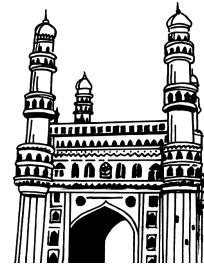


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UNIT - I

Industrial Relations : Economy and the Labour Force in India – Approaches to Industrial Relations – Industrial Relations in Comparative Frame work- Management and Employer organizations – Introduction – origin and growth. Trade Unions- introduction-Definition and objectives-growth and structure of Trade Unions in India-Trade Unions Act , 1926 and Legal framework-Union recognition- Union Problems- Non-Union firms –Management of Trade Unions in India.

UNIT - II

Collective Bargaining: Nature and legal framework of collective bargaining – Levels of Bargaining and Agreements- Change in the Labour - management relations in the post-liberalised India- Changes in the legal frame work of collective bargaining, negotiated flexibility, productivity bargaining, improved work relations, public sector bargaining and social security – Negotiating techniques and skills –drafting of an agreement.

UNIT - III

Tripartism and Social Dialogue: Types and levels of Tripartism – social dialogue and the Reform Process – Strengthening tripartite social dialogue – Role of government in industrial relations.

UNIT - IV

Labour Legislation-I –Factories Act, 1948, Workmen's Compensation Act, 1923, ESI Act, 1948- The Payment of Wages Act, 1936, Minimum Wages Act, 1948, The Payment of Bonus Act, 1965, National wage policy – Contemporary issues in Wage systems.

UNIT - V

Labour Legislation II: Industrial Disputes Act, 1948 - Grievance Handling Employee Grievances – Causes of Grievances –Conciliation, Arbitration and Adjudication procedural aspects for Settlement of Grievances –Standing Orders- Code Discipline. Industrial Disputes: Meaning, nature and scope of industrial disputes - Cases and Consequences of Industrial Disputes – Prevention and Settlement of industrial disputes in India- Employee Participation - Quality of Work Life- Managing good industrial relations.

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Frequently Asked & Important Questions

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Q1. Explain about theoretical perspectives of industrial relation.

Ans :

(April/May-19, Imp)

Refer Unit-I, Q.No. 8.

Q2. What are the basic concepts and values of industrial relation ?

Ans :

(Imp)

Refer Unit-I, Q.No. 10.

Q3. Explain the concept of industrial relations in a comparative framework.

Ans :

(Oct./Nov.-20, Imp)

Refer Unit-I, Q.No. 12.

Q4. Write about trade union.

Ans :

(Dcc.-19, April/May-19, Imp)

Refer Unit-I, Q.No. 17.

Q5. What are the objectives of trade unions ?

Ans :

(Dcc.-19, Imp)

Refer Unit-I, Q.No. 18.

Q6. What are the reasons for employees to join trade unions ?

Ans :

(Oct./Nov.-20, Imp)

Refer Unit-I, Q.No. 19.

Q7. What are the models of trade union movement ?

Ans :

(Dcc.-19, Imp)

Refer Unit-I, Q.No. 21.

Q8. Explain about Non Union Firms.

Ans :

(Dcc.-19, Imp)

Refer Unit-I, Q.No. 25.

UNIT - II

Q1. Explain the nature of collective bargaining.

Ans : (Dec.-19, Imp.)

Refer Unit-II, Q.No. 2.

Q2. Discuss about legal framework of collective bargaining.

Ans : (Dec.-19, April/May-19 Imp.)

Refer Unit-II, Q.No. 3.

Q3. What are the Levels of Collective Bargaining and Agreements?

Ans : (Imp.)

Refer Unit-II, Q.No. 4.

Q4. Explain about Management relations in the Post-liberalised in India.

Ans : (Dec.-19, Imp.)

Refer Unit-II, Q.No. 6.

Q5. What are the Changes in the Legal Framework of Productivity bargaining for improve workers relationship?

Ans : (Imp.)

Refer Unit-II, Q.No. 8.

Q6. Discuss about public Sector Bargaining and Social Security for improving workers relations.

Ans : (Oct./Nov. - 20, Dec.-18, Imp.)

Refer Unit-II, Q.No. 9.

Q7. Discuss about negotiation techniques and skills.

Ans : (Dec.-18, Imp.)

Refer Unit-II, Q.No. 10.

Q8. What are Factors Contributing to the Success or Failure of Collective Bargaining?

Ans : (April/May-19, Imp.)

Refer Unit-II, Q.No. 12.

Q9. Explain about drafting of an agreement.

Ans : (Imp.)

Refer Unit-II, Q.No. 13.

UNIT - III

Q1. Explain about tripartism.

Ans : (April/May-19, Imp.)

Refer Unit-III, Q.No. 1.

Q2. What are the types of tripartism?

Ans : (Oct./Nov.-20, April/May-19, Imp.)

Refer Unit-III, Q.No. 2.

Q3. What are the levels of tripartism?

Ans : (Oct./Nov.-20, Dec.-19, Imp.)

Refer Unit-III, Q.No. 3.

Q4. Discuss about social dialogue and the Reform process.

Ans : (Dec.-19, Imp.)

Refer Unit-III, Q.No. 4.

Q5. Explain about strengthening tripartite social dialogue.

Ans : (Oct./Nov.-20, Imp.)

Refer Unit-III, Q.No. 5.

Q6. Explain the role of government in industrial relations.

Ans : (April/May-19, Imp.)

Refer Unit-III, Q.No. 6.

Q7. What are the types of government interventions?

Ans : (April/May-19, Imp.)

Refer Unit-III, Q.No. 7.

UNIT - IV

Q1. What is factors act 1948? and Explain the provisions of factories act?

Ans : (Oct./Nov.-20, Dec.-18, Imp.)

Refer Unit-IV, Q.No. 1.

Q2. Discuss about workmen's compensation Act 1923.

Ans : (Oct./Nov.-20, Imp.)

Refer Unit-IV, Q.No. 7.

Q3. Explain about ESI Act 1948.

Ans : (Oct./Nov.-20, Imp.)

Refer Unit-IV, Q.No. 8.

Q4. Discuss about the payment of wage act 1936.

Ans : (Oct./Nov.-20, Imp.)

Refer Unit-IV, Q.No. 9.

Q5. Discuss about minimum wage Act 1948.

Ans : (Oct./Nov.-20, Dec.-18, Imp.)

Refer Unit-IV, Q.No. 11.

Q6. Discuss about the payment of bonus act 1965.

Ans : (Oct./Nov.-20, April/May-19, Dec.-18, Imp.)

Refer Unit-IV, Q.No. 12.

Q7. Write about national wage policy?

Ans : (Oct./Nov.-20, Imp.)

Refer Unit-IV, Q.No. 13.

Q8. What is pay structure of national wage policy?

Ans : (Dec.-18, Imp.)

Refer Unit-IV, Q.No. 14.

Q9. What are the contemporary issues in wages systems.

Ans : (April/May-19, Imp.)

Refer Unit-IV, Q.No. 16.

UNIT - V

Q2. What are the causes of Grievances?

Ans : (April/May-19, Imp.)

Refer Unit-V, Q.No. 2.

Q5. Discuss about Adjudication procedure aspects for settlement of grievances.

Ans : (Imp.)

Refer Unit-V, Q.No. 5.

Q8. What do you mean by industrial disputes?

Ans : (Oct./Nov.-20, Dec.-19. Imp.)

Refer Unit-V, Q.No. 8.

Q9. Explain the nature/Scope of industrial disputes.

Ans :

(Oct./Nov.-20, Dec.-19, Imp.)

Refer Unit-V, Q.No. 9.

Q10. What are causes and consequences for industrial disputes.

Ans :

(Imp.)

Refer Unit-V, Q.No. 10.

Q11. Explain about the prevention and settlement of industrial disputes in India.

Ans :

(April/May-19, Imp.)

Refer Unit-V, Q.No. 11.

Q13. Discuss about quality of work life in industrial relation.

Ans :

(Oct./Nov.-20, Imp.)

Refer Unit-V, Q.No. 13.

Q14. How to managing good industrial relation.

Ans :

(Dec.-19, Imp.)

Refer Unit-V, Q.No. 14.

Q15. Explain about future of industrial relations.

Ans :

(Imp.)

Refer Unit-V, Q.No. 15.

UNIT I

Industrial Relations : Economy and the Labour Force in India - Approaches to Industrial Relations – Industrial Relations in Comparative Frame work- Management and Employer organizations – Introduction – origin and growth. Trade Unions- introduction- Definition and objectives-growth and structure of Trade Unions in India-Trade Unions Act , 1926 and Legal framework-Union recognition- Union Problems- Non-Union firms –Management of Trade Unions in India.

1.1 ECONOMY AND LABOUR FORCE IN INDIA

Q1. Write about Economy and Labour Force in India.

Ans :

It presents a bird's eye view of some aspects of the Indian economy with special reference to labour. It examines the attention paid to labour issues in economic planning and outlines the socio-economic characteristics of the labour force in India. The growing tertiarization of the economy and casualization of the workforce are the dominant themes. After outlining the major trends in employment and the labour market, certain key concerns of the Indian economy job creation, skill development, labour mobility, labour commitment, work culture, and productivity and competitiveness are discussed.

1.1.1 Indian Economy

Q2. Write about Indian Economy.

Ans :

The Indian Economy

The history of the Indian economy and its labour force in the post-independence period can be divided into two phases:

- i) The import substitution era post-independence (1947 to 1991), and
- ii) The era of economic liberalization (1991).

At the time of independence, India had a significant industrial base, which was substantially diversified under the government's heavy

industrialization strategy during the plan era, particularly from the mid-1950s to the end of the 1960s. This period saw the public sector being accorded the dominant role in the growth of the economy. Then followed the government's policy of self-reliance and import substitution in the 1970s and early 1980s. In this period, several east Asian (Taiwan and Korea) and southeast Asian (Singapore, Hong Kong, and Malaysia) countries pursued export-oriented industrialization strategies.

In India, the focus was on restricting the growth of monopolies and ensuring equity. At the same time, domestic industry was protected in product markets and labour in labour markets. India, therefore, did not grow as fast as the rest of Asia and its economic, industrial, and political significance in the region and in the world declined.

The change in government policies is reflected in the difference between the terms of reference of the First National Commission on Labour and the Second National Commission on Labour appointed in 1966 and 1999 respectively. While the former was asked to recommend measures to improve the conditions of labour, the latter was asked to suggest labour law reforms to align labour policies with the requirements of the product market and to recommend an umbrella legislation for the unorganized labour.

Post-1991, the rate of economic growth, particularly in the industrial and service sectors, has picked up though employment in the organized sector has stagnated in relative terms. With economic liberalization, both labour and capital feel less protected or even unprotected. Table reflects some of the major changes in the economy that have influenced the dynamics of the labour-management relations.

Before Liberalization	After Liberalization
<ul style="list-style-type: none"> • State-sponsored and state-mediated development • Protected domestic market • Budgetary and directed institutional resource allocation • Subsidies and administered price regime • Welfare state active in labour market • Systematic de-casualization of jobs • Largely government-funded social security and welfare programmes for a few • Stable governing structure and policy regime • Stable, though obsolete, labour-intensive technologies • Dominant status of manufacturing 	<ul style="list-style-type: none"> • Market led and private enterprise dominated • Competitive market • Competitive capital market-led resource allocation • Rational pricing, including user charges • Labour-neutral and investment-friendly state policies • Fast re-casualization and contractualization of jobs • Crisis of sustainability of social security welfare programmes and pressure for security measures for all • Crisis of governance and fear of political and economic instability • Micro-electronics-led new-generation capital and skill-intensive technologies • Threat of deindustrialization and rapid growth of the service sector

Table: Changes in the Scenario, Before and After Economic Liberalization

The Indian economy is still characterized by a sharp rural-urban divide in terms of its structure and composition of both industries and workforce.

Labour and Economic Planning

The objectives of the labour policy in economic planning in India in the post-independence period can be classified into two categories in terms of the two economic eras: the plan era and the transition-to-market era.

In the plan era, the first seven Five Year Plans (1951-91, with some breaks in between) focused on the following objectives vis-a-vis labour:

- Improving the conditions of labour and the welfare of workers
 - Prevention and settlement of industrial disputes and maintenance of industrial peace and harmony to avoid disruption of industrial activity which could adversely affect the realization of plan goals
 - Controlling industrial growth to prevent concentration of economic power in the hands of a few and reducing income disparities among individuals and regions
 - Workers' education
 - Workers' participation in management
- With the transition to a market economy, the need has arisen for aligning industrial relations policies with industrialization strategies. This calls for
- Facilitating the growth of enterprise and entrepreneurship and aligning labour policies with economic policies.
 - A shift in policy focus from organized labour (7%) to unorganized labour (93%) (Ninth Five Year Plan, 1997-2002, Working Group Report).
 - Reform of labour laws and labour policies in the wake of globalization (terms of reference of the Second National Commission on Labour appointed in 1999).

- A shift in emphasis from job security to income security and social safety measures
- Concern for skills development, productivity, and competitiveness
- Reformation in pension policies
- A shift in government role from control to facilitation

Unemployment and underemployment have been major concerns, but it is mainly in the Tenth Plan (2002-07) document that a strong plea has been made for bringing about a qualitative change in the structure and pattern of employment to promote the growth of good quality work opportunities. The document notes that the growth process alone will not be able to provide adequate work opportunities for the emerging workforce, let alone reduce the backlog of unemployment. Further, the document recognizes the need for transforming an agrarian economy into a modern, multidimensional economic powerhouse and an egalitarian society.

The Tenth Plan specifically has as its targets 8% annual economic growth, reduction in poverty from 26% in 2002 to 21% by 2007, and a decrease in population growth from 21.3% in the 1990s to 16.27% during the decade 2001-2011. It also aims to provide gainful, high-quality employment to at least the new entrants in the labour force, improve literacy to 75%, and reduce unemployment to 5.3% by 2006-07. Further, the Tenth Plan envisages reducing the gender gap in literacy and wages by 50%.

Tertiarization of the Economy

Economic activities are classified into three sectors: primary, secondary, and tertiary. To begin with, most economies are engaged in primary (agricultural) activities. As industrialization takes place the secondary (manufacturing) sector comes to account for the bulk of employment and GDP. Post-industrialization, the tertiary (service) sector becomes the major provider of jobs and the main source of GDP and its growth. In India, since the mid-1980s, the service sector has been growing fast.

The tertiary sector currently accounts for the bulk of employment and GDP. Of India's one billion population, the workforce is an estimated 400 million. About 58% of the country's workforce continues to be engaged in agriculture and contributes a mere quarter of GDP. Nearly 18% is engaged in industry and contributes 26% of GDP. The remaining 23% of the workforce is in the tertiary sector—its proportion is steadily growing—and contributes roughly half of the GDP (Table 1.2). The tertiarization of the economy requires new skills and new work values and, in some cases, new forms of employment and work organization.

Agriculture, which accounts for nearly three-fifths of employment, is expected to grow without any significant increase in employment. During the 1990s it had zero elasticity of employment and over the coming few decades it may have negative elasticity of employment. Without a major shift in employment from agriculture to other sectors, including rural industries, the majority of India's working class will remain poor. However, improvement in productivity can be expected to increase wage levels in agriculture. If those displaced from agriculture can have gainful employment in the non-farm sector or rural industries, there can be a significant reduction in poverty.

Sector	Share in employment 1983	Share in GDP 1983	Share In employment 2000	Share in GDP 2000
Primary (Agricultural)	69	38	60.4	25
Secondary (Manufacturing)	13.8	26	16.8	26
Tertiary (Service)	17.2	36	22.8	49
Total	100	100	100	100

Table: Sector-wise Share in Employment and GDP, 1983 and 2000

Employment elasticity in manufacturing is higher than in agriculture but lower than in the service sector. Global competition and extensive use of modern technologies have reduced and continue to reduce employment intensity in the manufacturing sector.

The stringent provisions in the Industrial Disputes Act, 1947 restraining layoff, plant closure, and retrenchment of labour, introduced during the emergency in 1976 by way of amendments to the said Act, resulted in an increase in capital intensity and decrease in labour intensity. Employment intensity in manufacturing is also declining and there is a virtual stagnation in employment in organized industries.

The service sector holds the prospects of a major share in new job creation, but a substantial part of it is expected to remain unorganized in the foreseeable future. The quality of employment in the unorganized sector is usually poor. Growing global competition has increased casualization and contract casualization of labour. Poverty ratios are declining but quality of employment and quality of the labour force remain major areas of concern.

The gradual withdrawal of the welfare state role of the government, policy shifts from labour to investor concerns and the assertion of consumer rights, and the pressures of cost-cutting competition portend persistent jobless growth and worsening of labour market conditions. To counter this trend, it is imperative to invest heavily in basic education and skills training.

1.1.2 Labour Force in India - Structure, Composition and Trends

Q3. Discuss about labour force in India.

Ans :

The diversity of the Indian industrial workforce makes it difficult to generalize its profile. Only 13% of the labour force is in regular wage employment and barely 7% is in the organized sector and 4% in the unionized. The growing tertiarization of the economy—where the service sector dominates in terms of share of employment and GDP is accompanied by casualization. Thirty-six per cent of the population is not literate. As a result, a substantial proportion of the labour force, even in the organized sector, is illiterate.

	2001
Population	> 1 billion
Labour force/workforce	< 400 million
Organized sector/formal sector	7%
Unorganized sector/informal sector	93%
Self-employed	55%
Regular workforce	13%
Casual workforce	32%
Employment in government and public sector	> 18 million
Employment in private sector	> 9 million
Unionized workforce/union density	4%
Workforce covered by collective bargaining	2%

Table : Labour Force Profile, 2001

Ninety-three per cent of India's labour force is in the unorganized sector; 55% is self-employed; and only 13% is in regular wage employment. About a third of the labour force is in casual employment (Table). Casualization of labour is growing due to economic liberalization, changes in ownership and technology, cost-cutting competitive strategies of employers and the government's investor-friendly disposition towards the organized sector.

Over one-fourth of the population of the country is below the poverty line. Unemployment is growing. In the absence of unemployment insurance, open unemployment is relatively less in India. The real problem is of underemployment and disguised unemployment. The really poor cannot remain without jobs. Therefore, while the vast majority accept whatever job comes their way and work below subsistence level, the few who can afford to, wait for a better job. Therefore, it is little wonder that the incidence of poverty is higher among the employed than among the unemployed.

Self-employment and regular salaried employment declined between 1977 and 2000 in rural areas.

Table: Distribution of Workers (Usual Status) by Category of Employment (1997-200)

Year	Category of Employment		
	Self-employment	Regular salaried	Casual
Rural			
1977-78	62.6	7.7	29.7
1983	61.0	7.5	31.5
1987-88	59.4	7.7	32.9
1993-94	58.0	6.4	35.6
1999-2000	56.0	6.7	37.3
Urban			
1977-78	42.4	41.8	15.8
1983	41.8	40.0	18.2
1987-88	42.8	40.3	16.9
1993-94	42.3	39.4	18.3
1999-2000	42.1	40.1	17.8
Rural and Urban combined			
1977-78	58.9	13.9	27.2
1983	57.4	13.9	28.7
1987-88	56.0	14.4	29.6
1993-94	54.8	13.2	32.0
1999-2000	52.9	13.9	33.2

Consequently there was a significant rise in casual employment in rural areas. In contrast, in urban areas, the situation was relatively stable though there was a 2% increase in casual employment in urban areas during the corresponding period. Though employment in the organized sector grew in absolute terms between 1977 and 2000, it declined marginally between 1994 and 2000. Overall, the trend points to a worsening of the quality of employment during the period 1997-2000.

Table: Employment in Organized and Unorganized Sectors, 1973 - 2000

Year	Employment			Organized as % of total
	Organized	Unorganized	Total	
	(Million)			
1973	18.8	217.5	236.3	7.4
1978	21.2	249.5	270.7	7.8
1983	24.0	278.7	302.7	8.0
1988	25.7	296.3	322.0	7.9
1991	26.7	315.2	341.9	7.9
1994	27.4	344.7	372.1	8.0
2000	28.1	365.1	393.2	7.1

Trends in Employment

The following are the most common trends in the employment pattern :

- Declining stability and security in employment
- Declining labour intensity
- A growing irregular labour force due to extensive use of casual, contract, contingent, part-time, temporary, fixed-term, job-sharing, atypical, non-core/peripheral labour
- Shift from contract of service (employment) to contract for service (self-employment/ business relationships)
- Increase in home-based work and the consequent blurring of the gap between work and home when work is home and home is work
- Declining and/or extinction of a few occupations and the birth of a few others.
- Declining mutual commitment: erosion of the concept of one person-one skill- one job-one company
- Declining influence of trade unions

Trends in the Labour Market

The major trends in the labour market are

- Recruitment ban/squeeze in public sector and government employment
- Increasing open unemployment
- Decreasing formal sector employment in relative terms
- Growing casualization and contractualization of labour
- Falling employment elasticities
- Emergence of global chains splitting production processes into different parts dispersed over several locations
- Mergers, acquisitions, disinvest, and other ownership changes and consequential pressure on doing more with less
- Significant workforce reduction in both the public and private sectors

Labour in the old Economy and the New Economy

In discussions on labour issues often a distinction is made between the old economy (offshoot of the industrial revolution) and the new economy (offshoot of the IT revolution). People power is assessed not by their number but by their quality. Increasingly, brawn power is being replaced by brain power. The transition warrants a change in the management philosophy based on the direction and control of consensus and commitment shown in table.

Table : Paradigm Shift in Labour Power and Management Control

Aspect	Primary/Agriculture	Secondary/Manufacture	Tertiary Service/High Tec
Wealth base	Land	Money/Capital	Mind/Knowledge
Human energy	Brawn/Muscle	Machine tending skill	Brain/Mind
Relationship	Master and servant	Employer–employee	Partnership
Leadership	Authoritarian	Paternalistic	Consultative/Participative
Motivation	Fear	Favour	Fairness
Communication	Top down/One way	Two way	Open/transparent
Productivity	Hard work/Control over work and worker	Hard work/Control over worker	Smart work/Control over work results/Empowerment
Employment development	Inducement	Investment	Involvement
Management approach	Direction and control	Direction and control	Consensus and commitment

Communication has to be two way and transparent; motivation not through fear or favouritism but through fairness and equity; leadership does not reside at the top and empowerment is what counts. Karl Marx saw in industrial capitalism, as it developed through the nineteenth century, the separation of workers from their means of productions; in the era of the IT revolution, there is potential for the reunification of workers and their means of production: their brain.

Where price is the major basis for competition, low-cost manufacturers have an advantage. Trade unions in such product markets face pressures due to the constant efforts of employers to reduce labour and labour costs. In recent years, the basis of competition has been changing. Now non-price aspects such as quality, variety, and service are becoming more and more important.

1.1.3 Key Issues and Critical Challenges in Labour Force In India

Q4. What are the Key Issues and Critical Challenges in labour force in India?

Ans :

To address/redress indigence (poverty), unemployment, inequality, and illiteracy, the key issues and critical challenges before the government are centred on providing work to all those who seek it. Six challenges have been identified and discussed here:

- a) Technology and job creation
- b) Skills development
- c) Labour mobility
- d) Labour commitment
- e) Work culture
- f) Productivity and competitiveness

1. Technology and Job Creation

Technology, global competition, and ownership changes through privatisation and transnational mergers have all resulted a phenomenon of 'doing more with less' and a consequent reduction in workforce for improving competitiveness. In infrastructure transport, telecommunications, and banking, for

instance and in areas where the competition is global, it is becoming imperative to use advanced technologies regardless of their impact on employment. New technologies usually displace unskilled workers and reward skilled workers. They also eliminate dirty, dangerous, and drudgerous aspects of work. Some of the new chemicals/materials may, however, entail new and unforeseen dangers and ill-effects on the health of the workers and communities in which they are processed or through which they are transported. Usually firms using advanced technologies shrink employment relatively, and expand the scale of business. Generally transnational companies use advanced technologies more intensively than domestic companies in developing countries. While these may become the transmission belts for best practices, their effects on employment and the environment are often viewed with concern.

There can be jobless growth, but no jobs without growth. Therefore, the government should step up the rate of growth of GDP. It should formulate sector-specific policies so that the focus is not only on growth, but also on job creating growth. Since no country is competitive in every sector, there is merit in focusing on sectors in which the country has a competitive advantage. To achieve this, all the social partners should play their respective roles.

2. Skills Provision and Social Safety Net Development

Only 5% of the Indian labour force in the age bracket 20-24 years, has obtained vocational training. Low literacy, vocational bias against technical skills, occupational preference for non-production jobs, mismatch between skills acquired and skills required, dearth of adequately/appropriately trained technical personnel, low competitiveness of labour vis-a-vis developed nations, and employability and retraining of labour are among the major weaknesses that characterize the macro level situation of

labour in India. There is a need to forecast marketable skills through the labour market intelligence system with focus on linking job seekers with job providers. Competencies for different jobs should be assessed systematically both in the organized and the unorganized sectors.

The government should invest in basic education, skills formation, and training. Apart from achieving literacy for all, vocational skills provision should receive urgent attention. This is best done through private public partnerships with due emphasis on vocational skills certification and appropriate funding. Vocational education should be integrated at the school level. Along side, there is need to institute special programmes for protecting the interests of vulnerable groups and to enhance income security for those who are adversely affected by unemployment or job loss.

3. Labour Mobility

Worldwide labour migration occurred on a much larger scale in the nineteenth century and early twentieth centuries than in the past 50 years. Globalization resulted in job losses in some countries and job creation in others. Therefore, labour could migrate to where the jobs were. At the end of the twentieth and beginning of the twenty- first century, globalization has resulted in persistent job losses and rising unemployment levels in most parts of the world. Also, new technologies have rendered jobs in several sectors less labour intensive though more environmentally friendly. Therefore, instead of industrial relocation, what we see is industrial restructuring through business processing reengineering, etc. The cumulative effect of all these developments has been reduced migration.

4. Labour Commitment

A committed worker is one who stays in the job and has severed his/her major connection with land. He/she is a permanent member of

the workforce who receives wages and is dependent for livelihood on enterprise management, which offers him/ her work and directs his/her activities at the workplace. There are four categories/ stages of commitment:

- i) **Uncommitted worker:** A temporary worker who accepts industrial employment to tide over some temporary difficulty and returns to the village after working for a short time.
- ii) **Partially committed or semi-committed worker:** Looks at industrial employment as permanent, but remains in contact with the village.
- iii) **Generally committed worker:** Dependent on industrial employment and has no contact with the village.
- iv) **Specifically committed worker:** Permanently attached to a particular enterprise and a particular occupation.

First-generation industrial workers were considered either uncommitted or partially committed. In large enterprises, employment offers workers not only a means for earning wages/livelihood, but also an opportunity for procuring housing and other civic amenities such as education and medical care for self and family and even preferential access to one or more of their dependents/heirs. Given the growing unemployment and underemployment, this resulted in workers becoming so committed to their jobs that they came to consider them as property to be bequeathed to spouse and/or children. There have been agreements to the effect that if an employee dies while in service or becomes medically unfit to carry on his/her work, the job is given to one of the dependents. However, with rapid technological advances and global competition, job security and lifelong employment have become myths.

In the past, companies followed a policy of lifetime employment to retain and motivate

people; if a worker changed jobs too often, the popular perception was that something was wrong with the person. Today, if someone does not change jobs for a couple of years, the popular perception is that there something is wrong with him/her. With neither employers nor employees being loyal to each other, commitment becomes a casualty. Without a loyal internal customer base (i.e., employees), it is difficult to build a loyal external customer base.

5. Work Culture

Work culture does not mean worker culture. It is the behaviour, values, beliefs, and assumptions of all workers, including managers, towards work.

The following perceptions of a cross-section of society reflect the current concerns with work culture: Some employers/managers believe that if the belly is full, the worker will not work. Some workers say that for the amount they are paid, what they do is more than enough. Some trade union leaders propagate 'half work, full wages'. Among some multinationals, the practice is—the more you work, the more you get.

The same work can evoke three different perceptions. Let us take the example of the construction of a temple. One worker feels that he/she is cutting stone, the second feels that he/she is earning a livelihood, the third feels that he/she is building a temple. The third worker has a sense of ownership and feels empowered. Such an attitude is not only self-fulfilling but also meets the expectations of employers.

The president of a national trade union remarked in 2002: On average, workers in the organized sector work five out of eight hours. In India more than a million days are lost daily due to poor work culture.

A good work culture is when work is worship, the worker is respected, and the workplace is 'clean' in every sense of the word.

6. Competitiveness

Though competitiveness of firms is critical, firms do not operate in a vacuum.

From the time of its independence till the end of the 1970s, India was the second largest economic power, after China, in the entire Asia-Pacific region. Then it was overtaken by East Asian and Southeast Asian countries. India's policies of self-reliance made it insular at a time when other countries in the region were availing and opening up their economies. The ascendancy of the Asian NICs, which was characterized as an Asian economic miracle, corresponded with the period of the meltdown of the Indian economy.

India's share in international trade was 1.5% at the time of independence. Today, India's share in world trade stands at 0.8%, a little over half of its share in the early 1950s.

1.2 APPROACHES TO INDUSTRIAL RELATIONS

1.2.1 Industrial Relation

Q5. Write about industrial relation.

Ans :

Industrial Relations

Industrial relations has become one of the most delicate and complex problems of modern industrial society. Industrial progress is impossible without cooperation of labors and harmonious relationships. Therefore, it is in the interest of all to create and maintain good relations between employees (labor) and employers (management).

Concept of Industrial Relations

The term 'Industrial Relations' comprises of two terms: 'Industry' and 'Relations'. "Industry" refers to "any productive activity in which an individual (or a group of individuals) is (are) engaged". By "relations" we mean "the relationships that exist within the industry between the employer and his workmen." The term industrial relations explains the relationship between employees and management which stem directly or indirectly from union-employer relationship.

Definition of IR

1. "Industrial relations refers to a dynamic and a developing concept which is not limited to the complex relations between trade unions and management but also refers to the general web of relationships normally obtaining between employers and employees a web much more complex than the simple concept of labour capital conflict."

- Prof. T.N. Kapoor

2. "Industrial relations may be defined as the complex of interrelations among workers, managers and government".

- Prof. Dunlop

3. "Industrial relations involve attempts to arrive at workable solutions between the conflicting objectives and values between profit motive and social gains, between discipline and freedom, between authority and industrial democracy, between bargaining and co-operation and interests of the individual, the group and the community".

- Richard A. Lester

4. "The relations between employers and employees in industry in the broad sense, the term also includes the relations between the various unions, between the state and the unions as well as those between the employers and the government".

- Casselman 's Labour Dictionary

5. "Industrial relations is that part of management which is concerned with the manpower of the enterprise whether machines-operator, skilled worker or manager".

- Bethel, Smith and Others

6. "The concept of industrial relations has been extended to denote the relations of the state with employers, workers and their organization... the subject, therefore, includes individual relations and joint consultations between employers and work people at their work place, collective relations between employers and their organizations and trade unions and the part played by the state in regulating these relations".

- Encyclopedia Britannica

7. "Industrial relations in wide sense denote such matters as freedom of association and the right to organize the application of the principle of the right to organize and right of collective bargaining of conciliation and arbitration proceeding, and the machinery for co-operation between the authorities and the occupational organizations at various levels of the economy".

- International Labour Organisation

Nature of Industrial Relations

However much cooperation maybe sought as an organizational objective, some conflict will always remain. There are at least 3 reasons for this:

1. **Mixture of Cooperation and Conflict:** Both labour and management develop different orientations and perceptions of their interests. They also develop generally negative images about each other.
2. **Absence of Norms:** There are no mutually accepted yardsticks or norms to tell to the two groups how far they should go in the pursuit of their objectives. In the absence of norms both groups claim complete rationality for their demands.
3. **No Natural Field :** There is no neutral field for the groups to meet on. Whenever the two groups meet each other for negotiations they bring with them some carry over from the past besides their inherent distrust and suspicion for each other.

Importance of Industrial Relations

Importance of industrial relations is as follows :

1. **Reduces Industrial Disputes:** Disputes are reflections of the failure of basic human urges or motivations to secure adequate satisfaction, which are fully cured by good industrial relations.
2. **High Morale:** Sound industrial relations improve the morale of the employees. Employees work with great zeal with the feeling in mind that the interests of employer and employees are the same, i.e., to increase production.
3. **Collective Bargaining:** Good industrial relations are extremely helpful for entering into long-term agreements as regards various issues between labour and management.
4. **Fair Benefits to Workers:** The workers should get sufficient economic and non-economic benefits to lead a happy life. It is possible when relations between workers and management are cordial and productivity is high.

5. **Mental Revolution:** Industrial relations completely transform the outlook of employers and employees.
6. **Reduced Wastage:** Good industrial relations are maintained on the basis of cooperation and recognition of each other. It helps in increasing production.
7. **Uninterrupted Production:** The most important benefit of industrial relations is that this ensures continuity of production.

1.2.2 Scope of Industrial Relation

Q6. Explain the scope of industrial relation.

Ans :

Scope of IR

Based on above definitions of IR, the scope of IR can easily be delineated as follows:

1. Labour relations, i.e., relations between labour union and management.
2. Employer-employee relations i.e. relations between management and employees.
3. The role of various parties' viz., employers, employees, and state in maintaining industrial relations.
4. The mechanism of handling conflicts between employers and employees, in case conflicts arise.

The main aspects of industrial relations can be identified as follows:

1. Promotion and development of healthy labour — management relations.
2. Maintenance of industrial peace and avoidance of industrial strife.
3. Development and growth of industrial democracy.

Industrial relations have been heavily influenced by the conditions prevalent in the post industrial revolution scenario and in the capitalist system of production. Later changes were caused by developments in the wake of the IT revolution and the rapid technological progress, which is still causing discontinuous changes.

Globalization is not a new phenomenon, but its effects in the past were different from those occurring now. Earlier, labour was more mobile than capital; now capital is more mobile than labour.

In the past, labour moved to places where jobs were available; now, job losses are taking place everywhere. Also, employers' exploitation of workers continues to persist to a great extent in the informal sector.

Today's new-generation knowledge workers and professionals competing for career advancement are 'willing slaves', ready to work longer hours and almost seven days a week. Also, in certain cases unions are suspicious of the 'caring and sharing' attitude of employers, seeing in the 'new' human resource policies a ploy to make trade unions redundant.

More often than not, the study of industrial relations has been preoccupied with the fundamental causes of discontent and discord at work and how to mitigate them. Hare (1965) notes that, 'The problem of industrial discontent is inherent in, and arises from, the structure of society; from its social organization and political forms; from its religious and ethical norms and the attitudes to property and work which these inculcate and which are given expression in its law.'

In fact, it is true to say that the problem of industrial discontent is rooted in fundamentals of our way of living which are so much a part of ourselves that we seldom stop to question them. Consequently we may fail to realize that these fundamentals are neither universal nor immutable, and that, in other times and places, in other forms of society, they may be quite different.'

The conditions prevailing around the time of the First World War and the Second World War brought either communist or socialist ideas and ideals to the fore (for instance, the Beveridge Plan in the UK and the Social Contract under Roosevelt in the US) which produced significant challenges to the capitalist system in many parts of the world.

1.2.3 The System Framework of Industrial Relation

Q7. Write about The System Framework of Industrial Relation.

Ans :

The Systems Framework

Dunlop considered industrial relations a subsystem of society, distinct from, but overlapping, other subsystems. He suggested that the industrial relations system could be divided into four interrelated elements comprising 'certain actors, certain contexts, an ideology which binds the industrial relations system together and a body of rules created to govern the actors at the workplace'.

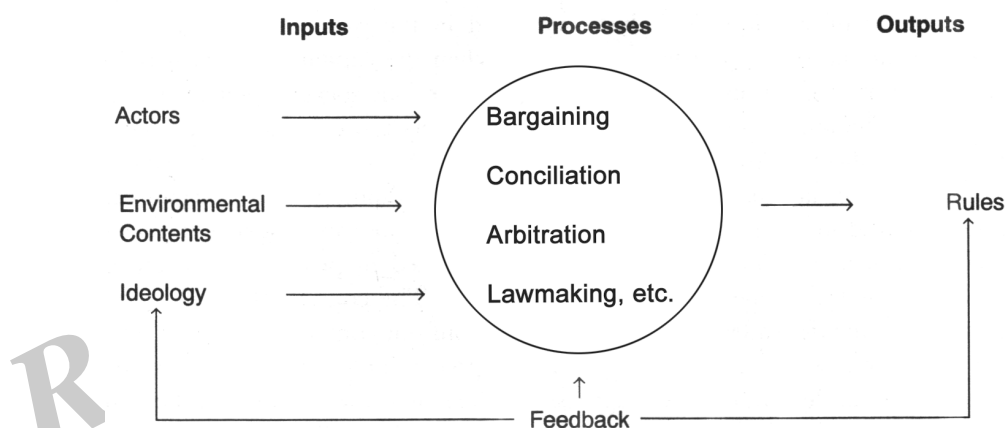


Figure: Dunlop's Framework of Industrial Relations System

The actors The actors are (i) managers and their representatives; (ii) workers and their organizations; and (iii) specialized government agencies (and specialized private agencies created by the first two actors) concerned with workers, enterprises, and their relationships. The first two are directly related to each other in that the managers have responsibilities at varying levels to issue instructions (to manage), and the workers at each corresponding level have the duty to follow such instructions (to work). The functions of specialized government agencies as actors may in some industrial relations systems be so broad and decisive as to override managers and workers on almost all matters.

The contexts The contexts are (i) the technological characteristics of the workplace and work community; (ii) the product and factor markets or budgetary constraints that impinge on the actors; and (iii) the locus and distribution of power in the larger society.

The ideology An ideology is a set of ideas and beliefs commonly held by the actors that helps to bind or to integrate the system together as an entity. The ideology of an industrial relations system is a body of common ideas that defines the role and place of each actor and the ideas that each actor holds towards the place and the function of the others in the system. The ideology or philosophy of a stable system involves a congruence or compatibility among these views and the rest of the system.

The network or web of rules These concern procedures for establishing rules, the substantive rules themselves, and the procedures for deciding their application. All these factors are critical in an industrial relations system. These may be expressed in a variety of forms: the regulations and policies of the management hierarchy; the laws of any worker hierarchy; the regulations, decrees, decisions, awards, or orders of government agencies; the rules and decisions of specialized agencies created by the management and worker hierarchies; collective bargaining agreements; and the customs and traditions of the workplace and work community. In any particular system the rules may be incorporated in a number of these forms; they may be written, an oral tradition, or customary practice.

1.2.4 Theoretical Perspectives of Industrial Relation

Q8. Explain about Theoretical Perspectives of Industrial Relation

Ans : (April/May-19, Imp)

Approaches to Industrial Relations

1. Dunlops Approach

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

2. The Oxford Approach

According to this approach, the industrial relations system is a study of institutions of job regulations and the stress is on the substantive and procedural rules as in Dunlop's model. Flanders, the exponent of this approach, considers every business enterprise as a social system of production and distribution, which has a structured pattern of relationship.

The "institution of job regulation" is categorized by him as internal and external – the former

being an internal part of the industrial relations system such as code of work rules, wage structure, internal procedure of joint consultation, and grievance procedure.

He views trade unions as an external organisation and excludes collective agreements from the sphere of internal regulation. According to him, collective bargaining is central to the industrial relations system.

3. The Industrial Sociology Approach

G. Margerison, an industrial sociologist, holds the view that the core of industrial relations is the nature and development of the conflict itself.

According to this school of thought, there are two major conceptual levels of industrial relations. One is the intra-plant level where situational factors, such as job content, work task and technology, and interaction factors produce three types of conflict – distributive, structural, and human relations.

These conflicts are being resolved through collective bargaining, structural analysis of the socio-technical systems and man-management analysis respectively. The second level is outside the firm and, in the main, concerns with the conflict not resolved at the intra-organisational level.

4. The Action Theory Approach

Like the systems model, the action theory approach takes the collective regulation of industrial labour as its focal point. The actors operate within a framework, which can at best be described as a coalition relationship.

The actors, it is claimed, agree in principle to cooperate in the resolution of the conflict, their cooperation taking the form of bargaining. Thus, the action theory analysis of industrial relations focuses primarily on bargaining as a mechanism for the resolution of conflicts.

Whereas the systems model of industrial relations constitutes a more or less comprehensive approach, it is hardly possible to speak of one uniform action theory concept.

5. The Marxist Approach

The Marxist approach is primarily oriented towards the historical development of the power relationship between capital and labour. It is also characterized by the struggle of these classes to consolidate and strengthen their respective positions with a view to exerting greater influence on each other. In this approach, industrial relations is equated with a power-struggle.

The price payable for labour is determined by a confrontation between conflicting interests. The capitalist ownership of the enterprise endeavours to purchase labour at the lowest possible price in order to maximise their profits. The lower the price paid by the owner of the means of production for the labour he employs, the greater is his profit.

The Marxist analysis of industrial relations, however, is not a comprehensive approach as it only takes into account the relations between capital and labour. It is rather, a general theory of society and of social change, which has implications for the analysis of industrial relations within what Marxists would describe as capitalist societies.

6. The Pluralist Approach

The focus is on the resolution of conflict rather than its generation, or, in the words of the pluralist, on 'the institutions of job regulation.' Kerr is one of the important exponents of pluralism. According to him, the social environment is an important factor in industrial conflicts. The isolated masses of workers are more strike-prone as compared to dispersed groups. When industrial jobs become more pleasant and employees' get more integrated into the wider society, strikes will become less frequent.

7. Weber's Social Action Approach

Weberian approach gives the theoretical and operational importance to "control" as well as to the power struggle to control work organisations – a power struggle in which all the actors in the industrial relations drama are caught up.

8. The Human Relations Approach

The human relations approach highlights certain policies and techniques to improve employee morale, efficiency and job satisfaction. It encourages the small work group to exercise considerable control over its environment and in the process helps to remove a major irritant in labour-management relations.

9. The Gandhian Approach

This approach to industrial relation is based upon fundamental principal of truth, non-violence and non-possission. This approach presumes the peaceful co-existence of capital and labour.

Gandhiji emphasized that if the employers follow the principal of trusteeship than there is no scope of conflict of interest between labour and management, Gandhiji accepted the workers right to strike, but cautioned that they should exercise this right for a just cause and in a peaceful and non-violence manner and this method should only be resorted when all methods failed in getting employers response.

1.2.5 Rule Making and Industrial Relations**Q9. Explain about Rule Making and Industrial Relations.**

Ans :

Dunlop referred to the network of rules as one of the outputs of industrial relations (Dunlop 1958). Flanders considered formulation of rules and their implementation as the bread and butter of industrial relations. Gouldner pointed out the importance of developing rules by consensus. These rules originate from different sources such as the following and are shaped by their legal, political, economic, social, and historical context:

1. Constitutional and legislative framework

It is important for both managements and trade unions to abide by the Constitution, the legislation, and gazette notifications.

2. Single party unilateral

Employer calling the shots can breed exploitation. In places where the demand for labour is much more than its supply, employers can go out of their way to befriend labour. But India is unlikely to get into such a utopian situation (from labour's point of view) in the foreseeable future. Therefore, unilateral rule-making is anathema from labour's point of view.

3. Two parties: collective bargaining

Collective bargaining is considered the ideal form of rule-making, provided there is balance of power between the parties. In India barely two to three per cent of the labour force is covered by collective bargaining. Even so, the balance of power is usually tilted more in management's favour, specially in areas which are exposed to competition and excess supply of labour in relation to the demand for it.

4. Three parties: tripartite accords

Usually these are non-binding statements, except those signed under Section 19 of the Industrial Disputes Act, 1947. Because of their moralistic tone, they are usually adopted without much questioning or critical appraisal of implementation issues. Since their non-compliance often entails zero consequences, they can be taken lightly.

5. Third party: arbitration/adjudication

India does not have a proper system for arbitration. The government's discretionary powers make adjudication processes suspect in some cases. In any case, when rules are set by a third party and decisions taken by those who are not affected by the consequences, it is possible that neither labour nor management is happy with the outcomes. In such cases, the locus of control shifts away from the immediate actors - trade unions and workers. It is preferable to establish objective criteria/rules to settle disputes like 'you cut and I choose or vice versa', where both parties have to exercise caution and depend on their own inputs and judgement rather than a third party's.

6. Multiple parties: social codes, etc.

These are sometimes entered into under pressure - for example, social labelling, consumer boycotts, etc. are subject to coercion by market forces in regard to compliance with core international labour standards, etc.

7. Grey areas

These are areas where there are no fixed rules. Union recognition is one such area (Ramaswamy 1985). The rules provide for cooperation and conflict and lay down the policies, procedures, and practices concerning work place relations. The strategies of management to secure cooperation of workers and the efforts of unions to exercise influence are the products of labour and product market circumstances.

The fundamental nature of employment or industrial relations is also influenced by the structural conditions in which managements and workers/their trade unions find themselves within a society. For instance, from the 1920s through 1980s there were striking contrasts in the approaches to relationships in western and eastern Europe and between communist and capitalist societies.

1.2.6 Basic Concepts and Values of Industrial Relation**Q10. What are the Basic Concepts and Values of Industrial Relation?**

Ans : (Imp)

The basic concepts and values that govern sound industrial relations are: equity and fairness, power and authority, individualism and collectivism, and integrity, trust, and transparency.

1. Equity and Fairness

Equity refers to equal treatment to one and all under comparable circumstances. Equity and fairness are used synonymously in industrial relations. The concept of fairness is an objective when one applies a technical yardstick like market forces or job evaluation. For instance, the management may consider

it fair to freeze wages in times of recession, while workers may feel that it is unfair to do so in view of the rise in the cost of living.

The concept of fairness is utilitarian when one goes by what the majority accepts. The notion of fairness becomes relative when one considers whether or not one is getting a fair share of pay in relation to what others with similar qualifications and experience are receiving. In an engineering company welders were upset when they got a lesser pay raise than the gardeners. They immediately formed a rival union of technical staff and protested. Here was a company where gas-cutters got less than grass-cutters. Thus there can be differences about the notion of fairness not only between management and employees but also, as in this example, between groups of employees.

2. Power and Authority

Power is the ability to influence, impose, or control. It implies the use of force. Power may emanate from six major interrelated aspects:

- the power to reward and/or punish
- power to coerce others
- position power
- reference power due to personal attributes
- expert power due to one's access to information, knowledge, or experience
- associational power through membership in trade unions, employers organizations/ chambers of commerce, networking/coalitions, etc.

3. Authority is the right to expect and command obedience

Power and authority are often regulated by society. The manner in which they are exercised may have implications on the rights and dependents of others, particularly subordinates. The law may sometimes extend or contract managerial authority. Again, this has implications for the rights and power of subordinates.

4. Individualism and Collectivism

The fundamental basis of a democratic society is the freedom of the individual. In an employment relationship, collectivist basis may negate or limit an individual's freedom. The closed-shop system is a case in point. An individual should have the right to join a trade union. Likewise he or she should have the right not to join a union. Compelling an employee to join a union due to the union shop clause or closed-shop system in a collective agreement negates the right of freedom of the individual employee.

5. Integrity, Trust, and Transparency

Integrity is adhering to what is professed. This can be promoted by efforts to bridge the gap, if any, between what is said and what is done or 'walk the talk and talk the walk'. Trust is established between and among people. Transparency is promoted through sharing of information, openness in communication, and willingness to explain and reason out the motives behind decisions and actions.

1.2.7 Substance of a Sound Industrial Relation System

Q11. Explain about Substance of a Sound Industrial Relation System.

Ans :

The substance of industrial relations covers a wide range of aspects such as the following.

1. The structure of the economy and labour market.
2. Constitutional provisions, legal frameworks, and labour standards (international and national; statutory and voluntary).
3. The structure of trade unions and employers organizations and their linkages, attitudes, and approaches.
4. The nature and degree of government intervention.
5. Policies on industrial relations at international, national, industry, firm, and workplace levels.
6. Labour market policies and labour market institutions, labour law administration and dispute relation mechanisms, etc.
7. Collective bargaining and workers' participation.

The following are the attributes of a sound industrial relations system:

- Harmonizes the interests of ecologically sustainable economic growth with social progress and justice.
- Generates productive employment.
- Contributes to improvement in the productivity and quality of goods/services at economical/competitive costs/prices.
- Improves the well-being and quality of life of workers and their families.

A) Indicators of Industrial Relations System

Traditional indicators or indices like man-days lost due to strikes and lockouts alone | are not adequate. Absence of strikes can sometimes be a measure of the misery and abject helplessness of the workers. Indicators of organizational health, such as absenteeism, grievances, sales and/or profit per employee, accident rates, customer satisfaction index, improvement in productivity and quality, cost reduction, meeting of delivery schedules, exceeding customer expectations, and the like are among the several factors that need to be considered. Industrial relations should contribute to the long-term well-being of the organization, its employees, consumers, and the community. Indicators of a sound industrial relations system should be developed through bench marking best practices in terms of human development and competitiveness. These include education and skills, safety and health, organizational climate, employee satisfaction indices, productivity, service quality, unit labour costs, industrial harmony, etc.

B) Partnership Model for Sound Industrial Relations

For labour-management cooperation to take root and for collective bargaining to serve as a means of cooperation, it is important that management at the enterprise level, takes the necessary steps to create an atmosphere is conducive to/enables partnership between labour and management. The basic ingredients of a partnership model for cooperation between labour and management would involve, among other things:

- sharing information
- consulting with each other on a regular basis
- brainstorming together
- organizing morale-boosting safaris to units where labour and management have benefited through cooperation
- creating opportunities for both management and labour to review, learn, and put positive learning into practice
- bridging the gap between precept and practice
- ensuring the support and sustenance of top management

The above features can become part of the human resource industrial relations environment of a company if:

- The management shifts from direction and control towards consensus and commitment.
- The management strives to develop a shared vision and common ownership of ideas in a spirit of 'something for everyone'.
- The management aims for a consensus on corporate human resource/industrial relations strategy.
- The management promotes organizational learning across the company's operating units on how to address this agenda.

C) Obligations of the Management

For management, the following obligations are critical

- Clarify and reason with the other party
- Provide for say and share for all employees
- Focus on fairness
- Empower people
- Be transparent because trust begets trust
- Give credit; and
- Learn to manage the ego.

D) Obligations of the Union**1. Unions need to**

- Accept the nexus between the financial success of an enterprise and the livelihood and well-being of the people in that organization; improvement in wages and welfare can come only from improved business results.
- Develop a long-term perspective.
- Understand the link between macro and micro relationships in assessing the behaviour and performance of a firm;
- Realize the importance of knowledge, skills, attitudes, and habits; lifelong employability can come through operatively addressing, jointly with management, the issues relating to human obsolescence;
- Cope with the imperatives of simultaneously pursuing two apparently conflicting goals: 'pattern maintenance' and 'adaptation to change'.
- Understand and assess the consequences of working together verses working at cross-purposes.

2. The Choices

Labour and management have six options:

- Coerce: Only one side gets what it wants.

- Conflict: Both sides spend more energy while only one side usually has marginal gains.
- Compete: One party wins and the other loses.
- Compromise: No one gets what they want.
- Co-opt/cooperate: It is usually possible for the initiator to walk away with a larger slice of the cake.
- Collaborate: Here both parties evolve an option that provides for mutual gain.

Obviously, collaboration is the most preferred mode. Collaborative collective bargaining can lead to win-win situations and mutual gains for both the worker and the management.

1.3 INDUSTRIAL RELATIONS IN A COMPARATIVE FRAMEWORK

Q12. Explain the concept of Industrial Relations in a Comparative Framework.

Ans :

(Oct./Nov.-20, Imp)

The Study of Comparative Industrial Relations

The industrial relations system in one country cannot be transplanted to another country, even the industrial relations system of a company in one country cannot be transplanted to its branch in another country. Same is the case of the subsystems of an industrial relations system, such as trade union structures, labour laws, and other institutional frameworks. Still, studying comparative industrial relations across countries would help understand the relative significance of various factors such as economic and industrialization strategies, technology, legal and institutional framework, and cultural factors in determining the types of industrial relations system adopted by different countries.

