# CONCEPTUAL FRAMEWORK OF INDUSTRIAL RELATIONS

<table>
<thead>
<tr>
<th>UNIT 1</th>
<th>Concept, Scope and Approaches to Industrial Relations</th>
<th>5</th>
</tr>
</thead>
<tbody>
<tr>
<td>UNIT 2</td>
<td>Evolution of Industrial Relations and Current Developments</td>
<td>25</td>
</tr>
<tr>
<td>UNIT 3</td>
<td>Constitutional and Legal Framework of Industrial Relations</td>
<td>37</td>
</tr>
<tr>
<td>UNIT 4</td>
<td>Labour Administration in India</td>
<td>48</td>
</tr>
<tr>
<td>UNIT 5</td>
<td>Global Trends in Industrial Relations</td>
<td>65</td>
</tr>
</tbody>
</table>
Course Design and Preparation Team (2017)

Prof. A.M. Sarma
Retd. Professor, TISS
Mumbai

Prof. G.C. Patro
Course Editor
Retd. Professor,
Berhampur University
Berhampur

Prof. B.P. Rath
Retd. Professor,
Berhampur University
Berhampur

Prof. P.K. Singh
IIM, Indore

Dr. Babu P. Ramesh
SOITDS, IGNOU

Prof. Srilatha
School of Management Studies
IGNOU, New Delhi

Prof. Neeti Agarwal
School of Management Studies
IGNOU, New Delhi

Dr. Gopal Jadav
School of Management Studies
IGNOU, New Delhi

Dr. Kamal Vagrecha
School of Management Studies
IGNOU, New Delhi

Dr. Nayantara Padhi
Course Coordinator

Prof. E.M. Rao
Course Editor
XLRI, Jamshedpur
Jamshedpur

Prof. A.M. Sarma
Management Consultant
Mumbai

Prof. D.V. Giri
Berhampur University
Berhampur

Dr. B.B. Khanna
Director
School of Management Studies
IGNOU, New Delhi

Prof. Madhulika Kaushik
School of Management Studies
IGNOU, New Delhi

Dr. Srilatha
School of Management Studies
IGNOU, New Delhi

Mr. Gopal
Course Coordinator
School of Management Studies
IGNOU, New Delhi

Print Production

Mr. K.G. Sasi Kumar
Assistant Registrar (Publication)
SOMS, IGNOU, New Delhi

September, 2017
© Indira Gandhi National Open University, 2017

All rights reserved. No part of this work may be reproduced in any form, by mimeograph or any other means, without permission in writing from the Indira Gandhi National Open University.

Further information on the Indira Gandhi National Open University courses may be obtained from the University’s Office at Maidan Garhi, New Delhi-110068 or website of INGOU www.ignou.ac.in

Printed and published on behalf of the Indira Gandhi National Open University, New Delhi by Director, School of Management Studies, IGNOU, New Delhi.


Printed at:
This block comprises of five units:

**Unit 1** explains the concept, scope, and approaches to industrial relations. It also refers to various theories and models in the process of conceptualization of industrial relations system.

**Unit 2** gives a historical perspective of industrial relations in India and the role of tripartite deliberations and five-year plans in shaping labour policy. This unit also dwells upon current developments in industrial relations induding structural and technological changes.

**Unit 3** outlines the role of the state and various constitutional provisions in regulating industrial relations. Moreover, it refers to the impact of ILO and international labour standards on labour relations.

**Unit 4** traces evolution of labour administration in India and its various administrative agencies. Further, it deals with labour policy of our country with special emphasis on the Directive Principles of State Policy which have a bearing on labour.

**Unit 5** presents an overview of the global trends in industrial relations and industrial relations in MNCs. It also provides implications for India.
Conceptual Framework of Industrial Relations
UNIT 1  CONCEPT, SCOPE AND APPROACHES TO INDUSTRIAL RELATIONS

Objectives
After reading this unit, you should be able to understand:
• the concept and scope of industrial relations
• a synoptic genesis of industrial relations concept
• the various approaches to industrial relations
• the influence of theories and frameworks on industrial relations practice

Structure
1.1 Introduction
1.2 Genesis of Industrial Relations
1.3 Concept, Scope, and Objectives
1.4 Approaches
  a) The Contradictions Perspective
     The Marxian Radical Approach
     The Socialistic Moderate Approach
     (Webbs, Commons, Perlman)
     The Social Action Approach of Max Weber
  b) The Systems or Orderliness Perspective
     The Structural Approach of Henry J. Richardson
     John T Dunlop’s Systems Approach
     The Oxford Approach of Alan Flanders, H.A. Clegg and Alan Fox
     The Human Relations Approach
     The Kochan, Katz and McKersie (KKM) Framework
     The Gandhian Approach
1.5 Summary Indicating the Relevance of these Approaches to Indian Context.
1.6 Self-assessment Questions
1.7 Check Your Progress
1.8 Further Readings

1.1 INTRODUCTION

Industrial relations (IR) constitute one of the most delicate and complex problems of the modern industrial society that is characterised by rapid change, industrial unrest and conflicting ideologies in the national and international spheres. The concept and practice of IR depends upon the pattern of society, economic system and political set-up of a country and changes with the changing socio-economic and political order. It is an art of living together for the purposes of production, productive efficiency, human well-being and industrial progress. It comprises of a network of institutions, such as trade unionism, collective bargaining, employers and their organisations, the law and the State, which are bound together by a set
of common values and aspirations. Knowledge of such institutions is necessary if we are to understand everyday industrial relations phenomena. These institutions are a social network of organisations, participants, processes and decisions—all of which interact and interrelate together within the IR environment and even beyond it.

1.2 GENESIS OF INDUSTRIAL RELATIONS

Industrial Relations as a field of study is of recent origin when compared to industrial relations as an activity. As an activity “Industrial Relations are as old as industry and being inherent in industry will always remain as a feature of industrial life (J. Henry Richardson: 1965). Sydney and Beatrice Webbs made the first major contribution to the subject when they published ‘A History of Trade Unionism’ (1897) and ‘Industrial Democracy’ (1902). The early writings were mostly factual on prevailing practices rather than theories and explanations and hence, were not adequate to address to multifaceted character of industrial relations.

A plethora of terms were used to describe the broad subject areas of industrial relations since the first decade of 20th century. Those terms are employment management, labour management, personnel management, labour relations, industrial relations, and employment relations. All these terms commonly dealt with work, employment and relations between employers and employees. The umbrella term used to describe the entire area of study and practice was industrial relations. It subsumed all aspects of work, included problems and issues affecting both employers and employees, dealt with the practices of both employer and worker organizations, and covered all employment relations regardless of union status (Hicks: 1941).

The management of labour under the label of Personnel Management/administration (Tead & Metcalf: 1920 & Scott & Clothier 1923) got segregated from the relationship between employer and employees by 1930s and the term labour relations had become common (Watkins & Dodd: 1938). By early 1960s three terms had gained distinct meaning as indicated in the following passage quoted verbatim from the 1958 edition of the “Handbook of Personnel Management and Labour Relations” written by Dale Yoder et.al.

“In current practice, careful usage employs the term personnel management/administration to refer to the management of manpower within a plant or agency, and the terms emphasize employer relations with individual employees in such activities as selection, rating, promotion, transfer etc. In contrast the term labour relations is generally used to describe employer relations, groups of employees, especially collective bargaining, contract negotiation and administration. Industrial Relations or Employment Relations, thus describes all types of relations both personnel management and labour relations designed to secure the efficient cooperation of manpower resources.”

Since 1960 over the ensuing four decades the labels attached to these fields have taken new meanings and new labels have emerged (Kauffman: 2001). The term Personnel Management is substituted by Human Resource Management. In the interpretation of the meaning and intellectual boundaries of industrial relations the contours have been narrowed down to the study and practice of collective

This transformation of Industrial relations from a broad to narrow perspective has been well captured by Thomas Kochan and Harry Katz (1988) in their popular text book *Collective Bargaining and Industrial Relations*; when they observe that as per historical convention the IR field has been an inter-disciplinary field of study and practice that encompasses all aspects of employment relations… now as never before, the IR professionals have given special attention to relations between labour and management. Collective bargaining has been the mainstay.

Three alternative scenarios are discernibly clear with regard to Industrial Relations namely:

1) IR is used equivalently to unionised labour relations wherein HR and IR are seen for the most part as compliment subjects but with some overlap of focus (Kochan & Barocci:1985);

2) IR is re-established in its broader meaning as “all aspects of work”, which is adequately captured by the term Employment Relations (Kaufman:1993); and

3) IR including Employment Relations gradually fades from sight and HRM assumes importance ostensibly with a strategic focus on non-unionised IR (Ferris et.al. 1995).

These developments culminate into two distinct schools of thought in Industrial Relations. The first and earlier school of thought propounded by the followers of Institutional Labour Economics (ILE) emphasized on ‘workers’ and ‘community’ solution to labour problems. Worker solutions came from trade unionism and collective bargaining and the community solution was made possible by protective and regulative labour legislations and social insurance of labour problems. This school of thought took an ‘external’ or outside the firm perspective on the solutions of labour problems; and emphasized on the inherent conflict of interest and power imbalance between the employer and the individual worker. It was in favour of institutional forms of power balancing and joint governance in the employment relationship through collective bargaining (unions) and labour legislation (Government).

The second school called HRM School argued in favour of ‘employers’ solution to labour problems. This school took an ‘internal’ or inside the firm perspective on the solutions of labour problems and emphasized upon building a community of interest between labour and management for which employer has to take the initiative.

This dichotomy of ILE and HRM schools in IR significantly accentuated over years. During the mid-20th century the ILE proponents like John T Dunlop, Clark Kerr, Richard Lester, Reynolds and others felt a strong antipathy to human relations on both intellectual and ideological grounds. They could not leave everything to management’s discretion in the name of human relations or to the workers’/unions soldiering under the impact of Marxian dictums. Therefore, they suggested for institutional intervention between the employer and employee relations.
The overwhelming impact of behavioural sciences as a branch of applied psychology, under the leadership of Douglas Murray McGregor, Chris Argyris, Rensis Likert and others, conceived of dynamic organizations which could change and develop by cultivating internal processes of human behaviour and actions towards strategic requirements stimulated by fast changing environment. These intellectual discourses and practices like strategic management, Organizational Development, Organizational design and management led to the preponderance of HRM School over ILE School (Kauffman:2001). This forward momentum of the HRM School continued with fresh lease of intellectual energy even in the 21st century. The competitive market economy fomented by Globalisation and the consequent imperativeness for organizations to transform and change continuously has given the OB and OD permeated HRM an edge over the traditional IR. The non-unionised employees as knowledge workers (Drucker: 1954) with improved affluence (Goldthrope & Lockwood: 1968) are seeking more of ‘best practices’ in employment and working conditions than resorting to unions and collective bargaining for their security and growth. The employers’ solution to labour problems is assuming greater importance than employees’ and community’s solution to the labour problems.

1.3 CONCEPT, SCOPE AND OBJECTIVES

Concept
Let us examine some definitions given below by popular authors on IR.

- Dale Yoder defines IR as ‘a whole field of relationship that exists because of the necessary collaboration of men and women in the employment process of an industry’.

- Tead and Metcalfe observed that, ‘industrial relations are the composite result of the attitudes and approaches of employers and employees towards each other with regard to planning, supervision, direction and coordination of activities of an organisation with a minimum of efforts and frictions with an animating spirit of cooperation and with proper regard for the genuine well-being of all members of the organisation’.

- According to Allan Flanders, ‘the subject of industrial relations deals with certain regulated or institutionalized relationships in industry’.

- H.A. Clegg defines IR as ‘encompassing the rules governing employment together with the ways in which the rules are made and changed and their interpretation and administration’.

A critical analysis of the definitions given above indicate that IR relates to employment relations and these relations are governed by institutions which result into rules that binds the various parties such as the employer and employees as direct parties and the Unions, Employer Associations and State or Government as indirect parties.

Scope
IR is composed of two aspects namely; conflict and cooperation. The purpose of IR institutions is to prevent conflict and promote cooperation between the employer and employees. To this end, IR expects employers to strive for sound
HR practices so as to reduce the possibility of conflict. Collective bargaining is a tool to resolve conflict prone issues. Participative management involving workers at information sharing, problem solving, joint consultation and decision-making levels has been espoused by the proponents of industrial democracy (Webbs) as a healthy and long lasting method of having harmonious relations and industrial peace. The Tavistock group of UK under Eric Tryst has added another dimension to industrial democracy namely, ‘work-linked democracy’ i.e. workers’ participation in work considered as an example of descending participation. Collective bargaining as ‘interest group democracy’ and participative management as ‘representative democracy’ are considered as examples of ascending participation’. The descending participation, achieved through job designing, enlargement and enrichment strategies, is considered the foundation on which the other two methods of ascending participation rest.

Objectives
Apart from the primary objective of bringing about sound and healthy relations between employers and employees, industrial relations aim:

i) to facilitate production and productivity;

ii) to safeguard the rights and interests of both labour and management by enlisting their cooperation;

iii) to achieve a sound, harmonious, and mutually beneficial labour management relations;

iv) to avoid unhealthy atmosphere in the industry, especially work stoppages, go-slow, gheraos, strikes and lockouts; and

v) to establish and maintain industrial democracy

The State endeavours to correct through effective industrial relations, an imbalanced, disordered and maladjusted social and economic order with a view to reshaping the complex socio-economic relationships following technological and economic progress. It also controls and disciplines the parties concerned and adjusts their conflicting interests. In this process, it protects some and restrains others, depending upon the situation.

Finally, the industrial relations objectives must act as facilitators of the business objectives. There shall be an organic unity between corporate policies and IR policies.

1.4 APPROACHES TO INDUSTRIAL RELATIONS

Industrial Relations (IR) is a branch of knowledge enriched by contributions from many social science disciplines like Economics, Sociology, Psychology, and Politics. It is also a practice involving scanning the changing environment, management of human resources to enhance efficiency with equity, negotiation skills with employees and their associations, understanding human behaviour at work and compliance to minimum labour standards set out by the Labour legislations framed by the Government. There is a need to advance theory from the praxis of IR and discipline the praxis by formulating new theories based on changing circumstances and challenges.
Jerome Joseph (2004) has given a broad framework to examine the various approaches to IR. The two perspectives do have historical validity. The first one is the ‘CONTRADICTIONS PERSPECTIVE’ and the second one is ‘ORDERLINESS PERSPECTIVE’. The framework is given in the table below.

Table 1.1: Perspectives of IR

<table>
<thead>
<tr>
<th>The Contradictions Perspective</th>
<th>The Orderliness Perspective</th>
</tr>
</thead>
<tbody>
<tr>
<td>Macro social questions like the politico economic purpose of society.</td>
<td>Micro organizational questions at the strategic, functional and operational levels of the enterprise or the industry in context</td>
</tr>
<tr>
<td>Issues like the class characteristics of the State, conflict between the classes, the exploitative elements of economic and industrial structures and systems, private versus State ownership, the role and voice of the working classes, the need for change of political power</td>
<td>Procedural issues like devising laws and rules to regulate working class organizations and action at the strategic, functional and operational levels of the enterprise or the industry</td>
</tr>
<tr>
<td>The protection and promotion of the rights and interests of the working classes and their organizations by the use of various means available to the working classes.</td>
<td>Substantive issues like competitive advantage, market orientation, productivity, technological dynamism take precedence over concerns related to collective organization and action or larger politico-economic purpose</td>
</tr>
</tbody>
</table>


A) The Contradictions Perspective

The contradictions perspective focuses on macro level power imbalances inherent in the industrialization process involving the capitalist employers and the exploited working class. It reflects on trade unionism, collective bargaining and political power for workers in order to restore the power balance. It focuses on contradictions prevailing in the industrial society. In this perspective, three approaches to IR are included, namely; the Marxian Radical approach; the Moderate Socialist approach, and the Social Action approach.

a) Marxian Radical Approach

Karl Marx and Friedrich Engels in their writings (1872) have identified distinctive variant in analysing industrial relations. The opening observation in Communist Manifesto that, “The history of all hither to existing society is the history of class struggles” highlights the perpetual nature of class conflict and contradictions between the bourgeoisie and proletariat. The trade unions were formed with the outspoken intention of protecting the single workingman against the tyranny and neglect of the bourgeoisie and also to deal en masse as a power, with the employers, to raise the wages and keep the same uniform. Thus trade unions started out as a ‘power’ to counter the power of the employer especially in securing fair wages. Workers form trade unions to exert power on the capitalist employers. But Marx implores the trade
unions to transcend beyond these limited purposes. He observes that, ‘Economic conditions had first transformed the mass of people of the country into workers. The combination of capitalists already has created a class of common interest and situation for this mass. This mass is thus already a class as against capitalists, but not yet for itself. In order to achieve a distinct power for itself the working class shall struggle politically and grab power from the capitalists. Trade unions as workers’ combinations shall carry on political struggle with the capitalist class in the thrust towards creating a classless egalitarian society. It shall organise itself as a political force. This approach of Marx addresses to the contradictions in the industrial society through a radical prescription for trade unions towards achieving social and political change.

b) **Moderate Socialistic Approach**

Sidney and Beatrice Webbs of England through their writings such as ‘*A History of Trade Unionism*’ (1896) and ‘*Industrial Democracy*’ (1902) propagated that trade unions are not meant for overthrowing the capitalistic system; rather they are to strive for improving the conditions of work and employment of workers by resorting to practices of collective bargaining, mutual insurance systems and legislative action.

John R. Commons in United States also took a more moderate call on trade unions to emerge as economic institutions. Commons in his 11 volume publication titled ‘*The Documentary History of American Industrial Relations*’ viewed unions as representing the “collective action in control of individual action”. He viewed unions as a countervailing power on the part of workers to the power of the corporation. He defined collective bargaining as ‘two-sided collective action’.

Selig Perlman, a disciple of Commons, focused on the role of trade unions as institutions whose action based on two key components, namely: (i) the economic psychology of the working class, and (ii) the nature of the political and social values of the society. Thus, Unions were suggested to engage in a constructive role as opposed to the radical view of Marx.

What was common to these three early thinkers on Industrial Relations in general and trade unionism in particular is that, they took a moderate view on the progressive role the employers and employees and their unions can play in building the socio-economic and political foundation.

The above mentioned radical and moderate ideological strands of thought represented by the Marxian Communism and the Socialistic philosophy respectively, have tried to study the causes and consequences of contradictions in the society and suggested remedies through institutional mechanisms.

c) **The Social Action Approach of Max Weber**

This approach has laid emphasis on the question of control in the context of increasing rationalisation and bureaucratization. Trade Unions, in Weber’s notion, have both economic purposes as well as goal of involvement in political and power struggles. He analyses the impact of techno-economic and politico-organisational changes on trade union structure and processes; the subjective interpretations of workers’ approaches to trade unionism; and
the relative power of various components of IR- the Government, employers, trade unions and political parties. These power struggles to control work organisations is what he labels 'social action' involving power of control and dispersal. He identifies four types of social action namely Instrumental social action based on end rationality; Value based social action based on value rationality i.e. pursuing goals freely and independent of success and failure; Affective social based on sentimental rationality; and traditional social action based on ingrained habituation of thought. IRS can be understood in two perspectives namely Social system and Social action grounded respectively in orderliness and ‘control leading to conflict and disorder’. Weber puts the IRS in the Social action perspective which reflects macro realities at the micro level.

B) The Systems or Orderliness Perspective

This perspective takes into consideration the micro level organisational questions and tries to create structures and systems that would help in bringing about orderliness and synthesis in apparent contradictions. Industrial relations and institutions associated with it are conceived as having potential for disorder and hence some constructive approaches have been developed to bring about the right blend.

a) The Structural Approach of J. Henry Richardson

J. Henry Richardson (1965) provided a fundamental structural approach to industrial relations explaining bipartite, tripartite and multipartite relations, of which the human relation is the invisible energy keeping the process of production going on. According to Richardson, the structure of IR can conveniently be divided into four parts namely i) Personnel Relations, ii) Collective Relations, iii) Functions of the State and iv) International Aspects.

The Employer and individual employee’s contractual relation within the undertaking particularly for determination of working conditions is the first part of IR. The nature of relationship was bipartite but unilateral. The employer enjoyed inalienable prerogative to decide. As the individual employee had weak bargaining strength the system became exploitative.

This gave rise to Trade Unions under the influence of Marxian thought and bipartite collective relationsemerged which is the second part of IR structure. This form of IR is bipartite but challenged the unilateral prerogatives of the employers. Collective bargaining assumed central place in IR as a rule making process governing the employment relations between the employer and the employees. But, collective bargaining largely became conflict prone and in protecting exclusive interests, the trade unions and employers resorted to direct action resulting into man hour and production loss. The State could not sit idle and had to intervene.

Earlier the State followed laissez faire policy and allowed the direct parties in IR namely employer and employees/unions to have fair play through collective bargaining. As industrial peace was disturbed resulting into economic loss to all stakeholders, the State had to intervene through legislative action and administrative interventions. This tripartite relation is the part three of IR structure. This structure of IR balances the contradictions between
the employers’ right to do business and employees’ right to organize and express. State intervention became an integral part of the tripartite framework. The sporadic role of community and consumers in IR as indirect parties has added a multi-partite dimension to the IR structure.

The part four of IR is the international aspects. Richardson was ahead of his times and could foresee this emerging dimension. The Institutional Labour Economics (ILE) framework had taken to the study of institutions like labour markets, trade unions, labour standards across countries and national boundaries. With the onset of Globalization, IR has also found the imperativeness to manifest and function in changed political alignments and cross-cultural perspectives with discernible impacts on unionism, collective bargaining, labour markets, labour reforms and other institutions.

Thus, Richardson’s contribution is a structural-functional analysis of IR based on historical perspectives and future prospects.

c) **Systems Approach of John T Dunlop**

Among the contributions, the most outstanding has been that of Prof. John T. Dunlop of Harvard University. He has given a systems model in his book ‘Industrial relations System’ (1958). The stated purpose of the book is ‘to present a general theory of industrial relations and to provide tools of analysis to interpret and gain understanding of the widest possible range of industrial relations facts and practices.’

Dunlop’s model was influenced by Talcott Parson’s (1956) sociological frame of reference revolving round four ‘functional imperatives’ of a system in containing conflict and inducing orderliness. It is presented in the box below:

**Box 1.1: Sociological Frame of Reference**

| i) ADAPTATION: actions which enable the system to harmonise with the environment | iii) GOAL ATTAINMENT: actions which are goal oriented and serve to harness resources towards goal mobilisation |
| ii) INTEGRATION: actions which are control and coordination oriented to prevent deviations and turbulence in the system | iv) PATTERN MAINTENANCE: initiatives to build capacities for inculcation of institutional values |

It is within this framework that Dunlop analyses the Industrial Relations System as a sub-system of the social system and to identify the corresponding specialised structures or processes.

An industrial relations system (IRS) at any one time in its development is regarded as comprised of certain actors, certain contexts, an ideology, which binds the IRS together, and a body of rules created to govern the actors at the workplace and work community. The model is depicted below-
There are three sets of independent variables - the actors, the contexts, and the ideology of the system.

- The actors in the system are a) hierarchy of managers and their representatives in supervision; b) a hierarchy of workers (non-managerial) and any spokesmen, and c) specialised governmental agencies (and specialised private agencies created by the first two actors) concerned with workers, enterprises, and their relationships. These first two hierarchies are directly related to each other in that the managers have responsibilities at varying levels to issue instructions (manage), and the workers at each corresponding level have the duty to follow such instructions. The formal hierarchy of workers may be organised into several competing or complementary organisations, such as, works councils, unions and parties. The specialised government agencies as actors may have functions in some industrial relations system so broad and decisive as to override the hierarchies of managers and workers on almost all matters. In other IRS, the role of the specialised government agencies, at least for many purposes, may be minor or constricted.

- The contexts of IR systems are technological determinism, the market and budgetary constraints, and the locus and distribution of power in the larger society. The technological features of the workplace have far reaching consequences for IRS influencing the form of management and employee organisation, the problems posed for supervision, many of the features of the required labour force and the potentialities of public regulation. For instance, the mining industry has a different technological context as compared to the manufacturing industry. Their place of work, the methods of work and the mode of living have profound influence on evolving a particular pattern of IRS. The mining communities have frequently been isolated from urban areas and create special problems in human relations. This raises a range of questions concerning housing, community services and welfare activities which are frequently beyond the rules of workplace in many other sectors. Apart from the characteristics of the workplace, the development of technology also affects IR by way of not only disturbing the existing employment patterns, but also by determining the size of the workforce employed.

- The market or budgetary constraints are a second feature of the environmental context, which is fundamental to an IRS. These constraints often operate, in the first instance, directly upon the managerial hierarchy, but they necessarily condition all the actors in a particular system. The context may be a market for the output of the enterprise or a budgetary limitation or some combination
of the two. The product market may vary in the degree and character of competition through the full spectrum from pure competition, monopolistic competition to oligopoly and monopoly. These constraints are no less operative in socialist than in capitalist countries. The relevant market or budgetary constraints may be local, national, or international, depending on the IRS.

- The locus and distribution of power in the larger society of which the particular industrial relations complex is a sub system, is a third analytical feature of environmental context. the relative distribution of power among the actors in the larger society tends to a degree to be reflected within the IRS. at this juncture, the concern is not with the distribution of power within the IRS but also outside this system. The function of one of the actors in IRS, the specialised governmental agencies, is likely to be particularly influenced by the distribution of power in the larger society.

- The ideology of IRS is a set of philosophy or a systematized body of belief and sentiments held by the actors. An important element that completes the analytical system of IRS is the ideology, which defines the role and place of each actor and the ideas, which each actor holds towards the place and function of the others in the system. Each of the actors in an IRS may be said to have its own ideology. IRS requires that these ideologies be sufficiently compatible and consistent so as to permit a common set of ideas and an acceptable role for each actor.

- The rules are established by actors in a given context for the workplace and work community, including those governing contracts among actors in an IRS. This network or web of rules consists of procedures for establishing rules, the substantive rules and procedures for their implementation. The Establishment of rules and their application are central to IRS as outputs. The actors who set the web of rules interact in the context of an IRS as a whole. The rules change in response to change in the contexts and relative status of the actors. Workers and unions; the employers and managers; and the Government and its civil servants set rules through collective bargaining, managerial decisions and administrative orders respectively.

The strength of Dunlop’s model is that it gives a framework basing on which any IRS in any scenario can be analysed. But critics say that it appears to be not realistic about the potential conflict in the IRS and static (Kochan, Katz and McKersie)

**Activity 1**

Choose an industry with which you are familiar and use Dunlop’s framework to describe the industrial relations system that exists there:

............................................................................................................................
............................................................................................................................
............................................................................................................................
............................................................................................................................
............................................................................................................................

