

INDUSTRIAL RELATIONS IN INDIA - AN OVERVIEW

by

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A basic characteristic of all industrial societies is large scale wage employment. People seeking wage employment and the persons providing such employment constitute two distinct groups - the workers/employees and the employers/management. The relations between these two groups are structured; they are commonly known as employer-employee relations, labour-management relations, labour relations or industrial relations. Barring the first one, these concepts denote that the relations are collective at least on the side of employees. It is the labour union that deals with the employers/management in matters of all issues that are of interest to its constituents. Hence, the relations between the two groups are organized.

Of the terms used to describe the relations between labour and management the term industrial relations has widely been in vogue. Although the word "industrial" suggests that the relations are between workers and management in industries, the concept includes work of a non-industrial character and analogues of industrial

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relations exist in all human organizations, such as, government, educational institutions, churches and charitable organizations, defense services, police and prisons, etc. indicating its pervasive character.

The term relations means interaction between people and groups based on attitudes of the interacting people and groups. So the term industrial relations may be defined as the sum total of management's attitude to labour and of the labour to management's policies and practices and the positions the two take on different issues that affect their interests.

But industrial relations are not purely between labour and managements, i.e, bipartite. The state is also a party to industrial relations. It often intervenes in labour-management relations in order to protect the interests of the weaker party - normally the labour - and seeks to regulate the relations between labour and management by enacting labour legislations and requiring the employers/managements to comply with those regulations. Therefore, industrial relations are tripartite. The degree and extent of state intervention determines the nature of tripartitism. Considering this dimension of industrial relations we may define the term industrial relations as the complex of inter-relations among the labour, the management and the state that are characterized by legal and conventional norms, methods and techniques of regulated behaviours, organized and

unorganized conflict and cooperation in the achievement of institutional goals. The term industrial relations also refers to the cooperative and collaborative interaction between workers, labour unions, management and the state with a view to achieving excellence in productivity of the employees and the enterprise.

Hence, industrial relations include the whole range of relations between workers, managers and the state which seek to determine the conditions under which the work is performed and the objectives of the enterprise, employees, the economy and the society are achieved.

NATURE OF INDUSTRIAL RELATIONS

Industrial relations are essentially concerned with accommodation of various differing interests that are involved in the process of getting work done through other people. Hence, industrial relations are often said to be a form of "industrial government/management".

Accommodation of differing interests of labour and management is always a mixture of cooperation and conflict that are inherent in industrial relations. But conflict of interests needs to be settled *peacefully* keeping in view the mutual dependence and complementarity of labour and management, while promoting co-operation between the two.

OBJECTIVES OF INDUSTRIAL RELATIONS: Though industrial relations are bipartite in character, content and form

both the management and labour unions have their own industrial relations objectives. The basic objective of management in industrial relations is the preservation and strengthening of the business enterprise and the enterprise system. To state it differently, the objectives of industrial relations are:

1. Achievement of higher efficiency and productivity of the enterprise and industry with active co-operation of the workers and their organizations.
2. To identify areas of common interest of both the sides with reference to recruitment and training, health and safety, improvement of working and living conditions, etc.
3. To create a new attitude toward work among the employees so that they consider themselves as useful members of the society and honoured partners in production.
4. To establish and improve the working/employment relationships with different groups within the enterprise to promote a social order that ultimately helps to usher in a new social system.
5. Equitable distribution of the benefits derived from industry among the employees, the management, the shareholders, the consumers, the suppliers of raw materials and equipment and the society at large. i.e to fulfill the social responsibilities of industry.
6. To promote the attainment of the commonly held goals of a democratic society.

On the other hand, the objectives of trade unions in Industrial relations are:

1. To prevent unilateral action by the employer or widen the areas of joint decision-making dignity of labour, workers participation in management.
2. Full organization of workers and maintenance of that organization, i.e - preservation and strengthening of union organization.
3. To raise the standard of living of its members and

gradual improvement of working conditions by getting more and more for the members.

4. Minimization of competition among workers for available jobs and secure job security to their members, i.e., control over jobs.
5. To establish and build up union recognition as an authority in the work place.
6. To establish orderly practices for sharing gains.
7. To defend and promote the interests of workers.

DIMENSIONS OF INDUSTRIAL RELATIONS

Industrial relations may exist between individuals (i.e. between the worker and his employer) and they may be collective, between a group of workers and an individual manager, between a group of workers in different enterprises and managers in those enterprises. The important question here is under what conditions and in what manner the workers act as a group in relation to management, and in which groups - (work group, union, working class, etc)? And the crucial issue is the relative importance of individual and collective relations for various aspects of industrial relations.

Industrial relations vary on a scale of degree of organization. At one extreme relations may be personal and informal, while at the other they may be highly, institutionalized, perhaps embodied in legally prescribed structures and procedures. Collective industrial relations tend to be more organized than individual industrial relations but short episodes of

informal group relationships are also significant (as in certain spontaneous work stoppages). However, the historical trend has been that as an economy or society becomes increasingly industrialized the organized relationships replace the informal individual relations and the scope of collective bargaining goes on widening.

Industrial relations occur in units with boundaries that are observable although varying in the degree of permeability - the work group, the plant, the enterprise, the industry, the region, and the nation. They also exist to a certain extent at the transnational level (the multinational companies). The universe of industrial relations is thus far from homogeneous.

In practice industrial relations in each of the units tend to have a certain degree of independence from the relations in others. Within each industry, different enterprises may have different patterns of industrial relations. Similarly, within each enterprise or company different plants may have different patterns.

Industrial relations exist in systems, and no single element of an industrial relations situation (strike propensity, or trade unionism) can be completely explained or effectively manipulated without reference to other elements because the natural units in which industrial relations occur are essentially the *wholes*. They are complexes of interacting elements; a change in one may affect all others.

