

EVOLUTION OF LAW AND POLICY RELATING TO LABOUR MANAGEMENT RELATIONS

By Dr. Krishna Murty Kayala

Assistant Professor©, Mahatma Jyotirao Phule College of Law, Dr.B.R.Ambedkar University, Srikakulam,
Etcherla -532 410, Andhra Pradesh

The term 'industrial relations' or labour management relations' or employee relations is difficult to define precisely because it is too complex. This is particularly so in a democratic society which allows freedom of action to the workers and their organisations and to the employers and their organisations and a series of laws are enacted to regulate their relations. In a totalitarian country trade unions are banned, as in Germany under Hitler or Italy under Mussolini. But even such a society has to enact laws to provide an acceptable relationship between the industrial employer and employees. In a Communist country where all persons employed are workers, industrial relations cannot result in any form of industrial action. But changes are taking place even in the so-called Communist countries; the upsurge of industrial workers in Poland and Yugoslavia are cases to point.

Industrial relations as being synonymous with employer and employee relations may be defined as the relations between employers and employees in industry. According to Encyclopedia Britannica, the industrial relations include individual relations and joint consultation between employers and work people at the place of work, collective relations between employers and the organisations and the trade unions and the part played by the State in regulating these relations. Thus:

- i. Industrial relations include individual relations in an industry;
- ii. The collective relations between employers and labour (trade unions and
- iii. The role of the government in the regulation of these relationships
- iv. Besides these, there are the international aspects, particularly in terms of the influence exercised by certain international bodies like the ILO in shaping and developing the pattern of industrial relations in several countries.
- v. In order that the term 'industrial relations' covers every sector of the labour force in all parts of the world, the International Institute of Labour Studies has defined it as 'social relations in production'.

Industrial relations are an art, the art of living together for the purposes of production. The emphasis is on the process of accommodation whereby the parties involved develop skills and methods of adjusting to and co-operating with each other.

There is no uniform pattern of industrial relationship even in democratic societies. However, there are standards of industrial relationships which are contained in the Philadelphia Declaration of the ILO (1994) embodied in the series of Conventions and Recommendations evolved in the ILO conferences in which most of the democratic countries of the world participate. If a country ratifies a convention, its national laws have to conform to it. In fact, most of India's labour legislation after independence has been influenced by such conventions and recommendations.

There is no uniform pattern that can be prescribed for nations. The kind of industrial relations required to ensure harmony and co-operation will depend on a number of factors including the form of ownership of industry that prevails, the state of technology that is utilized, the state of techniques and relations of production in that society, the nature and character of the government, the views of the Government in relations to its own role, the instruments that the society has at its disposal to formulate public opinion, the socially – accepted concept of sanctions in the field of industrial relations and the socially accepted

limitations on the use of action in the industrial field – whether it be by the employer or the employee.

Following Robert W. Cox enumeration of the patterns of relationship may be as follows :

- i. The peasant-lord system (in industrial employment it represents master servant relationship).
- ii. The primitive market system.
- iii. A small manufacture system (beginning of industrial revolution where workers are getting slowly organised).
- iv. The lifetime commitment system as in Japan where there is lifelong employment.
- v. A bipartite system of which collective bargaining is the main function as in USA and other democratic countries.
- vi. A tripartite system in which the Government also plays an important role in labour management relations as in India.¹

Functions

Industrial relations system fulfills at least three major functions. First, it defines the relative rights and responsibilities of workers managers and the state and establishes the power relationships between them. Secondly, it channels and controls the responses of workers and managers to the dislocation, frustrations and insecurities inherent in the industrial process. Thirdly, it establishes the net-work of rules – both substantive and procedural which govern the workplace and work community. In short, the industrial relations system provides the structure and the machinery for the functional relationship between the managers and the managed in any industrial society.

There are three basic approaches to labour management negotiations – unilateral, bipartite and tripartite. In the unilateral approach, the employer alone decides the terms and conditions of employment for his workers. In biapartite approach, the employer negotiates with his workers. This is collective bargaining. In the tripartite approach, a third party – the Government also participates in the negotiations.²

Objectives of Industrial Relations

The objectives of industrial relations are as follows :

- To maintain and develop good employer-employee relations.
- To maintain industrial peace.
- To safeguards the interests of labour and management.
- To avoid as far as possible, industrial conflicts.
- To establish industrial democracy.
- To help the economic development of the country.
- To encourage collective bargaining as a means of self-regulation.
- To help maintain discipline amongst workers.
- To help Government in making laws.
- The help union and management to develop constructive attitudes to one another.

Approaches to Industrial Relations

Industrial relations which refer to the formal process of consultation and negotiation are as old as industry and being inherent in industry, will always remain as a feature of industrial life. The participants in it are mainly three – the workers and their organizations,

¹ Dr. Biswanadh Ghosh., Industrial Relations of Developing Economy(With particular reference to India), Himalaya Publishing House, Mumbai, 2001.

² Ibid

the employers and their associations and the agencies of the government. The participants should build up a stable, workable relationship among themselves and provide for the people a constant flow of consumption goods. The sectional groups in society sacrifice its broader interests to further their own ends and the conflict between the two assumes the shape of industrial unrest. The agencies of Government which is the custodian of the interests of the community as a whole, play a significant role in shaping the pattern of relationships in the industrial setting. Industrial relations are collectively conducted between the workers and the employers through collective bargaining.³

In the pre-industrial society, productive work was mostly organized on a small scale. Workmen frequently owned the simple instruments which they needed for their work. Hence, they either worked on their own or offered services to others with whom they would have direct and personal relations. With the advent of modern industrialization, work organisations have undergone a basic transformation in terms of the scale of activity.

Modern industrial work has the following peculiarities:

- i. Industrial work is a group work. It brings together a large number of workers who work for the employer with whom they have scarcely any personal relationship. What is possible between them is a collective relationship. The other significant aspect of this feature is the relations among the workers themselves. Some leaders come up from among the workers and they wield considerable power.
- ii. It involves division of labour. A worker seldom makes a complete product. Work is fragmented and repetitive. The worker spends the best part of his life at the work place but his work does not interest him.
- iii. Industrial work is carried on under the control and direction of the employer. The workers do not own the instruments of production. They have only their services to offer to employers who own the instruments of production. As a result, workers have lost their freedom as independent producers.
- iv. Lastly, industrial work is wage work. Employers buy and workers sell their services. The buyer wants labour to be more productive and the sellers want it to be more rewarding.⁴

Evolution of Industrial Relations

In India when the doctrine of laissez-faire prevailed, workers were at a great disadvantage as they contracted themselves with their employers. They were exploited – they received low wages and worked long hours in miserable physical conditions of work. The relationship between unequal's inevitably resulted in the exploitation of the weak by the strong. This exploitation sowed the seeds of dissatisfaction and bred protest. Therefore, workers got together and formed trade unions; they built up their organisations to mobilize their own power. In the sphere of collective relationship trade unions emerged for the protection and furtherance of the workers' interests for the worker individually could not take up his own cause effectively with the employer.