Concept, Scope and Approaches to Industrial Relations
c) **Oxford Approach**

The ‘oxford’ group is comprised of Alan Flanders, H.A.Clegg, Alan Fox and a host of others. Alan Flanders (1970) enunciated a pluralist approach to IR namely ‘job regulation’ drawing from the theories of ‘anomie’ (Durkheim: 1947), collective bargaining (Chamberlain and Kuhn: 1951) and Industrial Democracy (Webbs: 1902).

The emphasis on job regulation through institutionalized rule making can be traced to Durkheim who found breakdown in the social order due to prevailing rule-lessness and normlessness or what is called anomie. Chamberlain initiated collective bargaining as a rule making process aiming at regulation of employer-employee relations, while Webbs stressed on the economic function of trade unions. Flanders combined these ideas and propagated that trade unions have not only economic interests; but also social and political purposes while being engaged in the institutionalised job regulation. Clegg (1979) supporting this stand observed that, “Job regulation cannot be studied in abstract. It must be embodied and observed in institutions and operating through processes”. The thrust of this approach is oriented to the containment of conflict through institutionalisation and regulation of the structure and process of union-management relations. Involved in this are various institutions like- Government, Employer organisations and employee unions. Collective bargaining and informal negotiations are the processes. With regard to collective bargaining Clegg focuses on dimensions like extent, depth and levels of bargaining, and degree of control of unions over scope of collective agreements and their implementation. For this purpose, union structures, strengths and security are considered crucial.

Alan Fox advocated for the radical pluralist approach to IR drawing upon the Marxian dictum and Durkheim’s occupation with ethical and moral order in a scenario of anomie. Fox made a distinction between ‘unitary’ and ‘pluralist’ conceptions of industrial organizations, the former recognising only one source of legitimate authority, whereas the latter accepts the reality of several interest groups invested with power. Still then the unequal distribution of power within and outside the enterprise is a stark reality. Pluralists accept it and prefer to balance it through institutional mechanisms; and radicals accept it but only to overthrow the existing mechanism through political action.

d) **The Human Relations Approach**

Human relations are “the integration of people into a work situation that motivates them to work together productively, cooperatively, and with economic, psychological and social satisfactions” (Keith Davis). He further explains that Human Relations aims to get people to produce, to cooperate through mutuality of interest and to gain satisfaction from their relationships. Human Relations school founded by Elton Mayo and his associates offers a coherent view of the nature of industrial conflict and harmony. This approach highlights certain policies and techniques to improve employee morale, efficiency and job satisfaction. It encourages the small work groups to exercise considerable control over its environment and in the process helps to remove a major irritant in labour-management relations. But there was reaction against the excessive claims of this school of thought when Marxists and pluralists
observed that it encouraged dependency and discouraged individual development. But its contribution cannot be overlooked in the areas of communication; management development; acceptance of workplace as a social system; group dynamics, and participative management. All these are some of the strong institutions of micro level IRS.

e) **The Kochan, Katz and McKersie (KKM) Framework**

Thomas A. Kochan, Henry C. Katz and Robert C. McKersie (KKM) framework (1986) re-examines the positive and normative premises that form the foundation of the field of IR. This framework, emerging out of empirical research, lays emphasis on management as a dynamic force in IR. This framework is based on a common frame of reference that, “IR focuses on employment relationship; the joint and sometimes conflicting interests of employers and employees; and the role of the institutions in structuring and mediating this relationship.”

KKM framework largely focused on strategic choice and Kochan (2000) particularly maintained a philosophical commitment to joint governance and more specifically to the principle and utility of collective bargaining. Their ideas have been drawn from the following paradigms that integrate the traditional IR institutions with the current imperatives of corporate strategy, structures and decision making.

- The contention that IR can be a balancing factor between efficiency and equity (Barbash:1984 and Meltz: 1989)
- The observation that IR systems have potential to act as alternative modes of workforce governance (Weiler: 1990)
- The proposition that firms act upon alternative configurations of HRM practices (Begin: 1991 & Gospel: 1999)
- The assumption that firms and markets act as social control mechanisms (Hill: 1995 & Godard: 1998)

Like traditional IR theory, this framework starts with considering the relevant forces in the environment that affect employment relationships. Changes in the external environment induce employers to make adjustments in their competitive business strategies. In making these adjustments the range of options considered are filtered by and constrained to be consistent with the values, beliefs or philosophies engrained in the minds of decision makers; or in some organizations to reflect the norms that have diffused from founders or senior executives to lower levels and succeeding generations of managers. As choices are embedded in particular historical or institutional structure, the range of feasible options available at any given point of time is partially constrained by the outcomes of previous organizational decisions and the current distribution of power within the firm and between it and any unions, government agencies, or other external organizations it deals with.

Just as management strategies and values play a role in explaining IR outcomes; so too do the values and strategies that influence the behaviour and policies of unions and Governments.
The role of the environment

KKM framework is based on the key premise that IR processes and its outcomes are determined by a continuously evolving interaction of environmental pressures and organizational (parties’) responses. These responses may vary from time to time. Organizations cannot constantly adjust their strategies and policies to changes in the environment. Often considerable pressure must build up before an adaptation occurs. This is one reason why IR systems often go through long periods of relative stability that are interrupted only periodically by major transformations.

It should be noted that this framework does not argue that product and labour market changes have independent effects or operate in a deterministic fashion. Rather, market forces set in motion a series of employer and union responses. It is the interaction of market forces and the parties’ responses that determine the outcomes of cyclical or structural changes.

The Role of Choice

A key premise of this framework is that choice and discretion on the part of management, labour and Government affect the course and structure of IR system. Moreover, history plays an extremely important role in shaping the range of feasible strategic adaptations. Although, environmental pressures are important and serve as the starting point for the discussions of the determinants of an IR system, these pressures do not strictly determine IR outcomes. Thus an understanding of the choices parties make in any given period must be informed by an analysis of the structure and history that constraints those choices. One of the strongest factors impinging on choices is management values towards unions and vice versa.

The 3-tier Institutional Structure

The task of institutional industrial relations theory is to identify the key variables or ‘institutional forces’ that determine the outcome of labour management interactions. The institutional framework of IR divides the activities of employer/management; labour/unions and Government into three tiers; namely i) top tier of strategic decision making, ii) a middle tier of collective bargaining or personnel...
policy making, and iii) a bottom or workplace tier where policies are played out and affect individual workers, supervisors, and unions on day-to-day basis. In the framework, the middle tier encompasses the most traditional terrain of IR since it focuses on the practice of collective bargaining and personnel policy formulation and on the development and administration of the key public policies governing labour management relations.

**Three levels of IR Activity**

The Table given below depicts the three levels of IR activities.

<table>
<thead>
<tr>
<th>Level/tier</th>
<th>Employers</th>
<th>Unions</th>
<th>Government</th>
</tr>
</thead>
<tbody>
<tr>
<td>Long term strategies and policy</td>
<td>Business strategies</td>
<td>Political strategies</td>
<td>Economic and social policies at the Macro level</td>
</tr>
<tr>
<td>making</td>
<td>Investment strategies</td>
<td>Representative strategies</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Human resource strategies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Collective bargaining and</td>
<td>Personnel policies relating to procuring,</td>
<td>Organising strategies</td>
<td>Formulation and administration of Labour laws</td>
</tr>
<tr>
<td>personnel policy</td>
<td>developing, retaining and utilizing the</td>
<td>Collective bargaining strategies</td>
<td>State intervention in IR</td>
</tr>
<tr>
<td></td>
<td>human resource</td>
<td>Contract administration</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Negotiation strategies</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Workplace and individual-</td>
<td>Supervisory style</td>
<td>Employee participation</td>
<td>Individual rights</td>
</tr>
<tr>
<td>organization relationships</td>
<td>Worker participation</td>
<td></td>
<td>Labour standards</td>
</tr>
<tr>
<td></td>
<td>Job design and work organization</td>
<td></td>
<td>Employee participation</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The corporate decisions involving such things as what businesses to invest in, where to locate worksites, whether to make or buy various components, and the organizational arrangements used to carry out basic strategies all affect industrial relations at the lower levels of the system and therefore are central to any analysis of industrial relations. Strategic choices that are relevant to the bottom tier are those most directly associated with the organization of work, the structuring of workers’ rights, the management and motivation of work groups, and the nature of the workplace environment. This includes such issues as job organisation design; work rules, worker-supervisor relations, and public policies governing individual rights at the workplace, such as safety and health, equal opportunity laws. Since they are part of the ongoing, day-to-day worker-employer relationship, the activities that occur at this level normally are not under the purview of collective bargaining process, formal personnel policies or broad business strategies. Yet, they do occur within the context of the policies and negotiated agreements decided at the higher levels of the system. Thus the effects of higher level activities in decision making and industrial Relations must be considered as explanations of behaviour and outcomes at the bottom tier.
Critical review of KKM framework:

- This three-tier framework helps explain the origins of any prevailing internal contradictions and inconsistencies among the three levels under the environmental pressures and strategic choices made by the parties. But, how the orderliness is cultivated to reduce the contradictions and inconsistencies is not adequately clarified.

- The performance outcomes of the framework are not clearly spelt out in terms of expectations and real outcomes for the employers and workers as direct parties and society as an important stakeholder.

- The framework while giving credence to past history and values of the organization, underplays the new emerging scenario pertaining to unionisation and workers’ behaviour pattern.

- The strength of the framework is that, it believes that every party has its own strategic choices. But, collective bargaining is not construed as a strategic activity. It appears that strategic activity is associated with corporate only.

- In the whole framework the critical lacuna is that workers per se are not considered as independent ‘actor’, whereas the entire focus is on the management.

- By integrating the Personnel (HRM) activities and workplace activities with the corporate strategies, this framework has almost subsumed the HRM function into the broad field of IR. But, the emerging crop of non-unionized workforce in the current organisations, finds no space in this framework.

f) The Gandhian Approach

Gandhiji can be called one of the greatest labour leaders of modern India. His approach to labour problems was completely new and refreshingly human. He held definite views regarding fixation and regulation of wages, organisation and function of trade unions, necessity and desirability of collective bargaining, use and abuse of strikes, labour indiscipline, worker’s participation in management, conditions of work and living, and duties of workers. The Ahmedabad Textile Labour Association, a unique and successful experiment in Gandhian trade unionism, implemented many of his ideas.

Gandhiji had immense faith in the goodness of man and he believed that many of the evils of the modern world have been brought about by wrong systems and not by wrong individuals. He insisted on recognising each individual worker as a human being. He believed in non-violent communism, going so far as to say that, “if communism comes without any violence, it would be welcome.”

Gandhiji laid down certain conditions for a successful strike. These are a) the cause of the strike must be just and there should be no strike without a grievance; b) there should be no violence; and c) non strikers or ‘black legs’ should never be molested. He was not against strikes but pleaded that they should be the last weapon in the armoury of industrial workers and hence should not be resorted to unless all peaceful and constitutional methods of negotiations, conciliation and arbitration are exhausted.

His concept of trusteeship is a significant contribution in the sphere of IR. According to him, employers should not regard themselves as sole owners of
mills and factories of which they may be the legal owners. They should regard themselves as only trustees, or co-owners. He also appealed to the workers to behave as trustees, not to regard the mill and the machinery as belonging to the exploiting agents but to regard them as their own, protect them and put to the best use they can. In short, the theory of trusteeship is based on the view that all forms of property and human accomplishments are gifts of nature and as such, they belong not to any one individual but to the society. Thus, the trusteeship system is totally different from other contemporary labour relations systems. It aimed at achieving economic equality and the material advancement of the ‘have-nots’ in a capitalist society by non-violent means.

Gandhiji realised that relations between labour and management can either be a powerful stimulus to economic and social progress or an important factor in economic and social stagnation. According to him, industrial peace was an essential condition not only for the growth and development of the industry itself, but also in a great measure, for the improvement in the conditions of work and wages. He strongly supported the workers’ right to adopt collective bargaining. He advocated for voluntary arbitration and mutual settlement of disputes. He also pleaded for perfect understanding between capital and labour, mutual respect, recognition of equality, and strong labour organisation as the essential factors for harmonious and constructive IR. For him means and ends are equally important.

1.5 SUMMARY INDICATING THE RELEVANCE OF THESE APPROACHES TO INDIAN CONTEXT

Orderliness and systems are sought only when there are contradictions. So, the approaches examined under both perspectives are relevant. India has a relatively short history of industrialisation in modern sense and consequently on IR compared to UK which ruled India for around three centuries leaving a strong British legacy in its institutions; and USA, which dominated the academic resources in post-independent India. So the approaches are largely drawn from these two countries.

Since independence, India is making considerable progress in industrialization and under the impact of globalization it is reshaping itself in many respects. In this changing context, the relevance of the theories emanating from experiences of western progressive countries need to be examined.

The post-World War II witnessed the polarization of communism and democratic capitalism. India adopted a mixed doctrine of democratic socialism as enshrined in the preamble of its constitution. Freedom to associate and express, civil liberties gave rise to phenomenal growth of trade unionism, though Unions had emerged since 1920 with a fragmented structure of multiplicity, inter-union rivalries and strong political alliances. The Government, committed to the ‘welfare state’ philosophy, enacted a plethora of labour and social legislations whose implementation has become as difficult as their contents. The Government policy on IR decisively shifted towards State intervention and collective bargaining became a voluntary method unlike some western countries which adopted compulsory collective bargaining. The employers in pre-independence India were either British companies or native family run business houses. Post-independent
India witnessed the rise of Government run Public Sector organizations coexisting with Private Sector organizations. Post 1991 economic reforms, the trend is strong presence of native private sector as well as multinationals due to the impact of global competitions and opening up of markets resulting into shrinking public sectors. It is a delicate but interesting mix of unfettered capitalism, socialism and vibrant democracy. In this scenario, unionism is in reduced impetus, and in some ‘high wage island’ sectors like IT and in some multinational corporations they are yet to emerge.

When we examine the approaches in this context, it appears that an ‘eclectic’ approach borrowing the best of these valid theories need to be considered. This is where the learner has to use his/her ingenuity. Some pointers are given as a guideline-

- The Marxian radical ideas are strongly ingrained in India which has a large section of poor with a widening gap between rich and poor.
- The moderate socialistic ideas are ingrained in our socio-economic and political doctrines.
- Dunlop’s IR System with its abstract components can be interpreted in any set up basing on the country specific and culture specific conditions, both in current, emerging and future times.
- Gandhian Approach has relevance for India now as never before, as it injects ethics into every walk of life including IR.
- Other approaches have strengths in terms of finding new relevance for trade unionism; the need for mature workplace governance practices involving and motivating the employees (knowledge workers) by employers; and prescriptions for Government policies on labour reforms and social insurance etc.
- But, a strong weakness with these models is that they emerged and lived in their respective times having limited relevance in the changing times. Non-unionised employees are emerging in huge numbers that is not adequately addressed by these theories of IR. The IR-HRM debate on one subsuming the other is another challenge.

Finally, one has to aspire and strive for orderliness and not contradictions. But understanding the contradictions is essential both for reactive and proactive purposes.

### 1.6 SELF-ASSESSMENT QUESTIONS

1) Explain the genesis of Industrial Relations precepts and practices.
2) Discuss the contradictions perspective of IR.
3) Examine the relative state of Unionism and collective bargaining in current times in reference to oxford approach.
4) What is J. Henry Richardson’s contribution to IR structure?
5) Explain the Systems model of John T. Dunlop. Why it is considered universally applicable?
6) Discuss the components of KKM framework and critically examine the framework.

7) Elucidate the statement that, “theorising IR is difficult because of its varied practices”.

8) With regard to IR in the Indian context, which approach or combination of approaches is relevant?

1.7 CHECK YOUR PROGRESS

Read the following statements and answer whether they are true or false?

1) The IR is equivalent to unionised labour relations  True/False

2) The IR is renamed as employment relations engulfing all aspects of work.  True/False

3) There is no separate employee solution and employer solution to IR  True/False

4) The Contradictory Approach to IR takes Micro perspective and the Orderliness Approach takes Macro perspective.  True/False

5) Between the Marxian, Socialist and the Social Action approaches it the Marxian approach that aspires for political powe for workers and their unions.  True/False

6) KKM model is more focused an interface between changing environment, corporate strategies and plant level IR systems compared to that of Dunlop’s model which by being abstract accommodates all global practices of IR.  True/False

Answers:
1) True  2) True  3) False  4) False  5) True  6) True.

1.8 FURTHER READINGS


Conceptual Framework of Industrial Relations


7) C.Venkata Ratnam, “Industrial Relations”, Oxford University Press, New Delhi 2006

UNIT 2 EVOLUTION OF INDUSTRIAL RELATIONS AND CURRENT DEVELOPMENTS

Objectives

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

• explain the historical perspective of industrial relations in India;
• appreciate the impact of globalisation, technological changes, and other forces on industrial relations;
• identify the issues and challenges confronting industrial relations in India.

Structure

2.1 Introduction
2.2 Industrial Relations in India
2.3 Industrial Relations Policy
2.4 Government’s Role
2.5 Current Developments
2.6 Industrial Relations Scenario
2.7 Issues and Challenges
2.8 Summary
2.9 Self-Assessment Questions
2.10 Check your Progress
2.11 Further Readings

2.1 INTRODUCTION

In order to understand the issues and problems associated with industrial relations, it is desirable to study its various evolutionary phases. Practically speaking, the growth of industrial relations in India is in no way different from that of other parts of the globe. The various stages of industrial relations progressed from primitive stage to factory or industrial capitalism stage. The emergence of tripartite consultative system and voluntary and statutory approach to industrial relations, immensely contributed to the growth of a particular system of industrial relations in our country. Also the fast changing technological development, industrial production techniques, and ideological values have brought forth in the industrial world a unique type of employer-employee relationship. For a proper understanding of industrial relations, it seems essential to have a historical review of industrial relations in India.

2.2 INDUSTRIAL RELATIONS IN INDIA

India was greatly advanced in the field of industry and commerce in the past, as evidenced from its ancient literature. In ancient times, the highest occupation in our country was agriculture followed by trading. Manual services formed the
third rung of occupation. Small manufacturers in their cottages, mostly on hereditary basis, carried on a large number of occupations. Ancient scriptures and laws of our country laid emphasis on the promotion and maintenance of peaceful relations between capital and labour. From the very early days, craftsmen and workers felt the necessity of being united. The utility of unions has been stated in Sukla Yajurveda Samhita, “if men are united, nothing can deter them.” Kautilyas’s Arthashastra gives a comprehensive picture of the organisation and functions of the social and political institutions of India and a good description of unions of employees, craftsmen or artisans. There were well-organised guilds, which worked according to their own byelaws for the management of the unions. However, there were no organisations of workers during the Mughal rule. The labourers were entirely dependent on their masters and forced work was taken from them. Historical evidence further shows the existence of codes of conduct and prescribed procedure for the settlement of disputes for promoting cordial relations between the parties. The working relations, however, in those days were more or less of a personal character and are very much distinguishable from the present-day industrial relations which has gradually developed with the growth of large-scale industries.

A study of modern industrial relations in India can be made in three distinct phases. The first phase can be considered to have commenced from the middle of the nineteenth century and ended by the end of the First World War. The second phase comprises the period thereafter till the attainment of independence in 1947, and the third phase represents the post-independence era.

First Phase: During the first phase, the British Government in India was largely interested in enforcing penalties for breach of contract and in regulating the conditions of work with a view to minimising the competitive advantages of indigenous employers against the British employers. A series of legislative measures were adopted during the latter half of the nineteenth century, which can be considered as the beginning of industrial relations in India. The close of the First World War gave a new twist to the labour policy, as it created certain social, economic and political conditions that raised new hopes among the people for a new social order. There was intense labour unrest because workers’ earnings did not keep pace with the rise in prices and with their aspirations. The constitutional developments in India led to the election of representatives to the Central and Provincial legislatures who took a leading role in initiating social legislation. The establishment of International Labour Organisation (ILO) in 1919 greatly influenced the labour legislation and industrial relations policy in India. The emergence of trade unions in India, particularly the formation of All India Trade Union Congress (AITUC) in 1920 was another significant event in the history of industrial relations in our country.

Second Phase: The policy after the First World War related to improvement in the working conditions and provision of social security benefits. During the two decades following the war, a number of laws were enacted for the implementation of the above policy. The Trade Disputes Act, 1929 sought to provide a conciliation machinery to bring about peaceful settlement of disputes. The Royal Commission on Labour (1929–31) made a comprehensive survey of labour problems in India, particularly the working conditions in the context of health, safety, and welfare of the workers and made certain recommendation of far-reaching consequences.
The Second World War gave a new spurt to the labour field. The exigencies of the war made it essential for the government to maintain an adequately contented labour force for maximising production. The Government of India had, therefore, to step in and assume wide powers of controlling and regulating the conditions of work and welfare of industrial workers. It embarked upon a two-fold action in this regard, namely, (i) statutory regulation of industrial relations through the Defence of India rules and the orders made there under; and (ii) bringing all the interests together at a common forum for shaping labour policy. Tripartite consultative system was one of the most important developments in the sphere of industrial relations in our country. Tripartite consultation epitomises the faith of India in the ILO’s philosophy and objectives. The Royal Commission Labour recommended the need for tripartite labour machinery on the pattern of ILO as early as 1931. But the first step in this direction was taken only in the year 1942, when the first tripartite labour conference was held at New Delhi under the Chairmanship of Dr. B.R. Ambedkar. The conference consisted of two organisations, namely, the Indian Labour Conference (ILC) and the Standing Labour Committee (SLC). In the state sphere, State Labour Advisory Boards were also set up for consultation on labour matters. Gradually, tripartism developed into a full-fledged system, a kind of parliament for labour and management.

The objectives set before the two tripartite bodies at the time of their inception in 1942 were: (a) promotion of uniformity in labour legislation; (b) laying down of a procedure for the settlement of industrial disputes; and (c) discussion of all matters of All-India importance as between employers and employees.

The ILC and SLC have immensely contributed in achieving the objectives set before them. They facilitated enactment of central legislation and enabled discussion on all labour matters of national importance. Different social, economic and administrative matters concerning labour policies and programmes were discussed in the various meetings of ILC/SLC.

Third Phase: After independence, an Industrial Truce Resolution was adopted in 1947 at a tripartite conference. The conference emphasised the need for respecting the mutuality of interests between labour and capital. It recommended to the parties the method of mutual discussion of all problems common to both, and settle all disputes without recourse to interruption in or slowing down of production.

The post-independence period of industrial relations policy aimed at the establishment of peace in industry, and grant of a fair deal to workers. The government sought to achieve these aims through appropriate labour legislation, labour administration, and industrial adjudication. State intervention in industrial relations was justified on the ground that it helped to check the growth of industrial unrest. However, it was noticed that the spirit of litigation grew and delays attendant on legal processes gave rise to widespread dissatisfaction. Hence, since 1958 a new approach was introduced to counteract the unhealthy trends of litigation and delays in adjudication. Its emphasis was based on the principles of industrial democracy, on prevention of unrest by timely action at the appropriate stages, and giving of adequate attention to root causes of industrial unrest.
2.3 INDUSTRIAL RELATIONS POLICY

The industrial relations policy derives its philosophy and content from the Directive Principles of State Policy laid down in the Constitution, and from the planned documents and Industrial Policy Resolution. It has been evolving in response to the specific needs of the situation and the requirements of planned economic development, social policies, and industrial peace in the country. It is the product of tripartite consultations. The aim is to promote harmonious relations between labour and management in order to improve production and working conditions, and to promote the interests of the community at large.

The industrial relations policy of the government enunciated in the various Five-Year Plans incorporates principles and guidelines for the prevention and resolution of disputes. As a means of preventing disputes, a large number of voluntary measures have been evolved by the state. Further, as a means of resolving disputes, comprehensive legislative measures have been evolved and guidelines made available to workers and employers for the regulation of their relationship.

The Second Industrial Truce Resolution was passed on November 3, 1962, at a joint meeting of the employers’ and workers’ representatives in New Delhi. The Resolution said: “No effort shall be spared to achieve the maximum production, and management and workers will strive in collaboration in all possible ways to promote the defence efforts of the country.”

While the groundwork of labour policy was prepared during the forties, a superstructure on this groundwork was built in the fifties. It is the Constitution of India and the five-year plans, which largely helped in raising the superstructure. The Preamble to the Constitution and the chapter on Directive Principles of State Policy enunciate the elements of labour policy. The successive five-year plans since 1951 clearly enunciated the directions of industrial relations policy. These entailed the building up of industrial democracy in keeping with the requirements of a socialist society, which sought to be established through a parliamentary form of government.

A brief account of the industrial relations policy during five-year plans is given below:

The approach to labour problems in the First Five-Year Plan (1951-56) was based on considerations which were related, on the one hand, “to the requirements of the well-being of the working class”, and on the other, “to its vital contribution to the economic stability and progress of the country.” It considered the worker as “the principal instrument in the fulfillment of the targets of the Plan and in the achievement of economic progress. Further, the Plan stated that harmonious relations between capital and labour are essential for the realisation of the Plan in the industrial sector. The Plan emphasised that the “workers’ right of association, organisation and collective bargaining should be accepted without reservation as the fundamental basis of the mutual relationship”, and the trade unions “should be welcomed and helped to function as part and parcel of the industrial system”.

Much of what had been said in regard to industrial relations in the First Plan was reiterated in the Second Five-Year Plan (1956-61). The Second Plan considered a strong trade union movement to be necessary both for safeguarding the interests
of labour and for realising the targets of production. Multiplicity of trade unions, political rivalries, lack of resources, and disunity in the ranks of workers were, according to the Plan document, some of the major weaknesses in a number of existing unions. The importance of preventive measures for achieving industrial peace was particularly stressed and greater emphasis was placed on the avoidance of disputes at all levels. It also emphasised on the increased association of labour with management.

The Third Five-Year Plan (1961-66) expressed great hopes in the voluntary approach initiated during the Second Plan period to give a more positive orientation to industrial relations, based on moral rather than legal sanctions. The Plan highlighted the need for increasing application of the principle of voluntary arbitration in resolving differences between workers and employers and recommended that the government should take the initiative in drawing up panels of arbitrators on a regional and industry-wise basis. Further, the Plan recommended that the works committees should be strengthened and made an active agency for the democratic administration of labour matters.

The Fourth Five-Year Plan (1969-74) suggested no changes in the system of regulating labour relations by legislative and voluntary arrangements started from earlier plans. It devoted a good deal of attention to employment and training. It also laid stress on strengthening labour administration for better enforcement of labour laws, research in labour laws, and expansion of training programmes for labour officers.

