But these laws faced implementation gaps, lack of awareness, and administrative bottlenecks.

4. Recent Legal Reforms and Modernization (2010s–Present)

Recognizing the need to simplify, consolidate, and universalize social security, the Indian government undertook major reforms.

Code on Social Security, 2020

This is a landmark legislation that consolidates nine central labor laws related to social security, including:

- *ESI Act (1948)*
- *EPF Act (1952)*
- *Maternity Benefit Act (1961)*
- *Unorganized Workers' Social Security Act (2008); etc.*

Key Features:

- Universal Coverage: Extends social security to gig workers, platform workers, and the self-employed.
- Simplification: Unified definitions, compliance norms, and digital record-keeping.
- e-SHRAM Portal: A national database for unorganized workers to facilitate delivery of welfare benefits.

Case Example – Gig Workers: Platforms like **Swiggy, Zomato, and Ola** now fall under the ambit of social security, providing hope for **millions of informal workers** with no previous access to pensions or insurance.

5. International Influence and Commitments

ILO Conventions

India is a signatory to:

- Convention No. 102 (Social Security – Minimum Standards)
- Convention No. 183 (Maternity Protection)

These conventions guide India's laws to align with global norms.

SDG Commitment (Goal 1.3)

- Calls for implementing nationally appropriate social protection systems.
- India's digital and legislative efforts are aligned with SDG targets.

The historical and legal evolution of social security in India demonstrates a progressive shift from limited colonial-era protections to a more inclusive and structured system today. However, challenges remain in terms of coverage, funding, and enforcement, especially for the informal sector.

With the Social Security Code, 2020 and digitization efforts like e-SHRAM, India is on the path to creating a universal, transparent, and equitable social security framework that aligns with global standards and constitutional aspirations.

Self-Asking Questions

1. Which social security law do you think has had the most impact and why?

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2. How important is legal reform in adapting social security to changing work patterns?

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16.9 Types of Social Security Schemes in India

Social security schemes in India are broadly classified into two categories:

1. Contributory Social Security Schemes
2. Non-Contributory Social Security Schemes (Social Assistance Programmes)

1. Contributory Social Security Schemes

These are schemes where both employees and employers (sometimes government) contribute a defined sum regularly. These contributions are pooled to provide social security benefits.

(a) Employees' Provident Fund (EPF) Scheme

Administered by: Employees' Provident Fund Organisation (EPFO) under the EPF & MP Act, 1952.

Objective: To provide **retirement benefits** through a fund built by monthly contributions.

Contributions (in general):

- Employee: 12% of basic wage
- Employer: 12% (split into EPF, pension, insurance)

Benefits:

- Lump sum amount on retirement

- Partial withdrawals for housing, illness, marriage, etc.

(b) Employees' Pension Scheme (EPS)

Launched: 1995, as part of EPFO.

Funded by: Employer's 8.33% share of EPF contribution.

Benefit:

- Monthly **pension after retirement** (minimum 10 years of service).
- Pension to **widows/children** in case of employee's death.

(c) Employees' State Insurance (ESI) Scheme

- **Administered by**: Employees' State Insurance Corporation (ESIC)
- **Under**: ESI Act, 1948
- **Eligibility**: Employees earning up to ₹21,000/month in factories and establishments with 10+ workers.
- **Contributions**:
- Employer: 3.25%, Employee: 0.75% of wages

Benefits:

- Free medical care
- Cash benefits during sickness, maternity, disability
- Dependents' benefit on death due to occupational hazard
- **Coverage (2024)**: 13+ crore beneficiaries

Example: In 2022, ESIC covered a family's entire cancer treatment expenses, amounting to ₹3.8 lakh.

(d) Maternity Benefit under ESI & Maternity Benefit Act

- **ESI**: Women insured under ESI are entitled to 26 weeks of paid maternity leave.

- **Maternity Benefit Act, 1961**: For women in non-ESI-covered sectors (establishments with 10+ employees), the employer provides paid leave.

2. Non-Contributory Social Security Schemes

These are welfare schemes fully funded by the government, aimed at providing social protection to the poor, elderly, disabled, widows, and other vulnerable groups. Here we highlight some key points in a nutshell:

(a) ***National Social Assistance Programme (NSAP)***

- **Launched**: 1995
- **Administered by**: Ministry of Rural Development
- **Components**:
  - **Indira Gandhi National Old Age Pension Scheme (IGNOAPS)**: For persons above 60 years from BPL families
  - **Indira Gandhi National Widow Pension Scheme (IGNWPS)**: For widows aged 40–79 years
  - **Indira Gandhi National Disability Pension Scheme (IGNDPS)**: For persons with 80% disability

(b) ***Atal Pension Yojana (APY)***

- **Launched**: 2015, under National Pension System
- **For**: Unorganised workers
- **Contribution**: Small monthly amount; government co-contributes for some eligible workers
- **Benefits**: Fixed pension of ₹1,000 to ₹5,000 after age 60
- **As of 2024**: Over 5.2 crore subscribers

(c) ***Pradhan Mantri Shram Yogi Maandhan (PM-SYM)***

- **Launched**: 2019

- **For**: Unorganised workers aged 18–40 earning up to ₹15,000/month
- **Benefit**: ₹3,000/month pension after age 60
- **Contribution**: Worker and government contribute equally

(d) ***Pradhan Mantri Jeevan Jyoti Bima Yojana (PMJJBY)***

- **Insurance cover**: ₹2 lakh in case of death (natural or accidental)
- **Premium**: ₹436/year
- **Eligibility**: 18–50 years

3. Emerging Schemes for Gig and Platform Workers

e-SHRAM Portal (Launched 2021)

- **Objective**: National database for unorganised workers.
- **Benefits**:
  - ❖ Accident insurance of ₹2 lakh under PMSBY
  - ❖ Portability of benefits
  - ❖ Social security linkage
- **Registrations (as of 2024)**: 28 crore+

Check Your Progress

1. Differentiate between contributory and non-contributory schemes.

2. Name two social security schemes aimed at unorganized workers.

3. What risks do social security schemes typically cover?

16.10 Importance of Social Security in the Indian Context

Social security plays a pivotal role in shaping the quality of life, especially in a developing country like India where economic inequalities, informal employment, and social vulnerabilities are widespread. It refers to a set of public or private measures designed to ensure protection against economic and social distress arising from unemployment, old age, sickness, maternity, disability, or the death of a breadwinner.

1. Economic Protection to the Vulnerable

In India, a large section of the population—especially those engaged in the informal sector (about 90% of the workforce)—is vulnerable to income shocks due to illness, accidents, job loss, or old age.

- **Example**: A construction worker without insurance or savings faces complete loss of income if injured on the job.
- **Schemes** like **ESIC**, **PM-SYM**, and **Atal Pension Yojana** offer economic protection in such cases.

Fact: According to ILO (2023), less than 30% of Indians have access to any formal social security scheme.

2. Improved Quality of Life and Human Development

Social security improves access to healthcare, maternity care, pensions, and education, thereby contributing to overall human development.

- **Example**: Free medical benefits under ESIC significantly reduce healthcare costs for low-income families.
- **Impact**: Decreased infant and maternal mortality rates, better educational outcomes among children of secured households.

HDI Rank: India ranks 132 out of 191 (UNDP Human Development Report, 2023) — improved social security coverage can boost this position.

3. Support for Elderly and Retired Workers

In a society with a growing ageing population (estimated 20% by 2050), social security is crucial for post-retirement sustenance.

- **Pension schemes** such as **EPS**, **PM-SYM**, and **Atal Pension Yojana** provide financial independence to senior citizens.

Census 2011: Over 10 crore Indians are above 60 years old; the number is projected to double by 2040.

4. Social Equity and Justice

Social security ensures redistribution of income, supporting the idea of inclusive growth by bridging the gap between the rich and the poor.

- Helps in addressing gender inequality—maternity benefits and widow pensions empower women.
- SC/STs, minorities, and differently-abled persons are protected through targeted schemes under NSAP.

Example: In Kerala, the **Sevana Pension Scheme** ensures monthly pensions to elderly widows and the disabled, promoting dignity and equity.

5. Boosts Labour Productivity and Industrial Peace

Social security schemes enhance workers' morale, loyalty, and productivity, thus benefitting employers as well.

- Workers with access to medical benefits, paid leaves, and pensions show greater job satisfaction and reduced absenteeism.
- Promotes industrial harmony and reduces the risk of strikes and disputes.

ILO Report (2022): Secure workers are 23% more productive and less likely to shift jobs than those without benefits.

6. Disaster and Crisis Support

Social security acts as a shock absorber during emergencies such as pandemics, economic recessions, or natural calamities.

- During COVID-19, schemes like PM Garib Kalyan Yojana, EPF relief, and free ration distribution played a crucial role.
- Fact: Over 22 crore Jan Dhan account holders (mostly women) received direct cash transfers under the relief package in 2020.

7. Encouragement of Formalisation of Employment

Social security schemes **incentivize registration and formal employment**, reducing informality in the labour market.

- Employers providing EPF/ESI attract more skilled workers.
- Government initiatives like **e-SHRAM**, **Code on Social Security 2020** aim to bring unorganised workers into the formal safety net.

e-SHRAM Registrations (2024): Crossed **28 crore**, showing an increasing awareness among informal workers.

8. Fulfilment of Constitutional and International Obligations

- **Article 41** of the Indian Constitution (Directive Principles): Enjoins the state to provide public assistance in cases of unemployment, old age, sickness, and disablement.
- India is a signatory to the **International Labour Organization (ILO) Convention 102** on minimum standards of social security.

Legal Foundation: The **Code on Social Security, 2020** consolidates nine previous laws and strengthens India's commitment toward comprehensive social protection.

In India's diverse and densely populated economy, social security is not merely a welfare tool—it is a foundation for inclusive growth, national stability, and economic resilience. Strengthening and expanding social security, especially for informal sector workers, women, and the elderly, is not only a moral and constitutional obligation, but also a strategic necessity to achieve sustainable development goals (SDGs) and a just society.

16.11 Limitations and Challenges of Social Security in India

Despite multiple welfare schemes and legal frameworks, the social security landscape in India faces numerous challenges. These limitations stem from a combination of institutional weaknesses, financial constraints, administrative gaps, and socioeconomic inequalities.

1. Low Coverage, Especially in the Informal Sector

Although over 90% of India's workforce is in the unorganised or informal sector, social security schemes largely cater to the organised sector.

- **e-SHRAM portal** (launched in 2021) is a step forward, yet awareness and uptake remain low.
- **Example**: A street vendor or agricultural labourer often lacks access to ESI, EPF, or pension schemes.

ILO Report (2023): Only **24% of Indian workers** have any form of social security coverage.

2. Lack of Awareness and Digital Divide

Most workers, particularly in rural and remote areas, are unaware of existing schemes.

- **Example**: A majority of rural women remain unaware of **PMJJBY** and **PMSBY**, despite eligibility.
- The digital divide hinders access to portals like **e-SHRAM** and **UMANG**, especially among the elderly and illiterate.

NFHS-5 (2021): Over 40% of rural households in India have no access to smartphones or reliable internet.

3. Complexity and Fragmentation of Schemes

India has multiple overlapping schemes under different ministries and departments, leading to duplication, confusion, and administrative burden.

- Over 30 central schemes exist for pensions, insurance, and health, but without integration.

Example: In UP, workers faced difficulty in transferring their EPF funds after switching to a different employer due to mismatched records.

4. Irregular Contributions and Financial Unsustainability

In contributory schemes like **EPF** and **ESI**, both employers and employees often fail to make regular contributions.

- In informal setups, wages are not formally recorded, making it difficult to calculate or deduct contributions.
- **Example**: Many small businesses avoid ESI registration to evade costs, even when legally obligated.

EPFO Annual Report (2022): Over ₹5,000 crore remains unclaimed due to account mismatches and inactive accounts.

5. Inadequate Benefit Amounts

Many social assistance schemes offer meagre monetary support, insufficient to meet basic living costs.

- **IGNOAPS** offers only ₹200–₹500 per month to elderly beneficiaries.
- **PMJJBY and PMSBY** offer life insurance of ₹2 lakhs, which is inadequate for urban families.

6. Gender Disparities in Access

Women, especially in rural and informal employment, face structural barriers in availing social security.

- Lower labour force participation, unpaid work, and lack of documentation make them invisible to the system.

INSIGHT: In Tamil Nadu, only 12% of registered domestic workers were covered under government pension schemes (2022).

7. Delayed Implementation and Corruption

The delivery of benefits is often marred by red tape, delays, and leakages.

- Pension payments under NSAP are often delayed by months.
- Intermediaries may charge bribes to facilitate applications or withdrawals.

CAG Reports have frequently flagged irregularities in EPFO accounts, misallocation of pensions, and dead beneficiaries receiving payments.

8. Lack of Portability Across States and Jobs

Migrant and gig workers face severe challenges due to lack of portability of benefits across locations and employers.

- A worker moving from Bihar to Delhi may lose access to state-specific welfare benefits.
- Gig workers with multiple employers often remain outside contributory schemes like EPF.

NSSO Data (2019): About **37% of Indian workers are inter-state migrants**, but less than 10% can access social security outside their home state.

9. Limited Inclusion of Gig and Platform Workers

New forms of employment, such as delivery agents, ride-share drivers, and freelancers, are still not adequately covered.

- The **Code on Social Security, 2020**, includes gig workers, but rules and implementation are pending.

NITI Aayog (2022): India has over **77 lakh gig workers**, expected to grow to 2.35 crore by 2030.

10. Inconsistent Monitoring and Evaluation

There is no unified database or audit mechanism to monitor how well schemes are performing.

- Many beneficiaries are counted multiple times due to lack of Aadhaar linkage.
- Outcome-based monitoring is missing in most schemes.

While India has made commendable strides in designing a broad framework of social security, the real challenge lies in effective implementation, coverage, and monitoring. A unified, portable, digitized, and inclusive system—especially one that brings in informal, gig, and rural workers—is crucial. Unless these limitations are addressed, the promise of social security as a fundamental right and a tool of equity will remain largely unfulfilled.

Self-Asking Questions

1. Why might certain groups be systematically excluded from social security benefits?

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2. How can government and civil society work together to overcome these exclusions?

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16.12 Summing Up

Labour welfare and social security form the bedrock of a just and humane industrial society. As India continues to undergo rapid industrialization, urbanization, and globalization, the need for comprehensive welfare and protection measures for its vast workforce has become more critical than ever.

The concept of labour welfare goes beyond the statutory obligations of employers. It embodies the spirit of human dignity, industrial peace, and social responsibility. Welfare measures—be they statutory or voluntary, intra-mural or extra-mural—not only enhance the well-being of workers but also significantly contribute to increased productivity, reduced absenteeism, and improved industrial relations. Initiatives such as canteens, crèches, housing, health care, and education are not mere expenditures but long-term investments in human capital.

On the other hand, social security acts as a stabilizing mechanism in a worker's life cycle. It provides protection against the uncertainties of employment, illness, disability, maternity, and old age. The historical and legal evolution of social security in India, from the colonial era to the post-independence period, illustrates a progressive commitment to safeguarding workers' rights and livelihoods. Important legislative frameworks such as the Employees' State Insurance Act, Employees' Provident Fund Act, and more recently, the Code on Social Security, 2020, mark significant milestones in institutionalizing social protection.

Despite the presence of multiple schemes and agencies, the implementation of welfare and social security in India faces serious challenges—limited coverage, fragmentation of schemes, low awareness, inadequate funding, lack of portability, and exclusion of informal and gig workers. These limitations have been laid bare during times of crisis, most notably during the COVID-19 pandemic, where millions of unregistered and unsupported workers suffered immensely due to gaps in the social security net.

There is, therefore, an urgent need to reimagine and strengthen the social protection framework in India. This calls for:

- Universal and inclusive coverage, especially for informal sector workers, women, and the elderly;
- Integrated digital platforms that are user-friendly and portable across states;
- Better governance and accountability mechanisms to prevent leakages and corruption;
- Higher public investment in social security as a share of GDP;

- And a rights-based approach that guarantees basic economic security to all citizens, in line with the Directive Principles of State Policy.

In conclusion, the twin pillars of labour welfare and social security are not only essential for protecting workers from economic vulnerability but are also crucial for achieving sustainable and equitable development. A nation that aspires to be a $5 trillion economy cannot afford to ignore the welfare of the very workforce that builds its foundation. Ensuring their well-being is not just an economic imperative—it is a moral, social, and constitutional obligation.