INDUSTRIAL RELATIONS ENVIRONMENT

Industrial relations are contextual and are influenced by the environment - technological, economic and business.. the social, political and legal. The **technological environment** refers to the production system or the manufacturing process. It differs from one industry to another and one enterprise/ plant to another. The technology of the plant determines the labour force to be hired. The labour force in a textile mill, coal mine or plantations is different from the labour force engaged in an engineering or electronic industry. Different types of industrial relations exist in these industries. In any enterprise/industry, any change in technology affects the labour force, both quantity wise and quality wise, leading to variations in industrial relations.

The **economic and business environment** varies according to the changes in the national and global economy. These changes have a significant influence on industrial relations in an enterprise that depends on world market for its business. General change in the economic environment, such as inflation or recession, affects the industrial relations at the micro level frequent demands by workers for wage increase and additional benefits, etc, resulting in work stoppages.

The **Social environment** consists of the profiles of the workers, the social attitudes, work norms and work

and the society. Thus an educated and better trained labour force with positive attitudes to work and belief in norms socialized in a society where work ethic is an inherent quality of life, and a labour force that is innovative, creative and democratic in its work life will certainly be conducive to good labour-management relations extending their cooperation to management in its endeavours to improve productivity.

The Political environment refers to political ideologies and systems prevailing at a given point of time and the political affiliations particularly of labour. Industrial relations in a democratic political system are different from those in a socialist/communist system. In democratic societies industrial relations are bipartite and voluntary and the state intervention is exceptional. The labour unions subscribing to different political ideologies adopt to different industrial relations philosophies and pursue different policies. Thus the industrial relations philosophy and policies of socialist or communist labour unions are basically class based rather than business centered. Similarly, the political party in power influences industrial relations in the country by extending patronage to the unions affiliated to its labour wing while denying similar privileges to other unions. A government believing in tripartite system of industrial relations wants to have more and more regulatory powers

through legislations and executive fiats, while refuses to create independent institutions for promoting bipartite relations.

The legal environment not only refers to labour legislations but also the judge-made laws. In a tripartite industrial relations system the State enacts laws on every aspect of labour and industrial relations on the pretext of protecting the interests of the weaker party in industry. Consequently, industrial relations are regulated under the labour laws and not determined bilaterally. The judge-made laws add another dimension to the legal environment. While adjudicating industrial disputes. The courts interpret laws and issue awards which become more important than the laws enacted by the legislature, often requiring amendments to labour laws.

CHARACTERISTIC FEATURES OF INDUSTRIAL RELATIONS in INDIA:

Industrial relations in India, over years, have acquired certain distinct characteristics. These are:

1. **Dominance of Tripartitism:** Ever since the Indian Labour Conference and the Standing Labour Committee were introduced in 1941-42, ever since labour was put on the concurrent list in the Indian Constitution and formed a part of the Directive Principles of the State Policy, ever since the enactment of regulatory labour laws to give effect to the protective labour policy of the government and ever since the politicization of trade

unionism and industrial relations began, the State has become an active intervener in industrial relations and a dominant third party. It is the State that has created the industrial relations machinery - conciliation machinery, the labour courts, industrial tribunals, and national industrial tribunal - to promote settlements and to determine industrial disputes in favour of the weaker party (the weaker party often being the labour). The State had also taken upon itself the task of determining the wages of industrial workers through tripartite wage boards during 1955-65. The appropriate governments in India have been arming themselves with more and more powers to regulate and control industrial relations (e.g. Section 10-B of the Industrial Disputes Act), while refusing to create independent industrial relations machinery inspite of the recommendations of the National Commission on Labour (1969) and the Bipartite Industrial Relations Committee - Ramanujam Committee (1990). Though several attempts are made to change the policy and the law they have turned out to be half-hearted and abortive attempts. So the existing state of affairs.

2. Heavy Legalism in Industrial Relations: The state in its anxiety to protect the interests of the weaker party has enacted a large number of labour legislations. No nation on this earth has such a heavy dose of labour legislations. Besides the regulatory labour laws, an

undue emphasis on compulsory adjudication both in policy and practice, the right of every trade union to raise a dispute and seek the intervention of the industrial relations machinery, and provision of appeal against awards of the labour courts and tribunals coupled with absence of collective bargaining relationships have resulted in heavy legalism in industrial relations. During the 1950s and 1960s the industrial relations climate in the country was characterized as litigatory. Even the public sector management had adopted this approach. The disputes settlement procedure and process had become unduly time consuming extending over a decade in many cases due to several layers of appeal. Resultantly, the case laws developed beyond anybody's imagination and they came to be treated as more important than the statutory provisions. Only a legal pundit could draw inferences and apply them in day-to-day labour relations matters. Even today many managements in the private sector prefer an award to an agreement. And where the disputes at the bipartite level prolong the State intervenes and refers them to tribunals.

The entire scheme of industrial relations in India revolves around the interpretation of three terms, viz. industry, industrial dispute, and workman. On each of these, the adjudicating authorities have laid down several tests which are applied in case of every dispute

raised by a trade union or a workman. Among all the case laws, the judgement of the Full Bench of the Supreme Court of India presided over by Justice V. Krishna Aiyar in Bangalore Water Supply and Sewage Board Vs A. Rajappa's case in 1979 has been an epoch making one. In this case the Supreme Court interpreted the term industry in an extremely wide and comprehensive manner. Consequently, many occupations, vocations, avocations, professions, callings, business, service, etc, were brought within the ambit of the term industry and the Industrial Disputes Act - the only exceptions being domestic service and legal profession. Consequently, professionals like doctors, nurses, teachers, engineers, etc, are enabled to seek remedies under the Industrial Disputes Act. Though the new industrial relations situation arising out of this case law demanded a change in the existing law, the government has not been able to enact an industrial relations law that protects the interests of both the employers and employees in industrial and non-industrial sectors without any discrimination. This failure on the part of the State has led to frequent work stoppages in all employments and heavy losses to the economy and the society.