The Fifth Five-Year Plan (1974-79) laid great emphasis on employment, both in rural and urban sectors. After the promulgation of emergency in June 1975, the government devised a new pattern of bipartite consultative process in an attempt to create a climate of healthy industrial relations, leading to increased production, by eschewing lay-offs, retrenchments, closures, strikes and lockouts. The new machinery sought to formulate policies at the national, state, and industry levels for the speedy resolution of industrial conflicts and for promoting industrial harmony. During the emergency, the Government of India through a resolution adopted a scheme of workers’ participation in industry at shop and plant levels on 30th October, 1975.

The importance of cooperative attitude on the part of employers and employees for the maintenance of healthy industrial relations has been emphasised in the Sixth Five-Year Plan (1980-85). According to the plan, strikes and lockouts should be resorted to only in the last stage. Effective arrangements should also be made for the settlement of inter-union disputes and to discourage unfair practices and irresponsible conduct. While suggesting the growth of trade unions on healthy lines, the Plan stressed on their social obligations and roles in many areas of nation building activities and in improving the quality of life of workers. Furthermore, it emphasised on necessary changes in the existing laws on trade unions, industrial relations and standing orders for promoting harmonious industrial relations.

The Thrust of the Seventh Five-Year Plan (1986-91) is on improvement in capacity utilisation, efficiency and productivity. The Plan states that a sound policy of tackling industrial sickness in future has to be evolved which while protecting the interests of labour would also take into account the fact that Government
cannot bear the huge burden of losses. There is considerable scope for improvement in industrial relations, which would obviate the need for strikes and the justification for lockouts. In the proper management of industrial relations the responsibility of unions and employees has to be identified and inter-union rivalry and intra-union divisions should be avoided.

According to the Eighth Five-Year Plan (1992-97), labour participation in management is a means of bringing about a state of industrial democracy. Ever since independence, the government has been stressing the need to introduce workers’ participation in management and various schemes were notified from tune to tune. However, the results have fallen far short of expectations. The need to bring forward a suitable legislation for effective implementation of the scheme has been felt. Besides legislation, proper education and training of workers and cooperation from both employers and employees to over come problems arising out of the existence of multiplicity of trade unions and inter-union rivalry will go a long way in promoting the system of participative management.

According to the Ninth Five-Year Plan (1997-2002), the planning process attempts to create conditions for improvement in labour productivity and for provision of social security to supplement the operations of the labour market. The resources have been directed through the plan programmes towards skill formation and development, exchange of information on job opportunities, monitoring of working conditions, creation of industrial harmony, and insurance against disease and unemployment for the workers and their families. The planning commission observed that the situation of surplus labour, coupled with the employment of most of the workers in the unorganised segments of the economy, has given rise to unhealthy social practices like bonded labour, child labour, and adverse working conditions faced by the migrant labour.

The Tenth Plan (2002-2007) document focused on vocational training and skill building along with social security for vulnerable groups in labour force. The reflections on institutions of industrial relations doesn’t find place excepting labour laws for rural establishments. The same trend is maintained in Eleventh Plan (2007-2012) also.

The Twelveth Plan (2012-2017) focuses on Human Resource Development, job creating and social protection. It also aims at compliance to the labour laws and simplifying the laws. Improving Industry- workforce relationships, one union in one industry policy, strong institutions supporting workers participation, more state intervention to promote healthy industrial relations are the objectives of this plan in relation to the IR policy.

### 2.4 GOVERNMENT’S ROLE

The government’s role in enacting various labour laws for protecting and promoting the interest of labour and management is very well known in almost all the countries of the world. The nature of the government’s approach to industrial relations is dependent on the type of dominant political ideology and the relative power/authority of trade unions. The main issue in regard to the government’s role in industrial relations is the degree of state intervention. In India, particularly after independence, the government has been playing a comprehensive and dominant role in shaping the pattern of industrial relations.
In the mixed economy of our country, the state has emerged as a big employer. The government evolves through tripartite forums the norms or standards, which are in the nature of guidelines shaping employer-employee relations. It accepts the responsibility of ensuring conformity to these norms through the administrative and judicial mechanism. It enacts legislation on labour and implements both the substantive and procedural laws.

The industrial relations policy of the government forms part of the broader labour policy. The tenets of this policy, as stated by the National Commission on Labour, are:

i) primacy to the maintenance of industrial peace;

ii) encouragement for mutual settlement of disputes through collective bargaining and voluntary arbitration;

iii) recognition of the workers’ right to peaceful direct action, i.e., strike; and

iv) tripartite consultation.

The state intervention primarily aims at preserving industrial peace and has, therefore, focused attention on: (a) the avoidance of industrial disputes; and (b) the expeditious settlement of industrial disputes when they do arise. The adjudication and other regulative aspects of the role of the government continue to form the core of industrial relations in India.

The genesis of industrial relations in India shows that the state started with a laissez-faire policy, followed it up with protective labour legislation and paternal administration, actively interfered in the field of industrial relations treating it as a law and order problem, and subsequently extended its control over almost the entire labour field. While the basic contents of the industrial relations policy has practically remained unaltered throughout, the emphasis, of course, has changed from one aspect to the other, in the interests of the contemporary social, economic, and political factors.

2.5 CURRENT DEVELOPMENTS

The current developments in the field of industrial relations are basically related to structural changes, acquisitions and mergers, globalisation, liberalisation, and technological changes.

Structural Changes

The main aspects of the structural changes having an impact on the industrial relations system in the country could be mentioned as:

i) Production reorganisation or decentralised production making a thin organised sector employment more thinner. The large-sized units shifted to flatter structures and opted for decentralised decision-making. These units reorganised their production by trimming their size and carrying out production in multiple units or by externalising their production, i.e., concentrating on core activities with higher value addition, and subcontracting the other work/production to other ancillary units. These measures of economic reforms have distinctly affected the industrial relations system in the country as it has limited its institutions and practices to the formal
organised sector in the large-sized units. As such, the system has come under pressure to adjust and adapt to the challenges of growth of small and medium units and shift its employment in favour of unorganised sector.

ii) Globalisation and technological changes proved disruptive for the system in terms of displacement of labour, i.e., job losses, destabilising the wage structure, and a shift in skill/occupation composition of labour.

iii) Ascendancy in managerial rights and the weakening of trade unions gave greater flexibility to management in utilisation of labour and in handling industrial conflict.

**Mergers and Acquisitions**

In merger, two or more existing companies go into liquidation and a new company is formed to take over their business. An acquisition arises when there is a purchase by one company of the whole or part of the shares, or the whole or part of the assets, of another company in consideration for payment in cash or by issue of shares or other securities in the acquiring company or partly in one form and partly in the other. The process of merger is the result of agreement and contract between the transferor and transferee companies.

The concept of mergers and acquisitions is very much popular in the current economic scenario. More so, it is a significantly popular concept after 1990s in India on the birth of economic liberalisation and globalisation. The basic premises for mergers and acquisitions are the consolidation process for survival of existing undertakings, and large groups absorbing the small entities.

A series of personnel problems normally occur when one company acquires another. People aspect is very important in the process of acquisition.

The communications framework is the most important factor for smooth integration in an acquisition. With effective communication, the acquiring company can develop a climate of confidence and, hopefully, eliminate much of the friction, which frequently occurs. Good communication is an essential part of good human relations. The labour relations considerations when one company acquires another are union relations history, representation of employees in unions, history of work stoppages, strikes and lockouts, grievance settlement, collective bargaining and signing of agreements and settlements.

**Globalisation**

Globalisation can be conceptually explained as the process of economic or commercial integration of a company or a country with the rest of the world. The magnitude of such integration will determine the extent of globalisation accomplished by the company or the country as the case may be. It is important to note that globalisation is not an ‘event’ but a ‘process.’

Some segments of the labour force have suffered from the direct and indirect effects of globalisation more than others. Increased trade and increased competition have led to job losses in the advanced economies, probably not too many in aggregate terms but concentrated in low-skilled labour intensive industries with high labour costs. In addition, organisational changes such as contracting-out, and downsizing of permanent staff have affected low-skilled
workers Ignore than high-skilled workers and have contributed to widening wage disparities (ILO, 1997).

In the process of globalisation, the power of trade unions, as measured by trade-union density, has declined almost everywhere around the world, in developed as well as in developing countries. Evidently, some other factors have contributed to the devaluation of trade union membership such as the demise of state socialism in Central and Eastern Europe, the process of economic restructuring, and the shift from manufacturing to service employment. Nevertheless, globalisation as such has an impact on labour and labour relations, which has contributed considerably to the significant decline of trade-union density in general. Only some developing countries have benefited from globalisation. In many countries, including the advanced economies, income inequality and poverty has grown considerably.

Technological Changes

The inter-relationship between technological change and industrial relations time and again has been the focus of attention of groups in society. Technology has an impact on labour management issues such as manpower, job security, and training redundancy. All the three parties in industrial relations are closely concerned with the effects of technology. Technological change raises sensitive industrial relations issues, especially where it involves work intensification, rationalisation or reductions in employment. Industrial relations issues, especially relating to employment levels and work organisation, were seen as important in deciding upon new plant, machinery or equipment. Technological change affects the work environment and alters the relationship between the employers and employees. It affects labour in two ways, economic and social. The first category consists of redundancy, occupational adjustment, allocation of gains, and transfer and retraining problems. The second category includes psychological factors such as resistance to change, job satisfaction, and worker and union relations.

Privatisation

Privatisation is one of the major elements of structural adjustment process taking place in different parts of the world. It involves complex social and labour issues. Apprehensions about privatisation concern potential loss of present and future jobs. However, there is not enough evidence to suggest that privatisation per se destroys jobs. The trade unions are concerned about privatisation due to fears about job loss and potential adverse effects on the dynamics of trade unions and their rights.

Activity 1

Identify an organisation which has undergone any one of the above changes. Highlight the post change IR scenario of that company.

......................................................................................................................
......................................................................................................................
......................................................................................................................
......................................................................................................................
......................................................................................................................
2.6 INDUSTRIAL RELATIONS SCENARIO

The Second National Commission on Labour, 2002 has made the following observations about the industrial relations scenario in India:

1) It is increasingly noticed that the trade unions do not normally give a call for strike because they are afraid that a strike may lead to the closure of the unit.

2) Service sector workers feel they have become outsiders and are becoming increasingly disinterested in trade union activities.

3) There is a trend to resolve major disputes through negotiations at bipartite level. The nature of disputes or demands is changing. Instead of demanding higher wages, allowances or facilities, trade unions now demand job security and some are even willing to accept wage cuts or wage freezes in return for job protection. Disputes relating to non-payment of wages or separation benefits are on the rise.

4) The attitude of the Government, especially of the Central Government, towards workers and employers seems to have undergone a change. Now, permissions for closure or retrenchment are more easily granted.

5) The conciliation machinery is more eager to consider problems of employers and today consider issues like increase in productivity, cost reduction, financial difficulties of the employer, competition, market fluctuations, etc. They are also not too serious in implementing the awards of labour courts awarded long back after protracted litigation against employers wherein reinstatement or regularisation of workers was required.

6) The industrial relations machinery is not pursuing seriously the recovery proceedings against employers who could not pay heavy dues of workers, if the financial position of the employer is very bad.

7) The labour adjudication machinery is more willing to entertain the concerns of industry.

2.7 ISSUES AND CHALLENGES

The foremost issue of the industrial relations system in India is that it has come under pressure to adapt to the new environment that has emerged after the introduction of structural changes envisaged under economic reforms.

Under the impact of restructuring process, the large-sized firms are downsizing their activities and shifting their production to other smaller allied units. As such, the employment in the organized sector is shrinking and the major share of additional employment is being generated in the unorganized sector than in the organized sector.

In a decentralized sector of small and medium sized units and the enterprises in the services sector and high-tech segment there is a wide difference in wage determination and benefits across the industries. Along with the wide dispersion of wages and other benefits, the other feature of this decentralized sector is the unemployment/ job insecurity. The trend is towards increasing casualisation of labour.
The restructuring process, production recognition, and technology changes/upgradation have made the problems of unemployment of labour more widespread and acute. The traditional industrial relations system and its institutions and practices were most suited to the tasks of protecting and promoting the interests of workers with secure permanent employment. The challenge for the industrial relations system lies in whether the new system can provide for any alternative to the traditional system.

The focus of industrial relations has shifted from the region/industry level to the enterprise or even plant level.

In the new production context, the large-sized firms have declined and small and medium-sized firms have increased. Most of these firms remain beyond the purview of labour legislation and the organizations of labour in these scattered units are weak and ineffective. The growing emergence of start-ups further compound the problem.

### 2.8 SUMMARY

The study of modern industrial relations in India can be made in three distinct phases – first phase form the middle of the nineteenth century of the First World War, the second phase from the Second World War to the attainment of independence, and the last phase form post-independence era onwards. • The various five-year plans stressed harmonious employer-employee relations for the economic development of the country. • The economic reforms introduced under liberalisation, privatization, and globalisation have exposed Indian economy to widespread and comprehensive changes to meet the onslaught of competitive forces. • The genesis of industrial relations in India shows that the state started with a laissez-faire policy, followed it up with protective labour legislation and paternal administration, actively interfered in the field of industrial relations treating it as a law and order problem, and subsequently extended its control over almost the entire labour field. • While the basic contents of the industrial relations policy has practically remained unaltered throughout, the emphasis of course has changed from one aspect to the other, in the context of the contemporary social, economic and political factors.

### 2.9 SELF-ASSESSMENT QUESTIONS

1) Give a historical review of industrial relations in India.

2) What are the factors responsible for the evolution of Indian labour policy?

3) What are the recent developments in the field of industrial relations in India?

### 2.10 CHECK YOUR PROGRESS

State whether the following statements are True or False:

1) Tripartite consultative system was one of the most important developments in the sphere of industrial relations in India.

2) The International Labour Organisation (ILO) was established in the year 1905.
3) The All India Trade Union Congress (AITUC) was established in the year 1920.

4) The need for tripartite labour machinery on the pattern of ILO was recommended first by the Labour Investigation Committee in 1944.

5) The industrial relations policy derives its philosophy and content from the Directive Principles of State Policy laid down in the Constitution.

6) The industrial relations policy of the Government forms part of the broader labour policy.

Answers:


2.11 FURTHER READINGS


UNIT 3 CONSTITUTIONAL AND LEGAL FRAMEWORK OF INDUSTRIAL RELATIONS

Objectives
After going through this unit, you will be able to:
• explain the role of government in enacting a series of labour laws
• to discuss the fundamental rights and directive principles relating to industrial jurisprudence
• highlight the role of ILO in promoting social justice and its impact on industrial relations in India

Structure
3.1 Introduction
3.2 Constitutional Framework
3.3 Industrial Relations Statutes
3.4 Social Justice
3.5 Role of Law
3.6 Summary
3.7 Self-Assessment Questions
3.8 Check Your Progress
3.9 Further Readings

3.1 INTRODUCTION
The sweeping character of the transition from a simple agricultural set-up to a complex urban industrial society has resulted in the emergence of labour problems in our country. Since the work men had no bargaining capacity with the employers regarding the terms and conditions of their employment, they worked on nominal wages for long hours and under unhealthy conditions. The Government of India, therefore, enacted a series of legislations to protect the working class from exploitation and to bring about improvement in their working and living conditions. The progress of labour legislation, after independence has been quite remarkable. Spate of legislations like the Industrial Disputes Act, 1947, the Minimum Wages Act, 1948, the Employees’ State Insurance Act, 1948, and the Factories Act, 1948, were enacted. The goals set in our country by the Constitution have a bearing on industrial legislation and adjudication.

3.2 CONSTITUTIONAL FRAMEWORK
The Indian society is a classic case of a context in which industrial relations connectedness is founded on a sublimating normative vision as articulated in its Constitution. The Preamble commits the entire nation to social, economic, and political justice; liberty of thought, expression, belief, faith and worship; equality
of status and of opportunity; fraternity assuring the dignity of the individual and the integrity of the nation.

The Constitution of India has guaranteed some Fundamental Rights to the citizens and has also laid down certain Directive Principles of State Policy for the achievement of a social order based on justice, liberty, equality and fraternity. The Constitution amply provides for the upliftment of labour by guaranteeing certain fundamental rights to all. Article 14 lays down that the State shall not deny to any person equality before the law or the equal protection of laws. There shall be equality of opportunity to all citizens in matters relating to employment or appointment to any office under the State. People have the right to form associations or unions. Traffic in human beings and forced labour and the employment of children in factories or mines or other hazardous work is prohibited. The Directive Principles, though not enforceable by any court, are nevertheless fundamental in the governance of the country, and it shall be the duty of the State to apply those principles in making laws from time to time.

### Box 3.1: Fundamental Rights

<table>
<thead>
<tr>
<th>Article</th>
<th>Right Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 14</td>
<td>Equality before the law</td>
</tr>
<tr>
<td>Article 15</td>
<td>Prohibition of discrimination on grounds of religion, race, caste, Sex or place of birth</td>
</tr>
<tr>
<td>Article 16</td>
<td>Equality of opportunity in matters of public employment</td>
</tr>
<tr>
<td>Article 17</td>
<td>Abolition of untouchability</td>
</tr>
<tr>
<td>Article 19</td>
<td>Protection of rights regarding freedom of speech, freedom of association, etc.</td>
</tr>
<tr>
<td>Article 20</td>
<td>Protection in respect of conviction for offences</td>
</tr>
<tr>
<td>Article 21</td>
<td>Protection of life and personal liberty</td>
</tr>
<tr>
<td>Article 22</td>
<td>Protection against arrest and detention in certain cases</td>
</tr>
</tbody>
</table>

Each of the above rights forms the basis of industrial relations policy in the Indian context. These rights will continue to form the basis of crafting industrial relations in a liberalising, globalising, and deregulating business environment. The right to livelihood, the right of freedom of expression, the right to form associations, protection against all forms of exploitation and discrimination become all the more potent and real in a deregulated business environment and form the bedrock on which the negotiated connectedness of interacting industrial relations stakeholders will rest. Further insights into the contours of industrial relations policy are discernible in the Directive Principles of State Policy contained in the Constitution.

Labour is in the Concurrent List on which both the Centre as well as the States have the power to make laws. Article 254 has been enacted to clarify the position. Normally, as laid down in clause(I), in case of any repugnancy between the Union and the State legislation, the legislation of the Union shall prevail. To this, there is one exception embodied under clause(II) of Article 254, where, a law enacted by the State with respect to the matter enumerated in the Concurrent List, reserved for the consideration of the President, has received his assent, such law shall prevail in the State, and provisions of that law repugnant to the provisions of an
earlier law made by the Parliament or any existing law with respect to that matter have priority over the Central legislation.

Articles 39, 41, 42 and 43 have a special relevance in the field of industrial legislation and adjudication. In fact, they are the substratum of industrial jurisprudence.

Article 39 accentuates the basic philosophy of idealistic socialism which is enshrined in the Preamble of the Constitution and provides a motivation force to the Directive Principles by laying down that the State shall direct its policy towards equal pay for both men and women.

Article 41 lays down that the State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, oldage, sickness and disablement, and in other cases of undeserved want.

Article 42 enjoins the State government to make provision for securing just and humane conditions of work and for maternity relief.

Article 43 makes it obligatory for the State to secure by suitable legislation or economic organisation or in any other manner to all workers, agricultural, industrial, or otherwise, work, a living wage, conditions of work ensuring decent standard of life and full enjoyment of leisure and social and cultural opportunities.

Article 43-A makes it obligatory on the State to take steps by suitable legislation or otherwise to secure the participation of workers in the management of undertakings and industrial establishments. Though the Directive Principles are not justiciable, they are the sheet-anchor of the legislation by the Centre and the States in the field of welfare of the working class. Also, it is observed by the National Commission on Labour in its report,” in accepting the Directive Principles the country is committed morally and ethically to see that the governance of the country is carried on with a view to implementing these Directive Principles in course of time”(ChapterVI,p.48).

A brief discussion regarding the extent to which these provisions had been adopted and enforced in our country will be in order:

Social security is guaranteed in our Constitution under Articles39, 41 and 43. The Employees’ State Insurance Act, 1948, is a pioneering piece of legislation in the field of social insurance. The benefits provided to the employees under the scheme are: (1)sickness benefit and extended sickness benefit; (2)maternity benefit; (3)disablement benefit;(4)dependants’ benefit;(5)funeral benefit; and(6)-medical benefit. All the benefits are provided in cash except the medical which is in kind. The administration of the scheme is entrusted to an autonomous corporation called the Employees’ State Insurance Corporation.

The Employees’ Provident Funds and Miscellaneous Provisions Act, 1952 and the Maternity Benefit Act,1961 are also social security measures to help fulfil the objectives of Directive Principles of our Constitution. The Provident Fund Scheme aimed at providing substantial security and timely monetary assistance to industrial employees and their families. This scheme has provided protection to employees and their dependants in case of old age, disablement, early death of
Conceptual Framework of Industrial Relations

The bread-winner and in some other contingencies. A scheme of Family Pension-cum-Life Assurance was introduced with a view to providing long-term recurring financial benefit to the families in the event of the member’s premature death while in service. The Employees’ Provident Fund Organisation is in charge of three important schemes, viz., the Employees’ Provident Funds Scheme, the Employees’ Family Pension Scheme, and the Employees’ Deposit Linked Insurance Scheme.

The Maternity Benefit Scheme is primarily designed to provide full wages and security of employment. They enable a female employee to get maternity leave with full wages at least for six weeks before and six weeks after confinement. The object of the Payment of Gratuity Act, 1972, is to provide a scheme for the payment of gratuity to employees employed in factories, mines, oil fields, plantations, ports, railways, shops and establishments. All employees who have rendered a minimum of 5 years’ continuous service in the above mentioned establishments are entitled to gratuity at the time of superannuation, retirement, resignation, death or if they leave their job due to accident, disease or disablement. Under the Act, employers are required to pay gratuity at the rate of 15 days’ wages for every completed year of service subject to a maximum of rupees ten lakhs.

Besides social security benefits, efforts have also been made to provide ample opportunities for employment and for workers’ education. The Apprenticeship Act, 1961, was enacted to supplement the programme of institutional training by on-the-job training and to regulate the training arrangement in industry. Under this Act, it is a statutory obligation on all employers in the notified industries to engage apprentices as per the ratio prescribed for the designated trades. Employment exchanges play an important role for the job-seekers. The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1969, has made it obligatory on the part of the employers to notify vacancies occurring in their establishments to the prescribed employment exchanges before they are filled. A voluntary workers’ education scheme was launched in our country in 1958 to educate the workers in trade union philosophy and methods, their rights and duties, and so on. This scheme is administered through a tripartite semi-autonomous body known as the Central Board for Workers’ Education.

Substantial steps have been taken to fulfil the object of Article 42 of the Constitution. The Factories Act, 1948, provides for health, safety, welfare, employment of young persons and women, hours of work for adults and children, holidays and leave with wages. Labour welfare funds have been set-up to provide welfare facilities to the workers employed in different mines such as coal, mica, iron ore and limestone. The Contract Labour (Regulation and Abolition) Act of 1970, a piece of social legislation, provides for the abolition of contract labour wherever possible and to regulate the conditions of contract labour in establishments or employment where the abolition of contract labour system is not considered feasible for the time being. The Act provides for licensing of contractors and registration of establishments by the employer employing contract labour.

Article 43 of the Constitution provides for a living wage. To provide social justice to the unorganised labour and to prevent exploitation, the Minimum Wages Act, 1948, was enacted. It provides for the fixation of minimum rates of wages by the
Constitutional and Legal Framework of Industrial Relations

Central or State governments within a specified period for workers employed in certain scheduled employments. These rates vary from state to state, area to area and from employment to employment. The minimum wage in any event must be paid irrespective of the capacity of the industry to pay. Living wage is the higher level of wage and naturally, it would include all amenities which a citizen living in a modern civilised society is entitled to. Fair wage is something above the minimum wage which may roughly be said to approximate to the need- based minimum wage. It is a mean between the living wage and the minimum wage.

3.3 INDUSTRIAL RELATIONS STATUTES

In every industrialised country, legislation has been passed to perform such functions as fixing minimum wages or maximum hours, or providing health and safety requirements, or requiring payroll deductions for social security and other welfare programmes.

Generally speaking, industrial relations statutes in most of the countries affirm the right of employees to form unions of their own choosing and to engage in collective action for the purpose of reaching an enforceable written agreement with the management, covering the terms and conditions of employment, and settlement of disputes between the conflicting parties. The statutes also provide legal protection to the employees and their unions, define the boundaries of the negotiation process, and declare certain behaviour and activities of both parties to be unfair labour practices. In addition to statutes, there are administrative and judicial interpretations of these laws that govern the labour-management relations.

Employer-employee relationship is rooted deep in history. Ever growing importance of today’s labour relations problems calls for emphasis on labour legislation and the interplay of human and business relations of which it is a part. Labour legislation is a body of general principles; the effective application of which is important both to workers and management. Labour laws constitute the kingpin in the present day labour relations. It includes all the controls that regulate, direct, and protect management and labour. It stems from many union and state laws. It is a whole complex of principles, rules and regulations under which the management and labour operate. The labour law framework includes: (i) constitutional requirements which the courts interpret; (ii) statutes enacted by Parliament, and (iii) court decisions interpreting statutes. Today, this large and constantly growing body of labour legislation is of pivotal importance to our employers, employees, and the government.

3.4 SOCIAL JUSTICE

In industrial adjudication, the concept of social justice has been given wide acceptance. Different views have been expressed by different authorities about the exact meaning and scope of this concept. According to the Supreme Court, it was a vague and indeterminate expression and that no definition could be laid down which would cover all situations.

Social justice is difficult to define in concrete terms because of its relative character. It varies from one person to another, and from one judge to another, depending upon the individual judge’s orientation, upbringing and values.
According to Justice Holmes, social justice is “an inarticulate major premise which is personal and individual to every court and every judge.” Bhagwati J. speaking for the Supreme Court, in *Muir Mills Ltd. vs. Suti Mill Mazdoor Union* (1955-I LLJ-1), observed... “the concept of social justice does not emanate from the fanciful notions of any particular adjudicator but must be founded on a more solid foundation.”

In *Punjab National Bank Ltd. vs. Industrial Tribunal* (1957-I LLJ 455), it was observed by the Supreme Court that social justice does not mean that reason and fairness must always yield to the convenience of a party in an adjudication proceeding.

It was held by the Supreme Court in the case of *Rashtriya Mills Mazdoor Sangh vs. Appollo Mills Ltd.* (1960-II LLJ 263), that social justice is not based on contractual relations and is not to be enforced on the principles of contract of service. It is something outside these principles, and is invoked to do justice without a contract to back it.