As the industrial units grew large their ownership was increasingly divorced from management and a new managerial group was interposed between the owners / employers and the rank and file of workers.

The other important aspect of industrialization is the formation of employers' associations to safeguard and promote the interest of their members through collective action.

The basic inequalities of the contracting parties in the employment relationship have called forth intervention by a third party, i.e., the State, in favour of the weaker section to

³ Srivatsava. S.C., Industrial Diputes and Labour Management Relations in India, 391 (1984)

⁴ Ibid

ensure fair treatment to all concerned. The major instrument with the Government is legislation whereby norms to regulate the relationship between the two parties are specified and enhanced through the apparatus created for the purpose. The Government is prompted to influence the relationship between the employers / management and the workers and their trade unions, for it has the responsibility of satisfying the economic needs of the community. Therefore, the major influence in the field of industrial relations is the workers, the management and the Government. They play their roles, act and interact and evolve a process to regulate employment relationship.

Upto the late 20's of the 20th century, the employer-employee relationship in India was practically that of master and servant. The British Government followed a policy of laissez-faire and regarded the problem of industrial relations mainly from the point of view of law and order. Policy of the Government was to protect the social system from workers rather than to protect workers from the social system.⁵

Workers were hired and fired as the principle of demand and supply governed industrial relations. The employer was in a commanding position and the conditions of employment and wages were very poor.

In the decades following the First World War, the mounting industrial unrest and political excitement within the country, the Soviet Revolution, the establishment of ILO and the rise of the working class in Britain made the Government conscious of the danger and limitations of the prevailing policy.

After the First World War, the industrial relations concept assumed a new dimension in the sense that the workers now resorted to violence and employers to lockouts. There were numerous strikes and disturbances during 1928-29. As a result, the Government enacted the Trade Disputes Act 1929, to expediate the early settlement of industrial disputes. With the passing of the Trade Disputes Act in 1929, State intervention in the settlement of industrial disputes started. The Act vested the Government with powers which could be used whenever it considered fit to intervene in industrial disputes. It provided for only ad-hoc conciliation boards and courts of enquiry. The Amending Act of 1938 authorized the Central and Provincial Governments to appoint conciliation officers for mediating in or promoting the settlement of disputes. The Act, however, was not used extensively as the Government policy at that time continued to be one of laissez-faire and selecting intervention at the most.

The defects of the Trade Disputes Act 1926, were to a certain extent removed by the Industrial Disputes Legislation passed in Bombay in 1934 and 1938. The Bombay Trade Disputes (Conciliation) Act 1934, introduced for the first time a standing machinery to enable the state to promote industrial peace. A permanent cadre of conciliators was envisaged for settling matters which fell within their jurisdiction. The scope of the Act was limited to selected industries. The experience of the working of the Act led to the enactment of the Bombay Industrial Disputes Act, 1938.⁶ The Act provides for (i) compulsory recognition of unions by the employer, (ii) giving the right to workers to get their case represented either through a representative union or where no representative union in the industry existed, through elected representatives of workers or through the Government Labour Officer; (iii) the setting up of an Industrial Court with original as well as appellate jurisdiction, to which parties could go for arbitration in case conciliation fails and (iv) prohibition of strike / lock-out under certain conditions.

During the Second World War the Government assumed emergency powers for the settlement of industrial disputes. In 1942, the Defence of India Rules was promulgated to meet the exigencies created by the war. Rule 81 A gave powers to the appropriate

⁵ Harish Chander., Contract of Employment and Management Prerogatives (1993), Vijaya Publications, New Delhi.

⁶ Myers Charles. A., Labour problems in the Industrialization of India (1958).

Governments to intervene in industrial disputes, appoint industrial tribunals and enforce the award of the tribunals on both sides. Under this Rule compulsory conciliation and adjudication were introduced.

After India attained independence, the Industrial Disputes Act was passed in 1947 which replaced the Trade Disputes Act of 1929. This Act not only provides for the establishment of permanent machinery for the settlement of industrial disputes but also makes these awards binding and legally enforceable. With subsequent amendments, the ID Act still continues to be the main instrument for Government's intervention in labour disputes.

Another development in the post-independence period was the setting up of the Indian Labour Conference, a tripartite body to look into industrial relations problems. It was set up with the objective of establishing cooperation between the trade unions, employers and the Government. It met once a year to discuss problem relating to industrial relations.

The ID Act provides for settlement of industrial disputes through conciliation and adjudication. The Act empowers the appropriate Government to appoint conciliation officers and / or constitute Boards of Conciliation to mediate in and promote settlement of industrial disputes. It also empowers the appropriate Government to refer disputes for adjudication by an industrial tribunal. The Act makes a distinction between disputes arising in public utility services and those in other industries and provides for compulsory conciliation and adjudication to resolve the former. Besides, the appropriate Government could constitute a Court of Enquiry to enquire into matters relating to industrial disputes. Restrictions are placed on strike / lockout in public utility services and during the pendency of conciliation and adjudication proceedings. The procedures and machinery provided under the ID Act representatives of workers or through the Government Labour Officer; (iii) the setting up of an Industrial Court with original as well as appellate Jurisdiction, to which parties could go for arbitration in case conciliation fails and (iv) prohibition of strike / lock-out under certain conditions.⁷

During the Second World War the Government assumed emergency powers for the settlement of industrial disputes. In 1942, the Defence of India Rules was promulgated to meet the exigencies created by the war. Rule 81 A gave powers to the appropriate Governments to intervene in industrial disputes, appoint industrial tribunals and enforce the award of the tribunals on both sides. Under this Rule compulsory conciliation and adjudication were introduced.⁸

After India attained independence; the Industrial Disputes Act was passed in 1947 which replaced the Trade Disputes Act of 1929. This Act not only provides for the establishment of permanent machinery for the settlement of industrial disputes but also makes these awards binding and legally enforceable. With subsequent amendments, the ID Act still continues to be the main instrument for Government's intervention in labour disputes.⁹

Another development in the post-independence period was the setting up of the Indian Labour Conference, a tripartite body to look into industrial relations problems. It was set up with the objective of establishing cooperation between the trade unions, employers and the have been modified from time to time in the light of the actual working of these provisions, the decisions of the judiciary and the influence of the bipartite and tripartite agreements.

In 1957 the emphasis of Government's attitude towards labour shifted from legal enactments to voluntary arrangements. In fact, the period between 1957 and 1965 can be regarded as an attempt to move away from, legalism to voluntarism which dominated industrial relations in India. As a result, the Code of Discipline was introduced in 1958. It enjoins on parties to refrain from taking unilateral action on industrial matters. But

⁷ Malhotra O.P. and Malhotra K.R., The law of Industrial Disputes, Vol I, (3rd Edition 1981)

⁸ Ibid

⁹ Ibid

unfortunately, the Code has a limited success. As a result, the Government, has to rely on legislation to regulate labour-management relations.