3. High Employment Security: The basic approach of labour legislations has been the protection of workers' interests. Hence, they provide full protection to workmen leading to criticisms. Secondly, the Courts and

tribunals have adopted a liberal approach to labour problems with a view to delivering social justice. Thirdly, the government policy has been not to create involuntary unemployment in the country. The compound effect of all these has been high employment security to the workmen. Once a workman completes 240 days of in a calendar year, i.e. continuous service, (with or without a break) he is treated as a permanent workman eligible to avail all the benefits. The labour laws provide options to the employer to terminate the services of unwanted workmen. It has, however, been practically impossible, in the normal circumstances, to get rid of such workmen. A workman could be charge-sheeted for any of the several misconducts certified under the Industrial Employment (Standing Orders) Act of 1946. But he cannot be terminated without conducting an inquiry and establishing the charges, and, in certain cases, before obtaining the permission or approval of the conciliation officer or the labour court/industrial tribunal. And if a terminated workman raises an industrial dispute on his termination, the Labour Court has the power, under Section 11A of the Industrial Disputes Act, to review and examine the entire case and decide whether the employer was justified in terminating the workman. Moreover, during the period of inquiry the workman is entitled to receive a subsistence allowance.

Industrial Disputes Act provides for retrenchment

of surplus labour if the business needs it. But if the employer has on his payroll more than 99 workmen he is required to take the permission of the appropriate government to retrench his workmen. But the governments ordinarily do not give this permission in view of the policy of protecting employment. Similarly, an employer can't close down his establishment due once again to the statutory requirement of seeking permission of the government. And if a workman happens to be a protected workman, as per Section 33(3) of the same Act the employer can not take any action, except under grave circumstances, against that workman at least till he is a protected workman.

Therefore, the only way of getting rid of a workman is through superannuating, voluntary retirement/Golden Handshake, voluntary quits, death, or permanent total disability. This high employment security has resulted in the workmen asserting themselves to secure all statutory and non-statutory benefits while refusing to improve their efficiency and productivity.

4. Late Emergence and Development of Collective Bargaining Relationships: Industrial relations are primarily bipartite. It is left to labour and management to develop their relationships the way they desire. This bipartite relationship is determined, shaped and given a direction through collective bargaining. Collective bargaining has been a democratic

bipartite decision-making process in industry. It is also a method of management and industrial government. It is a process of negotiations between management and workers' representatives on issues and problems of mutual interest and concern with a view to reaching an agreement which helps both to define and redefine their relations and ensure industrial peace and harmony. Collective bargaining presupposes the existence of a strong and representative trade union recognized by the management as the bargaining agent of the workmen.

Collective bargaining in industrialized market economies has become the central institution of industrial relations. Almost every issue of labour-management relations is decided at the negotiation table and implemented with the cooperation and involvement of labour unions. But given the socio-political system, the industrial scenario, and the labour policy and legislations, particularly before India became a democratic republic, collective bargaining had an uneven growth and development. Only a few employers and labour unions had endeavoured to practice collective bargaining according to a Survey conducted in 1962 by the Employers' Federation of India. Even after 1950 collective bargaining had to face an ambivalent labour policy and approach of the government. While the British Government required the employers and labour unions to submit all their disputes to conciliation and

arbitration, the Indian government paid only a lip service to collective bargaining. It was more interested in developing compulsory adjudication with a view to nurse the Indian National Trade Union Congress (INTUC), which was promoted by the Congress party in 1948. Despite the efforts made by late Sri. V.V. Giri, and late Sri. Jagajivan Ram to provide a rightful place to collective bargaining in the industrial relations system, the government continued to emphasize on conciliation and compulsory arbitration. During the late 1950s and early 1960s the industrial relations policy of the government emphasized moral codes and tripartite mechanisms like the Code of Discipline, the wage boards and workers' participation in management scheme. But all of these had a limited success. Even when the National Commission on Labour recommended to provide for collective bargaining as a method of industrial relations the Government has consciously avoided to promote collective bargaining and bipartite industrial relations. The industrial relations laws in India, the nature of trade unionism, the paternalistic approach of the employers, the emphasis on tripartitism and government's unwillingness to give up its control on industrial relations have been the prime factors for the delayed development of collective bargaining.

A total disillusionment with the tripartite system of wage determination, compulsory adjudication of

industrial disputes coupled with an amendment to Section 19 of the Industrial Disputes Act in 1964, conferring the right on the majority union to terminate a settlement covered in the majority union and a realization on the part of the management and labour that their interests are better protected through bipartite negotiations provided a strong drive and impetus to both of them to take recourse to collective bargaining finding out their own solutions to problems like multiplicity of trade unions, absence of a law on recognition of trade unions as the negotiating agents of workmen and a provision on collective agreements per se. Thus, collective bargaining emerged only during the late 1960s and early 1970s on a fairly large scale. Yet it did not develop as a real bipartite method of determining labour-management relations. It was more a process of you bargain we collect type of relationship - the unions often making, sky rocketing demands on managements, the managements bargaining those demands, and the unions collecting the benefits. This situation largely exists even today in public sector since all bargaining takes place at the national level with active intervention of the concerned ministries. This type of collective bargaining resulted in a situation of pushing the managements to the wall. It was only during the late 1980s that the managements started making demands on labour unions and negotiate on a *quid pro quo* basis.

Though collective bargaining issues continue to be wages, allowances, bonus, and fringe benefits as in the past, the unions are getting more and more interested in non-wage issues and trying to regulate managements and save organizations. Whereas managements are interested in job regulation and flexibility, work norms, shop-floor discipline, good attendance, productivity, elimination of restrictive and wasteful work practices and the like. Often the parties are not bogged down by the statutory limitations on the demands and issues. The unions are equipping themselves with facts and data to effectively negotiate with the managements and successfully show to the management that there are alternate ways of managing the organizations. The unions and workers are prepared for concession bargaining save the organization and jobs.

Today collective bargaining has developed despite the absence of an encouraging labour policy and legal framework. The industrial relations are fast becoming democratic and mature. The labour and management are less dependent on the State and are demanding almost in a single voice an industrial relations policy and law that promote bipartitism.

But the Government is consciously trying to continue its policy of tripartitism as is evident from its refusal to replace the existing state controlled industrial relations machinery with the autonomous

industrial relations commissions and the revival of the Indian Labour Conference.

