

LECTURE NOTES

ON

MANAGEMENT OF INDUSTRIAL RELATIONS

III SEMESTER

Dr. E. Sunitha

Associate Professor



**DEPARTMENT OF MASTER OF BUSINESS
ADMINISTRATION**

INSTITUTE OF AERONAUTICAL ENGINEERING

(AUTONOMOUS)

Dundigal, Hyderabad-500 043

MANAGEMENT OF INDUSTRIAL RELATIONS

II Semester: MBA								
Course Code	Category	Hours / Week			Credits	Maximum Marks		
CMBB41	Core	L	T	P	C	CIA	SEE	Total
		4	-	-	4	30	70	100
Contact Classes: 45	Tutorial Classes: Nil	Practical Classes: Nil			Total Classes: 45			
<p>OBJECTIVES:</p> <p>The course should enable the students to</p> <ol style="list-style-type: none"> I. Understand the industrial relations systems, characteristics of Indian IR system. II. Know the role of state dispute settlement machinery and its instruments, legislation III. Examine the collective bargaining, conciliation, arbitration, adjudication IV. Identify the role of wage policy and wage regulation machinery, wage legislation and payment of wages Act 1936 <p>COURSE OUTCOMES:</p> <ol style="list-style-type: none"> 1. To understand the importance and purpose of industrial relations 2. To understand the role of trade unions in managing the industrial relations 3. Describe the causes of industrial disputes and settlement mechanisms 4. Illustrate the grievance procedure mechanisms to manage the industry relations 5. Examine the collective bargaining procedures and mechanisms 6. Illustrate labour welfare activities and worker's participation organizational activities 7. Identify the role of wage policy and wage regulation machinery and various acts related to wage regulations 8. Describe various acts related to perks, bonus and incentives need to give to employees 9. Understand the regulations and various acts related to manage factories and mines 10. Understand the present scenario of industrial relations 								
UNIT -I	INDUSTRIAL RELATIONS						Classes: 10	
Introduction, Dunlop's Industrial relations systems, characteristics of Indian IR System; Trade Unions: Union Purpose. Trade union, functions, methods, Politics, types of unions, Trade Unions in India: Union Structure and characteristics. Recognition of Unions: States provisions for recognition. Rights of recognized Unions, unfair labour Practices: Case 1. Let us get back to work (p.no. 720, C.B.Mamoria) Case 2. A case of complicated multi-union manoeuvres (J.A. Kulkarni)								
UNIT -II	SETTLEMENT OF DISPUTES						Classes: 08	
Role of state dispute settlement machinery and its instruments, legislation: Causes of disputes, Right to Strike, Major Strikers, Tripartite and Bipartite Bodies, Standing orders and Grievance Procedure. Case 1. Stop the shouting game please (p.no. 760, C.B.Mamoria) Case 2. The dish ends ltd. (p.no.07, J.A. Kulkarni)								
UNIT -III	COLLECTIVE BARGAINING						Classes: 09	
Collective bargaining, conciliation, arbitration, adjudication, The Industrial dispute Act 1947, labour welfare work, labour welfare officer, worker's participation. Case 1.who is to be blamed (p.no. 685, C.B.Mamoria)								

UNIT -IV	WAGE POLICY AND WAGE REGULATION	Classes: 09
Wage policy and wage regulation machinery, wage legislation, payment of wages Act 1936, The payment of bonus Act, 1965 Case 1. Rules and regulations still guide actions at UPS (p.no. 37, C.B.Mamoria) .		
UNIT -V	THE FACTORIES ACT 1948 AND MINES ACT 1952	Classes: 09
The factories Act 1948, mines Act 1952, Industrial relations and technological change. Case 1. Organizations and unions working as partners (p.no. 738, C.B.Mamoria)		
Text Books		
Mamoria, Mamoria, Gankar “Dynamics of Industrial Relations” Himalaya Publishing House, 14th Edition, 2012. 2. C.B.Mamoria, VSP Rao “personnel management- text & cases”, Himalaya Publishers 15th edition, 2012. 3. J.A.Kulkarni, Asha Pachpande, Sandeep Pachpande, “ case studies in amangement”, pearson, 10th Edition, 2011.		
Reference Books:		
1. Padhi, “ Labour and Industrial Relations” PHI, 8 th Edition, 2012. 2. Arun Monappa, 2. Ranjeet Nambudiri, Selvaraj “ Industrial Relations and Labour Laws”, 5th Edition, TMH,2012 3. Ratna Sen “Industrial Relations-Text and Cases “Macmillan Publishers, 10th Edition, 2011		
Web References:		
1. https://www.uk.ask.com/management references/try_ it 2. https://www.shodhganga.intlibnet.ac.in/bitstream/10603/463/46313/8		
E-Text Books:		
1. https://www.pondiuni.edu.in/storage/dde/download//hrmiii_irm.pdf 2. https://www.eh.wikipedia.org/wiki/industries_relations		

UNIT - I

INTRODUCTION

Concept of Industrial Relation

Industrial Relation is one of the important problems for the success of a firm. The term industrial relations refers to the whole field of relationship that exists because of necessary collaboration of men and women in the employment process of modern industry.

Industrial relations is nothing but an “Employment Relationship” In an industrial setting. It includes all the laws, rules, regulation, agreements awards of court, customs, traditions, as well as policy framework laid by the government. Thus, IR involves a study of the conditions of work, mainly the level of wages, security of employment, social conflict, cultural interactions legal aspects of disputes under laws etc.

Meaning and definition of Industrial Relations

The term “Industrial Relations (IR)” also known as a “labour Management Relations” or “labour relations”. The term ‘Industrial Relations’ comprises of two terms:

- 1. Industry:** It refers to “any productive activity in which an individual or a group of individuals is are engaged”.
- 2. Relations:** It means “the relationships that exist within the industry between the employer and his workmen”.

According to **International Labour Organization (ILO)**, ” Industrial Relations deal with either the relationship between the state and employers and workers organizations or the relation between the occupational organizations themselves”.

According to Dale Yoder__” Industrial Relation is a relationship between management and employees or among employees and their organization that characterize and grow out of employment”.

According to Armstrong __” IR is concerned with the systems and procedures used by unions and employers to determine the reward for effort and other conditions of employment, to protect the interests of the employed and their employers and to regulate the ways in which employers treat their employees”

Thus, Industrial relations refers the relationship that exists between the employer and employees in the day-to-day working of an organization.

Features/Characteristics Of Industrial Relations

1. Dynamic and Developing Concept: The concept of “Industrial Relations” is a dynamic and developing concept. It is described as a relationship between employers and management of the enterprise and the employees or among employees and their organizations or employers, employees and their trade unions and the government.

2. It is a set of functional: Industrial relations do not constitute a simple relationship, but they are a set functional, inter-dependent complexities involving various factors or various variables such as economic, political, social, psychological, legal factors or variables.

3. Employee-employers relationship: Without the existence of the minimum two parties, industrial relationship cannot exist such as :

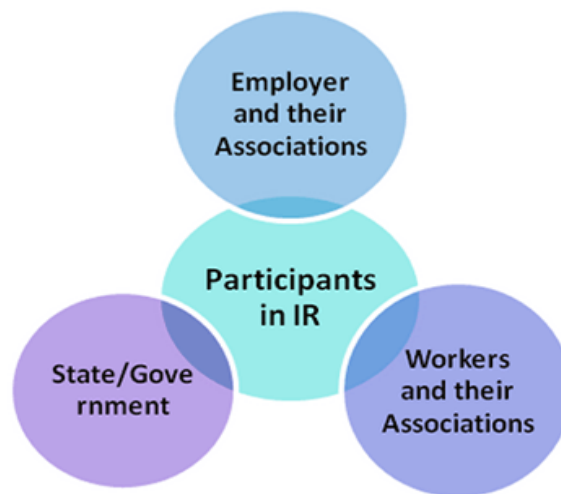
- i. Workers and their organizations.
- ii. Employers or management of the enterprise.
- iii. Government are the three participants or parties in the industrial relations.

4. It is a product: Industrial relations are the product of economic, social and political system arising out of the employment in the industrial field.

5. Development of healthy labour management: The important purpose of industrial relations is development of healthy labour-management or employee-employer relations, maintenance industrial peace, avoidance of industrial strife, development and growth of industrial democracy etc.

Participants in Industrial Relations

There are three participants/players in industrial relations. They are:



1. Employer and their Associations: Employer plays an important role in industrial relations. He hires the employees, pay them wages, provides allowances, he regulates the working relations through various rules, regulations and laws and at same time expects the workers to follow them. The bargaining power of the employers is weakened in comparison to that of trade unions, though they have high bargaining power when compared to that of employees. So, they form into associations to equate their bargaining power with trade union, and these associations protect the employer by putting pressure on government and trade unions.

2. Workers and their Associations: Workers plays a crucial role in industrial relation. Worker as a whole includes his working age, educational background, social and family background,

psychological traits, talents, skills, culture, attitude towards others work. Workers form into their associations called “Trade Unions” to get their problems solved. The trade unions work for workers economic interest through collective bargaining by bringing the pressure on the management through economic and political strategies.

3. State/Government: Government plays a balancing role in industrial relations. Government has its influence on industrial relations through industrial relations policy, labour policy, labour law implementation, acting as a mediator in the process of conciliation and adjudication. Government regulates the behaviour of both the employer association and workers organizations.

Objectives of Industrial Relation

- Enhance status.
- Regulate Production.
- Occupational instability.
- Poor Organizational Climate.
- Good Relations among employees.
- Increase productivity.
- Enhance Social responsibility.
- Improvement of economic conditions of workers.
- To extend and maintain industrial democracy.
- To avoid industrial conflict.
- Uninterrupted production.

Importance of Industrial Relations

- **Reduction in Industrial Disputes** – Good industrial relations reduce the industrial disputes. Disputes are reflections of the failure of basic human urges or motivations to secure adequate satisfaction or expression which are fully cured by good industrial relations. Strikes, lockouts, go-slow tactics, gherao and grievances are some of the reflections of industrial unrest which do not spring up in an atmosphere of industrial peace. It helps to promote co-operation and increasing production.
- **Uninterrupted production** – The most important benefit of industrial relations is that this ensures continuity of production. This means, continuous employment for all from manager to workers. The resources are fully utilized, resulting in the maximum possible production. There is an uninterrupted flow of income for all. Smooth running of an industry is of vital importance for several other industries; to other industries if the products are intermediaries or inputs; to exporters if these are export goods; to consumers and workers, if these are goods of mass consumption.
- **Promote Industrial Democracy:** Industrial democracy means the government mandated worker participation at various levels of the organisation with regard to decisions that affect workers. It is mainly the joint consultations, that pave the way for industrial democracy and cement relationship between workers and management

Dunlop’s System Theory (1958):

Dunlop’s System Theory (1958) The credit for applying the systems concept to industrial relations goes to Dunlop.

- “He analyses industrial relations systems as a sub-system of society. “An industrial relations system at any one point time in its development is regarded as comprised of certain actors, contexts, ideology which binds the industrial relations system together and a body of rules created to govern the actors at the workplace and work community”.
- Dunlop’s System model
- $IR=f(a,t,m,P,I)$
- A= actors-Labour, Employers Govt.
- T=Technological Context
- M=Market Context
- P=Power Context
- I=Ideological context that helps to bind together
- The IR system as a web of rules formed by the interaction of the government, business and labour, influenced by the existing and emerging economic, socio-political and technological factors.
-

Difference between IR and HRM

S.No	Dimension	TIR	EER/HRM
1.	Nature of relations	Pluralist	Unitarist
2	Contract	Emphasis on terms of contract defined rules,contract	Beyond contract, innovative ways
3	Conflict	Institutionalised	De-emphasised is pathological
4	Union legitimacy	Unions are acceptable	Not considered desirable Nurturing.
5.	Managerial task in relation to labour	Monitoring	Nurturing
6	Key relation	Labour-management	Customer
7	Pay	Standardised, based on job	Performance related

		evaluation	
8	Basis of labour-mgt relations	Collective bargaining contract	Individual contract
9	Job design	Division of labour	Team work
10	Conflict handling	Reach temporary truce, reactive	Managing climate and culture-proactive
11	Key people	PM/IR	Line specialists
12	Focus of attention	Personnel procedures	Various culture and structure-related personnel strategies.

History of Industrial Relation:

- The relations between labour and management in the industry form the subject matter of industrial relations.
- The first labour legislation was in the form of the Factories Act.
- Industrial revolution in England acted as a landmark event in transforming the industrial situation all over the world.
- This was followed by World war I, labour unrest and a mass awakening of a labour. This was followed by various legislations by the Government- Indian Industrial Commission, Indian Factories Act, Trade Disputes Act etc.
- The Government also appointed the Royal commission on labour to enquire into and report on the existing conditions of workers in the country.
- The Second World War brought in unprecedented expansion of Indian industry with emphasis on maintenance of harmonious and peaceful relations between workers and management. Strikes and industrial disputes were brought under the compulsory arbitration of Government.

- In the post-independence phase the labour scenario underwent major change. The constitution of India provided for freedom of association to all citizens which gave rise to trade unions. ID Act was enacted in 1947 which regulated worker-employer relations. Other acts like ESI Act and Minimum Wages Act were enacted for workers welfare.
- The first five year plan emphasises setting up a tripartite body for sorting out matters of conflict with a mutually agreed grievance procedure.
- The Second plan also dealt with code of discipline and in building a strong trade union movement.
- The third five year \plan envisaged setting up tribunals for resolution of industrial disputes.
- IR in the Fourth plan continued to be regulated by legislative measures. National conference of labour was set up.
- The fifth plan envisaged improvements in worker participation, communication systems and incentive systems in addition to setting up of shop councils.
- The sixth plan promoted professional management in the industrial harmony, employee welfare and a cooperative attitude.
- Essential Service Maintenance Act was also promoted.
- Events like liberalisation and globalisation are continuously influencing the IR scene even today leading to increased recognition and importance being given to the human resources.

THE TRADE UNIONS' ACT, 1926:

Definition: Labour unions or trade unions are organizations formed by workers from related fields that work for the common interest of its members. They help workers in issues like fairness of pay, good working environment, hours of work and benefits. They represent a cluster of workers and provide a link between the management and workers.

A trade union is a combination of persons. Whether temporary or permanent, primarily for the purpose of regulating the relations between workers and employers or between workers for imposing restrictive conditions on the conduct of any trade or business and includes the federations of two or more trade unions as per Sec. 2 (6) Trade Unions Act, 1926.

“A trade union is an organization of workers, acting collectively, who seek to protect and promote their mutual interest through collective bargaining”

The Indian Trade Union Act, 1926, is the principle act which controls and regulates the mechanism of trade unions. In India, political lines and ideologies influence trade union movements. This is the reason why today political parties are forming and running trade unions.