Employment issues are critical to every country. But different countries have approached them differently. Employment standards vary widely across countries. This is partly attributed to the differences between and among countries in the stages of their development at a given point of time. Still, they are playing a key role in determining

comparative advantage. Governments and trade unions in developed countries have been keen on taking labour out of competition with a view to arresting the migration of jobs from north to south, which may lead to a serious downfall in international labour standards. This has given rise to strategies to link labour standards with international trade.

Theoretical Perspectives

The lack of theoretical research is one of the reasons for studying industrial relations in a comparative framework. The purpose is to study industrial relations in different national contexts and come up with hypotheses and verify the same.

The broad theoretical perspective on industrial relations was discussed in the previous chapter. Different stakeholders in a particular industrial relations system examine industrial relations in a specific theoretical framework. There may be a difference in the approach within a particular stakeholder group like trade unions.

1.3.1 Industrialization Strategy and IR

Q13. Explain about Industrialization Strategy and IR.

Ans :

Employment relations (here used synonymously with industrial relations) policies and practices in any country at any given time reflect a combination of three different logics of action, namely, the logic of industrial peace, the logic of competition, and the logic of employment-income protection.

Logics are referred to as sense-making constructs that embody a conventional understanding about what is appropriate and reasonable, thereby shaping actors' (unions', employers', and governments') strategies. Each logic results in the development of rules and institutions governing employment relations. When a new logic is introduced or an existing logic altered in strength, it leads to new rules and changes in institutional arrangements.

The old system is rarely completely replaced; more often, old institutions are reformed in terms of the new logic. For example, the tripartite institutions created to guarantee industrial peace in

Singapore are now being used to strengthen the logic of competition. The operation of a particular logic can, over time, have unintended consequences that lead it to lose social relevance. Demands for a change in the system are often legitimated by reference to a newer logic. The relative strengths of the logics tend to vary over time within and across nations. Also, different combinations of these logics account for similarities and differences in industrial relations patterns to converge or diverge.

The logics of action framework can be used to deduce a sociological conception of capitalism that assumes conflicts of interest between capital and labour and a system-stabilizing role for the state. For instance, capital seeks to maximize profits by securing maximum discretion in allocating and directing labour. At the level of social action, this means taking initiatives in accordance with the logic of competition. Labour, on the other hand, attempts to limit employer action that adversely affects workers' ability to generate a continuing stream of socially acceptable, extrinsic and intrinsic rewards. This is defined as action in accordance with the logic of employment-income protection. When there is a tension or actual conflict between managers and workers that prevents either or both parties from attaining their goals, the logic of industrial peace may seek to reduce the tension.

1. The Logic of Industrial Peace

Following the struggles for independence, ex-colonial countries (for instance, India and Malaysia) focused on a policy with the aim to limit industrial conflict in the interest of economic development. In many of these countries, for instance, India, the government adopted economic development strategies based on the import substitution industrialization (ISI) model. These strategies curbed internal and external competition through licensing regulations and protectionist tariffs to assist local industry, and helped sustain industrial peace. Here the emphasis was to protect labour in the labour market and capital in the product market. In other cases, such as Singapore, the government emphasized industrial peace as an incentive for foreign investors and its economic development strategy was based

on export-oriented industrialization (EOI). Here the focus was on proactive labour management cooperation with binding constraints on collective bargaining and trade union action through the tripartite councils to attain the objectives.

2. The Logic of Competition

The pursuit of economic development based on export-oriented industrialization (EOI) includes increased foreign direct investment and market liberalization policies in many Asian countries (for instance, India and China). Here the focus is on promoting enterprise efficiency, both in terms of labour market flexibility and labour productivity. The policies and practices to promote these include (i) elimination or marginalization of trade unions; (ii) exemption of export processing zones from national labour legislations (Bangladesh, for instance); and (iii) using selective immigration as a means of ensuring an adequate and flexible supply of labour (Singapore and Malaysia, for instance). Where competition is based on quality and innovation, governments emphasize on skills training to improve workers' competencies, particularly where labour shortages occur.

3. The Logic of Employment-income Protection

Rapid industrialization is often accompanied by disruption of extended family support systems and increased dependence on either or both the state and the employer. Intense competition and flight of capital lead to increased job insecurity and unemployment. Casualization of employment in the backdrop of very limited or non-existing state-sponsored social welfare provisions warrants support for the logic of employment-income protection as a prerequisite for labour market flexibility and competitiveness. There is a case for income security in the absence of job security. There is a need for provision of unemployment pay and old age benefits including pensions and skills training to bridge the gap between acquired and required skills.

While many European countries had created employment-income protection schemes during the period of economic boom, most developing countries have neglected it and realized the need when the need was the highest and the capacity was the lowest (for example, during the period of the Asian financial crisis in the late 1990s). Barely 20% of the workers in the world have meaningful employment-income protection schemes. Even these are under considerable strain in the context of ageing populations and mounting stress on public finances and corporate profit margins. The logic of employment-income security represents workers' response to employment instability caused by management- and labour-market-imposed hardships on workers. Where it is possible to provide such protection, employers are able to win greater discretion to promote labour market flexibility.

1.3.2 Globalization and Industrial Relations

Q14. Explain about Globalization and Industrial Relations.

Ans :

The origin of globalization can be traced to the period of colonization in the 16th century. While globalization means many things to many people, one measure of globalization is the economic integration across the globe in terms of free movement of capital, technology, products, and people. In this sense, however, globalization remains a myth. If foreign trade and capital flows signify globalization, the world has seen more globalization during 1870-1914 than what we experience today. During those days, capital, trade, and labour were all free to move from one country to another. Despite the formation of World Trade Organization and the reduction of tariffs, many non-trade barriers remain and 85% of the world's resources, investments, and trade continue to be controlled by countries with about 15% of the population. The triad countries - North America, European Union, and Japan - dominate the world in terms of access to and control over investment, trade, and technology.

The perceived benefits of globalization were summarized by the 2nd National Commission on

Labour (2002) thus:

1. Sustained economic growth, as measured by gross national product is the path to human progress.
2. Free markets, with little or no intervention from government, generally result in the most efficient and socially optimal allocation of resources.
3. Economic globalization, achieved by removing barriers to the free flow of goods and money anywhere in the world, spins competition, increases economic efficiency, creates jobs, lowers consumer prices, increases economic growth, and is generally.
4. The primary responsibility of the government is to provide the infrastructure necessary to advance commerce and enforce the rule of law with respect to property rights and contracts.
5. The process of globalization seems to be driven by a few in a unipolar world, whereby it is benefiting few and hurting many.
6. It is another form of imperialism.
7. It is leading to growing inequalities between the rich and the poor, both at the level of individuals and among countries.
8. It is destroying jobs and local communities.
9. It is ruthless, rootless, jobless, fruitless.

Gateways to Globalization

The following factors have helped in the advent of globalization:

1. The shrinking of time and space with the advent of information and communication technologies, the focus being on reduction of cycle time and factor costs of each and every aspect of business.
2. Rapid integration of financial markets and freer movement of capital.
3. The blurring of national state and national boundaries and the evolution of the World Trade Organization with substantially diminished tariffs and other restrictions.

4. Global production chains and integrated supply chains with outsourced manufacturing, business processes, and knowledge processes including R& D and tradable services.
5. The new flexible production systems and new forms of industrial organization facilitated by information technology.
6. Flight of capital and industry in cases where there are restrictions on movement of skilled labour.
7. Shift of labour intensive manufacturing in the north to low cost sites in the south
8. Global networking facilitating inter- and intra-company trade in transnational companies, which accounts for a significant share in the movement of global capital, technology, and products

Barriers to Globalization

The barriers to globalization are many, some of which are listed below.

1. Not all countries are in a similar stage of development. There are glaring inequalities among countries and continents.
2. Although financial liberalization might help increase access to global financial resources, it is mostly speculative rather than stable capital. Many countries do not have appropriate institutions to deal with global financial flows, and the volatility associated with it, or to manage the equity and debt markets.
3. Several countries and continents remain technologically excluded because their access is not free and depends on the willingness of those who have the technology.
4. The developed countries with saturated markets, are seeking access to their products in the emerging markets of developing and transition economies. Developing countries face many barriers in terms of getting access for their products and services.
5. Developing countries have surplus labour. They are seeking free access to jobs in developed countries. Visa and other restrictions regarding the free movement of

labour remain a formidable challenge for developing countries.

6. Disparities in the stages of development and economic prosperity between countries.
7. Social and income inequality within countries.
8. De-industrialization due to the inability of some countries to cope with competition from abroad.
9. Jobless growth, where wealth formation and income distribution are concentrated in the hands of a few, rendering many jobless and depriving them of livelihood. Job losses are taking place even in developed countries due to the import of cheap and labour-intensive goods from developing countries and export of such jobs from developed countries to developing countries in the name of business process outsourcing, knowledge process outsourcing, and, of late, even manufacturing and engineering process outsourcing.
10. Lowering of labour and environmental standards by the developing countries. Developed countries are exporting environmentally hazardous waste and other toxic materials for consumption or disposal in developing countries.
11. Increasing informalization of work and poverty.
12. Growing political, economic, and social instability in the world, which are exacerbated by volatile flows in international financial markets engineered by foodooose capital.
13. Erosion of capacity of governments to govern and growing concern about corruption.

Competition on the Basis of Cheap Labour

Competition based on cheap labour is resulting in the following.

1. Falling employment intensity and jobless growth

If left unchecked, this will result in stagnation and recession. Cars do not buy cars, people do. If a larger proportion of the labour force in a country remains unemployed or underemployed, it will lead to a decline in

the demand for goods and services and, as a corollary, further decline in job opportunities.

2. Contracting Out and Outsourcing

The global deployment of work has its admirers and critics. Sourcing from low-cost countries has economic benefits to companies. It brings down costs and enhances the competitiveness of companies. When profits rise, and companies pass them on to customers, prices will come down, volumes will go up, and this in turn will create demand for additional jobs.

3. Informalization of work and deterioration in conditions of employment

The proportion of workforce in casual employment has been increasing in India and, as a consequence, the conditions of employment have generally tended to deteriorate for the majority, the result being a rise in the proportion of working poor.

Disinvestment, Deregulation, and Decentralization

1. Disinvestment

Disinvestment affects industrial relations in the following ways:

- i) It changes ownership, which may bring out changes not only in work organization and employment but also in trade union organization and trade union dynamics.
- ii) It changes the work organization by necessitating retraining and redeployment.
- iii) It affects the rights of workers and trade unions, including job/union security, income security, and social security.
- iv) Trade unions, managements, and often governments have together been responding to these challenges through various types of new, innovative, or model arrangements to deal with different aspects of disinvestments. These include
- v) Making workers the owners through issue of shares or controlling interest (The latter has not happened in India as yet in the context

of disinvestments though it happened in the context of sick companies identified by the Board of Financial and Industrial Restructuring.),

- vi) Negotiating higher compensation for voluntary separations,
- vii) Safeguarding existing benefits,
- viii) setting up further employment generating programmes, and
- ix) proposals for setting up new safety nets that include not only unemployment insurance but also skills provision for redundant workers.

2. Deregulation

Deregulation, especially in the sphere of labour laws, usually results in erosion of the accrued interests of workers and trade unions. The issue here often concerns enacting minimal protective measures to ensure that transferred public sector/government employees receive similar protection as is provided in public/government employment. The worst affected are the pension provisions. While, in the past, pension schemes usually provided defined benefits, in the post globalization era, it is often restricted to defined contributions. This means, usually, a reduction in pension benefits and an uncertainty concerning future provision of pension benefits due to

- The absence of government guarantees,
- Falling interest rates, and
- Investment of pension funds in stock markets.

3. Decentralization

Decentralization of industrial relations is seen in terms of the shift in consideration of industrial relations issues from macro to micro and from industry to enterprise level. When the coordination is at the national or sectorial level, in the event of industrial conflict, work in the entire industry can be paralysed. But when the dispute is at the bank level, in the absence of centralized coordination by trade unions, only work in that bank is paralysed and other banks function normally. This weakens the bargaining power of unions.

Q15. What are the New Actors and the New Dynamics in Industrial Relations?

Ans :

In the present scenario, there has been an advent of new players and new dynamics in the industrial relations system. It is necessary to understand these new developments to have a comprehensive view of industrial relations.

1. New Actors and the Emerging Dynamics

Traditionally, industrial relations was the concern of three principal actors: workers and their unions, managers/employers, and the government. In the post-liberalization, globalization era, consumers and the community have begun to assert themselves and play a significant role. When the rights of consumers and the community are affected, the rights of workers/unions and managers/employers take a back seat. The court rulings are borne by the realization that wider public good matters most in preference to the narrow self-interest of a minority. Workers and unions, in particular, are asked to assert their rights without impinging on the rights of others, particularly the consumers and the community. Hence the ban on band and restrictions even on protests and dharnas.

Increasingly, trade unions are getting isolated and see a future for themselves only by aligning themselves with the interests of the wider society.

2. Pro-labour-Pro-investor Policies

World over, when the states assumed a welfare role and adopted pro-labour policies, the trade unions grew in strength and power. When the states became neutral, the trade union movement stagnated. Now, when mostly the states have adopted pro-investor policies, trade unions are declining in power and influence, if not in numbers. In such circumstances, unless trade unions forge broader alliances with the society consumers and community and various civil society institutions, including non-governmental organizations they will find their powers dwindling.

3. **Changed Mindsets of the Judiciary, Legislature, and Executive**

A remarkable feature of industrial relations in the wake of globalization is the gradual withdrawal of the state from its traditional role of actively supporting organized labour. Labour law reforms remain taboo, but both the judiciary and the labour administration and adjudication machinery have been more willing than before to entertain the concerns of the industry. Typically, conciliation machinery is showing concern for issues relating to competitiveness and flexibility and considering issues like increase in productivity, cost reduction, modernization, retraining and redeployment, etc. There is less emphasis on reinstatement and regularization of dismissed employees. Some state governments - notably Rajasthan, Andhra Pradesh, and Uttar Pradesh - have taken the initiative to make small changes in labour laws and have made major efforts to drastically simplify the returns to be submitted by employers and ease the pressure of labour inspections. Even the central government is considering the closure of certain industrial units for the long-term viability and competitiveness of enterprises.

4. **Declining Trade Union Density**

In the traditional strongholds of trade union membership - government and public sector - the workforce is declining due to non-filling of vacancies and introduction of voluntary/early separation schemes. New employment opportunities are shrinking in these sectors. In the private sector, particularly the service and the software sectors, the new, young, and female workers are generally less eager to join unions. Trade unions are still to conceive and implement meaningful strategies to make unionism relevant and appealing to these new and diverse workgroups. It is mainly in the unorganized sector, thanks to the initiatives that the government is willing to consider in the realm of social security benefits, there is a prospect of rise in trade union membership. Here too, trade unions are finding an

adversary in a group that is otherwise considered the non-governmental organizations operating under the guise of, or as, virtual trade unions.

5. **Worker Militancy Replaced by Employer Militancy**

Economic reforms introduced in India in 1991 signify India's quest for global economic integration. During the decade 1981-90, India had lost 402.1 million man-days due to industrial conflict, whereas in the subsequent decade, 1991-2000, the number came down to half: 210 million. This does not mean that the industrial relations situation has improved dramatically. Workers are increasingly more circumspect and hence reluctant to go on strikes because of the fear of job insecurity, concern about the futility of strikes, and realization about the imperative need to consider the survival of enterprise as a prerequisite for employment and income security. Trade unions are hesitant to give a call for a strike because it may lead to loss of jobs or closure of the unit. What is even more striking is that over 60% of the man-days lost in the post-reform period were due to lockouts and less than 40% were due to strikes. It must be added that quite a few lockouts may have been preceded by strikes.

One measure of trade unions becoming more defensive than offensive with employers can be seen from the shift in their actions from strikes to law suits. Also, instead of pressing for higher wages and improved benefits, trade unions are pressing for maintenance of existing benefits and protection and claims over non-payment of agreed wages and benefits.

6. **Collective Bargaining**

The collective bargaining, shift in level of coordination and bargaining from national/sectorial to enterprise/plant level, the bargaining power of trade unions is shrinking. Also, there is a gradual movement away from parity to disparity. Since 1992 to date, over 100 of the 240 central public sector

corporations did not have wage revisions because the government announced that companies have to mobilize resources to pay for the workers' wages and that the government would no longer subsidize wage increases.

7. Towards Fair Globalization

The World Commission on Social Dimensions of Globalization (2004) called for the following:

- A process of globalization based on universally shared values, which requires all actors—including international organizations, businesses, labour, civil society, and the media—to assume their individual responsibilities. It demands respect for obligations and duties under international laws. It also requires economic development to be based on respect for human rights.
- An international commitment to ensure the basic material for survival and other requirements of human dignity for all, enshrined in the Universal Declaration of Human Rights. The eradication of poverty and the attainment of the Millennium Development Goals (MDGs) should be seen as the first steps towards a socio-economic floor for the global economy.
- A sustainable path of development, which provides opportunities for all, expands sustainable livelihoods and employment, promotes gender equality, and reduces disparities between economic, social, and environmental policies.
- A more democratic governance of globalization, which allows for greater voice and participation of workers and ensures accountability, while fully respecting the authority of institutions of representative democracy and the rule of law.

1.4 MANAGEMENT AND EMPLOYERS ORGANISATION - ORIGIN AND GROWTH

Q16. Write about employers organization and explain the origin and growth of employer organization.

Ans :

Introduction

Employers' organizations (EOs), comprising business enterprises, are key actors in industrial relations. EOs are primarily concerned with matters relating to a wide range of employment issues including industrial relations. In India, the All India Organization of Indian Employers (AIOE) and Council of Indian Employers (CIE) are the umbrella organizations for Indian employers. Chambers of commerce and trade, industry associations, and representative organizations of the public sector are all members of these EOs. This chapter seeks to provide an understanding of the origin and goals of EOs, their legal status, and the issues involved in their amalgamation for unity and better coordination. After a brief introduction to the major EOs at the national and international—CIE and International Organization of Employers (IOE)—level, this chapter discusses the issues relating to organization and management of EOs and their future challenges.

Origin And Growth

Employers' organizations are 'formal groups of employers set up to defend, represent, or advise affiliated employers and to strengthen their position in society at large with respect to labour matters as distinct from economic matters'. They may make collective agreements but that is not a formal rule and cannot be an element of their definition. Unlike trade unions, which are composed of individual persons, employers' organizations are composed of enterprises. The legal definition of a trade union applies to them (Oechshin 1990). The Trade Union Act, 1926, includes in its purview associations of both workers and employers. Several employers' organizations in India are registered under the Trade Unions Act, 1926.

Employers' organizations are mainly concerned with matters relating to a wide range of employment issues including industrial relations.

Chambers of commerce are usually set up to defend the economic interests of employers. However, in some countries such as the U.K., Norway, and Jordan, for instance, the same organization deals with both employers' and employees' interests. For example, in India, as we shall discuss later, the Confederation of Indian Industries (till 1991 it was a sectoral association mainly confined to the engineering industry) and the United Planters' Association of South India undertook a combined role of defending the interests of employers in both economic and labour matters.

Phases of Origin and growth of EOs

The origin, growth, and development of EOs in India have four distinct phases:

- i) The period up to 1933
- ii) The period between 1933 and 1946
- iii) The post-independence period (1947-90)
- iv) The post-liberalization period (1991 to date)

Each phase reveals its own structural and functional characteristics. In each era, organizations had to undergo changes because of the contemporary economic, social, and political developments. The changes were more rapid in some phases than in others. The periods referred to also correspond with important developments in the labour field, which have had a great impact on the pattern and development of EOs and on their functioning.

1. Pre-1933 Period

Merchants associations (chambers of commerce and industrial associations in jute, textiles, engineering, etc.) came into being primarily to pursue the sectional interests of their constituents.

Until the First World War, the chambers of commerce and trade associations did not consider it important to deal with labour problems, except in stray cases of employee/ union militancy. By and large the attitude of employers was one of indifference and, occasionally, of aggression. Individual units had autonomy to deal with labour matters. But soon in jute and textile industries, employers began to regulate working hours and introduce standard remuneration to workers because of conditions created by the war and shortage of skilled labour.

During this period, unions also started to gain ground. Though the Chambers of Commerce had already taken birth in the 1830s, when the East India Company withdrew from its trading activities, the British and giant Indian (mainly Parsi) industries and businesses teamed up in 1920 under the umbrella of Associated Chamber of Commerce (ASSOCHAM). The big Indian trading and industrial interests that had long been in conflict with British business interests and supporting the Swadeshi movement as a part of the struggle for political independence had played a major role in setting up the Federation of Indian Chamber of Commerce and Industry

(FICCI) in 1927. Certain other developments, which occurred rapidly during the 1920s, also provided the impetus for recognizing the nature of the employers' role in dealing with aspects of industrial relations. The first in the series of these developments was the formation of the International Labour Organisation (ILO) in 1919.

The emergence of the trade union movement in the wake of the First World War led to the enactment of the Trade Union Act in 1926. The Royal Commission on Labour (Whitley Commission) was set up in 1929 to enquire into the conditions of labour. Following the recommendations of the Whitley Commission, labour departments were set up to redress workers' grievances and improve their conditions.

The existing chambers of commerce could not support the interest of industrial employers effectively, especially in the area of industrial relations and labour matters. Therefore, the need was felt for greater coordination of employers' collective interest, common policies for concerted action in labour matters, and labour legislations. This necessitated the formation of separate EOs to deal with related problems in a more specialized manner.

Among all the reasons mentioned above, the formation of the ILO had provided an explicit rationale for the formation of a Federation of Employers' Association during the years immediately following the First World War. India, as one of the founding members of the ILO, set up by the Treaty of Versailles in 1919, had the responsibility of sending a tripartite delegation to

the International Labour Conference held every year. According to the constitution of the ILO, the government of each member state should nominate employers' and workers' delegates and advisers, in agreement with the industrial organizations, which are most representative of the interests concerned.

This posed a problem to both these parties in as much as there was no single organization in existence at the time which was representative of either workers or employers on an all-India basis to be entrusted with the tasks of selection of their respective delegates. In the circumstances, when the Government of India resorted to nominating these delegates on their own, trade unions and employers' organizations found the need to establish representative federations at the national level. While the trade unions acted speedily and established the All-India Trade Union Congress in 1920, it took some years for the employers' organizations to iron out the differences among different chambers and associations. Efforts to set up the Employers' Federation of India at Mumbai, though began in 1920 under the auspices of ASSOCHAM and a few other industry associations, could not materialize during 1920s. Since the formation of the Federation of Indian Chamber of Commerce and Industry (FICCI) with headquarters at Delhi in 1927, the Indian employers' delegate began to be nominated on the recommendation of FICCI. It was in 1931 that the Government of India informed the FICCI that in terms of the Treaty of Versailles, the chambers of commerce could not be treated as an organization of industrial employers which could be consulted by the member-states in nominating employers' delegates. To overcome the difficulty, FICCI announced the setting up of All India Organization of Industrial Employers (AIOE) on 12 December 1932 (subsequently, the term 'industrial' was dropped from the name). ASSOCHAM and others including the Mumbai Chamber and Bengal Chamber took the initiative to register the Employers' Federation of India (EFI) with headquarters at Mumbai in 1933 under the Indian Companies Act.

2. 1933-46 Period

Two EOs came into existence in 1933, with the AIOE representing mainly Indian and the EFI mainly the British and Parsi business and industrial

interests in the large-scale, organized sector. The objective of these two organizations initially was to facilitate the selection of employers' delegates for the meetings and conferences of the ILO.

Since the two bodies began to represent mainly the large-scale industrial employers, the need for a third limb of EOs representing the medium- and small-size employers was felt. Under the inspiring leadership of M. Vishwesvarayya, a renowned engineer, the All India Manufacturers' Organisation (AIMO) was set up in Mumbai in 1941 to represent both the trade and labour interests of the member firms in the medium and small sectors. The AIMO secured recognition from the Government of India for representations at the national level and, in the 1980s, for the International Labour Conference, as any other EO.

3. Post-Independence period (1947-1990)

In the wake of the independence of the country in 1947, a plethora of labour laws were enacted, the industrial fabric of the country began to change with the implementation of successive five-year plans, and the demographic profile and aspirations of the employees also began to undergo major changes. All these provided new opportunities and challenges for EOs. The growth of public sector consequent upon Government's endeavour to raise it to the 'commanding heights' brought about a new diversion in the representation of employer interests. A representative organization for public sector, called the Standing Conference on Public Enterprises (SCOPE), was registered on 29 September 1970 as a society under the Societies Act. During emergency, the then Labour Minister, the late Sri K.V Raghunath Reddy, insisted upon separate representation for the public sector employers, at both national and international levels.

4. Post-liberalization period (1991-present)

Due to the mounting problem of foreign debt and foreign exchange crisis, the Government of India had to make structural adjustment reforms, making a transition from planned to market economy and opening up the Indian economy in a bid to integrate it with the global economy. This meant competition between Indian and global players. It also meant that the Government had realized the potential of

private enterprise as an engine of growth. This provided new opportunities and challenges to the EOs.

With the State playing a less active role in promoting welfare policies and public sector enterprises being asked to earn profits or face divestment, there is pressure on the employers to exercise restraint and resort to socially responsible restructuring.

Though the economic policies and economic and industrial regulations have become liberal, industrial labour laws have not. Barriers to entry have been eased, but not the barriers to exit. In the absence of a credible system of compensation and social safety nets for the workers affected by restructuring, employers' options to face competition have become limited. While chambers of commerce and industry associations have now a much bigger say than in the past in the regulations of the government, EOs do not have the same influence on social and labour matters. If in the past, the domestic private sector was asked to compete with the public sector, now they have to compete with the multinational corporations, whether as model employers or model performers.

Aims and Objectives of Employers' Organizations

The main aims and objectives of all EOs are similar though they may vary to some extent in matters of detail.

AIOE The principal objective of the AIOE is to guide employers so as to maintain harmonious industrial relations. However, the first objective listed in its rules and regulations reads as follows: 'To take all steps which may be necessary to promote and protect the development of industry, trade, and commerce of India'.

The same point was emphasized differently in the list of objectives, which include the following:

- (i) To take all steps which may be necessary for promoting, supporting, or opposing legislative and other measures affecting or likely to affect directly or indirectly, industry, trade and commerce in general, or particular interest.
- (ii) To take all possible steps for counteracting activities inimical to industry, trade, and commerce of the country.

- (iii) To promote and protect the interests of employers engaged in industry, trade, and commerce in India.

The principal objectives relating to the industrial relations aspects include:

- (i) To encourage the formation of EOs and to foster cooperation between EOs in India and abroad.
- (ii) To nominate delegates and advisers, etc., representing Indian employers at the International Labour Conference, International Chamber of Commerce, and other conferences and committees affecting the interests of trade, commerce, and industry, whether as employers or otherwise.
- (iii) To promote and support all well-considered schemes for the general uplift of the labour and to take all steps to establish harmonious relations between capital and labour.
- (iv) To educate the public with regard to the character, scope, importance, and needs of industry, trade, and commerce represented by the members.

SCOPE of Employer's Organizations

The objectives of SCOPE cover a wider ambit: 'SCOPE looks upon its tasks as both internal and external to the public sector. Internally, it would Endeavour to assist the public sector in schwas as would help improve its total performance. Externally, it would help improve its total boundary and the Government as would generally help the public sector in its role'.

Legal Status

Employers' organizations could be registered in any of the following legal forms: The Trade Unions Act, 1926; The Indian Companies Act, 1956; or the Societies Act, 1860.

Amalgamation of EOs

During the pre-independence industry, trade and employer associations were divided on the basis of indigenous vs foreign, large vs small, and, to an extent, on regional basis. After independence, the indigenous private industrialists began to train their guns against the public sector, which had witnessed

a rapid growth (at least until the 1990s, when the era of privatization started). The small and medium sectors have formed their own associations. After several initiatives and meetings, it was in 1956 that a super structure called the Council of Indian Employers (CIE) was formed to bring AIOE and EFI, the two national – level Eos, together under one umbrella.

Council of Indian Employers

The main objective in setting up the CIE was to ensure closer co-operation and coordination between the two bodies, which together represent particularly the interests of large-scale industry in India. In the year 1973, SCOPE joined CIE.

CIE, with its headquarters in the office of the AIOE in Delhi, consists of equal number of representatives of AIOE, EFI, and SCOPE.

International Organization of Employers

Founded in 1920, the International Organization of Employers (IOE), with headquarters in Geneva, is the only world organization authoritatively representing the interests of employers of the free world in all social and labour matters at the international level. As of June 2001, it has a membership of Eos in 104 countries.

List of Organizations Representing Employers at the National Level

Employers' State Insurance Corporation	National Productivity Council
Employers Provident Fund Committee	National Safety Council
Indian Labour Conference	Standing Labour Committee
Labour Advisory Council	VV Giri National Labour Institute
National Council for Vocational Training	

Services

The real worth of an EO and the best justification for its support is the range of services that it provides to its members. Some of the basic services that every EO may be expected to provide include

- Study and analysis of problems and dissemination of information- advice, advocacy, dispute settlement, and guidance or conduct of collective bargaining (In India, this role is voluntary and at the initiative and request of the members.);
- Training and development of staff and members;
- Safety and health at workplace and working environment; and
- Public image and public relations.

Relations

In the course of exercise of their functions, Eos interact with the three principal actors-employers (who are their members), government, and unions. Traditionally, employers are individualistic in nature and competitive considerations affect their ability to confederate as a cohesive entity, employers want individual discretion rather than taking a collective, unified stand for a good policy. This attitude influenced their orientation towards relations with governments. Individual office bearers would like to cultivate personalized relations with government functionaries than institutionalize the interactions.

Employers' organizations also interact with political parties, professional organizations, and the community. Relations with political parties assume significance even if Eos choose to remain avowedly apolitical. The presence of professional organizations makes it imperative to see whether these organizations of managers are similar or dissimilar to those of employers. In the present context of large, modern corporations, the employers' dependence on professional managers has increased.

Future Challenges

The future challenges of Eos are determined to an extent by the environment in which they operate. It has changed significantly during the 1990s. To the extent the changes can be anticipated, organizations can respond proactively and influence the future direction of change. Otherwise, they will be led by the changes in the environment. Some of the changes in the environment with have an impact on the future of the Eos are discussed below.

Some of the EO's may be divided over considerations of big and small, domestic and foreign, private and public, all of them have similar roles such as the following:

1. Lobbying/ awareness creation
2. Training/consultancy services
3. Referral services/database service
4. Information dissemination/publication/ experience sharing
5. Relations with social partners and other stakeholders
6. Legal advice/assistance
7. Collective bargaining
8. Social service
9. Other services, if any, as per exigencies

1.5 TRADE UNION - INTRODUCTION, DEFINITION

Q17. Write about trade union.

Ans : (Dec.-19, April/May-19, Imp)

Trade Unions

Trade unions are a major component of the modern industrial relations system. According to

WEbbs, a trade union is a continuous association of wage earners for the purpose of maintaining and improving the conditions of their working lives. Under the Trade Union Act of 1926, the term is defined as any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workers and employers, or for imposing restrictive conditions on the conduct of any trade or business and includes any federation of two or more unions.

Definitions of Trade Union

Dale Yoder, "A trade union is a continuous association of wage-earners for the purpose of maintaining or improving the conditions of their working lives."

S.D. Punecker, "A trade union is a monopolistic combination of wage-earners who as individual producers are complementary to one another but who stand to employers in a relation of dependence for the sale of their labour and production, and that the general purpose of association is in view of that dependence to strengthen their power to bargain with the employers or bargaining collectively."

The British Trade Union Act views it thus, "A trade union is a combination with the main objective of regulating the relation between workmen and masters or between workmen and workmen or between masters and masters for imposing of restrictive conditions on the conduct of any trade or business and also provision of benefits to members."

In the words of Indian Trade Union Act, 1926, "A trade union is any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers, or between workmen and workmen, between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more trade unions."

Features of Trade Unions

Features of trade unions are as follows :

1. Voluntary Association

A trade union is basically a voluntary association of employees. Individuals agree on their own to join and act together in order to try and fulfil the purposes for which they come together. It has large number of worker members from one or more occupations.

2. Community of Interests

Members of a trade union have common interests and problems, which motivates them to unite. A union seeks to regulate relations between employers and workers.

3. Having Authority Flow from the Members

Since trade unions are voluntary associations of employees, the leaders are elected by the members. Thus, the real authority is vested only with the members of the unions. This is in contrast to the formal organisations, where authority flows from the top to the bottom.

4. Dealing with Collective Action

By means of collective action, trade unions attempt to match the power and resources of the employers. This collective nature of activities alone helps the trade unions to establish equality with the employers. It also facilitates better bargaining with the employers on matters relating to the interests and rights of the employees.

5. Acting as an Intermediary

The role of the trade unions within an organisation is similar to that of mediators. Though a trade union is primarily meant for the protection of its members' interests, it actually plays the role of intermediary between employers and employees. It indeed eliminates the employers' need to consult each and every employee before taking decisions affecting him. Instead, the employers talk to trade unions that represent the employees. The trade unions, in turn, pass on the information to the employees through their own sources. They also undertake the

responsibility of convincing the employees about the decisions taken by the employers in consultation with them.

6. Sub-System

A trade union is a sub-system of the social system. Therefore, its character undergoes change with changes in economic, social, legal and political conditions of the country. A union functions collectively to protect and promote the interests of its members within a given socio-economic system together in a body.

1.5.1 Objectives of Trade Unions

Q18. What are the Objectives of Trade Unions?

Ans : (Dcc.-19, Imp)

Employee associations constitute one of the stakeholders in IR. The main objective of any trade union is to protect the interest of workers / employees in the organisation. However, the workers' interest/welfare is a broad term in which various subjects - wages and salaries, working conditions, working hours, transfers, promotions, recruitment and classification, training, discipline, leave and holidays, dearness allowance, bonus, incentives, quarters, sanitation, employee relations, mechanization, facilities union is meant to conduct negotiations on behalf of the individual workers in respect of several items. However trade unions specifically concentrate their attention to achieve the following objectives:

1. To attain economic security

In other words, securing permanent employment with higher salary and benefits.

2. To improve bargaining power

Workers would like to restrain and resist the management's irrational, illogical and discriminating actions.

3. Ventilation

To ventilate to the management their grievances.

4. Wages and salaries

The subject which drew the major attention of the trade unions is wages and salaries. Of

course, this item may be related to policy matters. However, differences may arise in the process of their implementation. In the case of unorganised sector the trade union plays a crucial role in bargaining the pay scales.

5. Working conditions

Trade unions with a view to safeguard the health of workers demands the management to provide all the basic facilities such as, lighting and ventilation, sanitation, rest rooms, safety equipment while discharging hazardous duties, drinking, refreshment, minimum working hours, leave and rest, holidays with pay, job satisfaction, social security benefits and other welfare measures.

6. To fight against improper personnel policies

Trade unions may fight against improper implementation of personnel policies in respect of recruitment, selection, promotions, transfers, training, etc.

7. Discipline

Trade unions not only conduct negotiations in respect of the items with which their working conditions may be improved but also protect the workers from the clutches of management whenever workers become the victims of management's unilateral acts and disciplinary policies. This victimisation may take the form of penal transfers, suspensions, dismissals, etc. In such a situation the separated worker work is left in a helpless condition may approach the trade union. Ultimately the problem may be brought to the notice of management by the trade union and it explains about the injustice meted out to an individual worker and fights against the management for justice. Thus, the victimised worker may be protected by the trade union.

8. Welfare

As stated earlier, trade unions are meant for the welfare of workers. Trade union works as

a guide, consulting authority and cooperates in overcoming the personnel problems of workers. It may bring to the notice of management, through collective bargaining meetings, the difficulties of workers in respect of sanitation, hospitals, quarters schools and colleges for their children's cultural and social problems.

9. Harmonious Employee-employer relations

Harmonious relations between the employee employer are a sine quo non-for industrial peace. A trade union always strives for achieving this objective. However, the bureaucratic attitude and unilateral thinking of management may lead to conflicts in the organisation, which ultimately disrupt the relations between the workers and management. Trade union being the representative of all the workers may carry out continuous negotiations with the management with a view to promote industrial peace.

10. Negotiating Machinery

Negotiations include the proposals made by one party and the counter proposals of the other party. This process continues until the parties reach an agreement. Thus, negotiations are based on 'give and take' principle. Trade union being a party for negotiations protects the interests of workers through collective bargaining. Thus the trade union works as the negotiating machinery.

11. Safeguarding organisational health and interest of the machinery

Organisational health can be diagnosed by methods evolved for grievance redressal and techniques adopted to reduce the rate of absenteeism and labour turnover and to improve the employee relations. Trade unions by their effective working may achieve employee satisfaction. Thus, trade unions help in reducing the rate of absenteeism, labour turnover and developing systematic grievance settlement procedures leading to harmonious industrial relations.

Q19. What are the Reasons for Employees to Join Trade Unions

Ans : (Oct./Nov.-20, Imp)

Reasons why employees join trade unions are as follows :

1. Greater Bargaining Power

The individual employee possesses very little bargaining power as compared to that of his employer. If he is not satisfied with the wage and other conditions of employment, he can leave the job. It is not practicable to continually resign from one job after another when he is dissatisfied. This imposes a great financial and emotional burden upon the worker. The better course for him is to join a union that can take concerted action against the employer. The threat or actuality of a strike by a union is a powerful tool that often causes the employer to accept the demands of the workers for better conditions of employment.

2. Minimise Discrimination

The decisions regarding pay, work, transfer, promotion, etc., are highly subjective in nature. The personal relationships existing between the supervisor and each of his subordinates may influence the management. Thus, there are chances of favouritisms and discriminations. A trade union can compel the management to formulate personnel policies that press for equality of treatment to the workers. All the labour decisions of the management are under close scrutiny of the labour union. This has the effect of minimising favouritism and discrimination.

3. Sense of Security

The employees may join the unions because of their belief that it is an effective way to secure adequate protection from various types of hazards and income insecurity such as accident, injury, illness, unemployment, etc. The trade union secure retirement benefits of the workers and compel the

management to invest in welfare services for the benefit of the workers.

4. Sense of Participation

The employees can participate in management of matters affecting their interests only if they join trade unions. They can influence the decisions that are taken as a result of collective bargaining between the union and the management.

5. Sense of Belongingness

Many employees join a union because their co-workers are the members of the union. At times, an employee joins a union under group pressure; if he does not, he often has a very difficult time at work. On the other hand, those who are members of a union feel that they gain respect in the eyes of their fellow workers. They can also discuss their problem with the trade union leaders.

6. Platform for Self-Expression

The desire for self-expression is a fundamental human drive for most people. All of us wish to share our feelings, ideas, and opinions with others. Similarly, the workers also want the management to listen to them. A trade union provides such a forum where the feelings, ideas, and opinions of the workers could be discussed. It can also transmit the feelings, ideas, opinions, and complaints of the workers to the management. The collective voice of the workers is heard by the management and give due consideration while taking policy decisions by the management.

7. Betterment of Relationships

Another reason for employees joining unions is that employees feel that unions can fulfil the important need for adequate machinery for proper maintenance of employer-employee relations. Unions help in betterment of employee relations among management and workers by solving the problems peacefully.

Q20. What are Methods of Achieving Trade Union Objectives?*Ans :*

Trade unions are formed to achieve the above objectives. They adopt following methods to accomplish these objectives.

1. Collective Bargaining

It is the method where trade unions and the representatives of management sit together and resolve their disputes or negotiate an agreement with the management and other benefits. This method has been used by the trade unions all over the world.

2. Mutual Insurance

Under this method, trade unions establish a fund. They maintain such funds by collecting money from their members.

Such fund is utilized by the unions in carrying out certain welfare plans for the benefit of their members. They also financially assist their members in emergency e.g., in case of accident, illness or during strike. This method is feasible only when their membership is large enough and the financial position of unions is strong.

3. Legal Enactment

Trade unions do project the interests of their members. One of the method is demand for the honest implementation of various provisions of different Acts concerning them and offer suggestions to the government for their amendment wherever necessary. For this purpose they take up political activities and get some of their nominees as Members of parliament and Legislature.

4. Direct Action

Resorting to strikes and agitations to pressures employers is an example of direct action.

Unions change their methods over periods of time and rarely use any one method even at a single point of time. The method used depends on the issues involved and the circumstances. The "direct action" method could be any of the following:

i) **Strike** : It is the most common method, which is the collective withdrawal of work by the members of a union acting in concert. The strike may take place in an entire industry, or be confined to a single enterprise or even department. It may also be called by one or several unions jointly.

ii) **Other Methods of Withdrawal of Work** : They include mass casual leave, "pen down", etc. The problem with these types of agitation is that management may not know exactly how to deal with them. While there may be clear legislative guidelines for handling a strike, there are often no clear ways of dealing with strikers who take mass casual leave, or where it may be difficult to prove that the strikers have acted in concert.

iii) **Picketing and Boycott** : Picketing is the action taken by unionists to prevent employees from attending work after a strike has been called. This activity is usually carried-out at the gate or entrance, but may also be done at any other location near or far from the factory or a section of it. Picketing is a legitimate activity in some countries, although not specifically allowed in India.

Generally, by convention, peaceful picketing is allowed, but once picketers turn violent or use force on the workers who want to work, it becomes banned. Boycott means the rejection by workers of specific activities, products or services provided by management. It may include pay boycott in case of unsatisfactory pay, food boycott in case of poor canteen facilities, and the boycott of goods supplied by a company.

iv) **Partial Withdrawal of Work** : The methods by which unions partially withdraw work or reduce output are "work-to-rule", and "go-slow". Under these methods also, the unions may not officially stop work, but work only at a

slower pace or specifically refuse to do certain tasks, which have the effect of reducing the total output, or disrupting the work process.

- v) **Uses of Coercive Methods :** Sometimes, coercive methods are used by unions or employees to make their displeasure or protest known to management, with the objective of getting unfavourable decisions reversed or modified. These include mass insubordination (the concerted refusal or defiance of management orders), demonstration, gherao (the confinement of managerial personnel within a small space till a more favourable decision is given, which may continue for even 48 hours), postering, and blockade.

Blockade may not involve any stoppage of passage at a certain point or of certain goods. They do not, however, disturb the production process. The problem with these methods is that the management often does not know how to deal with these methods of strike. They may not know whether pay can be cut or disciplinary action taken.

1.5.2 Growth and Structure of Trade Union.

Q21. What are the models of trade union movement?

Ans : (Dec.-19, Imp)

Models of National Trade Union Movements

The origins and characteristics of trade union movements vary across countries. Based on the characteristics of the labour force and the methods used to organize labour, the following typology of trade unions emerges:

Occupational Unions

In the pre-industrial revolution era unions started on lines of craft or specific occupational groups seeking to control labour supply and improve wages. The traditional craft union continued for a long time in the UK and the US, but did not survive in continental Europe. With the

advent of the factory system, craft unions began to be referred to as blue-collar unions in most countries. These unions initially resorted mainly to collective bargaining to improve their wages and working conditions. With advances in technology much of the factory work became white collar work and this led to white-collar unionism constituting clerical, supervisory, and professional workers. In the OECD countries in the 1940s, 80% of the union members were blue-collar workers; whereas, by the 1980s, 80% were white-collar workers. Like blue-collar workers, white-collar workers also organized themselves in a single-sector industry or along strictly occupational lines (pilots, air traffic controllers, etc.) or even beyond the industry sector (for instance, clerical and office workers, civil/public service, etc.)

Industrial Unions

With the growth of mechanization and mass production at the beginning of the twentieth century, industrial unionism became the dominant model. Recruitment to industry was mainly under the unskilled, semi-skilled, and skilled categories. This was resisted by craft unions initially, particularly in the US and the UK. In the US two federations emerged, the American Federation of Labour (AFL), which supported craft unions, and the Congress of Industrial Organizations (CIO), which rallied industrial unions together. Subsequently, however, the AFL and CIO merged. Industrial unions began to grow easily and quickly not only in most western countries, but also in socialist economies.

General Unions

Such unions cut across the boundaries of occupation or industry. The Transport and General Workers Union (TGWU) is a classic example. The growth of employment in the service sector explains the growth of white-collar and general unions in most countries.

Territorial Unions

These are federations which group workers' unions horizontally, vertically, or on the basis of political ideology with a view to coordinating them. Examples of central horizontal structures are national federations like the Britain's Trades Union Congress. There are vertical federations, separate for blue- and white-collar workers, for instance. Such unions are

found in Sweden (TCO and LO) and Australia (ACSPA and ACTU). Then there are confederations, basically following different political and ideological lines, for instance, the national trade union centres in India (AITUC, BMS, CITU, HMS, and the INTUC).

Enterprise Unions

These unions are organized within an enterprise usually with no resistance from either the employer or the state. Employees remain tied to an enterprise, enterprises assure lifetime employment, and both labour and management focus on harmonious relations. Western unions were apprehensive of enterprise unions because of their narrow focus and lack of emphasis on solidarity. In Japan and Singapore, enterprise unions are affiliated to an extent, but they do not usually take part in general strikes, etc.

State-sponsored Unions

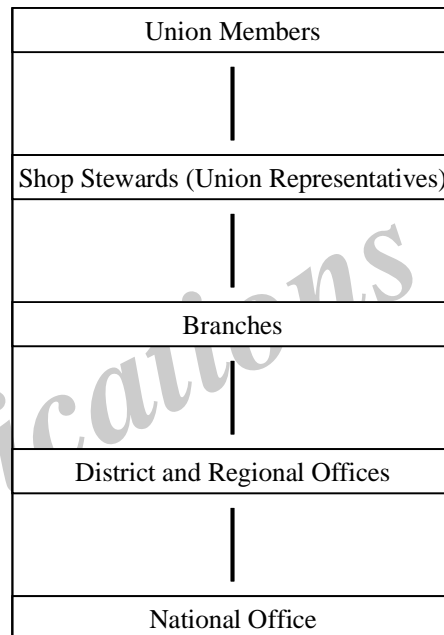
These unions are peculiar to socialist countries and centrally planned economies as well as authoritarian and military regimes. In socialist and centrally planned economies, the state organizes unions with the aim of integrating the role of unions in achieving the objectives of the state. In authoritarian regimes, the purpose is union repression and denial of trade union rights and human rights.

Trade unions are democratic organisations which are accountable to their members for their policies and actions. Unions are normally modelled on the following structure:

- Members - people who pay a subscription to belong to a union.
- Shop stewards - sometimes called union representatives - who are elected by members of the union to represent them to management.
- Branches - which support union members in different organisations locally. There is usually a branch secretary who is elected by local members.
- District and/or regional offices - these are usually staffed by full time union officials. These are people who are paid to offer advice and support to union members locally.

- A national office - the union's headquarters which offers support to union members and negotiates or campaigns for improvements to their working conditions. At the top of the organisation there is usually a General Secretary and a National Executive Committee, elected by the union's members.

Unions Structure Diagram



Suggestions for healthy growth of trade unions

1. One union one Industry

Multiplicity of unions in the same industry ultimately weakens the powers of collective bargaining and reduces the effectiveness of workers in securing their legitimate rights. To end the multiplicity of unions, 'One union one industry' should be fully implemented and adhere to practice. It will promote the mutual understanding between employers and workers and ultimately reduces the conflicts and promotes about relations better. For this purpose, political influences should be kept out of the field.

2. Removal of Inter-union Rivalries

Inter-union rivalries harm the interests of the worker. It comes in the way of settlement of dispute, disunity among the rank of workers

etc. which are mainly responsible for lack of strength and poor bargaining power. All must join hands to form a single central organization on the basis of common goal and programmes covering methods and procedure. Unity of strength have two basic factors promoting interests of workers and maintaining real industrial peace.

3. Working Class Leadership

Outside leadership is the main weakness of the Indian trade union movement. They are generally professional agitators and were often interested in using the workers as a 'pawn in their political game'. It is, therefore, essential to have their own leader from within the members themselves who know the real hardships of the art of how to tackle the problems of workers. Setting up of Asian Trade Union College at Calcutta is to be welcomed as it is meant to train the educated young men in trade unionism.

4. Responsibility of Workers

At present trade unions confine their attention to the workers' demands only. It is high time they inculcate in the workers a sense of discipline and responsibility to do a full day's work for a full fair day's wages. They should first make every worker understand then-duties and responsibilities and then their rights and privileges.

5. Framing own Policy

The trade union movement must keep itself away from the conflicting ideologies of different parties and follow an independent policy, which is best suited to the interests of the workers. Disruptive political activities should be avoided but it does not mean that the trade union movement should completely be divorced from politics and labours should not take part in politics but it should be in their individual capacity. The political parties must not be allowed to utilize trade unions for their selfish political objectives.

6. Varied Trade Union Activities

Trade unions should enlarge their operations in the sphere of education, health, recreation,

browsing and other welfare activities. They should have contacts with their members in normal times as they contact them in the time of disputes. They must make their members educate in the sense of discipline and responsibilities by organizing committees.

7. Strengthening of Trade Unions

Indian trade unions are weak in their strength and finance. The following steps may be recommended to strengthen their position:

(i) Small trade unions must be amalgamated into one big trade union who can organize the labour welfare activities well. They should pour their resources in the interest of stability and strength. (b) Improvement in the finances of trade unions should be made from their internal resources. Membership fee may be enhanced and defaulters should not be allowed to continue their membership. (i) Attitude of employees needs change. They should realize that strong trade union is essential for the better development of industry.

8. Responsible Trade Union Leadership

Trade union leadership should be fully responsible for the acts of the union. Leaders should acquire full understanding of the constitutional and legal right available to unions. They should make use of such rights to secure and promote workers interests.

9. Need for Comprehensive Legislation

The Trade Unions Act was passed as early as in 1926 which is in force since then without any major change. There should be a comprehensive legislation on the subject which should provide not only for registration and recognition of trade unions but also for protection and development of worker's interests.

Trade union movement has a bright future provided some of the suggestions mentioned above are followed. It is highly satisfied that Government is attaching great importance to the development of trade unionism on healthy lines.

Trade Union Structures At The National Level

Trade union structure is composed of several layers based on geography (national/ regional/state), sector or branch of activity (metal workers, chemicals, banking, etc.) in the economy, and enterprise/plant, etc. Each is related to the other, horizontally and vertically. The formal structure of a union is influenced by its size, spread, role, activities, authority/accountability, etc.

The structuring of a trade union is composed of

1. Several layers of geographical (national, regional, and local) and sectoral (national, branch/enterprise/plant unions) levels, each related to the other, both horizontally and vertically,
2. Staff in various departments/sections depending on the type of activities/services,
3. Rules and regulations concerning decision-making (centralization, decentralization, etc.) to carry on activities, and mechanisms for reward, review and refinement, and
4. Committees with specific tasks.

A union's formal structure is influenced by the following factors.

1. Size

The larger the membership of the union the greater the bureaucracy in the union. The Chinese Trade Union Federation is supposedly the world's largest trade union with a claimed membership of over 130 million. To serve them the trade union federation has about 60,000 employees.

2. Spread (enterprise, industry/ geographical)

The trade union may be organized in a particular enterprise (Air India Employees Union), branch of economic activity or industry (All India Port and Dock Workers' Union), or on the basis of territory (say, Okhla Industrial Estate Enterprises Employees Union).

3. Role and Junctions/activities'

The roles and functions/activities of trade unions are in accordance with the constitution of the concerned trade union.

4. Responsibility and Accountability

The political, executive, and operational responsibility of trade unions is vested with office-bearers holding political authority for decision-making as per the provisions of the constitution of the concerned trade union, the executive wielding operational responsibility for implementing decisions and overseeing day-to-day activities, and various departments that have functional responsibility and accountability to carry out the various activities of the trade union.

National Trade Union Centres

In the interests of unity and solidarity, all working people in a country need to be organized under one umbrella organization. Implicit in the freedom of association is the freedom to choose and this in turn implies the need for more than one such organization. Several industrial market economies have one national trade union centre. In India and all other South Asian countries there is a multiplicity of unions.

According to the criterion set by the Government of India after consultation with the unions in India, any union with a minimum of 500,000 members spread over at least four industries and four states will be recognized as a national trade union centre. The following five unions currently fulfil this criterion:

1. All India Trade Union Congress (AITUC) affiliated to the Communist Party of India and World Federation of Trade Unions (WFTU).
2. Bharatiya Mazdoor Sangh (BMS) with close links to the Rashtriya Swayamsevak Sangh and Bharatiya Janata Party, but not affiliated to any political party as such.
3. Hind Mazdoor Sabha (HMS) with avowed commitment to socialist philosophy and no formal affiliation with any political party. It is affiliated to the International Confederation of Free Trade Unions.