5. Fragmented and Politicized Trade Union Movement:

A trade union is a voluntary organization of workers seeking to protect and promote the interests of its members vis-a-vis that of the employers. Hence, a trade union is a political organization. Trade unions have different philosophies, policies, programs and methods to achieve their objectives. Some unions may subscribe to the philosophy of class struggle or class warfare and its approach to industrial relations and methods of achieving its objectives may be agitational and militant, while some unions may believe in class cooperation and coexistence. The approach of latter group of unions could be constitutional and peaceful.

Trade unions in India are organized at various levels - craft, plant, enterprise, corporate, regional, industrial, industry-cum-regional, and national. The craft unions are the most basic and original type: they are often detrimental to the interests of the working class itself. The plant/enterprise level unions are the most common form of unions. The unions at the regional, industry, and the national levels function as federating and affiliating bodies. India has a large number of affiliating trade union organizations, the first of which was the All India Trade Union Congress (AITUC) organized in 1920 much against the advice of Gandhiji.

The history of trade union movement vividly brings out the phenomenon that it is guided more by political considerations than industrial necessities. During 1920-48 the AITUC had to face internal splits due to struggle between the Indian National Congress and the Communists for gaining control over the organization and the external threats from the Government and government supported trade union movement under the aegis of the Indian Federation of Labour (IFL) of M. N. Roy. After the War though the IFL was dissolved and once again AITUC was the sole national level organization, the Indian National Congress formed the Indian National Trade Union Congress (INTUC) with a view to gaining control over the trade union movement and the working class. Since then the trade union movement has been a saga of fragmentation, subdivision, and alignment and realignment following fragmentation and realignments of political parties both at the national and regional levels. Resultantly, there have been too many national, regional and industrial federations of trade unions and also non-affiliated, independent trade unions. The rate of growth of trade unions has been mind boggling for any one. The number of registered trade unions in 1950-51 was a mere 3766 which reached 47,014 in 1987, while the number of affiliating federations has grown from a mere four to over a dozen during the same period. The Indian trade union movement even today has been living on

borrowed philosophies and ideologies - mostly communist and socialist.

The trade union philosophy, the policies, and methods often determine the membership. But no trade union can achieve 100% unionization of workers unless it is a closed shop system which is absent in India. Yet in modern industries like, chemicals, engineering, power generation, etc, where the labour force is educated the density of organization (membership) is very high. It has reached impressive proportions in large firms, especially in the public sector, tapering to modest levels in medium sized enterprises, but remains at negligible levels in small business.

Since 1980's the level of organizations among permanent workers in large enterprises has either stabilized at relatively high levels or increased to bring all but a handful within the ambit of trade unionism. It has certainly been a period of consolidation for the labour movement in this segment.

Whereas, in traditional industries like cotton and jute textiles, plantations, coal mines, etc, the dues paying membership is becoming less relevant while their support in crisis situation continues as in the past. Trade unions in such industries seem not to have overcome the legacy of the past. They continue to lead an existence centered around conflict, mobilizing mass support during strikes and living on a slender base of

dues paying members when industrial relations are normal.

The trade union federations, instead of creating labour unity, have promoted inter- and intra-union rivalry, fragmentation and sub-division of unions, and dependency on political parties and adjudicatory processes. The fragmentation of the labour movement is at its worst in older industries. In plantations, cotton and jute textiles, coal mining, ports and docks, etc, there are too many trade unions as every political party competes to have a base in each unit or enterprise. In spite of this savage competition for worker support - or perhaps because of it - claims and counter-claims to dominance by rival unions are strong and intense. Further, as if competing claims to worker support is not enough, there are intense rival claims by many unions to a single banner. There are several unions of the INTUC, and HMS each claiming to be the true successor to the mantle. In the past the labour movement was split by ideologies. But today it is split by factional groups within every ideological stream working overtime to promote individual leaders and their ambitions. The situation seems to be worst in the chemical industry in Maharashtra where about a dozen INTUC unions are vying with one another to organize the chemical workers. Resultantly, the density of organizations has increased much faster than the density of membership. It is no wonder, therefore, that if workers treat the unions and

their functions as strike committees to be used in crisis situation but unworthy of continued support.

If we analyze the pattern of affiliation we find that different trade union federations have place of dominance in the labour movement in different regions - CITU in West Bengal, INTUC in AP, Gujarat, Maharashtra and Karnataka, AITUC in Kerala and Karnataka, etc,. On the contrary, in modern industries the workers and their unions prefer to remain unaffiliated enterprise level unions dominated and lead by internal leadership.

Still another feature of trade union movement has been external leadership. Historically, the trade union leadership came from outside the working class; the freedom movement provided necessary leadership. In spite of 45 years of Independence, trade union leadership in the traditional industries continues to be drawn from outside. But in newer industries different forms and structures of leadership have emerged. At one end are the unions whose leadership is provided entirely by employees themselves and at the other the familiar situation of leadership coming from central organizations controlled by outside trade unionists continues. In between these two extremes are the unions which coopt an external leader as an advisor or as a president without getting affiliated to the central organization to which belongs. Such a leader is retained (like a consultant) purely as a figure head, leaving

real power in the hands of the worker-leaders. It is also now an established fact that such leader is changed at the sweet will of the dues paying membership; workers hop from one external leader to another in the hope of finding someone whose help could be sought only when needed. In this process they do not mind to get affiliated to or disaffiliated from a federation of unions. This clearly indicates the desire of workers in general to gain greater control over their unions.

More importantly, there has been a negative orientation to trade union movement and trade unions on the part of the employers and managements. Though trade unionism in India has been more than a century old, the trade unions are not fully accepted by the industry, especially in the private sector, as essential partners in the management of industry. The employers' attitude toward trade unions and trade unionism is still typical of feudalism. Wherever and whenever there is an attempt to organize workers, the employers try to suppress and repress those efforts, despite it if the union comes into existence they seek to break the unity of the workers taking advantage of a section of the workers who loyal to them and promoting a company union and fostering its growth. Even where single unions exist the efforts are to plant the loyal workers in the union as its office-bearers or members of the executive. The professional outside leader is often found by the

employer amenable to inducements; he is willing to sign settlements on the dotted lines for a reward. Where such situations are absent, the management sees the union as a militant group of people who should be handled toughly whenever the opportunity is provided. In a multiple union situation, the employers play one union against the other using a 'favoured' union and get the issues decided in their favour. If a dispute is raised by a union the managements fight it out up to the Supreme Court level.