Purpose of Trade Union:

1. Regulate relations between workers (its members) and the employer
2. Settlement of grievances,
3. Raising new demands on behalf of workers,
4. Collective bargaining and negotiations are the other key principle functions that these trade unions perform
5. Negotiate wages and working condition terms
6. Help to settle their grievances

Objectives of Trade Union:

Following are the objectives of trade unions:

1. Ensure Security of Workers:

This involves continued employment of workers, prevent retrenchment, lay off or lock-outs. Restrict application of “fire” or dismissal or discharge and VRS.

2. Obtain Better Economic Returns:

This involves wages hike at periodic intervals, bonus at higher rate, other admissible allowances, subsidized canteen and transport facilities.

3. Secure Power To Influence Management:

This involves workers’ participation in management, decision making, role of union in policy decisions affecting workers, and staff members.

4. Secure Power To Influence Government:

This involves influence on government to pass labour legislation which improves working conditions, safety, welfare, security and retirement benefits of workers and their dependents, seek redressal of grievances as and when needed.

Functions of a Trade Union:

The important basic functions of unions listed by National Commission on labour are:

- (i) To secure fair wages to workers.
- (ii) To safeguard security of tenure and improve conditions of service.
- (iii) To enlarge opportunities for promotion and training.
- (iv) To improve working and living conditions.
- (v) To provide for educational, cultural and recreational facilities.
- (vi) To co-operate in and facilitate technological advance by broadening the understanding of workers on its underlying issues.
- (vii) To promote identity of interests of workers with their industry.
- (viii) To offer responsive co-operation in improving levels of production and productivity, discipline and high standards of quality and
- (ix) To promote individual and collective welfare.

Characteristics of Trade Union:

1. A union normally represents members in many companies throughout the industry or occupation.
2. A union is fundamentally an employer regulating device. It sharpens management efficiency and performance while protecting the interests of the members.
3. A union is a part of the working class movement.
4. A union is a pressure organization originating in the desire on the part of a group with relatively little power to influence the action of a group with relatively more power.
5. A union is a political institution in its internal structure and procedures.

Formation and Registration of Trade Union:

The following steps are involved in the registration of trade union:

Appointment of Registrars:

(a) The appropriate government shall appoint a person to be the registrar of trade unions for each state. The appropriate government may appoint as many additional and deputy registrars of trade unions as it thinks fit for the purpose of exercising and discharging under the superintendence and direction of the registrar.

Such powers and functions of the registrar under this Act as it may, by order, specify and define the local limits within which any such additional or deputy registrar shall exercise and discharge the powers and functions so specified.

(b) (i) Mode of Registration:

Any seven or more members of a trade union may, by subscribing their names to the rules of the trade union and by otherwise complying with the provision of this Act with respect to registration, apply for registration of the trade union under this Act.

(ii) Where an application has been made under subsection (i) for the registration of a trade union, such application shall not be deemed to have become invalid merely by reason of the fact that, at any time after the date of the application, but before the registration of the trade union, some of the applicants, but not exceeding half of the total number of persons who made the application, have ceased to be members of the trade union or have given notice in writing to the registrar dissociating themselves from the application.

(c) Application for Registration:

(i) Every application for registration of a trade union shall be made to the registrar and shall be accompanied by a copy of the rules of the trade union and a statement of the following particulars, namely—

1. The names, occupations and addresses of the members making application.
2. The name of the trade union and the address of its head office.
3. The titles, names, age, addresses and occupations of the office bearers of the trade union.

(ii) Where a trade union has been in existence for more than one year before the making of an application for its registration, these shall be delivered to the registrar, together with the application, a general statement of the assets and liabilities of the trade union prepared in such form and containing such particulars as may be prescribed.

(d) Provisions to Be Contained In the Rules of a Trade Union:

A trade union shall not be entitled to registration under this Act, unless the executive thereof is constituted in accordance with the provisions of this Act.

(e) Power to Call For Further Particulars and To Require Alterations of Names:

(i) The registrar may call for further information or the purpose of satisfying himself that any application complies with the provisions of Section 5, or that the trade union is entitled to registration under Section 6, and may refuse to register the trade union until such information is supplied.

(ii) If the name under which a trade union is proposed to be registered is identical with that by which any other existing trade union has been registered or, in the opinion of the registrar, so nearly resembles such name as to be likely to deceive the public or the members of either trade union, the registrar shall require the persons applying for registration to alter the name of the trade union stated in the application, and shall refuse to register the union until such alteration has been made.

(f) Registration:

The registrar, on being satisfied that the trade union has complied with all the requirements of the Act in regard to registration shall register the trade union by entering in a register, to be maintained in such form as may be prescribed, the particulars relating to the trade union contained in the statement accompanying the application for registration.

(g) Certificate of Registration:

The registrar, on registering a trade union under section and, shall issue a certificate of registration in the prescribed form which shall be conclusive evidence that the trade union has been duly registered under this Act.

(h) Cancellation of Registration:

A certificate of registration of a trade union may be withdrawn or cancelled by the registrar on the application of the trade union to be verified in such manner as may be prescribed in if the registrar is satisfied that the certificate has been obtained by fraud or mistake or that the trade union has ceased to exist.

It has to provide not less than two months' previous notice in writing specifying the ground on which it is proposed to withdraw or cancel the certificate shall be given by the registrar to the trade union before the certificate is withdrawn or cancelled otherwise than on the application of the trade union.

(i) Registered Office:

All communications and notices to a registered trade union may be addressed to its registered office. Notice of any change in the address of the head office shall be given within fourteen days of such change to the registrar in writing, and the changed address shall be recorded in the register referred to in Section-8 of the Companies Act.

(j) Incorporation of Registered Trade Union:

Every registered trade union shall be a body corporate by the name under which it is registered and shall have perpetual succession and a common seal with power to acquire and hold both movable and immovable property and to contract, and shall by the said name sue and be sued.

Rights and Liabilities of Registered Trade Unions:

1. Objects on Which General Funds May Be Spent:

The general funds of a registered trade union shall not be spent on any other objects than the payment of salaries, allowances and expenses to the office bearers of the trade unions; expenses

for the administration of the trade union; the presentation or defiance of any legal proceeding to which the trade union or any member thereof is a party; the conduct of trade disputes and compensation of members for loss arising out of trade disputes; provision of education, social or religious benefits for members; upkeep of a periodical published.

2. Constitution of a Separate Fund for Political Purposes:

A registered trade union may constitute a separate fund, from contributions separately levied for or made to that fund, from which payments may be made for the promotion of the civic and political interests of its members, in furtherance of any of the objects such as the payment of any expenses incurred, either directly or indirectly; the holding of any meeting or the distribution of any literature/documents in support of any such candidate; the registration of electors of the selection of a candidate for any legislative body constituted under or for any local authority; the registration of electors or the selection of a candidate for any legislative body constituted under/or for any local authority; holding of political meetings of any kind.

3. Criminal Conspiracy in Trade Disputes:

No office bearer or member of a registered trade union shall be liable to punishment under subsection (2) of Section 120 B of the Indian Penal Code, 1860 in respect of any agreement made between the members for the purpose of furthering any such object of the trade union as is specified in section 120A unless the agreement is an agreement to commit an offence.

4. Immunity from Civil Suit in Certain Cases:

(i) No suit or other legal proceeding shall be maintainable in any civil court against any registered trade union or any office bearer or member thereof in respect of any act done in contemplation or furtherance of a trade dispute to which a member of the trade union is a party on the ground only that such act induces some other person to break a contract of employment, or that it is in interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

A registered trade union shall not be liable in any suit or other legal proceeding in any civil court in respect of any fortuitous act done in contemplation or furtherance of a trade dispute by an agent of the trade union if it is proved that such person acted without the knowledge of, or contrary to express instructions given by the executive of the trade unions.

5. Enforceability of Agreements:

Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a registered trade union shall not be void or voidable merely by reason of the fact that any to the subjects of the agreement are in restraint of the trade.

6. Right to Inspect Books of Trade Unions:

The account books of a registered trade union and the list of members thereof shall be open to inspection by an office bearer or member of the trade union at such times as may be provided for in the rules of the trade union.

7. Right of Minors to Membership of Trade Unions:

Any person who has attained the age of 18 years may be a member of a registered trade union subject to any rules of the trade union to the contrary, and may subject as aforesaid, enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given under the rules.

8. Effects of Change of Name and of Amalgamation:

The change in the name of a registered trade union shall not affect any rights or obligations of the trade union or render defective any legal proceeding by or against the trade union. An amalgamation of 2 or more registered trade unions shall not prejudice any right of any of such trade unions or any right of a creditor of any of them.

Shortcomings of Trade Unions:

Trade union movement in our country suffers from the following weaknesses:

1. Uneven Growth:

Trade unions are concentrated in large scale industry sector and in big industrial centers. There is very little trade union activity in small sector, agricultural labour and domestic sector. Trade unionism has touched only a portion of the working class in India.

2. Small Size:

Most of the unions have low membership though the number of unions and union membership are increasing, average membership is inadequate.

3. Weak Financial Position:

The average yearly income of unions is very low and inadequate. The subscription rates are low and many members do not pay the subscription in time. Due to their financial weakness, most of the unions are not in a position to undertake welfare programmes for workers.

4. Political Leadership:

Trade unions are under the leadership and control of political parties and outsiders. Politicians exploit unions and workers for their personal and political gains. Thus, the political leadership is very harmful to the trade union movement in India.

5. Multiplicity of Unions:

There exist several unions in the same establishment or industry. The existence of rival unions with conflicting ideology is greatly responsible for unhealthy growth of trade union movement. In some cases employers encourage split in unions to undermine their bargaining power.

6. Problem of Recognition:

Employers are under no obligation to give recognition to any union.

7. Absence of Paid Office-Bearers:

Most of the unions do not have full-time paid office-bearers. Union activists working on honorary basis devote only limited time and energy to union activities. Union officers lack adequate knowledge and skill due to lack of proper training, weak financial position and political leadership are the main reasons for this state of affairs.

8. Apathy of Members:

Majority of workers do not take keen interest in union activities. The attendance at the general meetings of unions is very poor.

9. Opposition from Employers:

Trade unions in India have to face opposition from employers. Many employers try to intimidate or victimise labour leaders, start rival union and bribe union officials.

10. Inter-Union Rivalry:

Multiple unions create rivalry. Unions try to play down each other in order to gain greater influence among workers. Employers take advantage of infighting. Inter-union rivalry weakens the power of collective bargaining and reduces the effectiveness of workers in securing their legitimate rights.

Methods of Trade Union:

The objectives of a trade union are achieved by a pursuit of traditional methods. These are:

- (i) The organisation of a trade union on the basis of the craft or industry in which its members are employed, such as general unions and professional employee's organizations.
- (ii) Collective bargaining, which is the essence of industrial relations, for it is through collective bargaining that the terms and conditions of employment are determined and under which work is performed satisfactorily.
- (iii) Grievance processing and handling procedures, under which grievances are redressed or dealt with by a correction of situation or by channeling up of these "up the line".
- (iv) Arbitration, by which unsettled or unresolved disputes can be settled by an outside agency.
- (v) Political pressure exercised through legislators who are capable of bringing about changes in labour laws; and
- (vi) Mutual insurance through common contributions to meet the financial needs of workers when there are stoppages of work

Types of Trade Union:

Some of the criteria are:

- (1) Craft basis, (2) Industrial Unions, (3) General grouping based on place and (4) Federations.

1. Craft Unions:

In this organisation the labour class is grouped based on particular trade or occupation. This category is mainly amongst the white collared employees. The measures are mostly in horizontal system and craft conscious rather than class conscious.

This will have lot of commonality in thinking and approach to problems resolution. The bank employees' union, doctors' union, lawyers' association, teachers' association come under this category.

2. Industrial Unions:

A particular category of industry will have their own unions. All crafts and trades coming under that industry are part of the union. Textile mill unions, steel industry unions, mill mazdoor sangh, grini kamgar unions are some of the examples of industrial unions in India.

They form a strong force in collective bargaining. They cover all welfare of similar industry workers in a city or industrial town. Industrial unions are more vocal, volatile and indulge in

agitation and strikes. Similarly these industries face more lockouts and arbitration for disputes redressal.

3. General Union:

This is a conglomerate group of different industry employees forming a union. This happens normally in industrial towns, ancillary units, and SSI units in a city or suburb. Examples are Peenya industrial workers' union, Thane industry employees' unions and Jamshedpur labour union.

4. Federations:

These are apex bodies at national level. All trade unions like craft union, industrial unions and general union become members of federations to have bigger identity. Central trade unions as federations help smaller unions and support at national level to address their cause.

Formation and Registration of Trade Union:

The following steps are involved in the registration of trade union:

Appointment of Registrars:

(a) The appropriate government shall appoint a person to be the registrar of trade unions for each state. The appropriate government may appoint as many additional and deputy registrars of trade unions as it thinks fit for the purpose of exercising and discharging under the superintendence and direction of the registrar.

Such powers and functions of the registrar under this Act as it may, by order, specify and define the local limits within which any such additional or deputy registrar shall exercise and discharge the powers and functions so specified.

(b) (i) Mode of Registration:

Any seven or more members of a trade union may, by subscribing their names to the rules of the trade union and by otherwise complying with the provision of this Act with respect to registration, apply for registration of the trade union under this Act.

(ii) Where an application has been made under subsection (i) for the registration of a trade union, such application shall not be deemed to have become invalid merely by reason of the fact that, at any time after the date of the application, but before the registration of the trade union, some of the applicants, but not exceeding half of the total number of persons who made the application, have ceased to be members of the trade union or have given notice in writing to the registrar dissociating themselves from the application.

(c) Application for Registration:

(i) Every application for registration of a trade union shall be made to the registrar and shall be accompanied by a copy of the rules of the trade union and a statement of the following particulars, namely—

1. The names, occupations and addresses of the members making application.
2. The name of the trade union and the address of its head office.
3. The titles, names, age, addresses and occupations of the office bearers of the trade union.

(ii) Where a trade union has been in existence for more than one year before the making of an application for its registration, these shall be delivered to the registrar, together with the application, a general statement of the assets and liabilities of the trade union prepared in such form and containing such particulars as may be prescribed.

(d) Provisions to Be Contained In the Rules of a Trade Union:

A trade union shall not be entitled to registration under this Act, unless the executive thereof is constituted in accordance with the provisions of this Act.

(e) Power to Call For Further Particulars and To Require Alterations of Names:

(i) The registrar may call for further information or the purpose of satisfying himself that any application complies with the provisions of Section 5, or that the trade union is entitled to registration under Section 6, and may refuse to register the trade union until such information is supplied.

(ii) If the name under which a trade union is proposed to be registered is identical with that by which any other existing trade union has been registered or, in the opinion of the registrar, so nearly resembles such name as to be likely to deceive the public or the members of either trade union, the registrar shall require the persons applying for registration to alter the name of the trade union stated in the application, and shall refuse to register the union until such alteration has been made.