Plan Policies:

The Industrial Disputes Act 1947 has been the main legislative frame-work which has provided the machinery and procedure for the settlement of disputes through mediation, conciliation, arbitration and adjudication. Steps were, also taken in the past to provide a voluntary approach to industrial relations through Codes. A general feeling has developed that the existing - arrangements have not proved effective' in presenting disputes and promoting settlements. Since the submission of the report of the National Commission on Labour efforts have been made for evolving a new and comprehensive industrial relations legislation but these have not succeeded on account of the divergence of approaches among the trade union organisations on certain basic issues such as the machinery and procedure for settlement of disputes, the criteria and procedure for recognition of trade unions i.e., whether the representative character of trade unions should be determined through verification of paid membership of contending unions or through secret ballot; right to strike in essential industries including public utilities, role of government. In regulating industrial relations etc. While efforts must continue, to minimize the areas of disagreement among the parties concerned and acceptable improvements in law and machinery effected, some of the changes in the existing laws on trade unions, industrial disputes and standing orders, which are generally considered essential for promoting industrial relations, need not be held over and should be carried out. These changes would, help in streamlining the existing procedures and securing speedy justice to workers. The question of providing security of service to such categories of employees who are at present outside the ambit of labour laws also needs consideration.¹⁰

Some International Practices

In the USA, the State has confined itself to enacting legislation for ensuring the workers' right to organise and bargain collectively and has constituted an independent authority to administer and interpret legal provisions and decide on complaints regarding unfair labour practices. Intervention of the State in industrial disputes is limited to actual work stoppages which could impair the national economy. But even within this area of State intervention, a wide latitude is given to the parties for settling their differences. The Government does not envisage direct interference in the process of collective bargaining.

Legislation has been introduced in the USA to cover a wide-range of aspects of industrial relations and although it would be an exaggeration to claim that industrial negotiations are solely the province of lawyers, legal profession comes close to dominating the scene. The National Labour Relations or Wagner Act of 1935 govern collective bargaining; the National Labour Relations Board can determine who shall have bargaining rights and issue over which they may bargain. The Labour Management Relations or Taft-Hartley Act of 1947, made collective agreements legally enforceable, introduced the concept of a 'cooling off period' (during which strike action has to be suspended), enabled a district court to issue an 80-day injunction against a strike or lockout which was causing a national emergency, regulated the internal affairs, of trade unions and provided protection for workers who refused to join a union. The provisions in the Taft-Hartley Act concerning the internal affairs of trade unions were extended to the Landrum-Griffin Act of 1959.¹¹

¹⁰ See Report of the National Commission on Labour 1969

¹¹ Williams., Labour Relations and the Law, (3rd Edition), 1965.

In the UK, the industrial relations system has been marked by the primacy of free collective bargaining between the parties. Many writers have argued that prior to the 1960s; UK has a 'voluntary' system of industrial relations. The adjective 'voluntary' means that the State plays no part whatsoever in industrial relations. If voluntary system of industrial relations means the absence of State intervention of any kind, the British system has never been voluntary. The State in Britain has always intervened on certain issues. For example, the State has intervened through the Factory Acts (1961), and associated legislation (such as the Mines Acts and the Offices, Shops and Railways Premises Act). These regulate working conditions by laying down rules for the notification of accidents and industrial diseases, the provision of proper ventilation, sanitation and maximum hours of work.¹²

The assertion that UK had a voluntary system of industrial relations does not imply that the State has not taken an interest in or intervened in industrial relations in UK; rather it implies that the State has played a restricted role and has tried to keep industrial relations and trade unions away from the courts.

The role of the State in British industrial relations changed in the 1960s. First, the State intervened more decisively in the area of wages and salaries, a move crystallised in the notion of 'incomes policy'. Second, Governments attempt to introduce the law more centrally into collective bargaining, conciliation and arbitration. The Industrial Relations Act 1971 marks the high point of this policy.¹³

The Australian system has had a long tradition of State regulation. The Government intervenes for the settlement of disputes. Collective bargaining in Australia is dominated by the law. Compulsory arbitration is not reserved for exceptional cases as in the USA, rather it is accepted as a normal part of industrial relations. So, collective bargaining, as it is understood in Europe, does not exist in Australia.

In Japan, the right to collective bargaining is guaranteed under the Constitution and the State has enacted legislation to promote collective bargaining. Direct state intervention is permissible in strikes which might jeopardise the national economy and public life. In other industrially advanced democratic systems, direct State intervention in industrial disputes is generally the exception rather than the rule.¹⁴

In the former USSR, three important factors regulate the industrial relations system. First, the formation of a socialist society is characterised by the public ownership of the basic means of production. The building up of a workers' state makes the interests of labour and management non-antagonistic. Second, the operation of a centrally planned economy introduces its own constraints on labour and management. However, recently increasing powers are given to local trade unions and individual enterprises to take decisions on matters of employment, wages and productivity. Lastly, the influence of a single political party in running the government and in organising unions makes it necessary for the unions to perform a double role. They have to help in carrying out party policy and look after production interests and at the same time assume the traditional role of unions in furthering the interests of labour.¹⁵

In the three developing countries in Asia - Myanmar, Malaysia and Philippines, the concern of the State in industrial relations has been more marked. Besides laying down rules

¹² Another example of Government intervention in industrial relations in UK prior the 1960s can be seen in the field of wage regulation. The Trade Boards Act of 1909 set up trade boards for some trades where wages were so low and conditions of employment so poor that they had attracted universal condemnation. The boards were empowered to fix statutory minimum wage rates which were backed by an official inspectorate and the threat of legal penalties. Today the functions of trade boards are carried out by wage councils set up in 1945.

¹³ Supra, note 11

¹⁴ Prof. Madhavan Pillai. K., A Text book on Labour and Industrial Laws, Allahabad Law agency, Allahabad, 1994.

¹⁵ Ibid

and procedures for the settlement of disputes, the State has provided arbitration machinery. In the last resort, Government has reserved to itself the right of making a reference to such machinery in cases where the public interest so demands or where a joint request is made by the parties.¹⁶

Practice of India:

In India labour legislation was undertaken in advance of the emergence of labour organizations. The incentive to labour legislation was furnished not by the humanitarian considerations of enlightened manufactures but by the discovery of certain Manchester Cotton manufacturers in 1870 that a cotton textile industry was developing in Bombay. At that time industrialists in India could use their labour in any manner they liked as there was no factory laws. The result was the exploitation of labour, especially of children and women labour by employers. Thus industrialists in India had the advantage of cheap labour in comparison with the British industrialists where labour laws existed and the Manchester Cotton manufacturers became jealous of the Indian Cotton mill and wanted to curb its development. The Manchester Chamber of Commerce sent in 1874 a deputation to the Secretary of State for India to apply the same factory laws to the Indian mills as were applicable to the British factories so as to neutralize the unfair advantages which the Indian manufacturers were enjoying due to long hours of work and large scale employment of child and women labour. A factory Commission was appointed in 1875, to investigate the need of the required legislation. The Commission revealed the fact that the mills worked from sunset to sun-rise, there was no fixed weekly holiday and even children of 7 were engaged in the factory. The Bombay Government shelved the Commission's Report as the majority did not favour the idea of regulating working hours in the factories, through legal measures. But the Manchester interests, however, continued to carry on their agitation for factory legislation.