However, in recent years there is an appreciable change in the attitude of the employers and managements both in the private and public sectors toward trade unions. They are encouraging the employees to take over the leadership of their unions and help build strong and stable organizations.

An important feature of trade unionism in public sector industries has been the formation of unions on caste and language basis and unionization of managerial employees. The protective discrimination bestowed on the SCs and STs and their desire to avail the benefits in employment much faster than due has resulted in the formation of SC & ST Employees' Associations exactly on trade union lines though they may not have been registered under the Trade Unions Act of 1926. An unexpected consequence of coming into existence of these associations has been the formation of Non-SC & ST

Employees' Associations, and the emergence of linguistic fora particularly in centers like Bangalore; e.g. Tamil Sanghams, Malayalee Samajams, Kannadigara Hitarakshaka Samitis, etc.,. Though these bodies claim to be welfare associations their style of functioning has been that of labour unions.

Managerial unionism in public sector and financial institutions has come to stay the basic reason being a feeling of alienation and powerlessness among middle level managers in decision-making and absence of employment security. Managerial unionism seems to be stronger in financial institutions and often they function in association with the staff unions.

6. The Changing Face of Industrial Conflicts: The term conflict refers to a sharp disagreement or collision in interests, ideas, etc, and emphasizes the process rather than the end. In industry where the interests of labour and management are divergent and where each party seeks to protect and promote its own interests, conflict is a natural phenomenon and more common than any other form of industrial relations.

Conflict in labour-management relations is closely related to the degree of structuring of labour relations ranging from unorganized conflict to organized group conflict. In an exhaustive study of industrial conflict Arthur Kornhauser et al identified and listed various manifestations of industrial conflict.

Manifestations of organized group conflict at the instance of the unions take the form of non-cooperation with the management, unwillingness to negotiate, work-to-rule, go-slow, systematic wastage, adoption of wasteful and restrictive work practices by the union members, demonstrations and picketing, wild-cat strikes with or without the approval of the union, sabotage and destruction, gherao, and, lastly, strikes and violence. On the other hand, management resorts to unilateral changes in work norms, refusal to recognize unions, refusal to negotiate in good faith, over strict supervision and shop-floor discipline, retrenchment and lay-off of workers on flimsy grounds, lock-outs, closure of establishment, and/or removal of plants, suspension of manufacturing operations, etc,. Of these, strikes, lock-outs, gheraos, go slows, lockouts, suspension of manufacturing operations, and closure of establishments have been the most overt and sometimes dramatic manifestations of conflict.

The severity of conflict is normally measured in terms of the number of disputes raised, and number of disputes resulting in work-stoppages, the duration of work-stoppages, the number of workers involved, the number of man days lost, the loss of wages and production. The effects of work-stoppages, however, extend beyond the parties involved in the conflict and affect the community and the national economy. The

industrial relations history since World War II clearly reveals that the strikes have had their dramatic effects. Barring the periods of rational emergency in 1962, 1965, 1971 and 1975-77, the number of strikes, the number of workers involved, the number of man days lost, and the wages and production lost were very high. But after the 1982 textile strike in Bombay there has been a dramatic change. The strike activities of unions have come down substantially while the employers have become offensive. During the last one decade the number of lock-outs declared, the workers affected and the loss of man days have relatively been higher than those caused by strikes. The table below reveals this phenomenon.

Trends in Industrial Conflict 1985 - 88

Year	No. of Disputes resulting in		No. of Workers Involved (in 000's)		No. of Man days lost (in lakhs)	
	Strikes	Lockouts	Strikes	Lockouts	Strikes	Lockouts
1985	1,355	400	8,78	2,01	114.87	117.53
1986	1,458	434	14,44	2,01	118.24	139.25
1987	1,348	451	14,95	2,75	140.26	213.32
1988	1,304	441	9,37	2,54	125.30	214.17

Source: Handbook of Labour Statistics 1991
The Employer's Federation of India, Bombay
1992. P. 38.

Considering the consequences of conflict to labour, management, the community, and the economy there is a need to regulate it. Accordingly, the Industrial

Disputes Act regulates strikes and lock-outs. Under Sec. 22 of this Act it is compulsory on the part of a union or management in a public utility service intending to resort to a strike/lock-out to give a six weeks notice of its intention to go on a strike or declare a lock-out, after having served this notice they can not resort to a work-stoppage within 14 days of giving the notice before the expiry of the date of strike specified in the notice and during the pendency of conciliation proceedings and seven days after the conclusion of those proceedings and after the dispute is referred for adjudication. Any strike or lock-out resorted to without following these conditions is an unlawful strike/lock-out punishable under the Act. The implications of these restrictions are such that going on a legal strike or declaring a lawful lock-out in a public utility service is next to impossibility. While there are no such restrictions in case of non-public utility services the law permits the employers to get their establishments (services) declared as a public utility service for a period of six months at a time. An employer can approach the appropriate government for this purpose every six months. Consequently, most of the strikes and lock-outs in India have been illegal.

And Sec. 23 of the Act imposes certain general restrictions on strikes and lock-outs. A strike or lockout can not be resorted to or continued while

conciliation or adjudication proceedings to settle the issues are on, seven days after the conclusion of the conciliation proceedings or one month after the conclusion of adjudication or arbitration proceedings, and during the period of a settlement or award in operation in respect of any matter covered by that settlement or award. Section 25 of the same Act prohibits extending financial support to an illegal strike or lock-out.

Section 10(3) of the Act empowers the appropriate governments to ban the continuance of a strike or lock-out while referring the dispute for adjudication, and a strike/lock-out continued in violation of the ban is also illegal. But the trade unions and managements neglect the ban order and continue their strike/lockout as the history of industrial relations reveals.