(f) Registration:

The registrar, on being satisfied that the trade union has complied with all the requirements of the Act in regard to registration shall register the trade union by entering in a register, to be maintained in such form as may be prescribed, the particulars relating to the trade union contained in the statement accompanying the application for registration.

(g) Certificate of Registration:

The registrar, on registering a trade union under section and, shall issue a certificate of registration in the prescribed form which shall be conclusive evidence that the trade union has been duly registered under this Act.

(h) Cancellation of Registration:

A certificate of registration of a trade union may be withdrawn or cancelled by the registrar on the application of the trade union to be verified in such manner as may be prescribed in if the registrar is satisfied that the certificate has been obtained by fraud or mistake or that the trade union has ceased to exist.

It has to provide not less than two months' previous notice in writing specifying the ground on which it is proposed to withdraw or cancel the certificate shall be given by the registrar to the trade union before the certificate is withdrawn or cancelled otherwise than on the application of the trade union.

(i) Registered Office:

All communications and notices to a registered trade union may be addressed to its registered office. Notice of any change in the address of the head office shall be given within fourteen days of such change to the registrar in writing, and the changed address shall be recorded in the register referred to in Section-8 of the Companies Act.

(j) Incorporation of Registered Trade Union:

Every registered trade union shall be a body corporate by the name under which it is registered and shall have perpetual succession and a common seal with power to acquire and hold both movable and immovable property and to contract, and shall by the said name sue and be sued.

Rights and Liabilities of Registered Trade Unions:

1. Objects on Which General Funds May Be Spent:

The general funds of a registered trade union shall not be spent on any other objects than the payment of salaries, allowances and expenses to the office bearers of the trade unions; expenses for the administration of the trade union; the presentation or defiance of any legal proceeding to which the trade union of any member thereof is a party; the conduct of trade disputes and compensation of members for loss arising out of trade disputes; provision of education, social or religious benefits for members; upkeep of a periodical published.

2. Constitution of a Separate Fund for Political Purposes:

A registered trade union may constitute a separate fund, from contributions separately levied for or made to that fund, from which payments may be made for the promotion of the civic and political interests of its members, in furtherance of any of the objects such as the payment of any expenses incurred, either directly or indirectly; the holding of any meeting or the distribution of any literature/documents in support of any such candidate; the registration of electors of the selection of a candidate for any legislative body constituted under or for any local authority; the registration of electors or the selection of a candidate for any legislative body constituted under/or for any local authority; holding of political meetings of any kind.

3. Criminal Conspiracy in Trade Disputes:

No office bearer or member of a registered trade union shall be liable to punishment under subsection (2) of Section 120 B of the Indian Penal Code, 1860 in respect of any agreement made between the members for the purpose of furthering any such object of the trade union as is specified in section its unless the agreement is an agreement to commit an offence.

4. Immunity from Civil Suit in Certain Cases:

(i) No suit or other legal proceeding shall be maintainable in any civil court against any registered trade union or any office bearer or member thereof in respect of any act done in contemplation or furtherance of a trade dispute to which a member of the trade union is a party on the ground only that such act induces some other person to break a contract of employment, or that is in interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

A registered trade union shall not be liable in any suit or other legal proceeding in any civil court in respect of any fortuitous act done in contemplation or furtherance of a trade dispute by an agent of the trade union if it is proved that such person acted without the knowledge of, or contrary to express instructions given by the executive of the trade unions.

5. Enforceability of Agreements:

Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a registered trade union shall not be void or voidable merely by reason of the fact that any to the subjects of the agreement are in restraint of the trade.

6. Right to Inspect Books of Trade Unions:

The account books of a registered trade union and the list of members thereof shall be open to inspection by an office bearer or member of the trade union at such times as may be provided for in the rules of the trade union.

7. Right of Minors to Membership of Trade Unions:

Any person who has attained the age of 18 years may be a member of a registered trade union subject to any rules of the trade union to the contrary, and may subject as aforesaid, enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given under the rules.

8. Effects of Change of Name and of Amalgamation:

The change in the name of a registered trade union shall not affect any rights or obligations of the trade union or render defective any legal proceeding by or against the trade union. An amalgamation of 2 or more registered trade unions shall not prejudice any right of any of such trade unions or any right of a creditor of any of them

Organisation Structure:

Organisational structure of National Trade Unions consists of 4 levels as given below:

1. Conventions/sessions
2. General council (President, VP, Secretary-General, etc.)
3. Provincial bodies (at state level chairman, secretariats)
4. Local bodies (affiliated unions)

National convention/conferences are held at periodic intervals, say annually or bi-annually. This is the highest policymaking body. This is presided over by the president of the union attended by the delegates such as chairmen of state units, representatives of specialized services, legal experts and delegates from international bodies and special invitees. Office bearers are also elected by this conference.

General council consists of president, vice-president, secretary and other office bearers. It carries out policy decisions taken by convention. Various standing committees are set up on rendering

study, analysis and recommendations on various aspects like legislative measure, Research and publications, international services etc.

State units are headed by chairman of state/regional areas. State units also liaise with National Headquarters; keep a close watch of faithful implementation of labour legislation and practices. It assists/influence state government to pass labour friendly legislation and executive/administration actions.

It is also responsible for membership of various unions representing workers in industrial undertakings (units) and/or representing trade and industrial units affiliated to the central trade union. These state units get themselves attached to State/Provincial/HQ/Regional unions/Units.

Headquarters (HQ) unions are responsible for welfare of its members and membership drive. As bargaining agents they are involved in collective bargaining with Central Government/ and or State government and assist passing legislative measures

UNIT -- II
SETTLEMENT OF DISPUTES

INTRODUCTION

Definition:

According to Sec. 2 of the Industrial Dispute Act, 1947,

“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 the terms of employment or with the conditions of labour of any person” Industrial disputes are of symptoms of industrial unrest in the same way that boils are symptoms of a disordered body.

Causes of Industrial Disputes:

We can classify the causes of industrial disputes into two broad groups:

- (i) Economic causes, and
- (ii) Non-economic causes.

Economic causes include:

- (i) Wages,
- (ii) Bonus,
- (iii) Dearness allowance,
- (iv) Conditions of work and employment,
- (v) Working hours,
- (vi) Leave and holidays with pay, and
- (vii) Unjust dismissals or retrenchments.

Non-economic causes include:

- (i) Recognition of trade unions,
- (ii) Victimisation of workers,
- (iii) Ill-treatment by supervisory staff,
- (iv) Sympathetic strikes,
- (v) Political causes, etc.

Forms of Disputes:

Industrial dispute may take any form like strike, lock outs, gherao, bandh etc. It may be violent at times leading to loss of life and property. It disturbs the public life also. There are losses of man-hours and production which enterprise has to suffer.

The forms of disputes are discussed as below:

1. Strike:

Non acceptance of employees' demand leads them to stop the work and proceed on strike. Strike is the last and important weapon with the employee which is used when all hopes of fulfillment of their demand are shattered and there is no way left to them but to resort to strike. Strike is initiated and supported by the employee union. It is stopping of work by the employees or a group of employees undertaken to pressurize the management to accept their demands. It can continue for any number of days. It is a complete cessation of work by the employees. Strikes can be of following types.

(a) Economic Strike:

Economic strike is one which is undertaken by the members of the trade union for fulfillment of their economic demands such as rise in wages, bonus, and other facilities such as health, education, food at concessional rates etc. and other conditions of work.

(b) General Strike:

General strike is one which is undertaken by all the employees belonging to all unions and in regions in the entire industry. General strike is resorted to by the employees for fulfillment of common demands. It can be an extension of sympathetic strike.

(c) Sympathetic Strike:

It is the strike undertaken by the members of one union to support the demands of striking employees of the other union. This is undertaken to express sympathy with the striking employees and their demands. If this sympathy strike is extended further it can take the form of general strike. This is also known as token strike.

(d) Sit Down Strike:

It is the strike when employees stop working but do not leave the place of work. They sit at the place of work. This form of strike is also known as pen down or tools down strike. They do not interfere in the work but they themselves do not work at all.

(e) Go slow Strike:

The strike where employees do not stop work but do not work with enthusiasm. The speed of their work is very slow which results in low output. They are doing this in an organized way. This puts employers under pressure which is the object of strike.

2. Gherao:

Gherao means to surround. The members of the union surround the Chief executive and do not allow him to leave the place where he is surrounded or gheraoed. Usually this place is his office. They create a human chain around him restricting him to move. Gheraos are very common means of protest. Any group can do this any time if they are dissatisfied. It should take the violent turn.

3. Lock Out:

Lock out is resorted to by the employers to put pressure on their employees. Lock out is undertaken by the employers to force the employees to resume work on the terms and conditions of employers. Lock out is an extreme step taken by the employers to curb the militant activities of the unions. At times it becomes a trial of strength between the employers and employees.

4. Picketing:

Picketing is a method resorted to by the employees to attract attention of common men to the fact that there exists a dispute between the management and employees. Picketing is dissuading the employees from reporting to work by some men at the gate of the place of work. Picketing is legal activity to exhibit protest. It is not violent activity.

5. Boycott:

he workers may boycott use of company's product. They may request the general public also to do so. This adversely affects the sale of company's product. To get rid of the ill effects it may think of accepting the demands of the employees.

All the forms of disputes strike, bandhs, lock out etc. adversely affect the industrial growth and enterprises have to suffer a lot. Employees and management should settle the disputes amicably without resorting to any of the above forms. As far as possible a care should be taken that the things should not so worsen that employees to proceed on strikes etc. Good industrial relations is the key to success and growth where both the parties gain, no one is to lose anything.

The numbers of industrial disputes are on increase since independence resulting into a tremendous loss of man-hours and production. The need of the hour is to strengthen the industrial relations and eliminate industrial disputes for better industrial growth and prosperity.

Collective bargaining has been viewed as a process of social change, as a peace treaty between the conflicting parties and as a system of industrial jurisprudence.(i.e it is a method of introducing civil rights into the industry).

The process of collective bargaining involves six major steps :

Environment

VI stage within 7 days

Strike is one of the oldest and the most effective weapons of labour in its struggle with capital for securing economic justice. Strike has been defined in Section 2 (q) of the Industrial Disputes Act as under—

—Strike means a cessation of work by a body of persons employed in any industry acting in combination, or a concerted refusal, or a refusal under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment.¶

- Tripartite
- **Tripartite** means composed of or split into three parts, or refers to three parties.
- The ILO is based on the principle of tripartism - dialogue and cooperation between governments, employers, and workers - in the formulation of standards and policies dealing with labour matters. International labour standards are created and supervised through a tripartite structure.
- Tripartism is a system of labour relations in which the state, employers, and workers are autonomous yet interdependent partners, pursuing common interests and participating in decisions affecting them in a binding spirit of mutuality and reciprocity. This can take place at either or both macro and micro levels.
- Tripartite forums evolve norms or standards in the form of guidelines. There are a number of tripartite bodies which operate at the Central and State levels.
- All these bodies play an important role in reaching at voluntary agreements on various labour matters. Though the recommendations of these bodies are only advisory in nature they carry considerable weight with the government, workers and employers.

- **TRIPARTITE BODIES**

- The tripartite body was established to make peace and improve relations between management and unions, and maintain smooth functioning of union management relations. The tripartite body had to be sufficiently large to ensure sufficient representation of the various interests involved; encourage representatives of employers, labor and government to meet regularly; and disallow individual members from making individual contributions to meetings.
- The aim of the consultative machinery is “to bring the parties together for mutual settlement of differences in a spirit of cooperation and goodwill” Thus these bodies play the role of consultants.
- The principles and policies of the tripartite body have been a machinery of consultancy at the industrial and national levels and have shaped Industrial relations in India
- Industrial relations in India have been shaped largely by principles and policies evolved through tripartite consultative machinery at the industry and national levels.
- **The purpose of the tripartite body is to**

1. Bring the aggravated parties together for mutual settlement of differences, and encourage a spirit of cooperation and goodwill.
2. Promote uniformity in labor laws and legislation.
3. Discuss all matters of All India importance as between employers and employees.
4. Determine a plan for settlement for all disputes.

○ **Evolution of Tripartite Bodies**

- The Whitley Commission, in 1931, recommended a body be set up to look into the needs for consultation on labour matters. It envisaged a statutory organisation which should ensure adequate representation of the various interests involved : employers, labour and government. They recommended that labour members should be elected by registered trade unions and employers' representatives should be elected by their association. They should meet regularly.

- It was only after the 4th Labour Conference held in 1942 that permanent tripartite collaboration machinery was set up – Indian Labour Conference (ILC) and Standing Labour Committee (SLC)

○ **TRIPARTITE BODIES - INDIA**

- Some of the notable tripartite bodies are-

1. The Indian Labour Conference (ILC)
2. The Standing Labour Committee (SLC)
3. The Committee on Conventions
4. The Industrial committee
5. Other bodies of tripartite nature which deals in various aspects of labour problems

-

- Steering Committee on Wages
- Central Implementation and Evaluation Machinery
- Central Boards of Workers' Education
- National Productivity Council

○ **Indian Labour Conference (ILC) and Standing Labour Committee (SLC)**

Indian Labour Conference (ILC) and Standing Labour Committee (SLC) are both important constituents of tripartite bodies and play a vital role in shaping the IR system of the country. They have been constituted to suggest ways and means to prevent disputes. The representatives of the workers and employers are nominated to these bodies by the Central Government in consultation with the All-India organisations of workers and employers.

The Labour Ministry settles the agenda for ILC/SLC meetings after taking into consideration the suggestions sent to it by member organisations. These two bodies work with minimum procedural rules to facilitate free and fuller discussions among the members. The ILC meets once a year, whereas the SLC meets as and when necessary.

○ **ILC and SLC**

○ **The function of ILC** is to “advise the Government of India on any matter referred to it for advice, taking into account suggestions made by the provincial government, the states and representative of the organisations of workers and employers”

○ **The function of SLC** is to “consider and examine such questions as may be referred to it by the Central Government and to render advice, taking into account the suggestions made by various governments, workers and employers”.

○ **The objects of ILC 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;

○ Rationalizing and revising wage structures of important industries through non-statutory wage boards; and

○ Encouraging voluntary arbitration for the settlement of industrial disputes.

○ **Evaluation of ILC and SLC**

○ According to the National Commission on Labour these 2 bodies have contributed to attainment of the objectives set before them. They have facilitated the enactment of central legislation on various subjects to be made applicable to all the states and union territories in order to promote uniformity in labour legislation.

○ Tripartite deliberations have helped reached consensus on statutory wage fixation, introduction of a health insurance scheme, enactment of the Standing Employment Order

Act 1946,, Industrial Disputes Act 1947, Minimum Wages Act 1948, Employees' State Insurance Act 1948, Provident Fund Scheme 1950, The Mines Act 1952 etc.