However, in one of its later decisions in *J. K. Cotton Spinning and Weaving Mills Co. Ltd. vs. Labour Appellate Tribunal* (1963-II LLJ 436), the Court assigned a more broader and positive role to the concept of social justice in industrial adjudication in these words: “The concept of social justice is not narrow, or one-sided or pedantic, and is not confined to industrial adjudication alone. Its sweep is comprehensive. It is founded on the basic ideal of socio-economic equality and its aim is to assist the removal of socio-economic disparities and inequalities,... nevertheless, in dealing with industrial matters, it does not adopt a doctrinaire approach and refuses to yield blindly to abstract notions, but adopts a realistic and pragmatic approach. It, therefore, endeavours to resolve the competing claims of employers and employees by finding a solution which is just and fair to both parties with the object of establishing harmony between capital and labour, and good relationship.”

The application of the concept of social justice in the interpretation of provision of a statute was laid down by the Supreme Court in the case of *Firestone Tyre and Rubber Co. of India (Pvt.) Ltd. vs. The Management* (1973-I LLJ 278). The Court held that in industrial adjudication the notion of social justice may, to a certain extent, be taken into consideration while dealing with contractual obligations or matters like bonus, wages, gratuity, etc. But in construing the provisions of the welfare legislation, what the courts should do is to adopt what is described as a beneficent rule of construction. In other words, if two constructions are reasonably possible to be placed on a provision, the construction which furthers the policy and object of the legislation and is more beneficial to the employees has to be preferred. This is because the legislation which intends to improve and safeguard the service conditions of an employee demands an interpretation liberal enough to achieve the legislative purpose.

In a democratic society, administration of justice is based on the rule of law, which, as conceived by modern jurists, is dynamic and includes within its imports social justice. It has been given a place of pride in our Constitution. The philosophy of social justice has now become an integral part of industrial jurisprudence. The concept of social justice is a very important variable in the function of industrial relations. In a welfare state it is necessary to apply the general principles
of social and economic justice to remove the imbalances in the political, economic and social life of the people.

**ILO — In Pursuit of Social Justice**

The International Labour Organisation (ILO) was set-up in 1919 by the Versailles Peace Conference as an autonomous body associated with the League of Nations. The ILO was the only international organisation that survived the Second World War even after the dissolution of its parent body. It became the first specialised agency of the United Nations in 1946 in accordance with an agreement entered into between the two organisations. India has been a member of the ILO since its inception. A unique feature of the ILO, as distinct from other international institutions, is its tripartite character.

The aims and objectives of ILO are set out in the preamble to its Constitution and in the Declaration of Philadelphia (1944) which was formally annexed to the Constitution in 1946. The Preamble affirms that universal and lasting peace can be established only if it is based upon social justice. It draws attention to the existence of conditions of labour involving injustice, hardship and privation of a large number of people. Also, it declares that improvement of these conditions is urgently required through such means as the regulation of hours of work; prevention of unemployment; provision of an adequate living wage; protection of workers against sickness, disease, and injury arising out of employment; protection of children, young persons and women; protection of the interests of migrant workers; recognition of the principle of freedom of association; and organisation of vocational and technical education. Further, the Preamble states that the failure of any nation to adopt human conditions of labour is an obstacle in the way of other nations desiring to improve labour conditions in their own countries.

The Philadelphia Charter is a reaffirmation of the principles on which the Organisation was originally based and declares that labour is not a commodity; that freedom of expression and association is essential to sustained progress; that poverty anywhere constitutes a danger to prosperity everywhere; and that the war against want requires to be carried on with unrelenting vigour within each nation and by continuous and concerted international effort in which the representatives of workers and employers enjoying equal status with those of government join in free discussion and democratic decision for the promotion of common welfare. The Declaration reiterates that the central aim of national and international policy should be the attainment of social justice. In the words of the Declaration, social justice meant, “all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity of economic security and equal opportunity.”

The three main functions of the ILO are: (i) to establish international labour standards; (ii) to collect and disseminate information on labour and industrial conditions; and (iii) to provide technical assistance for carrying out programmes of social and economic development. From the very beginning, the ILO has been confronted with the tremendous task of promoting social justice by improving the working and living conditions of labour in all parts of the world.
The ILO consists of three principal organs, namely, the International Labour Conference, the Governing Body, and the International Labour Office. The work of the Conference and the Governing Body is supplemented by that of Regional Conferences, Regional Advisory Committees, and Industrial Committees. The meetings of the General Conference, held normally every year, are attended by four delegates from each member state, of whom two are government delegates and one each representing respectively the employers and the work people of the state.

The International Labour Conference is the supreme organ of the ILO and acts as the legislative wing of the Organisation. The General Conference elect the Governing Body, adopt the Organisation’s biennial programme and budget, adopt international labour standards in the form of Conventions and Recommendations and provide a forum for discussion of social and labour issues. The Governing Body is the executive wing of the Organisation. It appoints the Director-General, draws up the agenda of each session of the Conference and examines the implementation of member countries of its Conventions and Recommendations. The International Labour Office, whose headquarters are located at Geneva, provides the secretariat for all conferences and other meetings and is responsible for the day-to-day implementation of the administrative and other decisions of the Conference, and the Governing Body. The Director-General is the chief executive of the International Labour Office. An important aspect of its work relates to the provision of assistance to member states. It also serves as a clearing house of information on all labour matters.

In order to achieve its objective, the ILO has relied on its standard-setting function. The international labour standards take the form of Conventions and Recommendations. The general assembly of the ILO, which comprises representatives of all the member countries, the trade unions and the employers’ organisations, have vowed to protect, promote, and realise the fundamental rights of labour. These are known as the International Labour Standards (ILS). These standards deal with the rights of human beings at work. There are certain basic rights that workers all over the world are entitled to. These rights are an outcome of the workers’ struggles over the ages. It is found that there are certain common labour standards that apply to workers all over the world. These basic rights are applicable to all the member countries of the ILO, irrespective of their levels of economic development.

The labour standards of ILO can be classified into five categories. These are: (i) freedom of association; (ii) effective recognition of the right to organise and participate in collective bargaining; (iii) elimination of all forms of forced and compulsory labour; (iv) effective elimination of child labour; and (v) elimination of discrimination in respect of employment.

A Convention is a treaty which, when ratified, creates binding international obligations on the country concerned. On the other hand, a Recommendation creates no such obligation but is essentially a guide to national action. The ILO adopted a series of Conventions and Recommendations covering hours of work, employment of women, children and young persons, weekly rest, holidays, leave with wages, night work, industrial safety, health, hygiene, labour inspection, social security, labour-management relations, freedom of association, wages and wage fixation, productivity, and employment. The conventions adopted by the
ILO constitute the international labour standards. Their purpose is to maintain certain basic minimum standards, worldwide.

One of the fundamental obligations imposed on governments by the Constitution of the ILO is that they must submit the instruments before the competent national or state or provincial authorities within a maximum period of 18 months of their adoption by the Conference for such action as might be considered practicable. These dynamic instruments continue to be the principal means at the disposal of the ILO to strive for establishing a just, democratic and changing social order necessary for lasting peace. In fact, these instruments have been included in the category of “international labour legislation”. These Conventions and Recommendations taken together are known as the “International Labour Code”. Wilfred Jenks describes the International Labour Code as the corpus juris of social justice.

India has been one of the founder-members of the ILO and has been taking active part in its deliberations. The ILO has influenced India and India has influenced the ILO. The ILO has adopted 184 Conventions and 191 Recommendations till December 2001. Out of 184 Conventions, India has ratified 36 Conventions. Conventions ratified by India have been incorporated in the existing legislation. Conventions not ratified by India have indirectly guided and shaped the Indian labour legislation in far-reaching manner. The ILO standards have a decisive impact on the factory, mines, social security and wage legislation in India. The Conventions concerning basic human rights have considerable influence on Indian law and practice. The Conventions have formed the sheet-anchor of Indian labour legislation, especially after 1946, when the Indian National Government assumed office at the Centre.

The ILO has greatly influenced the trade union movement and industrial relations in our country. The AITUC owes its immediate origin to it. It is instrumental in improving the lot of the working class in our country. India’s commitment to the ILO is reflected in its adherence to the institution of tripartism as a novel method for resolving labour-management conflicts. ILO and India have common aims, common goals and common destiny, as both of them are committed to world peace, freedom, and social justice. Both are striving for the socio-economic betterment of the long suffering, and under-privileged people. In essence, there is a close resemblance between the ILO Philadelphia Charter of 1944 and the Fundamental Rights and the Directive Principles of State Policy under the Indian Constitution. All these basic documents enshrine the principles of freedom, individual dignity and social justice.

### 3.5 ROLE OF LAW

According to justice Gajendragadkar, law is a social institution involving both discovering by experience and conscience making. Basically, therefore, it considers legal institutions, doctrinaires, and precepts from a functional point of view.

In India, while there has been a large degree of agreement on the need for reform, areas for reform and nature of the reforms required in those areas, major disagreement exists as to the part that the law should play in any scheme of reforms. One view has been that any such reforms should not include any new
Conceptual Framework of Industrial Relations

legislation. But majority view has always envisaged the introduction of some new legislation and any legislative reform by definition involves the law.

There are basically two schools of thought concerning the role of the law in industrial relations. On the one hand, there are those who believe that the law should fulfil an abstentionist role; that is the substantive matters of industrial relations should be regulated by the parties themselves free from legal constraint or obligation. On the other hand, there is the view that the law should be a main instrument of directing and controlling the system. If the system is acknowledged to be in need of reform, then the law should be the instrument of that reform. This view implies an extensive system of regulatory legislation directing the parties in their activities and forcing changes wherever necessary.

The distinction between these two views does not lie in the presence or absence of the law. All systems of industrial relations have a legal framework if they operate within a legal system. The legal framework may take the form of recognizing the development of certain institutions and remove any impediments to their existence. The role of law in an industrial relations system may be perceived by the extent to which it attempts to regulate relationships, the extent to which it is obligatory rather than optional, and the attitudes of the parties to the legal system.

The legal framework within which industrial relations operates is in a constant state of flux. State and central legislation affecting industrial relations is a never-ending phenomenon. Quasi-judicial bodies such as the labour courts and industrial tribunals on both the central and state levels hand out rulings that are in turn ruled upon by the hierarchy of courts.

3.6 SUMMARY

- It is gratifying to note that apart from the fundamental rights, our Constitution embodies within itself, in Part IV, Directive Principles of State Policy.
- The functions and duties of the States as contained in the Directive Principles have given rise to concept of social justice.
- The old idea of laissez faire has given place to a new idea of welfare state.
- The philosophy of social, economic, and political justice has been given a place of pride in our Constitution, as well as in the aims and objectives of ILO.
- The development and growth of industrial law presents a close analogy to the development and growth of constitutional law.
- A series of labour enactments covering labour welfare and social security were enacted for protecting and promoting the overall welfare of different categories of working class.

3.7 SELF-ASSESSMENT QUESTIONS

1) What are the consequences of labour being included in the concurrent list of the Indian Constitution?
2) In industrial adjudication, the concept of social justice has been given a place of pride. Discuss.

3) ILO is in pursuit of social justice. Comment.

3.8 CHECK YOUR PROGRESS

State whether the following statements are True or False:

1) Labour is in the Union List on which both the centre as well as the states have no power to make laws.
2) Social security is not guaranteed in our Constitution under any of its Articles.
3) In a democratic society, administration of justice is based on the rule of law, which as conceived by modern jurists as dynamic and includes within its ambit social justice.
4) The ILO has greatly influenced the trade union movement and industrial relations in India.
5) The legislative wing of the ILO is its governing body.

Answers:


3.9 FURTHER READINGS


UNIT 4 LABOUR ADMINISTRATION IN INDIA

Objectives

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

• explain the concept of labour administration in the Indian context
• trace the evolution of India’s labour policy and its main postulates
• understand the role of various administrative agencies in implementing the policy decisions

Structure

4.1 Introduction
4.2 Evolution
4.3 Indian Context
4.4 Labour Policy
4.5 Administrative Agencies
4.6 Attached Offices
4.7 Subordinate Offices
4.8 Autonomous Organisations
4.9 Summary
4.10 Self-Assessment Questions
4.11 Check Your Progress
4.12 Further Readings

4.1 INTRODUCTION

Labour administration is a wide term. It is primarily concerned with labour affairs and administration of social policy. The meeting of experts on labour administration held in Geneva in October, 1973 felt that to deal with the major substantive programmes of labour administration, there should be central specialised units for each of the following:

a) Labour protection (formulation of standards relative to working conditions and terms of employment, including wages);

b) Labour inspection;

c) Labour relations;

d) Employment of manpower, including training; and possibly

e) Social security.

4.2 EVOLUTION

Labour administration is not simply the responsibility of the department of labour. Many agencies and government departments such as chambers of commerce, factory and mines inspectorate, social insurance directorate, and department of
human resource development and education are involved in it. In some countries, the organisations of employers and workers are also involved in the administration of labour matters. But, it is primarily the responsibility of the department of labour to lay down, develop and apply sound labour policies, co-ordinate various recommendations received from various departments which have a bearing on labour affairs. Formulation of policy decisions are based on consultation with other interests (particularly of employers’ and workers’ organisations) and of research and field investigation. Most of the labour policy proposals may emanate from the minister of labour himself or from his department. The department of labour is the body which receives most such proposals and initiates the preparatory process. In some cases, labour courts, arbitration bodies and different adhoc commissions can be regarded as forming part of the labour administration machinery, though they are usually outside the department of labour. These bodies are either bipartite or tripartite in character.

Most of the work done in department of labour is either professional or technical. The meeting of experts on labour administration viewed that labour administration officials in particular services should have the basic academic qualifications required for such services (especially in law, economics, sociology, administrative sciences, psychology, statistics, actuarial sciences, medicine, engineering and so forth). The exact qualifications required for each post can be determined by the government of each country.

It is a part of the job of labour administrator to give effect to laws governing employment and conditions of work. Labour legislation is a necessary instrument for a governments’ administration of labour affairs. Standards established by legislation may be further developed, complemented or applied through administrative action. Legislation automatically entails the prescribing of procedures for enforcement and imposition of penalties. A system of law is a guarantee for people’s personal safety, liberties and rights. To maintain respect for the law in general, the laws that are adopted must be strictly applied, without fear or favour. Labour administrators have a fundamental duty to uphold the rule of law at all times. To inculcate a respect for the law, they must also remember the old maxim that justice must not only be done, but must manifestly be seen to be done.

Labour law does not consist entirely of laws produced by law makers. Unwritten customary and case law deriving from generations of judicial practice also play a role, particularly with regard to contracts, torts and the right to receive compensation for damages. There are countries where the entire labour legislation has been codified covering entire gamut of labour laws and labour administration. The greater number of non-statutory legal requirements in the labour field are derived from the practice of industrial relations. A highly developed system of collective bargaining operated by strong organisations of employers and workers can cut out much of the need for subsidiary regulations. There are various ways in which collective agreements amplify the law and serve as an alternative to statutory rule making. Two basic principles governing such collective agreements are: (a) there should be no conflict between the agreement and the law; (b) better terms and conditions will prevail, i.e., an agreement may grant employees conditions more favourable than the minimum laid down by the law of the land.
It is a basic principle of modern law that, to be valid, a contract has to involve a “consideration”, i.e., something to be given in return for the other party’s performance of the contract; this is usually wages, rent or purchase price. There are various forms of contract of service, whether written or verbal.

In certain countries, collective agreements are contracts binding on the parties. They would not supersede the “contracts of service” of employers and workers who were not parties to the agreement. However, in many countries the legislation now states that the terms of collective agreements with unions that enjoy recognised bargaining status shall be deemed to be legally binding on all persons in the specified occupations in the industry or service for which the agreement was made. In such countries and in such cases the agreements can be enforced in the courts. Consequently, in the latter case, labour inspectors are also involved in enforcing these conditions just like the minimum conditions laid down by law.

### 4.3 INDIAN CONTEXT

In the Government of India (Amendment) Act, 1919, the Central Legislature was given the power to legislate in respect of practically all labour subjects. The Provincial Governments were empowered to legislate only in respect of those labour matters which were classified as Provincial. But they were required to take the sanction of the Governor General in respect of these subjects also. All labour legislation was enacted by the Central Legislature during this period.

When the Whitley Commission reported in 1931, the bulk of the labour problems within the jurisdiction of the Government of India was dealt with by the then department of industries and labour under the charge of a member of the Governor General’s Executive Council. Its administrative head was a secretary to government. While ‘Industries and Labour’ was a short title for the department, it dealt with a variety of subjects, such as posts and telegraphs, public works, civil aviation, patents and copyright and broadcasting. The department, however, did not cover all labour within the jurisdiction of the Central Government. Questions relating to labour in docks, and transport by sea or inland water, were the concern of the commerce department; matters pertaining to the railway labour were dealt with by the Chief Commissioner for Railways. The department of education, health and lands looked after emigrant labour. In the Chief Inspector of Mines, the department of industries and labour had an adequate source of advice on all subjects relating to mining labour. No specialist advice was considered necessary on the conditions of work in factories, workmen’s compensation, trade unions and trade disputes. Administration of such legislation as was there on these matters was the responsibility of the governments of presidencies/provinces.

In the provinces, the labour portfolio was handled by a member of the executive council who was responsible also for other subjects. Labour problems had acquired neither the vastness nor the complexity to warrant the attention of a full-time member. Except in some industrially advanced provinces which had their respective labour officers for the limited responsibilities they had to carry, no specialised agency existed for administration. It is in this context that the Whitley Commission recommended the setting up of the office of the labour commissioner in the provinces.
On the introduction of provincial autonomy under the Government of India Act, 1935, labour was included in the concurrent list. Accordingly, central legislature was empowered to enact labour legislation in respect of matters exclusively included in the federal list and central and state legislatures were given authority to enact legislation in respect of all other labour matters.

When popular ministries took over administration under the Government of India Act, 1935, labour problems started attracting more attention. The appointment of the labour commissioner in industrially important provinces as recommended by the Whitley Commission did help labour. However, problems of co-ordination still remained. The Labour Ministers’ Conference and the Indian Labour Conference Standing Labour Committee (I.L.C./S.L.C.) which were the products of the forties, partly met this need. With the impact of the Second World War, the machinery for labour administration at the centre expanded. According to the Rege Committee, which reported on the eve of Independence, the institution of labour officers under the commissioners of labour to whom workers could represent their grievances, was well established in most provincial governments.

The Government of India appointed, under its chief labour commissioner, a number of regional labour commissioners and conciliation officers who were entrusted with the duties of settling labour disputes. The chief labour commissioner’s organisation had also an inspectorate for supervising the implementation of labour laws. The Government of India appointed labour welfare advisers in its ordnance factories. An advisory service was constituted at the centre for the factory inspectorates in the states which were operating under the auspices of the state governments.

The Labour Bureau was established for collection, compilation and publication of statistical and other information regarding employment, wages, earnings, industrial relations, working conditions, and so on. A network of National Employment Service and Training Institutes were set-up. The Five-Year Programme for Labour (1946) had many elements in it requiring the strengthening of the administration and intensifying its operations. The legislative support given to the programme resulted in (a) the creation of administrative machinery for the implementation of new enactments; and (b) the strengthening of the then existing set-up to cope up with the additional functions entrusted to it. The expanding operations of the tripartite bodies also added new responsibilities.

The beginning of World War II in 1939 necessitated the creation of an adequate and contented labour force in order to maximise production for meeting the increased demand of Indian manufactured goods. The central government therefore, assumed wide powers to control and regulate the industrial labour welfare. The labour department was strengthened and a machinery to deal with industrial relations was created. An integrated re-settlement organisation for demobilised war personnel was established. For advising the government to improve working conditions in factories, a Chief Adviser of Factories was appointed. A new department of works, mines and power was created and certain subjects which were having only an indirect bearing on labour were transferred to this department. This lessened the burden of the labour department. In pursuance of the decisions of the Provincial Labour Minister’s Conference in 1946, the central ministry of labour chalked out a five year programme of legislative and administrative measures for improving the health, efficiency and working conditions of the labourers.
At present there is a tripartite labour machinery. It consists of the Indian Labour Conference, the Standing Labour Committee, the Industrial Committees, and a few other committees of a tripartite nature. Labour Ministers’ Conferences are also associated with it. There is also a bipartite joint consultative committee of the Ministry of Labour and Employment. In addition, there are committees and boards such as Committee on ILO Conventions, Central Implementation and Evaluation Committee, Steering Group on Wages, Wage Board, Central Board for Workers’ Education, and Central Committee on Labour Research.

According to the Constitution of India, the enactment and administration of labour laws is the responsibility of both the Union and State Governments. There are three lists, viz., the Union List, the Concurrent List and the State List adopted in the Constitution. Laws concerning the union, are made both by parliament and legislature of any state and the laws of the state list are made by states’ legislatures. The following are the principal matters of labour interest enumerated in each of these lists:

**Union List**

1) Participation in international conferences, associations and other bodies and implementing decisions made there at;
2) Port quarantine, including hospitals connected therewith, seamen’s and marine hospitals;
3) Regulation of labour and safety in mines and oilfields;
4) Industrial disputes concerning union employees;
5) Union agencies and institutions for:
   a) professional, vocational or technical training; and
   b) the promotion of special studies or research.
6) Enquiries, surveys and statistics for the purpose of any of the matters in this list.

**Concurrent List**

1) Economic and social planning;
2) Trade Unions, industrial and labour disputes;
3) Social security and social insurance; employment and unemployment;
4) Welfare of labour, including conditions of work, provident fund, employers’ liability, workmen’s compensation, invalidity and old age pensions, and maternity benefits;
5) Vocational and technical training of labour;
6) Factories; and
7) Inquiries and statistics for purposes of any of the matters specified in the concurrent list and the state list.

**State List**

1) Public order;
2) Public health and sanitation, hospitals and dispensaries; and
3) Relief of the disabled and unemployable.
The governments of all the states have established organisations for the administration and enforcement of the various labour laws in force in their territories and for the collection, compilation and dissemination of statistical and other information relating to labour. Every state has appointed labour commissioners for the purpose of administration of labour laws and welfare activities in their respective areas. These commissioners are assisted by deputy labour commissioners and/or assistant labour commissioners. Most of the states have also appointed chief inspectors of factories and chief inspectors of boilers to administer the Factories Act, 1948 and the Indian Boilers Act, 1923 respectively. In addition, they have appointed commissioners of employees’ compensation under the Employees’ Compensation Act, 1923 and registrars of trade unions under the Trade Unions Act, 1926 and various other authorities with a view to discharging labour administration work in their respective jurisdictions. Certain states have also special machinery for the collection of labour statistics.

4.4 LABOUR POLICY

The term “labour policy” has no precise definition, but in Webster’s New International Dictionary, the term means general principles by which any government is guided in the management of its affairs relating to labour or the working class. Normally, the labour policy of a country would include all the principles underlying the dealings of a government with labour matters, such as employment, training, wages, working conditions, trade unions, industrial relations, labour welfare, social security, industrial housing, and the like. Labour policy is more and more used as an instrument to give direction to industrial economy and to steer it along a set course. The contents of a labour policy vary from country to country depending upon a host of factors, and there is nothing like world labour policy.

As such, “labour policy” evokes a number of overlapping concepts; partly these relate to goals of policy and in part to the means and instruments of implementation. There are, however, constraints in setting goals as well as on means and instruments. The term “labour policy” includes the treatment of labour under constitutional, legislative and administrative acts, rules and practices, and various precepts laid down in the successive five year plans.

The labour policy of a country is a product of her history, tradition, political orientation, and socio-economic conditions and is highly influenced by the development objectives pursued by her government. It is an on-going process of adjustment corresponding to different stages of economic development and the power struggle between the social forces i.e. government, employers, and the trade unions.

The labour policy in India derives its philosophy and content from the Directive Principles of State Policy as laid down in the Constitution and has been evolving in response to the specific needs of the situation and to suit the requirements of planned economic development and social justice. It has two-fold objectives, namely maintaining industrial peace and promoting the welfare of labour.

In recognition of its duty to protect the working class and promote its welfare, a blueprint on labour policy- a five year programme for labour- was drawn up in 1946 when the interim national government came to power at the centre. In the
course of a debate in the Central Legislative Assembly in 1946, Shri Jagjivan Ram, the member in charge of labour, revealed that government had formulated a plan for bringing about essential reforms in the interest of the working classes of India. The main features of the proposed programme were:

- “Statutory prescription of minimum wages in sweated industries and occupations and in agriculture.
- “Promotion of ‘fair wage’ agreements.”
- “Steps to secure for workers in plantations a living wage.”
- “Reduction in the hours of work in mines to bring the working hours in line with the hours of work in factories which have been recently reduced from 54 to 48 a week.”
- “Legislation to regulate hours of work, spread-over, weekly rest periods and holidays with pay for other classes of workers not now subject to regulation, e.g., those employed in shops and commercial undertakings, road transport services, docks and municipal labour.”
- “Overhaul of the Factories Act with a view to the prescription and enforcement of right standards in regard to lighting, ventilation, safety, health and welfare of workers. Conditions of work are to be improved, particularly in unorganised industries and work places, to which the present Factories Act does not apply.”
- “Revision of the Mines Act to bring about similar improvement in the working conditions in mines.”
- “Organisation of industrial training and apprenticeship schemes on a large scale with a view to improving the productive and earning capacity of workers and enabling them to qualify for promotions to higher grades.”
- “Provision of adequate housing for workers to the extent of the resources, both of manpower and materials, that can be made available for this service.”
- “Steps to secure for workers in plantations, mining and other categories provision of housing.”
- “Organisation of the Health Insurance Scheme, applicable to factory workers to start with, for the provision of medical treatment and monetary relief during sickness, maternity benefit on an extended scale, medical treatment in the case of disablement and the substitution of pensions during periods of disablement and to dependents, in case of death, in place of the present lumpsum payments.”
- “Revision of the Workmen’s Compensation Act with a view to extending to other classes of workers the benefit provided for under the health insurance scheme in respect of disablement and dependent benefits.”
- “A central law for maternity benefits to secure for other than factory workers the extended scale of benefits provided under the health insurance scheme.”
- “Extension to other classes of workers the right, within specified limits, to leave with allowance during periods of sickness.”
- “Provision of creches and canteens.”
• “Welfare of the coal mining labour and welfare of the mica mining labour.”
• “Strengthening of the inspection staff and the inspectorate of mines.”

As would be seen from subsequent events, many elements of the programme were given legislative support in the years 1947 to 1952. The Constituent Assembly which was set up soon after Independence took note of the Plan in its deliberations. The Constitution finally adopted, contained several articles which reflect the general desire of the community to stand by the working class. Articles 36 to 51, Part IV of the Indian Constitution, makes provisions regarding the Directive Principles of State Policy. They reflect the principal goal of our sovereign democratic republic and a welfare state. Along with the chapter on the fundamental rights, it constitutes the essence of the Indian Constitution. These two chapters are the conscience keepers of our Constitution.