It was in 1875 when some social workers of Bombay under the leadership of Mr. Sorabjee Shaporjee Bengalee started an agitation to draw the attention of the Government to the miserable conditions of the workers and to the need for some factory legislation. As a result of the agitation the first Factories Act was passed in 1881.

In the early days the policy of the Government was to protect the social system from workers rather than to protect workers from the social system. Moreover, whatever labour legislation was undertaken, was also with reference to specific industries and not for the general class of industrial workers.

The defects of labour legislation in India have been due to the lack of proper development of a National labour policy. Prior to World War II, there was practically no social attitude of public opinion on the labour question and no demand was made for an adequate solution of any outstanding labour problem. Most of the measures were, therefore, forced upon Government by extraneous circumstances. Plantation legislation was, for instance, enacted for granting planters a security over their labourers; factory legislation owes its origin to the rivalry of Manchester interests and even in the recent past labour legislation was undertaken for the fulfillment of international obligation, which, however important in itself, cannot take the place of a National Labour Policy.

It has been rightly criticized that many of the labour laws are 'half-baked and hastily devised'. Close at the heels of an Act come amendments and then more amendments to amend the amendments.

Employers complain, not without reason, that government's labour legislation programme is quite unrelated to the needs of the present situation in India. They contend that the obligations imposed on employers under various labour laws contribute to raise the cost of production and weaken India's competitive position in the world market.

¹⁶ Malik P.L. the Industrial Law, Eastern Book Company, Lucknow 1974.

India, by 1980 had a spate of labour legislations not to be found in any country at India's level of economic development. The standards laid down by the ILO have been accepted and measures are undertaken to come into closer conformity with the provisions of the International Labour Code. Although satisfactory progress has been achieved in the directions of labour legislation, nevertheless we have yet to travel a long way on the road to social justice.

For industrial relations system to help in both economic development and democracy, the challenge lies in promoting their stability and flexibility, so that the twin goals of both efficiency and equity are met. To achieve these goals individual countries must devise their systems and institutions that are congruent with their national culture, institution history and other macro policies. Widespread acceptance of these goals is the only concrete principle for the industrial relations actors of the present century. The output of industrial relations has so far been measured in terms of network of rules and regulations, strikes and lockouts, grievances and indiscipline, etc. New technologies and changing work place and demographics are bringing transformation in work place governance which will result in greater say and stake for employees, customers as well as for the country. The trade unions have to take into consideration the effects of globalisation and international competition. The highest challenge for them is that the Indian Foreign Trade policies have unleashed a market economy where a large proportion of labour force is made a redundant resource. They find it difficult to accept large- scale work- force reductions or displacement without a credible system of compensation or social safety net.

The content and purpose of labour policy and labour law should focus on facilitation rather than regulation, proaction than reaction and on harmonious relations conducive to social and economic development rather than dispute resolution. When the private sector becomes the engine of growth, the State needs to play a much stronger role in ensuring a balance between the rights of both labour and management. The policy should focus on the entire labour force.

There is a need for a thorough review of the Centre-State relations in the sphere of labour with respect to legislation, labour administration and labour judiciary. The key issue is, how much uniformity and how much diversity states can have in labour matters. The crucial issue is the law and procedure relating to the protection of retrenched/ dismissed workers. The ILO conventions and recommendations have played a significant role in India as regards the legal framework on wages, working conditions, welfare, social security, protection of the vulnerable sections of society, human resource development, equity and non-discrimination, etc. It has also ratified three of the eight conventions that constitute the fundamental principles. However, India has opposed proposals to link labour standards and trade through "social labelling". The purpose of law should be to achieve a delicate balance between conflicting and competing claims. It should be pro-people and pro-humanity.

Thus, the labour law regime in India is a conglomeration of a large number of legislative enactments. It is a large mosaic of laws in which no discernible pattern emerges. These parts of the mosaic are all disparate entities.

Yet this large quantity is only superficial. For, underneath a large number of these laws are not applicable to a vast majority of the workforce. Furthermore, though the number of laws is large, many important issues such as compulsory recognition of a trade union, protection to white-collar workers et cetera don't find any mention in the laws. Another important aspect of the volume of laws is that a bulk of the provisions is merely procedural in nature. The substantive aspects of the employment relationship comprise only a small part of legislations. Thus, while the employers are concerned merely with filing returns and maintaining registers, the worker gains nothing substantial. What happens is just the

increased control of business by the Government. While control is necessary, it should not partake of the character of throttling business. What is needed is just regulation, pure and simple. Legislative despotism in the form of excessive legislation and legislative anarchy in the form of total absence are two extremes. The need of the hour is a golden mean between these two extremes. For, legislative monitoring through legislations is essential. It is the protector of the unprotected. This function cannot be abdicated; for, if gold rusts what will iron do? Law should merely regulate in conjunction with other social forces.

State intervention in India has assumed a more direct form. The State has enacted procedural and also substantive laws to regulate industrial relations. In the distant past, State intervention in labour matters was for protecting the commercial interests of the British Rulers. Later, pressures from the public to guard the interests of workers in the face of difficulties created by the operation of the economic system prevailed. Since independence, State intervention in labour matters has been necessitated by larger need for the regulation of the economy with the focus on rapid overall growth. Apart from planned development, the requirements of the Welfare State envisaged in our constitution have been another important reason for State intervention.¹⁷

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

The second role which the State has to play in our context is the outcome of its Federal Constitution, and the fact that labour is a subject in the Concurrent list for the purpose of legislation. It has been a tradition in the country for long that the Central Government assumes the responsibility of enacting legislation on many aspects affecting labour, whereas the State Governments look after implementation, though they can legislate on their own also. In either case, a considerable measure of consultation has been the rule.

It is obvious, therefore, that the State cannot be a silent spectator in the development of healthy labour practices. It has to play a role which the parties to a dispute find acceptable.

Industrial relations in India have been shaped largely by principles and policies evolved through tripartite consultative machinery at the industry and national levels.

Tripartite bodies like the Indian Labour Conference / Standing Labour Committee / Industrial Committees were set up for setting union norms to guide industrial relations. Tripartite meetings provide a useful forum of communication between the parties represented on them. They help in narrowing down differences among the three groups in reaching consensus over matter of common interest, in providing a forum for communication among the parties and in sharing the responsibility of Government in maintaining industrial harmony.¹⁸

¹⁷ Dr. Bhagoliwal. T.N., Economics of Labour and Industrial Relations, 1987.