- Other subjects processed by tripartite bodies are workers' education, workers' participation in management, training, wage policy, Code of Discipline, criteria and procedures for the recognition of unions.
- Though the recommendation of tripartite bodies are of advisory nature, they carry considerable weight with the government, workers and employers.

○ COMMITTEE ON CONVENTIONS

- Once a country has ratified an ILO convention, it is obliged to report regularly on measures it has taken to implement it. The government must submit reports regularly detailing the steps they have taken in law and practice to apply any of the conventions they may have ratified. Governments are required to submit copies of their reports to employers' and workers' organizations. These organizations may comment on the governments' reports; they may also send comments on the application of conventions directly to the ILO.
- Committee in Conventions is a tripartite committee set up in 1954. The object was
 - To examine the ILO conventions and recommendations which have not so far been ratified by India.
 - To make suggestions with regard to a phased and speedy implementation of ILO standards.
- It is generally composed of eminent jurists appointed by the Governing Body for three-year terms. The Experts come from different geographic regions, legal systems and cultures. The Committee's role is to provide an impartial and technical evaluation of the state of application of international labour standards.

○ Industrial Committee

- Industrial Committees are tripartite bodies where the number of workers' representatives are equal to the employers' representatives.
- These were set up to discuss various specific problems special to the industries covered by them and suggest ways to overcome them.
- These committees provide a forum for the discussion of proposals for legislation and other matters connected with the labour policy and administration before they brought before the legislature.

○ Other tripartite Committees

1. Steering Committee on Wages: It was set up in 1956 and consists of representatives of state government, employers, workers and an economist. Its functions were (i)To study trends in wages, production and price. (ii)To draw a wage map of India (iii)To help laying down principles which will guide wage fixing authorities

2. Central Boards of Workers' Education: This was constituted to encourage growth of strong and well informed trade union movement on responsible and constructive lines and comprised of representatives of central & state government, employers and workers

3. National Productivity Council: It encouraged the productivity in the country and consists of the government, employers' associations, labourers' association & organisations and independent experts.

4. Central Implementation and Evaluation Machinery: This is set up to ensure proper implementation of labour awards, agreements and Code of Discipline. It consists of 4 representatives each of central employers' and workers' organisations with union labour minister as chairman

○

Bipartite bodies:

- Bipartism is a system of industrial relations where social and labour issues are discussed between trade unions and management, usually at the enterprise level.
- The bipartite consultative machinery comprises of groups like Works Committee and Joint Management Council. These are purely consultative and not negotiating bodies, with equal representations of the employers and the workers. They were set up for dealing with disputes affecting the plant or industry.
- With the beginning of industrialization of India, labor relations in Indian industries have also been largely influenced by Indian democracy. The bipartite consultation machinery was established around 1920, to democratize Indian industrial relations. These joint committees were introduced in TISCO at Jamshedpur.
- **Works Committee**
- These committees were established within the industrial units to prevent and settle disputes at the unit level. They comprise of equal representatives of the management and workmen. They are regarded as an effective social institution of industrial democracy and as a statutory body in any enterprise employing 100 or more workers. Their objectives are:
 - To remove the causes of friction in the day to day work situation by providing an effective grievance-resolving machinery.
 - To promote measures securing amity and good relationship.
 - To serve as an important adjunct in continuing bargaining system
 - To strengthen the spirit of voluntary settlement and conciliation.
- **Joint Management Council**
- Joint Management Council was established with the concept of progressive joint consultation between management, technicians and workers. The council should be entitled to discuss various matters pertaining to the establishment and recommending steps for its better working and have equal representation of workers and managers. The council is entitled-
 - To be consulted on matters of Standing Orders, their amendments, retrenchment, closure, reduction or cessation of operations

- To discuss and suggest on matters of general economic situation of the concern, the market, production and sales programme, methods of manufacturing, annual balance sheets, profit & loss statements, expansion plans etc
- Administrative responsibilities of welfare or safety measures, vocational trainings, working hours, breaks, holidays etc.

Tripartite:

Tripartite means composed of or split into three parts, or refers to three parties. The ILO is based on the principle of tripartism - dialogue and cooperation between governments, employers, and workers - in the formulation of standards and policies dealing with labour matters. International labour standards are created and supervised through a tripartite structure. Tripartism is a system of labour relations in which the state, employers, and workers are autonomous yet interdependent partners, pursuing common interests and participating in decisions affecting them in a binding spirit of mutuality and reciprocity. This can take place at either or both macro and micro levels. Tripartite forums evolve norms or standards in the form of guidelines. There are a number of tripartite bodies which operate at the Central and State levels. All these bodies play an important role in reaching at voluntary agreements on various labour matters. Though the recommendations of these bodies are only advisory in nature they carry considerable weight with the government, workers and employers.

TRIPARTITE BODIES:

The tripartite body was established to make peace and improve relations between management and unions, and maintain smooth functioning of union management relations. The tripartite body had to be sufficiently large to ensure sufficient representation of the various interests involved; encourage representatives of employers, labor and government to meet regularly; and disallow individual members from making individual contributions to meetings. The aim of the consultative machinery is “to bring the parties together for mutual settlement of differences in a spirit of cooperation and goodwill” Thus these bodies play the role of consultants. The principles and policies of the tripartite body have been a machinery of consultancy at the industrial and national levels and have shaped Industrial relations in India. Industrial relations in India have been shaped largely by principles and policies evolved through tripartite consultative machinery at the industry and national levels.

The purpose of the tripartite body is to :

Bring the aggravated parties together for mutual settlement of differences, and encourage a spirit of cooperation and goodwill. Promote uniformity in labor laws and legislation. Discuss all matters of All India importance as between employers and employees. Determine a plan for settlement for all disputes.

Evolution of Tripartite Bodies:

The Whitley Commission, in 1931, recommended a body be set up to look into the needs for consultation on labour matters. It envisaged a statutory organisation which should ensure adequate representation of the various interests involved : employers, labour and government. They recommended that labour members should be elected by registered trade unions and employers' representatives should be elected by their association. They should meet regularly. It was only after the 4th Labour Conference held in that permanent tripartite collaboration machinery was set up – Indian Labour Conference (ILC) and Standing Labour Committee (SLC)

TRIPARTITE BODIES – INDIA

Some of the notable tripartite bodies are- The Indian Labour Conference (ILC) The Standing Labour Committee (SLC) The Committee on Conventions The Industrial committee Other bodies of tripartite nature which deals in various aspects of labour problems - Steering Committee on Wages Central Implementation and Evaluation Machinery Central Boards of Workers' Education National Productivity Council

Indian Labour Conference (ILC) and Standing Labour Committee (SLC)

Indian Labour Conference (ILC) and Standing Labour Committee (SLC) are both important constituents of tripartite bodies and play a vital role in shaping the IR system of the country. They have been constituted to suggest ways and means to prevent disputes. The representatives of the workers and employers are nominated to these bodies by the Central Government in consultation with the All-India organisations of workers and employers. The Labour Ministry settles the agenda for ILC/SLC meetings after taking into consideration the suggestions sent to it by member organisations. These two bodies work with minimum procedural rules to facilitate free and fuller discussions among the members. The ILC meets once a year, whereas the SLC meets as and when necessary.

ILC and SLC The function of ILC is to “ advise the Government of India on any matter referred to it for advice, taking into account suggestions made by the provincial government, the states and representative of the organisations of workers and employers” The function of SLC is to “ consider and examine such questions as may be referred to it by the Central Government and to render advice, taking into account the suggestions made by various governments, workers and employers”.

The objects of ILC 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; Rationalizing and revising wage structures of important industries through non-statutory wage boards; and Encouraging voluntary arbitration for the settlement of industrial disputes.

Evaluation of ILC and SLC

According to the National Commission on Labour these 2 bodies have contributed to attainment of the objectives set before them. They have facilitated the enactment of central legislation on various subjects to be made applicable to all the states and union territories in order to promote uniformity in labour legislation. Tripartite deliberations have helped reached consensus on statutory wage fixation, introduction of a health insurance scheme, enactment of the Standing Employment Order Act 1946,, Industrial Disputes Act 1947, Minimum Wages Act 1948, Employees' State Insurance Act 1948, Provident Fund Scheme 1950, The Mines Act 1952 etc. Other subjects processed by tripartite bodies are workers' education, workers' participation in management, training, wage policy, Code of Discipline, criteria and procedures for the recognition of unions. Though the recommendation of tripartite bodies are of advisory nature, they carry considerable weight with the government, workers and employers.

COMMITTEE ON CONVENTIONS

Once a country has ratified an ILO convention, it is obliged to report regularly on measures it has taken to implement it. The government must submit reports regularly detailing the steps they have taken in law and practice to apply any of the conventions they may have ratified. Governments are required to submit copies of their reports to employers' and workers' organizations. These organizations may comment on the governments' reports; they may also send comments on the application of conventions directly to the ILO. Committee in Conventions is a tripartite committee set up in The object was To examine the ILO conventions and recommendations which have not so far been ratified by India. To make suggestions with regard to a phased and speedy implementation of ILO standards. It is generally composed of eminent jurists appointed by the Governing Body for three-year terms. The Experts come from different geographic regions, legal systems and cultures. The Committee's role is to provide an impartial and technical evaluation of the state of application of international labour standards.

Committee of Conventions ...Cont.

When examining the application of international labour standards the Committee of Experts makes two kinds of comments: observations and direct requests. Observations contain comments on fundamental questions raised by the application of a particular convention by a state. These observations are published in the Committee's annual report. Direct requests relate to more technical questions or requests for further information. They are not published in the report but are communicated directly to the governments concerned. The Committee's annual report consists of three parts. Part I contains a General Report, which includes comments about member states' respect for their Constitutional obligations and highlights from the Committee's observations Part II contains the observations on the application of international labour standards Part III is a General Survey.

12 Industrial Committee Industrial Committees are tripartite bodies where the number of workers' representatives are equal to the employers' representatives. These were set up to discuss various specific problems special to the industries covered by them and suggest ways to overcome them. These committees provide a forum for the discussion of proposals for legislation and other matters connected with the labour policy and administration before they brought before the legislature.

Other tripartite Committees

1. Steering Committee on Wages: It was set up in 1956 and consists of representatives of state government, employers, workers and an economist. Its functions were (i) To study trends in wages, production and price. (ii) To draw a wage map of India (iii) To help laying down principles which will guide wage fixing authorities

2. Central Boards of Workers' Education: This was constituted to encourage growth of strong and well informed trade union movement on responsible and constructive lines and comprised of representatives of central & state government, employers and workers

3. National Productivity Council: It encouraged the productivity in the country and consists of the government, employers' associations, labourers' association & organisations and independent experts.

4. Central Implementation and Evaluation Machinery: This is set up to ensure proper implementation of labour awards, agreements and Code of Discipline. It consists of 4 representatives each of central employers' and workers' organisations with union labour minister as chairman

Bipartite bodies: Bipartism is a system of industrial relations where social and labour issues are discussed between trade unions and management, usually at the enterprise level. The bipartite consultative machinery comprises of groups like Works Committee and Joint Management Council. These are purely consultative and not negotiating bodies, with equal representations of the employers and the workers. They were set up for dealing with disputes affecting the plant or industry. With the beginning of industrialization of India, labor relations in Indian industries have also been largely influenced by Indian democracy. The bipartite consultation machinery was established around 1920, to democratize Indian industrial relations. These joint committees were introduced in TISCO at Jamshedpur.

15 Works Committee These committees were established within the industrial units to prevent and settle disputes at the unit level. They comprise of equal representatives of the management and workmen. They are regarded as an effective social institution of industrial democracy and as a statutory body in any enterprise employing 100 or more workers. Their objectives are: To remove the causes of friction in the day to day work situation by providing an effective grievance-resolving machinery. To promote measures securing amity and good relationship. To serve as an important adjunct in continuing bargaining system To strengthen the spirit of voluntary settlement and conciliation.

Joint Management Council

Joint Management Council was established with the concept of progressive joint consultation between management, technicians and workers. The council should be entitled to discuss

various matters pertaining to the establishment and recommending steps for its better working and have equal representation of workers and managers. The council is entitled-To be consulted on matters of Standing Orders, their amendments, retrenchment, closure, reduction or cessation of operations To discuss and suggest on matters of general economic situation of the concern, the market, production and sales programme, methods of manufacturing, annual balance sheets, profit & loss statements, expansion plans etc Administrative responsibilities of welfare or safety measures, vocational trainings, working hours, breaks, holidays etc.

UNIT - III

COLLECTIVE BARGAINING

■ **Collective Bargaining**

- According to **Dale Yoder**, “Collective bargaining is the term used to describe a situation in which the essential conditions of employment are determined by bargaining process undertaken by representatives of a group of workers on the one hand and of one or more employers on the other.”
- In the words of **Flippo**, “Collective bargaining is a process in which the representatives of a labour organisation and the representatives of business organisation meet and attempt to negotiate a contract or agreement, which specifies the nature of employee-employer-union relationship.”