The Directive Principles are directives to the various governmental agencies to be followed in the governance of the country. It shall be the duty of the Government to treat these principles as guidelines while enacting, administering and interpreting the laws. They guide the path which will lead the people of India to achieve the ideals of justice, liberty, equality and fraternity.

The provisions contained in the Directive Principles shall not be enforceable by any Court, but they are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws. The Directive Principles, however, differ from fundamental rights contained in Part III of the Constitution or the ordinary laws of the land in the following respects:

a) The Directive Principles are not enforceable in the courts and do not create any justiciable rights in favour of individuals.

b) The Directive Principles require to be implemented by legislation, and so long as there is no law carrying out the policy laid down in a directive, neither the State nor an individual can violate any existing law or legal rights under cover of following a directive.

c) The court cannot declare any law as void on the ground that it contravenes any of the Directive Principles.

d) The courts are not competent to compel the government to carry out any directive or to make any law for that purpose.

The 13 member Bench in Keshavanada’s case laid down certain broad propositions on Fundamental Rights. These are:

a) There is no disharmony between the Directive Principles and the Fundamental Rights, because they supplement each other in aiming at the same goal of bringing about a social revolution and the establishment of a welfare state.

b) Even the conditions for the exercise by each individual of his fundamental rights cannot be ensured unless and until the Directive Principles are implemented.

c) Parliament is competent to amend the Constitution to override any of the Fundamental Rights in order to enable the State to implement the Directive Principles, so long as the basic features of the Constitution are not affected.
The Directive Principles cannot override the Fundamental Rights. In determining the scope and ambit of the Fundamental Rights, the Court may not entirely ignore the Directive Principles and should adopt the principle of harmonious construction so as to give effect to both as much as possible.

The Directive Principles of State Policy, which have a bearing on labour, are contained in articles reproduced below:

“38. (a) The state shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.”

“38. (b) The state shall, in particular, strive to minimise the inequalities in status.”

“39. The State shall, in particular direct its policy towards securing:
   a) That citizens, men and women equally, have the right to an adequate means of livelihood.
   b) That there is equal pay for equal work for both men and women.
   c) That the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment.
   d) That the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter a vocation unsuited to their age or strength.
   e) That childhood and youth are protected against exploitation and against moral and material abandonment.”

“41. The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.”

“42. The State shall make provision for securing just and humane conditions of work and for maternity relief.”

“43. The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities, and in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.”

Under the Constitution, the legislative powers in different fields of government activity are shared by the central and state governments, in accordance with the lists which form a part of the Constitution — the union list, the concurrent list and the state list. The parliament has exclusive powers to make laws on matters enumerated in the union list. The state legislatures have powers to legislate for the state or any part thereof on any matter enumerated in the state list. Both the parliament and the state legislatures have powers to make laws with respect to matters enumerated in the concurrent list. To avoid a possible conflict, certain
safeguards are provided for subjects on which both centre and state can legislate. Labour is a subject which is included in the concurrent list.

The legislative support for the programme was given partly by (i) strengthening the then existing legislation through suitable amendments, (ii) overhauling some of it, and (iii) supplementing it by new statutes where none had existed before. The important pieces of labour legislation which evolved through all these processes could be divided into the following main groups:

i) Legislation about employment and training such as the Dock Workers Regulation of Employment Act, 1948; the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959; the Apprentices Act, 1961; the Tea District Emigrant Labour Act, 1932, and so on.

ii) Legislation on working conditions: This covers the Factories Act, 1948; the Plantations Labour Act, 1951; the Mines Act, 1952; the Motor Transport Workers’ Act, 1961; and legislation relating to safety of workers, like the Indian Dock Labourers’ Act, 1934. There have been Acts like the Children (Pledging of Labour) Act, 1933; the Employment of Children Act, 1938; the Madras Bidi Industrial Premises (Regulation of Conditions of Work) Act, 1958; the Kerala Bidi and Cigar Industrial Premises (Regulation of Conditions of Work) Act, 1961, so on.

iii) Legislation on labour management relations such as the Trade Unions Act, 1926; the Industrial Employment (Standing Orders) Act, 1946; the Industrial Disputes Act, 1947; and legislation enacted in some States like the Bombay Industrial Relations Act, 1946; the UP Industrial Disputes Act, 1947; the Madhya Pradesh Industrial Relations Act, 1960, and so on.

iv) Legislation on wages, earning and social security which covers the Payment of Wages Act, 1936; the Employees’ State Insurance Act, 1948; the Coal Mines Provident Fund and Bonus Act, 1948; the Minimum Wages Act, 1948; the Employees’ Provident Fund Act, 1952; the Assam Tea Plantations Provident Fund Schemes and Act, 1955; Working Journalists (Conditions of Service and Miscellaneous Provisions) Act; the Payment of Bonus Act, 1965; the Workmen’s Compensation Act 1923; and the Maternity Benefit Acts (Central and States).


vi) Miscellaneous Legislation — The Industrial Statistics Act, 1942, the Collection of Statistics Act, 1953, the Industrial Development and Regulation Act, 1951, the Companies Act, 1954 and so on.

The legislation mentioned above is illustrative and not exhaustive. It is possible that many state acts have not figured in the above list. In addition to this labour code, voluntary arrangements which are evolved in tripartite discussions have added to the benefits which are expected to accrue to labour. In this category fall the recommendations of the Indian Labour Conference, the Standing Labour
Conceptual Framework of Industrial Relations

Committee and Industrial Committees. The benefits which workers got out of the wage board awards so far owe their origin to the tripartite decision that the unanimous recommendations of Wage Board will be given effect to. The code of discipline, which provides for recognition of unions, setting up of a grievance procedure, has also been the result of a tripartite agreement. The arrangements for housing in plantations were evolved out of an agreement in the Industrial Committee on Plantations. The introduction of the workers’ education scheme, the setting up of fair price shops in industrial establishments, and the agreement on guidelines for introduction of rationalisation are some other important matters which have emerged out of tripartite agreements.

The evolution of labour policy, during the Five Year Plans, has been based upon and is linked with the programme of the over-all economic development of the country. The Planning Commission sought to give a concrete shape to the legitimate needs and aspirations of the working classes which included fair wages, suitable working and living conditions, social security, etc. With the acceptance of a socialistic pattern of society as the legitimate goal of economic development, there was a corresponding shift in the labour policy. This was reflected in the experiment of workers’ participation in management through the machinery of joint consultation. Another important shift in the labour policy was the emphasis on collective bargaining in the promotion of healthy industrial relations. The plans also laid stress on the administrative aspects of the enforcement and implementation machinery. Emphasis was also laid on voluntary approach to the solution of labour problems as witnessed by the promulgation of the Code of Discipline in Industry, Code of Conduct, Industrial Truce Resolution and the various recommendations of the tripartite bodies like the Indian Labour Conference, and the Standing Labour Committee.

According to the National Commission on Labour the main postulates of labour policy operating in the country in the last twenty years could be summed up as follows:

i) Recognition of the state, the custodian of the interests of the community, as the catalyst of “change” and welfare programmes.

ii) Recognition of the right of workers to peaceful direct action if justice is denied to them.

iii) Encouragement to mutual settlement, collective bargaining and voluntary arbitration.

iv) Intervention by the State in favour of the weaker party to ensure fair treatment to everything concerned.

v) Primacy to maintenance of industrial peace.

vi) Evolving partnership between the employer and employees in a constructive endeavour to promote the satisfaction of the economic needs of the community in the best possible manner.

vii) Ensuring fair wage standards and provision of social security.

viii) Co-operation for augmenting production and increasing ‘productivity.’

ix) Adequate enforcement of legislation.

tax) Enhancing the status of the worker in industry.
xi) Tripartite consultation.

The thrust of the recent labour policy is more towards creating a climate of healthy industrial relations and promoting an industrial culture conducive to improvement in efficiency, productivity and real wages.

### 4.5 ADMINISTRATIVE AGENCIES

The pattern of administrative machinery differs from state to state depending upon the industrial development in the state and also the state of development of employers’ and workers’ organisations. The administrative agencies for implementing the policies adopted by governments, the laws enacted by the parliament/state legislature, and decisions taken by tripartite bodies at the centre/states have been built up by (i) the central government, (ii) state governments, (iii) local bodies, and (iv) statutory corporation boards.

The authority to set up an agency will depend upon the statute to be administered or agreement to be enforced and the decision taken by governments and parties to the agreement as to how it should be administered. Tradition also has played its part in reaching decisions. Administrative convenience has been stated to be the main consideration behind the decisions so far. The fact remains, however, that no uniform basis is discernible in these decisions. For instance, though the central government lays down standards and exercises coordinating functions in the matter of employment and training, the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959, and the Apprentices Act, 1961, are administered by the State Governments. The Dock Workers (Regulation of Employment) Act, 1948, is administered by a statutory board. The centre is responsible for the administration of the Mines Act, 1952, and the Indian Dock Labourers Act, 1934, but other enactments having the same objective, viz., the Factories Act, 1948, the Plantations Labour Act, 1951, and the Motor Transport Workers Act, 1961, have been entrusted to the state governments for administration. There is yet a third variation — the enactment for regulating conditions of work in shops and commercial establishments which is a state legislation, is administered in some states through local bodies. Legislation on labour-management relations has been, by and large, the centre’s responsibility, but implementation is with the state governments except in regard to industries for which the central government is designated as the “Appropriate Government.” The Trade Unions Act, 1926, and to a great extent the Industrial Employment (Standing Orders) Act, 1946, are administered by the state governments.

Statutory corporation administers the Employees’ State Insurance Act, 1948, but workmen’s compensation cases or cases of maternity benefit not covered by the corporation are the responsibility of the state governments. The Employees’ Provident Fund Act, 1952, and the Coal Mines Provident Fund Scheme, 1948, have statutorily created by the central or state governments, but administrative departments share this responsibility in some cases. Some aspects of labour welfare are a direct charge on the central/state resources and the respective departments of labour make arrangements for using the appropriations made under this head from year to year. Funds for industrial housing and supervision and the appropriate use of these funds are again provided by the administrative departments.
Generally, the ownership of the unit, whether public or private, makes no
difference; as the central or state government has to be entrusted with
implementation of statutes. Goods or services which the unit provides and the
nature of right/duty cast on the party, become a criterion for attracting the
jurisdiction of the relevant agency. In the establishments owned by the central
government, the factory inspectorate of the state government enforces the
 provision of the Factories Act, 1948. For the departmentally run industrial
undertakings of the central government, the industrial relations are the concern
of the central government. On the other hand, industrial relations in central public
sector companies is a responsibility of the state government concerned.
Arrangements differ in the case of certification of standing orders. Public sector
industrial establishments in which the central government has 51% shares or
more, get them certified by a machinery of the central government.

The next agency for administration is local bodies. Their jurisdiction is limited;
it is restricted to providing the inspectorate for implementing the legislation about
shops and commercial establishments. Some local bodies manage transport
undertakings; many others run a host of services in public interest. But in these
functions they are in the position of an employer and not a third party for
administering labour legislation. The differences between the local bodies and
their employees are labour disputes within the purview of the Industrial Disputes
Act. In considering the responsibility of local bodies as administrators of labour
law, it is only the former function with reference to shops and commercial
establishments which is important. With the growing consciousness among the
employees covered by the Acts, as also the increase in the number of employees
in this category, the implementation arrangements will acquire a measure of
urgency in the years to come.

Government has set up independent corporations/boards for administering the
benefits under the welfare and social security legislation enacted by it. Such
corporations/boards have varying degrees of autonomy according to the
involvement of public funds in them. The policies for the working of these
agencies are settled by tripartite bodies set up for the respective corporations/
boards either under the relevant statute or by the government.

The Ministry of Labour and Employment of the central government is the main
agency for policy formulation and administration in all labour matters. Within
the government, the labour ministry inter alia initiates action on labour matters,
keeps parliament informed and seeks guidance from it. Further, it advises other
ministries/departments and the public sector corporations set up by them, keeps
in touch with the state governments, holds discussions with employers and
workers’ organisations for settling disputes, organises tripartite conferences,
controls the specialised directorates/agencies set up by it and generally looks
after the interests of labour consistent with the broader economic and social
policies of government. Other ministries/departments have the responsibility of
settling their own labour problems. The labour ministry comes in only in case of
difference of opinion between them. This is broadly the approach, both in regard
to departmental labour and labour engaged in units managed by the public sector.
The labour ministry is the channel of communication between the central
government and the International Labour Organisation in all matters of standard
setting at the international level and the administering of technical co-operation
programmes. The functions of the labour ministry have expanded with the
enlarged responsibilities of the Government as a whole. This is reflected in the increasing size of the ministry in the last thirty years.

The ministry of labour at the centre is responsible for looking after the subjects which appear in the union and concurrent lists of the Seventh Schedule of the Constitution of India. These subjects include industrial relations, wages, employment, emigration, labour welfare and social security measures for which the ministry has to formulate, review and implement national policies. It looks after (i) labour policy and legislation; (ii) safety, health and welfare of labour; (iii) social security of labour; (iv) policy relating to special target groups, such as women and child labour, and (v) employment services and vocational training. Its other responsibilities are those relating to enforcement of labour laws and conciliation of industrial disputes in the central sphere, constitution and administration of central government industrial tribunals and labour courts as well as national industrial tribunals, administration of the central labour service, and matters relating to employment of labour, tripartite labour conferences, and international labour.

Once the national policy is evolved, its implementation is generally the responsibility of the state governments, except matters falling exclusively in the central sphere, e.g., railways, mines, oil fields, major ports, banks, insurance companies (only in respect of those which have branches in more than one state) and other undertakings appearing in the union list and for which the central government has the direct responsibility in respect of labour relations. The ministry also implements, through its network of field offices, various social security and labour welfare enactments. For imparting training facilities for skills improvement, the ministry provides facilities for imparting such skills. The ministry also deals with the ILO and ISSA so as to bring the activities in the labour field to the international standards. The work relating to emigration of Indian workers for overseas employment is managed through the controller of emigration and his field offices.

### 4.6 ATTACHED OFFICES

The attached offices are responsible for the following important functions:

i) The Directorate General of Employment and Training is responsible for laying down the policies, procedures, standards and overall co-ordination of employment services and vocational training programmes throughout the country.

ii) The Chief Labour Commissioner (Central) is responsible for (a) prevention, investigation and settlement of industrial disputes in the central sphere; (b) enforcement of awards and settlements; (c) implementation of labour laws in industries and establishments in respect of which the central government is the appropriate government; (d) verification of membership of unions affiliated to the central organisation of workers for giving them representation on national and international conferences and committees; and (e) fixation and revision of minimum wages under the Minimum Wages Act, 1948 in the central sphere of scheduled employments.

iii) The Directorate General of Factory Advice Service and Labour Institutes is concerned with the safety, health and welfare of workers in factories and
docks. It is responsible for co-ordinating the implementation of the Factories Act, 1948, by the state governments and formulation of model rules thereunder. It is also concerned with the administration of the Dock Workers (Safety, Health and Welfare) Act, 1986. It undertakes research in industrial safety, occupational health, industrial hygiene, industrial physiology and industrial psychology. It provides training mainly in the field of industrial safety and health including diploma course of one year duration in industrial safety and certificate course in industrial health. The diploma is an essential qualification for appointment as a safety officer and the certificate course for appointment as medical officer in factories. Regular training of factory inspectors is another important training activity.

iv) The Labour Bureau is responsible for collection, compilation and publication of statistical and other information regarding employment, wages, earnings, industrial relations and working conditions. It also compiles and publishes the Consumer Price Index Numbers for industrial and agricultural workers. The Bureau also renders necessary assistance to the States for conducting training programmes in labour statistics at state/district/unit level.

### 4.7 SUBORDINATE OFFICES

These offices are responsible for the following functions:

i) The Directorate General of Mines Safety is entrusted with enforcement of the provisions of the Mines Act, 1952, and the rules and regulations framed thereunder. Besides, the maternity benefit rules framed under the Maternity Benefit Act, 1961 in respect of mines are also administered by this Directorate. The provisions of the Indian Electricity Act, 1910 as applicable to mines and oilfields, are also enforced by it.

ii) The offices of Welfare Commissioners are responsible for providing welfare facilities to the workers employed in the mica, lime-stone and dolomite, iron-ore, manganese and chrome ore mines and in the beedi and cinema industries.

iii) Industrial Tribunal-cum-Labour Courts have been set up under the provisions of the Industrial Disputes Act, 1947, for the adjudication of industrial disputes which fall in the central and the state sphere respectively. It is, however, open to the Central Government to refer a matter in relation to which it is the appropriate government to a labour court or industrial tribunal constituted by the state government.

iv) The Board of Arbitration (JCM), set up under the Scheme for Joint Consultative Machinery and Compulsory Arbitration, is an institution for compulsory arbitration of disputes between the government employees and the government on pay and allowances, weekly hours of work, leave, etc.

### 4.8 AUTONOMOUS ORGANISATIONS

The following autonomous organisations under the Ministry of Labour are responsible for the functions as given below:

i) The Employees’ State Insurance Corporation is responsible for the implementation of the Employees’ State Insurance Act, 1948, which provides
for medical care and treatment to members and their families, cash benefits during sickness, maternity and employment injury and pension to dependents on death of the workers due to employment injury.

ii) The Employees’ Provident Fund Organisation is responsible for implementing provident fund rules, family pension and deposit-linked insurance scheme under the Employees’ Provident Fund and Miscellaneous Provisions Act, 1952.

iii) The National Safety Council is a registered society to promote safety consciousness among workers through publicity and propaganda including audio-visual aids.

iv) The Central Board for Workers’ Education is a registered society dealing with the schemes of training of workers in the techniques of trade unionism and in bringing about consciousness among workers about their rights, duties and responsibilities. The Board has also undertaken programmes for rural workers’ education and functional adult education.

v) The National Labour Institute is a registered society. It conducts action-oriented research and provides training to grass root workers in the trade union movement, both in urban and rural areas, and also to officers dealing with industrial relations, personnel management, and labour welfare.


At the secretariat level, the functions of the department are more or less similar to those of the central ministry but confined to industries for which the state government is the appropriate government. While the state labour secretary is in overall charge both of policy and administration, the commissioner of labour in the state is the operative arm for the implementation of labour laws. In all states, the functions of the Registrar of Trade Unions are performed by the commissioner. While the commissioner exercises jurisdiction over the administration of labour laws, the adjudicatory functions vest either with industrial tribunals or industrial courts as the case may be. Dealing with complaints about non-implementation of agreements/awards is, by and large, the responsibility of labour courts. Settlement of claims under the Employees’ Compensation Act, 1923 and the Payment of Wages Act, 1936, and similar statutes are mainly dealt with by judicial authorities (though in some states like Haryana and Rajasthan, officers of the labour department hear the cases), but the inspectorate for the purpose is provided by the commissioner’s office. In states where no separate authority exists for labour welfare, the commissioner is expected to supervise these activities also. The commissioner is thus the kingpin of labour administration at the state level. That is why in some states he has been given an ex-officio secretariat status.

4.9 SUMMARY

- Labour administration refers to those parts of the government machinery, to those public authorities, which are directly concerned with the social and labour policy of a country.
- It also includes certain boards, institutes, centres, or other bodies which are not an integral part of government machinery but to which the government has delegated certain specific areas of labour and social policy.
• Labour administration system in the third world are changing rapidly.
• What used to be a government tool mainly for the preparation and implementation of labour legislation and for the settlement of labour disputes, it gradually evolved into something much broader, extending its concern to employment policy, training, the special problems of the unorganised, the expansion of social security schemes, and other matters.

4.10 SELF-ASSESSMENT QUESTIONS

1) What is the historical perspective behind the labour policy of the Government of India?
2) What are the landmarks of labour administration in India?

4.11 CHECK YOUR PROGRESS

State whether the following statements are True or False:

1) It is primarily the responsibility of the department of labour to lay down, develop and apply sound labour policies.
2) The labour policy of a country is a product of history, tradition, political orientation, and socio-economic conditions.
3) The pattern of administrative machinery is the same from state to state irrespective of the industrial development, and state of development of employers’ and workers’ organisations.
4) The central government cannot refer a matter in relation to which it is the appropriate government to a labour court or industrial tribunal constituted by the state government.
5) Rule making power under a labour enactment is conferred on central government only.

Answers:

4.12 FURTHER READINGS


UNIT 5  GLOBAL TRENDS IN INDUSTRIAL RELATIONS

Objectives
After reading this unit, you should be able to understand:

- the concept and features of globalisation
- the industrial relations system prevailing in different countries in the post-globalised era
- the IR in Multinational Corporations
- the lessons for India

Structure

5.1 Introduction
5.2 A Brief Historical Perspective of Globalization
5.3 Concept and Problems of Globalization
5.4 The Global Trends in Industrial Relations System (IRS)
5.5 IRS in the European Union (EU)
5.6 IRS in Asian Countries
5.7 IRS in USA, Canada and Australia
5.8 IRS in African Countries
5.9 IRS in Russia
5.10 IRS in Latin American Countries
5.11 IRS in Middle East Countries
5.12 IRS in Multinational Corporations
5.13 Global Trends in IRS and Implications for India
5.14 Self Assessment Questions
5.15 Check Your Progress
5.16 Further Readings

5.1 INTRODUCTION

Industrial relations system varies from one country to the other depending on the typical history and features of its political, social and economic systems. Lot of changes have happened over last two centuries in the way civilised societies have organised themselves responding to scientific developments, changing political and economic ideologies, and socio-cultural milieu. The latest and ongoing change is the call of globalisation for open markets and liberalisation of National territories and policies to allow free flow of products, goods, services, capital and human resource. It is in this context that the institutions regulating IR are examined in different regions and countries. The purpose is to learn from the experience of other developed and developing countries and enrich the Indian IR system.
5.2 A BRIEF HISTORICAL PERSPECTIVE OF GLOBALIZATION

Some notable turning points in the human history leading to current scenario of globalization are given in the table 5.1. The table, drawing major events over a temporal structure is self-explanatory. The impact of current form of globalisation is felt everywhere from consumption patterns to political systems, societal values and culture to economic fundamentals. The reigning political framework in this regard is ‘democracy’ as against autocracy; the economic model is ‘welfare capitalism’ as against ‘radical communism and non-performing socialism’; the socio-cultural milieu is one of insatiable consumption culture with cross cultural ramifications and diversities.

Table 5.1: Major Historical Events

<table>
<thead>
<tr>
<th>Time</th>
<th>Events</th>
</tr>
</thead>
<tbody>
<tr>
<td>Between 500,000 and 1,000,000 years ago</td>
<td>The migration of Homo erectus</td>
</tr>
<tr>
<td>Around 4000 BC</td>
<td>The domesticating of the horses and the invention of sailing,</td>
</tr>
<tr>
<td>Around 3500 BC</td>
<td>The invention of the wheel</td>
</tr>
<tr>
<td>After 3000 BC</td>
<td>The domesticating of the camel,</td>
</tr>
<tr>
<td>After 500 BC</td>
<td>The establishing of maritime corridors in the Indian Ocean</td>
</tr>
<tr>
<td>Around 200 BC</td>
<td>The opening of the silk road</td>
</tr>
<tr>
<td>After 1492</td>
<td>The establishing of a permanent contact between Eastern and Western hemisphere and the Oceania through maritime expeditions by Columbus and others.</td>
</tr>
<tr>
<td>After 1600</td>
<td>The establishing of international trade companies e.g. East India Company and Imperial colonization led by Great Britain and other European countries</td>
</tr>
<tr>
<td>After mid-17th century</td>
<td>Industrial Revolution propelled by new innovations in science and technology, large scale production systems and market expansion.</td>
</tr>
<tr>
<td>First half of 20th century</td>
<td>The two World Wars, and establishment of United Nations for world peace; Emergence of General Agreement on Trade and Tariff (1947)</td>
</tr>
<tr>
<td>1950s onwards</td>
<td>Decolonization and formation of new Nations; Computing Systems, Space Revolution and Communication Technologies;</td>
</tr>
<tr>
<td>Late 1980s</td>
<td>Events like disintegration of USSR and the collapse of Berlin wall, The democratic movements in Communist China, The initiatives taken by International Monetary Fund and World Bank,</td>
</tr>
<tr>
<td>1990s</td>
<td>Adoption of ideals of Globalization including liberalization and privatization through economic reforms by many Nations. Establishment of World Trade Organization (1995)</td>
</tr>
</tbody>
</table>
5.3 CONCEPT AND PROBLEMS OF GLOBALIZATION

Definitions

Globalization is defined as “the understanding of the world and the increased perception of the world as a whole, and all those processes by which the peoples of the world are incorporated into a single world society” (Roland Robertson: 1992; Martin Altbrow and Elizabeth King: 1990). The globalization is defined as “the intensification of social relations throughout the world, linking distant localities in such a way that local happenings are formed as a result of events that occur many miles away and vice versa” (Anthony Giddens: 1991). By same genre, Globalization is defined “as the process of the shrinking of the world, the shortening of distances, and the closeness of things. It allows the increased interaction of any person on one part of the world to someone found on the other side of the world” (Thomas Larsson). George Modelski has an interactive conception of globalization, and sees globalization as a process with four dimensions: the economic globalization, the forming of world opinion, the democratization and the political globalization. Any change in one of these four dimensions determines changes in the other dimensions.

Globalization is described as the spread of communication, production and connection technologies throughout the world. Globalization in terms of connectivity across the entire world of the economic and cultural life increased throughout the centuries. Yet many believe that the current situation is a fundamentally different order from what it was before. The communication and the exchange rate, the complexity and size of the networks involved, the volume of trade, the interaction and the risk give a strange force to the label “globalization”.

Most often, the term globalization is used in a confusing manner with respect to the efforts of IMF, World Bank and the institutions to create a free global market for goods and services. This political project, otherwise significant but potentially harmful for many poorer nations, is in fact designed to develop and exploit more complex processes.

Elements of Globalization

In 2000, the International Monetary Fund (IMF) has identified four basic aspects of globalization highlighting its contents; namely, i) Trade and transactions, ii) Capital movements and investment, iii) Migration and movement of people and iv) Spreading of knowledge.

Jeffrey Hart has identified five elements of Globalization highlighting its process, namely; i) Existence of a global infrastructure, ii) Global harmonization or convergence of important characteristics, iii) Virtual borderlessness, iv) Global diffusion of initially localized phenomena and localization of global impacts (Glocalization), and v) Geographic dispersion of core skills in the highest and most desirable activities.

Five forms of globalization are identified in terms of i) The economic globalization, ii) The political globalization, iii) The common ecological constraints overcome by liberalising markets (Market Globalisation), iv) The
re-formation of social and cultural institutions and values (Socio-cultural globalisation), and v)The globalization of the communication.