¹⁸ Agarwal. S.I., Labour Relations in India, Macmilan Company of India Ltd, New Delhi, 1978.

Industrial Relations Practice at the Plant-level in India

There are five types of the prevailing patterns of industrial relations in India at the plant-level. These are :

- i. Regulative (Standing Orders)
- ii. Consultative (Voluntary Jt. Consultation)
- iii. Preventive (Works Committee/Joint Committee)
- iv. Co-operative (Collective Bargaining Codes)
- v. Conflictive (ID Act)
- vi. Participative (JMC)

By and large, the regulative and conflictive patterns in industrial relations seem to predominate at the plant-level in India. The positive patterns begin in consultation and culminate in participation via co-operation.

The regulative pattern marks the beginnings of industrial relations. It is characterised by the application and administration of the Industrial Employment (Standing Orders) Act and the enforcement of Standing Orders.

The consultative pattern will begin only if both management and employees believe in voluntary joint consultation and bilaterally practice it within the frame-work of their terms of jurisdiction.

There is a provision for the preventive pattern of industrial relations illustrated by statutory bodies such as Works Committee and Joint Committee as machinery for the avoidance of problems of industrial relations. These are intended to prevent any industrial unrest and conflict and pave the way for the positive philosophy of co-operation in industrial relations reflected in collective bargaining.

Alternatively, the conflictive pattern is reflected in the working of the industrial disputes legislation as applicable to different industries in the country.¹⁹

There is a long way to go from the regulative pattern to the participative pattern of industrial relations but this movement is essential for the progress of the country.

Theories of Industrial Relations:

1. Unitary Theory:

The essence of the unitary theory of industrial relations, held by Halford Reddish and others, is that every work organization is an integrated and harmonious whole existing for a common purpose. They assume that each employee identifies with the aims of the enterprise and with its methods of operating. By this view, there is no conflict of interest between those supplying financial capital to the enterprise and their managerial representatives, and those contributing their labour and job skills. By definition the owners of capital and labour are joint partners to the common aims of efficient production, high profits and good pay in which everyone in the organization has a stake. It follows that there cannot be 'two sides' in industry. Indeed managers and managed alike are merely parts of the same 'team'. This team, however, is expected to be provided with strong leadership from the top to keep it working and to ensure commitment to the tasks to be done and to its managerial office holders.

One implication of unitarism is that factionalism within the enterprise is seen as a pathological social condition. Subordinate employees are not expected to challenge managerial decisions or the right to manage, while trade unionism is viewed as an illegitimate intrusion into the unified and cooperative structure of the workplace. More than this, trade unionism competes almost malevolently with management for the loyalty and commitment of

¹⁹ Chaturvedi. S.M., Labour and Industrial Law, Central Law agency, Allahabad, 1995.

employees to their employer. In other words, unitary theory in its traditional or classical form denies the validity of conflict at work whether between management and employees, between management and unions, or even between the organization and its customers. The concepts of common purpose and harmony of interests further imply that apparent conflict is either (a) merely frictional, e.g. due to incompatible personalities or 'things going wrong', or (b) caused by faulty communication', e.g. misunderstanding' about aims or methods, or (c) the result of stupidity in the form of failure to grasp the communality of interest, or (d) the work of agitators inciting the supine majority who would otherwise be content.²⁰

Collective bargaining and trade unions are therefore perceived as being anti-social, anti-managerial mechanisms, since acceptance of two opposed and competing interest groups within the enterprise, in the persons of management and union representatives, only precipitates and crystallizes unnecessary and destructive industrial conflict between what are viewed as two non-competing, co-operative parties.

A variant of unitary theory, 'neo-unitary' theory, appears to have emerged in some organizations since the 1980s. It builds on existing unitary concepts but is more sophisticated in the ways it is articulated and applied within enterprises. Its main aim seems to be to integrate employees, as individuals, into the companies in which they work. Its orientation is distinctly market centered, managerialist and individualist. By gaining employee commitment to quality production, customer needs and job flexibility, employers embracing this frame of reference have expectations of employee loyalty, customer satisfaction and product security in increasingly competitive market conditions. Companies adopting a neo-unitary approach to managing people share a number of ways in which they do this; they try to create a sense of common purpose and shared corporate culture; they emphasize to all employees the primacy of customer service; they set explicit work target for employees; they invest heavily in training and management development; and they sometimes provide employment security for their workers.²¹

2. Conflict Theory:

Conflict theory is based on two interrelated views of society and of industrial relations between employers and employees. The *first* is that although Western industrialized societies are still class based, they are essentially 'post-capitalist' in the sense that political and industrial conflict or increasingly institutionally separated within them and that industrial conflict has been less violent because its existence has been accepted and its manifestations have been socially regulated through agreed constitutional arrangements. The *second* view is that work organizations are microcosms of society. Since society comprises a variety of individuals and of social groups, each having their own social values and each pursuing their own self-interests and objectives, those controlling and managing work enterprises similarly have to accommodate the differing values and competing interests within them. It is only by doing this that private or public enterprises can function effectively. Industrial relations between employers and unions and between managers and trade unionists, are an expression of the conflict and the power relations between organized groups in society generally. As such, industrial conflict between managers and their subordinates has to be recognized as an endemic feature of work relationship and managed accordingly.

A major element in post-capitalist theories of contemporary society and industrial relations is the proposition that the nature of class conflict has substantially changed from that suggested by Marx in his nineteenth-century analysis. In Marxist theory class conflict is perceived as being synonymous with industrial conflict and political conflict. Under market

²⁰ Supra, note 1

²¹ Supra, note 1

capitalism, Marxists argue, the capitalists or the owners of the means of production are identical with the ruling class in industry and politics, while wage-earners, owning only their labour-resources, are relatively powerless in industrial relations and in politics. Capitalists are the social elite and the proletariat are the socially weak.

First, we now live in a more open and socially mobile society compared with the class-based social divisions associated with nineteenth-century and early twentieth-century capitalism. The widening of educational opportunity, the democratization of politics, and the growth of public sector industry have opened up recruitment to a whole range of sought-after roles in society, including those within industry, politics, education, the professions, arts and so on, which would have been inconceivable a hundred years ago. Moreover, the creation of the welfare state, mitigated the worst effects of social deprivation, economic inequality and abject poverty.

Second, the distribution of authority, property and social status in society is more widely diffused than in the past. The positions which individuals occupy in the authority structure of industry, do not necessarily correlate with their positions in the political structure or with their social standing in the community. The village postal worker can become the local councilor, the school teacher a Member of Parliament and the trade unionist a Justice of the Peace. Similarly, the union convener within the workplace might have potentially more industrial power than the senior management with which he negotiates. In other words, post-capitalists take the view that dominant and subordinate classes within industry need no longer necessarily correspond with the political or social divisions of society generally.