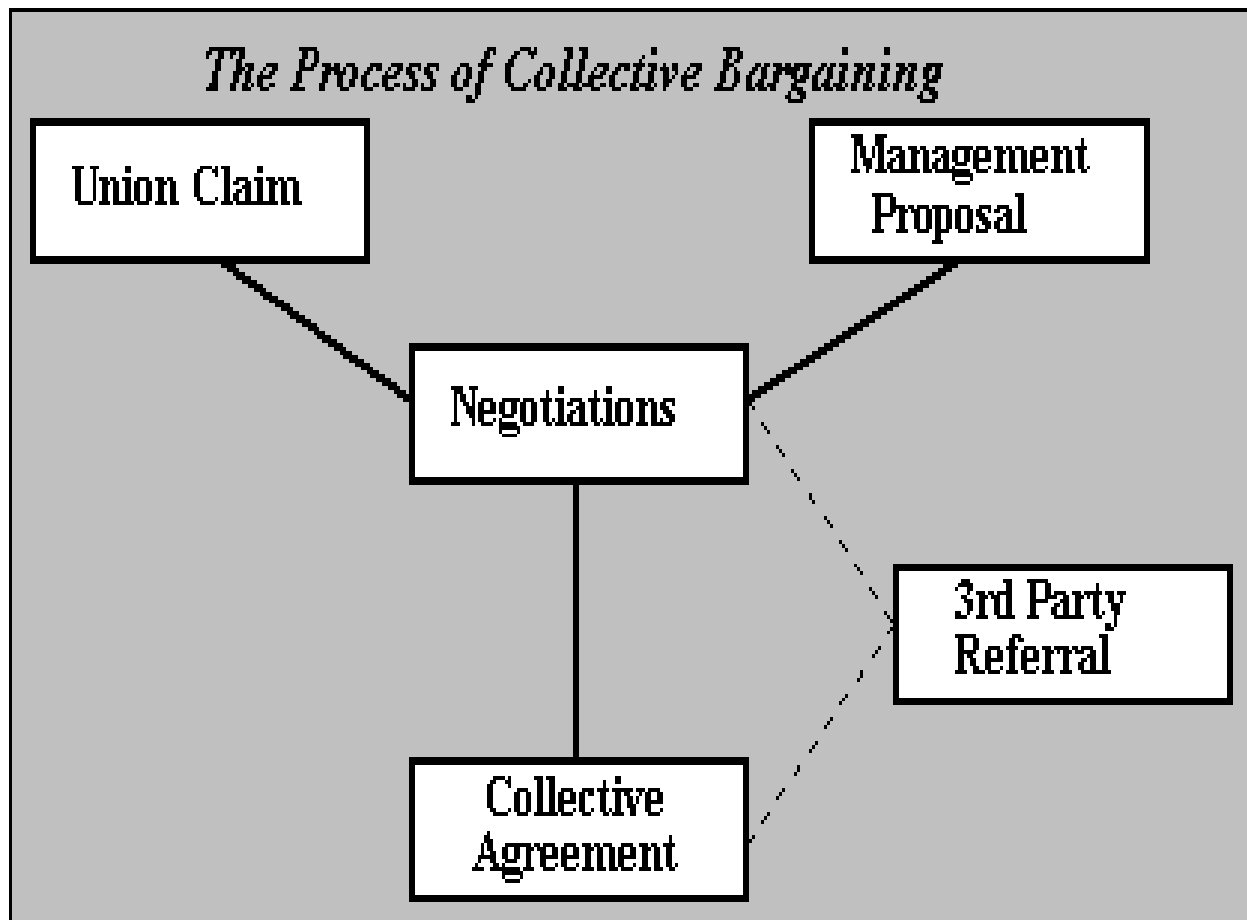
■ **Features of Collective Bargaining**

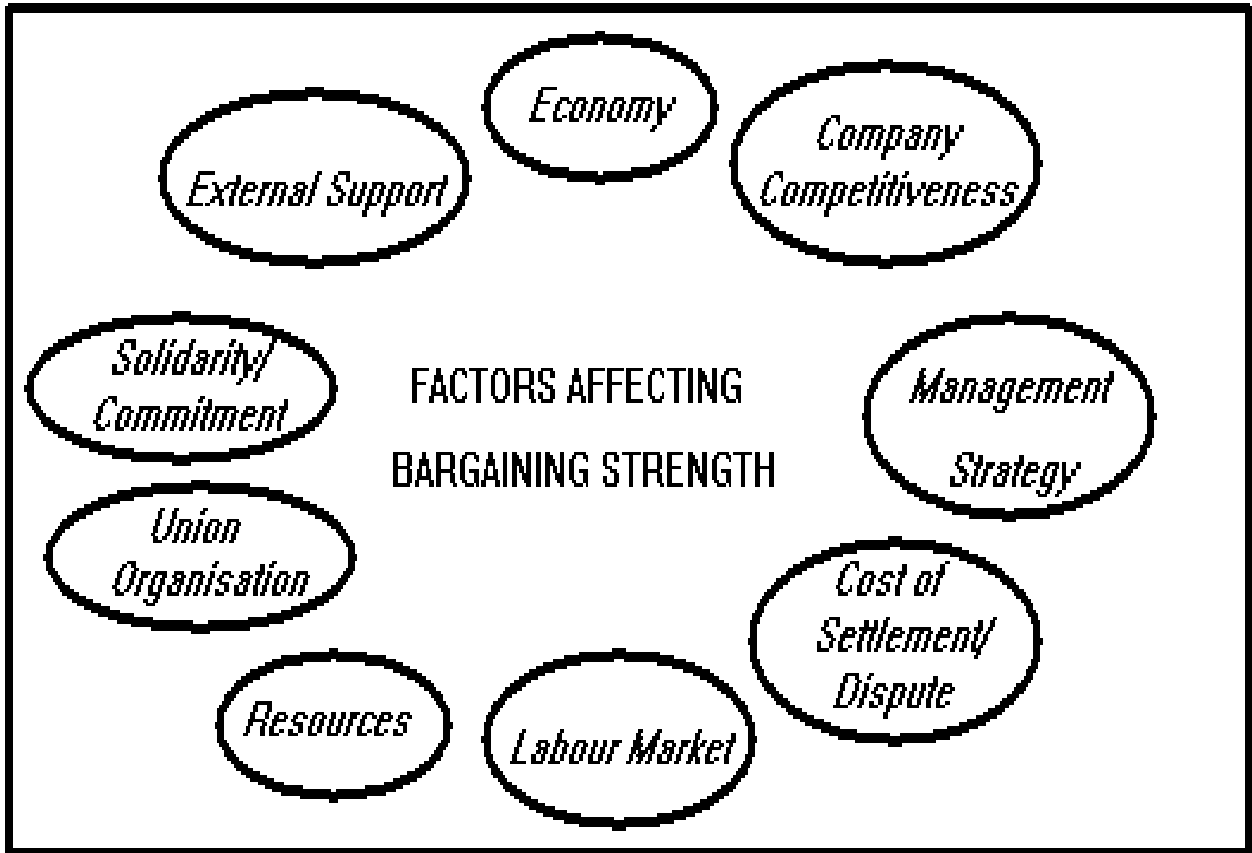
- I. It is a **collective** process. The representatives of both workers and management participate in bargaining.
- II. It is a **continuous** process. It establishes regular and stable relationship between the parties involved. It involves not only the negotiation of the contract, but also the administration of the contract.
- III. It is a **flexible and dynamic** process. The parties have to adopt a flexible attitude through the process of bargaining.
- IV. It is a method of **partnership of workers in management**

■ **Subject Matter of collective bargaining**

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

- I. Purpose of agreement, its scope, and the definition of important terms
- II. Rights and responsibilities of the management and of the trade union
- III. Wages, bonus, production norms, leave, retirement benefits, and terms and conditions of service
- IV. Grievance redressal procedure
- V. Methods and machinery for the settlement of possible future disputes





■ **Importance of Collective Bargaining**

Importance to employees

- Collective bargaining develops a sense of self respect and responsibility among the employees.
- It increases the strength of the workforce, thereby, increasing their bargaining capacity as a group.
- Collective bargaining increases the morale and productivity of employees.
- It restricts management's freedom for arbitrary action against the employees. Moreover, unilateral actions by the employer are also discouraged.
- Effective collective bargaining machinery strengthens the trade unions movement.
- The workers feel motivated as they can approach the management on various matters and bargain for higher benefits.

- It helps in securing a prompt and fair settlement of grievances. It provides a flexible means for the adjustment of wages and employment conditions to economic and technological changes in the industry, as a result of which the chances for conflicts are reduced.

- **Importance of Collective Bargaining**

- Importance to employers**

- It becomes easier for the management to resolve issues at the bargaining level rather than taking up complaints of individual workers.
- Collective bargaining tends to promote a sense of job security among employees and thereby tends to reduce the cost of labor turnover to management.
- Collective bargaining opens up the channel of communication between the workers and the management and increases worker participation in decision making.
- Collective bargaining plays a vital role in settling and preventing industrial disputes.

- **Importance of Collective Bargaining**

- Importance to society**

- Collective bargaining leads to industrial peace in the country
- It results in establishment of a harmonious industrial climate which supports which helps the pace of a nation's efforts towards economic and social development since the obstacles to such a development can be reduced considerably.
- The discrimination and exploitation of workers is constantly being checked.
- It provides a method or the regulation of the conditions of employment of those who are directly concerned about them.

- **Pre-requisites for collective bargaining:**

Effective negotiations and enforcement requires a systematic preparation of the base or ground for bargaining which involves the following three steps:

- **Recognition of the Bargaining Agent.** The management should give recognition to the trade union for participating in the collective bargaining process. In case there is more than one union, selection could be done through verification of membership by a government agency giving representation to all the major unions through joint consultations. Thus, the bargaining agent of the workers should be properly identified before initiating any action.

- **Deciding the Level of Bargaining.** Whether the dealings are confined to enterprise level, industry level, regional or national level should be decided as the contents, scope and enforcement agencies differ in each case.
- **Determining the Scope and Coverage of Bargaining.** It would be better to have a clear understanding of what are the issues to be covered under bargaining. Many a time, bargaining is restricted to wage and working conditions related issues but it would be advantageous for both the management and union to cover as many issues as possible to prevent further friction and disputes. Therefore, all the important and interrelated issues are to be taken for consideration.
- **Problems of Collective Bargaining**
 - I. Due to the dominance of outsiders in trade unionism in the country, there is **multiplicity of unions** which are weak and unstable, and do not represent majority of the employees. Moreover, there are inter-union rivalries, which further hinder the process of collective bargaining between the labour and the management.
 - II. Since most of the trade unions are having political affiliations, they continue to be **dominated by politicians**, who use the unions and their members to meet their political ends.
 - III. There is a **lack of definite procedure** to determine which union is to be recognised to serve as a bargaining agent on behalf of the workers
 - IV. In India, the law provides an **easy access to adjudication**. Under the Industrial Disputes Act, the parties to the dispute may request the Government to refer the matter to adjudication and the Government will constitute the adjudication machinery, i.e., labour court or industrial tribunal. Thus, the faith in the collective bargaining process is discouraged.
 - V. There has been very close **association between the trade unions and political parties**. As a result, trade union movement has leaned towards political orientations rather than collective bargaining.

General advantages and disadvantages of collective bargaining

- **Pros**
 - Can lead to high-performance workplace where labor and management jointly engage in problem solving, addressing issues on an equal standing.
 - Provides legally based bilateral relationship.
 - Management's rights are clearly spelled out.

- Employers' and employees' rights protected by binding collective bargaining agreement.
- Multi-year contracts may provide budgetary predictability on salary and other compensation issues.
- Unions may become strong allies in protecting higher education from the effects of an economic slowdown.

Promotes fairness and consistency in employment policies and personnel decisions within and across institutions.

- Employees may choose whether they want union representation.
- A strong labor management partnership may enable the workforce development needed for engaging the technology revolution.

Cons

- Management's authority and freedom are much more restricted by negotiated rules.
- Creates significant potential for polarization between employees and managers.
- Disproportionate effect of relatively few active employees on the many in the bargaining unit. This is particularly the case when collective bargaining involves a system-wide structure of elections.
- Increases bureaucratization and requires longer time needed for decision making.
- Increases participation by external entities (e.g., arbitrators, State Labor Relations Board) in higher education's decision making.
- More difficult for employees at smaller campuses to have their voices heard.
- Protects the status quo, thereby inhibiting innovation and change. This is particularly the case when the change involves privatizations.
- Higher management costs associated with negotiating and administering the agreements.
- Eliminates ability of management to make unilateral changes in wages, hours, and other terms and conditions of employment.
- Restricts management's ability to deal directly with individual employees.
- Increased dependence on the private sector for certain services, particularly those requiring technological competence, may be compromised.

- Contract administration is a very difficult process to manage and significantly changes the skill set required of managers and supervisors.

- **Workers participation in Management(WPM)**

- WPM is the participation resulting from the practices which increase the scope for employees' share of influence in decision-making at different tiers of organizational hierarch with associated assumption of responsibility.

- Workers' participation may be viewed as:

- An instrument for increasing the efficiency of enterprises and establishing harmonious relations;

- o A device for developing social education for promoting solidarity among workers and for tapping human talents;

- o A means for achieving industrial peace and harmony which leads to higher productivity and increased production;

- o A humanitarian act, elevating the status of a worker in the society;

- o An ideological way of developing self-management and promoting industrial democracy.

Other objectives of WPM can be cited as:

- o To improve the quality of working life (QWL) by allowing the workers greater influence and involvement in work and satisfaction obtained from work; and

- To secure the mutual co-operation of employees and employers in achieving industrial peace; greater efficiency and productivity in the interest of the enterprise, the workers, the consumers and the nation.

- The main implications of workers' participation in management as summarized by ILO:
 - o Workers have ideas which can be useful;
 - o Workers may work more intelligently if they are informed about the reasons for and the intention of decisions that are taken in a participative atmosphere.

- **Importance of WPM**

- Unique motivational power and a great psychological value.

- Peace and harmony between workers and management.
- Workers get to see how their actions would contribute to the overall growth of the company.
- They tend to view the decisions as 'their own' and are more enthusiastic in their implementation.
- Participation makes them more responsible.
- They become more willing to take initiative and come out with cost-saving suggestions and growth-oriented ideas.
- **Scope and ways of participation:**
- One view is that workers or the trade unions should, as equal partners, sit with the management and make joint managerial decisions. The other view is that workers should only be given an opportunity, through their representatives, to influence managerial decisions at various levels. In practice, the participation of workers can take place by one or all the methods listed below:
-
- **Participation at the Board level:**
- This would be the highest form of industrial democracy.
- The workers' representative on the Board can play a useful role in safeguarding the interests of workers.
- He or she can serve as a guide and a control element.
- He or she can prevail upon top management not to take measures that would be unpopular with the employees.
- He or she can guide the Board members on matters of investment in employee benefit schemes like housing, and so forth.

The Government of India took the initiative and appointed workers' representatives on the Board of Hindustan Antibiotics (Pune), HMT (Bangalore), and even nationalized banks. The Tatas, DCM, and a few others have adopted this practice.

- **Participation through ownership:**
- This involves making the workers' shareholders of the company by inducing them to buy equity shares.

- o In many cases, advances and financial assistance in the form of easy repayment options are extended to enable employees to buy equity shares.

Examples of this method are available in the manufacturing as well as the service sector.

Advantage:

- o Makes the workers committed to the job and to the organization.

Drawback:

- o Effect on participation is limited because ownership and management are two different things.

- Participation through complete control:

- Workers acquire complete control of the management through elected boards.

- The system of self-management in Yugoslavia is based on this concept.

- Self-management gives complete control to workers to manage directly all aspects of industries through their representatives.

- **Advantages:**

- o Ensures identification of the workers with their organization.
- o Industrial disputes disappear when workers develop loyalty to the organization.
- o Trade unions welcome this type of participation.

Conclusion: Complete control by workers is not an answer to the problem of participation because the workers do not evince interest in management decisions.

- **Participation through Staff and Works Councils:**

- Staff councils or works councils are bodies on which the representation is entirely of the employees.

- There may be one council for the entire organization or a hierarchy of councils.

- The employees of the respective sections elect the members of the councils.

Such councils play a varied role.

- Their role ranges from seeking information on the management's intentions to a full share in decision-making.

- Such councils have not enjoyed too much of success because trade union leaders fear the erosion of their power and prestige if such workers' bodies were to prevail.