**Pros and Cons of Globalization**

While the early popular discourse on globalization appeared to suggest, at least implicitly, that the globalization and the global growth are in tandem, a closer look reveals that there are issues in globalisation.

Positive and negative consequences of Globalisation, as they exist together are:

- Narrows and widens the gap between nations,
- Increases and decreases the political domination,
- Smoothens and multiplies the cultural identities.

Yet, Globalization is an inevitable phenomenon, characterizing our development era, a phenomenon that the human society is forced to understand, because for the first time, it questions the surviving and evolution of the human society. In fact, Globalization, as a socio-historical phenomenon, manifested itself firstly as a theory, then as a practical necessity, becoming a strategy for the constitution of a sole market, spread across a huge surface that engulfs states, regions, and continents. This complex process is linked to the economic power of the big, industrialized States and, unfortunately, of the great transnational companies. The process itself brings together countries with different development views, with different religions and cultures, and, most important, ex colonialist countries and their old colonies.

The philosophical differences regarding the costs and benefits of such processes have given rise to ideological and social movements. Proponents of economic growth, expansion and development in general, see the globalization processes as desirable and necessary for the good of human society. Critics see one or more processes of globalization as detrimental to social welfare on a global or local scale. This includes all those who question the social and natural sustainability on long term, the continuous economic expansion, the social structural inequality caused by these processes, and the colonial, imperialist or hegemonic ethnocentrism leading to the cultural assimilation and the cultural appropriation.

With the increase of economic interconnection, the political imbalances have deepened. The poorer “peripheral” countries became more dependent of the “central” economies, such as U.S., where capital and technical expertise tend to be blocked. There was also a shift of power, far away from ‘Nation states’ and, as some argue towards multinational corporations.

Four themes on which globalisation is critically analysed are a) delocalisation and over-territoriality b) speed and power of technological innovation and increase in associated risks c) growth of multinational corporations and d) the forming movements of global free markets that lead to instability and division.

a) **Delocalization and over-territoriality:**

- A new brand of capitalism has emerged in which firms and territories are organized in networks of production, management and distribution and consequently the core of economic activities is global; i.e. the ability to work in real-time and on a virtual scale. There is a significant social
Global Trends in Industrial Relations

Activities and relationships are uprooted from their home places and cultures. Delocalization compels population face remote systems like reduced face-to-face interaction, such as online stores and banking systems. The concepts of ‘space’ and ‘distance’ have changed with greater opportunities of inter-connectivity.

- Not only individuals and institutions have felt the impact of delocalization. Even national governments have experienced the decline of their power. An important causation of this process has been the declining power of national governments to direct and influence their economies especially on macroeconomic management.

b) Speed and Power of Technological Innovation and the Increase in Associated Risks

- Today the technologically advanced economies are more based on science / knowledge than resources like land, tools, and work. Economists are challenged to look beyond labour and capital as key factors of production. Technology, science and global finance form together a force that shapes the ‘New economies’. The “New economic science” takes globalisation as ‘capitalism science’ that believes in generating new ideas and then turning them into commercial products and services that the consumers want. Inevitably, this leads to questions about the generation and exploitation of knowledge. There is already a division between rich and poor nations which seems to be accelerated by “the science of capitalism”. The advanced countries monopolise innovation and the developing countries make a strong advocacy for the spread of the successful economic knowledge. But powerful forces of the large corporations are contrary to this ideal. They demand for intellectual property rights on new discoveries from which huge profits will result by licensing this knowledge to others.

- But risks from technological and economic changes are seldom shared. The dangers accompanying the industrial production may affect universally, regardless of where the production takes place. Risks can trap all those who profit from or produce using local raw materials for regional markets. This is the boomerang effect of globalization. The aggressive industrialization on one hand and their often threatening consequences on life itself due to environmental degradation and ecological imbalances on the other hand, lead to the central paradox that Ulrich Beck called “the society risk”. Therefore globalisation is not innocuously only knowledge-based. It is risk based too. Knowledge increases to the direct benefit of few, while the risk increases for all. Risk has been globalized.

c) Growth of Multinational Corporations

- The emergence of global institutions, in the form and power of multinational corporations and the brands they created, is another crucial aspect of the globalization. It is significant that a quarter of world trade is made through multinational corporations. Multinationals can affect communities in different locations and areas through establishing or contract manufacturing, service and sales operations in countries and
regions where they can exploit the cheapest labour and the cheapest resources and find a huge market for their products and services. Although this can mean wealth brought to the respective community, this form of globalization produces significant inequalities, because it can also mean unemployment in communities where they have been located previously. The remuneration paid in the new locations can be minimal and the rights and working conditions of the employees can be bad.

- Multinationals are looking for new and untapped markets, they sometimes seek to increase sales by creating needs in various target groups like children, young people and women by promoting the culture of insatiable consumerism with the help of the media.

- The multinational corporations first produce brands, as opposed to products. Brand makers are primarily producers of the so-called knowledge/skills economy that is used to convert local sources of materials, components and services (what they regard as external) to produce goods and services and sell them at premium prices and make profit out of their ideas without creating any base in the host Nation. The logical connection is that corporations should not spend their finite resources in plants that cannot keep on equipments that wear out or on employees that age and die, but they should focus instead their resources on virtual bricks and mortar, in order to build brands. Nike, Levi’s, Coca Cola and other large companies spend huge sums in order to promote and support their brands.

- Multinationals can have a significant influence in shaping policies in many national and transnational government bodies. They take advantage of privatization and opening of the services. In many countries, the economic, social and labour policies were deliberately tailored to meet corporate demands of MNCs rather than people’s needs. National governments’ power over the macro-economic decisions is greatly influenced by the Corporations who have come forward to provide direct services and support to the citizens.

d) The Forming Movements of Global Free Markets that Lead to Instability and Division.

- Some commentators say that there is no serious problem against globalization but against a certain type of globalization imposed by the global financial elite. Some see it as Western imperialism. Of course there are issues of globalization, that links it to imperialism (history of conquest, colonialism and hostile/foreign ruling) and to the understanding of the postcolonial world. Globalization has its international trading merits. Therefore it would be a mistake to regard globalization as a kind of imperialism. Globalization is a far larger and more complex process than that. The emphasis of the expanding tendencies of the businesses beyond the national borders is one of the main manifestations of globalization. Every State wants to achieve improved growth potential, both by developing the domestic as well as new markets. By increasing the use of the multinational operating system
Global Trends in Industrial Relations

A coherent management of the existing national resources is reached, along with the management of the available resources in other geographical areas.

- However, there is a feeling of subjugation of many by few, which has led to the formation of regional blocks aiming at economic integration between countries basing on principles of free trade areas, customs union, common market, and economic union. Such regional blocks largely developed during mid 1980s & 1990s are-
  - European Union (EU) having 27 member countries of Europe;
  - North American Free Trade Agreement (NAFTA) with America, Canada and Mexico as members of the trade block;
  - The Association of South-East Asian Nations (ASEAN) with Singapore, Brunei, Malaysia, Philippines, Thailand, and Indonesia as members;
  - The South Asian Association for Regional Cooperation (SAARC) with India, Bangladesh, Bhutan, Pakistan, the Maldives, Nepal and Sri Lanka as members;
  - Asia-Pacific Economic Cooperation (APEC) having 21 countries of Asia-Pacific region;
  - The MERCOSUR, South America's trade block having Argentina, Brazil, Paraguay, Uruguay, Chile and Bolivia as members;
  - Another South American sub-regional organisation called ANDEAN having four members namely; Bolivia, Colombia, Ecuador, and Venezuela.

Among the above it is only the EU which aims at integration of social and economic fabric of Europe. Others work out on political, economic and trade aspects only. Besides these formal coalitions, Russia, China, and Japan as promisingly advanced countries have retained their exclusive trade domains while reaching global markets in electronic appliances, automobiles, defence products and other fast moving as well as durable consumer goods.

Activity 1
Identity a MNC and discuss the pros and cons of globalisation on the company.

.......................................................................................................................
.......................................................................................................................
.......................................................................................................................
.......................................................................................................................

5.4 THE GLOBAL TRENDS IN INDUSTRIAL RELATIONS SYSTEM

The above mentioned developments have a discernible effect on the industrial relations system (IRS) of different countries and regions. In the following discussions the experience of different countries and regions with regard to the IR in the context of globalization are briefly discussed. Current scenario is given
more importance than the historical perspectives, which ordinarily dominates any discussion on IRS. In the following sections we will discuss IRS in different countries.

## 5.5 IRS IN THE EUROPEAN UNION (EU)

Prior to the formation of EU, the European countries followed country specific IRS; which, took to two models namely the Anglo-Saxon (the American) model and the continental Scandinavian model. The first was resultant of capitalistic ideals and the second had moorings in socialistic ideals. UK went for a judicious mixture of the two under the welfare state concept. European integration started since 1952 with regional cooperation, culminated into one currency and 27 countries becoming its members by the turn of the 21st century. In order to achieve convergence of the divergent political, economic and social entities, the European Social Model (ESM) was created with the consent of the member countries. The ESM with its focus on social dialogue, and social security largely banked upon the continental Scandinavian model than the Anglo-Saxon model. But, the ESM could not capture the diversities in their entirety as member countries gradually realized that their national forms of regulations are considered as obstacles to economic integration and the free market; and some new member countries went for neo-liberal policies in a radical way under the influence of international financial institutions. The EU in its Constitution tried to introduce ‘Social Rights’ as a compulsory clause. France and Netherlands rejected this in 2005. The growing unemployment in member countries due to economic slow-down compounded the problems of EU. Trade Unions in France and Poland protested against the free migration from Central and East European countries (CEE). Recently in 2016 June, the UK parliament voted for breaking away from the EU which is popularly called as Brexit. It is in this context the general trends in IRS in EU is examined.

The following trends in IR are observable-

- The idea of ‘Europeanization processes’ and consequent enlargement through the ESM is not matched by the prevailing standards of Social Dialogue in the CEE member countries. This mismatch affects the IRS which largely rests on the foundation of Social Dialogue.

- The Economic and Monetary Union promoting Euro as a common currency in 1999 allowed less room for macroeconomic manoeuvre to the member countries with regard to expenditure on social protection benefits due to labour market flexibility which allows free flow of labour migration from labour surplus states to the high opportunity states. This has adversely affected the IRS as Unions protest.

- The Europeanization processes impacts on IRS at the supranational level. Institutions like social dialogue committees and European works councils offer platforms for opinions on public and corporate policies. IR at the EU level witnesses difference in the political views of member states with regard to regulating the market and on social protection. The European community wanted to cultivate a forced corporatist and social democratic welfare state tradition, which was not approved by member states as many of them opposed the directive that, ‘workers’ representation is compulsory on the boards of
Multinational Corporations. Inter-professional social dialogue having an advisory role paved the path for new rights like social partnership rights to be consulted on social policies affecting the professional groups. But it was not effective. Sectoral social dialogue got the resistance of employer associations, and ministerial groups as a result of which supranational level legally binding collective agreements were not possible.

- The European integration processes impact on national level IRS by providing a specific directive that ‘member states shall establish a general framework for informing and consulting employees in the European Community to the constraints on economic and social policies which emanate from the ESM.’ The issues covered are social dialogue, tripartite and bipartite information exchange and consultation, collective bargaining and legal provisions concerning employment conditions and social protection. With regard to collective bargaining, the EU-15 (the old member) countries have multi-level centralized cross sectoral and sectoral levels, company and plant level bargaining practices. UK has only plant level bargaining, where as many CEE (the new member) countries with the exception of Slovenia do not have collective bargaining at sectoral level due to Governments’ restrictive income policies and difficulties in recognizing trade unions. The CEE countries attract better investment compared to the EU-15 countries as less bargaining requirements are considered less strenuous on enterprises and also due to relatively low wages, and low standards of compliance with regard to working time, health and safety. This encourages migration of labour from EEC countries to EU-15 countries in search of relatively higher wages, putting pressures on these countries in terms of unemployment for locals, whose jobs are taken away by the migrants who work comparatively for low wages and no demand for social protection. On one hand the low investment in EU-15 countries and on the other hand the preference of employers in these countries for cheap migrant labour from EEC countries has created bickering in the EU, which is vehemently contested by the Trade Unions disturbing the IRS at the national level. The employers and Governments in EEC countries benefit from these conditions, but the labour is trapped in a perpetual low wage condition with no right to bargain as they do not have union support and strength either in their native country or in the country to which they migrate. The ‘Open method of Coordination’ (OMC) suggested by the EU council is so soft that it is unable to handle these contradictions and bring about an orderly IRS at the National level.

- The next level of IRS which is important for the EU is the Public Sector IR which has been under severe strain. Public Sectors in EU have adopted the characteristics of the UK model such as i) paternalistic style of management devoted to the health, safety and welfare of employees; ii) employment practices ensuring job security and life-long employment; iii) collective industrial relations with strong trade unions in terms of membership playing a crucial role; and iv) the role of a model employer for private sector to emulate. The employee coddling prevalent in public sectors along with unjustifiable employment generation created an inefficient and loss making system in public sectors. Reforms in this regard since 1980s called the New Public Management sought to adopt efficient practices from the private sector. Starting with the marginal changes through ‘maintenance’ strategies in Germany, the public sector reforms went through a phase of ‘modernization’
in many European countries and ultimately reaching the stage of vibrant ‘marketization’ model of public sector Governance as it happened in UK under the initiation of the Organisation for Economic Cooperation and Development (OECD). These reforms impinged on Public Sector IR. The public employment has been drastically reduced. Managerial flexibility has increased in terms of employee downsizing, and allowing for employee contracts, pay and accountability to be individualized and performance based. These reforms have severely jolted the union strength and made IR a subsystem of HRM.

- A key feature of industrial relations in most EU Member States is the existence of a widespread system of indirect or representational employee participation at company or workplace level through ‘works councils’ or similar bodies. Statutory works council systems based on legislation or widely applicable collective agreements exist in Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Luxembourg, the Netherlands, Portugal and Spain. In these countries, works councils are elected by employees (sometimes from trade union lists) and have a range of information and consultation rights - and even ‘co-determination’ rights on some topics in some countries (e.g. Germany) - on a variety of matters relating to the company’s financial, economic and employment situation, and/or personnel management and employment conditions issues. In Sweden, legislation provides similar rights to trade unions in companies. Only in Ireland and the UK is there no general, permanent system of works council-type bodies. In addition, in a majority of EU countries, there is a statutory system for some form of employee representation on the board of directors or supervisory boards of some types of company. Such participation is relatively widespread in Austria, Denmark, Finland, France, Germany, Luxembourg, the Netherlands and Sweden, and restricted to some public sector organisations in Greece and Ireland. At EU level, legislation has introduced European Works Councils (EWCs), pan-European structures for the information and consultation of employees and their representatives on a range of business and employment issues in multinational companies over a certain size operating in the EU. But, the directives of EU in this regard are not accepted by member states that go by their country specific practices.

These trends reveal that the European Integration mechanism has always been in ambiguity. The prescriptive-compliance model of EU regulatory process has not worked because of resistance from member states both old and new. The strategies of changing domestic opportunity structures and domestic beliefs by the ESM have also not yielded the desired results because of resistance from different stakeholders within each country. Nevertheless, the wage bargaining, welfare programmes, the labour market regulations and pampering industrial relations prevailing in the EU could not withstand the onslaught of turbulent changes of competition perpetrated by Globalisation. The initial “Europhoria’ appears to be reducing.

Under such flux, no wonder the UK referendum decided to segregate from the EU in June 2016. Unionised UK businesses will wonder what the future holds for UK unions. UK trade unions have for decades made good use of the EU to help promote an agenda in favour of workers way beyond anything that may have occurred in the UK earlier. The social partnership model in Europe places
Global Trends in Industrial Relations

unions in a key bargaining position to influence legal reforms to help ordinary people, and that is what has been happening for the last 16 years in particular since the UK decided under the Blair Government to opt into the Social Chapter. In all probability, Brexit will be negative for UK unions as they will face difficulty in urging legal reforms on a relatively unreceptive UK Government which has a lot to focus on. Their role will be perhaps to focus on representing their members in the workplaces of the UK and to battling with what may be a tough period of cut backs.

Yet the many relationships which unions have made across the EU and elsewhere are not going to vanish and collaborations between unions in the EU and globally have continued to grow over the years. Hence even if UK unions become displaced from their formal lobbying and collaborating roles in the EU, their co-operation with European unions will not stop and that will be relevant to all employers working across the EU.

Despite decades of EU membership by the UK, national differences of approach in industrial relations and levels of employee protection remain surprisingly strong. Indeed the UK has always been like a halfway house between the US and the EU, being a mix of both in practice. Many countries outside the EU who want to trade in the EU if and when the UK has left will have some culture shock facing EU rules and unions having in the past been able to operate in the relatively benign UK industrial relations environment. This means that advantages of UK’s relatively employer friendly legislation will remain a factor attracting overseas employers, particularly from the US, who worry at the obligations they may face if establishing and employing significantly in continental Europe. It is therefore an opportunity for HR professionals to protect and promote the advantages of UK employment laws and practices, to be able to explain and contrast the likely legal and trade union challenges in the EU, and to be able to show that it will continue to be best for employment reasons alone to base operations and engage staff so far as possible within the UK irrespective of the final shape of Brexit.

5.6 IRS IN ASIAN COUNTRIES

In Asia on the whole unionization rates are low and have declined in recent years, except in the Republic of Korea and Taiwan where there was an increase after democratization. In some Asian countries union influence at the national level is not matched by their influence at the workplace level. Nor is the influence of unions always related to union density. In Singapore and India the unions have been involved in tripartite dialogue and institutions. In Sri Lanka, unions supporting the government have had considerable influence, especially since some of them have been represented in Parliament. As for India, the political orientation of trade unions and their close ties with India’s political parties has ensured that the labour movement has a political influence far greater than their numbers suggest. Labour is the swing vote in at least 30% of all parliamentary constituencies. The Indian case suggests therefore that trade union influence and power are not determined by sheer numbers, but by the institutional network in which unions operate, and the specific exclusionary or inclusionary policies of the State.

Unlike in South Asia where union pluralism has been allowed and even promoted by political parties, many other Asian countries have encouraged only one union
and have made it difficult for other unions to operate. This has been achieved, for instance, through the process of compulsory registration which has been used to produce company or industry unions (in Thailand and Singapore). In Hong Kong, and South Korea it has been used to prevent the registration of a multiplicity of unions representing the same trade or industry.

On the other hand, in India and Sri Lanka the concept of compulsory registration has been used to facilitate freedom of association (and consequent multiplicity of unions) - a purpose opposite to that in other countries. In Taiwan the national union was encouraged because it was government controlled, and independent union movement was suppressed. Quite apart from hostility in some Asian countries like Indonesia, Thailand, the Philippines to an independent union movement, union strength has been affected by the large informal and rural sectors in which people work. It is also true to some extent in South Asian countries. In Thailand the majority of wage earners are in enterprises with less than 10 employees. Since a union can be formed only where 10 or more employees in an enterprise join to do so and legally collective bargaining takes place only in enterprises with at least 20 employees, the scope for unionization and collective bargaining is limited.

In the Republic of Korea enterprise level rather than industry level bargaining structures have been encouraged and recognized, but there is union pressure to recognize industry bargaining structures. Except for Singapore and Taiwan, negotiation and bargaining have generally taken place at the enterprise level. The low unionization rates in Asia dictate that any scope for collective bargaining is largely at the enterprise level.

**Government Policy towards Trade Unions and IRS:**

The different economic directions taken by Asia are reflected in the post-colonial industrialization strategies as represented by the outward- looking, export-oriented ones of East and South-East Asia (Japan, Korea, Singapore and Malaysia, Indonesia and others); and the inward- looking, import- substitution strategies of South Asia (India, Sri Lanka, Nepal and Pakistan). These strategies have had a marked influence on industrial relations policies of the different sub-regions.

South-East and East Asian countries, which believed that labour costs and foreign investments were important factors in the policies due to their outward- looking, export- oriented economic policy and depended on the manufacture and export of low cost goods, ensured that unions did not indulge in political activities. The State, in some cases to the exclusion of unions, regarded itself as the protector of workers and their welfare. The State’s plans for growth were for ‘liberal corporatism’ as against the practice of ‘liberal pluralism’ which was seen as being inimical to economic development. Rather than banning unions, they were made adjuncts of the government to ensure the non-emergence of independent unions which could challenge the Government’s authority or economic plans. Some such governments paid only lip-service to freedom of association and the right to bargain collectively. In some countries unions were purged of communist elements. In one way or another unions were controlled so as to prevent them from emerging as a force in opposition to the government. Singapore, Indonesia, Malaysia and the Republic of Korea have favoured recognition of one union.

The import-substitution protectionist countries tended to have a labour protection policy based on a highly legalistic industrial relations system in which labour
costs were not a very significant consideration, so that productivity, skills development and other conditions necessary to face competition in export markets received little attention. Countries which concentrated on equity through labour protection were characterized by relative inefficiency, inflexibility and a failure to recognise in time the changes needed to successfully compete in a globalized environment. South Asian industrial relations is characterized by union pluralism, politicization and multiplicity of unions, and in some cases by extreme labour protection and inter-union rivalry as in India and Sri Lanka; all of which prevented the development of cooperative and healthy bipartite relations or meaningful tripartism. Communist or left-oriented unions have had considerable influence in Sri Lanka and India ever since those countries gained independence, partly due to the pluralistic political system and partly due (initially) to their close association with the movement for independence. In India and Sri Lanka there has been, in a legal sense, unrestricted freedom of association. Unions supported by opposition political parties have been allowed to function, and in Sri Lanka for instance, the legal system enables them to canvass freedom of association in the Supreme Court as a fundamental rights issue. In these countries trade unions were involved in the independence movements and, after independence, continued to enjoy considerable political power and patronage, and sometimes even representation in Parliament.

Industrial relations issues have been heavily influenced by political considerations, preventing the development of stable industrial relations. In a sense, the relative political instability of the region has been reflected in industrial relations as well. However, some of these highly regulated industrial relations systems are gradually adapting to more flexible approaches, and there are indications of a greater desire to establish tripartite and bipartite dialogue and cooperation. In this respect in Asia, Vietnam is probably the best example as it has welcomed ILO programmes on tripartism, and the government has requested follow up activities and views tripartism as a useful process through which balanced economic and social development could be achieved. India, with arguably the most inflexible industrial relations system in Asia, is experiencing pressures to move from a protectionist to a more facilitative, deregulated and flexible system, brought about by economic changes and new industrialization policies.

The centrally planned socialist countries like China in which there were no employers as the State was the only employer, the union did not play the role of protecting or furthering the interests of employees as workers and were not supposed to have interests different to those of the government. The unions administered welfare functions and were in effect instruments of State policy. The State’s control of industrial relations has been strongest in countries in which one party has succeeded in remaining in power for a long period of time, where there have been military regimes, where the government has assumed the primary role in economic development and has exercised a certain degree of authoritarianism, or in socialist countries now moving towards a market economy. State intervention in the labour market has been pervasive in several East and South-East Asian countries where the State has viewed itself as the chief architect of economic development and stability.

In Japan, State promoted labour-management dialogue, cooperation and stability through procedures for labour dispute adjudication emphasizing employment security, bargaining and joint consultation mechanisms, and by promoting the
consolidation of four major trade union confederations into one body were the major steps in creating an IR system. At the national level it has effectively involved employers and workers in consultations in the formulation of labour policies through their participation in trilateral councils. At corporate and plant levels, IR has been streamlined through participation.

It is necessary to draw a distinction between Japan and Korea on the one hand and South East Asia (ASEAN) on the other in regard to their development model. The Japanese and Korean models were based on nurturing and developing national ‘champions’, with their economies being relatively less open to foreign investment. Nor did they allow financial markets to develop and investment in them. Entrepreneurs had to seek credit from banks whose policies were dictated or influenced by governments. The ASEAN countries were more open (in the case of Singapore and Hong Kong completely open) to foreign direct investment. They were also more inclined to allow financial markets to develop and investment in them. The attempts by South East Asian countries to emulate the Korean and Japanese example of developing national ‘champions’ (e.g. automobiles in the case of Malaysia and aerospace in the case of Indonesia) have been at best minimal. China and India appear to be taking the path followed by South East Asia rather than by Korea and Japan. This choice was probably influenced partly by the fact that they are seeking to change their development strategies at a time when investment barriers are disappearing, international capital markets are flourishing, and a free market economy in which governments intervene less has become more common place.

The core of industrial relations in industrialised market economies is the ability of managements and unions to negotiate terms and conditions of employment relatively free of State control or intervention. In many developing countries this freedom has been substantially less, with the core of the system being the State’s power or influence, exercised either through legal control or administrative action. This influence of government in industrial relations has, in several Asian countries, been also prompted by the State’s involvement in business and the fact that the State has been the largest employer. The State also assumed the responsibility for ensuring that the two sides of industry – the employers and employees - must act in a manner consistent with the objective of accelerated economic development. Where there is no agreement between the two social partners - and an industrial relations system must pre-suppose the existence of disagreement - a third party had to prescribe the rules which voluntary action has not been able to bring about. Many Asian governments have, either directly through the exercise of their political and administrative power, or indirectly through State-created institutions such as courts and tribunals, have taken full control of IRS.

The whole of Asia (other than perhaps Japan) has experienced a high degree of State intervention in and control of industrial relations, but the objectives have differed principally between South Asia and the other sub-regions. Restrictions exist in several countries to ensure that management prerogatives are not eroded, or that industrialization and investment strategies are not impeded. In Singapore and Malaysia transfer, promotion, retrenchment and lay-off and work assignments are considered management prerogatives and are excluded by law from the scope of collective bargaining. No bargaining on the introduction of new technology is possible in Taiwan. In Singapore and Malaysia collective agreements require certification by the Industrial Court, which is entitled to refuse certification if the provisions are harmful to the national interest.
Government intervention is sanctioned in Korea, Japan, Thailand and the Philippines when industrial disputes endanger the national economy. Concessions to foreign investors have been afforded in special economic zones. In some cases limits have been placed on negotiations on terms and conditions of employment in certain types of industries - in ‘pioneer’ industries in Malaysia and in ‘new industrial undertakings’ in Singapore. Strikes have been restricted through several measures. They have been prohibited in ‘essential industries’ engulfing more and more industries into this term. A strike can be pre-empted, delayed or rendered illegal in several ways - in Malaysia through the conciliation and arbitration process, or a cooling off period in Korea and India. In Sri Lanka a strike can be rendered illegal by a reference of the dispute to an industrial court or to an arbitrator, but this has only very rarely been done even when strikes have been by unions opposed to the government. In several Asian countries including India, restrictions exist on strikes in the public sector, and strikes are sometimes prohibited if they are a ‘secondary’ form of trade union action.