16.13 Model Questions

A. Multiple Choice Questions

1. Which Article of the Indian Constitution directs the State to make provisions for securing just and humane conditions of work?
   a) Article 15
   b) Article 21
   c) Article 42
   d) Article 19

2. The e-Shram portal launched by the Government of India is aimed at:
   a) Providing housing for labourers
   b) Registering unorganized workers in a centralized database
   c) Promoting trade unions
   d) Monitoring workplace accidents

3. Which of the following is NOT covered under the Code on Social Security, 2020?

a) Provident Fund

b) Gratuity

c) Maternity Benefits

d) Corporate Tax Reforms

4. Which scheme offers old-age pension benefits to unorganized sector workers in India?

   a) PM-JAY

   b) PM-SYM

   c) NPS

   d) APY

5. Which international organization advocates for the "Social Protection Floors Recommendation"?

   a) WTO

   b) ILO

   c) IMF

   d) SAARC

B. Short Answer Questions (5 Marks Each)

(Answer in about 150 words)

1. Explain the concept of labour welfare and its significance in the Indian industrial context.
2. What are the key features of the Code on Social Security, 2020?
3. Discuss any two major social security schemes available for workers in the unorganized sector.
4. How has digitalization transformed the delivery of labour welfare measures in India?
5. Briefly explain the role of employers and trade unions in promoting labour welfare.

C. Long Answer Questions (10 Marks Each)

(Answer in about 300–350 words)

1. Critically examine the challenges faced by the Indian labour welfare system and suggest measures to overcome them.
2. Discuss the emerging trends and reforms in labour welfare and social security in India with relevant examples.
3. Explain the importance of social security in a developing economy like India. How does it contribute to economic and social development?
4. Evaluate the role of different agencies (government, employers, trade unions, NGOs) in the promotion of labour welfare in India.
5. Analyze the impact of informalization and the gig economy on the future of social security systems in India.

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UNIT-17

ILO: CONVENTIONS AND RECOMMENDATIONS

Unit Structure:

17.1 Introduction

17.2 Objectives

17.3 The Genesis and Structure of the ILO

17.4 Understanding Conventions and Recommendations

17.5 Categories of ILO Conventions

17.6 Recommendations: An Overview

17.7 ILO Conventions and Recommendations: Indian Perspective

17.8 Impact and Criticism of ILO Instruments

17.9 Relevance to Commerce and Trade

17.10 The Future of ILO Standards

17.11 Summing Up

17.12 Model Questions

17.13 References and Suggested Readings

17.1 Introduction

The International Labour Organization (ILO) is a specialized agency of the United Nations, founded in 1919 as part of the Treaty of Versailles that concluded World War I. Its establishment was a landmark in global efforts to promote peace through social justice, based on the belief that lasting peace cannot be achieved without fair labour standards. As the world's first and oldest international organization dedicated to labour issues, the ILO holds a unique place in the realm of global governance.

At its core, the ILO seeks to advance social justice and promote internationally recognized human and labour rights. Its mission encompasses the creation of decent working conditions, the elimination of exploitation and discrimination in the workplace, and

the enhancement of employment opportunities worldwide. This is accomplished through its comprehensive system of international labour standards—primarily in the form of conventions and recommendations—which guide countries in formulating and reforming national labour laws and policies.

Over the past century, the ILO has developed a vast body of normative instruments addressing a wide range of labour-related issues, from fundamental rights such as freedom of association and the abolition of forced labour, to technical matters like occupational safety, social security, and employment policy. Its work is grounded in a unique tripartite structure that brings together representatives of governments, employers, and workers, ensuring that its standards reflect a balanced and inclusive approach to labour relations.

The conventions and recommendations of the ILO have been instrumental in shaping the modern landscape of labour rights. They serve not only as benchmarks for national legislation but also as tools for evaluating the social responsibility and ethical conduct of businesses in an increasingly globalized economy. These instruments have influenced labour codes, inspired judicial interpretations, and underpinned policy reforms in countries around the world.

For India—a founding member of the ILO—the relevance of these standards is significant. As one of the world's largest and most diverse labour markets, India faces both opportunities and challenges in aligning its labour framework with global standards while addressing its socio-economic complexities. Additionally, for students and professionals in the field of commerce, understanding the principles and implications of ILO conventions and recommendations is essential. Labour standards increasingly intersect with international trade, corporate governance, investment

decisions, and business ethics, making them a vital area of study for anyone engaged in commercial and economic activities.

This chapter explores the historical background, legal nature, and practical implications of ILO conventions and recommendations. It examines their formulation, classification, implementation, and influence, particularly in the Indian context. By doing so, it aims to equip postgraduate commerce students with a nuanced understanding of the global labour standards regime and its intersection with economic and commercial systems.

17.2 Objectives

This unit is an attempt to analyse the ILO Conventions and Recommendations. After going through this unit you will be able to:

1. *understand* the origin, purpose, and structure of the International Labour Organization (ILO) and its standard-setting role,
2. *differentiate* between ILO Conventions (legally binding instruments) and Recommendations (non-binding guidelines), and explain their relevance in global labour governance,
3. *identify* key ILO Conventions related to fundamental labour rights, including those on freedom of association, forced labour, child labour, and non-discrimination.

17.3 The Genesis and Structure of the ILO

17.3.1 Historical Background

The International Labour Organization (ILO) was established in 1919 under the Treaty of Versailles, which formally ended World War I. The devastation of the war highlighted the urgent need for social reform, especially in the realm of labour conditions, which

were widely seen as unjust and exploitative across industrialized nations. The founders of the ILO believed that universal and lasting peace could only be achieved if it was based on social justice, particularly with respect to workers' rights. The principle that “labour is not a commodity” became central to the ILO’s foundation.

Unlike other international institutions at the time, the ILO was created with a social mandate focused not just on economic growth but on human dignity. It reflected the growing consensus among nations that economic progress must go hand in hand with improved labour conditions and rights for workers. The organization began functioning as an autonomous body affiliated with the League of Nations. After the Second World War, with the formation of the United Nations in 1945, the ILO became the first specialized UN agency in 1946, further solidifying its global role in labour governance.

The ILO’s historical journey is also marked by a number of achievements, including receiving the Nobel Peace Prize in 1969 on its 50th anniversary, in recognition of its efforts to improve working conditions and promote social justice around the world.

17.3.2 Objectives and Mission

The ILO's mission is rooted in its founding constitutional objectives, reaffirmed over time and notably encapsulated in the 1944 Declaration of Philadelphia. These objectives include:

Promoting and realizing fundamental principles and rights at work, such as freedom of association and the elimination of forced labour, child labour, and discrimination in employment.

Creating greater opportunities for women and men to secure decent employment and income, which includes not just job creation but ensuring work with dignity, fair wages, and security.

Extending social protection to all, including access to healthcare, social security, maternity benefits, and unemployment insurance, especially in developing and low-income countries.

Strengthening dialogue among governments, employers, and workers, which is critical for developing harmonious and effective labour relations and resolving disputes.

The concept of "decent work"—coined by the ILO—has become central to its mission and is increasingly adopted by governments, international organizations, and businesses worldwide. The Decent Work Agenda is based on four strategic pillars: employment creation, rights at work, social protection, and social dialogue. This agenda is also integral to achieving the United Nations Sustainable Development Goals (SDGs), particularly SDG 8: Decent Work and Economic Growth.

17.3.3 Tripartite Structure

One of the most distinctive features of the ILO is its tripartite structure, which sets it apart from other international bodies. The tripartism principle means that the ILO's decision-making and policy formulation processes are jointly undertaken by representatives of:

Governments – who represent the state's interests and legislative power.

Employers – who provide the perspective of business and industry.

Workers – who bring forward the voice and concerns of the labour force.

Each member state of the ILO sends a four-member delegation to the annual International Labour Conference (ILC): two government delegates, one employers' delegate, and one workers' delegate. All delegates have equal voting rights, regardless of their stakeholder group. This inclusive model ensures that all perspectives are taken into account when formulating international labour standards.

The tripartite model is also reflected in the structure of the ILO's Governing Body—its executive council—which supervises the implementation of decisions and policies. The International Labour Office, based in Geneva, serves as the ILO's permanent secretariat, supporting research, standard-setting, technical cooperation, and administration.

Tripartism promotes consensus-building and enhances the legitimacy and relevance of ILO standards. It also encourages social dialogue at the national level, helping member countries adopt more balanced and sustainable labour policies.

17.4 Understanding Conventions and Recommendations

17.4.1 Definitions

ILO Conventions are formal international treaties that, once ratified by a member state, become legally binding. Countries that ratify a convention are obligated to incorporate its principles into national law and practice. These conventions typically set minimum labour standards related to working conditions, rights at work, and social protections.

In contrast, Recommendations are non-binding instruments that offer guidance and policy suggestions. They either accompany a convention to provide practical details for implementation or address new or emerging labour issues independently. Although not

enforceable, recommendations influence policy-making and labour reforms worldwide.

17.4.2 Formulation Process

ILO standards are developed through an inclusive and consultative process involving all three constituents: governments, employers, and workers. This process culminates at the International Labour Conference (ILC), held annually. A proposed convention or recommendation is typically discussed over two sessions of the ILC. During these discussions, feedback is gathered and revisions are made to ensure broad consensus. A two-thirds majority vote is required for adoption, reflecting the ILO's commitment to democratic and balanced decision-making.

17.4.3 Ratification and Implementation

After adoption, a convention is open for ratification by ILO member states. Ratification signifies a country's commitment to align its national laws and policies with the convention's standards. This often involves legislative changes, administrative measures, and collaboration with stakeholders. Once ratified, countries must submit periodic reports to the ILO on their progress. While recommendations do not require ratification, they are widely used to guide national policy and practice.

17.5 Categories of ILO Conventions

The ILO has developed over 190 conventions covering a wide range of labour issues. These conventions are grouped into three broad categories: Fundamental Conventions, Governance (Priority) Conventions, and Technical Conventions. Each category plays a

unique role in shaping global labour standards and guiding national labour policies.

17.5.1 Fundamental Conventions

Fundamental conventions are considered the core of international labour standards. They protect basic human rights at work and reflect universal values that are binding on all ILO member states, whether or not they have ratified the conventions. These conventions focus on freedom, equality, security, and dignity in the workplace.

The ten Fundamental Conventions are:

- **Hours of Work (Industry) Convention, 1919 (No. 1):** This was the first ILO Convention and a landmark in labour rights. It established the **standard working hours as 8 hours per day and 48 hours per week** for industrial workers. The Convention aimed to protect workers from exploitation and improve productivity and well-being. Although initially focused on industry, it laid the groundwork for future conventions on working hours in other sectors. It reflects the ILO's foundational principle that human well-being and economic performance are interlinked.
- **Forced Labour Convention, 1930 (No. 29):** Prohibits all forms of forced or compulsory labour, except under certain circumstances such as military service or civic obligations.
- **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87):** Grants workers and employers the right to form and join organizations of their choice without prior authorization.

- **Right to Organise and Collective Bargaining Convention, 1949 (No. 98):** Protects workers against anti-union discrimination and promotes voluntary collective bargaining between employers and workers.
- **Equal Remuneration Convention, 1951 (No. 100):** Promotes equal pay for men and women for work of equal value, thus reducing gender-based wage discrimination.
- **Abolition of Forced Labour Convention, 1957 (No. 105):** Builds on Convention No. 29 by prohibiting forced labour used as punishment for political opinions, labour discipline, or participation in strikes.
- **Discrimination (Employment and Occupation) Convention, 1958 (No. 111):** Aims to eliminate discrimination in employment based on race, gender, religion, political opinion, national origin, or social background.
- **Minimum Age Convention, 1973 (No. 138):** Sets the minimum age for admission to employment to ensure that children are not exploited or deprived of education due to work.
- **Worst Forms of Child Labour Convention, 1999 (No. 182):** Urges immediate action to eliminate the most hazardous and exploitative forms of child labour, such as slavery, trafficking, and work that endangers children's health and morals.
- **Violence and Harassment Convention, 2019 (No. 190):** This is the first international treaty to address violence and harassment in the world of work, including gender-based violence. It defines violence and harassment broadly and requires member states to adopt policies, training, and complaint mechanisms. It is seen as a progressive step toward making workplaces safe and inclusive for all.

These conventions form the foundation for decent work and social justice worldwide. The ILO urges all member countries to ratify and implement them, regardless of their level of economic development.

17.5.2 Governance (Priority) Conventions

Governance conventions—also referred to as priority conventions—support the effective functioning of labour institutions and policies. They are essential for maintaining well-regulated labour markets and for building the administrative capacity of member states. The ILO recommends that all member countries give priority to ratifying and implementing these conventions.

Key Governance Conventions include:

- **Labour Inspection Convention, 1947 (No. 81):** Establishes a system of labour inspection in industrial and commercial workplaces to ensure compliance with labour laws and regulations. Inspectors are tasked with advising employers and workers and enforcing legal provisions.
- **Employment Policy Convention, 1964 (No. 122):** Encourages member states to develop comprehensive employment policies aimed at full, productive, and freely chosen employment.
- **Labour Statistics Convention, 1985 (No. 160):** Sets out guidelines for the systematic collection, compilation, and dissemination of labour statistics to support informed decision-making and policy planning.

These conventions strengthen institutional capacity and improve transparency in labour administration.

17.5.3 Technical Conventions

Technical conventions address specific aspects of working conditions, sectors, and occupational groups. They are more detailed and cover a wide range of specialized topics, such as workplace safety, employment services, social security, maritime and agricultural labour, migrant workers, and working hours.

Examples of issues covered under technical conventions include:

Occupational safety and health
Maternity protection
Seafarers' rights and working conditions
Employment of migrant workers
Workplace violence and harassment

These conventions provide practical tools for addressing emerging challenges and improving workplace conditions in particular contexts or industries. Although they may not receive as widespread ratification as fundamental conventions, technical conventions are vital for advancing sector-specific standards and protections.

17.6 Recommendations: An Overview

The ILO's work in setting labour standards is not limited to binding conventions. It also formulates recommendations, which serve as vital instruments in guiding member states on labour-related policies and practices. Though not legally enforceable, recommendations often act as blueprints for good practice and are influential in shaping national legislation and international dialogue on labour standards.

17.6.1 Nature and Purpose

ILO recommendations are designed to provide practical, flexible, and detailed guidance to member states on a variety of labour and

social policy issues. They are meant to help governments interpret and implement conventions more effectively or address areas where consensus is emerging but binding standards are not yet feasible.

While recommendations are not legally binding, they carry significant persuasive power. Many countries voluntarily adopt their principles, especially when formulating new laws or amending existing labour policies. Recommendations often reflect a progressive vision of labour standards and act as precursors to future conventions or legal reforms.

In essence, their purpose is to:

- Supplement conventions with detailed policy guidance.
- Address areas where binding agreements are not yet possible.
- Encourage member states to adopt best practices suited to their socio-economic conditions.

17.6.2 Types of Recommendations

ILO recommendations fall into two broad categories:

Supplementary Recommendations:

These are issued alongside a convention and offer specific instructions or clarifications to aid in the implementation of that convention. They ensure that countries have a clear and uniform understanding of how to apply the principles of the convention in real-world settings.

Example: **The Labour Inspection Recommendation, 1947 (No. 81)** supplements the Labour Inspection Convention (No. 81), offering guidance on inspector training, responsibilities, and organizational structure.

Independent Recommendations:

These are stand-alone documents that address emerging or complex labour issues for which no convention currently exists or where international consensus has not matured into a binding treaty. They allow the ILO to offer direction on cutting-edge or sensitive topics without the delays or challenges associated with formal ratification processes.

Example: **The Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204)** stands alone and deals with the crucial issue of integrating informal sector workers into formal economic structures.

Both types play a crucial role in evolving global labour governance and encourage forward-thinking, adaptable policy development.

17.6.3 Examples of Key Recommendations

Several recommendations have had a major impact on international labour discourse. Below are two prominent examples:

These examples demonstrate how recommendations can bridge the gap between ideal standards and practical implementation, helping countries to modernize labour systems in line with contemporary economic and social realities.

1. **Protection of Wages Recommendation, 1949 (No. 85):** This recommendation complements the Protection of Wages Convention (No. 95) and provides guidance on ensuring the regular and prompt payment of wages, the method of wage payment, and the protection of workers from unauthorized deductions. It emphasizes that wages should be paid directly to the worker in legal tender, on a regular basis, and with full transparency regarding the calculations involved. The

recommendation also encourages the establishment of legal safeguards to protect workers from unjust wage reductions and to ensure that payment systems are fair, understandable, and free from exploitation, especially for vulnerable groups such as migrant and unorganized sector workers.