- **Participation through Joint Councils and Committees:**

- Joint councils are bodies comprising representatives of employers and employees.
- This method sees a very loose form of participation, as these councils are mostly consultative bodies.
- Work committees are a legal requirement in industrial establishments employing 100 or more workers.
- Such committees discuss a wide range of topics connected to labour welfare.
- Examples of such committees are welfare committee, safety committee, etc.
- Such committees have not proven to be too effective in promoting industrial democracy, increasing productivity and reducing labour unrest.

- **Participation through Collective Bargaining:**

- Through the process of CB, management and workers may reach collective agreement regarding rules for the formulation and termination of the contract of employment, as well as conditions of service in an establishment.
- Even though these agreements are not legally binding, they do have some force.
- For CB to work, the workers' and the employers' representatives need to bargain in the right spirit. But in practice, while bargaining, each party tries to take advantage of the other.
- This process of CB cannot be called WPM in its strongest sense as in reality; CB is based on the crude concept of exercising power for the benefit of one party.
- WPM, on the other hand, brings both the parties together and develops appropriate mutual understanding and brings about a mature responsible relationship.

- **Participation through Job Enlargement and Job Enrichment:**

Excessive job specialization that is seen as a by-product of mass production in industries, leads to boredom and associated problems in employees. Two methods of job designing – job enlargement and job enrichment– are seen as methods of addressing the problems. Job

enlargement means expanding the job content – adding task elements horizontally. Job enrichment means adding 'motivators' to the job to make it more rewarding.

This is WPM in that it offers freedom and scope to the workers to use their judgment. But this form of participation is very basic as it provides only limited freedom to a worker concerning the method of performing his/her job. The worker has no say in other vital issues of concern to him – issues such as job and income security, welfare schemes and other policy decisions.

■ **Participation through Suggestion Schemes:**

- Employees' views are invited and reward is given for the best suggestion.
- With this scheme, the employees' interest in the problems of the organization is aroused and maintained.
- Progressive managements increasingly use the suggestion schemes.
- Suggestions can come from various levels. The ideas could range from changes in inspection procedures to design changes, process simplification, paper-work reduction and the like.
- Out of various suggestions, those accepted could provide marginal to substantial benefits to the company. The rewards given to the employees are in line with the benefits derived from the suggestions.

■ **Participation through Quality Circles:**

- Concept originated in Japan in the early 1960s and has now spread all over the world.
- A QC consists of seven to ten people from the same work area who meet regularly to define, analyze, and solve quality and related problems in their area.
- Training in problem-solving techniques is provided to the members. QCs are said to provide quick, concrete, and impressive results when correctly implemented.
- **Advantages:**
 - o Employees become involved in decision-making, acquire communication and analytical skills and improve efficiency of the work place.
 - o Organization gets to enjoy higher savings-to-cost ratios.
 - o Chances of QC members to get promotions are enhanced.

■ **The Indian Scenario:QC**

- Tried by BHEL, Mahindra and Mahindra, Godrej and Boyce among others.
- Workers got to get out of their daily routine and do something challenging.
- These circles require a lot of time and commitment on the part of members for regular meetings, analysis, brainstorming, etc.
- Most QCs have a definite life cycle – one to three years.
- Few circles survive beyond this limit either because they loose steam or they face simple problems.
- QCs can be an excellent bridge between participative and non-participative approaches.
- For QCs to succeed in the long run, the management needs to show its commitment by implementing some of the suggestions of the groups and providing feedback on the disposition of all suggestions.

■ **Empowered Teams:**

- Empowerment occurs when authority and responsibility are passed on to the employees who then experience a sense of ownership and control over their jobs.
- Employees may feel more responsible, may take initiative in their work, may get more work done, and may enjoy the work more.
- For empowerment to occur, the following approach needs to be followed as compared to the traditional approach:

■ **Features of empowered or self-directed teams:**

- Empowered to share various management and leadership functions.
- Plan, control and improve their work.
- Often create their schedules and review their performance as a group.
- May prepare their own budgets and co-ordinate their work with other departments.
- Usually order materials, keep inventories and deal with suppliers.
- Frequently responsible for acquiring any new training they might need.
- May hire their own replacement to assume responsibility for the quality of their products or services.

■ **Total Quality Management:**

- TQM refers to the deep commitment, almost obsession, of an organization to quality.
- Every step in company's processes is subjected to intense and regular scrutiny for ways to improve it.

Quality in the job of the QC Personnel.

- Meet the customer's requirement on time, the first time, and 100% of the time.
- Strive to do error-free work.
- Manage by prevention, not correction.
- Measure the cost of quality.
- TQM is called participative because it is a formal programme involving every employee in the organization; making each one responsible for improving quality everyday.

■ **Financial Participation:**

- This method involves less consultations or even joint decisions. Performance of the organization is linked to the performance of the employee.
- The logic behind this is that if an employee has a financial stake in the organization, he/she is likely to be more positively motivated and involved.
- Some schemes of financial participation:
Profit-linked pay
Profit sharing and Employees' Stock Option schemes.
Pension-fund participation.

■ **Advantages**

- Technology and organizations today are so complex that specialized work-roles are required.
- This means employees will not be able to participate effectively in matters beyond their particular environment.
- Everybody need not want participation.
- The role of trade unions in promoting participative management has been far from satisfactory.

- Employers are unwilling to share power with the workers' representatives. Managers consider participative management a fraud.

- **Evolution of WPM in India:**

- The beginning towards WPM was made with the Industrial Disputes Act, 1947, which made Works Committees mandatory in industrial establishments employing 100 or more workers.
- The Industrial Policy Resolution adopted by the government in 1956 stated that there should be some joint consultation to ensure industrial peace, and improve employer-employee relations.
- The functions of both these joint bodies were to be consultative and were not binding on the management.
The response to these schemes was encouraging to begin with, but gradually waned.
- A study team was appointed in 1962 to report on the working of joint councils and committees.
- The team identified some reasons for their failure. No concrete steps were taken to remove the difficulties, or change the pattern of participative management.
- During the emergency of 1975-77, the interest in these schemes was revived by the then Prime Minister by including Workers' Participation in industry in the government's 20-point programme.
- The government started persuading large enterprises to set up joint consultative committees and councils at different levels.
- The Janata Government who came to power in 1977 carried on this initiative.
- It was again emphasized by the Congress government who came back in 1979. This continued in a "non-statutory vein" till the late 1980s, and the response from the employers and employees stayed lukewarm.
o Then, the 42nd Amendment to the Constitution was made.
- Article 43-A reads: The State shall take steps, by suitable legislation, or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organizations engaged in any industry.
- Thus, participative management is a constitutional commitment in India. And then, on May 30, 1990; the government introduced the Participation of Workers in Management Bill in the Rajya Sabha.

- The bill requires every industrial enterprise to constitute one or more 'Shop-Floor Councils' at the shop floor level, and 'Establishment Council' at the establishment level.
- These councils will have equal representation of employers and employees.
- Shop-Floor councils enjoy powers over a wide range of functions from production, wastage control to safety hazards.
- The Establishment Council enjoys similar powers. The bill provides for the constitution of a Board of Management of every corporate body owning an industrial establishment.
- The bill also provides for penalties on individuals who contravene any provision of the bill.
- In spite of all these efforts, only the government and the academicians have been interested in participative management. But participative management is staging a comeback.
- The compulsions of emerging competitive environment have made employee involvement more relevant than ever before.
- Managers and the managed are forced to forget their known stands, break barriers, and work in unison.
- Managers and workers are partners in the progress of business.

UNIT - IV

WAGE POLICY AND WAGE REGULATION

- **PF ACT 1952**

PF act was came into force in 1952 in order to secure the life of an employee for rendering his services to organization, this is a statutory liability of employer to give PF amt to an employee.

This amount is paid after the retirement from the services.

Applicability of the act

- PF is applicable in any organization where 20 or more persons are employed
- PF is applicable in every state except J & k.
- Benefits of the act

- To provide Monetary benefits to survive after retirement.
- To minimize risk against health, sickness, disablement of the employee and his dependents.
- Old age Pension benefits.
- Widow pension.
- To maintain dignity & Social status.
- PF Contribution

PF is deducted on basic salary. If employee's basic is less than or equals to Rs.6500 he will be covered in pf.

12 % Employee side

3.67%(epf part)+ 8.33 % (Pension part)

13.61% Employer side

3.67 (EPF)+8.33 (Pension)+ 1.1(Admin charge) + 0.5(EDLI) +

0.01(Inspection charge /admin on edli)

Employees Deposit linked insurance scheme.

Challans & Returns

PF challans are submitted on 15th of every month, 5 days grace period is given to submit challans.

PF Returns are submitted twice a year-

PF RETURNS

Form 5 is used to submit pf monthly return in which new employee details is mentioned.

Form 10 is used to submit pf monthly return in which left employee details is mentioned.

Form 12A that is used for the same purpose which contains consolidated details of that particular month-new joinees, left employees & employees/employer pf contribution.

Form 3A is used for pf annual return.

- **Workmen Compensation Act**

- The Workmen's Compensation Act, aims to provide workmen and/or their dependents some relief in case of accidents arising out of and in the course of employment and causing either death or disablement of workmen.
- It provides for payment by certain classes of employers to their workmen compensation for injury by accident.
- EMPLOYEES ENTITLED TO COMPENSATION
- Every employee (including those employed through a contractor but excluding casual employees), who is engaged for the purposes of employer's business and who suffers an injury in any accident arising out of and in the course of his employment, shall be entitled for compensation under the Act.
- EMPLOYER'S LIABILITY FOR COMPENSATION (ACCIDENTS)
- The employer of any establishment covered under this Act, is required to compensate an employee:
 - a. Who has suffered an accident arising out of and in the course of his employment, resulting into (i) death, (ii) permanent total disablement, (iii) permanent partial disablement, or (iv) temporary disablement whether total or partial, or
 - b. Who has contracted an occupational disease.
- HOWEVER THE EMPLOYER SHALL NOT BE LIABLE
- a. In respect of any injury which does not result in the total or partial disablement of the workmen for a period exceeding three days;
 - b. In respect of any injury not resulting in death, caused by an accident which is directly attributable to-
 - i. the workmen having been at the time thereof under the influence of drugs, or
 - ii. the willful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen, or
 - iii. The willful removal or disregard by the workmen of any safeguard or other device which he knew to have been provided for the purpose of securing the safety of workmen. The burden of proving intentional disobedience on the part of the employee shall lie upon the employer.
 - iv. when the employee has contacted a disease which is not directly attributable to a specific injury caused by the accident or to the occupation; or
 - v. When the employee has filed a suit for damages against the employer or any other person, in a Civil Court.
- WHAT IS DISABLEMENT

- Disablement is the loss of the earning capacity resulting from injury caused to a workman by _____ an _____ accident.
 - Disablement's can be classified as (a) Total, and (b) Partial. It can further be classified into (i) Permanent, and (ii) Temporary, Disablement, whether permanent or temporary is said to be total when it incapacitates a worker for all work he was capable of doing at the time of the accident resulting in such disablement.

- ACCIDENT ARISING OUT OF AND IN THE COURSE OF EMPLOYMENT

- An accident arising out of employment implies a casual connection between the injury and the accident and the work done in the course of employment. Employment should be the distinctive and the proximate cause of the injury. The three tests for determining whether _____ an _____ accident _____ arose _____ out _____ of _____ employment _____ are:
 1. At the time of injury workman must have been engaged in the business of the employer and must not be doing something for his personal benefit;
 2. That accident occurred at the place where he was performing his duties; and
 3. Injury must have resulted from some risk incidental to the duties of the service, or inherent in the nature condition of employment.

- The general principles that are evolved are:
 - There must be a casual connection between the injury and the accident and the work done _____ in _____ the _____ course _____ of _____ employment;

 - It is not necessary that the workman must be actually working at the time of his death or that death must occur while he was working or had just ceased to work;

- COMPENSATION IN CASE OF OCCUPATIONAL DISEASES

- Workers employed in certain types of occupations are exposed to the risk of contracting certain diseases, which are peculiar and inherent to those occupations. A worker contracting an occupational disease is deemed to have suffered an accident out of and in the course of employment and the employer is liable to pay compensation for the same. Occupational diseases have been categorized in Parts A, B and C of Schedule III. The employer _____ is _____ liable _____ to _____ pay _____ compensation:
 - a. When a workman contracts any disease specified in Part B, while in service for a continuous period of 6 months under one employer.

 - b. When a workman contracts any disease specified in Part C, while he has been in continuous service for a specified period, whether under one or more employers.

- CALCULATION OF COMPENSATION

- The amount of compensation payable by the employer shall be calculated as follows:
 - (a) In case of death. - 50% of the monthly wages X Relevant Factor or Rs. 50,000, whichever is more and Rs.1000 for funeral expenses.
 - (b) In case of total permanent disablement Specified under -60% of the monthly wages X Relevant Factor or Rs. 60,000, whichever is more.
 - (d) In case of partial permanent disablement .-Such percentage of the compensation payable in case (b) above, as is proportionate to the loss of earning Capacity (as assessed by a qualified medical practitioner).
 - (e) In case of temporary disablement (whether total or partial). - A half-monthly installment equal to 25% of the monthly wages, for the period of disablement or 5 years, whichever is shorter
- WHEN COMPENSATION TO BE DEPOSITED WITH COMMISSIONER ?
- The amount of compensation is not payable to the workman directly. It is generally deposited along with the prescribed statement, with the Commissioner who will then pay it to the workman. Any payment made to the workman or his dependents, directly, in the following cases will not be deemed to be a payment of compensation:

- i. in case of death of the employee;
 - ii. in case of lump sum compensation payable to a or a minor or a person of unsound mind or whose entitlement to the compensation is in dispute or a person under a legal disability.
- The receipt of deposit with the Commissioner shall be a sufficient proof of discharge of the employer's liability.

- AMOUNTS PERMISSIBLE TO BE PAID TO THE WORKMAN/ DEPENDENTS DIRECTLY

Following amounts may be paid directly to the workman or his dependents:

- a. In case of death of the workman, any advance on account of compensation up to [an amount equal to three months' wages of such workman] may be paid to any dependent.
- b. In case of lump sum compensation payable to an adult male worker not suffering from any legal disability.

In case of half-monthly payments payable to any workman.

- REGISTRATION OF AGREEMENTS OF COMPENSATION

1. Where the amount payable as compensation has been settled by agreement a memorandum thereof shall be sent by the employer to the Commissioner, who shall, on being satisfied about its genuineness, record the memorandum in a registered manner.

2. However where it appears to the Commissioner that the agreement ought not to be registered by reason of the inadequacy of the sum or amount, or by reason that the agreement has been obtained by fraud or undue influence or other improper means he may refuse to record the agreement and may make such order including an order as to any sum already paid under the agreement as he thinks just in the circumstances.

3. An agreement for payment of compensation which has been registered shall be enforceable under this act notwithstanding anything contained in the Indian Contract Act, or any other law for the time being in force.