The several institutional arrangements which exist to channel individual grievances (such as labour courts) and to settle collective disputes (such as conciliation, industrial courts, arbitration) have tended to reduce the need for employers to resort to collective bargaining for which there is, in any event, less scope in an environment of low union rates. By contrast in some South Asian countries such as India and Sri Lanka collective bargaining can take place, and strikes can commence, on practically everything which is connected with the terms and conditions of employment.

Countries in transition to a market economy are finding it necessary not only to establish an appropriate labour law framework but also to develop an industrial relations system which would be conducive to a smooth transition to freedom for enterprises to make decisions which are conducive for market economies. The traditional IRS geared to the concept of a full-time employee working within an enterprise on a life-time employment is increasingly becoming inapplicable now. Outsourcing and contracting outhave generated a body of people working outside an enterprise system which, in some countries may in the future exceed those working within an enterprise. The increasing influx of women into workforces has made gender discrimination, better opportunities to them in relation to training and income equality critical issues.

Finally, even in Asia like the West, employers are looking to human resource management as a way of enhancing enterprise performance and competitiveness. This will have important consequences for traditional industrial relations and for unions. These developments are leading all three actors in the industrial relations system to view labour relations from a more strategic perspective. It is also leading to a blurring of the distinction between industrial relations and human resource management. The latter is increasingly seen by employers as requiring a shift from traditional personnel and welfare functions to a more strategic role, though they have a long way to go to achieve this objective.

**Activity 2**

What is the difference between the Anglo-Saxon model of IR from that of the West European Continental Scandinavian model of IR.

.........................................................................................................................

.........................................................................................................................
The section 7(a) of National Industrial Recovery Act, (NIRA or New Deal) legislation of 1933 stipulated that each industry code of fair competition would recognize the right of employees to organize and bargaining collectively through representatives of their own choosing. Company unionism was also forbidden under the terms of the New Deal. While Section 7(a) proclaimed a new norm for the conduct of industrial relations, it did not provide a machinery to oversee its implementation, nor sanctions for refusing to do so. Owing to this, the NIRA actually sparked campaigns of civil disobedience, on the part of both employers and workers. Employers responded precisely by setting up company or employer dominated unions, under employee representation plans. Between 1933 and 1935, membership in such enterprise based units actually grew more quickly than independent trade union membership. Workers responded by initiating a strike wave between 1932 and 1933. It was out of this context, in which capital had lost significant amounts of political legitimation but trade unions were still too weak to insist upon the rights apparently bestowed by the NIRA that, the 1935 National Labour Relations Act (NLRA), just as commonly known as the Wagner Act, so named after its author, Democratic Senator Robert Wagner, was born.

The Wagner Act put into place the machinery which would make good on the promise of the New Deal regarding genuine negotiations over the terms and conditions of the employment contract. The NLRA defined what could be considered to be ‘unfair labour practices’. Such practices specifically included employer interference in the establishment of or selection of trade union representation on the part of a work force through such activities as discrimination against trade union members, victimisation, or the establishment of employer dominated representation plans. Penalties were established and could be levied by a National Labour Relations Board against erring employers up to and including reinstatement of employees with back pay. The NLRA placed a duty and a responsibility upon employers to bargain in good faith with the chosen trade union representatives of their work forces. Failure to do so also constituted an unfair labour practice.

To operationalize this dimension of the Act, the National Labour Board was invested with the powers to certify trade unions in their capacities to represent and bargain on behalf of workers. A specific protocol was developed for this purpose. Workers desirous of trade union representation, or unions wishing to organise workers could petition the Board for purposes of recognition. Once it was satisfied that a majority of workers in the unit appropriate for the purposes of collective bargaining, supported trade union representation, a union would be recognised as bargaining agent. It is important to recognise that underlying the Wagner Act and its provisions ran a deep conviction that true industrial relations pluralism was the only way to resolve the unsatisfactory state of American capitalism. As signified by the preamble to the Act, not only was the inherent inequality between corporate capital and individual workers recognized, but such inequality was portrayed as being decidedly dysfunctional, leading to disruptive conflict. Thus everything in the Act was directed towards fostering a permanent and sustainable collective bargaining relationship between the parties to the employment relation. For this reason, the NLRA upheld the principle of exclusive representation, i.e. only one union at any given workplace. Once it could be
determined through such mechanisms as a Board supervised certification vote, or count of union members, that a majority supported trade union representation, then the trade union body receiving the largest support would gain exclusive representation rights to represent the workers at that facility (enterprise). Though the adoption of so-called enterprise bargaining is not referred to exclusively in the NLRA, the whole system promoted enterprise bargaining in USA.

One ruling in particular is noteworthy for its impact over industrial relations in America and which were not necessarily helpful to the labour movement. In the Mackay Radio strike of 1938, the Board held that striking workers were not automatically entitled to regain their jobs if ‘replacement workers’ were deployed. In other words, once on strike, workers would have to win their jobs back as part of winning the strike. Only if the employer could be shown to have committed an unfair labour practice would striking workers be entitled to resume their previous positions. This is significant in several respects.

The decisions of the Labour Board of America were regularly subject to appeal through the courts of common law. These bodies have traditionally been pre-occupied with individual rights while collective or social rights were largely an alien concept. As well, the Mackay case consented to the use of strike breakers in industrial conflict. As time went on, vesting strike breakers with full rights, including the right to vote in decertification campaigns and in contract ratification proceedings became an important impediment to the trade unions in American industrial relations.

Such decisions, however, paled in comparison with the 1947 Amendments to the NLRA, also referred to as the Taft-Hartley Act after its sponsors. One of the major objectives of the bill was “An Act to amend the NLRA … to equalize legal responsibilities of labour organizations and employers”. Amongst the 1947 amendments to the NLRA the following were of seminal importance in the repercussions for future of industrial relations in the US.

- Enunciation of unfair trade union practices including the use of secondary boycotts;
- Prohibition of the closed shop and sanctioning of State ‘right to work’ laws;
- A more complex, and inflexible procedure for certifying trade unions, requiring mandatory votes and ceding rights of ‘free speech’ to employers during recognition contests;
- Refusal to certify or decertification of any union which had connections with the Communist Party of America;
- Tightening up of the definition of non-supervisory employees, thereby restricting the base for future recruiting.

Taken together, these measures had a long term chilling effect on the US labour movement. Overall, the Taft-Hartley amendments made it much more difficult to organize non-unionized work sites as certification election success rates plummeted from more than 80 percent prior to Taft-Hartley to fewer than 50 percent from the early 1970s onwards. Indeed, the failure of the union movement to replace its aging membership is now the dominant theme in American industrial relations. However, out and out de-unionization has not been common in the American experience. The amalgamation of American Federation of Labour and
Congress of industrial Organisation (AFL-CIO), the ‘union of unions’ has given a strength to unionism as well as to capitalism. Rather than de-unionize ‘brown-field’ sites, the establishment of new non-union ‘green-field’ sites, both in new industries, and in older industries, has been the dominant trend in American industrial relations. The Taft-Hartley laws have facilitated this outcome. Enterprise level bargaining, institutional arrangements like voluntary arbitration and conciliation to prevent any strikes characterise the IRS of US.

**The IRS in Canada:**

With respect to employment matters, the Canadian State played a more interventionistic role. This assumed the form of compulsory conciliation through the constitution of ad hoc tripartite boards that oversaw employment relations in industries that were deemed essential to the public good. These Boards were given the power to intervene in industrial disputes and to postpone strike action until after the exercise of compulsory conciliation.

Canadian authorities were reluctant to emulate the Wagner Act in the pre Wars period, as they attributed an upheaval in strike action and civil unrest. The Compulsory Conciliation of the Industrial Disputes Investigation Act (1907) did nothing to resolve the very issues that were bedevilling employment relations of the time; namely the right to engage in free collective bargaining with agents of choice. Consequently, recognition strikes were frequent, hard fought and lengthy affairs, especially when labour markets were tight, as they were during both World Wars. Only with the breakdown of industrial relations and the emergence of Canada’s largest strike wave to date, between 1942 and 1944, were federal authorities pressed into adopting PC1003, the Wartime Labour Relations Regulations. It is important to understand that this was a convenient measure, borne more by the pressures of circumstances than by political conviction that free collective bargaining was the most sensible manner by which to conduct employment relations.

The Canadian law specified that employees could elect bargaining representatives for the purpose of collective bargaining, thereby potentially leaving the door open to non-union representation. Like the Taft-Hartley Act of US, PC1003 introduced the notion of unfair employee labour practices that included recruiting workers on company premises and the use of tactics such as work slow-downs. Union certification was also more difficult under the Canadian law. In order to be recognised as bargaining agent, fully 50 percent + one of the affected work forces had to accord their approval by a vote or union membership verification, or other means to the effect that they were in favour of such representation before the War Labour Board. This was a higher benchmark than required under the Wagner Act to initiate activation of the certification machinery. PC1003 was mainly a stop-gap measure in a War time situation. It was still unclear what status unions would have in post-war Canada. With large question marks hanging over the post-war situation, industrial relations conflict continued in Canada for the duration of the war and into its aftermath.

This was responsible for the progressive extension of Wagner type principles during this period. Probably, the best example of this occurred around the issue of union security. With peace time demobilization about to occur, unions in Canada were fearful that without security protocols, they would be quickly reduced to the same position that they had held prior to 1944, when they enjoyed
no more than a voluntary status. In what was to become a landmark case at the Ford motor company, an arbitrated ruling to a bitter four month long strike produced the novel Rand Formula in 1946. While rejecting the granting of either the closed or union shop, on the basis of managerial prerogative over hiring rights, Rand did order the mandatory payment of union dues by all employees who worked in a unionized workplace, regardless of whether they were union members or not. Over time, Rand Formula arrangements were generalized across the Canadian industrial relations landscape. This was permissive of union security agreements, but left it up to the parties to negotiate such arrangements if they could. This simple solution to the vexatious issues of union recognition, compulsory union membership, and union security proved enduring. It retained a degree of individual choice over whether to join a union or not, while offering union security by placing a prohibition on the ‘free riders’.

Canadian industrial relations adopted innovations such as arbitrated first contract legislation and ‘anti-scab’ legislation in certain, but not all, provincial jurisdictions. Both these measures addressed the vulnerability to which the striking workers were put. Both provisions made it more difficult for avowedly anti-union employers from forcing long strikes and then use replacement workers, and subsequently de-certify the union through the enlistment of non-union replacement workers. Another notable development has been the use of so-called ‘automatic certification’ procedures. This nullified the need for lengthy, hard fought certification votes. If a union is able to demonstrate a certain threshold of support in the workplace, through having signed up a large proportion of the workforce as members, then it can be automatically certified and recognized as the bargaining agent for that site. Enterprise level bargaining is the dominant feature of Canadian IRS.

IRS in Australia:
The IRS in Australia started with an interventionist system of compulsory conciliation and arbitration that has legally regulated the employment relationship placing collectivist interests above private interests. The Commonwealth Conciliation and Arbitration Act, 1904 created a strong arbitral machinery necessary for dispute resolution along with compulsory unionism. Prior to this, employers had used a range of common law rights (e.g. tort, law of trespass, contract law) and other means, such as employing strike breakers, as a way of refusing to deal with unions. Compulsory conciliation and arbitration gave unions an ex parte interest in the employment relationship. Unions could handle industrial disputes concerning wages and conditions of both union and non-union members alike on the basis of the interest that a union has ‘in the establishment or maintenance of industrial conditions’ so as to ‘prevent employers employing anyone on less favourable terms’.

The above dominant industrial relations regulatory paradigm remained virtually unchanged until the mid-1980’s when public policy dramatically tilted in favour of reform. The incoming ALP government in 1983 and the Australian Council of Trade Unions (ACTU) adopted a corporatist approach involving economic and trade union reform. With the support of the ACTU, the then ALP Government introduced the Industrial Relations Act 1988 that included giving the Commission power to determine union coverage in cases of demarcation disputes. In 1993, a new Section was added giving the Commission expanded jurisdiction to adjust
the representational rights of unions by making those rights exclusive, or by removing them, or by conferring new rights without reference to a live demarcation dispute. New amalgamation provisions were also introduced that were designed to facilitate the formation of ‘industry based organizations’. However, a fundamental problem with these powers was that they related only to union coverage and did not give the successful union legally enforceable recognition and bargaining rights with employers.

The Workplace Relations Act 1996 (WRA) has successfully produced a situation akin to the pre-Wagner era of North America in Australia, where union recognition, the pursuit of collective bargaining and union security rights became contested issues. In such an environment, it was difficult at best for unions to thrive. The WRA is best viewed through the lens of neo-liberalism that places competition and the fiction of individual choice at the heart of the bargaining process. Australian unions have not achieved the mandated security arrangements. Australian policy makers have not enacted any security provisions. Rather the Australian enterprise bargaining regime is based on voluntarism. Recognition strikes for the purposes of collective bargaining have become a common feature of industrial relations in Australia.

The Government also sought to shift the focus of industrial relations to the workplace by introducing legislation providing for union stream of Certified Agreements (CA’s) and non-union Enterprise Flexibility Agreements (EFA’s). The new two tier system sought to change awards from primary instruments of the employment relationship to acting as ‘safety nets’, underpinning workplace agreements in conjunction with importing into the labour regulatory regime the provisions of the ILO labour and working conditions standards.

Public policy in Australia did not favour union recognition at law. Unions were to rely upon the arbitral union security provided through award coverage and thus, upon the principle of voluntary recognition. The new dominant model of industrial relations is based on voluntarism and ‘free choice’.

Whilst the Act encouraged greater workplace co-operation between workers and management through enterprise bargaining, the strategy behind it involved a number of anti-union elements. These include the removal of union preference clauses from awards and agreements; diverting union time and resources into defending ‘freedom of association’ actions; encouraging fragmentation by dis-amalgamation and the growth of enterprise unions; diverting union resources to the defence of long standing award conditions; and threatening unions financially by creating large areas where employers can seek damages after union action.

Enterprise bargaining is increasingly used to define industrial relations systems in USA, Canada and Australia. In the former two polities, employment relationships have for the most part always revolved around the level of the enterprise. Yet, the American bargaining model provides for union recognition at law as a core feature of the bargaining process. In the instance of Canada, trade union densities have more than held their own, while arguably the labour movement has gained in social influence. Enterprise bargaining has overlapped with trade union maintenance in Canada. In the Australian context, public policy since the early 1990’s has emphasised deregulation of the industrial relations system to workplace level. The Australian version is bereft of any legally
enforceable union recognition or security arrangements and Australia’s regime of enterprise bargaining is slowly but inexorably moving towards individualism, as unions have no mandated exclusive bargaining rights. In Australia, an emphasis on enterprise bargaining has coincided with a precipitous decline in trade union membership.

5.8 IRS IN AFRICAN COUNTRIES

Africa is a large and very diverse continent. Although, during the last decade there have been some positive developments in terms of economic growth and purchasing power, many African countries face serious economic challenges despite their rich natural resources. Labour markets reflect this broader context. Only a little more than a quarter of Africa’s workers are wage or salary earners while most are own account workers and contribute to family work in the agricultural sector. Moreover half of those in employment are ‘working poor’ falling below the $1.25 per day poverty line (ILO, 2011).

In the pre-colonial phase the north and west African nations had a long tradition of “craft and tradesmen’s guilds, and mutual benefit societies”, and due to this background, workers in these regions were “quite receptive” to union formation and to the process of collective bargaining compared to the central and east regions of the continent.

The roots of collective bargaining in many African countries can be traced back to the colonial period when wage-labour in modern sense had begun to emerge. In French territories, legislations regarding the collective organizations were directly linked to civil right laws, and this provided better conditions for collective interest representation organizations compared to British controlled regions. The emergence of organized industrial relations in French and British territories, despite initially negative attitude of authorities, had been outcome of essentially non-adversarial processes. The other two major colonial powers in Africa namely Belgium and Portuguese authorities had a soft stance and adversarial approach towards organised IRS respectively. In general, organized industrial relations began to function smoothly and African trade unions were firmly established in British West Africa and in French territories. Of course, colonial rulers’ acceptance of trade unions did not mean that their relations with unions had been peaceful. On the contrary, both British and French authorities had to cope with industrial actions organized by trade unions not only to articulate employment related grievances but also increasingly for political purposes.

Thus, African trade unions and limited collective bargaining rights were tolerated or encouraged essentially as means for controlling disruptive dynamics that might threaten the stability of colonial systems. However, this policy appears to have been not entirely successful. For African trade unions in colonial period sometimes spearheaded social movements. They used their mobilization capacity not only for employment related demands but also for wider political and economic interests of native societies. Trade Unions were recognized everywhere as standard components of African nationalism. Thus, trade unions played crucial roles in the independence movements and this was the first transition towards Independence and Co-optation. This transition took place at different times and various speeds across the continent.
Though trade unions initially got recognition to play the important role of recruiting human resource for the administrations and business communities of newly founded states because of the role they played in independence movements; they lost their importance, autonomy and plurality due to less effective representatives of their own constituencies within new government structures.

In post-independence era various forms of developmental economic agendas were adopted by African governments and industrial relations regulations inherited from the colonial period had been reformed so as to render collective actors subservient towards the goals of these economic programmes dictated by new elites. Umbrella organizations for trade unions, in terms of monolithic confederations were supported by ruling parties as tools of legitimation and control. This was accompanied by the curtailment of organizational rights of workers in order to prevent emergence of alternative collective entities. Employers’ organizations too emerged. These federations of workers’ unions and employer organisations acted as social partners in the social dialogue.

Although developmental agenda to some extent succeeded in establishing basic infrastructure, education facilities and health services in some African countries, it has essentially failed in diversification of economic activities and in production of value-added exports and gradually led to foreign exchange shortages, increasing public debt and high inflation. The developmental agenda was dismantled by liberal market economy; and demands for democratization and human rights increased. Union movement assumed a prominent role in political liberalization through its demands for political rights and freedom of association and also from dictatorships of various kinds to multi-party democracies with immense consequences for the regulation of employment relations and labour markets.

Democratization involved recognition of the right to association and freedom of speech. In fact during the last decade in countries like Egypt, Somalia, Ghana, Nigeria, Kenya, Zambia and Mauritius, new legislations have been enacted, sometimes as a result of genuinely tripartite negotiations, in order to re-regulate the industrial relations. A general feature of these laws, which try to ensure the compatibility between labour market regulations and new global production dynamics, is to emphasize and encourage dispute resolution through peaceful negotiations and to clarify and simplify statutory requirements for the establishment of new collective representation organizations.

The case of South Africa was quite different. Here European settlers considered African workers as potential job rivals and treated them with enmity. In the aftermath of the Second World War, black trade unions could not be officially registered and were not legally recognized in Southern Africa. This adversarial attitude was made into law explicitly in South Africa by the Labour Relations Act of 1953. In South Africa the transition towards independence occurred quite late, and the liberation was not from colonial powers but from a racist rule and apartheid.

In this environment, in many African countries industrial relations have entered a new phase. While in the past representation of workers’ interest has been delegated to limited number of relatively strong peak organizations and sectoral trade unions, under the conditions of democratization, not only number of trade unions with small membership has increased but also hitherto unknown actors,
such as NGO’s, social movements and international networks began to involve in industrial relations dynamics.

**Role of the State in IRS**

The role of State in industrial relations currently is regulation of labour market through laws and enforcement mechanisms; and, establishing institutions of coordination and consultation in order to ensure economic growth and sustainability. Through these two roles the state ensures productive use of human capital, and, converts economic activity from being a purposeless pursuit of profit into an instrument that serves socially desirable goals of human development. In many African countries, these conditions of effective involvement of the state in industrial relations have been present to some degree in the immediate aftermath of independence as the State was the biggest employer. The initial role of the state in industrial relations in Africa, despite the differences in economic systems, was that of a benevolent employer. However, after the introduction of structural adjustment programmes in the 1980’s, privatization and drastic reductions in public expenditure have substantially reduced the role of the State as an employer and this inevitably undermined the pattern setting influence of public employment in almost all African countries. The state had no capacity to effectively implement and inspect any kind of industrial relations policy excepting in setting out a monolithic single level of minimum wages through a tripartite system of Minimum Wage Councils and Wage Boards for all sectors or for a limited differentiation across rural and urban regions and industry and agriculture sector. Thus the state is a crucial actor in formal industrial relations who dictates wages which is the most important item of bargaining agenda. The state effectively retains the potential to control collective bargaining through statutory recognition protocols by determining the most representative union and issuing bargaining certificates. Bargaining agreements become binding only after they are officially approved by the ministry of labour, and this approval depends on the compliance of the agreements with technical requirements. In some countries officials of labour ministry are required to be present during the bargaining negotiations in order to facilitate agreements, a role which might easily be used in order to influence the dynamics of negotiations. This implies that African states have the ability to regulate, and if necessary steer, collective bargaining, thus the dynamics of industrial relations in accordance with their priorities. In many countries, like Tanzania, Nigeria and Kenya new dispute resolution mechanisms have been introduced which usually require involvement of labour ministries prior to bringing the cases before industrial courts. More prominent role is given to arbitration and mediation mechanisms, which function under the auspices of labour ministries or local government thus giving priority to government rather than the judiciary in dispute resolution.

**Role of the trade Unions and employer organisations in IRS**

Trade union density within total employment remained rather low in majority of African countries. The increase in informal employment has further reduced their strength. Trade unionism in Africa has found it imperative to strive with the prospects of organizing informal economy or finding ways to cope with the detrimental impact of informal employment on the organized industrial relations. Democratization in political systems that began to occur during the course of 1990’s and 2000’s with associated freedom of association and speech resulted into proliferation of new worker organizations, civil society actors and social
movements which began to appear in the public space. In fact, now trade unions, perhaps first time in their history, need to struggle not only for the attention of the State or recognition by employers, but they must also compete for the attention of their own members in the presence of alternative channels of interest representation promoted by NGO’s, ad-hoc mobilizations, social movements, international networks, and of course by new trade unions. This development, called “the plurality paradox”, has reduced the importance of trade unions as ‘sole’ agents of working class. Trade unions in Africa, in spite of all these threats posed by new production regimes and paradoxes generated by the political climate, continue to exist and in some sectors like horticulture even expand their membership.

With regard to the Employers’ Organizations, the trend in Africa is as follows. During the colonial period native Africans had been, to a large extent, banned from entrepreneurship and this can be one of the reasons behind the large informal sector in Africa, which essentially consists of small and micro scale enterprises of native employers. After the independence, the prominent or absolute role of the State as an employer too once again left the private entrepreneurship underdeveloped especially in those African countries where Marxist economic policies were pursued, like Mozambique and Tanzania. On the other hand, in some cases like Egypt, Tunisia and Senegal, employers’ organizations have been established during the first half of 20th century hinting the existence of vibrant private sector activities. African employers’ organizations have emerged relatively late and they were quite often established in response to growing strength of trade unions. In Africa, employers’ organizations are either associations which are solely occupied with business interests of their affiliates or they are quasi-official chambers where affiliation is mandatory for all employers.

Macro and Micro Situation of IR

In recent years it is proved that African economies are capable of generating steady growth. But this economic growth is not yielding results like job creation, poverty reduction and sustainable improvement in living conditions. Due to the rise in informal sector employment in North Africa and sub-Saharan Africa, formal IRS hardly exists in many African countries with exceptions like South Africa where a strong collective bargaining structure exists. Besides the obvious disadvantage of being deprived from social protection those who are employed in informal economy are not represented by trade unions or covered by collective bargaining and also earn less than formally employed workers. The largescale casualization of employment prevents trade union formation and precludes any prospects of collective organization and bargaining. Interestingly, this pattern is not necessarily confined to private sector and does not necessarily serve purely profit oriented motives. Strict constraints imposed on public employment by structural adjustment programmes, make use of casual workers in some essential services. This has limited the purview of Trade Unions.

Trade unions in many African countries such as Kenya, Tanzania, Senegal, Ghana and South Africa, attempt to organize workers in informal enterprises where women and child labour are largely employed. It is increasingly clear for trade unionists in Africa that ‘building trade union strength depends on the organization of informal sector’. Trade unions are associating with NGO’s and ‘self-organisation’ groups for operating in the informal sector. Thus, the dynamics of
organized industrial relations is gradually becoming more relevant for workers in informal sector and those who are informally employed.

Many African governments in the immediate aftermath of independence considered the establishment of public enterprises that became the bastions of organized industrial relations as they provided recruiting grounds for trade unions. However, with the launch of structural adjustment programmes after the economic crisis of 1970’s there has been major decline in the number of state owned enterprises across Africa and privatization was rampant. In fact, due to gradual demise of state enterprises as a result of privatization programmes of last two decades, public employment shrank remarkably. But in the public sectors only organized industrial relations and collective bargaining existed. The other segment of formal employment, that is, private sector operating within formal economy, is dominated by large multinational companies which, during the last two decades gradually took over old state enterprises in oil, gas, mining, and telecommunications through privatization. They do not encourage institutionalisation of collective bargaining.

Registration and Recognition of Trade Unions rules are in place in African countries. However, in practice, these rules usually appear only as a formality and provide statutory backing for trade unions by compelling employers to recognize registered unions as bargaining partners. The binding nature of collective agreements or legality of industrial disputes too is further enhanced by this official registration procedure.

African countries differ in terms of whether more than one trade union can be the bargaining agent in the same workplace or enterprise. In some countries, the employers are obliged to negotiate with the most representative trade union. In other countries, all existing unions in the workplace take part in collective bargaining. In either case, the existence of multiple unions in the same workplace appears to be a potential source for internal strife among workers. Collective bargaining may take place between individual employers and trade unions.

Levels of collective bargaining differ substantially across African countries. In some countries enterprise level bargaining is the normal mode while in others sectoral negotiations is the rule. Once again dominance of sectoral negotiations might be considered as an evidence for concern with coordination, and also as indication of trade unions’ strength. Though, especially in mining and oil sectors these two types of bargaining might take place simultaneously as very large establishments prefer to engage in enterprise level bargaining in order to attain agreements which fit into their peculiar conditions. Interestingly, in some countries there is also vertical differentiation in collective bargaining, that is, while most of the issues are determined at the sectoral level, the way in which they will be implemented or interpreted is negotiated at enterprise or workplace level.