Late 1960s witnessed a new form of industrial conflict in West Bengal, viz. gherao. It was an invention of the leftist trade unions under the state patronage to pressurize the managements to concede their demands on their (unions) terms. The management personnel were encircled by a large group of workers, confined them to their office chambers, denied outside contacts - often food and water also until the demands were conceded. The State Government had restrained the police from intervening in labour matters. Though the High Court and the Supreme Court declared this form of

conflict as illegal, it spread to other parts of the country like a wild fire and the militant trade unions found in it an effective way of settling long pending issues on their terms. The gradual realization on the part of the government and the trade unions about the negative consequences of gherao on the industrial development of the region has made the unions not to resort to it. However, it remains as a weapon of the trade unions and workers.

While gherao was an invention of the militant trade unions against the recalcitrant employers, suspension of manufacturing operations was an invention of the employers during the 1980s. The employers in public utility services were convinced time and again about the procedural complexities in resorting to lock-outs. The employers facing a continued strike by a (militant) labour union often leading to violence and physical assault on members of rival unions and/or management personnel suspend manufacturing operations till the normalcy is restored by the union thereby fixing the onus on the union. When the suspension of manufacturing operations is declared no worker is allowed to enter the company premises and provided employment. Some employers have also refused to pay wages for the workers during that period, while others have gone to the extent of asking for good conduct undertakings from workers as a precondition to resume

the manufacturing operations. Hence, the trade unions and some appropriate governments (e.g. Karnataka) have equated suspension of manufacturing operations with lock-out holding that suspension of manufacturing operations has all the ingredients of a lock-out. Whether suspension of manufacturing operations is a lock-out or not is a matter on which case law is yet to develop.

Suspension of manufacturing operations could be resorted to not only as a consequence of continued strike and violence but also when workers indulges in go-slow over a long period resulting in substantial loss of production. Suspension of manufacturing operations is also justified and acceptable to courts only when supported by systematic data on production loss.

7. Dilatory and Ineffective Methods of Disputes Settlement: When the negotiations fail and no agreement on some or all the issues is reached the negotiating parties have two options, viz. to resort to a work-stoppage to pressurize the other party to accept the offers or the demands made or to seek the assistance of a third party to help them to resolve the impasse in negotiations and settle the issues. Since a work-stoppage has several negative consequences the better option is to seek the assistance of the third party. The parties while disagreeing to have an agreement on terms not acceptable to their constituents may agree to invite a third party to mediate and help them to have a

settlement and, failing mediation to submit the dispute for arbitration for an award. They may decide to seek arbitration without going through mediation. In other words, mediation and arbitration are two options available to the parties in lieu of work-stoppages. Mediation and arbitration could be consequential or independent methods of dispute settlement.

In India, however, the third party assistance/intervention is in the form of conciliation, compulsory adjudication, or voluntary arbitration. Conciliation and adjudication, however, are consequential steps in disputes settlement. Under the Industrial Disputes Act, conciliation services could be availed either by a trade union or management or both. It is a quasi-compulsory process of disputes settlement. It may be provided by the conciliation officer or a Board of Conciliation appointed by the appropriate government. Conciliation is compulsory in all disputes from the public utility services. On receiving notice of a strike/lock-out from a trade union/employer in a public utility service, and in all work-stoppages whether from the public utility service or non-public utility service, the conciliation officer of the area/industry is required to intervene and immediately initiate the conciliation proceedings. Whereas in case of disputes from non-public utility services the conciliation officers have a discretion. Whereas a Board of Conciliation is an ad hoc body

constituted by the appropriate government only on a request by the disputing parties. A Board of Conciliation is tripartite in composition and the procedure it follows is a judicial procedure while the procedures followed by a conciliation officer are administrative. Whether conciliation is by a Board or an officer the objective is to bring about an amicable settlement. Both are required to make their best efforts to induce the parties to the dispute to come to a fair and amicable settlement of the dispute. Both the conciliation officers and the Board can summon the parties to appear before them and participate in the conciliation proceedings, compel the production of documents and material objects related to the dispute and examine witnesses on oath.

Conciliation in India has been a dilatory and highly ineffective process of disputes settlement. Both the labour and management do not have any faith and confidence in the conciliation machinery especially in collective or interest disputes. Conciliation is sought by labour and management only to get a legal stamp for their bilateral agreement under section 18(3) of the Industrial Disputes Act. It is only the small scale employers and the concerned unions or where a party wants to tire the other or when both want to have a legal interpretation of the issues involved in the dispute that conciliation is sought; and in all such

cases the rate of failure of conciliation is very high for conciliation serves as stepping stone to adjudication. When a conciliation officer fails to bring about a settlement he is required to submit to his government a failure report explaining the issues involved in the dispute, the efforts made by him to bring about the settlement, the reasons for failure of conciliation and recommending whether the dispute should be referred for adjudication or not, and, if to be referred, listing the terms of reference.

All studies on conciliation, including the observations of the National Commission on Labour, have invariably concluded that conciliation has been highly dilatory and ineffective firstly because the government has failed to create and provide a competent and effective conciliation machinery solely responsible for mediation, and secondly, compulsory adjudication is readily available on failure of conciliation.

Compulsory Adjudication: Adjudication, otherwise known as compulsory arbitration, is a judicial process of determining disputes. It is a consequential procedure based on the failure report of the conciliation officer. The disputes ending in failure at the conciliation level are referred for adjudication by a tribunal or a labour court by the appropriate government. The disputes involving legal issues and disputes relating to small establishments are referred to labour courts while

disputes involving interests of labour and management are referred to industrial tribunals. Besides labour courts and industrial tribunals, the adjudication machinery also consists of a national industrial tribunal. These bodies do not function in a hierarchical order; each has its own jurisdiction derived from the terms of reference. The labour courts and industrial tribunals are constituted by the appropriate governments while the national industrial tribunal is set up by the central government only when a dispute involves employers and workers from more than one state and have wide implications.