4. Centre of Indian Trade Unions (CITU) affiliated to the Marxist Party of India.
5. Indian National Trade Union Congress (INTUC) affiliated to the Congress party and International Confederation of Free Trade Unions.

Besides the above five, there are at least seven other national-level unions with which the government holds consultations.

Regional Political Parties and their Trade Union Wings

Since the late 1960s regional political parties have been coming into power in some states. These parties have set up their own trade union wings, along with wings for women, youth, students, etc. With the result, regional trade union organizations have been posing a challenge to the state wings of national trade union centres. The following is an illustrative list of political parties in different states in India which have established their own trade union wings.

- Tamil Nadu : Dravida Munnetra Kazhagam (DMK) and All India Anna Dravida Munnetra Kazhagam (AIADMK)
- Andhra Pradesh: Telugu Desam
- West Bengal: Trinamul Congress
- Maharashtra: Shiv Sena

Industrial/Sectoral Federations

In India almost all major national trade union centres have about 25 industrial/ sectoral federations each. For each industry/sector (such as banking, transport) there are, on average, at least three federations affiliated to as many national centres.

In industrialized market economies, for example the US, there is only one national centre and one industry federation for each sector. In the automobile industry for instance, the United Auto Workers Union (UAW) is the only industry federation employers have to deal with.

In the early 1980s, the Japanese came to North America to set up joint venture units in the auto industry. Besides discussions with, among others, General Motors and Ford Motors on technology, capital, and other details, the Japanese

wanted to discuss job classifications, etc. with the UAW. The Japanese told the UAW that they would have much fewer job classifications than was the norm in North America at the time. Initially, the UAW's response was negative, but when the union realized that investments and jobs may move to other parts, they revised their position based on consequences of agreeing and not-agreeing to the Japanese proposal. The Japanese logic was that if they begin to discuss these after committing investments and setting up the plant, their bargaining power would be weak.

Thus union structures in several industrialized market economies are predictable. Employers who wish to treat unions as social partners can hold dialogues with unions before making investments and commencing operations. In India, the multiplicity of unions - many with political affiliations - creates uncertainty and breeds disharmony.

Several sectoral/industrial federations affiliated to the INTUC and HMS are affiliated to various GUFs.

Enterprise-level Unions

Enterprise-level trade unions are of two kinds: those affiliated to national centres, and those without any affiliation to political parties. Sometimes unions may be independent but their leaders may owe allegiance to a political party at a given point of time or to different parties over a period of time.

In India, some enterprises have over a hundred trade unions [at one point, Kolkata (formerly Calcutta) Municipal Corporation had a hundred trade unions]. Till recently, the public sector Steel Authority of India Limited had over 220 trade unions. Even Hindustan Lever in India has 220 unions all over the country.

1.6 TRADE UNION ACT 1926

Q22. Write about Trade Union Act 1926.

Ans :

The trade union act was passed in 1926 under the title of the Indian Trade Unions Act and was brought into effect from 1st June 1927 by a notification in the Official Gazettee by the Central Government. The act was amended in 1947, 1960

and 1962, Subsequently the word 'Indian' was deleted from the amended act of 1964, which came into force from 1st April 1965. A comprehensive trade union (Amendment) Act was passed in 1982.

Objective of the Act

The act was enacted with the object of providing for the registration of trade unions and verification of the membership of trade unions so registered so that they might acquire a legal and corporate status. As soon as a trade union is registered, it is treated as an artificial person in the eyes of the law, capable of enjoying rights and discharging liabilities like a natural person. In certain respects, the act attempts to define the law relating to registered trade unions.

1.6.1 Legal Frame Work of Trade Union Act 1926

Q23. Explain the Legal Frame Work of Trade Union Act 1926

Ans :

Legal Frame Work

The ILO Convention No. 87, Freedom of Association, is considered a fundamental right. Article 19 (c) of the Constitution of India upholds this principle. The Trade Unions Act, 1926 provides the basis for the registration and regulation of trade unions in India.

ILO Convention No. 87: Freedom of Association

The preamble to the 1919 Constitution of the ILO, states that 'the recognition of the principle of freedom of association' is among the objectives of the organization. According to the Declaration of Philadelphia of 1944, which is annexed to the Constitution, 'The Conference reaffirms the fundamental principles on which the organization is based and, in particular that freedom of expression and of association are essential to sustained progress'.

Convention No. 87 provides for the right of workers and employers, without any distinction, to establish and join organizations of their own choice without prior authorization and for their organizations to form or join federations and confederations, including on the international level.

These organizations or federations are not liable to arbitrary dissolution or suspension by an administrative authority.

Workers' and employers' organizations have the right to draw up their own constitutions and rules, elect their own representatives and organize their activities, without any interference which would restrict this right or prevent its lawful exercise. Rules for the acquisition of legal personality of workers and employers' organizations may not be of such a character as to restrict the application of the right to organize.

In exercising the rights provided by the Convention, workers and employers and their organizations must respect the laws of the land applicable to all persons and organizations. However, these laws must not be such as to impair the guarantees provided in the Convention, nor may they be applied in such a way.

Reasonable restrictions may be imposed on the right to organize on the Armed forces and police personnel.

Indian Constitution and the Freedom of Association

Article 19 (c) of the Constitution of India guarantees the right of association, that is, the right to belong or not to belong to a union. It is not compulsory for a worker to join a union. It is unconstitutional to prevent a person who wants to join a union from doing so.

Trade union registration is not compulsory. Similarly, trade union recognition is also not compulsory.

Though India has not ratified ILO Convention No. 87, the state does not impose undue restrictions on the freedom of association. This is, however, not to justify non-ratification. The ILO Declaration on Fundamental Principles, 1998 recognizes freedom of association as a fundamental right. Even countries which have not ratified this convention are required to submit a report on the status of freedom of association and other core labour standards enshrined in the declaration.

Provisions of the Act. The Trade Union Act, 1926

The Trade Union Act, passed in 1926, was brought into operation from June 1, 1927. It was amended in 1947, 1960, 1962 and 1982. The Act was mainly enacted to provide for the registration of the trade unions and verification of their membership so as to help them acquire a legal and corporate status.

Important provisions are discussed under below.

1. Registration under Trade Union Act

- a) **Reputation Of Trade Union** : Any seven or more members of a trade union can apply to the Registrar of trade unions for registration. At least half of the office bearers of a registered union must be persons actually engaged in the industry to which union belongs; persons convicted of offences involving moral turpitude are debarred from becoming office bearers. A minimum subscription of 25 paise per month is fixed for member of a trade union.

An application for the registration of a trade union shall be sent to the registrar. This application should be accompanied by a copy of the rules of the trade union and a statement of the following particulars, namely:

- i) The names, occupations and address of its head office
- ii) Name of the trade union and the address of its head office,
- iii) The title, names, ages, addresses and occupations of the office bearers of the trade union; and
- iv) A general statement of the assets and liabilities of the trade union, prepared in the prescribed form and containing such particulars as may be required, should be sent with the application to the registrar where the trade union has been in existence for more than one year before making an application for its existence.

2. Re-registration of a Trade Union

A trade union whose certificate of registration has been cancelled may apply for re-registration to the registrar after the expiry of period of six months from the date of the cancellation.

Provided that, if the cancellation was on the ground that the trade union has failed to comply with any of the requirements provided by or under this act, it shall not be registered until it has complied with such requirements.

3. Duties and Liabilities of Registered Trade Union

The provisions of obligations and liabilities of the registered unions relate to various objects on which general and political funds may be spent. It may be suggested in this respect that the act should be amended with a view to incorporate provisions prohibiting unfair labour practices. The following may be deemed to be unfair practices on the part of a recognized union, leading to withdrawal of recognition:

- i) Participation in an irregular strike by its majority of members,
- ii) Rendering advise or instigating an irregular strike by its executive,
- iii) submission of any false returns.

4. Rights and Privileges of Registered Trade Unions

The act provide immunity from civil and criminal liability to executives and members for bonafide trade union activities. It protects them against criminal proceedings in respects of any agreement for the purpose of furtherance of any legal object of the union. They also protected form civil suits in respect of any act done in contemplation or furtherance of any trade dispute under certain circumstances.

5. Amalgamation and Dissolution of Trade Unions

Any two or more registered trade unions may become amalgamated together as one trade

union with or without dissolution or division of funds of such trade unions.

6. Submission of Returns

Each trade union is required to send to the Registrar on or before such date as may be prescribed, a general statement of receipts and expenditures of the union during the year ending December 31st of the previous year, audited in the prescribed manner as on March 31.

7. Penalties and Fines

a) In default or failure to submit returns or statements, required under section 28.

- i) Other persons bound by the rules of the trade union to give or send the same or
- ii) Every office bearer.
- iii) If there is no such office bearer or person, every member of the executing of the trade union shall be punishable with fine not exceeding rupees five. But if the contravention is continued after conviction a further five not exceeding rupees five for each week during which the default was made shall be imposed. However, the aggregate fine shall not exceed fifty rupees.

A act provides more deterrent punishment with a fine which may extend up-to rupees five hundred upon persons willfully making, or causing to be made any false entry in, or any commission from the general statement required by section 28 or in or from any copy or rules or of alterations of rules or document sent to the registrar under that section.

b) **Penalties for Supplying False Information Regarding Trade Union:** Quite apart from penalties mentioned earlier if any person who with intent to deceive or with like intent gives-

- i) To any prospective member of such union any document purporting to be a copy of rules of a trade union or an alteration of such rules which he knows or has reason to be believed that it is not a correct copy.
- ii) Gives a copy of any rules of any unregistered trade union to any person on the pretence that such rules are the rules of a registered-trade union shall be punishable with a fine which may extend to rupees two hundred.
- iii) To any member of a registered trade union, (e) Cognizance of Offences-Only a presidency magistrate or magistrate of the first class can try any offence mentioned in sections 31 and 32 of the act. Similarly, no court shall take cognizance of any offence unless, (i) In the case of offence under section 32 by the person to whom such copy has been given. The complaint must be made within six months of the date on which the offence is alleged to have been committed. (ii) A complaint has been made by registrar, (iii) with his previous section by any person. (8) power to Make Regulations.

Distinction between Registration and Recognition

The key distinction between registration and recognition is that registration is with the Registrar, while recognition is by the management as a collective bargaining agent (if there is one union) or collective bargaining council (if there is more than one union). Both are not mandatory under the Trade Unions Act. Certain state governments have either enacted laws (for example, Maharashtra, Gujarat, Rajasthan, and Uttar Pradesh) or formulated recognition rules (for instance, Andhra Pradesh, Orissa, and West Bengal).

There is a form and a procedure for registration of a trade union under the Trade Unions

Act, 1926. Even now, any seven members can register a union with the Registrar of Trade Unions, if the organization where the trade union is formed employs 70 or less persons. The Registrar of Trade Unions is an official of the concerned state government.

Recognition is for the purpose of representing members and is accorded by the management under one or more of the methods discussed later in this chapter. When there is a multiplicity of unions, management may choose to recognize one or more unions. Alternatively, management may choose to recognize certain unions together as a bargaining council.

Privileges of Registered Trade Unions

In India all registered trade unions have *de facto*, not *de jure*, recognition. *De facto* means virtually. *De jure* means by law.

When a registered union represents its members' grievances to the management, the latter may reply if the union has majority membership. If the union concerned has a very small membership, the management may ignore the appeals. In such an event the union may send a copy of its communication through the management to the government officer concerned (say, Assistant Labour Commissioner). The government officer is duty bound to refer the same to the management for its opinion and later, if necessary, convene a conciliation meeting to discuss and reconcile the differences between the union and the management. If the management continues to be adamant and refuses to encourage splinter unions or unrecognized unions, it may either refuse to participate in conciliation or be lukewarm to the conciliation proceedings. Obviously, under such circumstances, conciliation efforts fail. If the union has political clout, it can persuade the minister concerned to refer the dispute for adjudication. If there is a favourable award on one or some or all of its demands, the union stands vindicated, gains respectability, and weans away members from other rival unions. Thus, in India, it is possible for a registered union to influence the union dynamics in an enterprise or industry, using the enormous discretionary power of the government. Unfortunately, the government's discretionary power is not matched by any accountability whatsoever.

Privileges of Recognized, Representative Unions

Representative unions enjoy not only the right to represent their members' grievances but also to enter into collective agreements on wages and working conditions on behalf of their members. In some cases recognized representative unions are given special benefits by employers by way of office space and infrastructure, notice board, time off for union work as well as financial and other support for education, training, and other non-bargaining activities. Usually these are agreed upon in a union recognition agreement. Such agreements not only provide for benefits but also cast mutual and reciprocal obligations. For example, if the management accedes to the request for a notice board by the union it may require such union to exercise restraint in how it puts the notice board to use and may ask that all notices to be put up be vetted by a representative designated by the management. Excessive dependence of unions on employers for such benefits can, however, weaken the bargaining power of unions.

1.6.2 Union Recognition and Union Problems

Q24. Discuss about Union Recognition and Union Problems

Ans :

Union Recognition

Trade unions are recognized by governments on the basis of membership verification (once in 10 years or so) to determine which unions are to be invited for participation in national- and international-level consultations on social and labour matters.

Methods for Recognition of Trade Union

Trade unions are recognized by managements to identify/select collective bargaining agents. There are several methods for recognition of trade union(s) by management. These are briefly discussed here.

1. Closed shop/union Shop

Union membership is a prerequisite for employment in a firm or a workshop. It is closed to all except members. First one has to belong to a union before he/she could take

up employment in an enterprise. This was in vogue in the UK at one point of time. Now it is illegal in the European Union.

Union shop is a system whereby new entrants to employment, if they are not union members, must join the union within a stipulated period.

In India, the closed shop system prevails informally in wholesale markets and railway stations among manual, head load workers. Such unions limit numbers and restrict formal employment. It is not unusual for licensed workers to display rent-seeding behaviors vis-à-vis unlicensed, unauthorized workers who operate at these sites and pay a substantial portion of their earnings to the union.

2. Membership Verification

An official of the Labour Department of the state or central government visits the enterprise/establishment, obtains the roster of employees from the management and asks each employee individually whether or not they wish to become members of a union and if so, which union. Membership verification is also carried out by official of the state government as per the procedure laid down in the Code of Discipline. Based on the responses, the membership claim of all unions is verified to identify which union or unions individually or collectively have the support of the majority which union or unions individually or collectively have the support of the majority of the employees. This becomes the basis for recognizing the collective bargaining agent.

Membership verification of central trade union organizations is carried out by the central government. Earlier this was almost an annual exercise, but in the past two decades it has been done only twice. Verification is a means of determining the relative strength of membership of different trade unions for the purpose of identifying national trade union centres. Unions with a minimum membership of 500,000 across at least four industries/sectors and four states are accorded recognition as national trade union centres.

3. Check-off

Under check-off, employees are asked to state in writing whether or not they belong to a union and if they do, to which. Along with this, employees should also undertake in writing that they are willing to have the union membership subscription deducted from their salary every year, in one or more installments, and credited to the account of the union concerned.

The provision for check-off is made through a clause in the collective agreement. Neither the Trade Unions Act nor the Payment of Wages Act explicitly provides for it.

It is not legal for the employer to deduct subscription without the member's authorization and unless the union requests for such deduction.

In some organizations (for instance, the Indian Railways), employees authorize subscription deduction and payment to more than one union.

The check-off system helps management to know how many members each union has and who they are. This not only enables an assessment of the relative strength of unions for the purpose of recognition but such information can also be used by managements, in some cases, to pressurize workers to stop patronizing unions which are not in the good books of the management.

In some countries (for example, Sri Lanka), managements are known to stop check off in times of dispute/strike.

4. Secret Ballot

A more democratic method, election by secret ballot enables employees to exercise their option secretly, without fear or favour.

They are two types of secret ballots in vogue in India; panel and banner. In the panel type, employees vote for individuals belonging to one or more unions against the positions they contest. Under this method, it is possible to elect the president from Union A, The secretary from Union B and the treasurer

from Union C. There are two plus points with this system: first, there is only one union in the enterprise; second, leaders from various denominations have to work together. Under banner elections, employees vote for, say, Union A, B, or C. The multiplicity of unions thus persists even after elections.

5. Code of Discipline

The fifteenth session of the Indian Labour Conference held in Nainital in 1957 discussed the recognition of trade unions and evolved the Code of Discipline laying down the criteria for trade union recognition. These criteria continue to provide the basis for the recognition of unions in certain central public sector organizations till date. However, the enforcement of the Code of Discipline has remained a problem because the principal contained therein being voluntary in nature, entail no sanction. Thus, they have resulted in public agreement and private disagreement or agreement in principle and breach in practice.

The central trade union federations of workers at the conference deliberated on the code of conduct for maintaining harmonious inter-union relationship and laid down a set of principles:

- Every employee in an industry or unit shall have the freedom and right to join the union of his/her choice. No coercion shall be exercised in this matter.
- There shall be no dual membership of unions. (In the case of representative unions, it was agreed that this principle needed further examination.)
- There shall be unreserved acceptance of and respect for the democratic functioning of trade unions.
- There shall be regular and democratic elections of executive bodies and office bearers of trade unions.
- Ignorance and backwardness of workers shall not be exploited by an organization. No organization shall make excessive or extravagant demands.

- Casteism, communalism, and provincialism shall be eschewed by all unions.
- There shall be no violence, coercion, intimidation, or personal vilification in inter union dealings.

Except the Indian National Trade Union Congress (INTUC), all central trade union favour the secret ballot. Other unions had reservations about government and employer influence in membership verification and check off respectively while the INTUC was concerned about the ill-effects of money and muscle power resulting in the abuse of the secret ballot with politics entering and vitiating the industrial relations climate.

Union Recognition Agreement

In professionally managed companies there is a system whereby management signs an agreement with the recognized union(s) stipulate dos and don'ts for both management and union. They also specify the benefits that management would provide to the unions. Such benefits may include union office, notice board (s) in one or more places, telephone, fax, computer, staff, or time off-for leaders, training subsidies, etc.

The above facilities are accorded to unions subject to the latter agreeing to fulfill certain obligations. For instance, the recognition agreement may provide that while the union can have a notice board within the company premises, it should show the notices it wishes to display on such notice boards to an authorized representative of the management for clearance/approval. Managements insist on prior clearance/approval of notices to avoid any possible misuse of notice boards in the form of spreading rumours, half truths, vilification campaign against individual managers or management, etc.

In some recent judgments, high courts have permitted managements to withdraw some benefits that managements accorded to recognized representative unions. For instance, in the case of Blue Star Company, the general secretary of the union was allowed to abstain from work indefinitely to carry out union work during working hours. Though there was no written agreement, it had become an established practice. When relations between the union and management soured the

latter withdrew the benefit extended to the general secretary of the union on the principle of 'no work no pay'. The union contested this issue, but the high court disallowed the appeal.

Problems Of Trade Union

The trade union movement in India is still in its infancy and, therefore, we cannot compare it with the giant unions of U.K. and U.S.A. some of the weaknesses of the trade union movement in India may be enumerated below:

1. Small size of trade unions

Most of the trade unions in India are of small size having very small membership. 80% of the unions are of less than 500 members. This is not a healthy development because small unions are not in a position to carry on collective bargain, negotiate effectively, maintain discipline among their own members and finance mutual benefit schemes. Small unions fail in pressurizing the Government or the employers in the pursuit of meeting worker's demands. The small size of the trade unions is attributed to the provision in the Trade Union Act, requiring only seven members to form an association or union.

2. Limited membership

Trade union in India are confined to urban areas and their total membership forms a small percentage of the total workers. Even in organized sector, where trade unions are strong, a good number of workers do not join any union. A Government survey disclosed that there are 82% of the units where number of workers are below 500 but only 18% of the total workers were the members of the Trade union.

3. Outside leadership

In India trade unions are in the hands of outsiders are generally professional men such as Sawyers or social and political workers. They have no technical knowledge of industry concerned and of the problems the workers face. They could not pay proper attention to the union work. Further philanthropic nature of their work weakens

their sense of responsibility. The main reason of this outside leadership is illiteracy among workers.

4. Low income of members and meager funds

Poverty and low saving capacity of the members hinder the growth of healthy trade union movement. The workers fail to contribute their subscription or some members do not even become member of the union just to avoid their contribution. Moreover, subscription is not paid regularly hence the funds with the trade union are limited and they cannot contribute much to the labour welfare. A survey estimates disclose that only 4% of their income is spent on welfare work.

5. Migratory Character

The migratory character of Indian labour has proved a great hindrance to the development of the movement. The workers do not take keen interest in union activities, because they are mainly concerned with coming from and going to their villages. Workers are generally themselves absent from their duty at the time of crops.

6. Illiteracy

Indian labour is illiterate and fails to understand the trade unionism. Workers do not understand the implications of the law and the outside leadership. They tend to develop a complex feeling and a slavish mentality. They are easily exploited by their leaders for their own vested interests.

7. Multiplicity of Unions

There are more than one unions in most of the industries in India because of various political parties' dominance over workers. So the membership of each union remains very meager to influence the employer or the government in safeguarding their interest. A good number of workers could not become the member of any union because they could not decide which union they should join. The multiplicity of union leads inter-union rivalries and weakens the collective bargaining power.

8. Political Influence

Trade union in India have been an arena for the struggle of the conflicting political ideologies. Different political parties have always been trying to capture the labour movement. It is not uncommon that strikes are arranged by the leader only to serve their political aims. Consequently movement lacks unity and solidarity. It is evident from the fact that all the central union are controlled by different political ideologies

9. Lack of Unity

Indian labour is not only illiterate, and financially backward but also divided on the basis of their caste, creed and religion which prevent them to unite. Individual differences increase and foil the movement.

10. Instability of Trade Union

In India, many trade unions continue to be virtually strike associations expanding rapidly when a conflict arises but liquidating equally with the same speed when a conflict is over. This character weakens the strength of the trade union movement.

11. Attitude of Employers

The attitude of the employers in India has been found to be hostile to the organization of trade unions. They adopt all means to disrupt the activities and unity of workers. They also victimize the leaders of labour movement and employ in some cases, goads and strikebreakers to sabotage the union activities. Inducing the 'setting up of rival union has also been a popular practice with employers,

12. Defective System of Recruitment

The recruitment is made by intermediaries who oppose the formation of trade unions. Sometimes they impose the conditions at the time of recruitment that workers shall not join any trade union.

13. Narrow Outlook of Unions

Trade unions have a very narrow range of services. They rarely look after the social needs of workers. They do not cooperate with

employers in the accomplishment of organizational goals. They are always in striking position.

Measures to Overcome Problems in Trade Unions

Sound trade union has the potentialities for generating a healthy circle of better labour productivity, increasing earnings of labour, expanding their purchasing power, improving their working and living conditions, increasing efficiency, and having more production.

Such a state of affairs would be beneficial not only to workers, but also to the industry and to the nation. Therefore, it is essential to recognize the vital importance of trade union as an integral part of the industrial structure of India. The Government and many enlightened employers do appreciate the importance of the role of trade unions, and their policy is one of encouragement and assistance to the trade unionism.

But please note that the future of trade unionism in Indian depends mainly upon the effort of the unionists themselves. You must have heard that real strength must come from within. For developing internal vitality, a strong and stable trade union movement is essential for the proper functioning of industry.

A few suggestions for the development of such unions are:

I. One Union in One Industry

Multiplicity of unions in the same plant leads to inter-union rivalry that ultimately cuts at the root of the trade union movement. It weakens the power for collective bargaining and reduces the effectiveness of workers in securing their legitimate rights. Therefore, there should be only one union in one industry.

II. Paid Union Officials

Generally, the trade unions avail the services of the honorary workers due to lack of funds. The practice should be stopped because honorary office bearers cannot do full justice to the task entrusted to them because of lack of time at their disposal. Suppose that you are asked to do something in the office, which

requires a lot of responsibility. You are not offered any thing in return. Of course the motivational levels will come down unless and until you are a very passionate or a committed person. The same applies to the officials of the unions. Therefore, paid union officials should be employed who are persons of proven integrity and who are able to evaluate the demands of workers so that they may negotiate with employers on equal footing.

III. Development of Leadership from Within

It is of crucial importance that trade unions are managed by the workers, and not by outsiders. Leadership should be developed from within the rank and file of the workers. We have already discussed the problems related to the outside leadership in the organisations. Please note that the outside leadership should not be encouraged in the organisations because of the following reasons:

The outsiders do not have any knowledge about the functioning of the organisation

1.6.3 Non Union Firms

Q25. Explain about Non Union Firms.

Ans : (Dcc.-19, Imp)

The law in India does not make it mandatory for managements :

- to have unions,
- to recognize them (except in some states), or
- to engage in collective bargaining.

However, since the Constitution of India guarantees freedom of association, managements cannot follow anti-union policies. Just as tax avoidance is legal, but tax evasion is illegal, union avoidance is legal, but union evasion is not.

Almost all software companies in India (as of July 2001) do not have unions. Several units of Reliance, Nirma, Samtel, Toyota, and Volvo also do not have unions. A large number of greenfield manufacturing units of several old economy manufacturing companies such as SRF, and Hero Honda do not have unions as well. Companies

follow one or more of the following practices to avoid unions:

1. Typically, non-union firms are greenfield sites with high capital investment and technology and low labour intensity. Wages are higher, but unit labour costs are low. The demographic background of the workforce of such companies is diverse so that the workers' interests do not easily or readily converge.
2. As a business strategy, non-union firms emphasize parallel production, outsourcing, etc. and setting up similar units in geographically dispersed places to minimize the scope for immediate comparisons and to reduce the adverse effects of 'putting all eggs in one basket.'
3. Non-union firms reengineer skill-age mix such that there are fewer blue-collar and more white-collar, professional workers.
4. Knowledge workers and professionals compete amongst themselves and, therefore, the lateral trust among themselves tends to be usually low for purposes of seeking uniformity in remuneration and benefits. In the wake of 10% reduction of workforce the in banking industry through voluntary separation schemes in the banking industry, many public sector banks too have been aiming to dispense with bulk of the award staff (workman category).
5. While recruiting heads to the HR/personnel function, the CEO typically asks prospective candidates whether they can guarantee that the firm will not have to deal with the union during their tenure. Those willing to give such guarantee, even if orally, are seriously considered for selection.
6. Non-union firms treat their employees better than do unionized companies in the industry/region. They usually believe in direct communication with workers rather than through unions, direct participation, involvement, and empowerment of employees rather than indirect, representative participation, and individual contracts based on merit rather than collective wage

agreements. Some companies are saying to their workforce: 'If you want to negotiate pay, you will get 15% more. If you want us to give you a raise, we can increase your pay by 20 or even 25%.' Pay additional incentive/increment to employees who sign individual undertakings from the employees that they will not join a union. This is, of course, illegal. In several cases, non-union firms pay more and get less output than union firms. Though productivity in such non-union firms may be lower than in union firms, profitability is usually observed to be higher in non-union firms. The reason is that while non-union firms focus on smart work, union firms stress on hard work. In non-union firms, employee contributions come mostly through saving resources.

1.7 MANAGEMENT OF TRADE UNION IN INDIA

Q26. Explain about Management of Trade Union in India

Ans :

A) TRADE UNION CONSTITUTION

Every registered trade union in India is supposed to have a constitution of its own endorsed by its members. A union's constitution contains the guiding principles that form the basis of its existence and functioning. It prescribes a permanent framework of the structure, governance, and administration of the trade unions. It also assigns different constituents of union and their respective powers, duties, and responsibilities. Among the essential elements of a union's constitution are:

- preamble
- name
- declaration of principles
- membership
- rights and obligation of members
- general assembly/delegates' conference: election at all levels
- duties and responsibilities of officials
- executive committee

- standing committee
- meeting rules
- finance/funds
- collection of dues
- auditing
- allowances
- benefits to members
 - scholarships
 - fellowships
 - strike funds
 - death benefits, etc.
 - procedure for winding up, if desired

The constitution of a union should be consistent with the legal framework provided by the Trade Unions Act, 1926.

A trade union is considered effective if it is able to

- enroll all workers in the concerned branch/establishment and is thus representative of the target group of workers,
- ensure job, income, and social security and career progression for its members.
- improve the productivity of the enterprise/industry/economy,
- enhance the standard of living and quality of work life of its members, and
- meet the expectations of the members in servicing their interests.

B) Trade Union Functions

The functions of trade unions can be divided into the following categories, viz:

- a) **Militant or protective or intra-mutual functions :** These functions include protecting the workers' interests, i.e., hike in wages, providing more benefits, job security, etc., through collective bargaining and direct action such as strikes, gheraos, etc.

b) Fraternal or extra-mutual functions

: These functions include providing financial and non-financial assistance to workers during the periods of strikes and lock outs, extension of medical facilities during slackness and casualities, provision of education, recreation, recreational and housing facilities, provision of social and religious benefits, etc.

c) Political functions : These functions include affiliating the union a political party, helping the political party in enrolling members, collecting donations, seeking the help of political during the periods of strikes and lockouts.**d) Social functions** : These functions include carrying out social service activities, discharging social responsibilities through various sections of the society like educating the customers.**C) Internal & External Challenges of Trade Union****a) Internal Challenges**

The Internal challenges of trade unions concern the low and declining membership, low representatives, and poor finances. These are discussed here briefly.

1. Low Membership Density

The only source of data on union membership is official statistics compiled by the Labour Bureau and published in the Indian Labour Year Book. The Trade Unions act, 1926 stipulates that all registered unions submit annual returns containing details of membership, finances, etc. To the registrar of trade unions in the respective states where the unions are registered.

The state governments in turn are supposed to compile and submit data to the Labour Bureau in Shimla. Non-submission of returns by a trade union can lead to cancellation of registration. Most trade unions, however, do not submit returns regularly because state governments are not usually known to cancel

registration for non-submission even though the Trade Unions act, 1926 empowers them to do so.

The exception is West Bengal which cancelled the registration of about 12,000 unions in the early 1990s for non-submission of returns; as a result, the number of registered unions in the state came down from over 20,000 to about 8,000. Trade union membership usually peaks once in four years at the time of elections to the concerned national trade union centers/ federations.

2. Declining Union Membership

Union membership is declining in traditional industries as well as in industries which are themselves on the decline in some regions. For instance, the membership of the Textiles Labour association came down from over 140,000 in 1948 to less than 30,000 in 2000. Similarly, union membership in the jute industry in West Bengal has also declined rapidly over the years. In the new, non-traditional, high-tech industries, unionization is becoming difficult, partly because of the small size of units in terms of employment and rather high employee turnover. Also, the workforce in such units is fairly diverse and includes women, minorities, and members from different ethnic groups. The absence of a critical mass, their footloose character in terms of stability, a general lack of lateral trust, and competitive, individualized employment contracts make conditions for unionization extremely difficult

3. Representatives

At present five national unions (AITUC, CITU, HMS, BMS, and INTUC) in India are recognized by the government by the government as central trade union organizations (CTUOs). The Representatives of CTUOs at the national level is determined on the basis of the strength of membership of the trade unions affiliated to CTUOs. The CTUOs agreed that only those CTUOs which have affiliate unions with verified membership of at least 500,000 and more and are spread over at least four industries

(including agriculture) would be recognized by the government. Twelve out of the 13 CTUOs that responded to the government's circular fulfilled the above requirement, when last verified.

3. Poor Finances

The finances of trade unions are poor. There are not only problems in collecting subscription from members, the subscription itself is generally low (Rs.2 Rs.4 per month; very few unions charge more than Rs.100 a year). There is usually resistance if a union wants to increase the subscription. Also, unions are reluctant to raise subscription rates because that gives rival unions the opportunity to offer more without raising fees. One of the important sources of revenue for many unions is the contribution members make from the lump sum arrears of pay they receive at the time of periodic wage revisions.

Major Sources and Uses of Funds

The major sources of finances for trade unions include the following:

- Monthly/ annual membership subscriptions
- Donations from members at the time of wage revision, etc.
- Interest on savings
- Contributions for political funds

The major uses of finances include expenditure on:

- Activities/ services to members
- Wages and salaries (including benefits and allowances) of staff
- Travel
- Printing, postage, stationery, etc.
- Legal expenditure on court fee, lawyers fee, etc.
- Meetings, conference, campaigns, etc.

Trade union incomes are not taxed. Financial statements of trade unions can be audited internally, usually by members appointed for the purpose by the office-bearers. Budgeting, financial control, and external audit of trade

union finances are not common in many unions. Trade unions can raise political funds.

Financial Strength of Trade Unions

The following are some of the critical indicators of the factors that determine the financial strength of a trade union:

- Composition of revenues.
- Relative size of expenses and/ or revenues.
- Amount of surplus or deficit over a period of time.
- Number of activities carried out by a union's own funds.

The size of the surplus funds in a trade union can indicate its capacity to meet unexpected changes and challenges and its ability in discharging its roles and offering new activities/sources as necessary. Trade unions should not be money machines but they need a buffer. When a trade union builds up surplus funds over time, it should consider whether it is doing so at the expense of activities and services needed by its members. If a trade union becomes complacent about growing funds, and fails to address the needs of its members, a non-union sector in that industry might leverage on that and the union may get undermined.

b) External Challenges

Like other organizations, trade unions have been facing challenges in the external environment: global competition, rapid changes in technology, shifting attitude of government, managerial strategies and HRM policies, and the assertion of their rights by the community and consumers.

1. Global Competition

Global competitive challenges can be met through either or both of the following strategies: cost cutting and value addition. However, most companies resort to cost cutting while very few opt for value addition. Neo-liberal policies are focusing more on profit than people, cut-throat competition is resulting in massive workforce reductions.

Cutting down numbers employed is a denominator management strategy whereby a company can become efficient but cannot grow.

2. **Rapid Changes in Technology**

Rapid changes in technology and the resultant phenomenon of drastic decline in employment elasticities and worker's loss of control over jobs is a major challenge for trade unions. They find it hard to accept technological determination. The reality however, is that the absence of state-of-the-art technologies can affect not only the concerned sectors-for instance, IT-enabled financial service, telecom, and transport-but the entire economy.

3. **Shifting attitudes of Government**

There is a marked shift in state policies worldwide from being labour friendly to investor friendly. When governments are union friendly, unions grow; when they are neutral, unions and unionism stagnate; when they adopt anti-union policies, unions and unionism decline.

4. **Managerial Strategies and HRM Policies**

When the state is neutral or anti-labour, union power is weakened. Also, workers are realizing that their jobs are secure only if their companies can withstand the market pressures. In the past, employees could keep their jobs even if the enterprise became sick because sick private enterprises were privatized and sick public ones were denationalized with some assurances against retrenchment and promises of maintenance of service conditions.

This is no longer so. In addition to these twin developments, modern technology has reduced labour intensity as also in many cases, the critical mass for collective action transforming a large number of blue-collar jobs into fewer white-collar ones and shifting control over work from worker to management-even if it has made unskilled workers redundant and skilled workers prosperous with increased wages.

D) **Leadership and Organisational Issues in Trade Union**

Some leadership and organizational issues concerning trade unions are discussed below.

1. **Leadership**

A charismatic leader 'personalizes power, privatizes decision-making, and monopolizes all forms of organization knowledge-the impact of which is the creation of an authoritarian environment within the union itself.

2. **Changing Workforce Demographics**

The changing structure of the workforce in India. Blue-collared workers use their physical and not their intellectual or creative energy. They are not usually encouraged to use their intellect. Communication is top down, motivation is through fear (if the belly is full, the follow will not work), and leadership is authoritarian, of the 'Command and control' types. Their lack of marketable skills and alternative opportunities make blue-collar workers vulnerable and so they had a one-sided dependence on the employer under a system more characteristic of 'master and servant' than a reciprocal, employer-employee relationship. The expectations of workers in such circumstances were also low and they preferred to be treated as 'collectives' than individuals.

3. **Internal Democracy**

The lack of internal democracy has been one of the weaknesses of the trade union movement in India. In addition, the voice and stake of members is muted, additionally, by linguistic and cultural differences. The CITU's 1992 report documents provides, in fair detail, what was wrong with the unions belonging to their federation, why this was so, and what they expect to do to overcome the deficiencies.

4. **Declining Union Power and Influence**

Union power and influence in India started declining in the late 1970s and this decline became more sharp during the 1990s and after. Such decline cannot be attributed to union density, which in any case has never been high in India.

Short Question and Answers

1. The Indian Economy

Ans :

The history of the Indian economy and its labour force in the post-independence period can be divided into two phases:

- i) The import substitution era post-independence (1947 to 1991), and
- ii) The era of economic liberalization (1991).

At the time of independence, India had a significant industrial base, which was substantially diversified under the government's heavy industrialization strategy during the plan era, particularly from the mid-1950s to the end of the 1960s. This period saw the public sector being accorded the dominant role in the growth of the economy. Then followed the government's policy of self-reliance and import substitution in the 1970s and early 1980s. In this period, several east Asian (Taiwan and Korea) and southeast Asian (Singapore, Hong Kong, and Malaysia) countries pursued export-oriented industrialization strategies.

In India, the focus was on restricting the growth of monopolies and ensuring equity. At the same time, domestic industry was protected in product markets and labour in labour markets. India, therefore, did not grow as fast as the rest of Asia and its economic, industrial, and political significance in the region and in the world declined.

2. Trends in the Labour Market

Ans :

The major trends in the labour market are

- Recruitment ban/squeeze in public sector and government employment
- Increasing open unemployment
- Decreasing formal sector employment in relative terms
- Growing casualization and contractualization of labour
- Falling employment elasticities

- Emergence of global chains splitting production processes into different parts dispersed over several locations
- Mergers, acquisitions, divestures, and other ownership changes and consequential pressure on doing more with less
- Significant workforce reduction in both the public and private sectors.

3. Industrial Relations

Ans :

Industrial relations has become one of the most delicate and complex problems of modern industrial society. Industrial progress is impossible without cooperation of labors and harmonious relationships. Therefore, it is in the interest of all to create and maintain good relations between employees (labor) and employers (management).

Concept of Industrial Relations

The term 'Industrial Relations' comprises of two terms: 'Industry' and 'Relations'. "Industry" refers to "any productive activity in which an individual (or a group of individuals) is (are) engaged". By "relations" we mean "the relationships that exist within the industry between the employer and his workmen." The term industrial relations explains the relationship between employees and management which stem directly or indirectly from union-employer relationship.

Definition of IR

1. "Industrial relations refers to a dynamic and a developing concept which is not limited to the complex relations between trade unions and management but also refers to the general web of relationships normally obtaining between employers and employees a web much more complex than the simple concept of labour capital conflict."

- Prof. T.N. Kapoor

2. "Industrial relations may be defined as the complex of interrelations among workers, managers and government".

– Prof. Dunlop

3. "Industrial relations involve attempts to arrive at workable solutions between the conflicting objectives and values between profit motive and social gains, between discipline and freedom, between authority and industrial democracy, between bargaining and co-operation and interests of the individual, the group and the community".

– Richard A. Lester

4. Nature of Industrial Relations

Ans :

However much cooperation maybe sought as an organizational objective, some conflict will always remain. There are at least 3 reasons for this:

1. Mixture of Cooperation and Conflict

Both labour and management develop different orientations and perceptions of their interests. They also develop generally negative images about each other.

2. Absence of Norms

There are no mutually accepted yardsticks or norms to tell to the two groups how far they should go in the pursuit of their objectives. In the absence of norms both groups claim complete rationality for their demands.

3. No Natural Field

There is no neutral field for the groups to meet on. Whenever the two groups meet each other for negotiations they bring with them some carry over from the past besides their inherent distrust and suspicion for each other.

5. Scope of IR

Ans :

Based on above definitions of IR, the scope of IR can easily be delineated as follows:

1. Labour relations, i.e., relations between labour union and management.

2. Employer-employee relations i.e. relations between management and employees.

3. The role of various parties' viz., employers, employees, and state in maintaining industrial relations.

4. The mechanism of handling conflicts between employers and employees, in case conflicts arise.

The main aspects of industrial relations can be identified as follows:

1. Promotion and development of healthy labour — management relations.
2. Maintenance of industrial peace and avoidance of industrial strife.
3. Development and growth of industrial democracy.

6. Dunlops Approach

Ans :

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

7. The Marxist Approach

Ans :

The Marxist approach is primarily oriented towards the historical development of the power relationship between capital and labour. It is also characterised by the struggle of these classes to consolidate and strengthen their respective positions with a view to exerting greater influence on each other. In this approach, industrial relations is equated with a power-struggle.

The price payable for labour is determined by a confrontation between conflicting interests. The capitalist ownership of the enterprise endeavours to purchase labour at the lowest possible price in order to maximise their profits. The lower the price

paid by the owner of the means of production for the labour he employs, the greater is his profit.

The Marxist analysis of industrial relations, however, is not a comprehensive approach as it only takes into account the relations between capital and labour. It is rather, a general theory of society and of social change, which has implications for the analysis of industrial relations within what Marxists would describe as capitalist societies.

8. The Gandhian Approach

Ans :

This approach to industrial relation is based upon fundamental principal of truth, non-violence and non-possission. This approach presumes the peaceful co-existence of capital and labour.

Gandhiji emphasized that if the employers follow the principal of trusteeship than there is no scope of conflict of interest between labour and management, Gandhiji accepted the workers right to strike, but cautioned that they should exercise this right for a just cause and in a peaceful and non-violence manner and this method should only be resorted when all methods failed in getting employers response.

9. Trade Unions

Ans :

Trade unions are a major component of the modern industrial relations system. According to WEbbs, a trade union is a continuous association of wage earners for the purpose of maintaining and improving the conditions of their working lives. Under the Trade Union Act of 1926, the term is defined as any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workers and employers, or for imposing restrictive conditions on the conduct of any trade or business and includes any federation of two or more unions.

Definitions of Trade Union

Dale Yoder, "A trade union is a continuous association of wage-earners for the purpose of maintaining or improving the conditions of their working lives."

S.D. Puneker, "A trade union is a monopolistic combination of wage-earners who as individual producers are complementary to one another but who stand to employers in a relation of dependence for the sale of their labour and production, and that the general purpose of association is in view of that dependence to strengthen their power to bargain with the employers or bargaining collectively."

The British Trade Union Act views it thus, "A trade union is a combination with the main objective of regulating the relation between workmen and masters or between workmen and workmen or between masters and masters for imposing of restrictive conditions on the conduct of any trade or business and also provision of benefits to members."

10. Trade Union Act 1926.

Ans :

The trade union act was passed in 1926 under the title of the Indian Trade Unions Act and was brought into effect from 1st June 1927 by a notification in the Official Gazettee by the Central Government. The act was amended in 1947, 1960 and 1962, Subsequently the word 'Indian' was deleted from the amended act of 1964, which came into force from 1st April 1965. A comprehensive trade union (Amendment) Act was passed in 1982.

Objective of the Act

The act was enacted with the object of providing for the registration of trade unions and verification of the membership of trade unions so registered so that they might acquire a legal and corporate status. As soon as a trade union is registered, it is treated as an artificial person in the eyes of the law, capable of enjoying rights and discharging liabilities like a natural person. In certain respects, the act attempts to define the law relating to registered trade unions.

UNIT II

Collective Bargaining: Nature and legal framework of collective bargaining - Levels of Bargaining and Agreements - Change in the Labour - management relations in the post - liberalised India - Changes in the legal frame work of collective bargaining, negotiated flexibility, productivity bargaining, improved work relations, public sector bargaining and social security - Negotiating techniques and skills - drafting of an agreement.

2.1 COLLECTIVE BARGAINING

Q1. Write about collective bargaining.

Ans :

Collective bargaining consists of negotiations between an employer and a group of employees so as to determine the conditions of employment. The result of collective bargaining procedures is a collective agreement. Employees are often represented in bargaining by a union or other labor organization. Collective bargaining is governed by federal and state statutory laws, administrative agency regulations, and judicial decisions.

Definitions of Collective Bargaining

The phrase collective bargaining is made up of two words collective which implies group action through its representatives; and bargaining which suggests haggling and/ or negotiating. The phrase, therefore, implies collective negotiation of a contract between the management's representatives on one side and those of the workers on the other. Thus collective bargaining is defined as a process of negotiation between the employer and the organized workers represented by their union in order to determine the terms and conditions of employment.

Stevens

Collective Bargaining as a 'social control technique for reflecting and transmitting the basic power relationships which underlie the conflict of interest in an industrial relations system.'

Prof. Allan Flanders : Collective Bargaining is primarily a political rather than an economic

process. He describes collective bargaining as a power relationship between a trade union organization and the management organization. The agreement arrived at is a compromise settlement of power conflicts. Collective Bargaining has also been described as "the great social invention that has institutionalized industrial conflict" Dubin.

Richardson says, "Collective bargaining takes place when a number of work people enter into negotiation as a bargaining unit with an employer or a group of employers with the object of reaching agreement on conditions of the employment of the work people".

The ILO has defined collective bargaining as "negotiations about working conditions and terms of employment between an employer and a group of employees or one or more employees' organizations with a view to reaching an agreement wherein the terms serve as a code of defining the rights and obligations of each party in their employment relations with one another; fix a large number of detailed conditions of employment, and derivatives validity, none of the matters it deals which can in normal circumstances be given as a ground for a dispute concerning an industrial worker".

2.2 NATURE OF COLLECTIVE BARGAINING

Q2. Explain the nature of collective bargaining.

Ans :

(Dec.-19, Imp.)

Features/nature of Collective Bargaining

The main features of collective bargaining are:

(i) Group Action

On the management side are its delegates at the bargaining table; on the side of the workers is their trade union, which may represent the local plant, the city membership or nationwide membership.

(ii) Flexible and Mobile

It has fluidity and scope for compromise, for a mutual give-and-take before the final agreement is reached or the final settlement is arrived at.

(iii) Two-party Process

It is a mutual give-and-take rather than a take-it-or-leave-it method of arriving at the settlement of a dispute. Both parties are involved in it.

(iv) Continuous Process

Collective bargaining is a continuous process that provides mechanism for continuing and organised relationships between management and trade unions.

(v) Dynamic

Collective bargaining is dynamic because it is a relatively new concept, and is growing, expanding, and changing. In the past, it used to be emotional, turbulent and sentimental; but now it is scientific, factual and systematic. Its coverage and style have changed.

(vi) Industrial Democracy at Work

Industrial democracy is the government of labour with the consent of the governed - the workers. The principle of arbitrary unilateralism has given way to that of self-government in industry.

(vii) Not a Competitive Process

Collective bargaining is not a competitive process, but it is essentially a complementary process, i.e., each party needs something that the other party has, namely labour can make a greater productive effort and management has the capacity to pay for that effort and to organise and guide it for achieving its objectives.

(viii) An Art

"It is an art, an advanced form of human relations. To substantiate this, one need only witness the bluffing, the oratory, dramatics, and coyness mixed in an inexplicable fashion which may characterize a bargaining session."

2.3 LEGAL FRAMEWORK OF COLLECTIVE BARGAINING
Q3. Discuss about legal framework of collective bargaining.

Ans :

(Dec.-19, Imp.)

The Legal Framework of Collective Bargaining

Article 19 (c) of the Constitution of India guarantees freedom of association as a fundamental right. This was recognized in the Trade Unions Act, 1926, Industrial Disputes Act, 1947, and the Industrial Employment (Standing Orders) Act, 1946. In 1923, India ratified ILO Convention No. 11 concerning the Right of Association for Agricultural Workers. It has, however, not ratified ILO Convention Nos. 87 and 98 due to 'technical difficulties' involving trade union rights for civil servants. This is not a valid reason for non-ratification, because a ratifying country can exempt certain services. The real intention could be to restrict freedom of association to only manual workers (by defining them as workers) and exclude supervisory and managerial workers (Nath 1997).

The government does not to allow the right of collective bargaining to industrial workers in Government undertakings, such as the railways, posts, telecommunications, and the Central Public Works Department. Remuneration, etc. is decided by the government on the basis of Pay Commission recommendations, and not through collective bargaining. The labour laws at the national level do not mandate employers either to recognize unions or to engage in collective bargaining. However, some states (for instance, Andhra Pradesh, Bihar, Gujarat, Karnataka, Madhya Pradesh/Maharashtra, Orissa, and West Bengal) have provisions concerning recognition of trade unions.

Determining Collective Bargaining Agent

From 1931 to date, the identification of a collective bargaining agent has remained a hotly debated issue. The Royal Commission on Labour (India 1931) was not in favour of the idea that recognition should depend on the numerical strength of the union. If a union consisted of only a minority of employees, it was not adequate reason for withholding recognition. The 1947 amendment to the Trade Unions Act, 1926, and the Trade Union Bill, 1950, provided for recognition of more than one union by an employer, though neither was passed by the Parliament.

In 1956 the Second Five Year Plan stressed the importance of one union, in one industry. In 1958, the Indian Labour Conference evolved a code of discipline in industry (Annexure I) which did not and still does not have statutory force-which contained criteria for recognition of unions. It was in favour of workers belonging to non-recognized unions operating through the representative union of the industry or seeking redressal of grievances directly. The First National Commission on Labour (India 1969) left the matter of union recognition to be decided on the basis of local circumstances. The Second National Commission on Labour (India 2002) has made specific recommendations on this issue.

There is no law at the national level for recognition of trade unions. However, in some states - Maharashtra and Madhya Pradesh, for instance - there are legal provisions for it. Thus, in India, there are a number of ways of determining a representative union for the purposes of collective bargaining. These methods include

- (a) Code of Discipline, which is common across most public sector undertakings;
- (b) Secret ballot, which is mandatory in three states, namely, Andhra Pradesh (since 1975), Orissa (since 1994), and West Bengal (since 1998);
- (c) Check-off system, which is favoured by some unions; and,
- (d) Membership verification. In 1995, the Supreme Court of India directed a government corporation, the Food Corporation of India, to resolve the trade union recognition dispute through secret ballot.

The judgment also mandated the procedure for the secret ballot. In 1982, the Bombay High Court struck down an order of the industrial court for a secret ballot in the case of Maharashtra General Kamgar Union v. Bayer India Ltd. The matter was taken to the division bench of the High Court, which upheld the order of the single judge. What had to be proved by the Maharashtra General Kamgar Union was that the membership of the Mazdoor Congress had fallen to less than 30% during the requisite six-month period. It was argued that hypothetically, if 25 of 100 workers in an establishment voted for a recognized union, it meant that the membership had fallen below the requisite percentage but, in the absence of the identity of the voters, it would not be possible to prove that the union members had voted against it.

Under Section 2(p) of the Industrial Disputes Act, 1947, collective agreements to settle disputes can be reached with or without recourse to the conciliation machinery established by legislation. An agreement with one trade union is not bidding on members of another or other union(s) unless arrived at during conciliation proceedings; the Other union(s)-including a minority union-can, therefore, raise an industrial dispute. Under Section 36 (1) of the Industrial Disputes Act, which deals with workers' representation, a collective agreement is binding on the workers who have negotiated and individually signed the settlement. It is not binding on workers who do not sign the settlement or authorize any other worker to sign on their behalf

However, a settlement (a written agreement between employer and workers), arrived at in the course of conciliation proceedings is binding, under Section 18(3) of the Act, not only on the actual parties to the industrial dispute but also on the heirs, successors, or assignees of the employer on the one hand and all the workers in the establishment-present or future on the other.

When parties fail to reach an agreement or settlement and the matter is referred for arbitration or adjudication, the award of the arbitrator or adjudicator is binding on the parties concerned.

An 'award' means an interim or a final determination of any industrial dispute or of any question relating there to by any Labour Court, Industrial Tribunal, or National Industrial Tribunal

and includes an arbitration award made under section 10A. They are enforceable under Section 33 (c) by the labour court or 17(B) of the Industrial Disputes Act after the expiry of 30 days from the date of publication in the official gazette. If an award is not honoured by either of the parties, the party which is guilty of not honouring can be prosecuted against under Section 29 of the Industrial Disputes Act. The penalty for not honouring an award could be six months imprisonment or fine.