2. **Equal Remuneration Recommendation, 1951 (No. 90):** Issued alongside Convention No. 100, this recommendation provides a framework for promoting equal pay for work of equal value between men and women. It stresses the need for governments and employers to review wage structures and job classifications to eliminate gender bias and to ensure that jobs traditionally held by women are not undervalued. It encourages the use of objective criteria such as skill, effort, responsibility, and working conditions to determine job value, rather than relying on stereotypes. This recommendation has been a foundational instrument in shaping national wage policies and promoting gender equality in employment.

3. **Discrimination (Employment and Occupation) Recommendation, 1958 (No. 111):** This recommendation supports Convention No. 111 and expands on how countries can combat discrimination in employment and occupation. It calls for national policies that promote equality of opportunity and treatment in access to jobs, training, and promotion, and that remove systemic barriers based on race, colour, sex, religion, political opinion, national extraction, or social origin. It also suggests positive measures such as education and awareness campaigns to change societal attitudes and foster inclusive workplaces. The recommendation urges states to consult with employers' and workers' organizations in developing these policies.

4. **Employment Policy Recommendation, 1964 (No. 122):** This recommendation complements the Employment Policy Convention (No. 122) and outlines practical measures to achieve full, productive, and freely chosen employment. It encourages governments to adopt comprehensive employment policies that align with broader economic and social development goals. These policies should include training programs, incentives for job creation, and support for small and medium-sized enterprises (SMEs). It also stresses the importance of collecting labor market data to guide decision-making and the need for international cooperation in tackling unemployment and underemployment, especially in developing countries.

5. **Minimum Age Recommendation, 1973 (No. 135):** Supporting Convention No. 138, this recommendation provides detailed guidelines on progressively raising the minimum age for employment and removing children from hazardous work. It encourages the creation of national lists of hazardous occupations prohibited to minors and promotes the development of education systems as an alternative to child labor. The recommendation also highlights the importance of transitional arrangements in countries where child labor is widespread, balancing immediate prohibitions with support systems for families dependent on children's income.

6. **Minimum Age Recommendation, 1973 (No. 146):** This recommendation supplements the previous one and adds that children removed from labour should have access to free education and vocational training. It emphasizes integrated social policies that support families, provide food security, healthcare, and community development. The recommendation also highlights the role of international cooperation in eliminating child labour, and the importance of aligning child

labour policies with broader efforts to reduce poverty and improve social justice.

7. **Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169):** This recommendation strengthens earlier employment policy instruments by focusing on the quality and sustainability of employment. It calls for strategies that reduce inequalities in employment access among different social groups, including women, youth, disabled persons, and ethnic minorities. It stresses the importance of skill development, entrepreneurship promotion, and labor-intensive technologies in fostering inclusive employment growth. It also encourages governments to involve trade unions and employer organizations in designing and implementing employment strategies.

8. **Worst Forms of Child Labour Recommendation, 1999 (No. 190):** Adopted alongside Convention No. 182, this recommendation provides a detailed roadmap for eliminating the worst forms of child labour. It outlines measures such as removing children from exploitative work, providing access to education and rehabilitation, and addressing root causes like poverty and lack of access to social services. It emphasizes the need for social protection programs, awareness campaigns, and community involvement to create an environment where child labour is neither necessary nor tolerated. It also promotes international collaboration and funding to support national action plans.

9. **HIV and AIDS Recommendation, 2010 (No. 200):** This recommendation provides guidance on workplace responses to HIV and AIDS. It calls for the elimination of discrimination against workers living with HIV, the integration of HIV

prevention and treatment into occupational health policies, and the involvement of employers and trade unions in awareness-raising and support initiatives. It emphasizes confidentiality, non-discrimination, and voluntary testing. The recommendation also encourages measures to ensure that affected workers are not denied employment opportunities and are supported with healthcare and counseling services.

10. **Violence and Harassment Recommendation, 2019 (No. 206):** Issued with Convention No. 190, this recommendation offers practical guidance on preventing and addressing violence and harassment in the world of work. It outlines how employers and governments can develop workplace policies, grievance procedures, support services for victims, and training programs. It highlights the need for gender-sensitive risk assessments, protection of whistleblowers, and the inclusion of informal workers and third parties such as clients or customers under protection mechanisms. It promotes a holistic, inclusive, and integrated approach to eliminating violence and harassment.

17.7 ILO Conventions and Recommendations: Indian Perspective

India's relationship with the International Labour Organization (ILO) is both historic and evolving. As one of the organization's founding members, India has long been engaged in the development and implementation of international labour standards. However, the extent and pace of its adoption of ILO conventions and recommendations are influenced by the country's diverse socio-economic conditions, federal structure, and labour market realities.

17.7.1 India and the ILO

India became a founding member of the ILO in 1919 and has maintained a strong presence in the organization since then. The country has played an active role in shaping international labour policy through its participation in various ILO conferences, technical committees, and governance bodies, including the Governing Body of the ILO.

India supports the ILO's tripartite model and regularly sends delegations comprising government officials, employers' representatives, and workers' representatives to the annual International Labour Conference. The Ministry of Labour and Employment serves as the nodal agency responsible for India's engagement with the ILO.

While India has shown consistent support for the principles of the ILO, its approach to ratifying conventions is selective and cautious. Ratification is typically undertaken when the provisions of the convention are already reflected in Indian laws or when the changes required are minimal. India has been more hesitant to ratify conventions that may necessitate significant legal or administrative reforms or that are seen as incompatible with its socio-political or economic framework, such as those affecting informal employment or trade union rights in certain sectors.

17.7.2 Ratified Fundamental Conventions by India

India has ratified six out of the eight ILO Fundamental Conventions, which are considered essential to protect basic labour rights. These include:

Forced Labour Convention, 1930 (No. 29): Prohibits all forms of forced or compulsory labour except under specific legal

circumstances. India's Bonded Labour System (Abolition) Act, 1976 aligns with this convention.

Abolition of Forced Labour Convention, 1957 (No. 105): Builds on Convention No. 29 by prohibiting forced labour as a form of political coercion or punishment. India ratified this as part of its commitment to eliminating bonded and coercive labour.

Equal Remuneration Convention, 1951 (No. 100): Requires equal pay for men and women for work of equal value. India implemented this through the Equal Remuneration Act, 1976.

Discrimination (Employment and Occupation) Convention, 1958 (No. 111): Aims to eliminate discrimination in employment based on race, sex, religion, political opinion, and social origin. Indian constitutional provisions and laws such as the Rights of Persons with Disabilities Act, 2016, support this principle.

Minimum Age Convention, 1973 (No. 138): Sets a minimum age for employment to ensure that children are not engaged in work that hinders education or development. India's Child Labour (Prohibition and Regulation) Act, 1986 was amended to conform with this standard.

Worst Forms of Child Labour Convention, 1999 (No. 182): Calls for the elimination of hazardous child labour and exploitation. India ratified this convention in 2017, supported by stronger enforcement mechanisms and rehabilitation programmes.

India has not ratified the following two fundamental conventions:

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87): Recognizes the right of workers and employers to form and join organizations of their choice without prior authorization. India has not ratified this due to constraints

related to the rights of government employees and security forces to form unions.

Right to Organise and Collective Bargaining Convention, 1949 (No. 98): Protects workers against anti-union discrimination and promotes collective bargaining. India's reluctance stems from concerns over regulating the right to strike and collective bargaining in essential services and the unorganized sector.

17.7.3 Implementation in Indian Labour Laws

India has incorporated the spirit and provisions of many ILO conventions into its labour legislation, even without formally ratifying all instruments. Several key laws reflect the core objectives of the ILO's international labour standards:

The Factories Act, 1948: A comprehensive law dealing with occupational safety, health, and welfare of workers in factories. It incorporates principles of decent working conditions, regulated work hours, and health standards.

The Minimum Wages Act, 1948: Ensures fair remuneration for workers, aligned with ILO recommendations on minimum wage fixing. It empowers both central and state governments to set minimum wages for various occupations.

The Child Labour (Prohibition and Regulation) Act, 1986 (amended in 2016): Prohibits employment of children below 14 years in all occupations and adolescents (14–18 years) in hazardous occupations, reflecting India's commitment to Conventions Nos. 138 and 182.

The Equal Remuneration Act, 1976: Provides for equal pay for men and women workers and prohibits gender-based discrimination

in hiring and working conditions. This aligns with Convention No. 100.

The Code on Wages, 2019 (part of the Labour Code reforms): Consolidates laws related to wages, including minimum wage, equal remuneration, and payment of wages. It strengthens enforcement mechanisms and supports better wage governance in line with ILO guidance.

The Occupational Safety, Health and Working Conditions Code, 2020: Covers health and safety regulations across various industries and enhances compliance with technical conventions on working conditions.

India has also created mechanisms for labour inspection, social security, and grievance redressal, further aligning its framework with ILO standards. While implementation remains a challenge, especially in the vast informal sector, ongoing labour reforms are aimed at improving compliance and extending protections to a larger workforce.

17.8 Impact and Criticism of ILO Instruments

The conventions and recommendations of the International Labour Organization (ILO) have had a significant influence on labour practices and policies across the world. However, despite their positive contributions, these instruments are not free from criticism and practical challenges. A balanced understanding of both their impact and limitations is crucial for scholars, policymakers, and commerce professionals.

17.8.1 Positive Impact

Elevates Labour Standards Globally: One of the most important contributions of the ILO has been the globalization of decent work standards. Its conventions have set the benchmark for minimum acceptable working conditions in areas such as wages, safety, working hours, child labour, and forced labour. By offering universal norms, the ILO has empowered countries—especially developing ones—to improve labour conditions and protect vulnerable workers from exploitation. This global standard-setting function has also enabled comparability and consistency across national labour systems.

Strengthens National Labour Law Frameworks: ILO instruments often serve as a reference point for domestic labour legislation. Countries that ratify conventions are required to bring their national laws into compliance, which strengthens the legal framework protecting workers' rights. Even countries that do not formally ratify certain conventions may still draw inspiration from the ILO's recommendations when drafting or amending their own labour laws. This has led to more inclusive and comprehensive legislation in many parts of the world, including India.

Encourages Inclusive Growth and Decent Work: Through its advocacy of social justice, the ILO promotes inclusive economic development by emphasizing the importance of decent work—employment that is productive, delivers fair income, and provides security and workplace rights. This approach links labour rights with economic growth, recognizing that businesses and economies thrive when workers are treated fairly. The ILO's Decent Work Agenda has influenced international development programmes, corporate social responsibility policies, and even bilateral and multilateral trade agreements.

In the broader context of globalization, adherence to ILO norms is increasingly viewed as a marker of responsible governance and ethical business, thereby improving a country's or company's reputation in global markets.

17.8.2 Criticism and Challenges

Non-binding Nature of Recommendations Limits Enforcement

While conventions are binding for countries that ratify them, recommendations are not legally enforceable, regardless of a country's stance. This limits their practical effect, especially in countries with weak institutional frameworks or political will. Recommendations can only influence policy if national governments choose to adopt them, leading to inconsistencies in application and uneven progress in global labour standards.

Furthermore, even conventions suffer from limited enforcement mechanisms. The ILO does not have the power to sanction or penalize member states for non-compliance, unlike some international trade or financial institutions. This reliance on voluntary compliance and peer review can dilute the impact of otherwise well-formulated standards.

Difficulty in Ratification Due to Socio-Economic Diversity

Countries vary widely in their levels of economic development, political structures, labour market composition, and social norms. As a result, what may be feasible in one country might not be practical or politically acceptable in another. For example, enforcing uniform labour standards in countries with large informal economies, like India or many African nations, presents significant challenges.

Governments often hesitate to ratify conventions that require substantial administrative reform, incur high costs, or are perceived

as threats to national sovereignty. In some cases, employers also oppose ratification due to the perceived burden of regulation, while governments may fear disruption in sectors where informality or flexibility is high.

Inadequate Implementation and Compliance Mechanisms

Even when conventions are ratified, actual implementation can be inconsistent or symbolic. The ILO depends on member states to report on their own progress, which may not always reflect ground realities. In countries with weak enforcement agencies, lack of trained inspectors, or corruption, labour rights violations persist despite the existence of strong legal frameworks.

Moreover, the informal sector, which comprises a significant portion of employment in developing countries, often remains outside the reach of national labour laws inspired by ILO conventions. As a result, the protective shield of ILO norms does not extend to millions of workers who are most in need of decent working conditions.

By weighing the ILO's global influence against the barriers to implementation, students and professionals can better appreciate the complexity of creating and sustaining fair labour standards. The next section will examine how these challenges intersect with commerce and international trade, and why understanding ILO instruments is becoming increasingly important for businesses and economies worldwide.

17.9 Relevance to Commerce and Trade

The influence of the International Labour Organization (ILO) extends beyond traditional labour law and social justice discourse. In today's globalized economy, its conventions and

recommendations have significant implications for commerce and trade. Understanding ILO standards is not only essential for policymakers but also for business leaders, investors, supply chain managers, and international trade professionals. These standards play a vital role in shaping ethical business conduct, corporate social responsibility, and international trade agreements.

17.9.1 Ethical Business Practices

In an era where consumers, investors, and regulators demand greater accountability, **ethical business practices** have become central to corporate identity and performance. ILO standards serve as a foundational reference for defining and promoting ethical labour practices across industries and borders.

Companies that adhere to ILO conventions—particularly those concerning **non-discrimination**, **prohibition of child and forced labour**, and **fair remuneration**—are more likely to win the trust of stakeholders and improve their brand reputation. For example:

- **Export-oriented businesses** in developing countries often adopt ILO-aligned practices to meet the labour standards required by importing countries.
- **Certification programmes** such as SA8000 and Fair Trade include core ILO standards in their criteria, making them essential benchmarks for ethically conscious businesses.

Thus, ILO standards offer **universal guidelines** for companies to operate responsibly in global markets, enabling long-term growth based on sustainable and inclusive practices.

17.9.2 Corporate Social Responsibility (CSR)

The integration of ILO principles into **Corporate Social Responsibility (CSR)** frameworks has become increasingly

common, especially for multinational corporations (MNCs). CSR involves initiatives undertaken by companies to contribute to societal goals beyond profit-making, and labour rights are a key component of these initiatives.

Many companies voluntarily align their CSR strategies with ILO conventions and recommendations to ensure that their operations:

- Avoid **exploitative labour practices** in supply chains.
- Provide **decent work** and **safe working conditions**.
- Promote **gender equality**, **diversity**, and **worker empowerment**.

For example, a global apparel brand may ensure that its suppliers in Asia or Africa comply with the ILO's Minimum Age Convention (No. 138) and the Worst Forms of Child Labour Convention (No. 182) as part of their CSR commitments. Similarly, tech companies often address ILO-aligned concerns such as occupational safety, fair wages, and social protection for gig and contract workers.

In India, the **Companies Act, 2013** has made CSR spending mandatory for certain companies, creating more opportunities to align CSR activities with ILO's Decent Work Agenda. This alignment not only enhances the credibility of CSR efforts but also helps mitigate risks related to social unrest, labour violations, and reputational damage.

17.9.3 Trade Agreements and Labour Standards

Labour standards, particularly those articulated by the ILO, have become integral components of **bilateral and multilateral trade agreements**. These agreements often contain provisions that require the parties to uphold core labour standards as a condition for accessing certain trade benefits.

For instance:

- The **European Union's Generalised Scheme of Preferences Plus (GSP+)** offers trade incentives to developing countries that ratify and effectively implement core ILO conventions.
- The **United States-Mexico-Canada Agreement (USMCA)** includes enforceable labour standards drawn from ILO principles, such as the right to collective bargaining and prohibition of forced labour.

Such linkages between trade and labour emphasize that **economic cooperation cannot be delinked from human rights and social justice**. Countries or companies failing to comply with ILO standards risk facing **trade sanctions, boycotts, or loss of market access**.

For commerce professionals, this development means that familiarity with ILO instruments is essential to:

- **Assess trade risks and compliance requirements**.
- Navigate **non-tariff barriers** related to labour practices.
- Design **sustainable global supply chains**.

Moreover, international businesses increasingly rely on ILO norms when developing **codes of conduct**, conducting **due diligence**, and assessing **ESG (Environmental, Social, and Governance)** performance—now a vital metric for attracting investors.