Thus, the emergence of trade unionism, employer's organizations and collective bargaining, together with union representation at enterprise and workplace level, now effectively regulate the inevitable social conflicts arising between management and subordinates at work. Even where these conflicts seem irresolvable, third party intervention, usually through state agencies providing conciliation and arbitration services, is now available to provide workable remedies. By this analysis, extending worker participation in managerial decision making, as happens in board level worker representation in countries like Denmark, the Netherlands and Germany, is seen as a logical progression in institutionalizing the power relations between managers and subordinates at work. Post-capitalist society is viewed as an open society in which political, economic and social power is increasingly dispersed and in which the regulation of industrial and political conflict are of necessity dissociated.²²

A second theoretical concept closely related to that of post-capitalism, and of central importance in the conflict theory of industrial relations, is 'pluralism'. According to Clegg one of its major propounders:

Pluralism emerged as a criticism of the political doctrine of sovereignty – that somewhere in an independent political system there must be a final authority whose decisions are definitive. Not so, said the pluralist. Within any political system there are groups with their own interests and beliefs, and the government itself depends on their consent; and co-operation. There are no definitive decisions by final authorities: only continuous compromises.

A plural society, is a relatively stable one but not static. It has to accommodate to different and divergent pressure groups to enable social and political changes to take place constitutionally. This is achieved through negotiation, concession and compromise between pressure groups, and between many of them and government.

²² Mishra. S.N and Mishra. S.K., an introduction to Labour and Industrial Laws, Central Law Publications, Allahabad, 1997.

It is from this analysis of political pluralism that industrial relations pluralism is derived. Just as society is perceived as comprising a number of interest groups held together in some sort of loose balance by the agency of the state, so work organizations are viewed as being held in balance by the agency of management. The pluralist concepts of political sovereignty and of managerial prerogative have much in common. Trade unions are viewed as the legitimate representatives of employee interests at work with the right to challenge the right to manage. There are also similarities between the processes of political concession and compromise, one the one hand, and of collective bargaining on the other. Above all, the pluralist argues, 'greater stability and adaptability is given to industrial relations by collective bargaining than by shackling and outlawing trade unions'. According to pluralist theory, the central features of industrial relations is the potential conflict existing between employer and employee and between management and managed within work enterprises. Unlike in unitary theory, however, trade unionism is accepted by pluralists as having both a representative function and an important part in regulating this conflict, rather than in causing it. Similarly, collective bargaining is recognized as being the institutional means by which conflict between employers and employees over the wage – work bargain, and its adaptation, is regularized and resolved. Industrial conflict, therefore, is accepted by pluralists not only as being inevitable but also as requiring containment within the social mechanisms of collective bargaining, conciliation and arbitration.²³

There is little doubt that the pluralist and post-capitalist analysis of industrial relations, with their emphasis on the twin virtues of collective bargaining and parliamentary democracy as separate but conflict-resolving and rule-making processes were the predominant academic orthodoxy in Britain during the 1960s and 1970s. Initially they were strongly associated with the thinking of a small group of University of Oxford academics. Their individual and collective views, had an important impact on the deliberations and findings of the Royal commission, chaired by Lord Donovan between 1965 and 1968, and on its final report. The so-called 'Oxford' approach to industrial relations influenced not only public policy and a generation of scholars in the field but also industrial relations practitioners. During the 1980s and 1990s, however, neo-unitary theory enjoyed a partial renaissance amongst some managers and students of industrial relations, as shifts to the right in British politics, to market economics and the weakening of union bargaining power in segments of the labour market occurred.

3. Social Action Theory

Social action theory in industrial relations emphasizes the individual responses of the social actors, such as managers, employees and union representatives, to given situations. It contrasts with systems theory which suggests that behaviour in an industrial relations system is explicable in terms of its structural features. Social action theory is pre-eminently associated with the studies of Max Weber. According to Weber, action is social 'by virtue of the subjective meaning attached to it by the acting individual... it takes account of the behaviour of others and is thereby oriented in its course'. He insists that in order for social actions to be explained theory must be interpreted in terms of their subjectively intended meanings, not their objectively valid ones. If only observable behaviour is examined, the significance and value which individual actors place upon their behaviour are likely to be misinterpreted.

²³ Ibid

Social action theory also has its critics. Marxists argues, that those supporting the action frame of reference neglect the 'structural influences of which the actors themselves may be unconscious'. Whilst the consciousness of individual actors in the industrial relations system towards its politico-economic structures can be to some extent autonomous, it is limited in practice. This is because 'Definitions of reality are themselves socially generated and sustained, and the ability of men to achieve their goals is constrained by the objective characteristics of their situation'. Perhaps the most useful features of social action theory in industrial relations is the 'way in which is stresses that the individual retains at least some freedom of action and ability to influence events'. Although the structures of the industrial relations system may influence the action of its actors, these in turn also influence the system as a whole including its outputs.²⁴

4. System Theory

System theory was first articulated by John Dunlop. Its purpose was to present a general theory of industrial relations and to provide tools of analysis to interpret and to gain understanding of the widest possible industrial relations facts and practice.

The systems theory views the industrial relations system as a sub-system of the wider society or the total social system. The wider society is seen as providing certain external influences and constraints but not as completely dominating industrial relations. An industrial relations system at any particular time is regarded as comprised of certain actors, certain context and ideology which binds the industrial relations system together and body of rules created to govern the actors at the place of work and work community. The creation of rules is the central aim of the industrial relations system and Dunlop isolates three groups of actors – workers, management and the government – who take part in the rule making process.

In every country, workers, government and the management all interact to build up the country's industrial relations system. Each of these three actors has a role to play in the industrial relations drama. Generally in any economy there is also an ideology which is shared in common by the government, businessmen and workers. Such ideology may be defined in terms of democratic capitalism as in the USA, democratic socialism as in the UK, state capitalism as in Spain or state socialism as in the former USSR. In India, we have another economic system known as mixed economy. Mixed economy philosophy believes in the co-existence of both public and private sectors and there should be no conflicts of interest between the private and public sectors.²⁵

Democratic capitalism encourages collective bargaining supported by legislation and government intervention where necessary; democratic socialism also encourages collective bargaining but mainly as a voluntary process, the intervention by the government being rather rare. State capitalism does not allow full freedom in collective bargaining; trade unions are tolerated but not encouraged. State socialism assigns well defined roles to the trade unions, which work within the parameters of the overall political system. In a mixed economy, we have a mixture of all these approaches and there is a good deal of ambivalence.²⁶

²⁴ Ibid

²⁵ Ibid

²⁶ Ibid

5. Marxist Theory

Marxist interpretations of industrial relations are not strictly theories of industrial relations *per se*. Marxism is rather a general theory of society and of social change with implication for the analysis of industrial relations within capitalist societies. In other words, Marxist analysis is essentially a method of social enquiry into the power relationships of society and a way of interpreting social reality. To understand the relevance of Marxist theory to industrial relations it is necessary to separate out those main features of general Marxist analysis which contribute to its special character as a means of interpreting relations between the capitalist and wage earning classes. Moreover, Marx himself wrote comparatively little about trade unions and collective bargaining because neither of these institutions was firmly established in Britain when he was studying 19th century capitalist development. Thus, the application of Marxian theory as it relates to industrial relations derives indirectly from later Marxist scholars rather than directly from the works of Marx himself.