The powers under Section 29 of the Industrial Disputes Act are not vested in labour courts or tribunals. When an award is received by the concerned Assistant Labour Commissioner/Regional Labour Commissioner, (s)he tries to ascertain whether the award was implemented by the parties or not implemented or has it been modified or rejected by the competent government in its proceedings under Section 17A. In case of non-implementation, the Assistant Labour Commissioner/Regional Labour Commissioner can issue a show cause notice to the party at fault requesting information regarding why action should be taken against them. In case the defaulting party happens to be a public servant protected under Section 197 of the Criminal Procedure Code, prior permission of the government is needed before proceeding with prosecution.

The power of judicial review of awards is limited to legality on grounds of jurisdictional defects, errors of law on the face of the record, or violation of the principles of natural justice. Section 17B of the Industrial Disputes Act affords a worker the right to receive the full wages last drawn during the pendency of the proceedings before a High Court or the Supreme Court where the award of his/her reinstatement is challenged by the employer.

2.4 LEVELS OF COLLECTIVE BARGAINING AND AGREEMENTS

Q4. What are the Levels of Collective Bargaining and Agreements?

Ans :

(Imp.)

Levels of Collective Bargaining

Collective bargaining is generally structured at three levels :

(i) Plant level

(ii) Industry level

(iii) National level.

(i) Plant level : This is the basic or micro level unit, where negotiations are conducted between the management of the plant and union (s) of the plant. Generally, the unions are centered around the plant, with little or no involvement in other bodies.

There are many plant level agreements but the pioneers, in this field, are Tata Iron and Steel Co. Ltd. And Tata Workers Union (Jamshedpur), for their agreements of 1956 and 1959 contained many novel features, including workers' participation in management. The Belur Agreement between Indian Aluminium Company and its union in 1956, the one between Voltas and Volkart and Voltas Employees Federation and the 1956 agreement in Modi spinning are some other examples.

(ii) Industry Level : Several units in the same industry band together and form an association, which negotiates with a union having a similar status. The agreements are some what broader in scope and delineation than the plant level settlements which are very specific. (The BIR Act also provides for industry union- see chapter on Trade Unions)

The Rashtriya Mill Mazdoor Sabha negotiates with the mill-owners of Bombay on behalf of the workers, as it is the recognized industry union. Similarly, in Ahmedabad the Millowners Association negotiates with the recognized union, the Textile Labour Association (TLA). Some features of the 1955 settlement were joint determination of bonus and quantum to be paid by each mill. It also called for mutual negotiations in settling all disputes, failing which both parties could resort to arbitration.

The iron and steel industry (mostly public sector corporations) has also concluded industry-wide settlements.

(iii) National Level : Here the terms of reference and scope are much wider though such agreements are not so common in India. The representatives of the trade union and the employer negotiate and arrive at a settlement, but given the industry cum-region convention

in India, such national level agreements are few. At some tripartite conferences convened by the Government of India, certain specific issues have been negotiated and contracted, e.g. the Agreement to Rationalize Work Practices and manning and related issues, concluded in 1951 between labour unions (INTUC) and management. The other agreement was the 1956 agreement on bonus for plantation workers between the representatives of the Indian Tea Planters Association and Indian Tea Association and representatives of HMS.

Levels of Agreements

In the following section, we shall discuss the various levels, duration, and coverage of agreements, and international collective bargaining.

i) National - Level Agreements

Prior to the 1970s wage boards appointed by the government were giving awards on wages and working conditions. The number of wage boards declined from nineteen in the late 1960s to one (for journalists) in the late 1990s. Since the early 1970s sectoral bargaining at the national level is prevalent mainly in industries in which the government is the dominant player, for instance, banking and coal (approximately 700,000 workers each), steel and docks (approximately 200,000 workers each). About sixty private, public, and multinational banks are currently members of the Indian Banks' Association.

They negotiate long-term settlements with the all-India federations of bank employees. In the coal sector, over 200 coking and non-coking mines across the country were nationalized in the early 1970s. However, since then to date there has been only one national agreement for the entire coal industry.

In steel, there is a permanent bipartite committee for integrated steel mills in the public and private sectors. Since 1969, this committee, the National Joint Consultative Committee for Steel Industry (NJCS), has signed six long-term settlements. In the port sector, thirteen major ports have formed the Indian Ports' Association. They negotiate with the industrial federations of the major national trade union centers in the country.

ii) Industry-cum-region-wide Agreements

These are common across the private-sector-dominated cotton and jute, textile, engineering, and tea industries. However, such agreements are not binding on enterprise managements in the particular industry or region unless the managements authorize the respective worker organizations in writing to bargain on their behalf.

iii) Firm/Plant-level Agreements

While employers generally prefer decentralized bargaining at the plant level, unions insist on bargaining at higher levels. They feel that plant-level bargaining reduces their bargaining power, particularly during periods of crisis.

iv) Duration of agreements

Till the 1970s the duration of collective agreements was usually two to three years. During the 1970s and 1980s the duration increased to three to four years. In the 1990s, over four-fifths of central public sector agreements were signed for five years each. Beginning from the sixth round of wage negotiations (1997 to date), the duration of wage agreements in the public sector has been raised from five to ten years. The validity of most of the collective agreements in the private sector, however, continues to be three or, in rare cases, four years. Some agreements, dealing exclusively with one aspect (such as incentives) have been for a period of six years.

v) Coverage

About 2% of the total workforce, or over 30% of the workers in the organized sector participate in collective bargaining. The legal framework encourages adjudication, with the government acting as the big brother. Most unions being highly politicized and the government wielding enormous discretionary power without the commensurate responsibility, legal administration becomes delinquent. Frequently, trade unions are co-opted into the collective bargaining process by either the government or the management.

2.4.1 Change in the Labour**Q5. Write about change in the labour in society.**

Ans :

Changes in Labours**1. Industrial society to information society**

Manufacturing has shrunk and there is much greater emphasis on service industries. There has been an explosion of IT and we now inhabit a much more clearly knowledge based economy.

2. National Economy to World Economy

It is clear that we now operate in a global labour market. There is greater mobility of people and goods. Multinational corporations have global profiles. It no longer makes sense to think only in terms of a local or even national labour market. Even those who choose not to geographically move themselves may be affected by global forces. The availability of cheaper labour overseas leading to factory closures in the UK is one example, or the increasing need to speak more than one language in order to negotiate effectively with suppliers and customers based overseas.

3. Core, permanent staff to outsourcing

There has been a trend to contract out in all sorts of industries. Most of us will have seen or worked in organisations where permanent staff are replaced by contract operators for e.g. cleaning or portering who can be brought in on a 'when needed' basis rather than being retained on permanent contracts.

4. Expansion to downsizing

Associated perhaps with the above, there is a trend for smaller, leaner workforces that work smarter rather than harder who are multi-skilled, flexible and able to multi-task.

5. Autonomous working to teamwork

There is a great emphasis on the ability to work as part of multi-disciplinary teams to increase creativity and productivity. Very few workers now will operate in isolation and autonomy.

6. Increasing emphasis on transferable skills and key competencies

Even if people don't change organisations during their working lives, it is still very likely the nature of their jobs will evolve and change. This being so, a key trend is the need for transferable skills which can be applied to new situations and circumstances if required. A key transferable skill might be verbal communication and a competency might be interpersonal effectiveness. There is an ongoing debate relating to the precise nature of core skills and competencies that is beyond the remit of this entry, but feel free to contribute your own thoughts to the discussion thread if you wish. You will need to log in to do so.

2.4.2 Management relations in the Post-liberalised in India**Q6. Explain about Management relations in the Post-liberalised in India.***Ans :***(April/May-19, Dec.-19, Imp.)**

Wages and other monetary issues have generally been the themes for collective bargaining in India. The trend has been changing particularly in the context of long term agreements. Some of the major concerns of unions and managements which are likely to top the agenda in collective bargaining are shown below. While issues may be common, degree of concern and attitude varies between the union and management. Divergence between the two is common. But, earlier some type of understanding would emerge with negotiation. Effective negotiations have become far rare now-a-days. We will show a table to emphasize on the extent to which unions and managements disagree.

Major Area of Concern	Union Concern	Management Concern
Unemployment	Create more jobs resist job flexibility	Reduce work force, make jobs flexible
Inflation	Improve purchasing power. Protect real wages	Pay for performance not cost of living. Cut labour costs, by putting a ceiling on DA.
Working time	Reduction	Increase
Social security	Pension, regularization of all forms of employment	Reduce burden through typical contracts of employment.
New Technologies	Effects on jobs, benefits safety and health	Effects on productivity and profitability.
Flexibility	Flexibility for employees	Management discretion in employment practices, including multi-skilling.
Changes in Practices	Union Consent	Management 's Prerogative

When compared to typical distributive agreements that unions were making earlier, what we observe now is, certainly a significant change.

2.4.3 Changes in the Legal Frame Work of Collective Bargaining, Negotiated Flexibility**Q7. What are the Changes in the Legal Frame Work of Collective Bargaining, Negotiated Flexibility?***Ans :***Changes in national collective bargaining systems since 1990**

This comparative study provides an overview of the development of national collective bargaining systems since 1990 in the EU Member States plus Bulgaria, Norway and Romania. It examines: the legal framework for collective bargaining; national data and documentation on collective agreements; the basic features of the countries' bargaining systems - such as bargaining levels, coverage and extension procedures; changes since the early 1990s; and the views and demands of the social partners and political actors on the future development of collective bargaining.

Collective bargaining plays a key role in industrial relations in all current EU Member States, though national systems differ very widely in terms of the level, coverage, content and nature of bargaining.

Despite all these differences, industrial relations research usually distinguishes between two groups of countries that have a broad range of similarities in their collective bargaining systems.

The study focuses on four main points:

- An overview of the legal framework for collective bargaining as well as of the major sources of national data and documentation on collective agreements;
- An analysis of the basic features of national bargaining systems - such as bargaining levels, coverage, extension procedures and the influence of tripartite consultation;
- An examination of developments in national bargaining systems and the changing importance of the various bargaining levels since the early 1990s; and
- A summary of the views of social partners and political actors on the future of national collective bargaining systems.

Changes for those currently bargaining or establishing an agreement

The changes to the Act will not apply retrospectively. Any action taken in bargaining already underway or bargaining that commences during November will not be subject to these changes unless negotiations are continuing on 1 December 2004.

If negotiations are still continuing on 1 December any actions of the employer, union or employee taken before that date will be subject to the law that existed when the action was taken.

However transitional arrangements are provided to ensure that bargaining continues smoothly over the transition period. Transitional provisions for bargaining are outlined below.

1. Good faith in bargaining for a collective agreement

Two key provisions apply:

- The parties to collective bargaining are required to continue to bargain over other outstanding matters where they have reached an impasse over one matter, even where that impasse was reached before 1 December

- Unless there are genuine reasons based on reasonable grounds not to, the parties to collective bargaining are required to conclude a collective agreement.

2. The new facilitation process and new remedy available through the Employment Relations Authority

Actions or conduct that occurred after 1 December can be used as grounds for entering facilitation or for the new remedy of fixing the terms and conditions of the collective agreement, even where bargaining has been underway for some time. This transitional arrangement does not allow facilitation or the fixing of terms and conditions of a collective agreement on the basis of any breaches of good faith that occurred before 1 December 2004, but it does allow the parties to seek facilitation or the new remedy for subsequent breaches of good faith.

The Employment Relations Authority can, from 1 December 2004, fix the terms and conditions of a collective agreement where there have been serious and sustained breaches of good faith that significantly undermined collective bargaining. This remedy will only be available where all other means of reaching settlement have been exhausted and it is the only effective remedy for the party affected by the breach of good faith.

3. Breaches of good faith by passing on collective terms and conditions

New provisions about passing on apply to

- Collective bargaining that started before the commencement date, where the passing on occurs on or after 1 December 2004, and
- Collective agreements that came into force before the commencement date, where the passing on occurs on or after 1 December 2004.

These clauses do not provide retrospective liability for any passing on that has occurred before the commencement date. Employers who have passed on collectively negotiated

terms and conditions to other employees or unions before 1 December 2004 will not be liable for breaching good faith under the passing on provisions.

4. **Process for additional parties joining a collective agreement**

Additional unions and/or employers may join an existing collective employment agreement, where the existing collective agreement specifically allows this to occur. This process can be used for collective agreements that came into force before 1 December 2004, as well as those that come into force after that date, as long as the agreement has a provision allowing additional parties to join it.

5. **New definition of coverage clause**

The Act confirms that a coverage clause, including clauses in existing agreements, may be:

- A specification of the work being undertaken by reference either to type of work or the type of employees, or
- A reference to named employees or the type of work done by named employees

This ensures that the 30-day rule is not avoided where the coverage clause refers to named employees.

6. **Terms and conditions intended to recognize the benefits of a collective agreement**

The Act confirms that collective agreements, including agreements negotiated before 1 December 2004, may include provisions intended to recognise the productivity and relationship benefits that bargaining collectively and a collective relationship bring the workplace or enterprise.

7. **Discussions between union representatives and employees**

The Act recognises that discussions between union representatives and employees are not the same as formal paid union meetings provided for in the Act. Such discussions do

not reduce the entitlement to paid union meetings and that employees have a right to be paid for the time spent in these discussions, whether the discussions occurred before or after 1 December 2004.

Negotiating Flexibility With Your Employer

Organisations are acknowledging that many employees have a greater need for flexibility to enable them to balance lifestyle and meet other personal and family commitments. Access is a high priority for many employees including parents, students continuing their education, and mature age workers planning their retirement. Importantly, one in four workers in Australia are carers.

Flexibility is often a misused term. Essentially it means any alternative working arrangement to working in the office during core business hours for 5 days each week. So a full time role can be flexible as some hours may be done from home depending on the type of work you do.

Applying for a new job - having the 'flexibility' conversation

➤ **Know YOUR story:** Before having the conversation, be confident in your skills and abilities. Know what you are worth, what you want to do, and know what you are good at. Employers like motivated and confident candidates.

➤ **Do some research:** Google the employer. Find out if they are a flexible employer. Do they have a flexible work policy? Connect with your networks on LinkedIn and Facebook - ask if anyone has had any involvement with the employer. The more information you can gather, the more prepared you will be.

➤ **Always ask:** If you see a job advertisement that looks perfect for you but it is full time, always find out if the employer is happy to explore flexible work options. The talent pool is getting smaller and the quality of the applicants may not be strong. If you don't ask you will never know.

➤ **Be upfront:** Don't wait to get a job interview before finding out if the employer would consider flexible work options. Be upfront about your requirements so your time and the employer's time are not wasted.

- **Work with the right recruiters:** If you are enlisting the help of recruiters, make sure you are talking to recruiters who understand your needs - and who understand what flexibility means. Read our tips on dealing with recruiters.
- **Be proactive:** If the role is similar to another role you previously worked flexibly in, prepare a business case as part of your application.
- **At the interview:** Treat the interview process as a 360 degree interview. In other words, you are interviewing them just as much as they are interviewing you. You are at a stage in your career where you have accrued experience and expertise. Remember that.

Negotiating flexibility with your employer

The steps below will assist you in negotiating flexible working arrangements with your employer:

Step 1: Know the facts

Know the facts. Request a copy of your organisation's Flexible Work Policy. There may also be a Telecommuting Policy. Know your opportunities and limitations. Speak to other employees who are working flexibly. Find out how they negotiated their working arrangements.

Step 2: Negotiating flexibility

Whether it is your current employer or a new employer that you need to approach to discuss a flexible working arrangement, it is important that you feel confident and prepared about negotiating a deal that will work for you. Make an appointment with your manager or HR contact to discuss the option of working flexibly.

Step 3: Business Case Proposal

Next, prepare a business case proposal for your manager. A proposal provides formality to an arrangement and can be filed for review at a later date. Use the following questions as a guide to include in your business case proposal to work flexibly:

- Why do you need to work flexibly?
- What type of flexible work arrangement are you proposing? So job share, part time, work from home arrangements etc. (give at least 2 variations in work patterns)
- What would be the impact on your job responsibilities and tasks?
- Can you recommend any solutions?
- What will be the impact on your stakeholders i.e. customers, colleagues, etc.
- What aspects of your role could be done from home?
- Are there any costs or cost savings associated with this flexible work arrangement?
- Why do you think you can work flexibly in an effective manner?
- What measurement criteria can you propose to measure the success of the flexible work arrangement you are proposing?

Step 4: Making Flexibility Work

When your flexible work arrangement has been approved, consider the following tips:

- Offer a 3-6 month trial period. You then have an opportunity to demonstrate how successful your working arrangement can be.
- Determine what work will be done differently as a result of the flexible work arrangement and communicate how it will work with your team, clients and other stakeholders.
- Agree to a regular meeting with your manager to monitor the flexible work arrangement.
- Keep a diary note of how things are going for the first 3-6 months. Identify what is working and what could be improved.
- Resolve and tweak changes to the arrangement as you go.
- Seek feedback from team members and clients every 6 months and implement any suggested improvements.
- Discuss any concerns that arise with your manager.

2.4.4 Changes in the Legal Frame Work of Productivity Bargaining for improve workers relationship

Q8. What are the Changes in the Legal Frame Work of Productivity bargaining for improve workers relationship?

Ans :

(Imp.)

Productivity Bargaining

We made a brief reference to productivity bargaining in lesson no. 25 when we discussed the concept of productivity. Bargaining for productivity is a relatively recent phenomenon in the Indian context, because most industrial enterprises were operating in a sheltered market, and productive efficiency was not a priority. Even when productivity clauses were included in the terms, there was very little seriousness about it.

They were vague like, "The Management and the union realize the need for improvement in productivity. Management may bring in appropriate changes in technology, production processes, equipment, work methods etc. With the consent of the union as and when the need arises".

This agreement does not say much. In fact, there is no specific commitment made, either by the union or, by the management regarding their definition of productivity, its measurement, what changes are needed for improvements in it, and how the gains will be shared. However, some private sector organizations were more specific in their agreements.

For Ramaswamy, "Productivity bargaining is a reorganization of the labour process that results in more production with the same effort so that both labour and management gain". To quote from his book entitled Rayon Spinners (1994) to give an example for very specific case of productivity bargaining, "labour has a need for increased earnings. Enterprise has a need for greater productivity through better utilization of the human resource.

The management of Royan Spinners used an industrial relations strategy of negotiating any matter for joint regulation, which would be difficult to implement, if the decision was taken unilaterally.

Issues like manning norms, machine speeds, work loads, incentive schemes, job description, flexibility, labour deployment etc. were discussed at the negotiating table. Management had decided that they would bargain in good faith over labours demands, but would make counter demands. Unions could not achieve anything if they were not willing to concede on, at least, a few demands make by the management. Ironically, neither, the union, nor management called this productivity bargaining. But, the result of the above strategy was a dramatic rise in labour productivity".

Issues in Productivity bargaining

The objective of productivity bargaining agreements is to improve efficiency continuously. If higher standards have to be maintained, it is necessary that management and workers must co-operate with each other. Some specific issues are.

- i) Measurement of efficiency which is the reason for productivity bargaining should be made clearly. Management should device and use appropriate yard sticks for measuring the contribution of workers towards achieving higher levels of efficiency and develop a communication system to make use of the results.
- ii) All categories of work should be brought under the system. Productivity indices should be used on individual and group basis.
- iii) Information system, must be developed which will make it possible to estimate the extent to which increases in efficiency are achieved. Progress or shortfall should be communicated to the workers from time to time.
- iv) Increase in productivity is possible through a combination of factors i.e. from effective working methods, fuller utilization of capital equipment and machines, adaptation of new working methods, multiple shift working etc. relevant cost or benefit to each of these factors should be identified on a realistic basis.
- v) Relationship between pay grades and productivity increases should be undertaken realistically. Otherwise it will resulting various types of disputes.

- vi) Whether a system of payment by results should be introduced should be decided. It is a highly contentious issue and care must be taken to introduce an appropriate policy.
- vii) Labour productivity can also be increased by increasing the amount of flexibility, mobility and inter changeability between various categories of workers. Job rotation could be used to enable workers to become multi skilled and job enlargement for labour versatility and flexibility.
- viii) Productivity can be increased by working intensively, making full utilization of plant and machinery. Labour can also be substituted by capital equipment, old and outdated machinery by new and modern machinery.
- ix) Technology plays an important role in improving productivity. For introduction of new technology and to improve productivity by the process of collective bargaining trade unions will have to be motivated to accept the same by safe guarding the interest of existing workers and also assuring them a proper share in the gains of rationalisation. Unions can play an important role in increasing productivity by creating awareness among the workers and motivating them.
- x) Managements will have to enter into productivity bargaining agreements to correct disorderly and uncontrolled industrial relations situation which is full of disincentives to higher productivity and hindrance to managerial action. Productivity agreements should be more than removing anomalies of payment system. Set performance standards, eliminate restrictive practices and so on. It should provide a basis for improved industrial relations.

The purpose of productivity bargaining is to improve labour productivity not so much by requiring workers to make greater efforts, but by eliminating impediments to higher productivity. It also calls for change in the traditional concept in regard to managerial prerogatives. There is

experience to show that the loss of prerogatives will be more than compensated by the process which results in increasing managerial control and developing positive co-operation between management and employees.

Factors Inhibiting Bargaining

Collective bargaining in India has suffered from some basic inhibiting factors, when compared to developed countries. This limited development can be attributed to some factors.

- a) Employers in general have a negative attitude towards unions and workers joining as members in such unions. Negative attitude meant that employers did not willingly negotiate with unions. They did so under compulsion.
- b) Unionization in India has always been very limited. Employment in the formal sector itself has been confined to about 10 percent. Even the entire formal sector was never unionized.
- c) Unions have never been too strong, with some exceptions. They have suffered from negative impact of politicization, multiple unionism, intra-union, outside leadership etc. Which have reduced the effectiveness of unions.
- d) Trade union recognition has not been mandatory in India. Union recognition is essential to identify a bargaining agent to participate in the process of negotiation. Very often, there are more than one contender for the position of sole bargaining agent.
- e) Collective bargaining for joint regulation has never been the only method of determining terms and conditions of employment in India. Government intervention through legislation and third party settlement of disputes have been used extensively.
- f) Lack of mutual trust and good will and spirit of give and take among employers and employees. There was never enough faith intersystem of collective bargaining in India.

2.4.5 Public Sector Bargaining and Social Security

Q9. Discuss about public Sector Bargaining and Social Security for improving workers relations.

Ans : (Oct./Nov. - 20, Imp)

Public Sector Bargaining and Social Security

Social security manifests the 'natural desire of communities for protection from life's problems, from uncertainty, from disease and deprivation (It is) the protection which society provides for its members-through a series of public measures-against the economic and social distress that otherwise would be caused by the stoppage, or substantial reduction, of earnings resulting from sickness, maternity, employment injury, unemployment, invalidity, old age and death; the provision of medical care; and the provision of subsidies for families with children' (ILO1998).

The 'cradle-to-grave' philosophy envisages social protection to the needy from prenatal (pre-birth and maternity benefits) to posthumous (death benefits) care. A worker/employee has two components of his life: social life reinforces the productive capacity of the workforce. Any civilized society expects to blend decent work (ILO 1998) with decent social and family life. In this context economic and social component of social security measures need to be carefully integrated. Broad trends are in that direction, but their management has left certain areas where there is imbalance of one or the other kind causing major stress and strain for the stakeholders.

The combination of welfare state, democratic polity, and the established social security system pioneered by government or the employer has influenced the current picture with its strengths as well as its weaknesses. This chapter discusses social security system for the organized labour in India. For the unorganized sector there are several schemes. Many of them are specific to certain occupations and have been working well in some states better than in the others. The Second National Commission on Labour (2002) has recommended an umbrella legislation for social security in the unorganized sector but the government is still to enact the legislation (as of January 2006).

Social Security System in the Organized Sector

In the Indian context the entire social security system for the organized sector is influenced by the following four factors:

- British policy to raise labour cost in the established industries to offset the cost disadvantage of mother country industries (textiles in Manchester, for instance).
- In the early phase of industrialization there was a need to promote the commitment of workforce to industrial and urban life.
- A policy of corporate paternalism envisaged provision of a variety of benefits both to promote loyalty of employees and as a part of non-union strategy
- The welfare state concept emerged in the post-independent area, which encouraged a series of welfare and protective legislations based on relevant International Labour Standards. Several of the social security and welfare measures have become statutory obligations of employers. Even the union pressure accelerated and reinforced the governmental measures for social security.

Provision for social security encompasses assistance

- For maintenance (of self and family/livelihood,
- In the event of loss or reduction of income due to involuntary unemployment,
- For sickness, accident, invalidity, or old age, and
- For redistribution of cash, goods and social services-education, health, subsidized housing, etc.-to the needier sections of the community.

ILO Convention No.102, social Security (Minimum Standards), 1952 covers nine branches of social security, which include medical care and benefits addressed to sickness, unemployment, old age, employment injury, family size, maternity invalidity and widowhood.

India has not ratified ILO Convention No.102 on social security. However, social security, in its broad sense, is envisaged by the Constitution of India in terms of the directive Principles of State Policy. India also enacted several legislations that provide for certain mandatory benefits in respect of certain employments. Such benefits include medical care, sickness, employment injury, maternity, invalidity and survivor's benefits, and welfare funds/schemes. They cover mostly organized sector employment.

In 2000 AD India has a population of over a billion. The size of the labour force is around 376 million. For the past two decades the size of the organized labour force stagnated at around 28 million. The structure of employment in the organized sector is as follows:

Government Sector	19.418
Central	3.253
State	7.458
Quasi-Government	6.461
Local Bodies	2.246
Private Sector	8.478

Indian Constitution and Legal Framework

The following provisions of directive Principles of State Policy refer to the state's obligations for social security:

- **Article 38:** The state should 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.
- **Article 39:** The state should in particular direct its policy towards securing inter alia, 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 avocations unsuited to their age or strength.
- **Article 41:** The state shall make provisions for securing just and humane conditions of work and for maternity relief.

- **Article 43:** The state should endeavour to secure to all workers work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities, etc.
- **Article 47:** The state should regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties.

The directive principles of State Policy are, however, not justiciable and 50 years after the republic, all of these still remain cherished, but elusive ideals. As a ratio to GDP at current market prices, the central government expenditure on the following social services decreased from 2.4% during 1947-57 to 1.7% in 1999-2000: education, health and family welfare, water supply, sanitation, housing, rural development social welfare, nutrition, and minimum basic services. There is a need to raise it substantially.

India has enacted several legislations and an ordinance to provide for social security for the industrial workers:

- Workmen's Compensation act, 1923
- Employees' State Insurance Act, 1948
- Employees' Provident Fund and Miscellaneous provisions Act, 1952. Separate laws are enacted to cover coalmines and tea plantations.
- Maternity Benefit Act, 1961
- Payment of Gratuity Act, 1972
- Employers' Pension Scheme (introduced on 16 November 1995 and as amended from time to time)
- Separate legislations for workers employed in beedi, iron ore, manganese ore, chrome ore, limestone, dolomite, cine, and mining industries, which provide for housing, medical educational, and recreational facilities. There is a separate legislation for ports and docks, which deals with their employment conditions and safety and health aspects.

2.5 NEGOTIATION TECHNIQUES AND SKILLS

Q10. Discuss about negotiation techniques and skills.

Ans : (Dec.-18, Imp.)

Negotiation is a process in which two or more parties who have common and conflicting interests come together and talk with a view to reaching an agreement. Negotiation is concerned with purposeful persuasion and constructive compromise. It involves five key activities:

1. Obtaining substantial results, dividing the cost and benefits, and achieving the goals dictated by the interests of both the company and the members of the trade union.
2. Influencing the balance of power between parties. Balancing the interests of the company and the workers/members or making it a little more favourable to the workers/members.
3. Influencing the atmosphere. Promoting a constructive climate and positive personal relations between the trade union and members on the one hand and between the trade union and the management on the other.
4. Influencing the constituency. Reinforcing the position of trade union leadership with respect to the members on whose behalf the trade union leaders negotiate.
5. Influencing the *procedures*. Developing procedures that allow people to be flexible while increasing the chances of reaching a favourable compromise. This is possible when one is able to distinguish between the interests of trade union members and taking positions on their behalf. Interests can be safeguarded in more than one way. If one takes a position, one limits the options.
 - Processes rather than outcomes are important to maintain long-term relationships. Temporary gains would be short-lived. But if the processes are appropriate, the trust and understanding generated will prove useful to all concerned over a period of time.

- Results, not activities are important.
- Give and take is important, not giving in or surprising.

A negotiation could result in any one of the following situations:

- **Win-lose** : Herein, the negotiating parties think that 'winning is everything' or 'winning is the only thing'.
- **Lose-win**: One party achieves most and the other party loses or gains very little. Here either party may consider that the 'relationship is paramount'.
- **Lose-Lose**: Both parties lose or do not get what they want and reflect an attitude of 'take it or leave it' or 'nothing for nothing'.
- **Win-Win**: Both parties get what they want. Instead of adopting an attitude of 'winning is everything' or 'winning is the only thing', the parties believe in mutual gain.

Achieving win-win agreements requires integrating the interests of both/all the parties. This means that the parties should keep the following points in mind while negotiating.

1. Focus on their interests, not take positions

For an employer to say, 'I cannot pay you more' is taking a position. If the employer says, 'I can pay you more if the unit labour cost remains the same' it means safeguarding one's interest.

2. Focus on the problem, not the person

It is easy to take things personally even in the professional world, but that is a state of mind that needs to be eliminated, especially during negotiations. Getting personal or disparaging only shows a lack of respect and trust, which can result in the failure of the negotiation process. For example, let us consider the old cats-and-monkey story. Two cats are quarrelling over sharing a load of bread. Neither would trust the other. They trusted the monkey and lost the whole bread. If they focused on the problem, they could have

agreed that one would cut into two halves and the other would choose. The question of trust or the lack of trust would not have come in the way of solving the problem.

3. Invent multiple solutions

If the parties in a negotiation think selfishly, the negotiation process can fail. Instead, it is essential that all the interests of all the parties are discussed and solutions are sought that lead to the satisfaction of either all or a majority of the parties. The following example will help in driving the point home. Two young daughters were quarrelling over the only orange left in the house. Both wanted the whole orange. The mother spoke to both of them separately. The elder one wanted the perfect for making the Christmas pudding. The younger one wanted to eat the orange. The mother skilfully peeled the orange and gave the orange peel to the elder daughter and the fruit to the younger one. Both were happy.

4. Be creative

Sometimes problematic situations seem too far advanced to be helped by negotiations. When things are tough, it is time to employ some creativity. Creative handling of negotiations and creative solutions can make sure that all the parties are happy with the outcome(s). In the King Solomon story, when two mothers were claiming the motherhood of a young boy, the king asked the butcher to cut the child into two halves and distribute among the two ladies. The real mother panicked and asked the king to give the child to the other lady so that her child may live. Thus, the king was able to find the real mother.

5. Expand the pie

Employers should think of paying more wages to their employees without increasing costs. Savings need not come from labour, but the creative use of labour does reduce non-labour costs. In most cases, labour costs are less than 15% of the total ex-factory costs and 5% or so of the final price that the consumer pays.

6. Non-specific compensation

Give the other parties something that is valued more by them but not much by you.

7. Log rolling

Where the agenda or the charter of demands and counter demands is long and complex with differing priorities, go over the list and begin with those points which the parties have a common interest to resolve. Building on the understanding gained in the process, it is possible to move forward towards an amicable solution.

8. Bridge the gap in perceptions through reformulation of the issue

Usually, how an issue is framed makes a difference to the negotiation. Look at both the giving end and the receiving end rather than taking one side. Consider the consequences of agreeing or not agreeing to a proposal. In case of technological changes, one must look at both the consequences of change and the consequences of no change.

Q11. What are the stages of negotiation.

Ans :

There are four stages of negotiation- preparation, discussion, bargaining, and agreement.

1. Preparation

To fail to prepare is to prepare to fail. Preparations entail the following.

(i) Collecting Information

Facts on relevant aspects are needed to produce enough evidence to substantiate one's demands/arguments.

(ii) Setting Objectives

Ideal, targeted, and resistance positions should be decided upon. For instance, 15% wage risers ideal, 12% target, but wage rise below the rate of inflation is the resistance point because it will mean erosion of real earnings.

(iii) Establishing Priorities

Distinguish between what must be achieved and what might be achieved.

(iv) Assessing the Other Party and its Case

To counter the other party's arguments, it is necessary to study its needs, strengths, and compulsions well enough in advance.

(v) Noting Details

Take precise notes of who said what at every stage of the negotiation process. Leave space for details and to record your arguments.

2. Bargaining

Negotiations should yield something for all the concerned parties. While bargaining, it would be best to keep the following pointers in mind :

- (i) There cannot be any bargaining if either party takes a fixed stand and is unwilling to move from a set position.
- (ii) Parties should be willing to make compromises, offer concessions, and develop packages that are mutually beneficial.
- (iii) If there is a stalemate or deadlock in negotiations because either party does not agree to what the other says or resorts to threats and bluffs—consider different ways of dealing with these situations.
- (iv) Try to understand the issues rather than be emotional about them or take things personally.
- (v) Focus on the problem and interests rather than focusing on the person(s) and taking positions.

Q12. What are Factors Contributing to the Success or Failure of Collective Bargaining?

Ans : (April/May-19, Imp.)

1. Knowledge, awareness, and skill as ingredients for participation in the process of collective bargaining

Workers are generally lacking awareness and skills, as are their representatives from trade unions. This is an important part of workers education which is overlooked today and, both in content and process, results in unprepared the workers. Knowledge, awareness, and skills are relevant for manufacturing concerns, valid in the following areas:

- Installed capacity
- Production capacity
- Percentage of production capacity in relation to installed capacity
- The causes and contributory factors for a heavy gap
- Raw material, source of procurement, quality, transportation, grading, etc.
- Knowledge of 'product mix'
- Element of wastage and leakage of raw materials
- Manpower planning nuances of industrial engineering (job steady, classification, description/analysis), concept of 'right man for right job', job training (extent, adequacy, and effectiveness)
- Planning for inventory control
- Concept of a captive suit, concept of ancillary linkage between a mother plant and its units

2. Centralization vs. decentralization and delegation

Collective bargaining fails when power is centralized in the board at plant level; and when the representative of the management, sitting at one end of the table, cannot take decisions because s/he has no delegated power and it takes time to seek out the powers and obtain something from them.

3. The use of language, patience, civility, courtesy, and decorum

It can be said that good language unites, whereas bad language alienates. As such, good language, courtesy, and decorum are part of the manners under parental purview, but they can also be the outcome of exposure to life and training.

4. Backseat pedaling/driving

Talks fail due to extraneous factors/influences and not so much because of the merit or demerit of the talk theme. Backseat driving is the result of political considerations (a superior and influential force dictating their vested

interests to whomever they lend support) and could be totally demoralizing/ demotivating for the parties to the dispute, as we use as the conciliation machinery.

5. Openness and transparency in information sharing are the worst casualties

Collective bargaining can be a credible and sustainable exercise only if there is complete honesty and -transparency; talks should not be shrouded in secrecy or games of hide and seek. In actual practice, collective bargaining becomes a game of dice where the other party's next move is anybody's guess. Access to information is halted by varied hindrances that heighten feelings of distrust and suspicion, with the inevitable consequences.

2.6 DRAFTING OF AN AGREEMENT

Q13. Explain about drafting of an agreement.

Ans :

(Imp.)

Drafting of An Agreement

It is generally observed that while no two collective agreements are alike, most agreements - particularly the ones that deal with wage revisions - contain some common features/aspects.

The inception of an agreement may begin with a brief recital of the case whereas others start with a certain preamble or may straightaway go into the terms and conditions agreed. The charter of demands of unions and the counter-proposals, if any, by the management may be presented as annexures.

The initial write-up is not to be regarded as the model on which to plan a collective agreement. A collective agreement should reflect the wishes of the parties to the agreement. It should be the product of a proper understanding of and a common agreement on the issues concerning both the parties. So, this module should comprise a wish list of possible items for inclusion in the agreement, arranged in a manner that may be considered reasonably logical and with a brief explanation of the importance of each. This may ideally be done

in the form of a 'checklist' to ensure that no important item escapes attention in the formation of the final draft of the agreement.

The following subsection lists the various things that merit inclusion in a wage revision agreement.

1. Introductory Paragraphs

The introductory paragraphs of a collective agreement may begin with the following:

- The names of the parties
- The relevant section of the Industrial Disputes Act (India)/Labour Relations Act (Nepal) under which the agreement is signed
- The date of agreement
- The preamble/purpose: Objectives of the settlement, if any
- Coverage which classes/categories of employees are covered
- The effective date and duration

2. Terms of Employment

All employees are usually covered by an individual contract with their employer. A collective agreement commits the employer to accord to every worker covered certain terms of employment. While individual contracts can be unilateral offers accepted by employees, collective agreement is based on negotiation between a union and management or workers' organization and employers' organization concerned.

3. A collective agreement may cover the following terms of employment.

Wages

- Revised pay scales (existing and proposed)
- Weightage for service, if any
- Fitment formula
- Rate of increments
- Annual increment
- Pay fixation on promotion

2. Allowances

- Dearness allowance: fixed, variable, etc.
- City compensatory allowance
- House rent allowance
- Conveyance allowance

3. Other allowances

- Shift allowance
- Lunch subsidy/allowance

4. Advances

Several collective agreements provide for a variety of advances and/ or loans such as the following. Collective agreements should provide for such loans as workers are entitled to and the terms and conditions for granting of such advances/loans. Such terms and conditions include the eligibility, amount of advance/loan, rate of interest, mode of recovery, etc. Advances/loans may include the following :

- House building
- Vehicle purchase
- Consumer durable goods
- Consumption
- Marriages
- Festivals
- Children's' education
- Provident fund, etc.

5. Working hours and number of paid holidays

In addition to knowing how much wage he/ she is entitled to, a worker has also a right to know how many hours he/ she will be required to work for that wage. Normally, as per law and international labour standards, working hours should not exceed 48 hours a week. Working hours could be long (seamen, for instance) or odd (nurses, air hostesses, hotel staff) for some in certain occupations. Over a period, workers want to reduce the number of hours of work and retain some amount of flexibility in hours of work. Many collective agreements provide for a variety of leaves such as the following :

- casual leave
- sick leave
- privilege leave
- maternity leave
- paternity leave
- education leave (ILO Convention 140 and Recommendation No.148 of 1974)
- special leave
- leave without pay
- dating/honeymoon/marriage leave
- public holidays
- bereavement leave
- leave for seeking alternative work, if one is under notice of termination of employment on grounds of redundancy.

6. Welfare

This includes both statutory and non-statutory welfare. Some trade unions dislike the word welfare as it connotes paternalism and dependency. Hence, they call them employee benefits or wage supplements. Such benefits may include:

- Canteens
- Creches or kindergarten
- Sports and recreation
- Workers' housing (ILO Recommendation No. 115 on Workers' Housing)
- Cooperative credit/thrift societies
- Provision of essential goods at concessional rates
- Preference to employees' children at the time of fresh recruitment and/or employing employees' children/spouse in the event of death of an employee on the job

7. Social Security

Many countries have a variety of legislations covering social security benefits while in service and post-retirement as well. Collective agreements seek to improve them. Such benefits include:

- Sickness benefits
- Accident benefits/insurance
- Bereavement benefits
- Unemployment benefits
- Maternity benefits
- Provident fund
- Gratuity
- Pension

8. Working Environment

In the wake of the Bhopal tragedy and growing concerns for the environment, environmental issues are becoming prominent in the collective bargaining agenda.

9. Conditions of Work

The distinction between terms of employment and conditions of employment is often blurred, and this is not improved by the use of the expression 'conditions of employment', which is best avoided. In many cases, employers are insisting on flexibility, which affects conditions of work.

10. Management proposals/other aspects

In recent years there is an increased tendency on the part of managements to issue charters or counter-proposals stating their expectations from the other party. These may often border on assertion of managerial rights/responsibilities or prerogatives. Some of these are as follows :

- mutual role and responsibilities
- modernization
- flexibility
- multi-skilling, retraining, and redeployment
- changes in qualifications and skills
- quality, productivity, and cost consciousness
- discipline

11. Labour Management Relations

Collective agreements may also provide for mechanisms for the consultation and participation of employees in a variety of bi-partite committees dealing with a host of issues including job classifications, productivity, safety, information sharing, etc. Agreements may even provide for participative mechanisms and employee ownership. The 1956 agreement between Tata Iron and Steel Company and the Tata Workers' Union in India has provided for a framework agreement on 'Employees' Association with Management.'

12. Mechanisms for interpretation, implementation, and dispute resolution

Collective agreements usually provide mechanisms for implementation and monitoring and on how disputes, if any, would be sorted out.

Q14. Write about Drafting.

Ans :

Drafting an agreement is different from writing a letter. It is not something to be written straight off, but the outcome of prolonged negotiations, involving perhaps numerous proposals, counter-proposals, and arguments.

It is often asserted that a committee cannot draft and, certainly, it is more difficult to work collectively than alone, yet much of the negotiating process is in fact an exercise in drafting, in general terms if not word for word. It is therefore useful for union negotiators to know as much as possible about the art of drafting, so that their participation can be as effective as possible.

Leaving aside the basic terms of the agreement, such as the wage scales and hours of work, the essential requirements of a good agreement are clarity, precision, and simplicity. The mistakes to be avoided are ambiguity, vagueness, and unnecessary use of Latin and phrases that put the text out of the reach of those whose terms of employment are at stake.

Let Lower's rules for use of words guide you in drafting agreements :

- Prefer the familiar word to the far fetched
- Prefer the concrete word to the abstract
- Prefer the single word to the circumlocution
- Prefer the short word to the long

The above rules are given in order of merit.

Let us take as an example a proposed clause which states that 'the management may grant leave with pay, to workers with pay, to workers having more than one year's service, on the occasion of all public holidays.' Such a formulation should not be accepted by the trade union side without question. The word 'may' leaves the management with discretion to grant leave or to refuse it; the word 'shall' is definitive. Moreover, as it stands, it does not answer the question, 'Will the workers receive additional paid leave, if a public holiday coincides with a day which is not a normal working day?' A sentence should be proposed which clarifies the position.

In drafting a document which rank-and-file trade unionists are going to refer to from time to time, short sentences and short paragraphs are always preferable to long ones. Subordinate clauses, inserted in the middle of a long sentence, may tend to obscure the meaning even when they are grammatically correct. It is far better to express the same ideas in two or even three sentences and simplify the text.

The Small Print

Many agreements begin with a preamble or preface. This is not essential, but the two sides may feel that it is appropriate to state a few general considerations by way of an introduction. The preamble may say that the parties undertake to apply the terms of the agreement in good faith to the best of their ability, or emphasize the importance which they attach to some basic principles, such as freedom of association or the right to bargain collectively. Such an opening may be considered 'pious' or at best harmless but not very useful. Nevertheless, if there is going to be a preface, it is important to examine the wording as carefully as the substantive articles. When an agreement is disputed, the learned judge(s) may go more by the 'intent' rather than the 'content.'

The editing of an agreement is also worthy of attention. The sections should be clearly laid out in a logical order and, where necessary, separate schedules or appendices can be placed at the end of the agreement, mainly for two reasons: this shortens the main text, which is clearly an advantage, and furthermore, it enables amendments to be made at a later date without affecting the basic terms of the agreement. In fact, a clause dealing with the possibility of future amendment is usually considered useful.

The period of an agreement should not be overlooked. This may be 'open-ended'. If it is so, it is operative until either side gives notice of a wish to re-open negotiations (usually specified in some such clause as 'this agreement shall terminate 90 days after either party has informed the other party to this effect.

Finally, it is normally provided that, in the event of a dispute over the interpretation of the agreement, the matter will be referred to a third party, either for advice or to decide the question in dispute; pending which, the two sides agree that they will refrain from putting pressure on the other in regard to the matter. This is a sensible provision, but the choice of the third party is crucial. That third party should be genuinely neutral and fully qualified to help to resolve the problem.

Short Question and Answers

1. Collective bargaining

Ans :

Collective bargaining consists of negotiations between an employer and a group of employees so as to determine the conditions of employment. The result of collective bargaining procedures is a collective agreement. Employees are often represented in bargaining by a union or other labor organization. Collective bargaining is governed by federal and state statutory laws, administrative agency regulations, and judicial decisions.

Definitions of Collective Bargaining

The phrase collective bargaining is made up of two words collective which implies group action through its representatives; and bargaining which suggests haggling and/ or negotiating. The phrase, therefore, implies collective negotiation of a contract between the management's representatives on one side and those of the workers on the other. Thus collective bargaining is defined as a process of negotiation between the employer and the organized workers represented by their union in order to determine the terms and conditions of employment.

2. National - Level Agreements

Ans :

Prior to the 1970s wage boards appointed by the government were giving awards on wages and working conditions. The number of wages boards declined from nineteen in the late 1960s to one (for journalists) in the late 1990s. Since the early 1970s sectoral bargaining at the national level is prevalent mainly in industries in which the government is the dominant player, for instance, banking and coal (approximately 700,000 workers each), steel and docks (approximately 200,000 workers each). About sixty private, public, and multinational banks are currently members of the Indian Banks' Association.

They negotiate long-term settlements with the all-India federations of bank employees. In the coal

sector, over 200 coking and non-coking mines across the country were nationalized in the early 1970s. However, since then to date there has been only one national agreement for the entire coal industry.

In steel, there is a permanent bipartite committee for integrated steel mills in the public and private sectors. Since 1969, this committee, the National Joint Consultative Committee for Steel Industry (NJCS), has signed six long-term settlements. In the port sector, thirteen major ports have formed the Indian Ports' Association. They negotiate with the industrial federations of the major national trade union centers in the country.

3. Duration of agreements

Ans :

Till the 1970s the duration of collective agreements was usually two to three years. During the 1970s and 1980s the duration increased to three to four years. In the 1990s, over four-fifths of central public sector agreements were signed for five years each. Beginning from the sixth round of wage negotiations (1997 to date), the duration of wage agreements in the public sector has been raised from five to ten years. The validity of most of the collective agreements in the private sector, however, continues to be three or, in rare cases, four years. Some agreements, dealing exclusively with one aspect (such as incentives) have been for a period of six years.

4. Changes in Labours

Ans :

i) Industrial society to information society

Manufacturing has shrunk and there is much greater emphasis on service industries. There has been an explosion of IT and we now inhabit a much more clearly knowledge based economy.

ii) National Economy to World Economy

It is clear that we now operate in a global labour market. There is greater mobility of

people and goods. Multinational corporations have global profiles. It no longer makes sense to think only in terms of a local or even national labour market. Even those who choose not to geographically move themselves may be affected by global forces. The availability of cheaper labour overseas leading to factory closures in the UK is one example, or the increasing need to speak more than one language in order to negotiate effectively with suppliers and customers based overseas.

iii) **Core, permanent staff to outsourcing**

There has been a trend to contract out in all sorts of industries. Most of us will have seen or worked in organisations where permanent staff are replaced by contract operators for e.g. cleaning or portering who can be brought in on a 'when needed' basis rather than being retained on permanent contracts.

iv) **Expansion to downsizing**

Associated perhaps with the above, there is a trend for smaller, leaner workforces that work smarter rather than harder who are multi-skilled, flexible and able to multi-task.

v) **Autonomous working to teamwork**

There is a great emphasis on the ability to work as part of multi-disciplinary teams to increase creativity and productivity. Very few workers now will operate in isolation and autonomy.

5. **Issues in Productivity bargaining**

Ans :

The objective of productivity bargaining agreements is to improve efficiency continuously. If higher standards have to be maintained, it is necessary that management and workers must co-operate with each other. Some specific issues are.

- i) Measurement of efficiency which is the reason for productivity bargaining should be made clearly. Management should devise and use appropriate yard sticks for measuring the contribution of workers towards achieving higher levels of efficiency and develop a communication system to make use of the results.

- ii) All categories of work should be brought under the system. Productivity indices should be used on individual and group basis.
- iii) Information system, must be developed which will make it possible to estimate the extent to which increases in efficiency are achieved. Progress or shortfall should be communicated to the workers from time to time.
- iv) Increase in productivity is possible through a combination of factors i.e. from effective working methods, fuller utilization of capital equipment and machines, adaptation of new working methods, multiple shift working etc. relevant cost or benefit to each of these factors should be identified on a realistic basis.
- v) Relationship between pay grades and productivity increases should be undertaken realistically. Otherwise it will result in various types of disputes.

6. **Stages of negotiation.**

Ans :

There are four stages of negotiation- preparation, discussion, bargaining, and agreement.

A) **Preparation**

To fail to prepare is to prepare to fail. Preparations entail the following.

- (i) **Collecting Information:** Facts on relevant aspects are needed to produce enough evidence to substantiate one's demands/arguments.
- (ii) **Setting Objectives:** Ideal, targeted, and resistance positions should be decided upon. For instance, 15% wage rise is ideal, 12% target, but wage rise below the rate of inflation is the resistance point because it will mean erosion of real earnings.
- (iii) **Establishing Priorities:** Distinguish between what must be achieved and what might be achieved.

(iv) Assessing the Other Party and its

Case: To counter the other party's arguments, it is necessary to study its needs, strengths, and compulsions well enough in advance.

(v) Noting Details: Take precise notes of who said what at every stage of the negotiation process. Leave space for details and to record your arguments.**B) Bargaining**

Negotiations should yield something for all the concerned parties. While bargaining, it would be best to keep the following pointers in mind :

- (i) There cannot be any bargaining if either party takes a fixed stand and is unwilling to move from a set position.
- (ii) Parties should be willing to make compromises, offer concessions, and develop packages that are mutually beneficial.
- (iii) If there is a stalemate or deadlock in negotiations because either party does not agree to what the other says or resorts to threats and bluffs—consider different ways of dealing with these situations.
- (iv) Try to understand the issues rather than be emotional about them or take things personally.
- (v) Focus on the problem and interests rather than focusing on the person(s) and taking positions.

7. Drafting of An Agreement

Ans :

It is generally observed that while no two collective agreements are alike, most agreements - particularly the ones that deal with wage revisions - contain some common features/aspects.

The inception of an agreement may begin with a brief recital of the case whereas others start with a certain preamble or may straightaway go into the terms and conditions agreed. The charter of

demands of unions and the counter-proposals, if any, by the management may be presented as annexures.

The initial write-up is not to be regarded as the model on which to plan a collective agreement. A collective agreement should reflect the wishes of the parties to the agreement. It should be the product of a proper understanding of and a common agreement on the issues concerning both the parties. So, this module should comprise a wish list of possible items for inclusion in the agreement, arranged in a manner that may be considered reasonably logical and with a brief explanation of the importance of each. This may ideally be done in the form of a 'checklist' to ensure that no important item escapes attention in the formation of the final draft of the agreement.

8. Drafting

Ans :

Drafting an agreement is different from writing a letter. It is not something to be written straight off, but the outcome of prolonged negotiations, involving perhaps numerous proposals, counter-proposals, and arguments.

It is often asserted that a committee cannot draft and, certainly, it is more difficult to work collectively than alone, yet much of the negotiating process is in fact an exercise in drafting, in general terms if not word for word. It is therefore useful for union negotiators to know as much as possible about the art of drafting, so that their participation can be as effective as possible.

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UNIT III

Tripartism and Social Dialogue : Types and levels of Tripartism - Social dialogue and the Reform Process - Strengthening tripartite social dialogue - Role of Government in Industrial Relations.

3.1 TRIPARTISM

Q1. Write about tripartism.

Ans : (April/May-19, Imp.)

Tripartism is a system of labour relations in which the state, employers and workers and their organizations are autonomous yet interdependent partners, pursuing common interests and participating in decisions affecting them in a binding spirit of mutuality and reciprocity (ILO 1992). Social dialogue, as defined by the ILO, includes all types of negotiations and consultations or simple exchanges of information between/among representatives of the government, employers, and workers on issues of common interest relating to economic and social policies. The definition and concept of social dialogue as practiced in different countries may vary.

3.2 TYPES AND LEVELS OF TRIPARTISM

Q2. What are the types of tripartism?

Ans : (Oct./Nov.-20, April/May-19, Imp.)

Types of Tripartite Agreements

The typology of agreements based on consultations which seek to provide a voluntary system of principles guiding the functional development of labour-management relations, leaving aside questions of substance include (ILO 1983) the following.