17.10 The Future of ILO Standards

The world of work is undergoing rapid and profound transformation. Technological advancements, demographic shifts, climate change, and evolving business models are reshaping employment patterns, labour relations, and worker protections. In

this changing context, the ILO's mandate to promote social justice and decent work becomes even more critical. To stay relevant and effective, ILO standards must continuously evolve to address emerging challenges and to foster inclusive, fair, and sustainable labour markets globally.

17.10.1 Emerging Areas

One of the most pressing needs for the ILO is to develop standards that reflect new forms of work and employment relationships that have emerged in the 21st century. Several key areas demand immediate attention:

Gig Economy and Platform Work: The rise of digital platforms like Uber, Swiggy, Zomato, Amazon Mechanical Turk, and freelance portals has created a large workforce of "gig" or "on-demand" workers who often lack job security, social protection, and collective bargaining rights. Existing labour laws—rooted in standard employer-employee models—often fail to protect them. The ILO must consider new instruments or update existing ones to address issues like fair wages, working hours, and benefits for platform-based workers.

Artificial Intelligence (AI) and Automation: Automation and AI are transforming workplaces by reducing the need for human labour in routine jobs and creating demand for new digital skills. This shift raises concerns about job displacement, data privacy, algorithmic management, and worker surveillance. ILO standards need to evolve to ensure that technology is harnessed in ways that uphold human dignity, equity, and safety.

Remote and Hybrid Work Models: The COVID-19 pandemic accelerated the transition to remote work, highlighting both opportunities and vulnerabilities. Issues like work-life balance,

occupational health and safety, right to disconnect, and digital inclusion are becoming crucial for standard-setting.

Climate Change and Green Jobs: The transition to a green economy will generate millions of new jobs but may also displace workers in traditional industries. The ILO's standards must support this transition by promoting just transition frameworks, reskilling, and environmental sustainability in employment practices.

By proactively addressing these emerging areas, the ILO can ensure that international labour standards remain forward-looking and adaptable to the realities of tomorrow's workforce.

17.10.2 Need for Greater Ratification

For ILO standards to have universal impact, broader and deeper ratification by member states is essential. While the ILO has developed over 190 conventions and more than 200 recommendations, a significant number of them remain unratified by many countries due to:

- Political sensitivities
- Economic constraints
- Administrative capacities
- Concerns about compliance costs

For instance, despite being a founding member of the ILO, India has not ratified some of the core conventions such as those relating to freedom of association and collective bargaining, citing potential conflicts with national legislation and socio-economic contexts.

Encouraging greater ratification requires:

- Technical assistance and capacity-building from the ILO to help countries reform laws and institutions.

- Dialogue among stakeholders to reconcile domestic concerns with international standards.
- Showcasing the benefits of ratification in terms of improved trade access, investor confidence, and social cohesion.

Only through wider ratification can the ILO ensure that its conventions and recommendations contribute meaningfully to global labour governance and help establish a common minimum standard of decency at work across nations.

17.10.3 Strengthening Enforcement Mechanisms

Even when ILO conventions are ratified, enforcement and implementation remain significant challenges. Unlike many international treaties, ILO instruments rely largely on voluntary compliance, peer pressure, and reporting obligations rather than binding punitive mechanisms. This leads to uneven application and limited accountability in some regions.

To strengthen enforcement, the ILO and its member states must invest in more robust mechanisms, such as:

Improved Monitoring Systems: Regular, transparent, and comprehensive country reports on the status of implementation should be complemented with independent audits and labour inspections.

Stronger Supervisory Bodies: Existing bodies such as the Committee of Experts on the Application of Conventions and Recommendations (CEACR) and the Conference Committee on the Application of Standards (CAS) should be empowered with better tools, data, and mandates to investigate violations effectively.

Support for National Institutions: Many countries lack strong labour inspection agencies, industrial tribunals, and social dialogue

mechanisms. Providing technical and financial support to build these institutions can enhance local enforcement of ILO norms.

Increased Use of Public Pressure and Dialogue: Publishing reports of non-compliance, facilitating stakeholder dialogue, and leveraging civil society activism and media scrutiny can compel governments and corporations to improve adherence to labour standards.

Linkage to Trade and Investment Incentives: As seen in several trade agreements, linking compliance with ILO conventions to trade benefits or foreign aid can act as a powerful incentive for enforcement.

By bolstering its enforcement ecosystem, the ILO can move beyond symbolic commitments and drive real, tangible improvements in workers' lives around the world.

17.11 Summing Up

This chapter on provides an overview of the International Labour Organization's role in setting international labour standards to promote fair, safe, and decent working conditions worldwide. It explains the distinction between Conventions, which are legally binding treaties ratified by member states, and Recommendations, which offer non-binding guidance on labour policies and practices. The chapter explores the process of adoption, ratification, and implementation of these instruments, highlighting key conventions on issues such as child labour, forced labour, freedom of association, and workplace equality. It also examines the influence of ILO standards on national labour laws, with particular reference to India, and addresses the challenges in enforcement, especially in developing countries. Through global and regional case studies, the chapter illustrates the continuing relevance of ILO standards in

shaping labour rights in an era of globalization and informal employment.

17.12 Model Questions

1. Explain the difference between ILO Conventions and Recommendations. How do they function together to promote international labour standards?

2. Discuss the significance of the ILO's core Conventions. How have they influenced global labour laws and practices?

3. Analyze the role of ILO Conventions in promoting fundamental principles and rights at work, with examples from developing countries.

4. Critically examine the challenges faced by member states in ratifying and implementing ILO Conventions. What factors influence compliance?

5. Evaluate the impact of ILO Recommendations on shaping national policies and labour reforms, despite their non-binding nature.

6. Discuss the contribution of the ILO to improving labour conditions in the informal sector. How effective are its standards in addressing informality and precarity?

7. How does the tripartite structure of the ILO (governments, employers, and workers) influence the creation and enforcement of Conventions and Recommendations?

8. Assess the effectiveness of ILO supervisory mechanisms in ensuring compliance with ratified Conventions. What improvements are needed?

9. Examine India's experience with ILO Conventions. Which major conventions has India ratified, and what are the key areas of contention or delay?

10. In the context of globalization and the gig economy, how relevant are ILO Conventions and Recommendations in protecting workers' rights today?

17.13 References and Suggested Readings

1. "International Labour Law" by Dupper N.V. and Olivier M.
2. "Labour Standards in International Economic Law" by Gött Henner
3. "Fundamentals of International Labour Law" by Casale Giuseppe
4. "International Labour Standards: A Global Approach" by Blanpain Roger and Colucci Michele
5. "The ILO and the Social Challenge of the Globalization" by Maul Daniel

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UNIT-18
WTO: LABOUR STANDARDS

Unit Structure:

18.1 Introduction
18.2 Objectives
18.3 Historical Context and the Emergence of Labour Standards in Trade
18.4 The Singapore Ministerial Declaration (1996): Defining the WTO's Stance
18.5 The Doha Development Agenda and the Labour Standards Debate
18.6 Core Labour Standards: A Common Ground
18.7 Mechanisms for Promoting Labour Standards
18.8 Challenges and Controversies in Promoting Labour Standards
18.9 The Role of the WTO Moving Forward
18.10 Summing Up
18.11 Model Questions
18.12 References and Suggested Readings

18.1 Introduction

The relationship between international trade and labour standards has long been a subject of intense debate and growing importance in global economic discourse. The World Trade Organization (WTO), as the central organization responsible for overseeing global trade rules, has increasingly found itself at the crossroads of economic growth and the protection of workers' rights. While its primary mandate is to regulate and liberalize global trade, the implications of trade policies on labour conditions, rights, and standards cannot be overlooked. The need to address labour rights within the broader framework of international trade is not only a matter of ensuring

fairness in global competition but also one of upholding fundamental human rights.

Historically, trade liberalization has been a catalyst for growth in many economies, particularly in developing countries. However, critics argue that the expansion of free trade can also lead to the exploitation of vulnerable workers, lower wages, poor working conditions, and the erosion of basic labour protections. For many years, there has been an increasing concern that some countries, in their pursuit of economic development, may compromise on labour rights to gain a competitive advantage. This "race to the bottom," where countries lower labour standards to attract foreign investment, has spurred calls for the integration of labour standards into trade agreements.

The WTO, established in 1995, emerged as a successor to the General Agreement on Tariffs and Trade (GATT) with the goal of creating a more robust and comprehensive system for regulating global trade. However, unlike its predecessor, the WTO did not initially encompass provisions specifically addressing social issues such as labour rights. While the WTO focuses primarily on economic factors such as tariffs, subsidies, and trade disputes, the issue of labour standards has continued to be a topic of concern for both developed and developing countries alike. These concerns have raised important questions about whether the WTO should play a role in promoting or enforcing labour rights as part of the trade process.

The debate over labour standards and the WTO has been shaped by differing perspectives on the role of international organizations in regulating non-economic issues. On one side, developed countries and labour unions argue that trade policies should be accompanied by strong labour protections to prevent exploitation and ensure that workers benefit from global economic growth. On the other side,

many developing countries resist the imposition of stringent labour standards, fearing that such requirements would restrict their economic development and erode their competitive advantage in global markets.

This chapter examines the evolving role of the WTO in the promotion and regulation of labour standards within international trade. It explores the historical context of labour rights in trade, the WTO's position on labour standards, key agreements and initiatives aimed at balancing trade with labour protections, and the ongoing challenges of integrating labour rights into the multilateral trade framework. Through this exploration, the chapter also aims to highlight the complexities involved in reconciling economic interests with social justice in the global trading system.

In particular, this chapter will focus on key aspects such as the WTO's relationship with the International Labour Organization (ILO), the core labour standards set forth by the ILO, the role of trade agreements in addressing labour issues, and the controversies surrounding the use of labour standards as a tool for protectionism. By examining these elements, we will uncover the challenges that persist in ensuring that trade liberalization contributes to the promotion of decent work and respect for fundamental labour rights globally.

The integration of labour standards into the WTO framework is not just a technical issue but one that involves fundamental questions of fairness, justice, and human rights. As global trade continues to evolve, the debate surrounding the role of labour standards in international trade will remain a critical area of focus, with implications for both workers and businesses alike in an increasingly interconnected world. Through a detailed examination of the WTO's involvement with labour standards, this chapter seeks to contribute to a deeper understanding of the intersection between

trade policy and labour rights and the path forward for reconciling these two often conflicting domains.

18.2 Objectives

This unit is an attempt to analyse the labour standards. After going through this unit you will be able to-

1. *define* labour standards and explain their purpose in ensuring fair, safe, and equitable working conditions.,
2. *understand* the classification of labour standards, including minimum wage, working hours, occupational safety, child labour, and non-discrimination,
3. *explain* the role of national governments, international organizations (especially the ILO), and trade unions in formulating and enforcing labour standards.

18.3 Historical Context and the Emergence of Labour Standards in Trade

The relationship between international trade and labour standards has evolved over centuries, shaped by industrialization, global economic shifts, and the increasing recognition of workers' rights. This section delves into the historical trajectory that led to the integration of labour standards into trade frameworks, highlighting key developments and milestones.

18.3.1 Early Industrialization and Labour Exploitation

The Industrial Revolution in the 18th and 19th centuries marked a significant transformation in global economies, particularly in Europe and North America. While it spurred economic growth and

technological advancements, it also led to widespread exploitation of workers. Factories often subjected employees to long working hours, hazardous conditions, and meagre wages. Child labour was rampant, and workers had little to no rights or protections.

These conditions prompted social reform movements advocating for better working conditions, fair wages, and the abolition of child labour. The push for labour reforms gained momentum, leading to the establishment of early labour laws and the formation of trade unions aimed at protecting workers' rights.

18.3.2 The Founding of the International Labour Organization (ILO)

Recognizing the need for international cooperation to address labour issues, the International Labour Organization (ILO) was established in 1919 under the League of Nations. The ILO aimed to promote social justice and fair labour standards globally. Its creation marked a pivotal moment in the recognition of labour rights as essential components of international relations.

The ILO's mandate included setting international labour standards, promoting fair wages, ensuring safe working conditions, and advocating for the rights of workers worldwide. Over the years, the ILO has developed a comprehensive body of conventions and recommendations that member countries can adopt to improve labour conditions.

18.3.3 The General Agreement on Tariffs and Trade (GATT) and Labour Standards

In 1947, the General Agreement on Tariffs and Trade (GATT) was established to promote international trade by reducing tariffs and

other trade barriers. However, GATT's focus was primarily on economic issues, and it did not address social concerns such as labour standards.

The omission of labour standards from GATT led to debates about the need to integrate social considerations into trade agreements. Some argued that without such integration, countries might lower labour standards to gain a competitive advantage, leading to a "race to the bottom" in workers' rights.

18.3.4 The WTO and the Debate on Labour Standards

The establishment of the World Trade Organization (WTO) in 1995 brought renewed attention to the relationship between trade and labour standards. The WTO inherited the GATT's framework but expanded its scope to include services, intellectual property, and dispute resolution mechanisms.

During the WTO's first Ministerial Conference in Singapore in 1996, the issue of labour standards was addressed. The Singapore Ministerial Declaration acknowledged the importance of core labour standards but emphasized that the ILO, not the WTO, was the appropriate body to set and monitor these standards. The Declaration also cautioned against using labour standards as a pretext for protectionism.

This stance has shaped the WTO's approach to labour standards, maintaining a separation between trade and social issues while recognizing the importance of promoting fair labour practices globally.

18.3.5 The Evolution of Core Labour Standards

The ILO's Declaration on Fundamental Principles and Rights at Work, adopted in 1998, identified core labour standards that all

member countries should uphold, regardless of their level of development. These standards include:

Freedom of Association and the Right to Collective Bargaining: Workers should have the right to form and join trade unions and engage in collective bargaining without interference.

Elimination of Forced Labour: All forms of forced or compulsory labour should be abolished.

Abolition of Child Labour: The worst forms of child labour should be eliminated, and the minimum age for employment should be established.

Elimination of Discrimination in Employment and Occupation: There should be no discrimination in employment based on race, colour, sex, religion, political opinion, national extraction, or social origin.

These core standards have been widely adopted and serve as benchmarks for assessing labour conditions globally.

18.4 The Singapore Ministerial Declaration (1996): Defining the WTO's Stance

The 1996 Singapore Ministerial Conference marked a pivotal moment in the World Trade Organization's (WTO) approach to labour standards. As the first Ministerial Conference since the WTO's inception in 1995, it brought together member nations to deliberate on various trade-related issues, including the contentious topic of labour standards.

18.4.1 Renewed Commitment to Core Labour Standards

During the conference, WTO members reaffirmed their dedication to internationally recognized core labour standards. These standards

encompass fundamental rights such as freedom of association, the elimination of forced and child labour, and the eradication of employment discrimination. The ministers emphasized their commitment to these principles, acknowledging their importance in the context of global trade.

18.4.2 Clarifying Institutional Roles: WTO and ILO

A significant outcome of the declaration was the delineation of responsibilities between the WTO and the International Labour Organization (ILO). The ministers recognized the ILO as the competent body to set and monitor international labour standards, thereby affirming that the WTO would not assume this role. This distinction underscored the WTO's primary focus on trade liberalization, while entrusting the ILO with the mandate to address labour issues.

18.4.3 Rejection of Protectionism

The declaration also addressed concerns about the potential misuse of labour standards as a form of protectionism. The ministers explicitly stated that labour standards should not be employed for protectionist purposes, emphasizing that the comparative advantage of countries, particularly those with lower wages, should not be undermined. This stance aimed to prevent the imposition of trade barriers under the guise of labour rights advocacy.

18.4.4 Continued Collaboration Between WTO and ILO

While the WTO refrained from directly engaging in labour standards enforcement, the declaration acknowledged the ongoing collaboration between the WTO and ILO secretariats. This

cooperation was intended to facilitate dialogue and information exchange on issues at the intersection of trade and labour, without altering the distinct mandates of the two organizations.

18.4.5 Implications and Ongoing Debates

The Singapore Ministerial Declaration set a precedent for the WTO's approach to labour standards, balancing the promotion of fundamental rights with the principles of free trade. However, the decision to keep labour standards outside the WTO's purview has been a subject of ongoing debate. Proponents argue that integrating labour standards into trade agreements could enhance workers' rights globally, while opponents caution against potential protectionist abuses and the undermining of developing countries' competitiveness.

In summary, the 1996 Singapore Ministerial Declaration clarified the WTO's position on labour standards, reaffirming the importance of core labour rights while delineating institutional responsibilities and cautioning against protectionist practices. This framework continues to influence discussions on the intersection of trade and labour in the global arena.