Adjudication, being a consequential step, has not only contributed to the failure of conciliation but also promoted a litigatory culture in industrial relations beginning in 1950s till 1980s. Since adjudication is not the final step in disputes settlement, the parties not satisfied with the terms of the award have the right to appeal to the High Court and then to the Supreme Court of India. Like conciliation, adjudication has also been a dilatory and highly time consuming process - often over a decade. Over a period of time both the labour unions and the managements got disillusioned about the functioning of the adjudication system in delivering "justice". The time restriction imposed by the government on the adjudication proceedings has also not helped to improve the functioning of the machinery.

As such in recent years the number of disputes reaching the adjudication machinery has declined sharply.

Voluntary Arbitration: Voluntary arbitration implies that arbitration of disputes is sought by the disputant parties themselves without any external compulsion and least the statutory compulsion. The negotiating parties, on reaching the impasse, may decide to seek arbitration of the issues in deadlock. There is voluntariness on both sides to submit their dispute to arbitration. The arbitrator is a person acceptable to both the sides. The parties may select the arbitrator from a panel prepared and made available by the government. The award of the arbitrator is both binding and final.

Voluntary arbitration in India has its roots in Ahmedabad textile industry. It came into vogue when Mahatma Gandhi was leading the Ahmedabad textile workers' struggle for a 50% wage increase. Gandhiji intervened and settled it at 33% increase in wages. Following this settlement the Ahmedabad Mill Owners' Association and the Mazoor Mahajan (the Textile Labour Association - TLA) agreed to negotiate all demands of the TLA and failing negotiation submit the issues for arbitration by a board consisting of the representatives of the mill owners and the labour. In fact, in most of the cases Gandhiji and the President of the Mill Owners' Association decided the issues. Except for a break of

about 15 years between 1937-52 the methods of collective bargaining and voluntary arbitration have been the methods of determining the labour management relations in Ahmedabad.

Provision for voluntary arbitration under the Industrial Disputes Act was made only in 1964 inserting Section 10A in the Act through an amendment at a time when legalism in industrial relations was on the rise. But the employers and trade unions addicted to compulsory adjudication and court battles did not change their attitudes. Their preference has been for a method which provides for appeal against the award. Voluntary arbitration being binding and final failed to meet the expectations of the employers and labour unions. Even the Voluntary Arbitration Promotion Board set up by the government could not influence the employers and unions.

Voluntary arbitration, as provided under the Act, requires the employers and labour unions interested in submitting their disputes for arbitration first to agree to refer their dispute for arbitration. But it must be before the government refers the dispute to a labour court or tribunal. The agreement must also specify the arbitrator(s). Secondly, the parties must represent the majority of each party or the union must be a recognized union (as in case of Maharashtra). The arbitrator(s) is required to submit the award to the government which becomes enforceable after 30 days of its publication in

the official Gazette. However, voluntary arbitration has rarely been sought.

8. Labour-Management Cooperation - A Mirage: Though conflict has been the most dominant form of industrial relations, cooperation between the two is most desirable if both the parties have to realize their objectives in industrial relations and help the society develop economically and socially. But in an industrial society cooperative labour-management relations are evolutionary. Both management and labour must strive to develop such relationships, the onus being on employers/managements. Quite a good number of employers/managements in different industries in India have been able to ensure labour management cooperation developing their own systems and procedures. When India embarked upon a political system of socialist democracy in mid 1950s, the labour policy of the government provided for workers' participation in management (WPM) through bipartite joint management councils (JMCs) based on the report of a Study Group and the deliberations at the 15th session of the Indian Labour Conference in 1958. Since then WPM has become the watch word of the labour policy of all governments. During the Second Five Year Plan period the WPM scheme was evolved as a measure of voluntarism and moral codes in industrial relations by the then Labour Minister Mr. G. L. Nanda. He was able to persuade a good number of employers/managements and

trade union federations to agree to introduce the JMCs. The objectives of WPM in general and of the JMCs in particular were threefold:

1. Promoting increased productivity for the general benefit of the enterprise, the employees and the community;
2. Giving employees a better understanding of their role in the working of the industry and of the process of production; and
3. Satisfying the workers' urge for self-expression, thus leading to industrial peace, better relations and increased cooperation.

The JMCs were required to ensure cooperation between labour and management in raising and improving productivity. They were entrusted with three types of functional responsibilities, viz: information sharing, consultative, and administrative.

Though the JMCs were required to be introduced only in those establishments where good industrial relations existed and the initial response and enthusiasm of the employers and labour unions was quite encouraging, the number of JMCs constituted at any time during 1958-65 did not go beyond 150 in the country as a whole. There is a high degree of uniformity in the views and conclusions about the JMCs that the scheme failed to achieve any of the objectives. Even the National Commission on Labour expressed serious reservations about the JMCs and recommended their abolition in its then existing form. The employers and the trade unionists accused each other for the failure

of the system. They were seen by the labour unions as a measure to replace them. The managements only sought to use them as a means of increasing productivity without additional costs. By and large the socio-economic conditions in the country were not conducive to the effective functioning of the scheme. It was pointed out by research studies that the scheme did not emerge out of a need for participation in decision making processes in industry. It was also pointed out that the workers' participation was at the lowest level of evolution and that the workers, unions, employers, and even the government did not have any real interest in its success.

Despite such adverse conclusions, the Government revised the scheme in October 1975 and introduced a two-tier scheme in the form of Shop Councils and Joint Councils. This scheme was applicable to organizations employing more than 499 workers in the manufacturing and mining industries both in the private and public sectors and extended later to public sector commercial and service organizations. The purpose of these councils was to provide institutionalized fora of communication and consultation between workmen and management with a view to creating a climate of mutual trust and confidence necessary for increasing production and promoting industrial harmony.

Since the scheme was introduced during a time when

an internal emergency was clamped on the country. As such it was "well received" throughout the country and a large number of organizations "implemented" the scheme. Whatever success is attributed to this scheme was limited to the period of emergency, and the scheme lost its significance and relevance soon after the emergency was lifted and a new government came to power in 1977.