1. Framework agreements, which aim at establishing the so-called 'rules of the game' and seek to institutionalize the various interactions between the parties.

2. Codes of conduct, etc., which generally deal primarily with the behaviour of parties in respect of their interactions and do not contain substantial provisions. These aim at establishing specific rules for limited purposes, for example, recognition of trade unions, declaration of strikes or lock-outs.
3. Standards of substantive nature, which fix the basic minimum or outer standards or standards of direct and general application that must be taken into account for subsequent agreements on minimum wages, social security, conditions of employment, etc. They are like collective bargaining agreements, except that the level of negotiation is always the national one.
4. Macroeconomic trade offs to alleviate or diminish macro-economic crisis. Usually, such tripartite approaches include fiscal measures, social security benefits, increased public investments and improvements in the provision of social security to workers and employers in order to secure wage moderation. The package of trade-offs is expected to lower the level of unemployment and avoid price increases.
5. Joint or tripartite statements, which do not imply concrete agreements but merely express intentions or exhort negotiators to follow certain procedural steps or accept some substantive approach. These are social accords, pacts, or procedures delineating a possible course of action in the interest of the parties concerned and for the benefit of the larger society.

Some of the mechanisms India has established to promote consultation and co-operation at the national level are as follows.

1. Indian Labour Conference
2. Standing Labour Committee
3. Special Tripartite Committee (set up in 1991 following structural adjustment reforms)
4. Industrial Committees
5. State Labour Advisory Boards
6. Central and State Advisory Committees to advise the government on the administration of Welfare Funds.

There are 44 tripartite committees at the national level. Additionally, in the public sector, there is a national-level bipartite machinery in select core industries, such as banking, coal, oil, port, transport and steel. Such bipartite arrangements also exist at the industry-cum-region level in jute, engineering, plantations, textiles, etc., which are predominantly in the private sector.

There is a plethora of measures that, though appropriate, are not very effective. They have served only to raise the standard of living of workers in the organized sector, which accounts for less than 10% of the total workforce in the country.

ILO and Tripartism

The ILO's emphasis on tripartite consultation among government, employers', and workers' representatives exercised a great moral influence on the labour policies of various countries, including India. India ratified ILO convention No. 144 in 1978, the year in which it was adopted by the ILO. The Royal Commission on Labour in India had recommended such tripartite consultation in India in the year 1931, but the British government in India did not immediately accept it.

In the wake of the Government of India Act of 1935, which placed the subject of labour in the 'concurrent list', thereby empowering provincial governments to enact their own legislation, the

employers' and workers' representatives became concerned about the lack of uniformity in labour legislation and began to press for tripartite consultation. However, it was only during the Second World War that tripartite consultation on matters concerning labour was initiated particularly to meet the exigencies of war and to accelerate production.

Many countries, including India, have ratified ILO Convention No. 144, but not ILO Convention Nos 87 and 98 concerning the freedom of association and the right to collective bargaining. The non-ratification of these Conventions could cast doubts on the fairness and genuineness of the consensual process. Since 1998 these two became part of basic rights under the ILO Declaration of Fundamental Principles and Rights at work and their Follow-up adopted by the International Labour Conference on 18 June 1998. This means, ILO can monitor respect for these Conventions even if a country has not ratified them.

Convention No. 154 and Recommendation No. 163 on collective bargaining provide guidance on how social partners may initiate and foster social dialogue.

Q3. What are the levels of tripartism?

Ans : (Oct./Nov.-20, Dec.-19, Imp.)

1. Tripartism at the National Level

In 1942, the Government invited representatives of employer's and workers organizations to participate in the tripartite Indian Labour Conference (ILC). Simultaneously, the standing Committee on Labour (SCL) was set up as a sub committee of the tripartite conference.

The basic objectives of the Government in instituting the ILC and the SLC are to

- (i) Promote uniformity in labour legislation;
- (ii) Lay down a procedure for the settlement of industrial disputes; and
- (iii) Discuss all matters of all India importance as between employers and employees.

After Independence too, the declared policy of the central Government has been to consider all major questions affecting labour in tripartite for a. The union Minister for labour is the ex-officio Chairman of both the ILC and the SLC. When the ILC was first constituted, the Government wanted to structure it on the principles governing the ILO, Viz (a) equality of representation among government and non-government representatives; (b) equality of representation between employers and employees and (c) nomination by government of those employers and employees who were not otherwise represented.

2. Tripartism at the State Level

Most state governments have state-level tripartite advisory boards. They also have tripartite commissions for minimum wage fixation in accordance with the provisions of the ILO Convention No. 26 and the Minimum Wages Act.

Some states such as Kerala have tripartite committees for industries of major importance to the economy of the state. In Maharashtra, Kerala, Tamil Nadu, and a few other states there are tripartite boards to regulate employment, wages, and working conditions for certain occupational categories (eg., Mathadi workers in Maharashtra and toddy tapers in Kerala).

Relative to the situation at the Centre, in general, the functioning of tripartite consultative machinery at the state level not only carries the same weakness, but also suffers because of greater apathy of social partners, particularly the government.

3.3 SOCIAL DIALOGUE AND THE REFORM PROCESS

Q4. Discuss about social dialogue and the Reform process.

Ans : (Dec.-19, Imp.)

Social dialogue during the reform process poses deep dilemmas for both unions and employers. Competition, privatization, technological

change, mergers, acquisitions, and various forms of adjustment and/or restructuring bring about changes in the dynamics of unions and industrial relations at the enterprise level. They also impinge on diverse groups of workforce in diverse ways. The resultant divisive influence may pit one group of workers against another or one union against another. Certain groups of workers and certain unions may lose and others benefit. For instance,, some adjustment measures may have adverse effects on unskilled workers while skilled workers may benefit. In cases where both groups of workers are represented by different unions, the impact of such adjustments would be perceived differently by different unions.

Similarly, employers also face dilemmas. Take, for instance, devaluation. Manufacturers who produce goods with high import content and cater primarily to domestic demand usually oppose devaluation since it would push their costs up. However, predominantly export-oriented manufacturing units and a section of those who deal in foreign trade welcome it. When it comes to liberalization, local employers typically prefer domestic liberalization to occur first and globalization or competition across borders only after some time so that the intervening time can be used for preparing a level playing field.

Structural adjustment programmes (SAPs) usually entail major paradigm shifts in the governance of the economy, management of enterprises, and policies concerning labour, labour markets, and labour market institutions. Resistance to reforms needed for adjustment is common in most, if not all, countries. The only way resistance can be dealt with in a sustainable manner is by caring for the concerns of all those involved and/or affected by the changes. Change should be seen as beneficial and worthwhile by all the social partners rather than by one group or a few groups only. This requires consultation and cooperation within a group and among groups at each constituency (that is, labour and unions, management and employers, and governments, Central and state at the bipartite

and tripartite levels). It means vertical consultation within a constituency should both precede and follow horizontal consultation between or among different constituencies/social partners.

Structural adjustment programmes also involve huge political risks. Broad-based political support and coalitions need to be worked out. Generally, employers have been more supportive of reforms than have trade unions (Ratnam 1993). In many cases, however, even employers' organizations that initially endorsed SAPs began to circumspect as they experienced some of the adverse effects of adjustment. Political support for SAPs is possible when all concerned see that the gains outweigh the pains during the transition and the long term as well.

Economic crises and other pressures for restructuring at the enterprise level resulted in greater consultations to develop cooperative attitudes and approaches.

Reform Process and Social Dialogue in India

The Government of India has constituted a Special Tripartite Committee (STC) to focus on social and labour issues arising out of structural changes, which met 11 times from 1991 to June 2001, while six tripartite industrial committees were either set up or reconstituted. All of them met at least once till 2001 while some met several times. Additionally, as a follow-up of one of the conclusions reached in the 30th session of the ILC in September 1992, the government set up a standing advisory committee in the Planning Commission consisting of representatives of the Government of India, central trade union organizations, and two organizations working in the unorganized sector besides two experts. Significantly, this 18-member committee does not have any employer representation. It soon became defunct.

Despite resistance from the Council of Indian Employers, the Ministry of Labour has also given additional seats in the ILC to the fast-growing Confederation of Indian Industry (CII). The CII represents Indian employers on the ILC independent of the Council of Indian Employers, which has three constituents, namely, the All India Employers' Organization and Employers' Federation of India representing the private sector and the

Standing Conference on Public Enterprises representing the public sector. The empowered authority set up in the Ministry of Industry to oversee the functioning of the social security net (since wound up) has, however, accorded representation for both employers' and workers' organizations.

The government has also set up a number of committees to review policies concerning industrial restructuring, industrial sickness, the financial and insurance sectors, investigation into stock market allegations about sugar, and disinvestment in public sector besides a joint parliamentary committee to probe into the stock scam. The trade unions have, however, vigorously opposed the reports on financial and insurance sectors as well as the report on legal and institutional reforms to deal with industrial sickness and public sector disinvestment.

The tripartite process got a boost following the announcement of macroeconomic reforms for structural changes in the economy. While the first two meetings took place after 15 months, the second and the fourth were held almost a year later. However, the year 1994 was hectic with five STC meetings, several TIC meetings, and several rounds of consultations on two major sick units, viz., the NTC mills and IISCO. It is perhaps more than a coincidence that the government was eager to give labour a sense of importance in 1994, which happened to witness campaigning for at least three rounds of elections for state assemblies. Afterwards, these committees-both STC and TICs-met less frequently.

3.4 STRENGTHENING TRIPARTITE SOCIAL DIALOGUE

Q5. Explain about strengthening tripartite social dialogue.

Ans : (Oct./Nov.-20, Imp.)

There are various measures than can be adopted/utilize to make sure that tripartite social dialogue does not become ineffectual. Some of these are listed below:

The government, which has all along been playing the role of an unequal among equals in social dialogue, needs to approach the subject with an open mind and review policies to mitigate the adverse impacts of its prior decisions.

- The government as the centre can do with better coordination among the various concerned ministries. As a representative of the workers' organization pointed out about the TIC on electricity generation and distribution, the deliberations would have been meaningful if the Power Minister had been present.
- In a federal set-up there is a need for dialogue and understanding among the various concerned ministries in the central government and between the central and state governments. There is a need for consistency in the policies and attitudes of the central and state governments.
- A western social scientist once observed that Indians are power mongers. Indians in the audience objected to this, saying that they had been invaded many times over centuries, but they had not invaded others. The social scientists clarified what he had meant by this statement: Indians want to influence others, but not be influenced by others. The chief executive of an MNC concurred with this, that in India any issue would evoke emotive discussion, arguments, and counter arguments. Tripartite meetings have become veritable exercises in loquacious verbosity. There is little transparency and virtually no mutual trust. There is no sense of equality or commonality. These weaknesses must be overcome.
- The tripartite groups should be representative of the respective constituencies. The constituencies themselves should be sufficiently broad-based. In the Indian case, tripartism seems largely restricted to less than 8% of the workforce, with the organized sector, which accounts for over 93% of the workforce remaining unrepresented. Both the employers' and workers' representatives may not share this perspective, more so, because they were instrumental for the exclusive representation to unorganized sector being withdrawn in 1952.

For broad-basing, social dialogue to incorporate social partners beyond the formal/formal sector. It should represent a wider cross-

section of society and must include groups which are 'socially excluded' from the developmental process. The National Economic Development and Labour Advisory Council (NEDLAC) in South Africa, for instance, comprises, besides government, workers' and employers' organizations in the formal sector, interests groups such as women, academics, the unemployed, and NGOs.

Social dialogue should occur at both the macro and micro levels. It should expand not only in the realm of industrial relations and labour market issues, but also in wider issues involving labor's partition in the development of social policy and the national macroeconomic agenda.

The policies of international financial institutions, public policies on economic liberalization at the national level, and the external pressures of globalization and competitiveness, for instance, are impinging heavily on labour markets and industrial relations. Social dialogue should cover both planning and implementation rather than be restricted, as in the case of structural programmes, to implementation. Ownership of social programmes is critical for social participation.

- For tripartism to succeed the social partners should desist from action which perpetuate polarization. Instead, the approach should be focus on issues, not individuals, safeguard interests rather than take positions, invent creative and multiple options to a problem rather than be saddled with either /or solutions, reach agreements rather than score point over others, share credit for problem-solving rather than deny or grab credit, and deal with functional conflict and avoid dysfunctional friction.
- There should be adequate internal communication and consultation from democratic processes to be complete. Tripartite consultations at the national, regional, state, and sectorial levels should be strengthened with bipartite consultations at the enterprise and plant levels.
- A two stage consultation process in tripartite social dialogue, which is followed by the ILO for the purpose of adopting international labour standards, should be followed at the

national level also. There should be a preliminary but detailed discussion on any subject brought to the forum. The conclusions recorded at this preliminary discussion should be widely publicized and free comments on them encouraged. On the basis of these comments, the tripartite, in the second round of discussions, should frame its recommendations.

- Tripartite for a should concern themselves more with the broad framework agreements than specific, detailed, and substantive aspects. For instance, consensus in broad-based tripartite for a depends on the experience of traditional and dominant industry groups and the lowest common denomination of acceptance. It is for this reason, there is a widely shared belief that TICs play a more direct and useful role than the multi-purpose or general tripartite consultations.
- When over 100 members gather for a short period, say two days once a year or so, much of the time is spent in sharing views in a very general manner, leaving little room for meaningful dialogue and discussions. For the discussions to be more meaningful there is need for considerable spadework and research support.
- The multiplicity of trade union centres with in the organized sector itself causes great practical problems, particularly when they are divided on ideological and other grounds. Politicized polarization of views on matters concerning union recognition through secret ballot vs. other methods, etc. stifles the environment and precludes cooperation on several issues. More elaborate discussions and consultations with in workers' groups would help formulate and present a unified point of view from the workers' constituency
- At the time of inception of the ILC and the SLC, the government of India gave the assurance that it would consider every suggestion made by the tripartite bodies and that the unanimous conclusions and agreed

recommendations would be binding on the parties. To restore faith in the tripartite fora, the 'recommendations should be given the force of law at least treated as conventions which should be publicized and accepted outside these bodies (India1969). This will be possible when there is total involvement and widespread consultation with in and among various ministries in central and state governments as per the double discussion procedures mentioned earlier.

- Efforts to revive atrophied tripartite institutions, as in the case of India, should be more substantive than being merely symbolic. The problem is that the government which is acting under debt burden and pressure from donors may be finding the rigid and impatient time-tables incompatible with the time-taking consensual approaches.
- It is not unusual for the governments to think that public sector reform is their private business. In India the government turned down the request of private sector employers to be included in the ILO/UNDP tripartite team that visited the UK and Hungary to study social security arrangements and retraining and development strategies for the workers affected by disinvestment. In Pakistan too, private sector employers were not even consulted by the government when it was negotiating the agreement on compensation packages for affected persons with the public sector unions.
- Although some arrangements exist to oversee the implementation of the decisions, conclusions, and recommendations of the tripartite committees, these are considered inadequate. The machinery for monitoring the implementation should be adequately equipped with necessary resource base, including infrastructural, technical, and professional support for developing a database, study, research, analysis and feedback.

3.5 THE ROLE OF GOVERNMENT IN INDUSTRIAL RELATIONS

Q6. Explain the role of government in industrial relations.

Ans : (April/May-19, Imp.)

The role of the state in industrial relations is determined by its political, ideological, and socio-economic orientation. This has a direct impact on the model it adopts for economic development.

After a brief overview of divergent perspectives on the role of the state, the chapter discusses the types of interventions the government may make in the sphere of industrial relations, the means of action by the state in different aspects of industrial relations, the relationship between multinational companies and the state, and the role of the state in industrial relations. The final section summarizes the trends and the arguments for and against competitive labour policies at the state level in the context of liberalization.

Divergent Perspectives

The role of the government in industrial relations depends on its ideological (socialist, communist, capitalist, neo-capitalist persuasion), political (neo-colonial, democratic, dictatorship or military regime), and socio-economic (protectionist or neo-liberal, export-oriented policies) orientation.

The role of the state varies depending on the (early, middle, or late) state of development/industrialization and the level (international, national, industry, enterprise, or shop-floor) of interactions.

Industrialization Strategy and Industrial Relations Policy

The role of the state and its industrialization strategy at a given point of time in history has implications for industrial relations. For instance, in southeast Asia, the successful economies have followed an outward looking, export-oriented industrialization (EOI) strategy. In contrast, in south Asia, the industrialization strategy has been inward looking and focussed on an import substitution strategy (ISI). Within these two industrialization strategies, there are variations. In the case of ISI, there is the first stage of 'simple' ISI based on the

development of low-technology consumer and industrial goods for local consumption. The focus of this strategy is to promote the growth of locally owned industries catering to the relatively large domestic market in order to conserve foreign exchange and to promote industrialization and local entrepreneurship. The second stage of ISI is characterized by the development of heavy industries, such as the railways, atomic energy, steel, heavy chemicals, defence, and space industries, where the focus is on creating a diversified industrial base that will fuel future growth in the country.

Similarly, the EOI strategy also varies. Typically, the first stage of EOI in southeast Asia was characterized by its focus on low-cost production of light manufacturing goods for export, largely financed by foreign investment and multinational companies. Given their relatively smaller markets and lack of local capital, the southeast Asian economies could not sustain an ISI strategy. The second stage of EOI is characterized by its emphasis on technological upgradation of the industries in the first stage of EOI, a move to better products, and innovations in the manufacturing process. The second stage of EOI in Singapore and Malaysia has been accompanied by efforts to diversify the industrial base of the economy, and is seen characterized by investment in large industrial projects in iron and steel, chemicals, and automobile industries in several Asian countries such as Singapore, Malaysia, Korea, and Taiwan.

3.5.1 Types of Government Interventions

Q7. What are the types of government interventions?

Ans : (April/May-19, Imp.)

Types of Government Interventions

Table presents the various types of interventions by the state in industrial relations.

In the latest phase of industrialization, the state is adopting a neo-liberal policy. The dominant model is that of a market economy where the state will let the market forces take charge. Macroeconomic development models that emphasize investment and export-oriented growth strategies in the success of newly industrializing countries in Asia did not initially support the principles of basic labour standards, freedom of association, and collective bargaining.

Table : Types of Government Intervention in Labour Markets

Type of Intervention	Specific Guarantees and Policies	Examples
Establishment and protection of workers' rights	<ul style="list-style-type: none"> • Right to associate and organize • Right to bargain collectively 	<ul style="list-style-type: none"> • Workers can form labour unions • Workers can negotiate wages and working conditions with employers • Workers can strike or use other violent means to achieve their demands
Protection for the vulnerable	<ul style="list-style-type: none"> • Right to engage in industrial non-action (strike) • Minimum working age • Equality of wages and employment opportunities • Special provisions for women 	<ul style="list-style-type: none"> • Children under fifteen may not be employed; the minimum age for work is 18 years if the work is hazardous to health, safety, or morals • No worker can be paid a lower wage or be excluded from employment due to reasons of gender, race, religion, ethnic background, national origin, or sexual orientation. Affirmative action may be used for disadvantaged groups • Women workers need to be provided with maternity leave; they may not be compelled to work during the night
Establishment of minimum compensation for work	<ul style="list-style-type: none"> • Minimum wages • Minimum non-wage benefits and overtime pay 	<ul style="list-style-type: none"> • Workers are to be paid a minimum hourly wage • Workers are to be provided with housing or medical benefits, a minimum number of holidays in a year, and specified overtime wages for work beyond the maximum hours
Assurance of decent working conditions	<ul style="list-style-type: none"> • Minimum occupational health and safety • Maximum hours of work 	<ul style="list-style-type: none"> • Workplaces must have proper light and ventilation, and workers must have protection from hazardous activity • Workers cannot ordinarily be required to work more than a certain number of hours in a week; they must have at least one rest day a week
Provision of income security	<ul style="list-style-type: none"> • Social security • Job security and severance pay • Public works 	<ul style="list-style-type: none"> • Workers who are out of work because of disability, lay off, or old age are entitled to transfer payments based on their prior work experience • Workers have some rights not to be dismissed at will, and a right to compensation when laid off • Temporary employment is provided for those willing to work in times of weak labour demand

3.5.2 The Means of State Intervention

Q8. What is the means of state intervention?

Ans :

The Means of State Intervention

The following are among the major means of state intervention in industrial relations.

1. Policies

The policy framework in the sphere of labour and labour management relations can be varied depending on the country's stage and level of development. Three broad trends in state intervention in industrial relations can be found in developing countries:

- (i) The logic of peace and cooperation during the period of planned economic development and import-substitution-oriented industrialization.
- (ii) The logic of competition as economies are liberalized to integrate them with the global economy. Here cost cutting and value addition are important. The focus is on markets, not labour and efficiency, not so much on equity.
- (iii) The logic of co-optation, as the dogmatic pursuit of competition brings to the fore growing unemployment and glaring inequity. Here the focus is on both efficiency and equity.

2. Legislation

Laws include hard laws and soft laws. The International Labour Standards provide the basis for national laws concerning various aspects of employment and industrial relations. These are hard laws. Codes of conduct, framework agreements, etc., comprise voluntary arrangements. The legal framework usually provides the bare minimum standards. Progressive and professional managements should seek to do more than what the laws minimally entail. The legal framework needs to be reviewed from time to time, to align laws with emerging requirements and to ensure their simplification and rationalization. The legal

framework in the sphere of labour and labour management relations should balance the requirements of both labour and product markets and combine the need for efficiency with considerations of equity. It should uphold the principles envisaged in the International Labour Standards. For instance, in matters concerning freedom of association and the right to collective bargaining, legislation should be such that there is no undue interference in the formation, registration, or functioning of trade unions and no limitations are put on the right to collective bargaining.

3. Institutions

The institutions dealing with industrial relations could be classified into facilitative, executive, and judicial.

i) Facilitative

The facilitative institutions can be of several kinds. They include, for instance, institutional mechanisms for the provision of skills. Institutions for developing and operationalizing proactive labour market policies will include a national employment service that doesn't merely register job seekers and play a mechanical role, but one that identifies the gap between required and acquired skills, provides opportunities for bridging the gap and matching job seekers with job providers.

In terms of minimum wage setting, it could include tripartite institutions for setting up and enforcing minimum wages. In term-of workplace democracy, it could include statutory and voluntary institutional mechanisms for worker involvement/representation/say/stake. In terms of grievance redressal, etc., it could include systems and procedures for grievance redressal, handling of discipline, and dispute settlement.

ii) Executive

The laws enacted by the state come into effect only upon gazette notification for

the purpose. The executive is also responsible for enforcing the laws through the labour administrative machinery appointed by the central and state governments. The executive's role can be visualized as a source of authority or service. If it is perceived as a service function, its effectiveness can be judged in terms of knowledge, accessibility, and attitude of the incumbents. Are they knowledgeable? Are they accessible? Are they helpful?

iii) Judicial

The authorities described in the Industrial Disputes Act to interpret and adjudicate disputes are part of the judicial machinery. The key question here is whether or not these institutions are specialized, independent, and autonomous. Judicial independence and autonomy of the kind envisaged by the first and the second national commissions on labour will adversely impinge upon the discretionary power of the state. Discretionary power can be subjective and susceptible to abuse.

Liberalization and the Changing Role of Government

In the wake of structural changes in the region, as elsewhere, dominant shifts in macroeconomic policy are discernible.

- (a) From a centrally planned to a decentralized market economy.
- (b) Liberalization and export-oriented policies.
- (c) Relative stagnation in employment in the organized sector, expansion in the informal sector, and growth in unemployment and poverty.
- (d) Privatization and/or private sector as an engine of growth.
- (e) Emphasis on productivity and profitability in economic and industrial enterprises in the state sector.
- (f) Increase in the incidence of industrial sickness.

- (g) Decline in job and income security.
- (h) Growth of atypical, non-standard employment.
- (i) Adverse effects on employment opportunity for women.

These shifts call for a reassessment of the role of the state in social and labour matters. In many countries these developments have further strained the relations between governments and social partners, particularly on issues such as privatization and the increasing incidence of redundancies and atypical forms of employment (ILO 1997). It will require the redeployment of labour from unvariable sectors to expanding sectors and coping with sharp, transitory drops in the demand for labour nationwide. How labour fares during these periods of major change depends on how successfully countries manage these two tasks. Although initial conditions matter greatly in easing the adjustment process, so do policy choices about the timing and sequencing of reform (World Bank).

State and Multinational Corporations

Developing countries need foreign investment to boost economic development and create jobs. In India, domestic private savings compare favourably with those in other industrializing countries in Asia, but excess spending by the government and poor returns from the state-owned corporations create dependence on foreign sources for promoting economic development. Widespread poverty and the low rate of economic development in India also make the state more dependent on foreign investment. Actual flows of foreign investment are not dependent on the need, but on the political and economic climate. In an unstable political and economic climate, foreign investors want incentives, guarantees, and quick returns. Trade unions do not like multinationals, but like the pay and the conditions they offer. Trade unions also fear that multinationals follow capital-intensive industrialization, practice 'higher wages and higher exploitation', and contribute to growth in non-priority sectors. In such a situation, the state is caught between the economic need to promote an investment climate which will attract more investment and the social need to regulate the flows to ensure that economic development does not lead to social problems.

The relations between governments and transnational corporations can be divided into three historical paradigms (Kochan 1996):

1. The liberal tradition which condoned government intervention only to enhance competition and correct market failures; it tended to be neutral about the nationality of the firms and the source of capital, technology, or products, and was inclined to pursue cooperative economic solutions that promoted global welfare.
2. The neo-mercantilist tradition that showed a preference for government intervention to promote a nation's own firms as a way of meeting national needs: it believed in self-reliance, import substitution, and comparative advantage.
3. The neo-imperialist tradition exhibited a propensity for direct public sector participation in economic activity, displayed a concern about ownership, and sought to prevent or reduce inequalities within and among nations.

3.5.3 The Role of State in IR at the State Level

Q9. Explain the role of state in ir at the State levels.

Ans :

Role Of State In Industrial Relations At The State Level

Labour is in the concurrent list of the Constitution. According to Article 246 of the Constitution of India, both the Parliament and state legislatures can enact laws on aspects relating to employment, trade unions, industrial disputes, social security, etc. Generally speaking, the state government is the appropriate authority for administering central laws in most cases.

The Government of India would articulate and implement social and labour issues till the late 1960s, when the same party was in power in the centre and in most states. Since 1969, however, non-Congress parties and regional parties have come to power in the states and four times at the centre. State governments began to ask for greater provincial autonomy including in matters relating to labour, which has been in the 'concurrent list'

since the British days. Both trade unions and employers' organizations submitted memoranda reflecting their views on labour issues to the Sarkaria Commission set up in the 1980s to review Centre-State relations. The problem is compounded by the definition of 'appropriate government' particularly in the case of central government undertakings with plants or operations extending to more than one state.

While the administrative ministry in the central government was responsible for the overall performance of the enterprise, labour-management relations in the plants came, in several cases, under the jurisdiction of the government of the state in which the enterprise was located. Political differences among the parties in power caused problems for individual enterprises. Also, when major policy issues were discussed at labour ministers' conferences, government representatives would take a stand on the lines of the ideology/position of the ruling party at the Centre and/or the States. Given the diversity of the context, the divided political pressure, and the pendulum-like swinging of government policies over the years, one wonders whether India has ever had or will ever have a unified labour policy.

Pluralism and Diversity at the State Level

Section 2 (a) (i) of the Industrial Disputes Act lists the establishments/industries carried on by or under the authority of the central government or by a railway company, or concerning any such controlled industry as may be specified in this behalf by the central government or in relation to industrial dispute concerning a list of specific establishments/industries in the central sphere for which central government is the appropriate government. The remaining industries/establishments are in the state sphere even for the implementation of central laws. The issue becomes complex in a steel plant with captive mines. If the plant is in Bihar, the state government will have jurisdiction on labour matters in the steel plant, but the central government will be the appropriate authority on issues relating to labour employed in the mines of the same company in the same state. Over the years, the interpretation of the term 'appropriate government' has, nevertheless, been subject to several judicial pronouncements, some of which have been different from the scope of the definition originally envisaged by the government under the act.

Changes in Labour Law/Policy at the State Level

During the post-liberalization period, the central government has dilly-dallied on labour reform, being apprehensive of the political risks. Given the pressure for wooing.

Recognition of Bargaining Agent

In India, the Trade Unions Act, 1926, which is a central legislation, provides for registration, not recognition. Unions generally press for collective bargaining rights, and shun any legislation on recognition. Some state governments (for instance, Maharashtra, Gujarat, and Rajasthan) have provided for certain criteria through state-level labour laws (Exhibit 10.1). For years Andhra Pradesh has been following secret ballot as a method of trade union recognition. Between 1991 and 1996, two state governments Orissa and West Bengal- introduced, for the first time in the country, secret ballot through tripartite social dialogue at the state level, for the purpose of trade union recognition. The Kerala legislature also passed a similar legislation, which is awaiting the ascent of the President of India, before the new law on secret ballot in the state comes into operation. The Second National Commission on Labour recommended in 2002 that in companies employing 300 or more persons, check-off should be the preferred method of union recognition.

The problem with secret ballot, however, is that it does not resolve all the contentious issues:

1. How to handle the complexities associated with campaigning and the conduct of elections.
2. Whether the tenure of recognition be co-terminus with the currency of an existing collective agreement.
3. What would be the role and rights of unrecognized union(s).
4. How to deal with states that chose to give individuals the right to raise industrial disputes on any aspect, including those aspects which were a part of union management agreement.

5. How to deal with situations that produce different results in membership verification even as secret ballot results in the concerned enterprises continue to be valid.

While secret ballots in Orissa have thrown up quite a few surprises due to the anti-incumbency negative vote, West Bengal is yet to make secret ballot a preferred way of choosing a collective bargaining agent. Orissa has been holding secret ballots, but West Bengal chose to defer secret ballots except when the parties at the enterprise level want them.

Simplified Labour Inspection

Between June 1991 and April 2004, some state governments have simplified labour inspection. In Uttar Pradesh, a labour inspector can carry out an inspection only after he obtains the prior consent of an officer of the rank of Labour Commissioner or District Magistrate.

Rajasthan and Andhra Pradesh have reduced the scope of labour inspection, simplified forms, and exempted several establishments from the purview of labour inspection. The system of separate inspection under industrial labour laws has been done away with. Instead, there is going to be only a common inspection of industry in accordance with a checklist prepared for the purpose. The number of inspections under labour laws has been reduced to 5% of the establishments in the small-scale and tiny sectors and 10% in other sectors selected on a random basis. Small-scale industrial units are now required to send only one return and display one common notice covering all labour laws. The state government has special powers to prohibit strikes or lockouts in general or in connection with any industrial dispute, if, in the opinion of the state government, it is necessary to secure public safety or convenience, or for the maintenance of public order of supplies and services essential to the life of the community, or for maintaining industrial peace.

Andhra Pradesh too has simplified the number and the contents of the forms under the AP Factories Rules and issued the revised formats or CD-ROM.

New Thrust in Labour Policy

The Kerala Government announced a labour policy, as a part of its new industrial policy in 1994, which contained, among others, the following provisions:

1. The entrepreneur will have full right over the hiring of labour and shall not be inhibited by any claims from the sons of the soil, displaced persons from acquired land, construction/contract labour, and dependants of employees.
2. All restrictive labour practices, including intimidation, gherao, and dharna inside the factory, harassment of managers and their families, and extortion of any kind including 'attimari', will be treated as criminal offences and dealt with accordingly.
3. The management will have the prerogative to deploy workers in any section of the unit as part of a multi-craft approach.
4. Disciplinary action against individual workmen will be taken in accordance with the procedure provided in the Industrial Disputes Act.
5. Unions will be recognized for participation in labour - management negotiations only if they have a minimum membership of 15% of the total number of employees. The government will bring about a comprehensive legislation for this purpose.
6. The government will encourage long-term agreements. Long-term enhancement in wages will be linked to productivity. The possibility of long-term bonus settlement will also be explored.
7. The government will do all that is in its power to avoid work stoppages during the first five years of a project. Even after the first five years, any dispute that might arise involving stoppage of work and lowering of production, is to be discouraged.
8. In all new enterprises with an investment of Rs 300 million or more, an officer of the labour department of appropriate status and with adequate power will be exclusively appointed at the cost of the government for

the first five years, to ensure that labour disputes do not lead to any stoppage of work.

9. The viability of an industrial unit depends to a considerable extent on whether construction activity can be completed within the scheduled time and at the estimated cost. Work stoppages, whether due to labour dispute or non-fulfillment of obligations by contractors, will not be tolerated.
10. Industrial relations committees will be constituted in all existing and potential industries. These committees, it is hoped will ultimately create an atmosphere of complete understanding between labour and management in all industrial areas.
11. Existing institutional machinery will be strengthened and innovations introduced to ensure that disputes are resolved quickly and without any disruption of productive activity. A joint cell of the labour department will be constituted to study what changes need to be made in laws, rules, and regulations and in the administrative and institutional arrangement to achieve these objectives.

Many of these policy procurements remained on paper, because shortly after the announcement of the policy, the Left Front Alliance replaced the Congress as the ruling party in the state.

3.5.4 Future of Role of the Government

Q10. What is the future of role of the government?

Ans :

Future Role of The Government

Past experience reveals that both the market and the state fail if unquestioned faith is reposed in either of them singularly. Both have their respective roles to play. Too much of reliance on one will prove counterproductive.

In future, the role of the state will increasingly come under scrutiny not only by social partners at the national level, but by pressure groups at regional and international levels. To what extent is the future role of the state contingent on the forces of globalization? How does it impact the commitment to pluralism and concomitantly, the general

recognition of the principle of freedom of association and trade union rights, which are still to gain wide appreciation in Asia in general and India in particular? How does the state defend the cherished goals and values of industrial relations systems and yet meet the challenge of globalization? Herein lies the answer to the above questions.

In a civil society, the role of the state will come under heavy scrutiny by social institutions. As Adams rightly questions, in future, societies may not necessarily accept uncritically the proposition that the state always acts in public interest. Governance is an issue. Good governance is said to be one of the factors of the economic success of east Asia. Transparency International, an NGO, is openly publishing lists of the most corrupt countries in the world. Some Asian countries are included in the top ten. Rankings by the World Competitiveness Reports of IMD and World Economic Forum are seeking to explain whether governments are becoming a gateway or barrier to the competitiveness of their nations. Openness, policy consistency, fiscal prudence, integrity and efficiency of bureaucracy, and political stability are among the factors that influence competitiveness of nations and the enterprises within a nation. The World Bank has warned corrupt governments that it would put a hold on projects where corruption is involved.

Are there some core, eternal values and principles concerning the role of the state? A good industrial relations system is one that (a) harmonizes the economic growth with social justice, (b) ensures observance of labour standards, (c) is change friendly, and (d) promotes a culture of non-interference by one party into the affairs of another.

The search for alternative strategies for achieving both efficient development and improvement in worker welfare tends to stress support for (1) a minimal number of basic labour standards, (2) free trade unions, collective bargaining, (3) workplace institutions capable of internalizing enforcement of labour standards and government regulations, (4) investment in training and education, and (5) support for open markets, free trade, and mobility of capital and labour resources. The pursuit of these multiple and perhaps conflicting objectives is not easy, but, as the UNDP observed, economic development is a means and

human development/progress should be the goal. Therefore, even if globalization leads to competitiveness and economic efficiency, it should not be allowed to undermine human and employment rights. The state should facilitate the factors and processes that ensure that the effectiveness of industrial relations institutions and employment practices are adapted to fit into the different cultural settings of developing nations.

There are four main requirements in the building of viable industrial relations systems:

1. There is a need for a general commitment of the actors to pluralist values which would include the legitimizing of workers' rights and the role of trade unions and other representative bodies.
2. Industrial relations legislation must shift from the negative role of minimizing conflict towards the positive goals of promoting labour flexibility and productivity through democratic institutions in the workplace.
3. This legislation should also extend to all employees and not just industrial workers, especially as newly industrializing countries move into economic maturity reflected in the growth of their service sectors.
4. This parallels the second requirement, the locus of a stable system needs to be moved downwards towards the workplace, implying a weakening of the role of the state.

The fourth point, however, needs to be clearly understood. The weakening of the role must be in terms of a substantial reduction of discretionary controlling power of the state and not that of an enabler or facilitator.

Short Question and Answers

1. Tripartism

Ans :

Tripartism is a system of labour relations in which the state, employers and workers and their organizations are autonomous yet interdependent partners, pursuing common interests and participating in decisions affecting them in a binding spirit of mutuality and reciprocity (ILO 1992). Social dialogue, as defined by the ILO, includes all types of negotiations and consultations or simple exchanges of information between/among representatives of the government, employers, and workers on issues of common interest relating to economic and social policies. The definition and concept of social dialogue as practiced in different countries may vary.

2. ILO and Tripartism

Ans :

The ILO's emphasis on tripartite consultation among government, employers', and workers' representatives exercised a great moral influence on the labour policies of various countries, including India. India ratified ILO convention No. 144 in 1978, the year in which it was adopted by the ILO. The Royal Commission on Labour in India had recommended such tripartite consultation in India in the year 1931, but the British government in India did not immediately accept it.

In the wake of the Government of India Act of 1935, which placed the subject of labour in the 'concurrent list', thereby empowering provincial governments to enact their own legislation, the employers' and workers' representatives became concerned about the lack of uniformity in labour legislation and began to press for tripartite consultation. However, it was only during the Second World War that tripartite consultation on matters concerning labour was initiated particularly to meet the exigencies of war and to accelerate production.

3. Tripartism at the National Level

Ans :

In 1942, the Government invited representatives of employer's and workers organizations to participate in the tripartite Indian Labour Conference (ILC). Simultaneously, the standing Committee on Labour (SCL) was set up as a sub committee of the tripartite conference.

The basic objectives of the Government in instituting the ILC and the SLC are to

- (i) Promote uniformity in labour legislation;
- (ii) Lay down a procedure for the settlement of industrial disputes; and
- (iii) Discuss all matters of all India importance as between employers and employees.

After Independence too, the declared policy of the central Government has been to consider all major questions affecting labour in tripartite for a. The union Minister for labour is the ex-officio Chairman of both the ILC and the SLC. When the ILC was first constituted, the Government wanted to structure it on the principles governing the ILO, Viz (a) equality of representation among government and non-government representatives; (b) equality of representation between employers and employees and (c) nomination by government of those employers and employees who were not otherwise represented.

4. Tripartism at the State Level

Ans :

Most state governments have state-level tripartite advisory boards. They also have tripartite commissions for minimum wage fixation in accordance with the provisions of the ILO Convention No. 26 and the Minimum Wages Act.

Some states such as Kerala have tripartite committees for industries of major importance to the economy of the state. In Maharashtra, Kerala,

Tamil Nadu, and a few other states there are tripartite boards to regulate employment, wages, and working conditions for certain occupational categories (eg., Mathadi workers in Maharashtra and toddy tapers in Kerala).

Relative to the situation at the Centre, in general, the functioning of tripartite consultative machinery at the state level not only carries the same weakness, but also suffers because of greater apathy of social partners, particularly the government.

5. Role of government in industrial relations

Ans :

The role of the state in industrial relations is determined by its political, ideological, and socio-economic orientation. This has a direct impact on the model it adopts for economic development.

After a brief overview of divergent perspectives on the role of the state, the chapter discusses the types of interventions the government may make in the sphere of industrial relations, the means of action by the state in different aspects of industrial relations, the relationship between multinational companies and the state, and the role of the state in industrial relations. The final section summarizes the trends and the arguments for and against competitive labour policies at the state level in the context of liberalization.

Divergent Perspectives

The role of the government in industrial relations depends on its ideological (socialist, communist, capitalist, neo-capitalist persuasion), political (neo-colonial, democratic, dictatorship or military regime), and socio-economic (protectionist or neo-liberal, export-oriented policies) orientation.

The role of the state varies depending on the (early, middle, or late) state of development/industrialization and the level (international, national, industry, enterprise, or shop-floor) of interactions.

UNIT IV

Labour Legislation - I: Factories Act, 1948, Workmen's Compensation Act, 1923, ESI Act, 1948 - The Payment of Wages Act, 1936, Minimum Wages Act, 1948, The Payment of Bonus Act, 1965, National wage policy – Contemporary issues in Wage systems

4.1 FACTORIES ACT 1948

Q1. What is factors act 1948? and Explain the provisions of factories act?

Ans : (Oct./Nov.-20, Dec.-18, Imp.)

The object of the Factories Act is to regulate the conditions of work in manufacturing establishments coming within the definition of the term "factory" as used in the Act.

The first Act, in India, relating to the subject was passed in 1881. This was followed by new Acts in 1891, 1911, 1922, 1934 and 1948. The Act of 1948 is more comprehensive than the previous Acts. It contains detailed provisions regarding the health, safety and welfare of workers inside factories, the hours of work, the minimum age 6f, -workers, leave with pay etc. The Act has been amended several times.

The Act is based on the .provisions of the Factories Act of Great Britain passed in 1937.

In 1976 the Act was amended extensively. The provisions of the Amendment have been quoted and summarised at the appropriate .places in this chapter.

Application of the Act

The Factories Act of 1948 came into force on 1st April 1949; It applies to factories, as defined in. the Act, all over India, including the State of Jammu and Kashmir.

Unless 'otherwise provided, the Factories Act applies to factories belonging to the Central or any State Government. Sec. 116.

Definitions under the Factories Act

Factory

The term Factory is defined in Section 2 (m) of the Act as follows: "Factory means any premises including the precincts thereof:

- (i) whereon ten or more workers are working, or were work-ing on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on, or
- (ii) whereon twenty or more workers are working, or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on without the aid of power, or is ordinarily so carried on, but does not include a mine subject to the operation of the Indian Mines Act, 1952 (Act XXXV of 1952), or a mobile unit belonging to the armed forces of the Union, a railway running shed or a hotel, restaurant or eating place.

Explanation

For computing the number of workers for the purposes of this clause all the workers in different relays in a day shall. be taken into account.

Under Section 85, the State Government is empowered to declare any establishment carrying on a manufacturing process to be a factory for the purposes of the Act even though it employs less than the prescribed minimum number of workers, provided that the manufacturing process is not being carried on by the owner only with the aid of his family.

Manufacturing Process

This term is defined in Section 2(k) in a very wide sense. It includes :

- (i) making, altering, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing, or otherwise treating or adopting any article or substance with a view to its use, sale, transport, delivery or disposal; or
- (ii) pumping oil, water, sewage or any other substance; or
- (iii) generating, transforming or transmitting power; or
- (iv) composing types for printing, printing by letter press, lithography, photogravure or other similar processes or book binding ; or
- (v) constructing, reconstructing, repairing, refitting, finishing or breaking up ships or vessels ; or
- (vi) preserving or storing any article in cold storage.

For the corresponding section of the English Act, it was held that the different processes enumerated in the clauses are merely illustrative so that laundries, carpet beating, or bottle washing works come within the Act, if mechanical power is used.

Provisions of Factories Act 1948

A) Statutory Provisions under the Factories Act, 1948

The Factories Act, 1948, insists that the following preventive measures must be adopted in industrial establishments:

- (i) **Cleanliness:** Every factory should be kept clean and free from effluvia - from drain and privy refuse, and from dirt. It should be whitewashed at least once in 14 months or painted at least once in five years. Floors should be swept and cleaned, at least once every week, with some disinfecting fluid.

- (ii) **Disposal of wastes and effluents:** Effective arrangements should be made for their disposal and/or treatment.

- (iii) **Ventilation and temperature:** Provision should be made for the circulation of fresh air, and temperature should be maintained by building walls and roofs of such materials as would keep it within reasonable limits. High temperature may be controlled by whitewashing, spraying and insulating the factory premises and by screening outside walls, roofs and windows.

- (iv) **Dust and fumes:** Effective measures should be taken to prevent, or at any rate reduce, the inhalation and accumulation of dust and fumes. Exhaust appliances should be used near the point of the origin of dust and fumes.

- (v) **Lighting:** Sufficient and suitable lighting, natural or artificial or both should be made available in the factory premises.

- (vi) **Overcrowding:** No room should be overcrowded. There should be at least 500 cu. ft. of space for every worker.

- (vii) **Drinking water:** A sufficient quantity of cool drinking water should be made available for the employees throughout the year, particularly during the hot summer months.

- (viii) **Latrines and urinals:** Adequate latrines and urinals should be separately provided for men and women employees.

- (ix) **First aid appliances:** There should be an adequate number of boxes containing first aid materials, qualified personnel to administer first aid, and an ambulance or at least a room where an injured employee may be given first aid.

B) Provisions Regarding the Health of Workers

Sections 11 to 20 of the Act contain certain provisions intended to ensure that the conditions under which work is carried on in factories do not affect the health of the workers injuriously. The summary of the provisions are explained below :

Summary of the provisions of the Factories Act. relating to the health of workers are stated below.

1. Cleanliness

Every factory shall be kept clean and free from dirt, and the outflow of drains etc. The floors must be cleaned. Drainage shall be provided. Inside walls, partitions and ceilings must be repainted at least once in five years. When washable water paint is used they must be painted once every three years and washed at least every period of six months. - Sec. 11, as amended in 1976.

2. Disposal of Wastes and Effluents

The waste materials produced from the manufacturing process must be effectively disposed off. - Sec. 12.

3. Ventilation and Temperature

There must be provision for adequate ventilation by the circulation of fresh air: The temperature must be kept at a comfortable level. Hot parts of machines must be separated and insulated. - Sec. 13.

4. Dust and Fume

If the manufacturing process used, gives off injurious or offensive dust and fume steps must be taken so that they are not inhaled or accumulated. The exhaust fumes of internal combustion engines must be conducted outside the factory. - Sec. 14.

5. Artificial humidification

The water used for this purpose must be pure. It must be taken from some source of drinking water supply. The State Government can frame rules regarding the process of humidification etc. - Sec. 15.

6. Over Crowding

There must be no overcrowding in a factory. In factories existing before the commencement of the Act there must be at least 350 c.ft. (or 55 cubic metres) of space per worker. For factories built afterwards, there must be at least 500 c.ft. (or 75 cubic metres) of space. In calculating the space, an account is to be taken of space above 14 ft. (or 5 metres) from the floor. - Sec. 16.

7. Lighting

Factories must be well lighted. Effective measures must be adopted to prevent glare or formation of shadows which might cause eyestrain. - sec. 17.

8. Drinking Water

Arrangements must be made to provide a sufficient supply of wholesome drinking water. All supply points of such water must be marked "drinking water". No such points shall be within 20 ft. (or 7.5 metres) of any latrine, washing place etc. Factories employing more than 250 workers must cool the water during the hot weather. - Sec. 18.

9. Latrines and Urinals

Every factory must provide sufficient number of latrines and urinals. There must be separate provision for male and female workers. Latrine and urinals must be kept in a clean and sanitary condition. In factories, employing more than 250 workers, they shall be of prescribed sanitary types. - sec. 19.

C) Provisions Regarding the Safety of Workers

Sections 21 to 40A, 40B and 41 of the Act lay down rules for the purpose of securing the safety of workers. Summary of the provisions of the Factories Act regarding the safety of the workers are stated below: (Sections 21 to 41) .

1. Fencing to Machinery

All dangerous machinery must be securely fenced e.g., moving parts of prime movers and flywheels connected to every prime mover, electric generators, etc. - Sec. 21.

2. Work on or near machinery in motion

Work on or near machinery in motion must be carried out only by specially trained adult male workers wearing tightly fitting clothes.-Sec. 22.

3. Employment of young persons on dangerous machines

No young person shall work at any dangerous machine unless he has been specially instructed as to the dangers and the precautions to be observed. has received sufficient training about the work. and is under the supervision of some person having thorough knowledge and experience of the machine.-Sec. 23.

4. Striking gear and devices for cutting off power

In every factory suitable devices for cutting off power in emergencies from running machinery shall be provided and maintained in every work-room. Sec. 24.

5. Self-acting machines

Moving parts of a self-acting machine must not be allowed to come within 45 cms. of any fixed structure which is not part of the machine.-Sec. 25.

6. Casing of new machinery

In all machinery installed after the commencement of the Act. certain parts must be sunk, encased or otherwise effectively guarded e.g., set screw, bolt, toothed gearing etc. -sec. 26.

7. Women and children near cotton Openers

Women and children must not be allowed to work near cotton openers, except in certain cases.-Sec. 27

8. Hoists, lifts, chains etc.

Every hoist and lift must be so constructed as to be safe. There are detailed rules as to how such safety is to be secured. There are similar provisions regarding lifting machines, chains, ropes and lifting tackle .Sec. 28. 29.

9. Revolving machinery

Where grinding is carried on the maximum safe working speed of every revolving machinery connected therewith must be notified. Steps must be taken to see that the safe speed is not exceeded.-Sec. 30.

10. Pressure plant

Where any operation is carried on at a pressure higher than the atmospheric pressure, steps must be taken to ensure that the safe working pressure is not exceeded - Sec. 31.

11. Floors, stairs and means of access

All floors, steps, stairs, passage and gangways shall be of sound construction and properly maintained. Handrails shall be provided where necessary. Safe means of access shall be provided to the place where the worker will carry on any work.-Sec. 32.

12. Pits, sumps

Openings in floors etc. Pits, sumps, openings in floors etc. must be securely covered or fenced.-Sec. 33.

13. Excessive weights

No worker shall be made to carry a load so heavy as to cause him injury.-Sec. 34.

14. Protection of eyes

Effective screen or suitable goggles shall be provided to protect the eyes of the worker from fragments thrown off in course of any manufacturing process and from excessive light if any.-Sec. 35.

15. Precautions against dangerous fumes

No person shall be allowed to enter any chamber, tank etc. where dangerous fumes are likely to be present, unless it is equipped with a manhole or other means of going out. In such space no portable electric light of more than 24 volts shall be used. Only a lamp or light of flame proof construction can be used in such space. For people entering such space suitable breathing apparatus, reviving apparatus etc. shall be provided. Such places shall be cooled by ventilation before any person is allowed to enter.-Secs. 36 and 36A.

16. Explosive or inflammable gas etc. where a manufacturing process produces inflammable gas, dust, fume, etc. steps must be taken to enclose the machine concerned, prevent the accumulation of substances and exclude all possible sources of ignition. Extra precautionary measures are to be taken where such substances are worked at greater than the atmospheric pressure.-Sec. 37.

17. Precaution in case of fire

Fire escapes shall be provided. Windows and doors shall be constructed to open outwards. The means of exit in case of the fire shall be clearly marked in red letters. Arrangements must be made to give warning in case of fire -sec. 38

18. Specifications of defectives etc. and safety of buildings and machinery. If any building or machine is in a defective or dangerous condition, the inspector of factories can ask for the holding of tests to determine how they can be made safe. He can also direct the adoption of the measure necessary to make them safe. In case of immediate danger, the use of the building or machine can be prohibited.-Secs. 39, 40.

19. Maintenance of Buildings

If the Inspector of Factories thinks that any building in a factory, or any part of it, is in such a state of disrepair that it is likely to affect the health and welfare of the workers. He may serve on the occupier or manager or both in writing specifying the measures to be done before the specified date.- Sec. 40A.

20. Safety Officers

The State Government may notify to the occupier to employ a number of Safety Officers in a factory (i) wherein one thousand or more workers are ordinarily employed, or (ii) wherein any manufacturing process or operation which involves the risk of bodily injury, poisoning, disease or any other hazard to health of the persons employed in the factory .-Sec. 40B.

21. Rules

The State Government may make rules providing for the use of such further devices for safety as may be necessary.- Sec. 41.

D) Provisions Regarding the Welfare of Workers

Summary of the provisions of the Factories Act regarding the welfare of workers are stated below:

1. Washing

In every factory adequate and suitable facilities for washing shall be provided and maintained. They shall be conveniently accessible and shall be kept clean. There must be separate provisions for male and female workers.-Sec. 42.

2. Storing and Drying

The State Government may make rules requiring the provision of suitable facilities for storing and drying clothing.-Sec. 43.

3. Sitting

Sitting facilities must be provided for workers who have to work in a standing position. So that they may take rest when possible. When work can be done in a sitting position efficiently the Chief Inspector may direct the provision of sitting arrangements.- Sec. 44.