18.5 The Doha Development Agenda and the Labour Standards Debate

The launch of the Doha Development Agenda (DDA) in November 2001 marked a significant moment in the history of the World Trade Organization (WTO). Initiated in Doha, Qatar, the DDA aimed to further liberalize global trade and address the needs of developing countries. However, the inclusion of labour standards within the

WTO framework remained a contentious issue, reflecting deep-seated divisions among member nations.

18.5.1 Background: From Seattle to Doha

The 1999 WTO Ministerial Conference in Seattle, intended to launch a new round of trade negotiations, collapsed amid widespread protests and disagreements among member states. One of the central points of contention was the proposal to incorporate labour standards into trade agreements. Developed countries, particularly the United States and members of the European Union, advocated for the inclusion of labour issues, arguing that globalization should not come at the expense of workers' rights. In contrast, many developing countries viewed this as a veiled form of protectionism that could hinder their economic growth.

The failure in Seattle underscored the need for a more inclusive and development-focused agenda. Consequently, the Doha Ministerial Conference sought to address these concerns by emphasizing the developmental aspects of trade and aiming to integrate developing countries more effectively into the global trading system.

18.5.2 Labour Standards: A Divisive Issue

During the Doha negotiations, the debate over labour standards resurfaced. Developed nations continued to push for discussions on labour rights, emphasizing the importance of fair working conditions and the prevention of a "race to the bottom" in labour standards. They argued that integrating labour considerations into trade agreements would promote equitable globalization.

However, developing countries remained skeptical. They contended that imposing labour standards through trade agreements could

serve as a tool for developed nations to impose their values and potentially restrict market access for developing economies. These countries emphasized the need to respect national sovereignty and the diverse socio-economic contexts that influence labour practices.

18.5.3 The WTO's Stance and the Role of the ILO

Given the divergent views, the WTO maintained its position that labour standards fall under the purview of the International Labour Organization (ILO), not the WTO. This stance was consistent with the 1996 Singapore Ministerial Declaration, which recognized the ILO as the competent body to set and monitor international labour standards. By deferring to the ILO, the WTO aimed to avoid overstepping its mandate and to prevent potential conflicts between trade liberalization and labour rights enforcement.

The WTO and ILO continued to collaborate, sharing information and engaging in dialogue on issues at the intersection of trade and labour. However, the WTO refrained from incorporating labour standards into its binding trade agreements, reflecting the ongoing sensitivity and complexity of the issue among its diverse membership.

18.5.4 Implications and Continuing Debates

The exclusion of labour standards from the DDA highlighted the challenges of reconciling trade liberalization with social considerations. While the DDA aimed to address the developmental needs of poorer nations, the persistent divide over labour issues underscored the broader tensions between economic objectives and social justice concerns in the global trading system.

The debate over labour standards within the WTO framework remains unresolved. Advocates for integrating labour rights into trade agreements argue that it is essential for ensuring that globalization benefits all workers and prevents exploitation. Opponents caution that such integration could lead to protectionist measures and infringe upon national sovereignty.

As the WTO continues to navigate these complex issues, the relationship between trade and labour standards will likely remain a focal point of discussion, reflecting the ongoing quest to balance economic growth with the protection of fundamental human rights.

18.6 Core Labour Standards: A Common Ground

In the complex interplay between global trade and labour rights, the concept of core labour standards (CLS) emerges as a foundational element. Established by the International Labour Organization (ILO), these standards delineate fundamental principles that are universally recognized and upheld, irrespective of a country's level of development or cultural context. They serve as a baseline for ethical labour practices, aiming to ensure that economic progress does not come at the expense of workers' rights and dignity.

18.6.1 Defining Core Labour Standards

The ILO's Declaration on Fundamental Principles and Rights at Work (1998) identifies four primary categories of core labour standards:

Freedom of Association and the Right to Collective Bargaining: Workers and employers have the right to form and join organizations of their own choosing without prior authorization. They also have the right to engage in collective bargaining to determine working conditions.

Elimination of All Forms of Forced or Compulsory Labour: This standard prohibits all forms of forced labour, including slavery, debt bondage, and human trafficking.

Effective Abolition of Child Labour: This principle calls for the elimination of child labour, particularly the worst forms, and sets the minimum age for employment.

Elimination of Discrimination in Respect of Employment and Occupation: This standard promotes equal opportunity and treatment in employment, prohibiting discrimination based on race, colour, sex, religion, political opinion, national extraction, or social origin.

These standards are enshrined in eight fundamental ILO Conventions, which have been widely ratified by member states, reflecting a global consensus on their importance.

18.6.2 Universal Applicability and Human Rights Integration

Core labour standards are designed to be universally applicable, serving as a common denominator for labour rights across all nations. They are qualitative in nature, focusing on fundamental rights rather than specific working conditions or wage levels. This universality ensures that the basic rights of workers are protected, regardless of a country's economic status or cultural practices.

Furthermore, these standards are closely linked to broader human rights instruments, such as the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights. This integration underscores the intrinsic connection between labour rights and human rights, reinforcing the notion that decent work is a fundamental human entitlement.

18.6.3 The WTO's Position on Core Labour Standards

While the WTO acknowledges the significance of core labour standards, it maintains that the ILO is the appropriate body to set and monitor these standards. This delineation of responsibilities was affirmed in the 1996 Singapore Ministerial Declaration, which emphasized that labour standards should not be used for protectionist purposes and that the comparative advantage of low-wage developing countries must be respected.

The WTO's approach reflects a cautious stance, aiming to prevent the misuse of labour standards as trade barriers while recognizing the importance of promoting fair labour practices. This position has been a subject of ongoing debate, with some advocating for a more integrated approach to trade and labour rights.

18.6.4 Challenges in Implementation and Enforcement

Despite widespread recognition, the implementation and enforcement of core labour standards face several challenges:

Sovereignty Concerns: Some countries view external pressure to conform to international labour standards as an infringement on their sovereignty and policy-making autonomy.

Economic Considerations: Developing countries often rely on low labour costs as a competitive advantage. There is concern that strict adherence to labour standards could increase production costs and hinder economic growth.

Enforcement Mechanisms: The ILO lacks robust enforcement capabilities. While it can monitor compliance and provide technical assistance, it cannot impose sanctions, limiting its ability to ensure adherence to core labour standards.

Protectionism Fears: There is apprehension that labour standards could be used by developed countries to impose trade restrictions on developing nations under the guise of promoting workers' rights.

18.6.5 Pathways to Strengthening Core Labour Standards

To enhance the effectiveness of core labour standards, several strategies can be considered:

Capacity Building: Providing technical assistance and resources to developing countries can help them implement and enforce labour standards without compromising economic growth.

Multilateral Cooperation: Strengthening collaboration between the ILO, WTO, and other international organizations can create a more cohesive approach to integrating labour standards into global trade frameworks.

Incentive Mechanisms: Incorporating positive incentives, such as preferential trade agreements for countries that uphold labour standards, can encourage compliance without resorting to punitive measures.

Stakeholder Engagement: Involving employers, workers, and civil society in the development and monitoring of labour standards can ensure that policies are grounded in practical realities and enjoy broader support.

18.7 Mechanisms for Promoting Labour Standards

The promotion and enforcement of international labour standards are central to ensuring decent work conditions globally. Various mechanisms have been established by international organizations, particularly the International Labour Organization (ILO), to monitor compliance, provide technical assistance, and encourage the

adoption of these standards. This section explores the primary mechanisms employed to promote labour standards worldwide.

18.7.1 ILO Supervisory Mechanisms

The ILO has developed a comprehensive supervisory system to ensure that member states adhere to the conventions they ratify. This system is unique at the international level and comprises both regular and special procedures.

Regular Supervision:

Reporting Obligations: Member states are required to submit regular reports detailing the measures they have taken to implement ratified conventions. These reports provide insights into the practical application of international labour standards within national contexts.

Committee of Experts on the Application of Conventions and Recommendations (CEACR): This independent body examines the reports submitted by member states, offering observations and requesting further information where necessary. The CEACR plays a pivotal role in assessing compliance and identifying areas for improvement. Write a detailed note on the constitution of members of the committee. For eg. The committee is composed of 20 high level national and international legal exparts, appointed by the Governing body for three years term. (Also add- the committee was set up in 1926 to examine the growing no. of govt. report on ratified conventions)

Special Procedures:

Representations and Complaints: Under specific articles of the ILO Constitution, employers' and workers' organizations can submit representations or complaints alleging non-compliance with ratified

conventions. These procedures can lead to the establishment of commissions of inquiry to investigate serious violations.

Freedom of Association Committee*:* This committee addresses complaints related to violations of freedom of association and the right to collective bargaining, even if the concerned country has not ratified the relevant conventions.

Through these mechanisms, the ILO ensures continuous monitoring and encourages member states to align their national laws and practices with international labour standards.

18.7.2 Technical Assistance and Capacity Building

Recognizing that some countries may face challenges in implementing labour standards due to limited resources or institutional capacities, the ILO provides technical assistance and capacity-building support. This includes:

Advisory Services: Offering expert advice on drafting labour legislation, establishing labour inspection systems, and developing policies that promote decent work.

Training Programs: Conducting workshops and training sessions for government officials, employers, and workers to enhance their understanding of labour standards and their implementation.

Development Cooperation Projects: Collaborating with member states on projects aimed at strengthening labour market institutions and promoting compliance with international standards.

These initiatives are tailored to the specific needs of countries, ensuring that support is relevant and effective.

18.7.3 Labour Inspection Systems

Labour inspection is a fundamental mechanism for enforcing labour standards at the national level. The ILO's Labour Inspection

Convention, 1947 (No. 81), sets out principles for establishing and maintaining effective labour inspection systems. Key aspects include:

Mandate: Labour Inspectors are authorized to monitor compliance with labour laws, provide technical advice, and bring violations to the attention of competent authorities.

Independence*:* Labour inspectors operate independently, ensuring impartiality in the enforcement of labour standards.

Resources and Training: Member states are encouraged to allocate adequate resources and provide continuous training to inspectors to enhance their effectiveness.

By facilitating regular workplace inspections, these systems help detect violations, promote compliance, and protect workers' rights.

18.7.4 International Collaboration and Partnerships

Promoting labour standards often requires collaboration beyond national borders. The ILO engages in partnerships with various international organizations, including:

World Trade Organization (WTO): While the WTO does not set labour standards, it collaborates with the ILO to ensure that trade and labour policies are coherent and mutually supportive.

United Nations Agencies: Working with entities like the United Nations Development Programme (UNDP) and the United Nations Children's Fund (UNICEF) to address labour issues within broader development frameworks.

Non-Governmental Organizations (NGOs) and Civil Society: Engaging with NGOs to raise awareness, advocate for workers' rights, and implement programs at the grassroots level.

These collaborations enhance the reach and impact of efforts to promote labour standards globally.

18.7.5 Incentive-Based Approaches

Beyond enforcement, incentive-based mechanisms are employed to encourage compliance with labour standards:

Trade Preferences: Some trade agreements offer preferential access to markets for countries that adhere to specific labour standards.

Corporate Social Responsibility (CSR): Businesses are increasingly adopting CSR practices, committing to uphold labour standards within their operations and supply chains.

Certification Schemes: Labels and certifications (e.g., Fair Trade) signal to consumers that products are made under fair labour conditions, incentivizing producers to comply with standards.

These approaches leverage economic and reputational incentives to promote better labour practices.

18.8 Challenges and Controversies in Promoting Labour Standards

The promotion of international labour standards, while essential for safeguarding workers' rights, faces a myriad of challenges and controversies. These issues stem from the complexities of global governance, economic disparities, and differing national interests.

18.8.1 Enforcement Limitations of the ILO

The International Labour Organization (ILO) primarily relies on "soft" enforcement mechanisms, such as reporting obligations and

moral persuasion, to encourage compliance with labour standards. Unlike other international bodies, the ILO lacks the authority to impose binding sanctions on non-compliant member states. This limitation often results in challenges when attempting to ensure adherence to established standards, especially in countries where political will or resources are lacking.

18.8.2 Sovereignty and Cultural Relativism

Many nations, particularly in the developing world, view the imposition of international labour standards as an infringement on their sovereignty. They argue that such standards may not adequately consider local economic conditions, cultural practices, and developmental stages. This perspective leads to resistance against adopting uniform labour standards, fearing that they may hinder economic growth or conflict with traditional practices.

18.8.3 Protectionism Concerns

There is an ongoing debate about the potential misuse of labour standards as tools for protectionism. Developed countries advocating for strict labour standards in trade agreements are sometimes accused of attempting to protect their own industries by imposing barriers on imports from countries with lower labour costs. This suspicion can undermine genuine efforts to improve global labour conditions and foster distrust among trading partners.

18.8.4 Globalization and the "Race to the Bottom"

In the context of globalization, countries often compete to attract foreign investment by offering lower production costs, which can lead to the erosion of labour standards—a phenomenon known as

the "race to the bottom." This competition may result in weakened labour protections, as nations prioritize economic incentives over workers' rights, thereby challenging the implementation of robust international labour standards.

18.8.5 Divergent Priorities Among Stakeholders

Within the international community, there exists a divergence of priorities regarding labour standards. While some stakeholders emphasize the importance of integrating labour rights into trade agreements, others prioritize economic growth and market access. This divergence complicates negotiations and the establishment of universally accepted labour standards, as consensus becomes difficult to achieve.

18.8.6 Limited Integration with Trade Agreements

The integration of labour standards into international trade agreements remains limited. While some regional agreements include labour provisions, the World Trade Organization (WTO) has largely refrained from incorporating enforceable labour standards into its framework. This separation hinders the ability to leverage trade mechanisms to promote and enforce labour rights globally.

18.8.7 Challenges in Monitoring and Data Collection

Effective promotion of labour standards requires accurate monitoring and data collection. However, many countries face challenges in gathering reliable labour statistics due to limited resources, lack of infrastructure, or political constraints. This deficiency hampers the ability of international organizations to assess compliance and identify areas needing improvement.

18.9 The Role of the WTO Moving Forward

As globalization evolves, the World Trade Organization (WTO) faces increasing pressure to address labor standards within its trade framework. While the WTO has traditionally deferred labor issues to the International Labour Organization (ILO), emerging global challenges necessitate a reevaluation of this stance.

18.9.1 Integrating Labor Standards into Trade Agreements

Historically, the WTO has maintained a cautious approach to incorporating labor standards into its agreements, emphasizing that such matters fall under the purview of the ILO. However, the growing interconnection between trade and labor rights has led to calls for a more integrated approach. Some experts suggest that the WTO could collaborate more closely with the ILO to ensure that trade agreements do not undermine labor rights and that countries uphold core labor standards.

18.9.2 Addressing Enforcement Mechanisms

One of the challenges in promoting labor standards through the WTO is the enforcement mechanism. Unlike the ILO, the WTO possesses a dispute settlement system that can impose trade sanctions. This capability could be leveraged to enforce compliance with agreed-upon labor standards, provided there is consensus among member states. However, concerns about sovereignty and the potential misuse of sanctions for protectionist purposes remain significant hurdles.

18.9.3 Balancing Development and Labor Rights

Developing countries often express apprehension that stringent labor standards could impede their competitive advantage in global

markets. The WTO must navigate these concerns by promoting labor rights without compromising the developmental aspirations of its member states. This balance requires nuanced policies that consider the diverse economic landscapes of member countries.

18.9.4 Enhancing Collaboration with the ILO

Strengthening the partnership between the WTO and the ILO could facilitate the integration of labor standards into the global trade system. Joint initiatives, such as capacity-building programs and technical assistance, can support countries in meeting labor standards without resorting to punitive measures. Such collaboration ensures that labor rights are upheld while respecting the WTO's trade-focused mandate.

18.9.5 Embracing a Holistic Approach to Trade

The future role of the WTO may involve adopting a more holistic approach that considers social dimensions, including labor rights, environmental protection, and sustainable development. By recognizing the interconnectedness of these issues, the WTO can contribute to a more equitable and inclusive global trade system.

18.10 Summing Up

The relationship between the WTO and labour standards is complex and multifaceted. While the WTO does not have a mandate to set or enforce labour standards, it plays a role in shaping the global trade environment in which these standards are promoted and upheld. The challenge lies in balancing trade liberalization with the protection and promotion of labour rights, ensuring that economic growth does not come at the expense of workers' rights and dignity.

As global trade continues to evolve, ongoing dialogue and collaboration among international organizations, governments, businesses, and civil society will be essential to create a fair and equitable global trading system that respects and upholds labour standards. The integration of labour considerations into trade policies is not only a matter of economic policy but also a fundamental aspect of social justice and human rights.