Three different procedures namely simple registration, conditional approval and unilateral imposition of terms subsuming the collective agreement are adopted in collective agreement enforcement. The general rule is that collective agreements must be registered at labour ministries, which may just examine the final document from a technical perspective, and this variant may be called simple registration procedure. Majority of African countries have this protocol and this implies that the State has a degree of authority on agreements. In some countries labour ministries may refuse collective agreements if they fail to comply with
Collective bargaining negotiations do not always smoothly lead to agreements. There are very often disputes about the way in which the settlement is interpreted. There is a trend to establish smooth mediation and arbitration protocols which require appointment of independent arbitrators or officials from labour ministries to settle disputes. Industrial courts are permissible only after all attempts of arbitration and mediation fail. These new trends in dispute settlement indicate that, in general African governments want to avoid or prevent industrial conflict and instead they want to promote peaceful functioning of collective bargaining.

5.9 IRS IN RUSSIA

By 1991, one of the super powers of the World, the USSR was splintered into Russia and 14 other independent republics. Russia, the prominent among them is a federal, semi-presidential democratic republic which believes in communist market economy. Russia is World’ eighth largest economy by National Gross Domestic Product; and the sixth largest by Purchasing Power Parity. Its economy is enriched by minerals, energy resources, crude oil and natural gases.

Trade Unionism in Russia-
Before the Bolshevik revolution of 1917, Unions were not independent and were called ‘production unions’ that were ordained to manage labour problems compulsorily and improve productivity and enforce labour discipline.

Earlier in Soviet era known as General Confederation of Trade Unions and now called, the Federation of Independent Trade Union Centre (FNPR), is the largest National Trade Union with a membership of over 30 million. It was established in 1990 one year before the dissolution of USSR. It has powers i) to control over disbursal of insurance, ii) the right to contest and veto dismissal of workers and iii) control deductions from workers’ wages.

![Figure 5.1: The structure of FNRP](Image)
The structure of FNRP, as given in Fig 5.1 above, percolates down to district and cities and to primary organisations. Trade Union has a constitution which governs its membership norms, structure, funds, activities and functions. It is granted affiliated member status in International Trade union Confederation (the ITUC).

FNRP has membership both from workers and management and labour unrest is more aimed at the Government than the employers. Trade Unions in Russia profess support for socially regulated command market economy as opposed to free market economy, trade union independence and political democracy. The communist party rule of the past along with the current imperatives to adjust with forces of market economy promoted by Globalisation, are responsible for this stance of Trade Unions

Collective Bargaining in USSR

The law on trade unions specifies the right of Trade Union to conduct collective bargaining and conclude collective agreements on behalf of employees. If union seeks bargaining the employer is bound to go for it. Any violation of collective agreement can be reported to the employer by the union, which has to give compliance within a week, and failure will be at federal law discretion. Bargaining happens at three levels, namely; Branch Level (Macro), Regional level and local level (Micro). In Branch Level Bargaining, the trade union representatives meet with representative from relevant ministries or with the employers’ association representatives in order to reach branch agreement on minimum standards for specific sector. In Regional Level Bargaining, the trade unions bargain with representatives of regional employers or regional public authorities to improve the general standards put forward in the general agreement and the branch level agreements. The success of the trade union at this level depends heavily on the strength of the trade unions regionally and how important the sectors are for the regional economy. In Local Level Bargaining, general standards at the local enterprise level in the light of branch level or regional level agreements are negotiated. But the success depends on the strength of the local trade union. At other times, local trade union is strong enough to greatly improve the standards and the leverage to force the employers to implement higher standards. Since the structure of the trade union representative in Russia gives considerable decision power over economic resources to the local representatives, the quality of the local representatives decides the effectiveness of trade unions locally and the standard may differ widely between enterprises in the same sector.

Employers’ Associations in Russia

The law that allowed for the formation of employers’ association was passed by the State Duma on October 30, 2002 and endorsed by the Federation Council on November 13, 2002. The summary of the law as stipulated from article 1 to 15 are: Federal Law shall apply to all employers’ association that conduct their activities on the territory of the Russian Federation. That employer shall have right to local self-governance with the objective of representing their legitimate interest and protect rights of members. The members of employers’ association shall have equal right to participate under the Russian charter of employers’ association and work out a coordinated position of the employers’ association members regarding the regulation of social-labour relationships. It is quite evident that employers’ association in the Russian federal is distinctly organized according to the democratic tenets of industrial and labour relations
Industrial Conflict in Russia after the post segmentation period of 1991:
The independent unions of Russia are weak which is reflected in union leaders playing secondary role in the revolution. Before the collapse of communism the unions had little status and autonomy compared to proletarian parties until March 1992. Law on collective agreement paved way for equal rights to all properly constituted trade unions. After the collapse of communism, the forms of industrial protest in the Russian federation nosedived into a staggering low level which became resolved peacefully in all ramifications as a result of the 1993 law of collective agreement. Various statistics are evident to show the increase in wages from 60% to 70% and the wave of strikes declining from 23% in 1993 to 19% in 2005.

Workers’ Participation in Russia

In Russia, the socialist economy was practiced during the Soviet Era, but now they are moving towards a socialist market economy. According to the theory of the socialist market economy an enterprise enjoys independence and secures the social reproduction of its labour collectively only when the enterprise ensures serving the interests of society as whole. The resurrection of democracy in Russia had an impact on workplace democracy which replaced the hitherto weak monitoring of the State of the enterprise level IR. Thus the worker participation system has become inherent part of Industrial Relations in modern day Russia. There is social partnership between workers and employers which was a means of securing institutional reproduction. Employee participation is formatted at decision making level, rather than simply enacting an order. It is envisaged as a process of employee empowerment at the workplace. Employee participation is in part a response to the quality movement within organizations which has achieved significance proportion due to global competition.

In Russia, individual employees are encouraged to take initiative and responsibility for quality in terms of carrying out activities which meet there requirement of their customers. Employee or workers participation in Russian federation is hampered on the ideology of improving human resource development in modern organizations. To this end, the form of workers participation is in place through labour collectivecouncil, social partnership and collective bargaining.

The Russian case clearly supports the theme of the task force dedicated to a negotiated compromise between democracy and the market. It supports the need for social guarantees negotiated with government and employers at the national level and the need to strengthen industrial relations framework, especially tripartism, to link economic and social organization and restore social organization, social stability and social integration. The institutional framework co-exists with the weak mass of trade unions in Russia. It is clearly the case that globalization has destroyed the traditional soviet system of national social policy and industrial relations. On the aspects of globalization, only liberalization of product markets has helped growth of trade and considered relevant to Russia. Otherwise the neo-liberal policies are held responsible for the deepening economic crisis, as booming exports of fuel and metals have pushed up the exchange rate to the detriment of domestic industry and agriculture. There has been hardly any industrial restructuring or new investments. To this end, it is clear that specific national arrangements are being made to meet growing international competition.
This has resulted into a changed balance of power between capital and labour. IR systems serve more the employers and the government than the employees.

5.10 IRS IN LATIN AMERICAN COUNTRIES

Latin American countries such as Argentina, Brazil, Chile, Peru, Colombia, Mexico, Uruguay and Venezuela are varied and diverse. Yet, some trends common to them can be traced as given in pointers below.

- Politicization and State control of IR is high in all countries excepting Uruguay which has a practice of voluntary IR.

- Started with State repression of Labour organisations and protest; the situation has slightly improved because of corporatism as a sequel to globalisation. Laws and regulations shaping a dense web of rules sanctioning work and labour conditions, minimum wages and social security are developed. State acts as a supreme mediator and arbiter of labour and management disputes and class conflict.

- The Latin American Corporatism developed reforms facilitating a system to control and integrate the labour movement within a non-competitive, compulsory and sanctioned system of interest groups through State subsidies; and a system of inducements as well as constraints to manipulate demands, leadership and internal governance of labour unions.

- There are however some differences in State Corporatism in relation to IRS. Brazil and Chile aimed at completely controlling the labour movement. Argentina and Peru initially encouraged ‘labour populism’, but later as there was lots of turmoil, allowed two options to the labour movement, namely either to be in opposition role or join coalitions in a subordinate role. Venezuela and Mexico stood by ‘radical populism’ where labour is highly protected. Uruguay and Colombia believed in electoral mobilisation of the labour movement.

- In general now there is reduced union density in Latin American countries which ranges from 25% in Argentina to as low as 5 to 8% in rest of the countries. It is because many small companies acting as supportive to large organisations have emerged which are not covered by labour laws or trade unions. In Colombia, Peru, Uruguay and Venezuela workers feel better protected in Corporations than in Unions.

- The fall of communism and rise of globalisation have impacted on the Trade Unions who have been obsessed with ‘classist unionism’ and ‘cooperative syndicalism’.

- Strike propensity is highest in Brazil and lowest in Mexico. The poor performance of Public Sector has been attributed to IR problems and Privatisation has not only increased but also it addresses to individual bargaining at the expense of collective bargaining. Largely enterprise bargaining prevails. Only in Brazil and Argentina sectoral and industry level bargaining happens to some extent.

- Ironically, Latin America is famous for large number of ratifications of ILO conventions as well as their breach and violation.

- Labour flexibility is high in transnational companies who go for large scale casualization and low workers’ rights which promotes many to migrate to
informal job markets. All these happen in the full view of Unions and they have no other go than to remain as mute spectators.

### 5.11 IRS IN MIDDLE EAST COUNTRIES

It is pertinent to observe that not much published work comes into sight on the IRS of Middle East and Mediterranean countries. Few experiences relating to Israel, Saudi Arabia, Jordan, Turkey, Syria and Egypt are presented below.

- Industrial relations in Israel have undergone significant changes over the years. Israel is often still assumed to exhibit an exceptional system in which the General Federation of trade unions, the Histadrut, organized most workers, and whereby coverage of collective agreements was almost complete. While these features appear in other corporatist systems of industrial relations as well, the Israeli case was considered exceptional due to the trade union’s extensive ownership of economic activity. Histadrut was an integral part of the Israeli nation-building process. But, the historical exceptionality is no longer sustained. Confronted both with internal pressures like, the diversification of the workforce and the move away from traditional industry to services and to more-difficult-to-organize sectors; and external pressures of globalization, including the exit of capital and industry and the entry of multinationals as well as migrant workers, Israel’s industrial relations system has been forced to change. Since the 1980s the Israeli system has undergone fundamental change. The major areas of change range from union density, through the nature of collective bargaining and the state’s regulation of the bargaining partners, to changes in the legal environment, strike activity and inter-organizational processes. These changes account for the decline in union membership rates, the decentralization of bargaining, the growing use of state regulation and the courts, the declining use of self-administered systems of dispute resolution, growing importance of non-union modes of representation, and general fragmentation of what was in the past an exceptionally strong and centralized system.

The corporatist industrial relations system crafted methods of dispute resolution that included compulsory mediation, voluntary arbitration, and mandatory arbitration by means of a collective agreement for certain segments of the public sector. Now these methods have hardly been utilized over the past ten years or longer. Moreover, informal methods of political deliberation over economic and social reform have been ousted in favour of the centralized and unilateral initiation of economic reforms by the Ministry of Finance. Under these circumstances, the trade unions have been marginalized and the use of strikes has remained their favoured approach, or, more aptly their sole feasible response. Current patterns of strikes are therefore a symptom of the crisis in the traditional institutions established in the past by the corporatist system. The only remaining effective form of dispute resolution for industrial relations is the system of labour courts, which have jurisdiction over all individual and collective labour disputes. Consequently, the continuing use of strikes on the one hand and the ongoing reliance on the labour courts on the other, has made IR a more legalistic relationship that determines the rights and powers of the parties to the dispute on the basis of legal means of communication rather than industrial mediation of interests. The gradual rise of new forms of workers’ representation outside of the trade union...
Global Trends in Industrial Relations

movement in the form of NGOs in Israel as part of a growing human rights movement have gone beyond traditional sphere of individual liberties and have given attention on the advancement of rights for particular categories of workers. This has further weakened the Trade Unions. The IRS system in Israel thus is caught in the nexus between corporatist practices and pluralism.

- The employment relations in Saudi Arabia are based on Sharia law (Labour Law by Royal Decree M/51 23 Sha’ban 1426/September 27 2005), which are very strictly enforced both on employers and employees. These laws cover all aspects of the employment relationship, including employment contracts, wages and benefits, leave, working hours, disciplinary actions, grievances and contract administration. Expatriates do not get many protections given to the native Saudi employees. The ‘Nitaqat’ programme and the immigration rules mean that there are major differences in how these two categories of employees are dealt with. The Labour Law sets out an employee’s minimum entitlements and applies to all employer-employee relationships. Employers are free to impose different working terms on an employee, provided that they are more generous to the employee. Therefore, each employment contract is to be read subject to the Labour Law. Employee complaints or disputes should be brought to one of the 37 labour offices which mediate labour disputes. If it is unable to resolve the dispute, the office will refer the dispute to one of the competent commissions; namely, the Initial Committee for the Settlement of Labour Disputes and the Supreme Committee for the Settlement of Labour Disputes for the settlement of labour disputes. Trade unions are not permitted in Saudi Arabia, nor there provisions to deal with collective bargaining. However, the Labour Law permits the establishment of worker councils for Saudi nationals only. Recent amendments to the Labour Law encourage employers to form worker committees to oversee staff welfare and to handle the funds collected through fines imposed on workers. The system regulating employment relations in Saudi Arabia is highly structured and regulated by the State.

- Jordan experienced worst economic regression in 1980s leading to reduced bargaining strength of labour that lost jobs to the migrant workers. Workers distanced from unions as they could not muster either political or organisational strength. The disintegration of USSR gave a shock to the Left affiliated ‘General Federation of Trade Unions’, the only union. The Government framed the draconian New labour Law in 1996 which gave immense powers to the State to control not only union activities, but also steer the IRS.

- In Turkey, it is the State’s strong contention that ‘IR is not simply a relationship between employers and employees, but an apparatus of the Government’s industrialisation and economic development programmes.’ Though Trade Unionism grew before 1980 with the enactment of Trade Union Law in 1947, formation of the Confederation of Turkish Trade Unions in 1952, in general the Unions were restrained by the Government. The Army rule in 1980 dismantled the trade unions and did not allow any labour rights. By 1986, there was a resurgence of labour struggle but not labour movement. In 1990s the Government with the active support of Employer Organisations facilitated many anti-labour policies like hiring of sub contracted, casual and temporary workers, extensive lay-offs and exclusion of supervisory and
skilled labour from the gamut of collective bargaining. Privatisation since 1984 gradually diminished workers’ participation which in turn shattered whatever little tripartism was prevailing.

- Governed by the Bath Party and the Assad family Syria created associations like Revolutionary Youth Organisation, Union of Students, the Women’s Organisation, the Peasants’ Federation and General Federation of Trade Unions. These are under the sovereign control of the Bath Party. As large scale industrialisation has not occurred in Syria only 12% of its population is workers who are under the control of Government sponsored Unions.

- Egypt suffers from excessive demand for subsidized goods; serious inflation; balance of payment deficits; growing international indebtedness; and foreign exchange shortages. It went for a spree of privatisation measures. Workers in public sector feared job loss and suffered silently as the Government favoured the crushing of trade unions.

5.12 IRS IN MULTI-NATIONAL CORPORATIONS

a) MNCs and Trade Unionism-

Industrial capitalism, following the Industrial Revolution and the two World Wars, gave birth to international corporations like Philips, Shell, General Electricals and others since the very beginning largely contributing to the post-colonial and post-war reconstruction in different parts of the globe. With these companies, International Associations of Employers and Employees also emerged. Karl Marx inspired the starting of a structured gathering of National Trade Unions under the name of ‘Internationals’ way back in 1864 to join forces on an international scale in the struggle against the rise of World capitalism. The current international associations of employees such as the International Confederation of Free Trade Unions (ICFTU), the World Federation of Trade Unions (WFTU) and the Christian World Federation of Labour (CWCL) are descendants of the collective organisations of labour which developed in the early 20th century. But the way, MNCs became internationalised with the support of the International Organization of Employers (IOE), the employee unions could not internationalise. At the best they organised and functioned at National levels.

The reason for this can be found in a paradoxical stand taken by the Unions vis-à-vis the multinationals. For a pretty long time the International trade Unions and MNCs did not consider each other as their ‘natural’ opponents. MNCs were in fact not there on the agenda of these world trade union federations. These international organisations mostly addressed against world capitalism in generic terms, but hardly realised the role of MNCs in this regard. By the time, around 1960s, when they woke up to the critical role of MNCs in expanding capitalism; the MNCs had already deeply entrenched themselves on the global map.

Until 1960, US MNCs had a monopoly in Europe as a sequel to post-war resurrection and reconstruction drive, and the Trade Unions greeted them with acceptance. The European MNCs mostly had their presence in colonial dominions. After 1970, Japanese and European MNCs came up in a big way reducing the monopoly of US.
b) **Approaches to IRS in a globalised scenario-**

The internationalisation of trade and industry and the dominant role of MNCs in this process currently have put pressures on the systems of IR. There is likelihood of non-compatibility between the MNCs policies and National systems of IR. The National systems of IR work on existing traditions and regulatory structures of labour which may not be conducive for the MNCs’ corporate policies and objectives.

There are three ways to address this problem.

- First is devolving the responsibility for IR policy to the subsidiaries completely (Polycentric approach). In this approach the local IR systems are given importance and company policies try to work with them. The management at the subsidiary level is given the full freedom to handle IR systems within the framework of the National policies. But, this approach always is not feasible for the MNCs’ corporate policies. For example, the IRS in India is considered highly protective of labour guaranteeing income and employment security, which the MNCs consider unfavourable for the freedom they want to enjoy in hiring and firing employees.

- The second approach is the ‘ethnocentric’ approach in which the MNCs evolve IR strategies at the headquarters and impose them on the management of subsidiaries with no concern for local traditions and systems of a country. This allows little variety between the subsidiaries. For example, North American MNCs’ strategic choice is for Union-free IRS at the subsidiaries; whereas the West European MNCs follow the tradition of encouraging organised independent trade unions representing the employee interests. The Japanese MNC’s contrarily prefer company promoted enterprise unions.

- Needless to say that both the polycentric and ethnocentric approaches, in their rigid prescriptions of decentralisation and centralisation respectively, on IR systems would fail to work. Institutional and cultural variety of IR system is as much needed as the strict adherence to the corporate strategies of MNCs. Therefore, the judicious mix of both the above approaches basing on the contingencies is a plausible third approach. In this regard the best practices from different Nations can be synthesized leaving scope for flexibility to address the IR issues. This approach can be termed as ‘geocentric approach’.

c) **Issues in International IRS-**

- Three conditions namely i) the degree of integration of production services signalling the relatedness between the subsidiaries; ii) the homogeneity or otherwise in the cultures of home country and host country; and, iii) the relative importance of subsidiaries as cost and profit centres are important in choosing the right approach of IR.

- Often MNCs try to cultivate centralised ethnocentric approach to the extent of pressurizing the National Governments to bring out unprecedented economic and labour reforms specially, in relation to
Conceptual Framework of Industrial Relations

Social policies, trade unions, labour laws and institutions of collective bargaining and labour markets.

- MNCs tend to suppress and decimate IR institutions like trade unions, collective bargaining etc. by introducing best Human Resource practices addressing to individual employees’ training, welfare, compensation and benefits.

- MNCs invariably aspire for hassle free business climate and for this adopt strategies like replacement of expensive labour through outsourcing work to cheap labour and if possible to capital invested in technology that can substitute the human efforts. This trend strikes a severe blow on the very foundation of IR by discouraging unionism and pluralism.

- MNCs seek from National Governments removal of social protection clauses as a precondition for FDI and establishment of new production units. The IR systems which bank upon protective clauses become weak. ‘Social dumping’, where in the competition shifts to low quality of employment and working conditions, is a reality forced by MNCs. In many cases unions are bound to go for ‘concession bargaining’ agreeing for downward adjustment of the terms and conditions of employment in order to protect the jobs of their members.

- MNCs benefit out of an ideological mismatch between the radicals and institutionalists who provide a framework for IR. The institutionalists over emphasize the capacity of MNCs to override National variations in IRS and other related fields, while suggesting for generation of new institutions. The radicals see ‘capital enhancement’ as a common interest between Nations and MNCs which binds them together and make them partners in destroying institutions that hither to protected the interests of the working class. They accuse the National Governments of fine-tuning their policies to the advantage of the MNCs. These contradictions help the MNCs to fish out of troubled waters.

- Whatever be the challenges, the MNCs have to operate within national systems. They act like an ‘Octopus’ with multiple tentacles. Nations, Trade Unions, Media and other actors only grapple with the tentacles without knowing the size, hold and grip of the Octopus. This unfathomable strength of MNCs makes them bold enough to go for international strategies in a largely unilateral fashion. Even though adversely affected, Government, trade unions and other institutions do scarcely influence the corporate strategy. This is the reason why Nations are creating regional power blocks to protect themselves from the onslaught of MNCs. For example, EU was formed to protect the European countries from the perceived threat caused by American hegemony and East Asian (especially Japanese and Chinese) erosion into European economy. With Brexit on the anvil, the EU is also becoming brittle and possible more segregation is contemplated in the foyer.
5.13 GENERAL TRENDS IN IRS AND IMPLICATIONS FOR INDIA

The discussions made in previous sections bring out some discernible trends in IR system as given in the following pointers-

- Globalisation, despite global criticism, has come to stay as a force to be reckoned with for its opening of markets, opportunities and benefits of international trade. Its focus on ‘consumer’ is so cosmopolitan, that the classes and citizens of countries professing either zero-sum nationalism or positive nationalism find no strength to counter its sway.

- Multinationals as symbolic proponents of globalisation are going stronger and stronger having strength to dictate terms to National Governments, and its institutions including trade unions because of their excellence in science and knowledge.

- Trade unions as important actors in the IR system are losing their hold on their members and more and more workers are becoming non-unionised.

- State as an actor in IRS is forced to lift social protection clauses and go for drastic economic and labour reforms to the detriment of the IRS.

- Even domestic enterprises are taking cue from the strategies of MNCs and refining their management strategies making them more focused on ‘individualism’ than ‘pluralism’. The overriding importance attributed to the developmental HR strategies eclipsing the ‘fire-fighting’ IR function is largely evident.

- There is a jobless growth putting pressure of non-working population on the economic edifice of Nations. More people are seeking recourse in the informal sectors or self-employed. IRS has no relevance for them.

India is no exception to these global trends. It has its own characteristics that can help or hinder its progress. They are identified in following pointers-

- India is a fast developing country which has to counter the hegemony of Western countries and some East Asian nations by promoting more and more multinationals emanating from its soil. For this purpose, the Nation has to take seminal and result oriented policy decisions that would facilitate generation of patented knowledge and scientific advancement for research which can be translated into branded products and services. Instead of becoming a place of destination it should become a place of origin for multinationals and world class brands. It cannot be achieved by unrefined sources of labour, land and minerals. Knowledge is wealth, and original research based scientific knowledge is revolutionary wealth as a gospel truth shall be realised now as never before.

- Once it is achieved, all its indigenous systems will not find the need to change at the behest of invading MNCs. This holds good for the IRS system too.

- Trade Unions have to change from being mere interest and pressure groups to institutions working for the skill development of its members. So long as they are caught in the trap of their historical moorings as politically expedient
groups, they cannot appreciate or achieve this new found goal. They have to work within the ‘plurality paradox’ in tandem with other agencies like NGOs, Civil Society groups on an expanded agenda of social policy goals.

- Employers shall realise that by resorting to individual focused HR strategies they cannot escape from the so called trouble prone IR. In the absence of fool proof organisational justice dispensation mechanism even the best HR practices would yield dissatisfaction needing empathic IR interventions.

- State shall be an actor in IR system and shall not act as a sovereign power imposing sanctions on trade unions and other institutions of IR. Institutions regulating the IRS like the legislations, conciliation, arbitration and adjudication machineries shall be functionally more effective.

### 5.14 SELF-ASSESSMENT QUESTIONS

1) What are the features of Globalization?
2) Critically analyse the pros and cons of globalization.
3) Analyse the IR systems in EU.
4) Highlight the IRS in Asian Countries.
5) How the Anglo-Saxon model of IRS works in US, Canada and Australia?
6) “African IRS is caught between formal and informal sector dilemma” - justify.
7) “The State intervention is becoming increasingly evident in IRS” – Elucidate the statement by bringing brief reference to IR systems of various countries and regions.
8) IRS is under pressure from HR strategies adopted by the MNCs. Explain the contention.
9) What lessons India can learn from global trends in IRS.

### 5.15 CHECK YOUR PROGRESS

Read the following statements and indicate the ones which are true/false.

1) Globalisation is achieved through integration of cultures, territories and political doctrines. True/False
2) Trade barriers and regional blocks have impaired the process of globalisation because it has created a wide gulf between developed and developing countries. True/False
3) State intervention into IR in many countries is not as mere ‘actors’ but as ‘sovereign authority’. True/False
4) Trade unions having leftist leavings are not prohibited in any country. True/False
5) Comma to Africa and same south east asian countries is that the informal sector is not conductive for institutions of IR like trade unions and collective bargaining. True/False
6) Indian IR legacy is a product of its political legacy. True/False

**Answers:** 1) False 2) True 3) True 4) False 5) True 6) True.
5.16 FURTHER READINGS


Amartya Sen, “How to judge globalisation”, The American Prospect (online)


S.R. de Silva, “Elements In The Shaping Of Asian Industrial Relations, ILO publications


Bob Russell and Nils Timo “Enterprise Bargaining and Union Recognition: Australian, Canadian and American Paths” Griffith University


Rüya Gökhan Koçer and Susan Hayter, “Comparative study of labour relations in African countries” Amsterdam Institute for Advanced labour Studies AIAS University of Amsterdam, December 2011

# MS-24: INDUSTRIAL RELATIONS

## Block 1 Conceptual Framework of Industrial Relations
- **UNIT 1** Concept, Scope and Approaches to Industrial Relations
- **UNIT 2** Evolution of Industrial Relations and Current Developments
- **UNIT 3** Constitutional and Legal Framework of Industrial Relations
- **UNIT 4** Labour Administration in India
- **UNIT 5** Global Trends in Industrial Relations

## Block 2 Trade Unionism
- **UNIT 6** Trade Union Development and Functions
- **UNIT 7** Trade Union Structure, Registration and Recognition
- **UNIT 8** Managerial Unionism
- **UNIT 9** Employers’ Organisations in India

## Block 3 Collective Bargaining
- **UNIT 10** Concept and Theories of Collective Bargaining
- **UNIT 11** Bargaining Process and Agreements
- **UNIT 12** Negotiation Skills
- **UNIT 13** Issues and Trends in Collective Bargaining

## Block 4 Employee Participation
- **UNIT 14** Evolution, Structure and Processes of Employee Participation
- **UNIT 15** Design and Dynamics of Participative Forums
- **UNIT 16** Implementing Participative Strategies

## Block 5 Grievance, Discipline and Dispute Resolution
- **UNIT 17** Grievance Handling
- **UNIT 18** Discipline in Industry
- **UNIT 19** Dispute Resolution Machinaries