4. First aid

Every factory must provide first aid boxes or cupboard. They must contain the prescribed materials and they must be in charge of persons trained in first aid treatment. Factories employing more than 500 persons must maintain an ambulance room containing the prescribed equipment and in charge of the prescribed medical and nursing staff.-Sec. 45.

5. Canteens

Where more than 250 workers are employed. The state Government may require the opening of canteen or canteens for workers. Rules may be framed regarding the food served, its management etc.,-Sec. 46.

6. Shelters

In every factory where more than 150 workers are employed there must be provided adequate and suitable shelters or rest. rooms and a lunch room (with drinking water supply) where workers may eat meals brought by them. Such rooms must be sufficiently lighted and ventilated and must be maintained in a cool and clean condition. The standards may be fixed by the State Government. -Sec. 47.

7. Creches

In every factory where more than 30 women are employed, a room shall be provided for the use of the children (below 6 years) of such women. The room shall be adequate size, well lighted and ventilated, maintained in a clean and sanitary condition and shall be in charge of a woman trained in the care of children and infants. The standards shall be laid down by the State Government. -Sec. 48.

8. Welfare Officers

Welfare officers must be appointed in every factory where 500 or more workers are employed. The State Government may prescribe the duties, qualifications etc. of such officers. - Sec. 49.

9. Rules

The State Government may make rules regarding the welfare of workers. -Sec. 50.

Q2. What are rules regarding employment of adults?

Ans :

1. Night Shifts

Where a worker in a factory works on a shift which extends beyond midnight,

- (a) His weekly holiday and compensatory holiday means a period of holiday for 24 consecutive hours beginning when his shift ends.
- (b) The following day for him shall be deemed to be the period of 24 hours beginning when such shift ends and the hours he has worked after midnight shall be counted in the previous day. -sec. 57

2. Overlapping Shifts

Work shall not be carried on in any factory by means of a system of shifts so arranged. That more than one relay of workers is engaged in work of the same kind at the same time. The State Government or the Chief Inspector may grant exemption from this rule. -Sec. 58.

3. Double Employment

No adult worker shall be required or allowed to work in any factory on any day on which he has already been working in any other factory, save in such circumstances as may be prescribed. -Sec. 60.

4. Notice of Periods of Work

There must be displayed in every factory a notice showing periods of work of adults, classification of workers in groups according to nature of their work, shifts and relays etc. Change made in the system of work must be notified to the Inspector before change. The manager of every factory must maintain a Register of Adult Workers showing the name of each worker, the nature of his work, the group in which he is included, the relay in which he is allotted etc. The hours of work of an adult worker- must correspond with the notice referred to above and the Register. -Sections 61, 62, 63.

No adult worker shall be required or allowed to work in any factory unless his name and other particulars have been entered in the register of adult workers. -Sec. 62 (1A) added by the Factories (Amendment) Act, 1976.

5. Exemptions

By sections 64 and 65, the State Government has been given power to exempt for limited periods certain factories from compliance with some of the provisions relating to hours of work and employment.

Such exemptions are necessary in special cases, for example in the case of workers engaged in urgent repairs or in preparatory and complementary work. In some industries work is of an intermittent character and the enforcement of all the rules stated above will

create hardship. The nature of the work in certain industries requires exceptional treatment, e.g., workers engaged in engine rooms and boilers or in the printing of newspapers. The State Government may exempt persons holding positions of supervision and management or in confidential positions in a factory from the operation of the rules regarding working hours (except the rule against the employment of women at night).

6. Confidential Position

The State Government may empower the Chief Inspector to declare a person other than any person defined by such rules, as a person holding position of supervision or management or employed in a confidential position in a factory, if, -the Chief Inspector is of opinion that he can be employed.

If any such person does not get more than Rs. 750 p.m. as wages, he will be entitled to extra wages for overtime work.-Sec. 64(1), added by The Factories (Amendment) Act, 1976.

7. Hours and Spread over

Any exemption granted under Sec. 65 (2) shall be subject to the following conditions, namely :-

- (i) the total number of hours of work in any day shall not exceed twelve ;
- (ii) the spread over, inclusive of intervals for rest, shall not exceed thirteen hours in any one day ;
- (iii) the total number of hours of work in any week, including overtime, shall not exceed sixty ;
- (iv) no worker shall be allowed to work overtime, for more than seven days at a stretch and the total number of hours of overtime work in any quarter shall not exceed seventy -five-Sec. 65(3), Factories (Amendment) Act, 1976.

8. Quarter

This is a period of three consecutive months beginning on the 1st January, the 1st of April, the 1st of July or the 1st of October.-Sec. 64.

Q3. What are the restrictions on the employment of women?

Ans :

By section 66 the following restrictions have been imposed to women workers :

(a) Maximum daily work is 9 hours

No exemption from the provisions of Section 54 (which lays down that the maximum daily hours of work shall be nine hours) can be granted in respect of any women.

(b) Prohibition of night work

No women shall be required or- allowed to work in any factory except between the hours of 6 a.m. and 7 p.m. The State Government may by notification in the official Gazette vary the limits for any factory or group or class or description of factories. But such variation must not authorise the employment of women between the hours 10 p.m. and 5 a.m.

(c) Change of shift only after holiday

There shall be no change of shifts for women except after a weekly holiday or any other holiday.

Exception

There is an exceptional case. The State Government may make rules providing for the exemption from the a foreoaid restrictions (wholly or partially or conditionally) of women working in fish-curing or fish-canning factories. In factories, mentioned above, the employment of women beyond the hours specified is necessary to prevent damage to or deterioration in any raw material. But such rules shall remain in force for not more than three years at a time.

Other Restrictions

There are other restrictions on the employment of women workers :

1. Work on or near machinery in motion

No woman or young person shall be allowed to clean, lubricate or adjust any part of the machinery while the prime mover or transmission machinery is in motion or to

work between moving parts, or between fixed and moving parts of any machinery which is in motion.-Sec. 22(2). (See p. 16.)

2. Cotton openers

No woman or child shall be employed in any part of a factory for pressing cotton in which a cotton opener is at work. If the feed-end of a cotton opener is in a room separated from the delivery-end by a partition extending to the roof or to such height as the Inspector may in a particular case specify in writing, women and children may be employed on the side of the partition where the feed-end is situated.-Sec. 27. (See p. 18.)

3. Excessive weights

The State Government may make rules prescribing the maximum weights which may be lifted, carried, or moved by adult men, adult women, adolescents and children employed in factories or in any class or description of factories or in carrying on any specified process.-Sec. 34. (See p. 21.)

4. Creches

In every factory wherein more than thirty women workers are ordinarily employed there shall be provided and main- trained a suitable room or rooms for the use of children under the age of six years of such women.-Sec. 48. (See p. 30.)

5. Dangerous operations

The State Government is empowered to make special rules for the purpose of controlling and regulating factories which carry on operations exposing women, young persons and other workers to a serious risk of bodily injury, poisoning or disease.-Sec. 87 (b). (See p. 43.)

Q4. Explain about employment of women under factories Act 1948.

Ans :

Employment of Women

Certain restrictions have been placed under the Act on the employment of women. For example:

(a) Hours of Work

- (i) No women can be allowed to work for more than the maximum daily hours of work, i.e., nine hours a day.
- (ii) No woman shall be employed in any factory except between the hours of 6 a.m. and 7 p.m. The State Government may be notification in the Official Gazette vary the limits for particular factories. But such provisions must not authorise the employment of women between the hours of 10 p.m. and 5 a.m.
- (iii) There shall be no change of shifts for women except under a weekly holiday or any other holiday.

(b) Work on or near Machinery in Motion

No woman shall be allowed to clean, lubricate or adjust any part of the machinery while the prime-mover or transmission machinery is in motion or to work between moving parts, or between fixed and moving parts of any machinery which is in motion, and is likely to expose her to the risk of injury from any moving part [Section 22(2)].

(c) Prohibition of Employment of Women near Cotton Openers

No woman shall be employed in any part of a factory for pressing cotton in which a cotton-opener is at work (Section 27).

(d) Excessive Weights?

The State Government may make rules prescribing the maximum weights which may be lifted, carried or moved by adult men, adult women, adolescents and children employed in factories or in carrying on any specified process.

(e) Creches

In every factory wherein more than thirty women workers are ordinarily employed, there shall be provided and maintained a suitable room or rooms for the use of children under the age of six years of such women (Section 48).

(f) Dangerous Operations

When the State Government declares any operation in any factory as dangerous or injurious to the health of women, it may make rules prohibiting or restricting the employment of women in that operation [Section 87(b)].

Q5. What are the penalties and procedure under factories Act?

Ans :

Penalties and Procedure**(i) General Penalty for Offences (Section 92)**

If any factory does anything contrary to the provisions of the Act or does anything against the Rules, the occupier and manager of the factory shall each be guilty of an offence and punishable with imprisonment for a term which may extend to two years or fine which may extend to one lakh rupees or both; and if the contravention is continued after conviction, a further fine which may extend to rupees one thousand for each day in which the contravention is so continued.

(ii) Liability of the Owner (Section 93)

Wherein any premises separate buildings are leased to different occupiers for use as separate factories, the owner of the premises shall be responsible for the provision and maintenance of common facilities and services, such as approach road, drainage, water supply, lighting, sanitation, washing facilities etc. The State Government may order the owner to provide for these within the specified time, if these do not exist.

(iii) Penalty after Previous Conviction (Section 94)

If any person repeats an offence, amounting to contravention of the same provision, he shall be punishable with an imprisonment for a term which may extend upto three years or fine which shall not be less than rupees ten thousand but which may extend to two lakh rupees or both.

Where as a result of contravention of any provisions, any accident occurs causing death or serious bodily injury, the fine shall not be less than thirty-five thousand rupees in the case of death and ten thousand rupees in the case of serious bodily injury.

(iv) Penalty for Obstructing Inspectors (Section 95)

Whoever wilfully obstructs the Inspector from exercising any power conferred on him, or fails to produce any registers or other documents on demand, or conceals or prevents any worker in a factory from appearing before or being examined by an Inspector, shall be punishable with imprisonment up to six months or with a fine which may extend to ten thousand rupees or both.

(v) Penalty for Leakage of Information (Section 96)

Whosoever publishes, or discloses to any person the results of the analysis of the samples taken by the Inspector shall be punishable with imprisonment up to three months or a fine up to five hundred rupees or both.

(vi) Offence by Workers (Section 97)

If any worker employed in a factory contravenes any provisions of the Act or any rules or orders, he shall be punishable with a fine which may extend up to five hundred rupees.

(vii) Penalty for Using False Certificates of Fitness (Section 98)

If any person knowingly uses or attempts to use a certificate of fitness, granted to himself or to another person, he shall be punishable with imprisonment up to two months or fine up to one thousand rupees or with both.

(viii) Penalty for Permitting Double Employment of a Child (Section 99)

If a child works in a factory on any day on which he has already been working in another factory, the parent or guardian of the child shall be punishable with fine up to one thousand rupees, unless it appears that the child has so worked without the consent or connivance of such parent.

(ix) Presumption as to Employment

A person who is found in the factory when the factory is going on or the machine is in motion, except during the time of meal or rest, is presumed to be employed in the factory until the contrary is proved. (Section 103).

(x) Onus as to One's Age (Section 104)

When in the opinion of the court, a person is prima facie under-age, the burden shall be on the accused to show that such a person is not under-age.

Q6. What are the other provisions of the factories act?

Ans :

A brief summary is given below of the other provisions of the Factories Act.

1. Departments as Factories

The State Government may, upon application, declare that for the purposes of the Act, different departments or branches of a factory shall be treated as separate factories or that two or more factories of the occupier shall be treated as the same factory. Sec. 4. .

2. Exemption during Public Emergency

Factories or any class of factories may be exempted from the operation of any of the provisions of the Act during a public emergency (except that of Sec. 67, employment of children) for such periods and subject to such conditions as the Government may think fit. The exemption is to be made by notification in the official Gazette for a period not exceeding three months at a time. - Sec. 5.

Explanation.-For the purposes of this section "public emergency" means a grave emergency whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance.- Amendment of 1976.

3. Exemption of Public Institutions

The State Government may exempt subject to such conditions as it may consider necessary, any workshop or workplace where a manufacturing process is carried on and which is attached to a public institution maintained for the purposes of education, training, research or reformation from all or any of the provisions of the Act.. But no exemption is to be granted from the provisions relating to hours of work and holidays unless there is a scheme relating to such matters containing rules not less favourable to the workers than the provisions of the Act.-Sec. 86.

4. Dangerous Operations

The State Government is empowered to make special rules for the purpose of controlling and regulating factories which carry on manufacturing process or operation exposing workers to a serious risk of bodily injury, poisoning or disease.- Sec. 87. Rules have been made providing for medical examination, protection of workers; restricting and controlling the use of particular materials and processes; payment of fees for medical examination by the occupier ; welfare amenities ; sanitary amenities ; measures to avoid imminent danger of poisons or toxicity.

5. Notifiable Accidents

- (i) The manager of a factory must send a notice to the authorities whenever an accident occurs which causes death or which causes bodily injury preventing the worker from work-ing for a Period of 48 or more hours or other types of injury which may be specified by rules.
- (ii) Where a notice given under sub-section (1) relates to an accident causing death, the authority to whom the notice is sent shall make an inquiry into the occurrence within one month of the receipt of the notice or, if such authority is not the Inspector, cause the Inspector to make an inquiry within the said period.

- (iii) The State Government may make rules for regulating the procedure at inquiries under this section.—Sec. 88.

[Paras 2 and 3 had been added by the Amendment of 1976].

6. Notice of certain dangerous occurrences

Where in a factory any dangerous occurrence of such nature as may be prescribed occurs, whether causing any -bodily injury or disability or not, the manager of the factory shall send notice thereof to such authorities, and in such form and within such time, as may be prescribed.—Sec. 88A, Factories (Amendment) Act, 1976.

7. Notifiable Diseases

The manager of a factory must send notice to the authorities _ whenever a worker contacts any -of the diseases mentioned in the Schedule to the Act. (These are known as Occupational Diseases. Examples: poisoning by lead, mercury, phosphorus etc.; anthrax; silicosis; cancer of the skin; toxic anaemia or jaundice; etc.). The medical practitioner attending the person, if any, shall without delay send a report to the Chief Inspector in writing, stating "the name of the person affected and other particulars.—Sec. 89.

8. Enquiry into Accidents and Diseases

The State Government may appoint a competent person to enquire into the causes of any 'accident occurring in a factory or of a notifiable disease, and may also appoint one or more persons possessing legal or special know-ledge to. act as assessors in such enquiry. The person appointed to enquire can call witnesses like a Civil Court and exercise any of the powers of an Inspector. He must submit a report to the State Government, together with his observations. The report or extracts therefrom may be published.—Sec. 90.

9. Safety and Occupational Health Survey

The State Govern-ment or the Director General of Factory Advice Service and

Labour Institutes etc., can employ the Chief Inspector and certain other persons to undertake safety and occupational health surveys. The occupier and manager and all other persons shall afford all facilities for such survey, including examination, testing of plant and machinery, collection of samples, other data, medical examination of persons calculation of wages and extra wages for overtime work.—Sec. 91A, added by The Factories (Amendment) Act, 1976.

10. Penalties and Procedures

Sections 92 to 1.06 lay down the rules regarding penalties for offences against the Act.

(i) Owner

The owner of any premises, let out for use as different factories, is responsible for the provision and maintenance of com-mon facilities and 'Services, e.g., approach roads, drainage, water supply, latrines etc.

(ii) Occupier

In most cases the occupier of the factory is responsible for offences committed against the Act. But the occupier is exempted from liability if he can show that he has used due diligence to enforce the execution of the Act and that some other person committed the offence without his knowledge, consent or connivance.

4.2 WORKMEN'S COMPENSATION ACT 1923

Q7. Discuss about workmen's compensation Act 1923.

Ans :

(Oct./Nov.-20, Imp.)

Workmen's Compensation Act, 1923

The Workmen's Compensation Act, 1923 provides for payment of compensation to workmen and their dependents in case of injury and accident (including certain occupational disease) arising out of and in the course of employment and resulting in disablement or death. The Act applies to railway servants and persons employed in any such capacity

as is specified in Schedule II of the Act. The schedule II includes persons employed in factories, mines, plantations, mechanically propelled vehicles, construction works and certain other hazardous occupations.

The amount of compensation to be paid depends on the nature of the injury and the average monthly wages and age of workmen. The minimum and maximum rates of compensation payable for death (in such cases it is paid to the dependents of workmen) and for disability have been fixed and is subject to revision from time to time.

A Social Security Division has been set up under the Ministry of Labour and Employment, which deals with framing of social security policy for the workers and implementation of the various social security schemes. It is also responsible for enforcing this Act. The Act is administered by the State Governments through Commissioners for Workmen's Compensation.

The main provisions of the Act are

1. An employer is liable to pay compensation

- (i) if personal injury is caused to a workman by accident arising out of and in the course of his employment;
- (ii) if a workman employed in any employment contracts any disease, specified in the Act as an occupational disease peculiar to that employment.

2. However, the employer is not liable to pay compensation in the following cases:

If the injury does not result in the total or partial disablement of the workman for a period exceeding three days.

If the injury, not resulting in death or permanent total disablement, is caused by an accident which is directly attributable to:-

- (i) the workman having been at the time of the accident under the influence of drink or drugs; or
- (ii) the willful disobedience of the workman to an order expressly given, or to a rule expressly framed, for the purpose of securing the safety of workmen; or

- (iii) the willful removal or disregard by the workman of any safety guard or other device which has been provided for the purpose of securing safety of workmen.

- 3. The State Government may, by notification in the Official Gazette, appoint any person to be a Commissioner for Workmen's Compensation for such area as may be specified in the notification. Any Commissioner may, for the purpose of deciding any matter referred to him for decision under this Act, choose one or more persons possessing special knowledge of any matter relevant to the matter under inquiry to assist him in holding the inquiry.
- 4. Compensation shall be paid as soon as it falls due. In cases where the employer does not accept the liability for compensation to the extent claimed, he shall be bound to make provisional payment based on the extent of liability which he accepts, and, such payment shall be deposited with the Commissioner or made to the workman, as the case may be.
- 5. If any question arises in any proceedings under this Act as to the liability of any person to pay compensation (including any question as to whether a person injured is or is not a workman) or as to the amount or duration of compensation (including any question as to the nature or extent of disablement), the question shall, in default of agreement, be settled by a Commissioner. No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by a Commissioner or to enforce any liability incurred under this Act.
- 6. The State Government may, by notification in the Official Gazette, direct that every person employing workmen, or that any specified class of such persons, shall send at such time and in such form and to such authority, as may be specified in the notification, a correct return specifying the number of injuries in respect of which compensation has been paid by the employer during the previous year and the amount of

such compensation together with such other particulars as to the compensation as the State Government may direct.

7. Whoever, fails to maintain a notice-book which he is required to maintain; or fails to send to the Commissioner a statement which he is required to send; or fails to send a report which he is required to send; or fails to make a return which he is required to make, shall be punishable with fine.

4.3 ESI ACT 1948

Q8. Explain about ESI Act 1948.

Ans : (Oct./Nov.-20, Imp.)

The ESI Act provides for certain benefits to employees in case of sickness, maternity, injury during employment, and related matters. The Act applies to all factories, other than seasonal factories, that run with power and employ 20 or more persons. The coverage of the Act has been extended to several classes of establishments, viz., electrical power-using factories employing 10 or more workers and non-power factories employing 20 or more workers, shops, theatres, cinemas, hotels, restaurants, etc. employing 20 or more persons, in several states. It covers all employees whose remuneration in aggregate does not exceed Rs 6,500 a month.

The administration of the Employees' State Insurance Scheme (ESIS), framed under the Act, has been entrusted to the Employees' State Insurance Corporation (ESIC), an autonomous body set up by an Act of the Parliament. The ESIS Board consists of representatives of central and state governments, employers, employees, medical professionals, and the parliament. The ESIS has set up regional boards in all states including a network of offices at various levels and it operates from over 520 centers throughout the country. About 75 lakh persons' family units (i.e., insured employee households) have been covered under the scheme.

Benefits of ESI Act

The scheme provides the following social security benefits admissible under ESI Act, 1948 and financed through contribution from concerned employers and employees.

1. Sickness cash benefits About half the wages up to 90 days' sickness.
2. Maternity benefits All insured women are entitled to benefits which are equal to full wages for leave up to 12 weeks, of which not more than six weeks must precede the expected date of confinement.
3. Dependents benefits These are also provided under the Workmen's Compensation Act. If a person dies from employment injuries, the dependents are entitled to compensation to be paid in a certain ratio to the widow and the minor children and any other dependents.
4. Funeral benefit When an insured person dies, during the period he or she is insured, the eldest member of the family or other dependant or friend as the case may be, is entitled to Rs100 to meet funeral expenses.

The Act contains deterrent provisions including fine and compulsory imprisonment for any default in payment of contribution by the employer.

The main provisional of the Act are:

- Regulate the working conditions of labor in factories.
- Ensure basic minimum requirements for the safety, health and welfare of workers.
- Enforce compulsory approval, licensing and registration of factories to regulate the establishment and growth of factories.
- Provide guidelines on the health measures, safety measures and welfare measures to be taken by the management.
- Regulate the working hours of employees to provide for adequate rest.
- Regulate the employment of women and young persons.
- u Provide guidelines to the management for employee benefits like annual leave provision.
- Provide guide lines to prevent and deal with accident or occupational diseases and also for handling dangerous operations.

4.4 THE PAYMENT OF WAGE ACT 1936

Q9. Discuss about the payment of wage act 1936.

Ans : (Oct./Nov.-20, Imp.)

Payment of Wages Act 1936

The payment of Wages Act, 1936 regulates the payment of wages to certain classes of persons employed in industry. It was formed to ensure that the wages payable to employees covered by the Act are disbursed by the employer within the prescribed time limit and that no deductions other than those authorized by law are made by the employer. As of 1 January 1996, the law was last amended through the Payment of Wages (Amendment) Act, 1982, which came into effect on 15 October 1982.

Main provisions of the act are given below.

1. Coverage

The Act applies to persons employed in any factory and persons employed in the railways, either directly or through a sub-contractor. Further, the state governments are employed to extend the provisions of the Act to cover persons employed in any industrial establishment or any class or group of industrial establishments as defined in the Act. The wage limit for the applicability of the Act is Rs. 6,500.00 per month.

2. Definition of factory and industrial establishment

The term 'factory' refers to factory as defined in Clause (m) of section 2 of the Factories Act, 1948, and includes situations to which the provisions have been applied under Section 85 (I) of the Act, 'Industrial establishment' refers to a tramway service, dock, mine, quarry oil field, plantation, workshop for production, adaptation, manufacture of articles for use, transport, sale; construction industry covering buildings, roads, bridges, canals; operation connected with navigation, irrigation, supply of water, and the generation, transmission, and distribution of electricity or any other form of power.

3. Responsibility for payment of wages

Employers, Managers of factories, and/or the persons responsible for the supervision and control of the industrial or other establishments are responsible for the payment of wages.

4. Fixation of wage periods

Those responsible for payment of wages shall fix the wage periods in respect of which wages are payable and such periods should not exceed one month.

5. Time of wage payment

Time for the payment of wages is fixed under the law. In a factory in which less than one thousand persons are employed, wages should be paid before the expiry of the seventh day from the last wage period. On written request, payment may be made either by cheque or by crediting the wages to the bank account of the concerned employee.

6. Deductions

Deductions from the wages of an employed person may be made for reasons such as fines, absence from duty, deductions for damage or loss, house accommodation, amenities and services, recovery of advances or loans, income tax, court order, co-operative societies, LIC premium, Fidelity Guarantee Bonds, Prime Minister's National Relief Fund, trade union subscription, etc. The total amount of deductions in any wage period should not exceed 75% of wages if the deductions are made for payments to co-operative societies, otherwise, these should not exceed 50% of wages.

7. Claims

Where, contrary to the provisions of this Act, any deductions have been made from the wages of an employee, or any payment of wages has been delayed, such persons may apply for direction. Application must be made within 12 months from the date of deduction or from the date on which the payment was due. The authority may, after hearing both the persons, direct the payment. Compensation may be ten times the amount deducted or Rs. 25 in case of delayed wages.

8. Penalties

Penalties have been provided for contravention of various provisions of the Act, varying from a fine of Rs. 500 to Rs. 1000. For failing to maintain prescribed registers or records, refusing to give information, or furnishing false information, punishment may be in the form of a fine which may extend to Rs. 500. For obstructing an Inspector, refraining to produce any document for the inspector, or preventing anybody from appearing before or being examined by an Inspector, punishment may be a minimum fine of Rs. 200 and may extend upto Rs. 1000.

9. Contracting Out

Any contract or agreement, whether made before or after the commencement of this Act, whereby an employed person relinquishes any right conferred by this Act shall be null and void in so far as it purports to deprive him/her in such rights.

10. Payment of undisbursed wages

If the wages due to an employee cannot be paid on account of his/her death before payment or on account of his/her whereabouts being unknown, the same are payable to the person nominated by him/her or, where no such nomination has been made, the amount due is to be deposited with the prescribed authority who shall deal with the amounts so deposited in such manner as may be prescribed.

Types of Deductions under the payment of Wage Act 1936

Employee's wages are deducted only by those types deductions which are specified under the payment of wages Act.

The different types of deductions permitted under the payment of wages Act, 1936 are discussed below.

1. Fines (Section-8)

The various provisions with respect to fines are listed down below,

- i) A notice will be displayed which contains information pertaining to acts and negligence which are subject to fines. The notice is displayed within the premises or the place wherein employment is undertaken.
- ii) The total amount of fine imposed on an employee in one wage period should not be more than 3% of the wages payable to worker in one wage period.
- iii) Fines are not to be collected in installment basis. Fines cannot be collected if 60 days are crossed from the date on which fine was imposed.
- iv) The fines imposed on and fines collected from workers are recorded in a register in a specified format, recording is done by the person who is responsible to pay wages to workers.
- v) Except for acts and negligence specified by state government, employer or prescribed authority, no fine will be imposed on other acts and omissions.
- vi) Before imposing fine of a worker, workers should be given opportunity to reveal his acts and omission which resulted in payment of fine.
- vii) An individual who has not crossed 15 years of age is not liable to pay fine. In other words, employees will not impose fine on an individual who has not crossed 15 years of age.
- viii) Fine is imposed on the day on which the act or omission taken place.

2. Deductions from Wages in Case of Absent (Section-9)

The provisions relating to this are,

- i) In spite of coming to the duty, if an employee refuses to do any work due strike or any other causes to the in this situation that employee is considered as absent from duty.
- ii) If an employee get absent to the duty without any prior permission and with unreasonable reason the this situation,

the amount deducted from wage payment of that employee should not be more than days wages of the employee.

- iii) Deductions might be made from an employee's wages when he get absent to the duty from the place or from place where employee is supposed to work.
- iv) The ratio of deduction for absent from duty and the wages to be paid should be lesser than or equal to ratio of absence period and total wage period.

3. Deductions in Case of Damage or Loss (Section-10)

The provisions with respect to this are,

- i) A deduction from employee wages for damage or loss should not be more than the damage or loss suffered by employer due to negligence of employee.
- ii) The information pertaining to deductions made for damages or loss are maintained in a record form individual who is liable to pay wages to its workers/employees.
- iii) If an employee is give some goods or money to keep in his custody and some damage or loss occurrence to those goods or money due to employee negligence or default than that person wages are deducted for such damages or loss.
- iv) A person wages are deducted for damage or loss only after giving chance to him to reveal the behind such damage or loss.

4. Deductions from Wages for Accommodation and Service (Section-11)

Employer can make deductions from wages for accommodation and services provided of the employee but under below mentioned conditions.

- i) Supply of raw materials and tools for carrying out work does not come under service no deductions are made for such things.

- ii) The amenities and services for which deductions can be made should be declared as authentic by state government through general or special order.
- iii) Employer cannot be made deductions for services till the employee accepts that such services are on among the terms and conditions of his employment.
- iv) State governments are given power to set rules to regulate deduction for amenities and services.
- v) The deduction amount should not be more than the value of accommodation, amenities and services provided to employee by employer.

5. Deductions from Wages for Recovery of Advance (Section-12)

Deductions can be made from wages for recovery of advances but under below mentioned conditions.

- i) Deductions for recovery of advances are subject to conditions specified by the state government.
- ii) The advantage given before employment will be recovered from first payment of wages. The advance given for travelling charges cannot be recovered.
- iii) Recovery of wages paid as advances not already earned will have to follow the rules laid down by the state government. The state government decides to what extent such kind of advances can be given, how they can be recovered in installment and rate of interest on such kind of advance.

6. Deductions from Wages for Recovery of Loans (Section 12 A)

- i) Deductions can be made from the wages of the employed person for recovering the loan provided to that person for constructing a house or other requirement approved by the state government. Interest due on loan can also be recovered by deducting from wages.

- ii) Loans granted to a person from labour welfare fund and interest on such loans can be recovered but on the condition that the fund is constructed as per the rules accepted by the state government.

Deductions from Wages for Making Payment to Cooperative Societies and Insurance Schemes (Section 13)

- i) Deductions made with the written formal approval of employee for premium payment on his purchase of securities of government of Indian or any state government or life insurance, policy to the Life Insurance Corporation (LIC) of India or for savings in any post office savings bank.
- ii) Deductions from wages of employed person for making payment to co-operative societies approved by the state government or for making payment to insurance schemes set by the Indian post office.

7. Other Deductions

The other types of deductions permitted under the payment of wages act are listed down below.

- i) Deductions which need to made from the wages of employed person by court order.
- ii) Deductions to be made to pay insurance premium of fidelity guarantee bonds.
- iii) Deductions made with a written approval from an employee for payment of membership fees of trade union registered under the trade union Act, 1926.
- iv) Deductions for recovering the losses incurred by railway administration due to failure of employee to invoice to bill to recover or to make liable for charges due to that administration.
- v) Deductions made with the written approval from employee for payment to prime ministers national relief fund or other funds specified by the central government.

- vi) Deductions for payment of income tax to government.

- vii) Deductions for payment of subscriptions and for repayment of advances taken from provident fund to which provident fund Act, 1925 applies or any authorized provident fund or and any provident fund approved by the state government.

- viii) Deductions made with written approval of an employee for making his contribution to the fund constructed by employer or trade union registered under the trade unions Act, 1926 for the welfare of employee or their family members or both authorized by the state government.

- ix) Deductions made for recovering the losses incurred by railway administration due to the acceptance of base coins or counterfeit or mutilated or duplicate currency notes by employee.

- x) Deductions for making contribution to any insurance scheme constituted by the central government for the welfare of employees.

Any payment made by an employee to employer or his agent will be considered as deduction. Any loss of wage caused due to penalties like suspension, promotion or withholding of hike is not considered as deduction.

Illegal Deductions

All deductions which do not fall into the category of deductions authorized under section-7 of the payment of wages act are "Illegal deductions".

Different Methods for Payment of Wages

A different and clear effort is made in the remuneration system to provide compensation to employees for their different terms of contribution. There exists different methods of payment.

The relationship between the contribution and method of payment will be clear from the following table.

Type of Contribution	Methods of Payment	
	Normal Contribution	Extra Contribution
1. Skill	Basic wage based on job evaluation + Allowances	Higher basic wage + Allowance by promotion
2. Ideas	Suggestion rewards	—
3. Working condition	Basic wage based on job evaluation + Allowances	Higher basic wage + Allowances
4. Continuous	Time based increment in basic wage. service.	Promotion and fringe benefits
5. Time	Basic wage + Fixed allowance	Overtime wages
6. Response	Basic wage based on job responsibility evaluation + Allowances.	Higher basic wage + Allowances by way of promotion
7. Effort	Basic wage base on job evaluation + Allowances	Merit increments and incentive bonus
8. Cooperation	Continuous payment of basic wage + Allowances	Incentive bonus

For majority of the types of contribution i.e., either normal contribution or extra contribution, the methods of payment (methods of remuneration) will be more than one. For instance, in case of normal method of payment for contribution measured in terms of time would be hourly, weekly, daily or monthly rate. In the same way, incentives given for extra contributions can be computed in various ways. Few among them are shown in the above table.

Wage Incentive Schemes or Payment by Results

Wage refers to 'fair days payment' for 'fair days work'. In other words, it is a remuneration for standard performance. Wage incentive scheme can be defined as a method of payment for performing the acceptable work and crossing the specified standards. Payment by results shortly known as PBR is a method which links the remuneration of employees with their performance.

Employee's work more efficiently when their remuneration linked to their performance. Incentive payment encourage works to give good performance. Incentives may be financial incentives or non-financial incentives. In case of low wages, employees prefer financial incentives. Whereas in case of high wages and high tax rates, employees prefer non-financial incentive.

PBR systems can be divided into three categories depending upon the unit of responsibility for performance. These three categories are,

1. Individual performance
2. Group performance and
3. Plant or enterprise performance.

The three categories of PBR are briefly discussed below,

1. Individual PBR Scheme

Emerson, Halsey and Taylor have contributed their majority of the efforts to the development of individual PBR systems. Many individual PBR systems are in practice, few among them are,

- i) **Premium Bonus System:** Premium bonus system considers time as the unit of analysis. In case of premium bonus scheme/bonus, scheme, incentives are given to employees on the basis of the difference found in between the time taken and time allotted for completing a particular task.

- ii) **Piece Rate Systems:** In case of piece rate system, incentive is given depending upon per unit/piece produced. The unit of measurement might be weight, number or quality of items manufactured and reward relays upon the predecided rate for one unit of item.

2. Group PBR Schemes

The individual PBR schemes discussed above are also applicable to group performance category. Group PBR schemes are suitable to those jobs which are interrelated, where determining individual performance is a complicated task and where group efforts can change the performance of the group. Like individual PBR schemes, it is essential to have an unbiased measure of performance for the group and group members should be aware about the fact that they can influence it by their performance.

One disadvantage of group PBR schemes is that in case of this, both poor as well as good performing members of group will receive the same incentive benefits.

3. Plant or Enterprise PBR Schemes

The plant or enterprise PBR schemes focus on gain sharing acquired from minimization of labour, material and other costs. The performance index is calculated on the basis of ratio of labour, material and other costs. The gains obtained from excess performance over standard performance is distributed between employees and organisation as per the predecided ratio.

Time-rate Systems

Employees are paid on the basis of time they had spent on completing the job in case of time rate systems. When individual, group or plant/enterprise PBR systems are difficult to use, time rate systems are adopted.

Merit-rating Schemes

In case of merit rating scheme, fixed amount of increment or regular pay hike is given to employees on the basis of performance appraisal.

Managerial Incentive Plans

The various kinds of incentives offered to managerial employees are,

i) Stock Options

Under this type of incentive, managerial employees are offered with shares at a special price. The price may be lesser than the market value and/or may be calculated by using fixed formula.

- ii) Commission paid as some percentage of profit.
- iii) Bonuses paid in cash or in other forms like paid holiday travel, discount coupons, sponsorship to educational programmes and so on.

Q10. Explain about wage fixation in India.

Ans :

Wage Fixation in India

Wages and salary incomes in India are fixed through several institutions. These are

1. Collective Bargaining
2. Industrial wage Boards
3. Govt. appointed pay commissions
4. Adjudication by courts & tribunals

1. Collective Bargaining

Collective bargaining relates to those arrangements under which wages and conditions of employments are generally decided by agreements negotiated between the parties.

- Broadly speaking the following factors affect the wage determination by collective bargaining process.
 - Alternate choices & demands
 - Institutional necessities
 - The right and capacity to strike
- In a modern democratic society wages are determined by collective bargaining in contrast to individual bargaining by working.

- In the matter of wage bargaining, unions are primarily concerned with
 - General level of wage rates
 - Structure of wages rates (differential among occupations)
 - Bonus, incentives and fringe benefits, Administration of wages.

2. Industrial Wage Boards

Concept of wage board was first enunciated by committee on fair wages.

- It was commended by first five year plan and second five year plan also considered wage board as an acceptable machinery for setting wage disputes.
- Wage boards in India are of two types
 - Statutory wage board
 - Tripartite wage board

Statutory wage board means a body set up by law or with legal authority to establish minimum wages and other standards of employment which are then legally enforceable in particular trade or industry to which board's decision relate.

Tripartite wage board means a voluntary negotiating body set up by discussions between organized employers, workers and govt. to regulate wages, working hours and related conditions of employment.

- Wage board decisions are not final and are subjected to either executive or judicious review or reconsideration by other authority or tribunals.
- The powers and procedure of wage boards are same as those industrial tribunals unsaturated under ID Act 1947.

3. Pay Commissions

First pay commission was appointed by govt. of India in 1946 under chairmanship of justice vardachariar to enquire in to conditions of service of central govt. employees.

4.5 MINIMUM WAGE ACT 1948

Q11. Discuss about minimum wage Act 1948.

Ans : (Oct./Nov.-20, Dec.-18, Imp.)

The principle objective of the minimum wages Act 1948 is to prevent exploitation of labour through the payment of unduly low wages. The act provides for fixing the minimum rates of wages for certain employments also.

It was recognized that wage determination cannot be entirely left to market forces, that is, the supply of and the demand for labour. The National Commission on Labour stated

Under the Minimum Wages Act, minimum rates are not fixed in respect of all employments. They are fixed only in respect of certain employments specified in the schedule to the Act. The Government may, however, make additions to the list of employments contained in the schedule. The Minimum Wages Act does not define minimum wage and does not contain any guideline regarding what elements should be taken into consideration in prescribing a minimum wage. As a result, different wage fixing authorities have followed different sets of principles in fixing or revising the minimum wages. There are wide disparities in the rates of minimum wages fixed in respect of employments within the state and in respect of the same employments fixed by different states.

The Main provisions of the Act are as follows:

1. Fixing of minimum wages

The basic requirement for fixation of minimum wages for an employment is that it should be included in the schedule to the Act. The appropriate government shall fix the minimum rates of wages payable to employees employed in the industries specified in the schedule. Revision can take place once in five years. The minimum wage may be fixed at a 'time rate' may consist of basic wages and an allowance linked to the cost of living index, basic wages and supply of essential commodities, or consolidated wages.

2. Minimum rate of wages

The Government may fix – (a) a minimum rate; (b) a minimum piece rate; (c) a guaranteed time rate; (d) an overtime rate, appropriate to different occupations, localities, or classes of work and for adults, adolescents, children, and apprentices.

3. Procedure for fixing and revising minimum wages

The Act prescribes for the fixing and revision of minimum government in fixing and revising the minimum rates of wages and to appoint an advisory board for the purpose of coordinating the work of committees and sub-committees and also for advising the appropriate government generally in the matter of fixing and revising minimum rates of wages.

4. Working hours

The Government may also fix the number of hours of work, provide for a weekly day of rest, payment of remuneration in respect of such days of rest, and payment for work on a day of rest at a rate not less than the overtime rate.

5. Overtime

Where an employee works on any day in excess of the number of hours constituting a normal working day, the employer shall pay him at the overtime rate fixed under this Act or under any law of the appropriate government, whichever is higher.

6. Employers' Obligation

Once the minimum rate of wages are fixed or revised according to the procedure prescribed under the Act, it becomes the legal obligation of the employers to pay the rates.

7. Exemptions

The appropriate government may direct that the provisions of this Act shall not apply in relation to the wages payable to disabled employees. The government may, for special reasons, direct that the provisions of this Act or any of them shall not apply to all or any class of employees or to any locality where employment is carried on.

8. Content of minimum wages

The Fair Wages Committee viewed that the minimum wages must provide not merely for the bare subsistence of life but also for the preservation of the worker's efficiency by providing for some measure of education, medical aid, and amenities.

9. Different Categories

The Act permits fixation of different minimum rates of wages for different classes of work in the same scheduled employment.

4.6 THE PAYMENT OF BONUS ACT 1965**Q12. Discuss about the payment of bonus act 1965.**

Ans : (Oct./Nov.-20, April/May-19, Dec.-18, Imp.)

The Payment of Bonus Act, 1965 applies to every factory and every establishment in which twenty or more persons are employed on any day during an accounting year. The definition of the factory is the same as under the Factories Act, 1948. Under the Act 'establishment' has been defined as the place in which one is permanently fixed for business, with necessary equipment and an office or place of business.

1. Eligibility

Every employee shall be entitled to be paid bonus provided he/she has worked for at least 30 working days in a year. Here the term 'employee' refers to any person employed on a salary or wage not exceeding Rs. 1,600.00 per month. 'Salary' or 'wage' means all remuneration capable of being expressed in terms of money, including dearness allowance.

2. Disqualification of Bonus

Under the Act an employee may be disqualified from receiving bonus if he/she is dismissed from service for fraud, riotous or violent behavior, theft, misappropriation, or sabotage of property of the establishment.

3. Payment of Minimum Bonus

Every employer shall be bound to pay every employee in respect of any accounting year a minimum bonus shall be 8.33% of the salary or wage earned by the employee during the accounting year or Rs. 100 – whichever is higher – whether or not the employer has any allocable surplus in the accounting year. If an employee is below fifteen years of age, the minimum amount in this case would be Rs. 60.

4. Payment of Maximum Bonus

Where the allocable surplus exceeds the amount of minimum bonus payable to the employees, the employer shall be bound to pay every employee in respect of that accounting year a bonus which shall be an amount in proportion to the salary or wage earned by the employee subject to a maximum of 20% of such salary or wage.

5. Proportionate Reduction in Bonus

Where an employee has not worked for all the working days in an accounting year, if the minimum bonus of Rs. 100 is higher than 8.33% of his/her salary or wage for the days he/she has worked, it shall be proportionately reduced.

6. Computation of Working Days

For the purpose of computing the proportionate bonus, an employee shall be deemed to have worked on the days on which he/she had been laid off under an agreement, standing orders, or the Industrial Disputes Act; was on leave with salary or wage; was absent due to temporary disablement caused by an accident arising out of and in the course of his/her employment; or was on maternity leave with salary or wage.

7. Set-on and Set-off allocable Surplus

Where the allocable surplus exceeds the amount of maximum bonus, the Act provides for carrying forward the excess for being set on in the succeeding year.

8. Special provisions for new Establishments

The Act provides for protection of newly set up establishments by giving them exemption from the payment of bonus to the employees for the initial period. In the first five accounting years, following the accounting year in which the employer sells the goods produced or manufactured by him/her or renders service, bonus shall be payable only in respect of the accounting year in which the employer derives profit and such bonus is to be calculated in accordance with the provisions of this Act, but without applying the provisions of Section 15. For sixth and seventh accounting years, so reckoned, Section 15 shall apply with the modifications prescribed in sub-section (I-B). From the eighth accounting year the provisions of Section 15 shall also apply.

9. Customary Interim Bonus

There is no statutory recognition to 'puja bonus' or other customary bonus under the Act. The bonus payable under the Act is subject to deduction of the amount paid as "Puja bonus" or customary bonus and the employees shall be entitled to receive only the balance.

10. Deduction from Bonus

In any accounting year, if any financial loss is caused to the employer due to misconduct of an employee, it can be deducted from the amount of bonus payable to the employee in respect of that financial year.

11. Time Limit for the Payment of Bonus

The bonus shall be paid in cash by the employer within a period of eight months from the close of the accounting year. The appropriate government may extend the period up to two years.

12. Application of the act to public-sector Establishments

In any accounting year, if an establishment in the public sector sells goods or renders services in competition with an establishment

in the private sector, and the income from such sale or services is not less than 20% of its gross income for that year, then the provisions of this Act will apply to such an establishment in public sector.

13. Reference of disputes Related to Bonus

Any dispute between the employer and his/her employees with respect to bonus payment is considered an industrial dispute and the industrial relations machinery set up under the Industrial Disputes Act shall be applied for the settlement of the bonus dispute.

14. Maintenance of Registers, Records

Every employer shall prepare and maintain registers, records, and other documents in the prescribed form and manner for the purpose of this Act.

15. Penalty

If any person contravenes any of these provisions of this Act or fails to comply with the direction given or the requisition made to him/her, he/she is punishable with imprisonment, which may extend to six months, or a fine of Rs. 1,000, or both.

16. Bonus Linked with Productivity

Where the employer and the employees enter into an agreement or settlement for payment of annual bonus.

17. Expenditure from Bonus Payment

The appropriate government, having regard to the financial position of any establishment or class of establishments, may give exemption for such establishments from all or any of the provisions of this Act.

18. Employees Exempted from this Act

The Act is not applicable to apprentices and it excludes employees in an establishment and in an industry carried on by or under the authority of a department of the Central Government, State Government.

Also, the Act does not apply to seamen, employees registered or listed under any scheme made under Dock Employees (Regulation of Employment) Act of 1948, employees of Life

Insurance Corporation and general insurance companies, Indian Red Cross Society, universities and other educational institutions, inland water transport establishments operating on routes passing through any other country, Reserve Bank of India Unit Trust of India, industrial and financial corporations established in the public sector, and employees engaged through contractors in building operations and institutions which are not established for purposes of profit.

4.7 NATIONAL WAGE POLICY

Q13. Write about national wage policy?

Ans : (Oct./Nov.-20, Imp.)

The provisions in the Indian Constitution and the policy statement in successive five-year economic plan documents provide useful insights into the Government's approach towards wage policy. The Second National Commission on Labour recommended the appointment of a high-level committee with technically competent people including economists, trade unionists, entrepreneurs, consumers, and establishments to go in to all aspects of the interrelated questions and to formulate a national wage policy.

Since only about 15% of the workforce is in wage employment and the Government has obvious problems in exercising control over incomes and prices, wage policies based on equity and wage controls to arrest wage-price spiral, fail to have meaningful impact. Salaried people pay taxes but the Government is reluctant to tax the agricultural income and unable to properly collect taxes on income from non-salaried sources. Minimum wage legislation is Central, but fixation takes place at the state level through tripartite committees established for the purpose. Yet, the implementation of minimum wages is faulty and compliance by employers is weak. Successive conferences of state labour ministers revealed the need to have a national minimum wage.

The study group on wages, incomes, and prices (1977-78) headed by Bhoothalingam, observed that the national minimum wage should be consistent with factors such as (a) the per capita national income adjusted after applying the

participation rate, (b) the average national income per consumption unit, and (c) the per capita rural consumption expenditure. It should not also deviate too much from prevalent earnings in the small-scale sector and its impact must not be such that it inhibits the generation of employment.

Ideally, wage revision should be higher than the rate of growth in gross domestic product (GDP) and lower than the rate of inflation. This ensures that real wages are maintained and that there is something left to be ploughed back into the economy.

Wage Policy at the Company Level

Compensation policies need to be established in every enterprise taking the following aspects into consideration, besides due regard to the provisions of public policy, job evaluation, and collective bargaining.

1. Attraction and Retention

Usually an enterprise endeavors to recruit and retain the best people available. One of the ways of attracting and retaining the best and the brightest is to pay more than what they would get anywhere else for similar skills.

Unlimited wage disparities cause distortions in the economy. Still, enterprises with prime concern for micro considerations may adopt this strategy subject to governmental restraints on account of national wage/income policies. Multinationals in developing countries usually pay much more than indigenous firms in both private and public sectors.

2. Internal Equity

Compensation policies should take into account the differentials in skills and levels in terms of both responsibility and authority. A sense of proportion needs to be maintained to achieve internal consistency so that wage/salary levels conform to the differences in hierarchy and skills. Ill-conceived differentials may lead to conflict among work groups.

3. External Equity

The simplest and the most widely used criteria is to consider what is generally known as the 'going rate' in the labour market for

comparable jobs in the industry/region. While deciding wage rates in the public sector, comparison may be made with wage rates in the private sector for comparable jobs. It is possible that public sector units may fix relatively lower wage rates than private sector units because the former affords a greater sense of job security.

4. Personal Equity

A person may be unhappy not only when he/she gets less but also when he/she gets more. The person may feel that if the organization can pay him/her more than what he/she deserves, it could also be paying a lot more to other persons in the organization. People suffer not in terms of absoluteness, but in relation to what others are getting or perceived to be getting. Pay or employee satisfaction surveys provide the basis for assessing personal equity.

5. Ability to Pay

As already mentioned, wherever minimum wage legislation is applicable, enterprises should pay minimum wages or above, irrespective of their capacity to pay. Over and above the minimum wages, enterprises may pay more depending upon their ability to pay. Also, enterprises vulnerable to union pressures may end up paying more due to the coercive bargaining power of the unions.

6. Pay and Performance

Linking pay to performance is a sound practice and makes good sense. However, in the organized sector in India, the compensation policies have, unfortunately, a remote relationship, if ever, between pay and performance.

Labour costs and productivity: Wages and salaries can be linked to the productivity and profitability of an enterprise. Growing and profit-earning enterprises find it easier to pay more than stagnant and loss-incurring enterprises, though it is the latter category which would be most hard pressed to attract

and retain skills. In India, the labour cost as a percentage of total cost could be around 60% in coal mining against barely 2 or 3% in petrochemicals or fertilizers. In most manufacturing firms it does not exceed 15-16%.

7. Cost of Living

Dearness allowance (DA) and city compensatory allowance (CCA) now form an integral part of most wage structures. The general principle underlying these allowances is to neutralize at least a portion of the increase in the cost of living. Where these allowances do not form part of the wage structure, ad hoc and lump sum increases in pay are unilaterally announced by managements to partially provide for such neutralization.

8. Merit and Seniority Progression

Merit progression refers to the practice of rewarding a person according to his/her contribution. Merit progression is usually based on annual performance appraisals. When the person's performance is outstanding or distinctively above average, the organization may like to reward him/her with extra (over and above the normal) increment(s).

9. Motivation

'Money may not be everything but everything else may be way behind!' Company compensation policy can be an effective tool to motivate people for superior performance. There is a lot of debate on whether, after a point, money ceases to be a motivating factor, due to several reasons, such as individual preferences, consequential trade-offs (in terms of family and social obligations, etc) taxation policies, etc.

Integrity: James Burnham predicted in his famous book, Managerial Revolution, which he wrote half-a-century ago, that the future belonged to professional managers who would be the 'rulers'. Berle and Means pointed out the divorce between ownership and control, in their well-acclaimed book, The Rise of the Modern Corporation. Professional managers have access to and control over resources.

Q14. What is pay structure of national wage policy?

Ans :

(Dec.-18, Imp.)

Pay Structures

As noted earlier, job evaluation provided a systematic basis for determining pay levels. Jobs are usually classified into different groups to broadly reflect occupational groupings, such as the following:

- Managerial and professional: top, middle, and junior
- Technical/supervisory
- Administrative and clerical (Staff)
- Manual (workers): highly skilled, skilled, semi-skilled and unskilled.

Components of a Pay Structure

The most comprehensive definition of 'wage' is found in the Industrial Disputes Act, 1947, which is as follows:

'Wages' means all remuneration capable of being expressed in terms of money, which would, if the terms of employment expressed or implied, were fulfilled, be payable to a worker in respect of his/her employment, or of work done in such employment.

Components of Pay Structure

1. Basic Wage

Provide a stable base to the wage structure. Basic wages are built upon the wage concepts recommended by the Fair Wages Committee (1948) and the 15th Indian Labour Conference (1957) to which references were made earlier. The pattern was set by tribunals and courts in the post-second World War period. It now varies and progress according to periodic job evaluations, wage settlements, awards by tribunals, wage boards, pay commissions, etc.

The basic wage is fixed as price for labour or services rendered. Differentials in basic wages are normally based on a set of criteria which, as the Fair Wages Committee suggested, may take into account.

- The degree of skill
- The strain of work
- The experience involved
- The training required
- The responsibilities undertaken
- The mental and physical requirements
- The disagreeableness of the task
- The hazard attendant on the work, and
- The fatigue involved.

2. Dearness Allowance

According to the study group on wage policy set up by the National Commission on Labour, 'The words *dearness allowance* primarily suggest and refer to the allowance paid to employees in order to enable them to face the increasing dearness of essential commodities'. The system of dearness allowance (DA) for employees began during the Second World War when the Government sanctioned a scheme of grain allowance to their lowest paid employees.

3. Allowances

The successive wage settlements/awards have produced a heterogeneous group of allowances, which have to form an integral part of the wage structure.

Q15. What are methods of payments of employees?