18.11 Model Questions

1. Discuss the rationale for integrating labour standards into the multilateral trading system. Should the WTO play a more active role in enforcing core labour standards? Justify your position.
2. Examine the arguments for and against linking international labour standards with trade agreements under the WTO framework. What are the implications for developing countries?
3. Critically evaluate the role of the International Labour Organization (ILO) in promoting labour standards vis-à-vis the WTO. Should the two institutions collaborate more formally?
4. To what extent does the WTO's current legal framework allow for the enforcement of labour standards? Support your argument with examples from WTO agreements or dispute cases.
5. Analyse the concerns raised by developing countries regarding the inclusion of labour standards in WTO agreements. Are these concerns valid in the context of global economic fairness?
6. Incorporating labour standards in WTO trade rules is a form of disguised protectionism." Discuss this statement with reference to the positions of both developed and developing nations.

7. Explore the concept of "social clause" in international trade. How could the inclusion of a social clause in WTO agreements affect global trade dynamics and workers' rights?
8. How do voluntary corporate codes of conduct and private labour standards complement or conflict with WTO rules on trade and labour? Discuss with examples.
9. Evaluate the impact of WTO trade liberalization on labour markets in developing countries. Have these effects strengthened or weakened the case for embedding labour standards in trade rules?
10. Compare and contrast the treatment of labour standards in bilateral or regional trade agreements (like USMCA or EU FTAs) with the WTO's multilateral approach. What lessons can the WTO learn?

18.12 References and Suggested Readings

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2. Leary, Virginia A. (1996), "*The WTO and the Social Clause: Post-Singapore Reflections*" in European Journal of International Law

3. Bacchetta, Marc and Jansen, Marion (2003), "Adjusting to Trade Liberalization: The Role of Policy, Institutions and WTO Disciplines"

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UNIT-19
RELATED LEGISLATIONS
(Labour Welfare and Unfair Practices)

Unit Structure:

19.1 Introduction
19.2 Objectives
19.3 Labour Welfare: Concept and Legislative Framework
19.4 Unfair Labour Practices: Definition and Legal Provisions
19.5 Mechanisms for Addressing Unfair Labour Practices
19.6 Challenges and Contemporary Issues in Industrial Relations and Labour Laws
19.7 Summing Up
19.8 Model Questions
19.9 References and Suggested Readings

19.1 Introduction

Labour welfare and the prevention of unfair labour practices are fundamental pillars of industrial relations and labour law in India. These aspects aim to ensure the well-being of workers and maintain harmonious relationships between employers and employees. This chapter delves into the legislative framework governing labour welfare and addresses the mechanisms in place to prevent unfair labour practices.

19.1.1 The Evolution of Labour Welfare in India

The genesis of labour welfare in India can be traced back to the colonial era, where initial legislations were primarily enacted to serve the interests of British employers. Over time, the focus shifted towards safeguarding the rights and well-being of Indian workers.

The Constitution of India, through its Directive Principles of State Policy, laid a robust foundation for labour welfare, emphasizing the State's role in ensuring just and humane conditions of work, securing a living wage, and promoting the participation of workers in management.

Subsequent legislations, such as the Factories Act of 1948, the Employees' State Insurance Act of 1948, and the Employees' Provident Funds and Miscellaneous Provisions Act of 1952, institutionalized various welfare measures. These laws addressed aspects like health, safety, social security, and financial stability, reflecting a commitment to improving the quality of life for workers.

19.1.2 Understanding Unfair Labour Practices

Unfair labour practices encompass actions by employers or trade unions that violate the rights of workers or employers, often undermining the collective bargaining process or creating an unfair advantage. These practices are detrimental to harmonious industrial relations and are prohibited under various labour laws.

The Industrial Disputes Act of 1947 marked a significant milestone by providing a legal framework to address industrial disputes and promote fair labour practices. The Act's Fifth Schedule, introduced by the Industrial Disputes (Amendment) Act of 1982, specifically enumerates unfair labour practices by both employers and workers. These include actions like interfering with the formation of trade unions, discriminating against workers for union activities, and refusing to bargain collectively in good faith.

In recent years, the Industrial Relations Code of 2020 has sought to consolidate and amend laws relating to trade unions, conditions of employment, and dispute resolution. It outlines unfair labour

practices in its Second Schedule and prohibits them under Section 84, aiming to streamline industrial relations and promote fair practices.

19.1.3 The Interplay Between Labour Welfare and Unfair Practices

Labour welfare and the prevention of unfair labour practices are intrinsically linked. While welfare measures aim to enhance the well-being of workers, the prohibition of unfair practices ensures that these measures are not undermined by exploitative actions. Together, they create a balanced industrial environment where the rights and responsibilities of all stakeholders are respected.

For instance, the enforcement of minimum wage laws not only ensures a basic standard of living for workers but also prevents employers from engaging in unfair practices like underpayment. Similarly, the recognition of trade unions empowers workers to collectively bargain, reducing the likelihood of unilateral decisions that could harm their interests.

19.1.4 Contemporary Challenges and the Way Forward

Despite a comprehensive legislative framework, challenges persist in the effective implementation of labour welfare measures and the prevention of unfair practices. Issues such as the informal nature of a significant portion of the workforce, lack of awareness among workers, and limited enforcement mechanisms hinder the realization of these objectives.

Moreover, recent debates around labour law reforms, including the introduction of the four labour codes, have sparked discussions on the balance between promoting ease of doing business and

protecting workers' rights. Protests by various trade unions highlight concerns that these reforms may dilute existing protections and facilitate unfair labour practices.

Addressing these challenges requires a multifaceted approach, including strengthening enforcement mechanisms, enhancing worker awareness, and ensuring that reforms are inclusive and participatory. By doing so, India can uphold its commitment to labour welfare and fair industrial practices, fostering a more equitable and productive work environment.

19.2 Objectives

This unit is an attempt to analyse the idea of labour welfare and unfair trade practices. After going through this unit you will be able to:-

1. *understand* the concept and scope of labour welfare, including statutory and non-statutory measures for employee well-being,
2. *examine* the legal and ethical foundations of labour welfare in national and international contexts,
3. *identify* the role of international organizations (e.g., ILO, WTO) in promoting labour rights and welfare standards globally.

19.3 Labour Welfare: Concept and Legislative Framework

Labour welfare is a cornerstone of industrial relations, aiming to enhance the well-being of workers and foster a harmonious work environment. In India, the concept has evolved through constitutional mandates, legislative enactments, and socio-economic developments.

19.3.1 Concept of Labour Welfare

Labour welfare refers to services, facilities, and amenities provided to employees to improve their working conditions and overall quality of life. It encompasses both statutory measures mandated by law and voluntary initiatives by employers. The objectives include:

Enhancing Work Environment: Ensuring safe, healthy, and conducive working conditions.

Promoting Economic Security: Providing financial stability through benefits like provident funds and gratuity.

Fostering Social Well-being: Offering amenities such as housing, education, and healthcare.

Encouraging Industrial Harmony: Reducing conflicts and promoting cooperation between employers and employees.

Labour welfare is integral to human resource management, contributing to increased productivity and employee satisfaction.

19.3.2 Constitutional Provisions

The Indian Constitution lays the foundation for labour welfare through its Directive Principles of State Policy:

Article 38: Mandates the State to promote the welfare of the people by securing a social order permeated by justice.

Article 39: Directs the State to ensure adequate means of livelihood and equal pay for equal work.

Article 41: Obligates the State to provide public assistance in cases of unemployment, old age, sickness, and disablement.

Article 42: Requires the State to make provisions for securing just and humane conditions of work and maternity relief.

Article 43: Encourages the State to secure a living wage and decent standard of life for workers.

These provisions reflect the commitment to a welfare state, emphasizing the importance of labour welfare in national development.

19.3.3 Legislative Framework

India's labour welfare is governed by a comprehensive legislative framework addressing various aspects of workers' rights and well-being:

a) Health and Safety

Factories Act, 1948: Regulates working conditions in factories, including health, safety, and welfare measures.

Mines Act, 1952: Addresses the welfare of workers in mining operations.

b) Social Security

Employees' State Insurance Act, 1948: Provides health insurance and medical benefits to workers.

Employees' Provident Funds and Miscellaneous Provisions Act, 1952: Ensures financial security through provident fund schemes.

Payment of Gratuity Act, 1972: Provides for a gratuity payment to employees upon termination of service.

c) Employment Conditions

Contract Labour (Regulation and Abolition) Act, 1970: Regulates the employment of contract labour and ensures their welfare.

Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996: Ensures welfare measures for construction workers.

d) Unorganised Sector

Unorganised Workers' Social Security Act, 2008: Provides social security to workers in the unorganised sector.

These laws collectively aim to protect workers' rights, ensure fair treatment, and promote their overall welfare.

19.3.4 Labour Welfare Funds

Labour welfare funds are established to finance welfare activities for workers, particularly in specific industries:

Beedi Workers Welfare Fund Act, 1976: Provides welfare measures for beedi workers.

Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Welfare Fund Act, 1976: Caters to the welfare of workers in specified mining sectors.

Limestone and Dolomite Mines Labour Welfare Fund Act, 1972: Focuses on the welfare of workers in limestone and dolomite mines.

These funds are financed through levies on the respective industries and are utilized for housing, education, healthcare, and recreational facilities for workers.

19.3.5 Role of Employers and Trade Unions

Employers play a crucial role in implementing welfare measures, often going beyond statutory requirements to provide additional benefits. Trade unions advocate for workers' rights and welfare,

engaging in collective bargaining and representing workers in disputes. Their collaboration ensures the effective realization of labour welfare objectives.

19.3.6 Challenges and the Way Forward

Despite a robust legislative framework, challenges persist in the implementation of labour welfare measures:

Informal Sector: A significant portion of India's workforce is employed in the informal sector, where labour laws are often not enforced.

Awareness: Lack of awareness among workers about their rights and available welfare schemes.

Enforcement: Inadequate inspection mechanisms and resource constraints hinder effective enforcement.

Addressing these challenges requires strengthening enforcement mechanisms, enhancing worker awareness, and ensuring that reforms are inclusive and participatory. By doing so, India can uphold its commitment to labour welfare, fostering a more equitable and productive work environment.

19.4 Unfair Labour Practices: Definition and Legal Provisions

Unfair Labour Practices (ULPs) are actions by employers or trade unions that violate the principles of industrial justice and fairness, undermining the rights of workers and disrupting harmonious industrial relations. In India, the legal framework addressing ULPs is primarily encapsulated in the Industrial Disputes Act, 1947, particularly through the introduction of the Fifth Schedule by the Industrial Disputes (Amendment) Act, 1982. This Schedule delineates specific practices deemed unfair, aiming to promote

equitable treatment and discourage exploitative tactics in the workplace.

19.4.1 Definition of Unfair Labour Practices

Section 2(ra) of the Industrial Disputes Act, 1947, defines ULPs as:

"Any of the practices specified in the Fifth Schedule."

This broad definition empowers the Fifth Schedule to enumerate specific actions considered unfair, thereby providing a clear legal basis for addressing such practices.

19.4.2 The Fifth Schedule: Categorization of Unfair Labour Practices

The Fifth Schedule classifies ULPs into two main categories:

1. *On the part of employers and trade unions of employers*
2. *On the part of workmen and trade unions of workmen*

Each category lists specific actions that are prohibited, reflecting the commitment to maintaining fairness and equity in industrial relations.

19.4.3 Unfair Labour Practices by Employers and Their Trade Unions

The first part of the Fifth Schedule outlines several practices by employers and their trade unions that are considered unfair:

Interference with Workers' Rights: Employers or their trade unions must not interfere with, restrain, or coerce workmen in the exercise of their right to organize, form, join, or assist a trade union, or to engage in concerted activities for mutual aid or protection.

Discriminatory Actions Against Workers: Discharging or dismissing a workman for participating in a strike that is not illegal, or for filing charges or testifying against an employer in any inquiry or proceeding relating to an industrial dispute, is deemed an unfair practice.

Recruitment During Strikes: Employers are prohibited from recruiting workmen during a strike that is not illegal, as this undermines the workers' collective bargaining power.

Failure to Implement Settlements or Awards: Employers must not fail to implement any award, settlement, or agreement that has been lawfully arrived at between the parties.

Employing Casual Workers to Undermine Permanent Workers: Employing workmen as "badlis", casuals, or temporaries and continuing them as such for years with the object of depriving them of the status and privileges of permanent workmen is considered an unfair practice.

19.4.4 Unfair Labour Practices by Workmen and Their Trade Unions

The second part of the Fifth Schedule enumerates actions by workmen and their trade unions that are deemed unfair:

Instigating Illegal Strikes: Instigating or actively supporting a strike that is illegal under the provisions of the Industrial Disputes Act, 1947, is considered an unfair practice.

Refusal to Bargain Collectively: Refusing to bargain collectively in good faith with the employer, provided the employer recognizes the trade union as the representative of the workmen, is deemed an unfair practice.

Coercion and Intimidation: Coercing or intimidating any workman to join or not join a trade union, or to participate or not participate in any lawful activity, is considered an unfair practice.

Disruption of Work: Causing disruption of work by resorting to violence, intimidation, or coercion, or by instigating others to do so, is deemed an unfair practice.

19.4.5 Legal Provisions and Penalties

To enforce the prohibition of ULPs, the Industrial Disputes Act, 1947, incorporates specific legal provisions:

Section 25-T: Prohibits the commission of unfair labour practices.

Section 25-U: Imposes penalties for the commission of unfair labour practices, including imprisonment for a term which may extend to six months, or with a fine which may extend to one thousand rupees, or with both.

These provisions empower the authorities to take legal action against individuals or entities found guilty of engaging in ULPs, thereby promoting a fair and just industrial environment.

19.4.6 Role of Authorities in Addressing Unfair Labour Practices

The enforcement of laws pertaining to ULPs involves various authorities:

Labour Courts: Adjudicate disputes related to the commission of ULPs and provide remedies.

Industrial Tribunals: Handle more complex cases involving ULPs, especially those affecting a larger number of workers or industries.

Appropriate Government: Responsible for framing rules and regulations to implement the provisions of the Industrial Disputes Act, 1947, and for taking action against ULPs.

These authorities play a crucial role in ensuring that the provisions against ULPs are effectively implemented and that justice is served.

19.4.7 Challenges in Implementing Provisions Against Unfair Labour Practices

Despite the legal framework, several challenges impede the effective implementation of provisions against ULPs:

Awareness: Lack of awareness among workers and employers about the legal provisions and their rights and obligations.

Enforcement: Inadequate enforcement mechanisms and resources to monitor and address ULPs promptly.

Judicial Delays: Prolonged legal proceedings can delay justice and may discourage parties from pursuing claims.

Complexity of Cases: The intricate nature of some ULP cases requires specialized knowledge and expertise, which may not always be readily available.

Addressing these challenges requires concerted efforts from all stakeholders, including the government, employers, trade unions, and the judiciary, to ensure the effective implementation of laws prohibiting ULPs.

19.5 Mechanisms for Addressing Unfair Labour Practices

Unfair Labour Practices (ULPs) undermine the principles of justice and equity in industrial relations. To combat such practices, India has established a multifaceted framework encompassing legal

provisions, adjudicatory bodies, and procedural safeguards. These mechanisms aim to ensure that both employers and employees adhere to fair practices, thereby fostering harmonious industrial relations.

19.5.1 Legal Framework Under the Industrial Disputes Act, 1947

The Industrial Disputes Act, 1947, serves as the cornerstone of India's labour law, providing a comprehensive framework for the investigation and settlement of industrial disputes, including those arising from ULPs. Key provisions pertinent to ULPs include:

Section 25-T: Prohibits the commission of ULPs by employers, workmen, or trade unions.

Section 25-U: Prescribes penalties for individuals found guilty of committing ULPs, which may include imprisonment for up to six months, a fine up to one thousand rupees, or both.

The Fifth Schedule of the Act enumerates specific ULPs, categorizing them based on the party committing the act—employers or workmen—and detailing actions deemed unfair.

19.5.2 Adjudicatory Bodies for Redressal

To address grievances related to ULPs, the Industrial Disputes Act establishes various adjudicatory bodies:

Labour Courts: These courts adjudicate matters related to ULPs, ensuring that disputes are resolved in a fair and timely manner.

Industrial Tribunals: They handle more complex disputes, including those involving ULPs, and have the authority to make binding decisions.

National Industrial Tribunal: This apex body addresses disputes of national importance, including widespread ULPs affecting multiple industries or regions.