The starting point for the Marxian analysis of society is class conflict. Class conflict is synonymous with industrial conflict since the capitalist structure of industry and of wage-labour is closely connected with the pattern of class division in society. Thus, the conflict taking place in industrial relations between those who buy labour and those who sell it is seen as a permanent feature of capitalism, merely reflecting the power base of the bourgeoisie and the class relations of capitalist society generally.

Marxist model exemplifies the structuralist (technological, economic and political forces) explanation of industrial relations. Industrial relations occur within a dynamic conflict situation which is permanent and unalterable so long as the structure of society remains unchanged. The conflict situation is viewed as a product of the labour market in which on the one hand there are workers who have to sell labour power in order to subsist, while on the other hand there are buyers of labour who own the means of production and purchase labour power.

These two interests are irreconcilable. They are engaged in a perpetual conflict over the distribution of revenue. The two interests have a common purpose in increasing total revenue and so they have. But the conflict over distribution is in no sense lessened by this for the actual distribution of additional increments of revenue is determined by the power situation. Workers with no power may get nothing. There is no automatic distribution based on a sense of equity. Shares have to be fought for sometimes bitterly.

The concept of alienation also played a crucial role in Marxian model on industrial conflict. Alienation arises from the fact that in the capitalist system labour is sold, it is bought by the capitalist and used to satisfy his need rather than those of the workers. Thus, the worker is estranged from the things he creates and thus, in turn violates the essential nature of man.

Alienation is most vividly seen in modern industrial labour. Two aspects are particularly crucial. The *first* is the division of labour which is seen by Marx as a means of promoting wealth for the capitalist but restricting even more closely the freedom of the worker. The *second* is the factory system of production which is looked upon as the most complete method of domination of the worker by the capitalist for he can control every activity of labour. However, it is crucial to appreciate that neither the division of labour nor the factory system were seen by Marx as important in their own right; they were only

important because they represented the most developed form of treating workers as a commodity.²⁷

Alienation will not be overcome simply by increasing wages, while from some points of view this might be desirable, it will not result in freedom, but merely make the worker 'a better paid slave'. Similarly social reforms will not help to overcome alienation. Alienation will only be overcome with the overthrow of the capitalist system where labour stops being treated as a commodity.

Workers and Industrial Culture

Democracy and democratic values are not merely some techniques of a political system, these are certain basic attitudes to the life process. The Indian interpretation of democratic values has made an impact on *laissez-faire* as understood in the nineteenth and early twentieth century. In India, political democracy adopts an approach of 'co-operative' life process which can be called a 'social' approach that has added a new dimension to the political idea of democratic living, though the experiment was started elsewhere. The possibility of 'public effort' co-existing with 'private effort' with 'determined priority' areas and also with monopoly authority, has now been established beyond question. Therefore, in a democracy the 'state sector' or the 'public sector' can co-exist with equal and more power without jeopardizing the basic democratic values. There is no apparent contradiction between the emphasis on 'public enterprises' in our industrial culture and our democratic pattern of living.

In this understanding of democracy perhaps society has an active role in bringing equality in all aspects of life-economic, social and cultural. Equality among unequals only perpetuates inequality and thus it is ultimately an antithesis to democratic values. Democratic values do not, therefore, have a unidimensional or restricted and ascertainable definite formula irrespective of time, social structure or other considerations. In other words, the Indian experiment has established that such democratic values and norms are to be determined in consonance with the type and nature of the society, its basic need, its historical and anthropological cultural values etc. The Indian experiment of industrial culture is bound to fertilize that of the other South Asian countries, in particular. The Indian experiment in the democratic process reform may be said to be involved in synthesizing two opposite pulls viz., the intrinsic multicultural conflict that is inherent in the working of the Indian society and the attempt at establishing a co-operative living process between multi-cultural societal structures through mutual understanding and adjustment. We find these causative phenomena in all walks of Indian democracy, in its political, social and economic milieu.

In that context the standard of norms, norms building *and execution* process in our industrial culture. An industrial culture is possible on account of the contribution of : Those who *supply the capital* which can be compared with blood circulation of an industrial society; Those who supply the labour which can be compared with musculature; and Those who add the technology, the technologists and professional managers who can be compared with the brain-action.

Now, a democratic norm is made possible only when there is a demonstration of faith in equality, and importance and equi-existence of each section. Democratic functionality is possible only in an atmosphere of trust and good faith.

The attitude to workers is not merely an attitude of subordination but also of mistrust. Workers are taken as anti-production, incapable of understanding far reaching consequences and, perhaps, dishonest too. Thus there is a belief that if they are given a fair deal they will be high-handed; if one keeps faith in them, they will practice lethargy in production and if

²⁷ Giriappa. S., Issues in labour problems, Ajanta publications, Delhi 1990, 13-24.

they are given a hearing, they will press for an unreasonable deal. Though human beings have a tendency of forming groups, workers are mistrusted when they try to unionize and save themselves from exploitation. This unionization was prevented earlier on the ground of its being (a) anti-production (b) restraining others from exercising freedom of trade (c) a conspiracy against the employer and (d) destroying the financial stability of the country and thus antinational. This industrial psychology of the investors is based on the eagerness to exploit the situational of dependence of the working force. This very attitude is responsible for most of the bitterness in the relationship between investors and workers. A careful study of the history industrial relation in an open society would show that investing managements are often more 'ant production' than the workers. They have been known to restrict supply in the market for unreasonable gains, to resort to all manner of production-cum-trade practices to subvert production in times of necessity, to exercise their capacity to foment conspiracies. On the other hand, workers have stood for the cause of the nation. It is mistaken presumption that when workers unit they become anti-national or become a threat to industrial peace. It is the investors' scramble for unreasonable gain that alienates the workers from production.