Ans :

There is a distinct and clear attempt in the remuneration system to compensate an employee for different terms of contribution. Different methods of payment exist.

Contribution – Remuneration Linkage

Kind of Contribution	Method of Payment	
	For normal contribution	For extra contribution
1. Time	Basic wage + Fixed allowance	Overtime wages
2. Skill	Basic wage based on job evaluation + allowance	Higher basic wage + Allowance through promotion.
3. Effort	Basic wage based on job evaluation + Allowances.	Incentive bonus and merit increments
4. Ideas	Suggestion rewards	-
5. Response	Basic wage based on job evaluation + Allowances.	Higher basic wage + Allowances through promotion
6. Working condition	Basic wage based on job evaluation + Allowances.	Higher basic wage + Allowances
7. Cooperation	Continued payment of basic wage + Allowances	Incentive bonus
8. Continued Service	Time scale increment in basic wage	Promotion and fringe benefits.

Wage incentive schemes

1. individual payment by result scheme
2. group payment by result scheme

4.8 CONTEMPORARY ISSUES IN WAGE SYSTEM

Q16. What are the contemporary issues in wages systems.

Ans :

(April/May-19, Imp.)

The wage system as it is practiced in industry today poses several issues. They include the following:

- Divergent concerns of different stakeholders are a major issue. Workers are concerned about wages levels and employers about unit labour costs. Workers want to improve wages and employers want to cut labour costs.
- There are problems in ensuring legal compliance for minimum wage legislation. The legal wage limits are outdated and, hence, most employees in the organized sectors remain outside its coverage. Token penalties for violation do not provide incentives for legal compliance.
- Increasing inequity/disparity among employees at the same and different skills levels and different sectors.
- Cost-cutting competition results in lowering labour standards.
- Wage differentials are not based on skills differentials but ownership, business strategy, and sectorial differences.
- Distortions in executive and managerial remuneration relate to high disparity between the lowest and the highest paid employees, abuse of stock options, and issues relating to propriety, proportionality, and corporate governance in the private sector.
- Frequent changes in tax provisions raise complex issues in tax planning. The proposed measures in the 2005-06 Budget to tax fringe benefits are one such issue.
- Differing preferences of old and new employees is another issue. While young employees prefer cash, older employees are more concerned about retirement benefits. Falling interest rates and shift from defined benefits to defined contributions has introduced an element of uncertainty in retirement benefits. Since job-hopping has become common, employees want benefits-health, insurance, and retirement – to be portable.

Short Question and Answers

1. Factors act 1948

Ans :

The object of the Factories Act is to regulate the conditions of work in manufacturing establishments coming within the definition of the term "factory" as used in the Act.

The first Act, in India, relating to the subject was passed in 1881. This was followed by new Acts in 1891, 1911, 1922, 1934 and 1948. The Act of 1948 is more comprehensive than the previous Acts. It contains detailed provisions regarding the health, safety and welfare of workers inside factories, the hours of work, the minimum age of workers, leave with pay etc. The Act has been amended several times.

The Act is based on the provisions of the Factories Act of Great Britain passed in 1937.

In 1976 the Act was amended extensively. The provisions of the Amendment have been quoted and summarised at the appropriate places in this chapter.

Application of the Act

The Factories Act of 1948 came into force on 1st April 1949; It applies to factories, as defined in the Act, all over India, including the State of Jammu and Kashmir.

Unless otherwise provided, the Factories Act applies to factories belonging to the Central or any State Government. Sec. 116.

2. Workmen's Compensation Act, 1923

Ans :

The Workmen's Compensation Act, 1923 provides for payment of compensation to workmen and their dependents in case of injury and accident (including certain occupational disease) arising out of and in the course of employment and resulting in disablement or death. The Act applies to railway

servants and persons employed in any such capacity as is specified in Schedule II of the Act. The schedule II includes persons employed in factories, mines, plantations, mechanically propelled vehicles, construction works and certain other hazardous occupations.

The amount of compensation to be paid depends on the nature of the injury and the average monthly wages and age of workmen. The minimum and maximum rates of compensation payable for death (in such cases it is paid to the dependents of workmen) and for disability have been fixed and is subject to revision from time to time.

A Social Security Division has been set up under the Ministry of Labour and Employment, which deals with framing of social security policy for the workers and implementation of the various social security schemes. It is also responsible for enforcing this Act. The Act is administered by the State Governments through Commissioners for Workmen's Compensation.

3. ESI Act 1948

Ans :

The ESI Act provides for certain benefits to employees in case of sickness, maternity, injury during employment, and related matters. The Act applies to all factories, other than seasonal factories, that run with power and employ 20 or more persons. The coverage of the Act has been extended to several classes of establishments, viz., electrical power-using factories employing 10 or more workers and non-power factories employing 20 or more workers, shops, theatres, cinemas, hotels, restaurants, etc. employing 20 or more persons, in several states. It covers all employees whose remuneration in aggregate does not exceed Rs 6,500 a month.

The administration of the Employees' State Insurance Scheme (ESIS), framed under the Act, has been entrusted to the Employees' State Insurance Corporation (ESIC), an autonomous body set up by an Act of the Parliament. The ESIS

Board consists of representatives of central and state governments, employers, employees, medical professionals, and the parliament. The ESIS has set up regional boards in all states including a network of offices at various levels and it operates from over 520 centers throughout the country. About 75 lakh persons' family units (i.e., insured employee households) have been covered under the scheme.

4. Payment of Wages Act 1936

Ans :

The payment of Wages Act, 1936 regulates the payment of wages to certain classes of persons employed in industry. It was formed to ensure that the wages payable to employees covered by the Act are disbursed by the employer within the prescribed time limit and that no deductions other than those authorized by law are made by the employer. As of 1 January 1996, the law was last amended through the Payment of Wages (Amendment) Act, 1982, which came into effect on 15 October 1982.

5. Minimum wage Act 1948

Ans :

The principle objective of the minimum wages Act 1948 is to prevent exploitation of labour through the payment of unduly low wages. The act provides for fixing the minimum rates of wages for certain employments also.

It was recognized that wage determination cannot be entirely left to market forces, that is, the supply of and the demand for labour. The National Commission on Labour stated

Under the Minimum Wages Act, minimum rates are not fixed in respect of all employments. They are fixed only in respect of certain employments specified in the schedule to the Act. The Government may, however, make additions to the list of employments contained in the schedule. The Minimum Wages Act does not define minimum wage and does not contain any guideline regarding what elements should be taken into consideration in prescribing a minimum wage. As a result, different wage fixing authorities have followed different sets of principles in fixing or revising the minimum wages. There are wide disparities in the rates of minimum wages fixed in respect of employments within the state and in respect of the same employments fixed by different states.

6. Components of Pay Structure

Ans :

1. Basic Wage

Provide a stable base to the wage structure. Basic wages are built upon the wage concepts recommended by the Fair Wages Committee (1948) and the 15th Indian Labour Conference (1957) to which references were made earlier. The pattern was set by tribunals and courts in the post-second World War period. It now varies and progress according to periodic job evaluations, wage settlements, awards by tribunals, wage boards, pay commissions, etc.

The basic wage is fixed as price for labour or services rendered. Differentials in basic wages are normally based on a set of criteria which, as the Fair Wages Committee suggested, may take into account.

- The degree of skill
- The strain of work
- The experience involved

- The training required
- The responsibilities undertaken
- The mental and physical requirements
- The disagreeableness of the task
- The hazard attendant on the work, and
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2. Dearness Allowance

According to the study group on wage policy set up by the National Commission on Labour, 'The words *dearness allowance* primarily suggest and refer to the allowance paid to employees in order to enable them to face the increasing dearness of essential commodities'. The system of dearness allowance (DA) for employees began during the Second World War when the Government sanctioned a scheme of grain allowance to their lowest paid employees.

3. Allowances

The successive wage settlements/awards have produced a heterogeneous group of allowances, which have to form an integral part of the wage structure.

UNIT V

Labour Legislation II: Industrial Disputes Act, 1948 - Grievance Handling Employee Grievances - Causes of Grievances - Conciliation, Arbitration and Adjudication procedural aspects for Settlement of Grievances - Standing Orders- Code Discipline. Industrial Disputes: Meaning, nature and scope of industrial disputes - Cases and Consequences of Industrial Disputes - Prevention and Settlement of industrial disputes in India - Employee Participation - Quality of Work Life- Managing good industrial relations.

5.1 GRIEVANCE HANDLING EMPLOYEE GRIEVANCE

Q1. Discuss about grievance handling employee grievance.

Ans :

"Grievance is a type of discontent which must always be expressed. A grievance is usually more formal in character than a complaint. It can be valid or ridiculous and must grow out of something connected with the company operations or policy. It must involve an interpretation or application of the provisions of the labour contract"

Meaning and Definition

A grievance procedure is a formal process which is preliminary to an arbitration which enables the parties involved to attempt to resolve their differences in a peaceful, orderly and expeditious manner. When the grievance handling procedure works effectively, it is satisfactorily resolves most of the disputes between labour and management.

According to Davis, "grievance is any real or imagined feeling of a personal injustice which an employee has concerning his employment relationship."

According to Beach, "Grievance is any dissatisfaction or feeling of injustice in connection with one's employment situation that is brought to the attention of management"

Richard P. Calhoon defines " a grievance as anything that an employee thinks or feels is wrong, generally accompanied by an activity disturbing feeling."

Features of Grievance Procedure

Following are features which a grievance procedure should incorporate :

1. Conformity with existing Legislation

The procedure should be designed to supplement the existing statutory provisions. Where practicable, the procedure can make use of such machinery as the law might have already provided for.

2. Acceptability

The grievance procedure must be accepted by everybody. In order to be generally acceptable it must ensure – (a) a sense of fair-play and justice to the worker, (b) reasonable exercise of authority to the manager, and (c) adequate participation of the union.

3. Simplicity

The procedure should be simple enough to be understood by every employee. The steps should be few as possible. Channels for handling grievances should be carefully developed. Employees must know the authorities to be contacted at various levels. Information about the procedure can be thoroughly disseminated among all through pictures, charts, diagrams, etc.

4. Promptness

Speedy settlement of a grievance is the cornerstone of a sound personnel policy. Justice delayed is justice denied. The procedure should aim at a rapid disposal of the grievance.

5. Trainin

In order to ensure effective working of the grievance procedure it is necessary that supervisors and the union representatives are given training in grievance handling.

6. **Follow-up** : The working of the procedure should be reviewed periodically by the personnel department and necessary structural changes introduce to make it more effective.

A good grievance procedure attacks problems as they arise, excellent grievance procedure anticipates them and prevents them from occurring. A manager can know about the simmering even before they turn into actual grievances through several means such as opinion surveys, open door policy, suggestion schemes and exit interviews.

Grievance Redressal Procedure

Grievance redressal or handling procedure is the formal mechanism for dealing with employee grievances. It can also be defined as a formal system of several steps through which an affected employee can take his grievance to successively higher levels of management for redressal. It is also a means available to management to keep a check or relevant diagnostic data on the state of the organisation's health. A grievance handling procedure is necessary in a large organisation which has numerous personnel and many different levels with the result that the manager is unable to keep a check on each individual, or be involved in every aspect of the working of the organisation. In a small organisation, communication, knowledge and contact is possible to a much greater extent, thus reducing the need for a formal grievance procedure.

Steps in Grievance Redressal Procedure

Steps involved in grievance redressal procedure.

1. Identify Grievances

Employee dissatisfaction or grievance should be identified by the management if they are not expressed. If they are ventilated, management has to promptly acknowledge them.

2. Define Correctly

The management has to define the problem proper!) and accurately after it is identified/acknowledged.

3. Collect Data

Complete information should be collected from all the parties relating to the grievance.

Information should be classified a; facts data, opinions, etc.

4. Analyse and Solve

The information should be analysed, alternative solutions to the problem should be developed and the best solution should be selected.

5. Prompt Redressal

The grievance should be redressed b) implementing the solution.

6. Implement and Follow-Up

Implementation of the solution must be followed up at every stage in order to ensure effective and speed) implementation.

Model of Grievance Redressal Procedure

The model grievance redressal procedure suggested by the National Commission on Labour involves following six successive time-bound steps each leading to the next, in case of dissatisfaction:

1. The aggrieved worker in the first instance will approach the foreman and tells him of his grievance orally.
2. The foreman has to redress his grievance and if the worker is not satisfied with this redressal, he can approach the supervisor.
3. The supervisor has to provide an answer within 48 hours. In the event of the supervisor not giving an answer or the answer not being acceptable to the worker, the worker goes to the next step.
4. At this stage, the worker (either alone or accompanied by his departmental representative) approaches the Head of the Department who has to give an answer within three days.
5. If the Departmental Head fails to give an answer or if the worker is not satisfied with his answer, the worker may appeal to the Grievance committee, consisting of the representatives of the employer and the employees.
6. The recommendations of this committee should be communicated to the manager within seven days from the date of the grievance reaching it.
7. Unanimous decisions, if any, of the committee shall be implemented by the management.

8. If there is no unanimity, the views of the members of the committee shall be placed before the manager for his decision. The manager has to take a decision and inform the worker within three days.
9. The worker can make an appeal against the manager's decision and such an appeal has to be decided within a week.

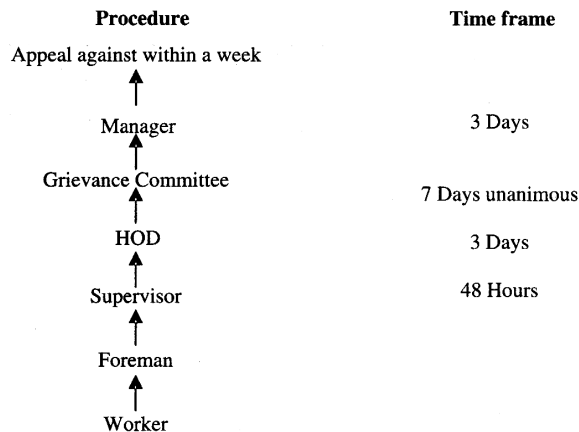


Fig.: Model Grievance Redressal Procedure

A union official may accompany the worker to the manager for discussion and if no decision is arrived at this stage, both the union and management may refer the grievance to voluntary arbitration within a week of the receipt of the management's decision.

Procedural Aspects for Settlement of Grievances

Grievances can be settled through the following methods:

1. **Collective Bargaining**
Collective bargaining is a grievance handling process where a large number of employees are involved and their issues are handled collectively.
2. **Mediation**
Mediation is a voluntary, informal process designed to address grievances which are still outstanding after the formalised grievance procedure is exhausted and prior to the matter proceeding to arbitration.
3. **Conciliation**
Conciliation is a process in which the conciliator suggests solutions that are presented to the parties with a view of getting them to agree as to show how a grievance or dispute can be resolved.

4. Arbitration

Arbitration is the process of resolving a grievance outside of the court system by presenting it to an impartial third party or panel for a decision that may or may not be binding.

5. Adjudication

Adjudication consists of settling grievances or disputes through the intervention of a third party appointed by the government. An industrial dispute can be referred to adjudication by the mutual consent of the disputing parties. The government can also refer a dispute to adjudication without the consent of the parties.

Essentials of Grievance Redressal Procedure

Essentials related to grievance redressal are as follows:

1. Legal Sanctity

The procedure should be in conformity with the existing law. It should be designed to supplement the statutory provisions. Wherever possible, the procedure should make use of the machinery provided under legislation. The procedure may be incorporated in the standing orders or collective bargaining agreement of the organisation.

2. Acceptability

The grievance procedure must be acceptable to all and should, therefore, be developed with mutual consultation among management, workers and the union. In order to be generally acceptable, the procedure must ensure:

- i) A sense of fair play and justice to workers,
- ii) Reasonable exercise of authority to managers, and
- iii) Reasonable participation to the union.

3. Promptness

The grievance procedure must aim at speedy redressal of grievances. This can be ensured in the following ways:

- i) As far as possible, the grievance should be settled at the lowest level,
- ii) There should be only one appeal,
- iii) Time limits should be prescribed and rigidly enforced at each level, and
- iv) Different types of grievances may be referred to appropriate authorities.

4. Simplicity

The procedure should consist of as few steps as possible. Channels for handling grievances should be carefully developed. Employees must know the officers to be contacted at each level. Information about the procedure should be communicated to the employees.

5. Training

Supervisors and union representatives should be given training in grievance handling. This will help to ensure effective working of the grievance procedure.

6. Follow-Up

The working of the grievance procedure should be reviewed at periodical intervals. Necessary improvements should be made to make the procedure more effective.

Advantages of Grievance Redressal Procedure

Grievance redressal procedure offers following advantages:

1. It brings grievances into the open so that management can learn about them and try corrective action.
2. It helps in preventing grievances from assuming big proportions. The management catches and solves a grievance before it becomes a dispute.
3. It provides employees a formalised means of emotional release for their dissatisfactions. Even if a worker does not use the grievance system for his own emotional release in a particular situation, he feels better because he knows the system is there to use if he wants to do so. It builds within him a sense of emotional security.
4. It helps in establishing and maintaining a work culture or way of life. As problems are interpreted in the grievance procedure, the group learns how it is expected to respond to the policies that have been set up.
5. It enables the management to know the attitudes and feelings of employee concerning the policies, rules and practices of the organisation. With such knowledge necessary improvements in policies and rules can be made.
6. It acts as a check upon arbitrary and capricious management action. When a manager knows that his actions are subject to challenge and review in a grievance system he becomes more careful in taking his decisions.

Disadvantages of Grievance Redressal Procedure

Disadvantages of grievance redressal procedure are as follows:

1. It can be time-consuming and costly.
2. Human relations skills may be lacking to deal with the grievances at successive steps.
3. Procedures may vary from organisation to organisation. Reprisals by management against grievant employees can happen.
4. Management can delay a final decision, frustrating members and putting economic pressure on those affected, particularly in discharge cases.
5. Instead of being involved in actions to solve problems, members learn to sit back and expect "the union" to take care of everything.

5.1.1 Causes of Grievances**Q2. What are the causes of Grievances?**

Ans : (April/May-19, Imp.)

The causes of grievances may broadly be classified in the following categories :

A) Grievances Resulting from Working Conditions

- i) Improper matching of the worker with the job.
- ii) Changes in schedules or procedures.
- iii) Non-availability of proper tools, machines and equipment for doing the job.
- iv) Tight production standards.
- v) Bad physical conditions of workplace.
- vi) Failure to maintain proper discipline (excessive discipline or lack of it. Both are equally harmful.
- vii) Poor relationship with the supervisor.

B) Grievances Resulting from Management Policy

- i) Wage payment and job rates.
- ii) Leave
- iii) Overtime

- iv) Seniority
- v) Transfer
- vi) Promotion, demotion and discharges
- vii) Lack of career planning and employee development plan.
- viii) Lack of role clarity, delegation etc. (or) Lack of regard for collective agreement.
- ix) Hostility towards a labour union.

C) Grievances Resulting from Personal Maladjustment

- i) Over-ambition
- ii) Excessive self-esteem
- iii) Impractical attitude to life, etc.

5.1.2 Conciliation

Q3. Explain about conciliation.

Ans :

Meaning of Conciliation

Conciliation is a process by which representatives of workers and employers are brought together before a third person or a group of persons with a view to persuade them to come to a mutually satisfying agreement.

Definition of Conciliation

According to the **International Labour Organisation**, "Conciliation is the practice by which the services of a neutral third party are used in a dispute as a means of helping the disputing parties to reduce the extent of their differences and to arrive at an amicable settlement or agreed solution. It is a process of rational and orderly discussion of differences between the parties to a dispute under the guidance of a conciliator".

The objective of this method is to settle disputes quickly and prevent prolonged work stoppages if they have already occurred. The essential hallmarks of this approach are :

1. The conciliator tries to bridge the gulf between the parties, if possible.
2. If he does succeed, he tries to reduce the differences to the extent possible.

3. He persuades parties to take a fresh look at the whole issue.
4. He only advances possible lines of solution for consideration by the disputants.
5. The conciliator need not follow the same path in each case.

Conciliation Machinery in India

The conciliation machinery in India consists of following :

1. Conciliation Officer [Section 4]

According to the Industrial Disputes Act, 1947 the Central and State Governments can appoint a Conciliation Officer to mediate in all disputes brought to his notice. The Appropriate Government has been empowered under the Industrial Disputes Act to appoint such number of persons as it thinks fit to be Conciliation Officers. The Government may appoint such officers either for a specified area or for specified industries in a specified area or for one or more specified industries charged with the duty of mediating in and promoting the settlement of industrial disputes. The appointment is made by notification in the Official Gazette either permanently or for a limited period.

The officer enjoys the powers as a Civil Court. He is expected to give judgment within 14 days of the commencement of the conciliation proceedings. His judgment is binding on all the parties to the dispute. The Conciliation Officer has a lot of discretion over the ways and means to be followed to bring about settlement between the disputants. He "may do all such things as he thinks fit for the purpose of including the parties to come to a fair and amicable settlement of disputes."

2. Board of Conciliation [Section 5]

The Board of Conciliation is not a permanent institution like the conciliation Officer. It is an ad hoc, tripartite body having the powers of a Civil Court created for a specific dispute. It consists of a Chairman and two or four other members nominated in equal numbers by the parties to the dispute. The chairman who is appointed by the government should not

be connected with the dispute or with any industry directly affected by such dispute. The board cannot admit a dispute, is referred to it, by the Government.

The board conducts conciliation proceedings in the same way as conducted by Conciliation Officer. The board however is expected to submit its report within two months of the date on which the dispute was referred to it. The Board of Conciliation is rarely constituted by the government these days. In actual practice, settling disputes through a Conciliation Officer was found to be more flexible when compared to the Board of Conciliation.

3. Court of Inquiry [Section 6]

In case the conciliation proceedings fail to resolve a dispute, a Court of Inquiry is constituted by the government to investigate the dispute and submit the report within six months. It is merely a fact-finding body and its findings are not binding on the parties to the dispute. The Appropriate Government may as occasion arises by notification in the Official Gazette constitute a Court of inquiry for enquiring into any matter appearing to be connected with or relevant to an industrial dispute. A Court of Inquiry consists of one independent person or of such number of independent persons as the Appropriate Government thinks fit. Where such court consists of two or more members, one of them is appointed as the Chairman.

Powers of Conciliation Machinery

Powers of conciliation machinery viz., Conciliation Officers, Board of Conciliation, and Court of Inquiry are as follows :

1. Powers to Enter Premises

A Conciliation Officer or a member of a Board, or Court may for the purpose of inquiry into any existing or apprehended industrial dispute, after giving reasonable notice, enter the premises occupied by any establishment to which the dispute relates.

2. Powers of Civil Court

Every Board of Conciliation and Court of Inquiry shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely :

- i) Enforcing the attendance of any person and examining him on oath;
- ii) Compelling the production of documents and material objects;
- iii) Issuing commissions for the examination of witnesses;
- iv) In respect of such other matters as may be prescribed;

And every inquiry or investigation by a Board and Court shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code.

3. Power to Call for and Inspect Documents

A Conciliation Officer may enforce the attendance of any person for the purpose of examination of such person or call for and inspect any document which he has ground for considering to be relevant to the industrial dispute or to be necessary for the purpose of verifying the implementation of any award or carrying out any other duty imposed on him under this Act, and for the aforesaid purposes, the Conciliation Officer shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, in respect of enforcing the attendance of any person and examining him or of compelling the production of documents.

4. Power to Appoint Assessors

A Court of Inquiry, may, if it so thinks fit, appoint one or more persons having special knowledge of the matter under consideration as assessor or assessors to advise it in the proceeding before it.

Duties of Conciliation Machinery

Duties of Conciliation Officers, Board of Conciliation, and Courts of Inquiry are as follows :

1. Duties of Conciliation Officer

The duties of Conciliation Officer are as follows:

i) To Hold Conciliation Proceedings

Where any industrial dispute exists or is apprehended, the Conciliation Officer may hold conciliation proceedings. Where the dispute relates to a public utility service and a notice under Section 22 has been given, he shall hold conciliation proceedings in the prescribed manner.

ii) To Investigate the Dispute

For the purpose of bringing about a settlement of the dispute, without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof. He may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and cordial settlement of the dispute. But he has no authority to make a final decision.

iii) To Send a Report and Memorandum of Settlement to Appropriate Government

If a settlement of the dispute is arrived at, in the course of the conciliation proceedings, the Conciliation Officer shall send a report thereof to the Appropriate Government or an officer authorised in this behalf by the Appropriate Government.

iv) Where no Settlement is Arrived at

If no settlement is arrived at, the Conciliation Officer shall as soon as after the close of the investigation, send to the Appropriate Government a full report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof. The report shall be accompanied with a full statement of such facts and circumstances, and the reasons on account of which, in his opinion, a settlement could not be arrived at.

2. Duties of Board of Conciliation

It shall be the duty of the Board:

i) To Bring about a Settlement of the Dispute

Where a dispute has been referred to a Board under this Act, it shall be the duty of the Board to endeavour to bring about a settlement of the same and for this purpose, the Board shall, in such manner as it thinks fit and without delay, investigate the dispute and all matters affecting the merits and right settlement thereof and may do all such things as it thinks fit for the purpose of inducing the parties to come to a fair and cordial settlement of the dispute.

ii) To Send a Report and Memorandum of Settlement to the Appropriate Government

If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings, the Board shall send a report thereof to the Appropriate Government together with a Memorandum of the settlement signed by the parties to the dispute.

iii) To Send a Full Report to the Appropriate Government Setting forth the Steps taken by the Board in Case

If no such settlement is arrived at, the Board shall, as soon as practicable after the close of the investigation, send to the Appropriate Government a full report setting forth the proceedings and steps taken by the Board for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances, its findings thereon, the reasons on account of which in its opinion, a settlement could not be arrived at and its recommendations for the determination of the dispute.

iv) To Communicate Reasons to the Parties if no Further Reference Made

If, on the receipt or a report in respect of a dispute relating to a public utility service, the Appropriate Government does not make a reference to a Labour Court, Tribunal or National Tribunal under Section 10, it shall record and communicate its reasons to the parties concerned.

v) To Submit Report within 2 Months

The Board shall submit its report under this section within two months of the date, on which the dispute was referred to it or within such shorter period as may be fixed by the Appropriate Government.

It is provided that the Appropriate Government may from time to time extend the time for the submission of the report by such further periods not exceeding two months in the aggregate. It is provided further that the time for the submission of the report may be extended by such period as may be agreed on in writing by all the parties to the dispute.

3. Duties of Court of Inquiry

A Court shall inquire into the matters referred to it and report thereon to the Appropriate Government ordinarily within a period of 6 months from the commencement of its inquiry.

The report of the Court shall be in writing and signed by all the members of the Court. Any member or the Court may record any minute of dissent from a report or from any recommendation therein. The report together with any minute of dissent recorded therewith shall be published within a period of 30 days receipt by the Appropriate Government.

Weaknesses of Conciliation Machinery

Weaknesses of conciliation machinery in settling disputes are as follows :

1. Delays

Ineffectiveness of conciliation machinery is sought to be established both by employers and workers because of delays involved in the process. For workers "justice delayed is justice denied". On the employer's side, delay becomes objectionable because it allows pressures to be built-up and in a way coerces the employer into a settlement.

2. Attitude of Parties towards Conciliation

The common complaint has been the conciliation proceedings are merely a hurdle to be crossed over for reaching the next stage of the industrial relations machinery. This attitude to conciliation is not uncommon, it is argued, within the conciliation machinery itself.

It is also stated that the width of interest and depth of understanding which can make conciliation a success is conspicuous by its absence in the personnel handling conciliation proceedings. The parties to the dispute, many times, do not attend conciliation meetings on the described dates.

3. Inadequacy of Conciliation

Conciliation is treated as a preliminary step leading to adjudication through the Labour Courts or Tribunals. Workload has also to be judged in relation to the increase in other responsibilities of these officers as well as the intricacy or cases they have to handle as well as the demand content of each. If some assessment of this aspect is readily available. It will be useful.

4. Quality of Personnel

It is alleged that most conciliation officers lack training and competence in conciliation work. Conciliation tends to be mechanical, because the officer does not have any important suggestion to offer during the course of the proceedings.

He has inadequate knowledge of the industry as also of law, though in fairness to conciliation officers it has been said that for the law which they are required to administer, i.e., the labour law in general, the knowledge of the officers is not inadequate.

Measures for Making Conciliation Machinery Effective

The Second National Commission on Labour stated that "conciliation can be more effective if it is freed from outside influence and the conciliation machinery is adequately staffed.

Hence, it gives remedial measures to make conciliation machinery more effective, which are as follows :

1. The conciliation machinery should be a part of the proposed Industrial Relations Commission. This transfer will introduce important structural, functional, and procedural changes in the working of the machinery as it exists today.
2. To facilitate speedy disposal of cases, suggestions are :
 - i) The conciliation officer should hold conciliation proceedings in the concerned establishment, instead of calling the parties to his office.
 - ii) She/he should have the statutory power of enforcing attendance of the parties before them on the prescribed date.
 - iii) She/he should dispose of the cases within the time limit as far as possible.
3. To avoid delays in the implementation of awards of labour courts, it should, be given powers to issue decrees and initiate contempt proceedings against the non-implementation of awards.
4. To improve the quality of personnel conciliation machinery should:
 - i) Make proper selection of personnel,
 - ii) Provide adequate pre-job training, and
 - iii) Provide periodic in-service training.
5. The conciliation machinery has been very effective in resolving "interest disputes" but not so much in cases of "rights disputes". Therefore, it is recommended that conciliation should be optional in cases of rights disputes and compulsory in cases of interest disputes. Conciliation should also be compulsory in the case of strike or lockout over any issue.

The role of a conciliator may be discussed under following heads :

1. As a Discussion Leader

As a discussion leader, the conciliator reduces irrationality and antagonism between the parties. He guides them towards a problem-solving approach to their dispute; he ensures that they discuss their differences in as friendly a manner as possible; he helps them to analyse their problem, always striving to keep the analysis on a rational plane; he identifies the elements of the problem, both for the parties' benefit and for his own.

2. As a Safety Valve

The conciliator places himself in the position of an alternative target when he feels that the parties are in an aggressive mood. By setting a substitute target, the parties can achieve an emotional release without direct and immediate damage to the negotiations.

3. As a Communication Link

The conciliator fulfils an important function as a communication link between the parties: serving as a communication link may either constitute his main conciliatory effort or be a contribution to it. He not only works as a conduit through which messages are relayed from one side to the other, but he also provides a thorough explanation and interprets the intentions of either party.

4. As an Innovator

The conciliator acts as an invaluable source of new information and new thoughts, particularly in providing the parties with different views of the issues, with possible alternative solutions and possibly an entirely new approach.

5. As a Sounding Board

He is often described as a "flying ambulance squad" appearing whenever or wherever a collision or conflict, which threatens to disturb harmonious relations, occurs or is apprehended to occur between the interests of the parties. He may indicate the parties which of their own arguments, defences and supports cannot stand under a rational searching enquiry.

6. As a Protector

The conciliator plays a protecting role, for he readies the parties for collective bargaining positions by exploring alternative solutions during separate meetings.

7. As a Fail-Safe Device

The conciliator often assists a party which has overstated its position to the extent of bluff or exaggeration of its reaction to some move on the part of the other; or taken a clearly untenable stance to withdraw gracefully under the banner of reason.

8. As a Stimulator

Sensing the need for positive action, the conciliator can provide the necessary impulse to a settlement; he makes a concise statement, supplies some data, gives a hint or suggestion. He crystallizes changes of opinion in the course of discussions by intervening at the appropriate moment and giving such ideas a concrete form.

9. As an Adviser

The conciliator tries to remove misunderstandings regarding the other's position, intentions and capabilities. He tries to see that misinterpretations do not occur and that each side thoroughly understands the other's point of view, obtains a picture of the opponent's strength and realises its own limitations and weaknesses.

10. As a Face Saver

The conciliator often functions as a face saver. When a party knows at the outset or realises during the course of proceedings that it has a weak case and can hope for little success in pursuing the dispute. The people concerned are often reluctant to admit defeat, because they feel that this will involve them in a loss of face, or prestige, with their members or with the public. In such situations, the conciliator may devise a form of announcing settlement, which apparently makes some small concession to the party concerned but which in reality gives it little or nothing.

As a Promoter of Collective Bargaining

While intervening in a dispute, he is not only concerned with promoting a settlement, but often assists in collective bargaining and guides the parties in the development of their relation ship.

Thus, a conciliator has to play a wide variety of roles. When a strike or lock-out is threatened, it is his duty to advise the party concerned on the legality of the proposed action and to use all his powers of persuasion so that the action may be postponed while conciliation is going on.

He makes efforts to persuade the parties against violent or disorderly behaviour in carrying out the proposed action which might lead to bitterness. He also tries to bring the parties together to the negotiating table before the factory is shut down or any damage to equipment or property is done. And he ensures that work is immediately resumed when the strike or lockout is terminated.

5.1.3 Arbitration**Q4. Explain about arbitration.**

Ans :

Meaning of Arbitration

Arbitration is the process in which a neutral third party listens to the disputing parties, gathers information about the dispute, and makes a decision to be binding on both the parties. It differs from conciliation in the sense that in arbitration, the arbitrator gives a decision on a dispute while in conciliation; the conciliator merely facilitates the disputing parties to arrive at a decision.

Qualities of an arbitrator concern the individual's attributes. There are a number of generic attributes relevant to most good arbitrators, such as language abilities and experience, reputation for professionalism, integrity impartiality and decisiveness.

Types of Arbitration

In India, there are two types of arbitration which are as follows :

1. Voluntary Arbitration

In voluntary arbitration, the arbitrator is appointed by both the parties through mutual consent. The arbitrator acts when the dispute is referred to him. In order to promote voluntary arbitration, Government of India constituted National Arbitration Promotion Board in 1967. The Board promotes the concept of voluntary arbitration by providing updated list of arbitrators, booklets containing procedures and positive sides of voluntary arbitration.

2. Compulsory Arbitration

When the disputing parties exhaust other means of settling their disputes, the Government can force the parties for compulsory arbitration, or the Government may refer the dispute for arbitration on the written request of both the parties. The award of the compulsory arbitration is binding on both the parties. Where the dispute has been referred to arbitration, the Government may prohibit any unilateral action by any of the competing parties.

Approaches to Arbitration

According to Kurt Brenn, "the objective of arbitration is not compromisebut adjudication, though the parties are at liberty to compromise. A wise arbitrator will certainly promote such agreements; but, as a rule, there is no place for compromise in the awards." This basic difference between the settlement approach and the quasi-judicial approach must be appreciated.

A) The judicial approach emphasises that arbitration should not be confused with conciliation and mediation. The parties submit a dispute for arbitration, not for reaching a compromise solution but the vindication of the stand taken by them. It is a quasi-judicial process and the arbitrator should confine himself only to an interpretation of existing agreement. The arbitrator's job, here, is to find a settlement that the disputants can with advantage accept, and not impose a solution that seems to him fair and just. In arbitration, legalism is a bias.

B) The non-judicial approach emphasises that the "arbitrator cannot isolate himself from the reality of the need for a workable solution." The most important consideration is that the decision should reduce the conflict between the contending parties and should be conducive to harmonious industrial relations.

The arbitrator, while giving his decision, takes into consideration the fact that the decision must be based upon some sound principle of natural justice; it must be workable, and it must be based upon a "split the difference" approach.

This system has enjoyed a constantly growing importance in recent years. Professor Updegraff is of the view that if high integrity, understanding and strict impartiality, coupled with adequate knowledge of labour law and economics, characterise the actions of the great majority of persons selected to act as arbitrators during coming years, the resulting confidence that interested parties will repose in the arbitral process would soon largely eliminate the waste and bitterness, incident to strikes, lockouts and similar pressure steps which, in the past, have affected dealings between the organisations of employers and employees." This is an old concept and there has been an element consisting of the older and more responsible people in society who opposed use of force and advocated settlement of controversies through the application of logic, principles and practices of customs, ethics, law and public opinion.

Importance of Arbitration

Arbitration is important in following ways :

1. Since it is established by the parties themselves, arbitration has the particular advantages of bringing - dispute settlement procedure down to the level of the parties to the dispute. Workers and management tend to have greater faith and confidence in settlement machinery which is in effect of their own.
2. Since arbitration is established by agreement, it is more flexible than other procedures and can be adjusted to the views, desires and experience of the parties and to the circumstances obtaining in the undertaking or industry.

3. Arbitration procedure, its operation at the level closest to the parties to the disputes, has the advantage of enabling the arbitrators to acquire a much greater familiarity with the characteristics of the particular industry or undertaking than most courts or tribunals.
4. The procedure is relatively expeditious when compared to that in ordinary courts or labour tribunals. It cuts down delays and results in a prompt settlement of differences.
5. It is informal in character and on that account as well as because the disputes are handled by the parties themselves often without recourse to lawyers, it tends to be less expensive than other procedures.
6. Awards are capable of implementation without any grudge on the part of both the parties at dispute and do not lead to further chances of litigation.
7. Since it is based on the consent of both the parties it helps building-up a sound base for healthy industrial relations, mutual understanding, and cooperation.
8. It is popular because it is suitable and compelling, it is far better than a costly work stoppage, even though not wholly satisfactory from either party's point of views.

Limitations of Arbitration

Following are the limitations of arbitration :

1. It deprives of its right to go on a strike, for there is often a provision in the agreement that the trade unions and workers will refrain from a strike during the continuance of the agreements.
2. Judgment is often arbitrary and ill-advised as the arbitrators are not well-versed in the economic and technical aspects of industry.
3. Arbitrators, are often biased against labour and their award is, therefore, usually not in its favour.
4. Delay often occurs in arriving at the award and settlement of disputes. This leads to a breakdown in the morale of member.

5. Though arbitration is an essential element in the creation of better labour-management relations, its availability may lead to less dependence on negotiation and conditions imposed by a third party may be resented."

Criticism of Compulsory Arbitration

The system of compulsory arbitration has been tried in Australia, New Zealand and America; but, in the last country, it has now been inoperative because of severe opposition by workers, who consider compulsory arbitration equivalent to involuntary servitude and denial of civil liberty and loss of personnel freedom.

The American labour movement is opposed to compulsory arbitration because:

- (i) Resort to compulsory arbitration promotes and prolongs industrial disputes.
- (ii) Compulsory arbitration undermines self-government in industry, i.e., it hampers the development of industrial democracy.
- (iii) It takes away from the employers and unions the responsibility of working out their mutual problems and transfers it to government-created tribunals.
- (iv) It kills collective bargaining and replaces it with litigation; it allows the parties to avoid unpleasant confrontation of their difficulties, creating a dependency upon public authority.
- (v) By requiring even an air of compulsory labour, it subjects workers to involuntary servitude.
- (vi) It exposes workers to arbitrary restraints and penalties before trial and correction.
- (vii) It denies the working people the right to protect themselves and resist a wrong, and to strive peacefully for improvement in their conditions.
- (viii) Decisions handed down through arbitration might be coloured by political expediency. Thus, both employers and the unions would become deeply involved in political pressures and efforts to win favours.
- (ix) It means loss of personal freedom, loss of mobility, loss of power of initiative, loss of hope and aspiration for self-betterment.

- (x) The prohibition of strikes is not readily enforceable; fines levied on the workers depreciate workers' morale, cause slow-downs, lower productive efficiency, and shuts off all productive possibilities.

Alexander Frey has criticised compulsory arbitration on the following four main grounds:

- (i) The minimising effect which it exercises upon genuine bargaining by disputants.
- (ii) The absence of standards without which the adjudicator cannot avoid being either arbitrary or reactionary.
- (iii) Its tendency to increase rather than to diminish disputes because of the probable reluctance of at least one of the parties to live with the adjudicator's order.
- (iv) The impracticability of enforcing decrees.

Compulsory arbitration, unless sparingly resorted to with considerable caution, may amount to an unjustified imposition of terms unacceptable to one or both parties to the dispute, and may pave the way for a complete negation of the principle of democracy and social justice.

The workers increasingly begin to depend upon a state machinery rather than on themselves. The organisations of workers and the employers become litigation-minded, and less reliance is placed on their own organisational strength. The process of collective bargaining is weakened by the existence of compulsory arbitration as an alternative. It is not conducive to lasting industrial peace.

The Royal Commission on Labour was against compulsory arbitration. It observed: "The objections to any scheme involving the compulsory reference of dispute to arbitration are formidable, quite apart from the practical difficulties that confront such a proposal. We believe that the effects on industry would be disastrous if there is a general tendency to look to some external authority to preserve industrial peace and to discourage settlement by the industry itself." These observations made more than three decades ago are valid even today.

5.1.4 Adjudication Procedura Aspects for Settlement of Grievances

Q5. Discuss about Adjudication procedura aspects for settlement of grievances.

Ans :

(Imp.)

Meaning of Adjudication

Adjudication is the ultimate remedy for the settlement of disputes in India. An industrial dispute can be referred to adjudication by the mutual consent of the disputing parties. The government can also refer a dispute to adjudication without the consent of the parties.

The Industrial Disputes Act, 1947, provides three-tier adjudication machinery which includes the following :

1. Labour Courts [Section 7],
2. Industrial Tribunals [Section 7-A],
3. National Tribunals [Section 7-B],

Under the provisions of the Act, Labour Courts and Industrial Tribunals can be constituted by both Central and State Governments but the National Tribunals can be constituted by the Central Government only.

1. Labour Court

The Appropriate Government may, by notification in the Official Gazette, constitute one or more Labour Courts for adjudication of industrial disputes relating to any matters specified in the Second Schedule. These Courts shall also perform such other functions as may be assigned to them. A Labour Court consists of one person only to be appointed by the Appropriate Government. The person so appointed is known as Presiding Officer of a Labour Court.

Qualification for Appointment as Judges of a Labour Court.

Section 7 (3) of the Act provides in this regard that a person shall not be qualified for appointment as the Presiding Officer of a

Labour Court, unless:

- i) He is, or has been, a judge of a High Court; or
- ii) He has, for a period of not less than three years, been a district Judge or an additional District Judge; or
- iii) He has held any judicial office in India for not less than seven years; or
- iv) He has been the Presiding Officer of a Labour Court constituted under any Provincial Act or State Act for not less than five years.

Duties of Labour Court

The Labour Court deals with disputes relating to :

- i) The propriety or legality of an order passed by an employer under the standing orders.
- ii) The application and interpretation of standing orders.
- iii) Discharge or dismissal of workers, including reinstatement of, or grant of relief to wrongly dismissed persons.
- iv) Withdrawal of any statutory concession or privilege.
- v) Illegality or otherwise of a strike or lock-out.
- vi) All matters except those reserved for Industrial Tribunals.

2. Industrial Tribunal

The Appropriate Government may, by notification in the Official Gazette, constitute one or more Industrial Tribunals (hereinafter called the Tribunal) for the adjudication of industrial disputes relating to any matter, whether specified in the Second schedule or the Third Schedule and for performing such other functions as may be assigned to them under this Act. This is also a one-man ad hoc body (Presiding Officer) appointed by the government.

Qualification for Appointment as a Presiding Officer of an Industrial Tribunal

A person shall not be qualified for appointment as a Presiding Officer of an Industrial Tribunal unless :

- i) He is, or has been, a judge of High Court; or
- ii) He has, for a period of not less than three years, been a District Judge or an Additional District Judge. Duties of Industrial Tribunal

An Industrial Tribunal can adjudicate on the following matters :

- i) Wages including the period and mode of payment;
- ii) Compensatory and other allowances;
- iii) Hours of work and rest periods;
- iv) Leave with wages and holidays;
- v) Bonus, profit sharing, provident fund and gratuity;
- vi) Shift working, otherwise than in accordance with the standing orders;
- vii) Classification of grades;
- viii) Rules of discipline;
- ix) Rationalisation;
- x) Retrenchment of workmen and closure of an establishments; and
- xi) Any other matter that may be prescribed.

3. National Tribunal

This is the third one-man adjudicatory body to be appointed by the Central Government to deal with disputes of national importance or issues which are likely to affect the industrial establishments in more than one state. The National Tribunal shall consist of one person not below the rank of a High Court Judge and not below sixty-five years of age.

National Tribunals can be appointed by Government of India for adjudication of industrial disputes which in the opinion of the

Central Government involve questions of national importance or are of such nature that industrial establishments situated in more than one State are likely to be interested in or affected by such disputes. No person shall be appointed to, or continue in, the office of the Presiding Officer of a National Tribunal, if:

- i) He is not an independent person; or
- ii) He has attained the age of 65 years.

Powers of Adjudication Machinery

Powers of Labour Courts, Industrial Tribunals and National Tribunals are as follows :

1. Powers to Enter Premises

The Presiding Officer of a Labour Courts, Industrial Tribunals and National Tribunals may for the purpose of inquiry into any existing or apprehended industrial dispute, after giving reasonable notice, enter the premises occupied by any establishment to which the dispute relates.

2. Powers of Civil Court

Every Labour Court, Industrial Tribunal and National Tribunal, shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely :

- i) Enforcing the attendance of any person and examining him on oath;
- ii) Compelling the production of documents and material objects;
- iii) Issuing commissions for the examination of witnesses;
- iv) In respect of such other matters as may be prescribed;

And every inquiry or investigation by Labour Court, Tribunal or National Tribunal, shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code.

3. Power to Appoint Assessors

Industrial Tribunal or National Tribunal may, if it so thinks fit appoint one or more persons having special knowledge of the matter under consideration as assessors to advise it in the proceeding before it.

4. Power to Determine the Costs

Subject to any rules made under this Act, the costs of, and incidental to, any proceeding before a Labour Court, Tribunal or National Tribunal shall be in the discretion of that Labour Court, Tribunal or National Tribunal and the Labour Court, Tribunal or National Tribunal, as the case may be, shall have full power to determine by and to whom and to what extent and subject to what conditions, if any, such costs are to be paid, and to give all necessary directions for the purposes aforesaid and such costs may, on application made to the Appropriate Government by the person entitled, be recovered by that government in the same manner as an arrear of land revenue.

Every Labour Court, Tribunal or National Tribunal shall be deemed to be Civil Court for the purposes of Sections 345, 346 and 348 of the Code of Criminal Procedure, 1973.

Every award made, order issued or settlement arrived at by or before Labour Court or Tribunal or National Tribunal shall be executed in accordance with the procedure laid down for execution of orders and decree of a Civil Court under Order 21 of the Code of Civil Procedure, 1908.

The Labour Court or Tribunal or National Tribunal, as the case may be, shall transmit any award, order or settlement to a Civil Court having jurisdiction and such Civil Court shall execute the award, order or settlement as if it were a decree passed by it.

5. Power in case of Discharge and Dismissal

Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labour Court, Tribunal or National Tribunal for adjudication and, in the course of the adjudication proceedings, the Labour Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require :

Provided that in any proceeding under this section the Labour Court, Tribunal or National Tribunal, as the case may be, shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter.

Arbitration under the Industrial Disputes Act, 1947

The Act provides for voluntary arbitration. This can be restored to by a mutual agreement between the employers and the employees. If any dispute exists or is apprehended, it may be referred for arbitration any time before dispute has been sent for adjudication under the provisions of the ID Act, 1947. One condition must be met before a dispute is referred jointly for arbitration, which is that the parties must represent the majority of their respective sides. Otherwise, the government can reject the request for arbitration.

The contending parties can refer a dispute to an arbitrator acceptable to them and submit such agreement to the government, which may latter be published in the Official Gazette. If it is published, it is acceptable to the parties contending, and to all persons summoned to appeal in the proceedings. If it is not published it is applicable to the parties who have agreed to refer the dispute for arbitration.

One main difference between the award or arbitration and that of adjudication is that the former cannot be appealed against in any court except under Article 226 of the Constitution, in a High Court.

In order to encourage this process for solving industrial disputes the Government of India has set up National Arbitration Promotion Boards in all the states.

Adjudication

The differences between arbitration and adjudication have been discussed in Compulsory arbitration is also called adjudication. It is a process

5.2 STANDING ORDERS

Q6. What is standing order? and Discuss?

Ans :

It applies to every Industrial establishment wherein 100 or more workmen are employed or were employed on any day of the preceding 12 months.

'Standing order means rules of conduct for workmen employed in industrial establishments. It is the duty of the employer not only to certify the standing orders but make it known to the workmen and thereby it is obligatory on the part of workman to comply with the provisions of the standing orders. The standing orders provide the management with a basis for taking disciplinary action against employees in an organisation.

In the absence of its own standing orders, the establishment has to follow model standing orders. Model standing orders specify the terms and conditions which govern day-to-day employer-employee relationships, infringement of which could result in a charge of misconduct. It means rules relating to matters set-out in the schedule in Standing Order Act 1946.

A) Object of the Act

1. Object of the Act is to require the employers in industrial establishments to define the conditions of employment under them and make the conditions known to workmen employed by them before they accept the employment .
2. To maintain uniformity in terms and conditions of employment in respect of workmen belonging to the same category . The rules made in the regard to these conditions is called Standing Orders.

B) Matters to be provided in Standing Orders under this Act

1. Classification of workmen, e.g., whether permanent, temporary, apprentices, probationers, or badlis.
2. Manner of intimating to workmen periods and hours of work, holidays, pay-days and wage rates.
3. Shift working.
4. Attendance and late coming.
5. Conditions of, procedure in applying for, and the authority which may grant leave and holidays.
- Requirement to enter premises by certain gates, an liability to search.
6. Closing and reporting of sections of the industrial establishment, temporary stoppages of work and the rights and liabilities of the employer and workmen arising there from.
7. Termination of employment, and the notice to be given by employer and workmen.
8. Suspension or dismissal for misconduct, and acts or omissions which constitute misconduct.
9. Means of redress for workmen against unfair treatment or wrongful exactions by the employer or his agents or servants.
10. Any other matter which may be prescribed.

C) Submission of Draft Standing Orders

Within six months of the application of the Act , to an industrial establishment, the employer shall submit to the Certifying Officer five copies of the draft standing orders proposed by him for adoption in his industrial establishment.

D) Standing orders to be accompanied by particulars of workmen

The draft standing orders submitted shall be accompanied by a statement giving prescribed particulars of the workmen employed in the industrial establishment including the name of the trade union, if any, to which they belong.

Employers in similar establishments may submit a joint draft for their convenience.

E) Conditions for Certification of Standing Orders

Standing orders shall be certified under this Act if:

- a) Provision is made for every matter set out which is applicable to the industrial establishment, and
- b) The standing orders are otherwise in conformity with the provisions of this Act; the Certifying Officer is under an obligation to adjudicate upon the fairness or reasonableness of the provisions of any standing orders.

F) Certification of Standing Orders

- Copy of the draft standing order to be sent to trade union or workmen: On receipt of the draft, the Certifying Officer shall forward a copy to the trade union, if any, of the workmen, or where there is no such trade union, to the workmen ,in the prescribed form requiring objections, if any, which the workmen may desire to make to the draft standing orders to be submitted to him within fifteen days from the receipt of the notice.

- After giving the employer and the trade union or representatives of the workmen an opportunity of being heard, the Certifying Officer shall decide whether or not any modification or addition to the draft submitted by the employer is necessary to render the draft standing orders certifiable under this Act, and shall make an order in writing accordingly
- The Certifying Officer shall thereupon certify the draft standing orders, after making any modifications and within seven days send copies of the certified standing orders to the employer and to the trade union or other prescribed representatives of the workmen.

G) Appeals

Any employer, workman, trade union or other prescribed representatives of the workmen aggrieved by the order of the Certifying Officer within 30 days from the date on which copies are sent by the certifying officer, appeal to the appellate authority, and the appellate authority, whose decision shall be final, shall by order in writing confirm the standing orders either in the form certified by the Certifying Officer or after amending the said standing orders by making such modifications or additions as it thinks necessary to render the standing orders certifiable under this Act.

The appellate authority shall, within seven days of its order, send copies of the Certifying Officer, to the employer and to the trade union or other prescribed representatives of the workmen.

Other Provisions Related to Standing Orders

1. Date of Operation of Standing Orders

Standing orders shall, unless an appeal is preferred, come into operation on the expiry of thirty days from the date on which authenticated copies are sent or where an

appeal is preferred, on the expiry of seven days from the date on which copies of the order of the appellate authority are sent.