These tribunals possess the authority to grant interim relief, enforce attendance, compel the production of documents, and issue commissions for the examination of witnesses, thereby ensuring a comprehensive approach to dispute resolution.

19.5.3 Procedural Safeguards and Remedies

To facilitate the redressal of ULPs, the Industrial Disputes Act incorporates several procedural safeguards:

Conciliation: Before resorting to adjudication, efforts are made to resolve disputes through conciliation, involving a neutral third party to mediate between the conflicting parties.

Adjudication: If conciliation fails, the matter is referred to the appropriate adjudicatory body for a binding decision.

Appeal Mechanism: Decisions made by Labour Courts and Industrial Tribunals can be appealed to higher authorities, ensuring that justice is served and errors can be rectified.

These mechanisms ensure that workers have access to justice and that ULPs are addressed promptly and effectively.

19.5.4 Role of Trade Unions and Employer Associations

Trade unions and employer associations play a pivotal role in addressing ULPs:

Advocacy: They represent the interests of their members, advocating for fair practices and highlighting instances of ULPs.

Collective Bargaining: Through negotiations, they strive to establish and uphold fair terms of employment, thereby preventing ULPs.

Awareness Campaigns: By educating workers and employers about their rights and obligations, they contribute to the prevention of ULPs.

Their active participation ensures that both employers and employees adhere to fair practices, fostering a balanced industrial environment.

19.5.5 Challenges in Addressing Unfair Labour Practices

Despite the established mechanisms, several challenges impede the effective redressal of ULPs:

Awareness Deficit: Many workers and employers are unaware of the provisions related to ULPs and the available remedies.

Resource Constraints: Limited resources and understaffing of adjudicatory bodies can lead to delays in the resolution of disputes.

Fear of Retaliation: Workers may hesitate to report ULPs due to fear of retaliation or victimization by employers.

Complex Procedures: The procedural intricacies involved in addressing ULPs can be daunting for workers, especially those without legal assistance.

Addressing these challenges requires concerted efforts from the government, employers, trade unions, and the judiciary to ensure the effective implementation of laws and the protection of workers' rights.

19.5.6 Recommendations for Strengthening Mechanisms

To enhance the effectiveness of mechanisms addressing ULPs, the following measures are recommended:

Awareness Programs: Conducting workshops and seminars to educate workers and employers about ULPs and their rights.

Capacity Building: Training adjudicatory bodies and conciliation officers to handle ULP cases efficiently.

Simplification of Procedures: Streamlining the processes involved in addressing ULPs to make them more accessible to workers.

Protection for Whistleblowers: Implementing measures to protect workers who report ULPs from retaliation.

Strengthening Enforcement: Enhancing the capacity of labour departments to monitor and enforce compliance with ULP provisions.

By adopting these measures, India can create a more robust framework for addressing ULPs, ensuring justice for workers and promoting fair industrial relations.

19.6 Challenges and Contemporary Issues in Industrial Relations and Labour Laws

India's industrial relations landscape is undergoing significant transformation, influenced by evolving economic structures, technological advancements, and shifting societal norms. While the foundational labour laws have provided a framework for worker protection, several contemporary challenges and issues have emerged, necessitating a reevaluation and adaptation of existing legal provisions.

19.6.1 Fragmentation of Labour Laws and Regulatory Complexity

India's labour law regime comprises a multitude of statutes, each addressing specific aspects of employment and worker rights. This fragmented approach has led to regulatory complexity, making

compliance burdensome for employers and enforcement challenging for authorities. The enactment of the Code on Wages (2019), Industrial Relations Code (2020), Social Security Code (2020), and Occupational Safety, Health and Working Conditions Code (2020) aimed to streamline and consolidate these laws. However, the implementation of these codes has faced hurdles, including resistance from trade unions and concerns about potential dilution of worker protections.

19.6.2 Rise of Informal and Gig Economy Workers

A significant portion of India's workforce is employed in the informal sector, encompassing gig and platform workers. These workers often lack formal employment contracts, social security benefits, and legal protections, rendering them vulnerable to exploitation. The existing labour laws, primarily designed for formal sector employment, are ill-equipped to address the unique challenges faced by these workers. This disparity has led to calls for the reform of labour laws to extend protections to informal and gig economy workers.

19.6.3 Gender Inequality and Workplace Discrimination

Despite legislative advancements, gender inequality remains pervasive in India's workplaces. Women continue to face discrimination in hiring, promotion, and remuneration. Instances of workplace harassment and unsafe working conditions for women have sparked public outcry and demands for stricter enforcement of existing laws. The tragic death of a female trainee doctor in Kolkata, reportedly due to unsafe working conditions, underscores the urgent need for reforms to ensure women's safety and equality in the workplace.

19.6.4 Technological Disruption and the Changing Nature of Work

Advancements in technology, including automation and artificial intelligence, are reshaping the nature of work in India. While these technologies offer potential for increased productivity, they also pose challenges such as job displacement and the emergence of new forms of employment that may not be adequately covered under existing labour laws. The rapid pace of technological change necessitates a proactive approach to updating labour laws to address these emerging issues.

19.6.5 Enforcement Challenges and Judicial Delays

The effective implementation of labour laws is hindered by inadequate enforcement mechanisms and judicial delays. Labour courts and tribunals often face backlogs, leading to prolonged litigation and delayed justice for workers. Additionally, the lack of awareness among workers about their rights and the procedures to seek redress further exacerbates the problem. Strengthening enforcement agencies and expediting judicial processes are critical to ensuring the efficacy of labour laws.

19.6.6 Resistance to Labour Law Reforms

Efforts to reform labour laws have encountered resistance from various stakeholders, including trade unions, political parties, and civil society organizations. Critics argue that certain provisions in the new labour codes may dilute worker protections and favor employers. For instance, the requirement for a 14-day notice before strikes, as stipulated in the Industrial Relations Code, has been

contested by trade unions, who view it as a restriction on workers' rights to protest.

19.6.7 Migrant Workers and Inter-State Labour Mobility

Migrant workers, who often move across state borders in search of employment, face unique challenges such as lack of access to social security benefits, exploitation, and unsafe working conditions. The absence of a comprehensive national policy to address the needs of migrant workers has led to disparities in their treatment and access to benefits. Addressing these issues requires coordinated efforts between central and state governments to formulate policies that protect the rights of migrant workers.

19.6.8 Overwork Culture and Mental Health Concerns

The culture of overwork is prevalent in many sectors, particularly in the corporate and service industries. Reports of employee burnout and mental health issues have raised concerns about the adequacy of existing labour laws to address these problems. The tragic death of a young executive at Ernst & Young, reportedly due to overwork, has highlighted the need for regulations that ensure work-life balance and protect employees' mental health.

19.6.9 Legal Gaps and Need for Comprehensive Reforms

While India's labour laws have evolved over time, they often fail to address the complexities of modern employment relationships. There is a pressing need for comprehensive reforms that not only consolidate existing laws but also introduce new provisions to cover emerging forms of employment, ensure gender equality, and protect the rights of all workers, including those in the informal sector. Such

reforms should be inclusive, forward-looking, and adaptable to the changing dynamics of the workforce.

19.7 Summing Up

The intricate tapestry of industrial relations and labour laws in India reflects the nation's dynamic socio-economic evolution. From colonial-era legislations to contemporary reforms, the journey underscores a continuous endeavor to balance the interests of workers and employers, ensuring equitable growth and social justice.

1. Evolution and Adaptation of Labour Laws

India's labour laws have undergone significant transformations, adapting to the changing industrial landscape. The consolidation of numerous legislations into four comprehensive labour codes marks a pivotal step towards streamlining and modernizing the legal framework. However, the successful implementation of these codes hinges on addressing concerns raised by various stakeholders, including trade unions and civil society organizations, to ensure that worker rights are not compromised in the pursuit of economic growth.

2. Addressing Contemporary Challenges

The rise of the informal and gig economy presents new challenges in the realm of industrial relations. Workers in these sectors often lack formal employment contracts and social security benefits, rendering them vulnerable to exploitation. It is imperative to extend legal protections to these workers, ensuring that they receive fair treatment and access to necessary benefits.

3. Ensuring Gender Equality and Workplace Safety

Despite legislative advancements, gender inequality persists in many workplaces. Instances of workplace harassment and unsafe working conditions, particularly for women, highlight the need for stricter enforcement of existing laws and the introduction of new measures to safeguard women's rights. The tragic death of a female trainee doctor in Kolkata, reportedly due to unsafe working conditions, underscores the urgency of implementing reforms to ensure women's safety and equality in the workplace.

4. Embracing Technological Advancements

Technological advancements, including automation and artificial intelligence, are reshaping the nature of work in India. While these technologies offer potential for increased productivity, they also pose challenges such as job displacement and the emergence of new forms of employment that may not be adequately covered under existing labour laws. The rapid pace of technological change necessitates a proactive approach to updating labour laws to address these emerging issues.

5. Strengthening Enforcement Mechanisms

The effectiveness of labour laws is contingent upon robust enforcement mechanisms. Challenges such as inadequate enforcement agencies, judicial delays, and lack of awareness among workers impede the realization of the objectives of these laws. Enhancing the capacity of enforcement agencies, expediting judicial processes, and conducting awareness programs are essential steps towards ensuring the efficacy of labour laws.

6. Fostering Social Dialogue and Stakeholder Engagement

The successful implementation of labour reforms requires active engagement with all stakeholders, including workers, employers,

and trade unions. Fostering a culture of social dialogue and collaboration can lead to the development of policies that are inclusive and balanced, addressing the concerns of all parties involved.

7. Looking Ahead: Towards Inclusive and Sustainable Industrial Relations

As India continues its journey towards industrialization and economic growth, it is imperative to ensure that labour laws evolve in tandem with these developments. This includes recognizing new forms of employment, ensuring gender equality, and safeguarding the rights of all workers, irrespective of their sector or employment status. By adopting a holistic and inclusive approach, India can create a labour environment that promotes fair practices, social justice, and sustainable economic growth.

In conclusion, the landscape of industrial relations and labour laws in India is at a crossroads. While significant strides have been made, the path ahead requires continuous dialogue, thoughtful reforms, and unwavering commitment to the principles of justice and equity. Only through collective efforts can India build a future where the rights and dignity of every worker are upheld, contributing to a prosperous and harmonious society.

19.8 Model Questions

1. Define labour welfare. Discuss its significance in promoting industrial harmony and improving worker productivity.
2. Critically examine the statutory and non-statutory provisions for labour welfare in India.
3. Explain the role of employers, trade unions, and the government in ensuring effective labour welfare.

4. Discuss the concept of unfair labour practices with suitable examples from Indian labour law.
5. Evaluate the effectiveness of the Industrial Disputes Act, 1947 in curbing unfair labour practices.
6. How do welfare measures contribute to reducing industrial disputes and improving employer-employee relations?
7. Compare and contrast labour welfare practices in the organized and unorganized sectors in India.
8. Examine the impact of globalization on labour welfare standards and unfair labour practices in India.
9. Discuss any recent case law or judicial pronouncements related to unfair labour practices in India.
10. Suggest policy reforms to strengthen the implementation of labour welfare measures and reduce unfair labour practices.

19.9 References and Suggested Readings

1. Mamoria, C.B., Gankar, S.V., "Dynamics of Industrial Relations"
2. Philip Alston (ed.), "Labour Rights as Human Rights"
3. Robert J. Flanagan, "Globalization and Labor Conditions: Working Conditions and Worker Rights in a Global Economy"
4. Ashwani Saith, "ILO: Crisis and Responses"
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UNIT-20
CASE STUDIES

Unit Structure:

20.1 Introduction

20.2 Objectives

20.3 Case Studies of different companies

20.4 Summing up

20.5 Model Questions

20.6 References and Suggested Readings

20.1 Introduction

Industrial relations and labour laws form the cornerstone of a balanced and equitable workplace environment. They govern the complex interplay between employers, employees, and trade unions, aiming to ensure fairness, protect rights, and maintain industrial peace. In India, the legal framework related to labour is vast and continually evolving to address the challenges of a dynamic economy and workforce.

This chapter presents a series of case studies that highlight the practical application of labour laws and the dynamics of industrial relations in real-world scenarios. These case studies span diverse sectors and issues, including disputes over wages, unfair labour practices, collective bargaining, contract labour, retrenchment, and the implementation of social security measures. By analyzing these cases, readers will gain insights into how legal principles are interpreted and enforced, how conflicts are resolved, and how proactive industrial relations can lead to sustainable workplace outcomes.

Through these practical examples, the chapter aims to bridge the gap between theoretical knowledge and its practical application, equipping students, researchers, and professionals with a deeper understanding of the legal and industrial realities in India.

20.2 Objectives

This unit is an attempt to analyse the idea of case studies. After going through this unit you will be able to:

1. *understand* the practical application of key labour laws through real-life industrial disputes and resolutions,
2. *analyze* the role of employers, employees, trade unions, and government authorities in shaping industrial relations,
3. *examine* the causes and consequences of industrial conflicts and how they are addressed within the legal framework,
4. *evaluate* judicial interpretations and decisions in landmark cases related to labour rights and employer obligations.

20.3 Case Studies of different companies

Case Study 1: Maruti Suzuki Manesar Plant Labour Unrest (2011–2012)

Background:

Maruti Suzuki India Limited (MSIL), India's leading automobile manufacturer, faced significant labour unrest at its Manesar plant. In 2011, workers demanded the recognition of a new union, improved working conditions, and better wages. The situation escalated in 2012 when a violent incident resulted in the death of a senior HR manager and injuries to several others. The plant was shut down temporarily, and over 500 workers were arrested.

Issues:

- Demand for independent union recognition.
- Allegations of unfair labour practices.
- Breakdown of communication between management and workers.
- Escalation of disputes leading to violence.

Legal Framework:

- Industrial Disputes Act, 1947.
- Trade Unions Act, 1926.
- Indian Penal Code (for criminal proceedings).

Resolution:

- The Haryana government intervened, and a tripartite agreement was reached.
- The company agreed to reinstate some workers and improve working conditions.
- Legal proceedings continued against those involved in the violence.

Lessons Learned:

- Importance of proactive communication between management and workers.
- Need for timely resolution of grievances to prevent escalation.
- Significance of legal compliance in union recognition and collective bargaining.

Case Study 2: Samsung India Workers' Strike (2024)

Background:

In September 2024, workers at Samsung's plant in Tamil Nadu went on strike, demanding wage increases and better working conditions.

The Centre of Indian Trade Unions (CITU) supported the strike, highlighting issues of low wages and lack of collective bargaining rights.

Issues:

- Demand for wage revision from ₹25,000 to ₹36,000 over three years.
- Lack of recognized union representation.
- Allegations of inadequate labour law compliance.

Legal Framework:

- Minimum Wages Act, 1948.
- Industrial Disputes Act, 1947.
- Trade Unions Act, 1926.

Resolution:

- Samsung initiated discussions with workers and CITU representatives.
- Negotiations led to a tentative agreement on wage revisions and improved working conditions.
- The strike was called off after assurances from the management.

Lessons Learned:

- Necessity of recognizing and engaging with workers' unions.
- Importance of regular wage reviews in line with inflation and cost of living.
- Ensuring compliance with labour laws to prevent industrial actions.

Case Study 3: Cummins India Limited – Harmonious Industrial Relations

Background:

Cummins India Limited, a leading manufacturer of engines and related technologies, has been recognized for maintaining harmonious industrial relations. The company emphasizes proactive engagement with employees and unions.

Practices:

- Regular meetings between management and union representatives.
- Transparent communication channels for grievance redressal.
- Joint training programs and employee development initiatives.

Legal Framework:

- Industrial Employment (Standing Orders) Act, 1946.
- Factories Act, 1948.

Outcomes:

- Low incidence of industrial disputes.
- High employee satisfaction and retention rates.
- Enhanced productivity and organizational performance.

Lessons Learned:

- Proactive and continuous engagement with employees fosters trust.
- Transparent policies and practices reduce misunderstandings.
- Investment in employee development contributes to industrial harmony.

Case Study 4: Workers' Protest at Food Processing Unit in Bihta, Bihar (2025)

Background:

On May 12, 2025, workers at a multinational food products company in Bihta, Bihar, halted operations and protested unmet promises, including a pledged 10% annual salary hike. They also cited issues like substandard food in the canteen, delayed benefits, and lack of festive bonuses.

Issues:

- Non-implementation of promised salary hikes.
- Poor working conditions and delayed benefits.
- Lack of effective grievance redressal mechanisms.

Legal Framework:

- Payment of Wages Act, 1936.
- Factories Act, 1948.
- Industrial Disputes Act, 1947.