Indian intellectuals and Indian labour

The brief of the financiers/employers/private enterprises/company management, is held by leading intellectuals and advocates who, while they views for the people's vote represent the inters of a few capitalists. One has even advocated that all public sector projects be auctioned to private capitalists²⁸ where another laments that there are thousands of cases where big industrial undertakings continue to be carried on primarily for keeping the employees and workers engaged and to pay wages, salaries etc, and to pay to the government huge taxes in crores while the employer continues to incur huge losses year after year²⁹. While one champions the cause of private enterprises and capitalists holding them out to be panacea of all the economic evils in the country, the other agues that these private enterprises are so Philanthropic that they carry on business incurring huge losses only for the workers' interest! Expect individual judges, the judiciary, as whole, too has demonstrated an eagerness to protect the interests of one section of society. In *Excel Wear v. Union of India*³⁰ the Supreme Court argued at length to protect the interest of the employer and investors. It was held: "not to permit the employer to close down is essentially an interference with his fundamental right to carry on business". Similarly, "financial difficulties or accumulation of indisposed stocks may justify the view that the closure is due to unavoidable circumstances beyond the control of the employer", it said in

Kalinga Tubes Ltd. V. Their Workers.³¹

The role of the workers in the industrial culture is greatly regulated by their organized strength. As such, the normative structure of the regulations in the context of its industrial culture, is to a large extent determined by the role that labour leaders play in the national scene of politics. In fact, the share that labour has seized so far of industrial culture has been the result of great battles. Their right of partnership is not matter of grace or concession. Workers in the twenty-first century are expected to be innovative and participatory. It is therefore well to remember that rights have been earned so far through persistent struggle,

²⁸ Ram jethmalani. "The 71 Point Front" Indian Express(1 september 1988): "except key defence industries it requires to be demolished or auctioned away..."

²⁹ R. Santhanam, "Closure of Industrial Undertaking" Indian judicial Reports Issue 33, 29, 79, (16 August 1988).

³⁰ (1979)1 SCR 1009; AIR. 1979 SC 25

³¹ AIR 1969 SC 90.

and shall have to be earned as such in future too. It is in this concern that one has to understand the role of Indian Trade Union movement since independence.

Issues Related to Trade Unions

Trade unions are responsible for maintaining a better industrial relations climate in the organisation. A number of studies have been conducted to explore various issues related to trade unionism.

These studies can be broadly classified into three categories: (I) Macro-level studies on trade unionism; (2) Studies on trade union growth, structure and activities; (3) Behavioural studies

- (1) Macro-level Studies: Macro-level studies have focused on economic, social, technical and legal issues and their effect on union functions as well as union-management relationships. Early studies on unions pleaded for legal protection, and the promotion of professional trade unionism through the provision for union recognition, for better interaction between the state and unions³². Some studies have discussed the role of unions in economic development, their problems, the attitudes of the government, the emerging trends in trade unionism, and causes for union-management conflict³³. Monappa (1985) studied the formation of white-collar unions, blue-collar unions, crafts unions, and several other types of unions working in various sectors. Tulpule (1990) emphasized that unions, should pay attention to broader issues like respect for human rights, civil liberties and public policy. Studies also report that unions are organizationally, financially and numerically weak as the industrial working class is docile and economically poor³⁴. Recent studies have reported that industrial restructuring led to retrenchment, employment loss, casualisation of employment and contract employment. This has resulted in a decline of the union membership and weakening of the union power³⁵.

(2)

Historical background of trade unions:

Labour movement in India is about 150 year old, since it may be traced from 1860s. Early years of movement were led by prtilanthropists, and social reformers who organised workers and protected them against inhuman working conditions. The first known strike in India was organised by 'Dinabandhu Gupta' a dramatist and social reformer of Bengal to protest against the hardship of the cultivators and the plantation workers. The Government there upon appointed an 'Indigo' commission in 1875. It is a Robji shapuri in Bombay made a protest against the poor working conditions of workers at that time.

In India the period between 1918-1924 can perhaps be best described as the era of formation of modern trade unionism, when the deteriorating economic condition of workers resulted in strike. The wages of workers were increased but it could not keep pace with the soaring prices of commodities. Leaders like Mahatma Gandhi also took interest in improving the deplorable condition of workers. Later on all political parties developed their own trade union wings³⁶.

³² Ghosh, 1960; Johri, 1967.

³³ Padmanabhan, 1980; Nigam, 1984.

³⁴ Ramaswamy & Ramaswamy, 1981; Masilamani and Haribabu, 1986; Sheth, 1993.

³⁵ Mahalingam, 1992; Mathur, 1992; Neogi, 1992; Venkataratnam, 1992; Sheth, 1993.

³⁶ Dr. Biswanath Ghosh, 'Industrial Relations of Developing Economy' (with particular reference to India), Himalaya Publishing house, Mumbai, 2001.

Present day Trade Unions can be faulted on three:

Grounds:

- i. They have forgotten their roots to serve the poor.
- ii. They have not been adaptable
- iii. They often demand something for nothing in return.

Mean while, capitalism has modernised so well that free markets have become the latest fashion. Thus, Trade Union have lost three ways.

- i. The loss of the moral high ground to social activists due to the neglect of the poor.
- ii. The loss of the political high ground due to shrinkage in membership.
- iii. The loss of the intellectual high ground against capitalists due to the outdated strategies.

In fact, Trade Unions need an 'enemy' to survive. Traditionally capitalists have been the enemy. Now it is difficult to cast a modern firm, which pays handsome wages, offers job security and excellent career opportunities too, in the role of villain. Trade unions are mainly responsible for not creating enough jobs because today five percent wages can be earned by only five percent of the labor force. If the objective is to raise employment in the organized sector to 20 percent of the total wages or have to be brought down from the top five percent level to the top 20 percent, this is not possible without trade unions. By demanding excessive wages, trade unions have not only shrunk job growth but have also reduced the members they can organize. In the normal course, trade union membership will shrink where wages rise faster than the growth rate of the economy.

50 years ago, socialism and trade unions were at the zenith of their power and prestige. However, the heady success of socialism did not last within 30 years, the Berlin wall collapsed, and the Soviet Union broke into pieces. The miners' strike in the U.K, and the textile strike in India were put down without difficulty for want of public support. The A.P.S.R.T.C. strike, L.I.C. strikes were withdrawn due to lack of public support. The life-style of the trade union leaders has become more lavish during the last 50 years. Trade unionism has led to sloth, lethargy, unproductivity and indiscipline. Locking up the horns with the managements on even flimsy grounds has given the trade unions the respectability of militancy. But overall, the movements of the trade unions have so far not been able to create conducive environment for the general economic health of the country³⁷.

Change Is Needed:

There is no doubt that trade unions fought valiant battles made great sacrifices to secure economic justice for poor, ill treated workers. They succeeded in making the organised workers prosperous. Now the world has changed beyond recognition. Recently an article published in a Business daily has compared the Trade Unions with that of the Henry Ford's model T car for years, the model T was the bestselling car in the US. After some years customers became more prosperous, and wanted something better. Though the market changed, Henry Ford would not and drove his company almost to the verge of the bankruptcy by not allowing a model change for almost 20 years. Though late, the Hindustan Motors have to come with a new version of Ambassador car which remained most favourite choice for bureaucrats and ministers in India for over 5 decades likewise, although capitalists have changed, trade unions have not. Trade Union leader cling to same philosophy obvious of the fact that the involvement of the workers in the trade unions is dwindling with every passing year, Trade Unions still cling to the same philosophy and strategy that they first devised to challenge primitive capitalists.

³⁷ H.L. Kumar, Par reaching effect SC verdict; unions must look before leap, IFLR; Vol: 99 : October 1, part 1 2003.