A second revised scheme, based on the report of a tripartite Committee on Workers Participation in Management, Equity and Trusteeship, a three-tier scheme was introduced in 1983 applicable to central public sector enterprises, while the private sector enterprises and state governments were asked to implement the scheme. The scheme provided for joint councils at the shop floor level, the plant level and the corporate level. The scheme also provided an exhaustive list of the subject matters to be dealt with by the councils at the three levels. Before the introduction of this scheme a number of preliminary steps were taken so as to ensure its acceptance. However, based on the findings of a study team it was decided that where the then existing system of participation was working satisfactorily the same would continue and be strengthened by incorporating some of the provisions of the new scheme, like BHEL, SAIL, NTC, and CCI, while other industrial units would introduce the new scheme.

The Union Labour Ministry reports reveal that till

the end of 1988-89 no central public sector enterprise (CPSE) had introduced the scheme in its totality, while 33 CPSEs had implemented their own schemes or a variant of the new scheme. The private sector never showed any inclination to implement the scheme. The scheme obviously had no impact on production and productivity, and industrial relations.

Having gathered the impression that the scheme of WPM would not work if left to the discretion of the employers and labour, the Government in 1990 sought to make it a statutory obligation on the industry and labour through a law. But the Bill on Workers' Participation in Management though introduced in Rajya Sabha could not be enacted and the issue continues to be elusive as ever like a mirage. The government does not want to learn from its experience of three decades that neither industry nor labour wants to have a scheme imposed on them.

Some of the big public and private sector undertakings have sought to introduce systems like Quality Circles borrowing the concept and ideas from Japan. Even in this area also there was a good amount of enthusiasm on the part of both the management and labour and even a quality circle movement seems to have caught up. Periodically, workshops and conferences on quality circles are conducted and the quality circles from different organizations make presentations on their

functioning and achievements. But how deep is the interest of the labour and management in the quality circles and the movement is yet to be empirically established.

9. Industrial Relations in Public Sector Undertakings:

Public sector in India was supposed to be a model employer to the private sector and reach commanding heights, inter alia, in employee relations. The general industrial relations scenario in this sector reveals both positive and negative characteristics. The positive features are:

1. The public sector enterprises (PSEs) have certainly been model employers in respect of wages, working conditions and welfare facilities for the employees. There seems to be no resource constraints for the PSEs in being such model employers. The public sector in general has been employment oriented, which has now given rise to problems of surplus manpower and its redeployment.

2. A culture of uniformity and parity among the PSEs seems to have taken strong roots as a result of the government policy and workers' strong desire to assert themselves in getting their rights ensured. This has also resulted in the labour legislations regulating the relations.

3. In pursuance of the labour policy of making the worker aware of his dual role of an employee and an

owner, the master-servant relationship in industrial relations seems to be largely absent.

4. The PSEs have inherited a bureaucratic form of management since the first top management personnel were drawn from IAS cadres. This culture continues to be the order despite professionalization of all levels of management.

5. Trade unions are accepted as essential partners; the managements have respected the freedom of association of workers. The leadership of the unions is mostly internal. Trade unions are helped by the managements to close their ranks. Recognition of representative unions through secret ballot is becoming a normal practice leading to strong collective bargaining relationships.

6. Though collective bargaining has been accepted both by the managements and the labour it is constrained by the Bureau of Public Enterprise guidelines and political interference and maneuverings; often it is proxy bargaining. The trade unions seems to have a greater bargaining capacity than the managements due to their political clout and their practice of negotiating through the Joint Action Front of trade unions. In some organizations there is also the practice of continuous bargaining.

7. Industrial democracy is also better accepted in these organizations primarily due to the governmental policies and approach and professional management. Not only the

government evolved schemes are implemented but also other forms of employee participation, like the quality circles, are introduced in most of the units.

8. The managements of PSEs are very open to change, particularly, the technological changes, but are often bogged down by procedural rules and regulations and surplus manpower losing the benefits of changes.

There are some equally strong negative features of industrial relations. These are:

1. The managements of PSEs are required to function with too much control from the concerned ministries and political interference. The top executive himself is selected and appointed by the government with a limited tenure which makes them to keep the political bosses in good humour. Often he is not in a position to provide continuity to labour-management relations.

2. The middle level management have developed a sense of alienation and powerlessness. Resultantly the managerial unionism in public sector has been increasing and reaching its full potential.

3. All PSEs are characterized by a loose work culture. The work norms are fixed much below the industrial norms as to enable the workers to earn good incentive wages. Production targets are also loosely fixed; production picks only during the last quarter of the financial year. Consequently, quality is often neglected.

4. All PSEs being employment oriented are of large size.

This large size renders it difficult to establish good employee relations - often the grievances are not attended to and effectively redressed due to bureaucratic form of management and several layers of management.

5. The workers are more conscious of their rights rather than their duties, obligations and responsibilities. Consequently, the percentage of labour cost to the total cost of production is very high.

6. Though trade unionism has been accepted and unionization of workers is very high, it is developing on caste and linguistic bases. There are a good number of SC & ST Employees' Associations trying to assert their rights in employment matters faster than due leading to the formation of non-SC & ST employees associations.

CONCLUSIONS.

Industrial relations in India do not fall into any known pure pattern - bipartitism, voluntarism, or tripartitism. They exhibit the characteristics of all the systems. Yet none can emphatically say that they are progressive and conducive to achieve the objectives of the industry and the economy. Each sector of the industry has endeavoured to develop its own system of industrial relations. Often one gets the feeling and impression that industrial relations are determined by the exigencies and the need of the hour. Neither the managements nor the trade unions have any direction.

The labour unions and the trade union movement is often an obstacle to the development of good industrial relations. The entire labour movement has been a directionless and purposeless affair. At its heart it does not have the interests of the working class and of the industry. It is yet to develop a philosophy of its own based on a deep introspection. And the government responsible to create a conducive environment for the development of good industrial relations is more interested in retaining a control on labour and industry and lacks a political will to change the existing institutions and procedures. As a matter of fact, the burden of evolving and developing a system of industrial relations suited to the changing environment is on the industry and labour. The managements must take along with them the workers and their organizations in developing democratic bipartite industrial relations leading to productivity and prosperity.