Resolution:

- Local authorities intervened to mediate between workers and management.
- The company agreed to address the grievances and implement the promised benefits.
- A committee was formed to monitor the implementation of agreed terms.

Lessons Learned:

- Honoring commitments is crucial for maintaining industrial peace.

- Effective grievance redressal systems prevent escalation of disputes.
- Regular audits of working conditions can preempt potential issues.

Case Study 5: Bata India Limited – Chronic Labour Strike

Background:

Bata's factory at Batanagar, West Bengal, has historically faced labour unrest. In 1992, the factory was closed for over four months due to strikes. In 1995, a tripartite agreement was signed between Bata, the Bata Mazdoor Union (BMU), and the West Bengal government to address ongoing issues.

Issues:

- Frequent strikes and lockouts disrupting operations.
- Demand for better wages and working conditions.
- Lack of trust between management and workers.

Legal Framework:

- Industrial Disputes Act, 1947.
- Trade Unions Act, 1926.

Resolution:

- The tripartite agreement aimed to improve communication and resolve disputes amicably.
- Regular meetings were instituted between management and union representatives.
- Mechanisms were established for timely resolution of grievances.

Lessons Learned:

- Tripartite agreements can be effective in resolving prolonged industrial disputes.
- Building trust through consistent dialogue is essential.
- Involvement of government bodies can facilitate dispute resolution.

Case Study 6: Honda Motorcycle and Scooter India (HMSI) Labour Dispute

Background:

In 2005, workers at HMSI's plant in Gurgaon went on strike demanding better wages and recognition of their union. The situation escalated when police used force to disperse the protesting workers, leading to widespread criticism.

Issues:

- Demand for union recognition and better wages.
- Use of force against protesting workers.
- Negative publicity affecting the company's image.

Legal Framework:

- Industrial Disputes Act, 1947.
- Trade Unions Act, 1926.
- Indian Penal Code (for incidents involving violence).

Resolution:

- The Haryana government mediated between the workers and management.
- An agreement was reached to address wage concerns and recognize the union.

- Measures were taken to improve labour relations and prevent future disputes.

Lessons Learned:

- Respecting workers' rights to unionize is fundamental.
- Use of force can exacerbate industrial disputes and damage reputations.
- Proactive engagement and negotiation are key to resolving conflicts.

Case Study 7: Greater Noida Industrial Development Authority (GNIDA) Workers' Reinstatement

Background:

In 1998, 240 gardeners and sanitation workers were hired on a contractual basis by the Greater Noida Industrial Development Authority (GNIDA). Despite working continuously, they were denied permanent employment status and associated benefits. In 2003, these workers were terminated, prompting a legal battle seeking reinstatement and pending wages.

Legal Framework:

- Industrial Disputes Act, 1947
- Contract Labour (Regulation and Abolition) Act, 1970

Resolution:

In 2018, the Industrial Tribunal in Meerut ruled in favor of the workers, declaring them permanent employees. GNIDA appealed, but the Allahabad High Court upheld the tribunal's decision. The Supreme Court dismissed GNIDA's appeal in 2025, mandating reinstatement and payment of ₹46 crore in pending wages.

Lessons Learned:

- Misclassification of permanent roles as contractual is an unfair labour practice.
- Long-term legal battles can result in significant financial liabilities for employers.
- Ensuring proper employment classification is crucial for compliance.

Case Study 8: Foxconn India – Discriminatory Hiring Practices

Background:

Between January 2023 and May 2024, investigations revealed that Foxconn's Tamil Nadu plant systematically excluded married women from assembly line jobs, citing productivity concerns and potential risks to iPhone components from metal jewelry traditionally worn by married women.

Legal Framework:

- Equal Remuneration Act, 1976
- Industrial Employment (Standing Orders) Act, 1946

Resolution:

India's National Human Rights Commission (NHRC) criticized the inadequate initial probe and ordered a reinvestigation within four weeks. Foxconn and Apple stated that they hire married women in India, but the NHRC emphasized the need for a thorough inquiry.

Lessons Learned:

- Discriminatory hiring practices violate fundamental labour laws.
- Companies must ensure non-discriminatory policies in recruitment.
- Regulatory bodies play a crucial role in enforcing compliance.

Case Study 9: Ernst & Young (EY) Executive's Death Due to Overwork

Background:

In July 2024, Anna Sebastian Perayil, a 26-year-old chartered accountant at EY's Pune office, died suddenly. Her mother attributed the death to excessive workload, highlighting the lack of labour protections for white-collar employees in India.

Legal Framework:

- Occupational Safety, Health and Working Conditions Code, 2020
- Labour laws primarily focus on blue-collar workers, leaving a gap for white-collar protections.

Resolution:

Authorities in Maharashtra and Karnataka initiated inspections and considered new guidelines to ensure better protection for white-collar workers. The federal labour ministry launched an investigation into the incident.

Lessons Learned:

- There is a pressing need to extend labour protections to white-collar employees.
- Workplace wellness and reasonable working hours are essential for employee health.
- Companies must proactively address work-life balance issues.

Case Study 10: Toyota Kirloskar Motor Labour Unrest (2014)

Background:

In March 2014, Toyota's plant in Bidadi, Karnataka, faced a significant labour strike over wage disputes and the suspension of

workers. The strike led to a lockout, halting production for over a month.

Legal Framework:

- Industrial Disputes Act, 1947
- Trade Unions Act, 1926

Resolution:

The Karnataka government mediated between the management and workers. An agreement was reached, leading to the resumption of operations.

Lessons Learned:

- Effective communication channels between management and workers are vital.
- Timely intervention by authorities can prevent prolonged industrial actions.
- Addressing grievances promptly can maintain industrial harmony.

Case Study 11: Wistron India – Worker Riot Over Unpaid Wages (2020)

Background:

In December 2020, workers at Wistron's iPhone manufacturing plant in Karnataka rioted over unpaid wages and poor working conditions, causing significant property damage.

Legal Framework:

- Payment of Wages Act, 1936
- Factories Act, 1948

Resolution:

Apple placed Wistron on probation, and the Karnataka government mandated the company to improve labour practices. Wistron admitted to lapses in payment and committed to rectifying issues.

Lessons Learned:

- Ensuring timely payment of wages is fundamental to labour relations.
- Multinational companies must adhere to local labour laws and standards.
- Proactive monitoring of labour practices can prevent escalations.

Case Study 12: Foxconn India – Labour Unrest Over Food Safety (2021)

Background:

In December 2021, Foxconn's plant in Tamil Nadu faced a three-week shutdown after workers protested a food poisoning incident in the company-provided canteen, highlighting concerns over worker welfare.

Legal Framework:

- Factories Act, 1948
- Occupational Safety, Health and Working Conditions Code, 2020

Resolution:

Foxconn addressed the food safety issues and improved living conditions for workers. The plant resumed operations after implementing corrective measures.

Lessons Learned:

- Worker health and safety are paramount in industrial operations.
- Companies must ensure adequate facilities and living conditions for employees.
- Swift response to health concerns can mitigate industrial unrest.

Case Study 13: Qatar's Labor Reforms Post-World Cup Preparations

Background:

In preparation for the 2022 FIFA World Cup, Qatar faced international scrutiny over the treatment of migrant workers, with reports of thousands of deaths due to extreme heat and poor working conditions.

Challenges:

- Lack of labor protections for migrant workers.
- Extreme heat leading to health issues and fatalities.
- International criticism and calls for reform.

Solutions Implemented:

- Collaborated with the International Labour Organization (ILO) to implement labor reforms.
- Introduced midday work bans during peak heat hours.
- Established cooling rest areas and mandatory hydration breaks.
- Implemented electronic monitoring of workers' health indicators.

Lessons Learned:

- International pressure can catalyze labor reforms.
- Collaborative efforts with global organizations can improve worker welfare.

- Continuous monitoring and enforcement are crucial for sustained improvements.

Case 14: Bangladesh Accord on Fire and Building Safety

Background:

Following the Rana Plaza factory collapse in 2013, which killed over 1,100 garment workers, global attention focused on the safety of Bangladesh's garment industry.

Challenges:

- Poor building safety standards.
- Lack of accountability among factory owners and brands.
- Need for systemic change in the garment sector.

Solutions Implemented:

- Established the legally binding Bangladesh Accord between brands and trade unions.
- Conducted independent safety inspections of factories.
- Mandated remediation of safety hazards.
- Provided training programs for workers and management.

Lessons Learned:

- Legally binding agreements can enforce corporate accountability.
- Collaborative efforts between brands and unions lead to safer workplaces.
- Transparency and worker involvement are key to successful reforms.

Case 15: Volkswagen's Labor Relations in Germany

Background:

Volkswagen (VW) has a long-standing tradition of strong labor relations in Germany, characterized by co-determination and collaboration between management and workers.

Challenges:

- Balancing competitiveness with high labor standards.
- Adapting to global economic shifts and technological changes.

Solutions Implemented:

- Established Works Councils and strong union representation (IG Metal).
- Implemented co-determination, allowing workers to participate in management decisions.
- Negotiated collective agreements covering wages, working hours, and conditions.

Lessons Learned:

- Collaborative labor relations can lead to stable industrial environments.
- Worker participation in decision-making enhances adaptability to change.
- Strong labor institutions contribute to long-term business success.

Case 16: Amazon's Labor Relations in Italy

Background:

Amazon's operations in Italy have witnessed significant labor activism, leading to the company's first collective bargaining agreement globally.

Challenges:

- Worker dissatisfaction with wages and working conditions.
- Need for formal recognition of workers' rights.

Solutions Implemented:

- Workers organized strikes and protests to demand better conditions.
- Negotiated a collective bargaining agreement with trade unions.
- Established frameworks for ongoing dialogue between management and workers.

Lessons Learned:

- Collective action can lead to meaningful negotiations and agreements.
- Formal labor agreements can improve worker satisfaction and productivity.
- Engagement with unions can enhance corporate reputation and stability.

Case 17: Uber's Exit from Hungary

Background:

In 2016, Uber ceased operations in Hungary due to regulatory challenges and opposition from traditional taxi services.

Challenges:

- Regulatory loopholes concerning platform-based work.
- Protests from traditional taxi drivers over unfair competition.
- Lack of clear legal framework for gig economy services.

Solutions Implemented:

- Hungarian government introduced regulations restricting ride-sharing services.
- Uber decided to exit the Hungarian market.
- Prompted discussions on the need for updated labor laws to address gig economy challenges.

Lessons Learned:

- Regulatory clarity is essential for the operation of platform-based services.
- Stakeholder engagement is crucial in developing fair labor policies.
- Adaptation of labor laws is necessary to accommodate new work models.

Case 18: IBM's Virtual Strike in Italy

Background:

In 2007, IBM workers in Italy organized a "virtual strike" within the online platform Second Life to protest the cancellation of performance bonuses.

Challenges:

- Dispute over the removal of employee bonuses.
- Need for innovative protest methods in the digital age.

Solutions Implemented:

- Workers staged a virtual protest, disrupting IBM's virtual facilities.

- Simultaneous real-life pickets were organized outside IBM Italy offices.
- Drew international attention to the workers' grievances.

Lessons Learned:

- Innovative protest methods can amplify workers' voices.
- Digital platforms offer new avenues for labor activism.
- Global solidarity can influence corporate

Case 19: McGowan v. Labour Court (Ireland, 2013)

Background:

In McGowan v. Labour Court, the Supreme Court of Ireland ruled that provisions under the Industrial Relations Act 1946—specifically relating to Employment Regulation Orders (EROs)—were unconstitutional.

Challenges:

- The Industrial Relations Act allowed wage-setting bodies (JLCs and EROs) significant autonomy.
- It was challenged that these bodies exercised legislative powers without adequate oversight.
- Workers and businesses needed legal clarity on wage agreements and enforcement.

Solutions Implemented:

- The Supreme Court declared key sections of the 1946 Act unconstitutional for violating the separation of powers.
- The government responded by reviewing the legal structure of collective bargaining and wage-setting.

- This led to the enactment of the Industrial Relations (Amendment) Act 2015, introducing more checks and balances.

Lessons Learned:

- Labor laws must conform to constitutional principles, particularly regarding delegation of legislative power.
- Judicial intervention can prompt legislative reform.
- Balancing worker rights with democratic accountability is essential in wage regulation.

Case Study 20: CLEAN Carwash Campaign (Los Angeles, 2008–2012)

Background:

The CLEAN (Community Labor Environmental Action Network) Carwash Campaign aimed to unionize carwash workers in LA, who were largely undocumented immigrants facing wage theft, hazardous conditions, and lack of legal recourse.

Challenges:

- Rampant wage violations and unsafe working conditions.
- Exploitation of immigrant labor with limited rights or protections.
- Resistance from employers and lack of effective enforcement.

Solutions Implemented:

- CLEAN partnered with unions (like SEIU) and legal advocacy groups.
- Organized community education campaigns to empower workers.

- Achieved the first-ever union contracts for carwash workers in California.

Lessons Learned:

- Community-labor partnerships are effective in supporting vulnerable worker groups.
- Organizing undocumented workers is possible with trust-building and legal advocacy.
- Local, grassroots campaigns can catalyze broader policy changes in labor regulation.

20.4 Summing Up

The case studies discussed in this chapter underscore the critical role that industrial relations and labour laws play in shaping workplace dynamics and safeguarding the interests of both employers and employees. They highlight how legal frameworks, when effectively implemented, can resolve conflicts, prevent exploitation, and promote harmonious relations in the industrial sector.

Each case provides a unique insight into the practical challenges faced in the interpretation and enforcement of labour laws, the handling of disputes, and the pursuit of equitable outcomes. These real-world examples also reflect the evolving nature of employment relationships in response to economic, technological, and social changes.

By examining these cases, learners can better appreciate the complexity of industrial relations in India and the importance of informed, fair, and lawful approaches to conflict resolution and policy-making. Ultimately, fostering strong industrial relations supported by sound legal practices is essential for achieving

sustainable growth, productivity, and social justice in the world of work.

20.5 Model Questions

General Industrial Relations

1. A strike was declared illegal under the Industrial Disputes Act. Analyze the legal consequences and workers' rights in such a situation.

2. A company denied recognition to a union with 45% membership. Discuss the implications under the Trade Unions Act, 1926.

3. An IT company laid off 200 employees without prior notice. Evaluate the legality and ethicality under Indian labour laws.

4. A factory has multiple unions claiming representation. How should the employer address this under the Code on Industrial Relations?

5. In a public sector undertaking, workers refused to work overtime without extra wages. Examine the applicability of the Payment of Wages Act, 1936.

Collective Bargaining and Strikes

6. A management and union entered into a collective bargaining agreement that was later violated by the employer. What remedies are available?

7. A sudden strike by workers caused losses to the company. Can the employer claim damages under labour law?

8. Discuss the legality of a "go-slow" movement by workers as a form of protest.

9. In a multinational company, trade union leaders were transferred to remote locations. Is this an unfair labour practice?

10. A lockout was declared during ongoing conciliation proceedings. Is this permissible under law?

Wages and Conditions of Employment

11. Workers complained about below-minimum wages being paid. Evaluate the role of the Minimum Wages Act in redressal.

12. A woman employee was denied maternity benefits due to short tenure. Can she claim rights under the Maternity Benefit Act?

13. An employer deducted wages for damages without employee consent. Analyze the legality under the Payment of Wages Act.

14. A firm refused to implement equal pay for male and female workers for similar work. Discuss in light of the Equal Remuneration Act.

15. During peak season, a company employed workers without contracts. Are they entitled to benefits under the Contract Labour Act?

Industrial Disputes and Resolution Mechanisms

16. A dispute between contract workers and the principal employer escalated. Who is liable under labour laws?

17. A tribunal awarded reinstatement with back wages, but the company filed an appeal. Discuss the enforceability of the award.

18. A conciliation officer failed to resolve a dispute. What are the next legal steps available to the workers?

19. An industrial dispute was referred to arbitration without the consent of one party. Is the award binding?

20. A termination was challenged as being without "reasonable cause." How would the Labour Court examine this case?

20.6 References and Suggested Readings

1. “Dynamics of Industrial Relations” by C.B. Mamoria, S. Mamoria, and S.V. Gankar.
2. “Industrial Relations and Labour Laws” by S.C. Srivastava.
3. “Labour and Industrial Laws” by P.K. Padhi.
4. “Industrial Relations, Trade Unions, and Labour Legislation” by Sinha, Sinha & Shekhar
5. “Labour Law and Governance Reforms in India: A Case Study Approach” edited by K.R. Shyam Sundar.

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