EFFECT OF FAILURE TO REGISTER AGREEMENT

When a memorandum of any agreement is not sent to the Commissioner for registration, the employer shall be liable to pay the full amount of compensation, which he is liable to pay under the provisions of this Act.

FILING OF CLAIMS

- A claim for the compensation shall be made before the Commissioner. No claim for compensation shall be entertained by the Commissioner unless the notice of accident has been given by the workman in the prescribed manner, except in the following circumstances:
- - a. in case of death of workman resulting from an accident which occurred on the premises of the employer, or at any place where the workman at the time of the accident was working died on such premises or such place or in the vicinity of such premises or place;
 - b. in case the employer has knowledge of the accident from any other source, at or about the time of its occurrence;
 - c. in case the failure to give notice or prefer the claim, was due to sufficient cause.

LIMITATION

- Workman, to the Commissioner, may file the claim for accident compensation in the prescribed form, within 2 years from the occurrence of the accident or from the date of death. The claim must be preceded by
 - (i) a notice of accident, and
 - (ii) the claimant-employee must present himself for medical examination if so required by the employer.

DUTIES OF EMPLOYERS / EMPLOYEES

- · To pay compensation for an accident suffered by an employee, in accordance with the Act.
- To submit a statement to the Commissioner (within 30 days of receiving the notice) in the prescribed form, giving the circumstances attending the death of a workman as result of an accident and indicating whether he is liable to deposit any compensation for the same.
- To submit accident report to the Commissioner in the prescribed form within 7 days of the accident, which results in death of a workman or a serious bodily injury to a workman.
- To maintain a notice book in the prescribed form at a place where it is readily accessible to the workman.
- To submit an annual return of accidents specifying the number of injuries for which compensation has been paid during the year, the amount of such compensation and other prescribed particulars.

DUTIES OF EMPLOYEES

- To send a notice of the accident in the prescribed form, to the Commissioner and the employer, within such time as soon as it is practicable for him. The notice is precondition for the admission of the claim for compensation.
- To present himself for medical examination, if required by the employer.

THE EMPLOYEE'S STATE INSURANCE ACT 1948

- ESI Scheme ...
 - ESI Scheme for India is an integrated social security scheme tailored to provide Social Production to workers and their dependents, in the organised sector, in contingencies, such as Sickness, Maternity and Death or Disablement due to an employment injury or Occupational hazard
1. Employees' Contribution – 1.75% of the Wages
 2. Employers' Contribution – 4.75% of the Wages
- TOTAL - 6.5 % of the Wages
- Benefits to Employees ...
 - ESI Scheme Major Social Security Benefits in Cash and Kind include ...

1. Medical Benefit – for self & Family

2. Sickness Benefit – for self

3. Maternity Benefit - for self

4. Disablement Benefit

a). Temporary Disablement Benefit – for self

b). Permanent Disablement Benefit – for self

5. Dependents' Benefit – for dependents in case of death due to employment injury

- Benefits to Employees ...

- In addition, the Scheme also provides some other need based benefits to insured workers. These are:

i). Funeral Expenses – to a person who

performs the last rites of IP

ii). Rehabilitation allowances – for self

iii). Vocational Rehabilitation - for self

iv). Old age Medicare – for self and spouse

v). Medical Bonus – for insured women and IP's wife

- Medical Benefit ...

- Medical Benefit means Medical care of IPs and their families, wherever covered for medical benefit.

- The Standard medical care consists of out-door treatment, in-patient treatment, all necessary drugs and dressing, pathological and radiological specialist consultation and care, ante-natal and post natal care, emergency treatment etc.,

- Out-door medical care is provided at the state Insurance Dispensaries or Mobile Dispensaries manned by full-time doctors (service' system) or at the private clinics of Insurance Medical Practitioners (Panel System)

- Medical Benefit ...

- Insured worker and members of his family are eligible for medical care from the very first day of the worker coming under ESI Scheme.
- A worker who is covered under the scheme for first time is eligible for medical care for the period of three months. If he/she contributes at least for 78 days in a contribution period the eligibility is there up to the end of the corresponding benefit period.
- A worker is also eligible for extended sickness benefit when he/she is suffering from any one of the long term 34 diseases listed in the Act. This is admissible after the worker has been under ESI these conditions are satisfied medical benefit is admissible for a maximum period of 730 days for the IP and his/ her family.
- Sickness Benefit ...
- Sickness signifies a state of health necessitating Medical treatment and attendance and abstention from work on Medical grounds. Financial support extended by the corporation in such a contingency is called sickness Benefit
- Sickness Benefit represents periodical payments made to an Insured Person for the period of certified sickness after completing 9 Months in insurable employment.
- Benefits to Employees ...
- To qualify for this benefit, contributions should have been payable for atleast 78 days in the relevant contribution period.
- The Maximum duration for availing sickness Benefit is 91 days in two consecutive benefit periods
- Standard benefit rate – this rate corresponds to the average daily wage of an Insured person during the corresponding contribution period and is roughly half of the daily wage rate.
- Extended Sickness Benefit ...
- Extended Sickness Benefit is a Cash Benefit paid for prolonged illness (Tuberculosis / Leprosy, Mental and Malignant diseases) due to any of the 34 Specified diseases
- The IP should have been in continuous employment for a period of 2 years and should have contributed for atleast 156 days in 4 preceding contribution periods
- Extended Sickness Benefit ...
- The daily rate of Extended Sickness Benefit is 40% more than the standard Sickness Benefit rate admissible

- After exhausting sickness Benefit Payable for 91 days the Extended Sickness Benefit is payable upto further period of 124 / 309 days that can be extended upto 2 years in special circumstances
- Enhanced Sickness Benefit ...
- Is Cash Benefit for IP undergoing sterilisation operation of vasectomy / tubectomy for family planning.
- The contributory conditions are the same as for claiming sickness benefits
- The daily rate of this benefit is double the standard benefit rate. Say, not less than the daily wage.
- The benefit rate of this benefit is double the standard benefit rate. Say, not less than the daily wage.
- The benefit is available upto 7 days for vasectomy and upto 14 days for tubectomy operations.
- Maternity Benefit...
- Maternity Benefit is cash payable to an Insured women for the specified period of abstention from work for confinement or mis-carriage or for sickness arising out of pregnancy, “confinement” “premature birth of child or miscarriage” “confinement” connotes labour after 26 weeks of pregnancy whether the result issue is alive or dead,
- “Miscarriage” means expulsion of the contents of a pregnant uterus at any period prior to or during 26th week of pregnancy.
- Maternity Benefit...
- Criminal abortion or miscarriage does not, however, entitle to benefit.
- The contribution condition is the same as for Sickness Benefit.
- The daily benefit rate is double the sickness Benefit rate and is thus roughly equivalent to the full wages. Benefits is paid for Sundays also.
- Maternity Benefit...
- The Benefit is paid as follows (Duration)

a). For Confinement

For a total period 12 Weeks beginning not more than 6 weeks before the expected date of child birth, if the insured women dies during confinement or within 6 weeks thereafter, leaving behind

the living child, the benefit continues to be payable for the whole of the period. But the child also die during that period, the benefit will be paid upto and including the day of the death of the child.

- Maternity Benefit...

b). For Miscarriage

For the period of 6 weeks following the date of miscarriage

c). For sickness arising out of pregnancy,

confinement, Premature birth of child or miscarriage :

For an additional period or upto four weeks.

In all the cases, the benefit is paid only if the insured women does not work for remuneration during the period for which benefit is claimed. There is no waiting period.

- Maternity Benefit...
- Medical Bonus

Medical Bonus is lump sum payment made to an Insured woman or the wife of an insured person in case she does not avail medical facility from an ESI hospital at the time of delivery of a child. This bonus of Rs. 250/- has been increased to Rs. 1000/- from 1st April 2003

- Disablement Benefit ...

a). Temporary disablement benefit :

- In case of temporary disability arising out of an employment injury or occupational disease.,
- Disablement benefit is admissible to insured person for the entire period so certified by an Insurance Medical officer / Practitioner for which IP does not work for wages.
- The benefit is not subject to any contributory condition and is payable at a rate which is not less than 70% of daily average wages.
- However, not payable if the incapacity lasts for less than 3 days excluding the date of accident.

- Permanent disablement benefit ...
- In case an employment injury or occupational disease results in permanent, partial or total loss of earning capacity,
- Periodical payments are made to the IP for life at a rate depending on the actual loss of earning capacity as may be determined and certified by a duly-constituted Medical Board.
- The rates of Disablement Benefits are determined in accordance with the provisions of Rule 57 of ESI (Central) Rules, 1991.
- In order to product erosion in real value of the periodical payments of Permanent Disablement benefits, against rise in the cost of living index, periodical increases are granted, based on actuarial calculation
- Permanent disablement benefit ...
- Commutation of periodical payments into lump sum (one time payment) is permissible where the permanent disablement stands assessed as final.
- Commutation of Permanent Disablement Benefit into lump sum payment is also allowed in case the total commuted value does not exceed Rs.10000/- (The ceiling is now being raised to Rs.30000/-).
- Dependants' Benefit ...
- Dependents Benefit is a monthly pension payable to the eligible dependents of an insured person who dies as a result of an Employment Injury or occupational disease
- Beneficiaries and Duration of benefit

a). Widow / widows during life or until remarriage

b). Legitimate or adopted son until age 18 or if legitimate son is infirm, till infirmity lasts.

c). Legitimate or adopted unmarried daughter until age 18 or until marriage, whichever is earlier, or if infirm, till infirmity lasts and she continues to be unmarried.

In the absence of any widow or legitimate child, the benefit is payable to a parent or grandparent for life, to any other male dependent until age 18 or to an unmarried or widowed female dependent until age 18.

How much ...

- The total divisible benefit is equivalent to the temporary disablement benefit rate (roughly 70% of the wage rate). The widow / widows share 3/5th of the benefit and the legitimate or adopted son and daughter 2/5th each of the benefit. If the total benefit so divided exceeds the full rate, there is a proportionate reduction in the respective shares of the beneficiaries.
- The amount of pension paid to the dependents of a deceased insured person is reviewed vis-à-vis the cost of living index and increases are granted from time to time to compensate for erosion in its real value.

Maternity Benefit Act 1961

- ☞ Object of the Act

☼ To protect the dignity of motherhood and the dignity of a new person' birth by providing for the full and healthy maintenance of the woman and her child at this important time when she is not working

- ☞ Coverage of the Act

Upon all women employees either employed directly or through contractor except domestic women employed in mines, factories, plantations and also in other establishments if the State Government so decides. Therefore, if the State Government decides to apply this Act to women employees in shops and commercial establishments, they also will get the benefit of this Act.
Sec.3

- ☼ Conditions foreligibilityof benefits

☼ Women indulging temporary or unmarried are eligible for maternity benefit when she is expecting a child and has worked for her employer for at least 80 days in the 12 months immediately preceding the date of her expected delivery.

Sec. 5

☼CONDITIONS FOR CLAIMING BENEFITS

- Ten weeks before the date of her expected delivery, she may ask the employer to give her light work for a month. At that time she should produce a certificate that she is pregnant.
- She should give written notice to the employer about seven weeks before the date of her delivery that she will be absent for six weeks before and after her delivery. She should also name the person to who payment will be made in case she cannot take it herself.
- She should take the payment for the first six weeks before she goes on leave.

- She will get payment for the six weeks after child-birth within 48 hours of giving proof that she has had child. She will be entitled to 2 nursing breaks of 15 minutes each in the course of her daily work till her child is 15 months.
- Her employer cannot discharge her or change her conditions of service while she is on maternity leave.

Sec.5

☞ Cash Benefits

- ☺ Leave with average pay for six weeks before the delivery
- ☺ Leave with average pay for six weeks after the delivery
- ☺ A medical bonus of Rs. 1000, if the employer does not provide free medical care to the woman.
- ☺ An additional leave with pay up to one month if the woman shows proof of illness due to the pregnancy, delivery, miscarriage, or premature birth.
- ☺ In case of miscarriage, six weeks leave with average pay from the date of miscarriage.

▪ Non Cash Benefits & Privilege

- ☞ Light work for 10 weeks (6 weeks plus 1 month) before the date of her expected delivery, if she asks for it.
- ☞ 2 Nursing breaks in the course of her daily work until the child 15 months old.
- ☞ No discharge or dismissal while she is on maternity leave.
- ☞ No charge to her disadvantage in any of the conditions of her employment while on maternity leave.

▪ Leave for Miscarriage & Tubectomy Operation

- ❖ Leave with wages at the rate of maternity benefit, for a period of 6 weeks immediately following the day of her miscarriage or her medical termination of pregnancy.
- ❖ Entitled to leave with wages at the rate of maternity benefit for a period of 2 weeks immediately following the day of her tubectomy operation.

☺ Leave for illness arising out of pregnancy etc.,

▪ † Forfeiture of maternity benefit

- o If permitted by her employer to absent herself under the provisions of sec.6 for any period during such authorised absence, she shall forfeit her claim to the maternity benefit for such period.
- o For discharging or dismissing such a woman during or on account of her absence from work, the employer shall be punishable with imprisonment which shall not be less than 3 months, but it will extend to one year and will find, but not exceeding Rs. 5000/-

Industrial Disputes Act

- What are Industrial Disputes?
- Industrial Dispute means any dispute or differences between employers and employers or between employers and workmen or between workmen and workmen which is connected with the employment or non-employment or the terms of employment or with the conditions of labour of any person
- What are the different categories of Industrial Disputes?

The Second Schedule of the I.D. Act deals with matters within the jurisdiction of Labour Courts which fall under the category of Rights Disputes.

- The propriety or legality of an order passed by an employer under the standing orders;
- The application and interpretation of standing orders which regulate conditions of employment.
- Discharge or dismissal of workmen including reinstatement of, or grant of relief to workmen wrongfully dismissed;
- Withdrawal of any customary concession or privilege;
- Illegality or otherwise of a strike or lock-out;

The Third Schedule of the I.D. Act deals with matters within the jurisdiction of Industrial Tribunals which could be classified as Interest Disputes.

- These are :
- 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;
- Rationalization;
- Retrenchment of workmen and closure of establishment; and
- Any other matter that may be prescribed.
- Who can raise an Industrial Dispute?
- Any person who is a workman employed in an industry can raise an industrial dispute.
- A workman includes any person (including an apprentice) employed in an industry to do manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward.
- It excludes those employed in managerial or administrative capacity.
- Industry means any business, trade, undertaking, manufacture and includes any service, employment, handicraft, or industrial occupation or avocation of workmen.
- How to raise an Industrial Dispute?
- A workman can raise a dispute directly before a Conciliation Officer in the case of discharge, dismissal, retrenchment or any form of termination of service. In all other cases listed at 2 above, the dispute has to be raised by a Union / Management.
-
- Purpose of the Act
- SETTLEMENT MACHINERIES
- CONCILITAIION
- ARBITRATION
- COURT OF INQUIRY

-INDUSTRIAL TRIBUNAL

NATIONAL TRIBUNAL

■ **Works Committee**

- It shall be the duty of the Works Committee to promote measures for securing and preserving amity and good relations between the employer and workmen and, to that end, to comment upon matters of their common interest or concern and endeavour to compose any material difference of opinion in respect of such matters

■ Conciliation officer

- The appropriate Government may, by notification in the Official Gazette, appoint such number of persons as it thinks fit, to be conciliation officers, charged with the duty of mediating in and promoting the settlement of industrial disputes.

- A conciliation officer may be appointed for a specified area or for specified industries in a specified area or for one or more specified industries and either permanently or for a limited period.

■ Board of conciliation

- **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.

- (4) A Board, having the prescribed quorum, may act notwithstanding the absence of the Chairman or any of its members or any vacancy in its number:

- **Provided** that if the appropriate Government notifies the Board that the services of the Chairman or of any other member have ceased to be available, the Board shall not act until a new chairman or member, as the case may be, has been appointed

■ Courts of inquiry

■ Labour courts

- (3) A person shall not be qualified for appointment as the Presiding Officer of a Labour Court, unless -
(a) he is, or has been, a Judge of a High Court; or
(b) he has, for a period of not less than three years, been a District Judge or

- an Additional District Judge; or]
 - (c) he has held any judicial office in India for not less than seven years ; or
 - (d) he has been the Presiding Officer of a Labour Court constituted under
- any Provincial Act or State Act for not less than five years
- Industrial tribunals
 - 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 and for performing such other functions as may be assigned to them under this Act.
 - (2) A Tribunal shall consist of one person only to be appointed by the
 - appropriate Government.
 - (3) A person shall not be qualified for appointment as the presiding officer of a
 - Tribunal unless:
 - (a) he is, or has been, a Judge of a High Court; or
 - (b) he has, for a period of not less than three years, been a District Judge or an Additional District Judge.
 - (4) The appropriate Government may, if it so thinks fit, appoint two person as assessor, to advise the tribunal
- National tribunals
 - 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.
 - (2) A National Tribunal shall consist of one-person only to be appointed by the Central Government.
 - (3) A person shall not be qualified for appointment as the presiding officer of a
 - National Tribunal unless he is, or has been, a Judge of a High Court.
 - (4) The Central Government may, if it so thinks fit, appoint two persons as assessors to advise the National Tribunal in the proceeding before it

- Strike
 1. By workmen
 2. Refusal to work/ accept employment
 - Lockout
 - By employee
 - Temporary closure
 - Refusal to continue to employ the persons employed
 - Illegal strikes
 - Without giving 14 days notice
 - Commenced after 42 days of notice
 - Prior to the date indicated in the notice
 - In non PUs
 - During the pendency of proceedings
 - Strike/lock out will be illegal if Govt bans.
 - Lay off
 - Temporary suspension or permanent termination of employees.
 - Where in 50 or more workers are employed, shall be laid off by prior permission of the appropriate government.
 - Lay off compensation
 - 50% of Basic + DA
 - Alternative employment within 5 miles not eligible for compensation.
 - Retrenchment
 - It is a way of downsizing, cutting costs.
 - One month notice /pay for small Co.
 - 3 months notice /pay in larger establishments.

- Retrenchment Compensation
- 15 days wages for every completed year.
- Closure
- Permanent closure of place of employment.
- No permission is required in case of smaller establishments
- For larger establishments, 90 days prior in advance to get permission from the government.

UNIT - V

THE FACTORIES ACT 1948 AND MINES ACT 1952

Factory Act 1948

1. Government regulation of the working condition in factories begins in India in 1881 when the first Indian factories Act was passed.
2. This act was substantially amended in 1934 on the basis of the recommendations of the Royal commission on labour.
3. The act of 1934 divided factories into two categories-seasonal and perennial.
4. This act was amended several times.
5. On the eve of independence the national government announced far reaching legislative program for the welfare of workers.
6. As a part of this program, the factories act 1948 was passed.
7. The factories act 1948 is comprehensive in nature and through it the government has tried to implement as many provisions of the ILO code of industrial hygiene as were practicable under Indian conditions.
8. The factories act was substantially amended in 1976.
9. Since then there has been substantial modernization and innovation in the industrial field.
10. Provisions have also been made for the workers participation in safety management.

Objectives:

The main objective of the factories act is to regulate conditions of work in manufacturing establishments and to ensure adequate safety sanitation, health, working hours, leave with wages and weekly holidays for workers employed in such establishment.

The act is a protective legislation. It also regulates employment of women and young persons in factories.

The factories ac 1948 came into force on April 1st, 1948. It applies to factories all over India.

Unless otherwise stated this act shall apply to factories belonging to central and state governments.

Definition of Factory:

According to Sec 2 (m) factory means:

In simple words, a factory is a premise whereon 10 or more persons are engaged if power is used, or 20 or more persons are engaged if power is not used, in a manufacturing process.

Whereon 10 or more workers are working or were working on any day of the preceding 12 months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on.

The first Factories Act in India was passed in 1881. It was designed primarily to protect children and to provide for some health and safety measures. It was followed by new Acts in 1891, 1911 & 1934. The act of 1934 was passed to implement the recommendations of the Royal Commission on Labour in India & the conventions of the International Labour Organization.

Hence the Factories Act of 1948. The Act makes detailed provisions regarding health, safety and welfare of workers, working hours of adults, employment of young persons (which includes children & adolescents), annual leave with wages, and so on.

The Act of 1948 not only consolidated but also amended the law regulating labour in factories. It came into force on 1st April, 1949. In farming the new Act, the labour Minister stated in the Legislature on 30th January, 1948 that the Government had tried to implement as many of the provisions of the I.L.O code of industrial hygiene as were practicable under Indian conditions and the provisions relating to periodical medical examination of young persons and the submission of plans of factory buildings recommended under the International Labour Conventions.

Its objective is to regulate the conditions of work in manufacturing establishment which come within the definition of the term 'factory' as used in the Act. Unless otherwise provided, it also applies to factories belonging to the central or state Government (sec. 116).

The Act was substantially amended in 1987. Some provisions of the Amending Act came into force with effect from 1st Dec, 1987 & others from 1st June, 1988.

Objects of the Acts:

The Act is a piece of social welfare legislation. It governs working conditions of workmen in factories. It deals mainly with:

Health, welfare and safety of workmen: The Act aims to protect workers employed in factories against industrial and occupational hazards and to ensure safe and healthy conditions of life and work. It makes detail provisions regarding health, safety and welfare of workers in order to provide good working conditions and other facilities to enhance their welfare.

Working hour's of adults and annual leave with wages: the Act imposes certain restriction as to hour's of work and also makes provision for leave and rest.

Employment of women and young persons: the Act makes stringent provisions, particularly with regard to length of working hours, in regard to women and young persons.

Health, Safety and Welfare:

The Act makes detailed provisions in regard to various matters relating to health, safety and welfare of the worker. These provisions impose upon the occupiers or managers certain obligations:-

To protect workers, unwary as well as negligent, from accident, and

To secure for them in employment, conditions conducive to their health, safety, and welfare. These provisions also require the occupiers or managers to maintain inspection staff and to make provision for maintenance of health, cleanliness, prevention for over crowding and amenities like lighting, ventilation, drinking water, etc.

The factories act with regard to the Health of workers:

The Act deals with the provisions ensuring the health of the workers in the conditions under which work is carried on in factories. These provisions are as follows:

1. Cleanliness (Sec.11): Factory to be kept clean and free from effluvia and dirt.

Every factory shall be kept clean and free from effluvia arising from any drain, privy, or other nuisance. Accumulation of dirt and refuse shall be removed daily by some effective method.

Effective means of drainage. Where a floor is liable to become wet in the course of any manufacturing process to such an extent as is capable of being drained, effective means of drainage shall be provided.

Use of disinfectants, etc., painting and varnishing. Use of disinfectants, detergents, painting, repainting and varnishing, revarnishing, whitewashing or colourwashing shall be resorted to.

All inside walls and partitions, all ceilings or tops of rooms and all walls, sides and tops of passages and staircases where they are painted otherwise than with washable water-paint or varnished, shall be repainted at least once in every 5 years.

The dates on which these processes are carried out shall be entered in the prescribed register.

Further all doors and window frames and other wooden or metallic framework and shutters shall be kept painted or varnished and the painting or varnishing shall be carried out at least once in every 5 years.

Exemption: If, in view of the nature of the operations carried on in a factory or class or description of factories, it is not possible for the occupier to comply with the above provisions, the state government may by order exempt such factory or class or description of factories or part of a factory from any of these provisions and specify alternative methods for keeping the factory in a clean state.

2. Disposal of wastes and effluents (Sec.12):

Treatment of wastes and effluents and their disposal. Effective arrangements shall be made in every factory for the treatment of wastes and effluents due to the manufacturing process carried on therein, so as to render them innocuous, and for their disposal.

Rules by the State Government prescribing arrangements. The state Government may make rules prescribing the arrangements to be made in this regard. It may also require that such arrangements shall be approved by such authority as may be prescribed.

3. Ventilation and temperature: (Sec.13)

1) Maintenance of adequate ventilation and temperature. Effective and suitable provision shall be made in every factory for securing and maintaining in every workroom-

Adequate ventilation by the circulation of fresh air, and

Such a temperature as will secure to workers there in reasonable conditions of comfort and prevent injury to health.

2) Process producing high temperature to be separated. The walls and roofs shall be of such materials and so designed that the temperature shall not be exceeded but kept as low as practicable. The process which produces high temperatures shall be separated from the workroom, by insulating the hot parts or by other effective means.

3) Standard of adequate ventilation and temperature to be prescribed and provision of measuring instruments. The State Government may prescribe a standard of adequate ventilation and reasonable temperature for any factory. It may further direct that proper measuring instruments shall be provided and such records as may be prescribed shall be maintained.

The walls and roofs must be of such material and so designed that the temperature shall not exceed but kept as low as practicable. The process which produces high temperatures shall be separated from the work room, by insulating the hot part or by other effective means.

4. Dust and fume (Sec.14): Effective measures shall be taken in every factory for prevention of inhalation or accumulation of dust and fumes in work rooms. In any factory no stationary internal combustion engine shall be operated unless the exhaust is conducted into the open air.

5. Artificial humidification (Sec.15): In respect of all factories in which the humidity of the air is artificially increased, the State Government may make rules prescribing standards of humidification. It shall also make rules prescribing methods to be adopted for securing adequate ventilation and cooling of the air in the work room.

In any factory in which the humidity of the air is artificially increased the water used for the purpose shall be taken from a public supply or other source of drinking water, or shall be effectively purified before it is so used.

6. Overcrowding (Sec.16): There must not be overcrowding in any room of the factory to the extent injurious to the health of the workers employed therein. There must be at least 350 cubic feet (in respect of factories in existence before 1st April 1949) and 500 cubic feet (in respect of factories built after the commencement of the Act i.e., 1st April 1949) of space every worker.

If the Chief Inspector by order in writing so requires, there shall be posted in each work room of a factory a notice specifying the number of workers who may be employed in the room.

7. Lighting (Sec.16):

8. Drinking water (Sec.18)

9. Latrines and Urinals (Sec.19)

10. Spittoons (Sec.20)

The factories act with regard to the safety of workers:

Sections 21 to 40 lay down the provisions with regard to the safety of workers. The following are the provisions:-

1) Fencing of machinery Sec.21: In every factory, every dangerous part of any machinery shall be securely fenced by safeguards of substantial constructions, which shall be kept in position while the part of machinery they are fencing are in motion or in use. The expression dangerous parts means any reasonably be anticipated, even if such danger would arise from negligence or some outside source.

2) Work on or near machinery in motion (Sec.22): Wherein any factory it becomes necessary to examine any part of machinery while the machinery is in motion, such examination shall be made only by a specially trained adult male worker wearing tight fitting clothing.

3) Employment of young persons on dangerous machines (Sec.23) : No young person shall work on any machine to which this section applies unless he has been fully instructed as to the dangers arising in connection with the machines and the precautions to be observed and has received sufficient training to work on the machine.

4) Striking gear and devices for cutting off power (Sec.24)

5) Self-acting machines (Sec.25)

6) Casing of new machinery (Sec.25)

7) Prohibition of employment of women and children near cotton openers (Sec.27)

8) Hoists and Lifts (Sec.28)

9) Lifting machines, chains, ropes and lifting tackles(Sec.29)

10) Revolving machinery (Sec.30)

11) Pressure point (Sec.31)

12) Floors, Stairs, and means of access (Sec.32)

13) Protection of eyes (Sec.35)

14) Precautions in case of fire (Sec.38)

15) Safety of Buildings and machinery (Sec.40)

The welfare facilities to be provided in a factory under the factories act, 1948:

Sec 42 to 50 of the Factories Act, 1948 deal with the welfare of the workers.

1) Washing facilities (sec. 42) in every factory adequate and suitable facilities for washing shall be provided and maintained for the use of the workers therein. Such facilities conveniently accessible & shall be kept clean.

2) Facilities for storing & drying clothing (Sec.43) State Government may in respect of any factory, make rules requiring the provisions therein of suitable place for keeping clothing not worn during working hours & for the drying of wet clothing.

3) Facilities for sitting (Sec 44) In every factory suitable arrangements for sitting shall be provided & maintained for all workers who are obliged to work in a standing position. This has been done in order that the workers may take advantage of the opportunities for rest which may occur in the course of their work.

4) First-aid appliance (Sec.45) There shall in every factory be provided and maintained so as to be readily accessible during all working hours first-aid boxes or cupboards equipped with the prescribed contents and the number of such boxes or cupboards to be provided and maintained shall not be less than one for every 50 workers.

5) Canteen (Sec. 46)

6) Shelter, rest room and lunch rooms (Sec 47)

The Factories Act regarding the Working hours of adults:

Weekly hours (sec.51) No adult worker can be required to work or allowed to work in a factory for more than 48 hours in any week.

Weekly holiday (sec.52) Every adult worker in a factory must be allowed a holiday during the week.

Compensatory holiday (sec. 53) Where a worker is deprived an equal number of any of the weekly holidays under sec. 52, he shall be allowed compensatory holiday of an equal number to the holiday so lost. That holiday allowed within two months immediately following that month.

Daily hours (sec. 54) Subject to the provisions of sec. 51, no adult worker shall be required to work in a factory for more than 9 hours in a day.

Intervals for rest (Sec. 55) The periods of work of adult workers in a factory shall be so fixed each day that no period shall exceed five hours before he had an interval for rest of at least half an hour.

Nightshift (sec.57)

Prohibition of overlapping shifts (sec. 59)

Extra wage for overtime (sec. 59)

Notice of period of work for adult (sec. 61)

Further restrictions on employment of women (sec. 66)