2. Register of Standing Orders

A copy of all standing orders as finally certified under this Act shall be filed by the Certifying Officer in a register in the prescribed form maintained for the purpose, and the Certifying Officer shall furnish a copy to any person on payment of the prescribed fee.

3. Posting of Standing Orders

The text of the certified standing orders shall be prominently posted by the employer in English and in the language understood by the majority of his workmen on special boards maintained for the purpose at or near the entrance through which the majority of the workmen enter the industrial establishment and in all departments where the workmen are employed.

4. Duration and Modification of Standing Orders

A certified standing orders shall not, except on agreement between the employer and the workmen or a trade union or other representatives of the workmen be liable to modification until the expiry of six months from the date on which the standing orders or the last modifications thereof came into operation.

An employer or workman or a trade union or other representative body of the workmen may apply to the Certifying Officer for the modification and such application shall be accompanied by five copies of the modifications proposed to be made, and where such modifications are proposed to be made by agreement between the employer and the workman or a trade union or other representative of the workmen, a certified copy of that agreement shall be filed along with the application.

5.3 CODE OF DISCIPLINE

Q7. Explain about code of discipline.

Ans :

Discipline is the key to success. Theodore Roosevelt has said "With self-discipline almost everything is possible". Self-discipline makes employee realize what is required at work. Discipline can be positively related to performance. It is the bridge between goals and accomplishments. Effective discipline should be aimed at the behavior, and not at the employee personality. This is because the reason for discipline is to improve performance rather than punishing the employee.

Factors necessary for effective disciplinary system include :

1. Training of Supervisors is Necessary

Supervisors and managers need to be trained on when and how discipline should be used. It is necessary to provide training on counseling skills as these skills are used while dealing with problem employees. Moreover, discipline decisions taken by trained supervisors are considered fair by both employees and managers. Centralization of discipline: Centralized means that the discipline decisions should be uniform throughout the organization. The greater the uniformity, higher will be the effectiveness of discipline procedure.

2. Impersonal Discipline

Discipline should be handled impersonally. Managers should try to minimize the ill feelings arising out of the decisions by judging the offensive behavior and not by judging the person. Managers should limit their emotional involvement in the disciplinary sessions.

3. Review Discipline Decisions

The disciplinary decisions must be reviewed before being implemented. This will ensure uniformity and fairness of the system and will minimize the arbitrariness of the disciplinary system.

4. Notification of conduct that may result in Discipline

Actions that lead to misconduct can be listed and documented so the employees are aware of such actions. This will enable them to claim that they have not been notified, in advance, regarding the same.

5. Information Regarding Penalties

The employer should define the penalties and other actions like warnings, reprimands, discharge and his missal well in advance. All these action plans must be communicated to the employees.

6. Discipline shall be Progressive

Discipline system should be progressive in nature. In a progressive discipline approach the severity of actions to modify behavior increases with every step as the employee continues to show improper behavior. The advantage of this approach is that employees can't take it for granted.

7. Documentation

Effective discipline requires accurate, written record keeping and written notification to the employees. Thus less chance will be left for the employee to say the he "did not know" about the policy.

8. Discipline should be Fair

The disciplinary decision should be fair enough for the employee. Both over-penalization and under penalization are considered to be unfair for the problem employee. Moreover, an internal fairness is to be maintained, that is, two employees who have committed the same offense should be equally punished.

9. Discipline shall be flexible and Consistent

The manager administering discipline must consider the effect of actions taken by other actions taken in the past. Consistent discipline helps to set limits and informs people about what they can and cannot do. Inconsistent discipline leads to confusion and uncertainty.

10. Disciplinary Action should be Prompt

The effective discipline should be immediate. The longer time lag between the misconduct offense and the disciplinary action will result in ineffectiveness of the discipline.

Approaches to Discipline

Handling employee misconduct is a very critical task to be performed by the senior managers. Misconduct and other offensive behaviors often lead to decreased levels of productivity as they affect the individual performance of the employees. To manage discipline among employees, every company opts for a discipline policy which describes the approach it will follow to handle misconduct.

Broadly defined, there are two approaches to discipline employees. They are :

1. Positive Discipline Approach

Handling employee is based on the premise that role of a discipline approach should not always be to punish; rather, it should try to regulate the negative behavior of employees to make them better workers. Positive discipline is a corrective action which results improved performance, more productivity and effective workforce.

Harsh and negative punishment might work in the short term, but the end result will eventually be employee dissatisfaction, low productivity, higher rate of absenteeism and high over. This approach tries to mend the negative behavior of employees by first providing them counseling in terms of what is expected out of them and then giving oral and written warnings to them. Termination or discharge in extreme cases may also take place.

Steps of Positive Discipline Approach**a) Counseling**

Counseling is an important part of the discipline process, because it gives a supervisor the opportunity to identify employee work behavior problems and discuss possible solutions with him. The goal of this phase is to make employee aware of organizational policies and rules.

Counseling by a supervisor in the work unit can have positive effects also. Often, employees simply need to be made aware of rules. An oral warning can also be given to employee point of view as well. However, proper training should be given to the supervisors regarding counseling skills to make this process successful.

b) Written Warning

If employee behavior has not been improved by counseling sessions, then a second conference is held between the supervisor and the employee. This stage is documented in written form. As part of this phase, the employee and the supervisor develop written solutions to prevent further problems from occurring.

c) Final Warning

When the employee does not follow the written solutions, a final warning conference is held. In that conference the supervisor emphasizes to the employee the importance of correcting the inappropriate actions.

Some firms incorporate a decision-day off, in which the employee is given a day off with pay to develop a firm, written action plan to remedy the problem behaviors. The idea is to impress on the offender the seriousness of the problem and the manager's determination to see that the behavior is changed.

d) Discharge

If the employee fails to follow the action plan that was developed and further problem behaviors exist, then the supervisor will discharge the employee.

The positive aspect of this approach is that it focuses on problem solving rather than punishing and penalizing. This approach involves positive confrontation with the problem employee and thus gives him an opportunity to justify himself.

The supervisor makes him aware of the company policies. The greatest difficulty with this is the extensive amount of training required for supervisors and managers to become effective counselors. Also, the process often takes more supervisory time than the progressive discipline approach.

2. Progressive Discipline Approach

It is a step by step program designed to correct performance problems arresting out of employee misconduct. This approach typically follows four progressive steps to rectify offenses committed by an employee. It suggests that actions to modify behavior become progressively more severe as the employee continues to show improper behavior.

a) Oral Reprimands

It is a verbal interaction between the employees and supervisor where they discuss the problem behavior and the expectations to change the behaviors. An oral warning is issued as an informal reprimand that is simply noted in the record.

b) Written Reprimand

It involves the documentation between employees and supervisor if the behavior continues or if the employee further commits a serious offense. A written warning is more official and summarizes the previous oral attempts. This written feedback is discussed with the employee and then placed in his personnel file.

Suspension : The third step is suspension without pay; its purpose is to emphasize the seriousness of the offense and necessity of change.

Dismissal : The final step is dismissal of employee and is used only when previous steps have failed to change unacceptable behavior.

Code of Discipline in Industry

To maintain harmonious relations and promote industrial peace, a Code of discipline has been laid down which applies to both public and private sector enterprises. It specifies various obligations for the management and the workers with the objective of promoting cooperation between their representatives.

The basic objectives of Code of Discipline are to :

- Maintain peace and order in industry.
- Promote constructive criticism at all levels of management and employment.
- Avoid work stoppage in industry
- Secure the settlement of disputes and grievances by a mutually agreed procedure
- Avoiding litigations
- Facilitate a free growth of trade unions
- Eliminate all forms of coercion intimidation and violations of rules and regulations governing industrial relations.

5.4 INDUSTRIAL DISPUTES MEANING

Q8. What do you mean by industrial disputes?

Ans : (Oct./Nov.-20, Dec.-19. Imp.)

The Industrial Disputes Act, 1947, was enacted to promote industrial peace by providing appropriate machinery for amicable settlement of disputes arising between employers and employees.

Meaning of Industrial Disputes

According to Industrial Dispute Act 1947, Industrial disputes is "any dispute between employers and employees, and between employer & workman, between workman & workman, which is connected with the employment or non employment or the terms of employment or with the conditions of labour, of any person."

The practical meaning and form of the concept of 'industrial dispute' is unrest and discontent among the workers, which, in turn give rise to a number of complicated situations and difficult problems. Generally, the industrial disputes are the spill-over or a consequence of deterioration of relations between workers and employers.

These disputes give rise to conflicts and tensions which manifest themselves in the form of strikes, gears, hostile demonstration and even sabotage. Due to industrial disputes the worker remains discontented and unable to keep the pace of production or put in his best efforts. This results in the loss of production. Therefore, in the ultimate analysis, the employer stands to lose by the continuance of the industrial disputes. India is a welfare state. Therefore, the Indian Government has given special attention to the labour welfare. Many efforts have been made to prevent and resolve industrial conflicts and disputes.

5.4.1 Nature/Scope of Industrial Disputes

Q9. Explain the nature/Scope of industrial disputes.

Ans : (Oct./Nov.-20, Dec.-19. Imp.)

Scope of industrial disputes is explained below:

1. Industrial Conflict is Human Conflict

It is just one aspect of the general conflict inherent in the capitalist society, based upon the pursuit of self-interest in the economic life by every individual and the group to which he belongs. If an economic and social order is based upon the open acceptance of the principle that each individual is the best judge of his self-interest and he should be free to pursue this interest, conflict becomes inherent in that order. The industrial conflict between labour and capital is one manifestation of this all-pervasive conflict in the capitalist society.

2. Urge for Higher Wages and Profit

The coming together of workers motivated by their urge of obtaining the highest possible wages and the owners of capital motivated by profit maximisation is the basic cause of

industrial conflict in the capitalist economic system. The products of the joint efforts of labour and capital, that is, the output or the proceeds of an enterprise being limited at a particular time, if more goes to labour in the form of higher wages and other amenities of life, less is available for profits to the owners of capital resources.

3. Conflict among Workers and Employers

Conflict is like the conflict between any buyer and seller. The seller seeks to sell his commodity at the highest possible price that he can extract and the buyer seeks to pay the lowest possible price. The workers are the sellers of the commodity - their labour power - and the employers buy this commodity. Even though the ILO may declare that "labour is not a commodity to be sold and purchased", it continues to be so.

4. Conflict is not Personal

It results from the capitalist system itself. In a competitive market situation, the constant drive for cost reduction is needed for the mere survival of a business enterprise. The employer attempts to economise on wages also because they constitute an important element in the cost of production. But what is cost to the employer is the main source of income to the workers who seek to maximise their wages and industrial conflict is the result.

5. Limitations of the System

It is not that the employer is cruel and enjoys the sight of misery, disease, and wants among his workers. The point is that he cannot afford to be liberal and kind. He has his own limitations of the system.

6. Labour Power

Moreover, labour power is fundamentally different from any other commodity. Not only is the labour power a function of time and is, therefore, most perishable but also that it cannot be separated from the labourer. The labourer sells his labour power but retains it in his person. A seller is least concerned with what happens to the commodity after he has

sold it. But a labourer is very much concerned with the way the employer uses the labour power; with the temperature under which it is used; speed with which it is worked; and the tension and the pressure that its use creates - the conditions under which work is performed are also of utmost importance to the life and happiness of the labourer and do become a source of conflict.

7. Conflict of Interests

It is found not only in the spheres of wages and profits alone; rather it bedevils the totality of relationship arising out of the coming together of labour and capital in the capitalist form of economic organisation. The profit maximisation goal of management may demand change in the types of goods produced, installation of new machineries, and adoption of newer methods of production involving loss of hard-earned skills, transfers, retrenchment, and compulsory retirement of workers. On the other hand, the workers expect and demand stability in their income, security of employment, protection of skills and improvement in their status.

8. Profit Maximisation

It may also require authoritarian administration of the enterprise, closer supervision of workers, maintenance of strict discipline and complete obedience to the rules of the enterprise. On the contrary, workers may demand a share in the management of the enterprise, a voice in the formulation of the standing orders and scope for self-expression and a respect for the dignity of their individuality.

5.4.2 Causes and Consequences for Industrial Disputes

Q10. What are causes and consequences for industrial disputes.

Ans :

(Imp.)

Fundamentally industrial dispute is due to mental unrest or discontent in the workers. This unrest is a psychological fact but has also social, political and economic aspects. Briefly, the causes

of industrial disputes in India may be classified as follows :

1. Low Wages, Inland

The remuneration paid to workers is not adequate to meet their daily expenses. They can neither provide for the education of their children nor can they feed them properly. Their living conditions are deplorable.

Their future is uncertain and a deep sense of insecurity pervades their life. With the death of the earning member the dependents are reduced to penury and compelled to take to beggary, prostitution and other social evils. The low wages are the main reason of discontent among the workers. It is discontent which expresses itself in the form of Industrial disputes and tensions.

2. Rising Prices

If we review the statistics regarding the wages of workers in India we find that in most states have doubled. For example, in 1954, the average annual income of workers in Andhra Pradesh was Rs. 595/-, which in the year 1964 rose to Rs. 1,097. However, the doubling of income has brought no relief to the workers, because whereas the wages have gone up sharply.

After the Second World War, the prices of commodities have been steadily rising, eroding the real earning of the workers. Therefore this inflationary spiral has made the workers poorer still. This obviously produces tension and conflict among workers.

3. Lack of Link in D.A. & Price Rise

The various trade unions in India have been clamoring for 100% neutralization of prices rise by corresponding increase in the dearness allowance. This, however, has not happened in all industries. This is a great source of conflict and tension between workers and their employers.

4. Unsatisfactory Working Conditions

An other cause of industrial disputes is the fact that the working conditions in most of the factories are unhygienic and poor in respect of lighting and ventilation. This tells

upon the health of workers. They are mostly suffering from some or the other chronic ailment. Being ill and unhealthy they are depressed and irritable. This makes them permanently discontented.

5. Demand for Leave with Pay

Like workers everywhere the industrial workers, too, need holiday from work from time to time. Therefore, Trade Unions press for a permanent provision of regular leaves with pay. This is also a source of content among workers and employers.

6. Resistance to Misconduct of Officers

Today there is sufficient awakening among the workers and they are very conscious of self respect and preserve it jealously. Therefore any slight or insult by officers provokes them. Such incidents many at time ignite fire of conflict and tension which takes the form of gheraos etc.

7. Demand for Adequate Bonus

The political leaders and trade unionist have inspired the workers to think and believe that they are partners in mills and factories and that they are fully entitled to share the profits earned by the factory as a result of their labour. Though in many industries bonus is being paid now, but the amount or percentage of bonus is a source of frequent disputes among workers and employers.

8. Demand for Re-installment

At times the employers arbitrarily retrench many workers and this naturally is resisted by the affected workers. Besides, other workers are made to feel insecure. Therefore, the workers resist such moves. They stand united and agitate for the re-installment of the retrenched colleagues.

9. Non-recognition of Trade Unions

Sometimes employers refuse to recognize the trade unions in their factories. This too becomes a source of contention and conflict and may result in strikes etc.

10. Retrenchment Due to Sophisticated Machinery

In Modern industries, many new and sophisticated machines are installed. These machines are labour saving. Naturally, therefore, as a result of these there is retrenchment of workers. Recently there was a great hue and cry in the Life Insurance Corporation of India due to installation of computers.

11. Political Causes

A major cause of industrial disputes is political machinations. Now-a-days various political parties in India vie with each other to gain sympathy and support of workers and for this reason go out of way to support all types of agitations and even foment discontent among them.

12. Misconduct of Intermediaries

In many industries there is no direct contact between the employer and the workers. The workers are recruited through intermediaries or brokers. These brokers usually subject workers to various kinds of humiliation and exploitation. In resentment to these foul tactics the workers start agitations and launch other forms of protests.

Consequences of Industrial Disputes

The important consequences of industrial disputes in India are the following:

1. Unrest

As we have already mentioned, industrial conflicts and disputes lead to widespread unrest in social life and also disruption of political harmony and peace.

2. Economic Loss

The industrial disputes most obviously injure the economic interest of both the employees and employers. This effect is direct and palpable. Both indirectly and in a subtle way these also prove economically harmful to nation as a whole. Everyone is ultimately affected.

3. Economic Depression

The industrial disputes are not harmful to the industry involved but lead to all-round economic depression. A closure of one industry leads to the reduction of demand of goods of other industries or trades. For example, closure of textile industry would lead to drastic reduction in the demand of cotton.

4. Hardships of Workers

The majority of workers in India do not earn enough to be able to save something for the rainy days. They are hand to mouth, if not worse. Therefore, strikes and lockouts put unbearable burden on them and they are reduced to the level of beggars.

5. Threat to Social Security and Public Peace

If industrial disputes spread in an epidemic form they pose threat to public peace.

If the tension among workers and employers mounts and takes serious form, the workers are liable to become violent or indulge in sabotage. This may compel the employers to take the help of police force and this may still further aggravate the tension which may manifest itself in the form of rioting, looting and arson. This surely disturbs the public peace. If a strike becomes a protracted affair and is long drawn the workers may face starvation. This may compel them to beggary and other social crimes.

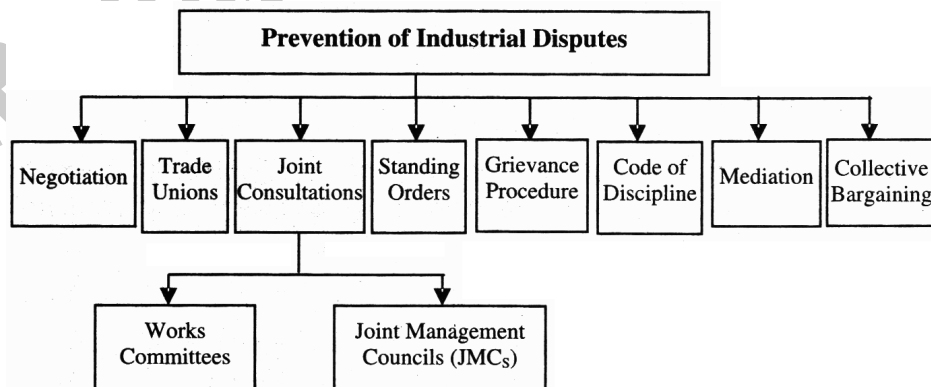
5.4.3 Prevention and Settlement of Industrial Disputes in India

Q11. Explain about the prevention and settlement of industrial disputes in India.

Ans :

(April/May-19, Imp.)

The preventive machinery has been set up with a view to creating harmonious relations between labour and management so that disputes do not arise. It comprises of various measures which are as follows :



1. Negotiation

Negotiation is a process of bargaining in which two parties, each of whom have something that the other wants, try to reach an agreement, on mutually accepted terms. It is a dialogue intended to resolve disputes, to produce an agreement upon courses of action, to bargain for individual or collective advantage, or to craft outcomes to satisfy various interests. It is usually regarded as a form of alternative dispute resolution. In organisation, supervisor making a suggestion to his manager or a salesperson trying to arrange a meeting with a prospective wholesaler/dealer is an example of negotiation.

2. Trade Unions

Trade unions are a major component of the modern industrial relations system. Though trade unions occupy a unique position, yet their role is variously interpreted and understood by different groups in the society. Trade unions play an important role in resolving industrial disputes.

3. Joint Consultation

For resolving industrial disputes, following types of joint consultations are adopted:

i) Works Committees

Though Works Committee is preventive machinery, it is a statutory body too. The Industrial Dispute Act, 1947 requires the employer to constitute a Works Committee consisting of equal representatives of employers and workmen.

ii) Joint Management Councils (JMCs)

In the Industrial policy Resolution 1956, the need for Joint Management Council consisting of representatives of management, technicians and workers was emphasised.

4. Standing Order

Another preventive measure is certification of standing orders by enterprises under the Industrial Employment Standing Orders Act, 1946. These standing orders require enterprises to lay down uniform terms and conditions for the employment of workers.

5. Grievance Procedure

A grievance procedure is a means of dispute resolution by which an employee may have his or her grievances addressed. The aim of grievance procedure is to provide the rights, and means to resolve workplace problems quickly and fairly.

6. Code of Discipline

Code of Discipline provides guidelines for the employers, workers and the unions. It also stipulates that the management and the union should utilise the existing machinery for settlement of their disputes expeditiously, and they should neither resort to strikes or lock-outs nor to unfair work practices like go slow, coercion, intimidation, etc. The Code of Discipline also specifies the various steps for dealing with industrial relations problems.

7. Mediation

When disputes occur between employees and management due to difference in opinions on matters related to the decision of working conditions such as wage, working hours, welfare, dismissal or treatment of workers, etc., in principle, employees and management themselves should resolve the disputes autonomously. However, in the event disputes cannot be resolved autonomously by employees and management themselves, the parties can receive help from dispute mediation mechanism for settling the disputes. The dispute mediation system can be statutory mediation system as well as private mediation system.

8. Collective Bargaining

Collective bargaining plays a vital role in preventing industrial disputes through compromises or concessions made by both the parties.

Settlement for Industrial Disputes

Before independence, Government was not concerned over the settlement of industrial disputes as conflicts were looked upon as a problem of law and order. But since independence, Government paid attention in this direction and passed the Industrial Disputes Act 1947. It was amended several times under which was outlined machinery for the prevention and settlement of disputes. These provisions are as under :

1. Establishment of Works Committees

In every industrial establishment employing 100 or more workers, it is compulsory to establish a works committee to promote the measures for securing and preserving unity and good relations between the parties.

The main function of the committee is not remove causes of friction between the two parties which concern the factory life of workers. No mention of functions of works committee has been made in the Act. However, in 1960 a tripartite committee of Indian Labour Conference prepared two lists of functions one for works to be dealt with and the other for works not is dealt with by the works committees.

The works committee is to discuss such problems relating to grievances, complaints, matters of discipline, welfare problems such as health, safety, training, education and other personal problems which vitally affect the interests, of the workers in general.

The functions of these committees are purely of advisory character. No legal obligation is imposed upon the employers to carry out the decisions arrived at in the meeting of the works committee.

2. Grievance Settlement Authority

The Industrial Disputes (Amendment) Act 1982 has provided for the setting up of a Grievance Settlement Authority and for reference of certain individual disputes to such authorities. Any employer employing 50 or more workers is required to provide for a Grievance Settlement Authority for settlement of industrial dispute relating to an individual.

Where such dispute arises, the concerned worker or the trade union, of which he is a member, may refer the dispute to the Authority for settlement. Any such reference shall not be referred to Board or Tribunal.

3. Conciliation Officer

The appointment of conciliation officer is made by the State Government for a particular region or industries in the state. This

officer is to bring the two parties together and help them resolve their differences. He can do everything to settle the dispute between the two parties amicably. He is bound to take decision within 14 days or such period as extended by the State Government from the date of registration of dispute.

If the dispute is settled through his good offices and an agreement is reached, he should send a report to the Government along with a memorandum of settlement signed by the parties to the dispute. If the dispute is not settled he should inform the Government about his failure, steps taken and the reasons for not being successful.

4. Conciliation Board

In case, the conciliation officer fails to resolve the dispute, the Government appoints a board of conciliation on adhoc basis for a particular dispute consisting of a chairman and two to four persons representing the employer and the employees to bring the parties to disputes to sit together and thrash out their differences as referred by the Government.

The board reports the Government about the success or failure of its efforts, steps taken and reasons for its failure to bring about a settlement within 2 months from the date of reference of the dispute.

5. Court of Inquiry

Whenever an industrial dispute remains unresolved by the conciliation officer and the board of conciliation, the matter is referred to a court of inquiry. The court may consist of one or more independent persons. It will investigate the whole dispute and submit its report to the Government on the matters referred to it ordinarily within 6 months from the date of commencement of inquiry.

If settlement is not arrived at by the efforts of the above machinery, three-tier machinery for compulsory adjudication is provided under the Act. These are three types of semi-judicial bodies, i.e., labour courts, industrial tribunals and National Tribunals.

i) Labour Courts

Labour courts have been set up by the state Governments to go into the disputed orders of the employer's dismissal, discharge and suspensions of employees by the management, legality or otherwise of any order passed by an employer under the standing order, withdrawal of any concession or privilege, legality or otherwise of any strike or lockout etc. These courts will award decisions and send report to the Government.

ii) Industrial Tribunals

The State Government have been empowered to appoint as many industrial tribunals as they think proper, for the adjudication of disputes selecting to wages, hours of work and rest, intervals, leave with pay, holidays, compensatory and other allowances, bonus, profit sharing, provident fund, gratuity, discipline, retrenchment, closure of establishment etc. The tribunal will consist of a person of the rank of a high court judge. The adjudication of these tribunals is binding on both the parties.

iii) National Tribunal

National tribunal is set up by the Central Government for the adjudication of industrial disputes which involve questions of national importance or which affect industrial establishments situated in more than one state. It gives decisions on matters referred to it by the Central Government.

If any matter is referred to the National Tribunal by the Central Government the labour courts and industrial courts are barred from entertaining such disputes and if any such dispute is pending before labour courts or tribunals, it shall be deemed to be quashed.

5.5 EMPLOYEE PARTICIPATION

Q12. Discuss about employee participation.

Ans :

Worker participation in management also gives the employees a sense of belonging and commitment to the organization. They feel that they are contributing physically as well as intellectually to the organization, which boosts their morale and raises their self-esteem. Worker's participation also helps the management maintain harmonious industrial relations as there is little scope for conflicts to arise. In fact, it is considered to be one of the industrial disputes prevention instruments.

Keith Davis defined the term 'participation' as the mental and emotional involvement of a person in group goals and sharing of responsibilities in them.

Following are the characteristics of worker participation :

- i) Participation implies practices which increases the scope and share of influence in decision making at different tiers of the organization hierarchy with concomitant assumption of responsibility.
- ii) Participation has to be at different levels of management. Decision making at different levels would assume different patterns in regard to policy formulation and execution.
- iii) Participation presupposes willing acceptance of responsibilities by workers.
- iv) Participation is conducted through the mechanism of the forum and practices which provide for association of workers' representation.
- v) The brand goal of participation is to change fundamentally the organizational aspect of production and transfer the management function entirely to the workers. So that management becomes 'auto-management'.

Purpose of Participation

The form of participation is a function of the purpose:

- **Communication:** The purpose is to give and to get information.
- **Consultation:** The purpose is to obtain the other party's views.
- **Participation:** To let the people concerned take part in taking decisions.
- **Joint decision-making:** Management taking decisions together with workers/unions.

Forms of Participation

Works Committees

The Industrial Disputes Act, 1949 provided for the setting up of works committees, comprising representatives from both the management and the workers. In accordance with the Act, works committees were set up in organizations employing 100 or more workers. The basic objective of setting up these works committees was to promote measures for maintaining harmonious relations in the workplace. These committees were to sort out differences on employment related issues, between the management and the workers.

The works committee also promotes measures to secure and preserve harmonious industrial relations in the organization by smoothing out differences between the management and the workmen.

Joint Management Councils

The second Five-Year Plan (1957-61) recommended the setting up of joint councils of management consisting of representatives of workers and the management. The Indian Labour Conference (ILC) in its 15th session in 1957 accepted, in principle, the idea of setting up joint management councils in India.

Based on the recommendations of the Indian Labour Conference, a tripartite sub committee was constituted which came up with the idea of Joint Management Councils. The basic objectives were defined as

- Promoting cordial industrial relations.
- Enhancing the operational efficiency of workers.
- Providing welfare facilities to workers.
- Educating workers to contribute effectively to such schemes.

Some of the organizations which have successfully implemented Joint Management Councils are Bharat Heavy Electricals Ltd. (BHEL), Tata Iron and Steel Company (TISCO), Indian Aluminum Company and Aluminum Industries of Kundarr.

Joint Councils

Joint Councils are for the whole unit (organization, divisional/regional or zonal branch) and their membership is confined to those who are actually engaged in the organization. The chief executive of the unit acts as the chairman of the council. The vice-chairman of the council is nominated by the workers and the members of the council. The number of councils to be setup for different units/types of services has to be determined by the management in consultation with the workers or the recognized trade unions.

The main functions of the joint council are settling matters that remain unresolved at unit level and council level and arranging joint meetings for resolving inter-council problems. The council reviews the work of unit level and develops the skills of workers and improves the general conditions of work, thereby ensuring the health, welfare and safety of the workers. Employees who provide valuable and creative suggestions are rewarded.

Unit Councils

Unit councils are formed in organizations employing 100 or more workers. The council discusses day-to-day problems and finds solutions at the unit level. If necessary, a composite council may be formed to serve more than one unit, or a council may be formed department wise to suit the specific needs of the organization. The unit council consists of an equal number of representatives from the management and the workers. The number of members of the council is decided by the management, in consultation with the workers or their recognized trade unions, but it should not exceed twelve.

Plant Councils

This scheme is applicable to all central public sector undertakings, except a few that are exempted by the government for certain reasons. There is one

plant council for a whole unit or plant, and each plant council consists of a minimum of 6 members and a maximum of 18. It is mandatory to have a woman representative if the number of women workers is more than 15.

The tenure of the plant council is three years and it is headed by a chairman who is the chief executive of the unit. Apart from the chairman, there is a vice-chairman and a secretary who are elected by the workers. Every decision of the plant council shall be on the basis of consensus and not by voting, and is binding on both the workers and the employer. Once the council arrives at a decision, it has to be implemented within a month, unless otherwise stated in the decision itself. All unsettled issues are placed before the board of directors for their decision.

The plant council usually deals with matters pertaining to operational, economic and financial, personnel, welfare and work environment areas. The operational areas deal with productivity schemes that suit the local conditions and planning, implementing, achieving and review of monthly targets and schedules and utilization of equipment, knowledge and development of new products.

Shop Councils

A shop council is a kind of participative management which is established at the level of department or shop and employs 500 or more workers. The council comprises of an equal number of representatives of the employers and employees. The employer's representatives are nominated by management and must be persons from the unit concerned.

Factors Contributing to the Limited Success of the Workers' Participation Schemes in Management in India.

In India, workers' participation had had limited success for different reasons, over the years. Some of the factors are:

- The differing perceptions and attitudes of the workers and the management regarding the degree of participation. While the management finds it important to restrict the participation of workers, the workers feel that participation should be extended to all levels.

- While the management considers the bipartite bodies as substitutes for trade unions, the workers see these as rivals.
- A number of joint bodies such as works committee, joint management council, unit council and plant council exist, whose functions have not been clearly defined. This leads to confusion and duplication of efforts and results in waste of time and energy.
- In a country like India, the trade unions are poorly fragmented and organized. Further, the inter-union rivalry and influences of different political philosophies have created conditions that are not conducive to workers' participation in management.
- Illiteracy among workers is a major reason for the failure of workers' participation schemes in India. Workers do not participate actively as they lack a clear understanding of the concept, rationale and benefits of participation.
- Delay in implementation of the decisions of the participative bodies creates dissatisfaction and frustration among the workers and results in low confidence and reduced interest in the participation scheme.

Conditions Necessary for Effective Working of the Scheme

For workers' participation to be successful there is a need to have

- A healthy work atmosphere that motivates employees to participate in the decision making process. Frequent conflicts in industries frustrate workers and they do not show interest in decision-making as they feel that the management is averse to proposals made by the workers.
- It is the responsibility of both the workers and the management to put in their best efforts, talents and resources for the realization of their goals.

- There should be total agreement between both parties regarding the functioning of the participation schemes. This will ensure the willingness of both the parties to participate in the progress and functioning of the schemes.
- Frequent meetings between the two parties will reduce the communication gap and help in implementing decisions at the right time.
- The participation schemes in an organization should be introduced at the shop floor and plant level. Until these are underway, the scheme of worker's involvement at the board level should not be introduced.
- Workers' training and education should be given importance so that the workers can understand the importance of their participation and its beneficial effects for the organization.
- The programs for training and development should be formulated comprehensively so that the workers are able to comprehend the various aspects of management.
- To make the employees participate actively, their suggestions should be taken into account and if the suggestions are good, they should be implemented immediately. This would increase employee contribution and cooperation.
- The management and the workers should trust one another and work towards improving the system. They should be willing to contribute to the fulfillment of organizational goals.
- Workers' participation schemes should be based on mutual trust and confidence and not enforced by law or compulsion as this would defeat their very purpose.
- Finally, it is important to evaluate the effectiveness of the workers' participation programs from time-to-time and if required, necessary changes should be made to render them more acceptable and effective.

5.6 QUALITY OF WORK LIFE

Q13. Discuss about quality of work life in industrial realtion.

Ans : **(Oct./Nov.-20, Imp.)**

Quality of work life is defined as "the quality of relationship between employees and the total working environment." Quality of work life (QWL) programs can be anything from union management efforts to bring about a decrease in the number of accidents and avoid health problems to painting the workplace walls, improving lighting facilities, and cleaning the workplace. They can include anything from providing a recreational center to the employees to paying their monthly bills.

Definition of QWL

The American Centre for the Quality of Work Life defines QWL as "Any activity which takes place at every level of organization which seeks greater organizational effectiveness through the enhancement of human dignity and growth... a process through which the stake holders in the organization – management unions and employees – learns how to work together better... to determine themselves what actions, changes and improvements are desirable and workable in order to achieve the twin and simultaneous goals of an improved quality of life at work for all members of the organization and greater effectiveness for both the company and the unions".

According to Richard E. Walton, 'QWL is a process by which an organization responds to employee needs for developing mechanisms to allow them to share fully in making the decisions that design their lives at work

Principles of QWL

According to N.Q. Herrick and M. Maccoby, there are four basic principles, which will humanise work and improve the QWL, which are as follows:

1. Principle of Security

Quality of work cannot be improved until employees are relieved of the anxiety, fear, and loss of future employment. The working conditions must be safe and fear of economic

want should be eliminated. Job security and safety against occupational hazards is an essential precondition of humanisation of work.

2. Principle of Equity

There should be a direct and positive relation between effort and reward. All types of discrimination between people doing similar work and with same level of performance must be eliminated. Equity also requires sharing the profits of the organisation.

3. Principle of Individualism

Employees differ in terms of their attitudes, skills, potentials, etc. Therefore, every individual should be provided the opportunities for development of his personality and potential. Humanisation of work requires that employees are able to decide their own pace of activities and design of work operations.

4. Principle of Democracy

This means greater authority and responsibility to employees. Meaningful participation in decision-making process improves the quality of work life.

Criteria for Measuring QWL

Walton proposed eight conceptual categories that together make up the quality of work life. They are as follows:

1. Adequate and Fair Compensation

There are different opinions about the adequate compensation. The committee on Fair Wages defined fair wage as "the wage which is above the minimum wage but below the living wage".

2. Safe and Healthy Working Conditions

Most of the organisations provide safe and healthy working conditions due to humanitarian requirements and/or legal requirements. In fact, these conditions are a matter of enlightened self interest.

3. Opportunity to Use and Develop Human Capacities

Contrary to the traditional assumptions, QWL is improved to the extent that the worker can exercise more control his or her work, and the degree to which the job embraces an entire meaningful task but not a part of it. Further QWL provides for opportunities like autonomy in work and participation in planning in order to use human capabilities.

4. Opportunity for Career Growth

Opportunities for promotions are limited in case of all categories of employees either due to educational barriers or due to limited openings at the higher level. QWL provides future opportunity for continued growth and security by expanding one's capabilities, knowledge and qualifications.

5. Social Integration in the Workforce

One of the objectives of QWL is to generate satisfying identity with the organisation and develop a feeling of self esteem. The variables that includes these are absence of hierarchical status, opportunity for upward mobility, openness and trust, a sense of community feeling on the job and freedom from prejudice based on sex, caste, race and religion.

6. Constitutionalism in Work Organisation

QWL provides constitutional protections to the employees only to the level of desirability as it hampers workers. It happens because the management's action is challenged in every action and bureaucratic procedures need to be followed at that level. Constitutional protection is provided to employees on such matters as privacy, free speech, equity and due process.

7. Work and QWL

QWL provides for the balanced relationship among work, non-work and family aspects of life. In other words, family life and social life should not be strained by working hours including overtime work, work during inconvenient hours, business travel, transfers, vacations, etc.

8. Social Relevance of Work

QWL is concerned about the establishment of social relevance to work in a socially beneficial manner. The workers' self esteem would be high if his work is useful to the society and the *vice versa* is also true.

Methods to Improve QWL

The concept of QWL aims at identifying and implementing alternative programs to improve the quality of professional as well as personal life of an organization's employees. These programs motivate people by satisfying not only their economic needs but also their social and psychological needs.

1. Flex Time

The traditional 'fixed working hours' schedule is not always the most efficient and productive for organizations. When employees are given freedom to choose their own work schedules, the quality and productivity of their work increases automatically. The importance principle is that the responsibility for finishing the work is with the employee. There are four types of flex time schedule:

- a) **Flexi tour** : In this type, the employee is given the freedom to opt for the start and quit time for a particular period, say, a week or a month.
- b) **Gliding time** : The employee can start and quit at any time on the condition that he/she completes 8 hours of work a day.
- c) **Variable day** : This type of flexitime requires an employee to complete 40 hours per week and the number of hours he/she works in a day can vary.
- d) **Maniflex** : This type of flex time is similar to the variable day and there is no need to work for a specified number of hours.

2. Flexi Place

Flexi place gives a employee the freedom to select the location of work. Also known as

telecommunicating, this kind of arrangement requires a formal commitment between the employer and the employee. The employer and the employee may communicate through e-mail, phone, modem, fax or pager. The employee should always be readily available for contact and can work from the place of his choice. The key here is the communication technology which has enabled this kind of working and networking.

3. Alternative Work Schedules

This option helps employees work for a certain number of hours everyday, though the schedule differs from the traditional work schedule. This type of schedule includes a fixed core period day like 7 a.m. – 3.30 p.m., 2.00 pm – 10.30 pm., or 11 a.m. – 7.30 pm. with a half an hour lunch break.

4. Part-time Employment

This option has fixed days and hours each week or a flexible schedule. Part time employees work for less than 35 hours per week. There are five types of part time employment namely, permanent part-time, job-sharing, work-sharing, temporary part-time and phased retirement.

Part-time employees can be recruited easily, have a positive attitude towards job, and their productivity is higher. Additionally, employing people part-time reduces labor costs, turnover, absenteeism and tardiness. However, the general perception is that part-time employees are not as involved as the full-time employees.

5. Compressed workweek (CWW)

CWW helps employees the work week from five to two, three or four days depending on the number of hours they do the work. CWW results in lower labour turnover, increased satisfaction, and decreased overtime. It also increases employee morale. However, it lacks the flexibility of flex time.

6. Job Enrichment

The program redesigns employee jobs to give employees freedom and responsibility in achieving their work goals. This has been explained in detail in the chapter on Job Analysis & Design.

7. Job Enlargement

This program aims at making an employee's job more challenging and rewarding by adding more duties and tasks to the existing ones. This increases the employee's self-esteem and satisfaction.

8. Autonomous Work Groups/Self Managed Teams

A modern approach to QWL is the evolution of self-managed teams which set their own objectives and strive to achieve "work-group" enrichment. This is a type of employee participation where some employees from a group are given the freedom to recruit the team members, select the team leaders, etc., They also have decision-making power on production methods, task distribution, and designing work schedules.

9. Socio-technical Systems

These programs involve redesigning the workplace not only technologically but also physically with human considerations for the workforce.

Benefits of QWL Programs

QWL relates to the extent to which employees of an organization can satisfy their personal needs through their association with the organization. QWL programs, when executed effectively will result in a number of benefits like productive, contented, and healthier employees; and helps in developing profitable, adaptable, and efficient organizations. Some other benefits of QWL programs:

- Employees can balance their work life and personal life better. This results in stress reduction.

- QWL programs like flex time reduce employee turnover and work place tardiness. They also improve the physical and psychological health of the employees, thereby bringing down the absenteeism rate.

- These programs improve employee morale, job satisfaction, and commitment to organizational goals as their personal work priorities are supported by the management.

- These programs also aim for the development and growth of the individuals in their personal and professional lives.

When the management conducts QWL programs in association with the union it :

- Improves communication between labour and management and minimizes conflict between the two.
- Leads to effective negotiations that enable designing contracts that satisfy both parties.
- Improves the efficiency of the management and strengthens employee organizations. This results in improvement in the terms and conditions of employment.
- Encourages participative management and involves employees in decision making.

5.7 MANAGING GOOD INDUSTRIAL RELATION**Q14. How to managing good industrial relation.**

Ans :

(Dec.-19, Imp.)

Managing Industrial Relations involves managing to union management relations. If workers have grievances against the management, the management grievances against employees over the latter are indiscipline and disregard for Norms. In India union management relations are regulated by legislation and institutions created by law.

Ten Golden Rules for Good Industrial Relations

1. Managements should have harmony as a goal. If they genuinely want 'harmony' and good relations they must let them happen/prevail.
2. Having defined harmony as a goal, managements should take initiative to pursue it vigorously. Harmony in industrial relations may be difficult, but not impossible. In an industry, the relationship between employees and employer is contractual. So there are mutual expectations and obligations.
3. Full acceptance by the management of its accountability in industrial relations is a must, in the same way as the accountability is accepted for the quality of product or marketing strategy.
4. A distinction, based on the concept of accountability, between the functions of the union(s) and the functions of the management, is necessary.
5. Managements should setup norms and follow them up with exemplary standards and transparent honesty.
6. Managements should ensure uniform applicability of policies and procedures, after considering the varying local conditions in a multi-plant situation. Every organization and manager is faced with problems resulting from past practices. Operational experiences result in a set of 'past' practices which, when accumulated, become part of culture of the organization.
7. There is a need for bargaining in good faith with the majority union of the employees on matters concerning compensation and working conditions. Managements should also institutionalize joint consultation on all other matters affecting the employees.
8. A direct two-way flow of communication should be maintained between the management and employees. The relationship between employees and the organization is primary and that of employees and the union of which they become members at a later stage is secondary.

9. There is a need to maintain a systematic database on all aspects concerning human resource management, to ensure objectivity and transparency in managerial actions that help bridge the gap between employees and management in terms of credibility and confidence through better communication of information and promotion of knowledge about the organization.
10. Respect for and acceptance of the industrial relations function in an enterprise depends upon the quality and competence for the industrial relations professionals and their involvement in strategic planning with commensurate responsibility, authority and accountability.

Taken together, these few golden rules will constitute the sum and substance of integrative approaches to industrial relations.

International Regulation

In this section, we refer to the ILO Declaration on multinational enterprises (MNEs) and social policy, the relevant guidelines of the Organization for Economic Cooperation and Development (OECD), and the recent initiative of the United Nations concerning the Global Compact. All of these enunciate the basic responsibilities of large companies, especially, MNEs in adhering to minimal standards in employment, employment promotion, skills training, wages and working conditions, and other industrial relations aspects.

ILO Declaration on MNEs and Social Policy

Recognizing the prominent role of MNEs in the process of social and economic globalization, the ILO issued comprehensive guidelines through the adoption (by the ILO Governing Body) of the Tripartite Declaration of Principles concerning MNEs and Social Policy in 1977, which was subsequently revised in 2000. The guidelines envisage MNEs particularly when they operate in developing countries to Endeavour to increase employment opportunities and standards, taking into account the employment policies and objectives of the governments, as well as the security of employment and the long term development of the enterprise.

1. Employment

MNEs should give priority to the employment, occupational development, promotion, and advancement of the nationals of the host country at all levels. They should work in cooperation, as appropriate, with representatives of the workers employed by them or the organizations of these workers and government authorities.

2. Equality of Employment

MNEs should extend equality of opportunity and treatment in employment. They should Endeavour to provide stable government for their employees and should observe freely negotiated obligations concerning employment stability and social security.

3. Security of Employment

They should strive to assume a leading role in promoting security of employment, particularly where the discontinuation of operations is likely to accentuate long-term employment.

4. Training

MNEs should ensure that relevant training is provided for all levels of their employees in the host countries, appropriate to meet the needs of the enterprises as well as the development policies of the country. They should support and carry out, where appropriate, in cooperation with the other social partners, vocational skill formation, as well as promote career opportunities.

5. Conditions of Work and Life

Wages, benefits, and conditions of work offered by MNEs should not be less favorable to the workers than those offered by comparable employers in the country concerned. They should respect the minimum age for admission to employment or work in order to secure the effective abolition of child labour. They should maintain the highest standards of safety and health, in conformity with national requirements, bearing in mind their relevant experience within the enterprise as a whole, including any knowledge of special hazards.

- 6. Industrial Relations:** MNEs should observe standards of industrial relations not less favorable than those observed by comparable employers in the country concerned, especially in the fields of freedom of association and the right to organize, collective bargaining, consultation, examination of grievances, and settlement of disputes.

OECD Guidelines

Enterprises should, within the framework of law, regulations, and prevailing labour relations and employment practices, in each of the countries in which they operate must:

1. Respect the right of their employees to be represented by trade unions and other bonafide organizations of employees, and engage in constructive negotiations, either individually or through employers' associations.
2. (a) Provide such facilities to representative of employees as may be necessary to assist in the development of effective collective agreements.
(b) Provide to representatives of employees information that is needed for meaningful negotiations on conditions of employment.
3. Provide to representatives of employees where this accords with local law and practice, information.
4. Observe standards of employment and industrial relations not less favorable than those observed by comparable employers in the host country.
5. In their operations, to the greatest extent practicable, utilize, train, and prepare for upgrading members of local labour force in cooperation with representatives of their employees and, where appropriate the relevant governmental authorities.
6. Management should co-operate with the employee representatives and appropriate governmental authorities so as to mitigate to the maximum extent practicable adverse effects.

7. Implement employment policies including hiring, discharge, pay, promotion, and training without discrimination, unless selectivity in respect of employee characteristics is in furtherance of established governmental policies which specifically promote greater equality of employment opportunity.
8. In the context of bona fide negotiations with representatives of employees on conditions of employment, or while employees are exercising a right to organize, not threaten to utilize a capacity to transfer employees from the enterprises' component entities in other counties in order to influence unfairly those negotiations or to hinder the exercise of a right to organize.
9. Enable authorized representatives of their employees to conduct negotiations on collective bargaining or labour management relations issues with representatives of management who are authorized to take decisions on the matters under negotiation.

5.7.1 Future of IR

Q15. Explain about future of IR.

Ans : (Imp.)

In the following section, we shall discuss the changes and emerging trends in industrial relations.

1. Changing the Face of the Organization

In the past, organizations have focused on growing bigger and better. Today, increasingly international competition and the rapid pace of technological change are favouring organizations to become lean, faster and flexible. In fact, most organizations are downsizing, decoupling and disaggregating.

2. Changing Profiles and Characteristics of the Employees

The colour of the collar of the worker in the organized sector is changing. New technologies have, in several cases, reduced the difference between blue-and white collar workers. The proportion of white-collar employees is increasing among the full-time regular employees in the organized sector.

Further, in the organized sector, there is a gradual reversal in the ratio of executives to non-executives. Over the years, in most companies, executives outnumbered non executives.

a) Casualisation

Over the past 15 years there has been a steep increase in the contract labour system and casualisation of labour, which has put workers to a greater disadvantage compared to the regular full-time employees. While the full-time employees have relatively better skills and training, they work less and under safer conditions with better incomes, job and social security. Their counterparts in the organized and casual, contract and contingent employment are less skilled, less trained, work more under less safe conditions, earn less, and enjoy little or no job, income, and social security.

b) Increased complexity and diversity

Labour is in the concurrent list of distribution of powers between the union and states of India, with both the Central and State Governments having power to legislate on certain similar matters concerning industrial relations. With the political and ideological affiliations of the parties in power at the central and the state level being varied, it may be difficult to have a single or unified model of industrial relations.

3. Emerging Trends

The emerging industrial relations scenario is complex. The existing regional and social imbalances are being exacerbated in the wake of the far reaching economic changes ushered into the economy without much consultation with the concerned social partners. Some states are waking up to the need for wooing investment, foreign and domestic, and creating jobs. In the process they are resorting to competitive labour policies that are 'investor friendly'.

4. **Paradigm Shift in Managing Work and Worker**

In the sphere of work organization and workplace governance, the focus is shifting towards managing work rather than managing the worker. Changes in labour policy and labour law in many countries around the world are increasingly focusing on flexibility and competitiveness. As a result, new initiatives in labour market policies include new arrangements for funding skills development.

a) **Worker involvement and participation**

In the sphere of worker involvement and participation, the major shift is in terms of a clear preference of the 'new' human resource policies for employees rather than union participation, direct rather than representative participation, and encouragement for small group activities that emphasize problem solving rather than preoccupation with individual or collective grievances in participative fora. The attitudinal disposition of the parties needs to be more conducive than it has been all along.

b) **Collective Bargaining:**

In collective bargaining, some of the shifts include: (a) centralization to decentralization; (b) collective to individual contracts; (c) parity to disparity; (d) increased wages/incomes and benefits accompanied by erosion of job control; (e) concession bargaining, (f) assertion of managerial rights than the rights of workers; (g) attendance, skill – or performance-linked than age-weighted and seniority-based and benefits. Some of the trends were considered distributing especially from the employees' point of view.

c) **Social Security**

The shift in employees' benefits and social security arrangements are mainly in terms of greater concern for post-retirement portable benefits, be it provident fund, pension, or health insurance. The shift from welfare to 'money fare' through the conversion of several of the welfare benefits into cash is, however, a worrisome development.

5. **Shifting Roles of Traditional Actors**

Over the years, a number of changes have taken place in the industrial relations scenario. Not only have the players changed (the inclusion of consumers and community), techniques, technology, and power structures have been re-examined and altered time and gain.

a) **Role of the Government**

The government's regulatory role will continue to be important in the unorganized sector. The Second National Labour Commission was asked, among others, to specially recommend an umbrella legislation for the unorganized sector. A bill on the subject was presented before the delegates to the Indian Labour Conference in December 2005. In the organized sector, the government has to play an enabling/facilitative role. Similarly the government has a long way to go in dealing with the twin problems of poverty and unemployment/underemployment, eradicating such social ills as child labour and bonded labour, and dealing effectively with workplace health and hygiene issues, including HIV/AIDS.

b) **Role of Trade Unions**

Trade union membership in traditional industries is declining and organizing new members in new high-tech industries raises special problems. The recent incidents in a multinational company and the persistent problems in BPOs,

point to new emerging issues in unionization, even in sectors where hitherto at least most employers and employees felt it was not necessary to unionize.

Trade unions need to develop new strategies and competencies to initiate organizing drives. Trade union amity is the need of hour and already there are several instances of issue-based cooperation among trade unions.

c) Role of Employers

In the new context, heavier responsibilities fall on employers and their organizations. Some need to give greater attention to empowerment, rather than exploitation of human resources. Building skills and giving the workforce greater say and stake in the enterprise becomes imperative. Employers are beginning to involve workers through small group activities, etc. and empowering them.

In the new economic environment, the distinction between employer's organizations and chambers of commerce/industry associations is likely to diminish; there is a need for these organizations to take holistic approaches.

6. New Actors on the Horizon

A clear understanding of this changing paradigm and its influence is necessary for all the stakeholders in the industrial relations system.

7. Portents for the Future

In a general way, conventional notions about industrial relations have relations between management and unions will undergo substantial changes. Increasingly, customer focus, both internal and external, will tend to be a decisive factor. Non-union firms are likely to proliferate in the future. Therefore, the

already pluralistic industrial relations will have further dimensions added to it. The plurality of industrial relations will be seen not merely in terms of the organized and the unorganized, but also union and non-union firms, and firms and industries in different stages of business cycles. Industrial relations will increasingly be driven by contextual factors at the micro level even as macro aspects continue to influence the inputs, labour institutions, structures, processes, and outputs.

Short Question and Answers

1. Employee grievance

Ans :

"Grievance is a type of discontent which must always be expressed. A grievance is usually more formal in character than a complaint. It can be valid or ridiculous and must grow out of something connected with the company operations or policy. It must involve an interpretation or application of the provisions of the labour contract"

Meaning and Definition

A grievance procedure is a formal process which is preliminary to an arbitration which enables the parties involved to attempt to resolve their differences in a peaceful, orderly and expeditious manner. When the grievance handling procedure works effectively, it is satisfactorily resolves most of the disputes between labour and management.

According to Davis, "grievance is any real or imagined feeling of a personal injustice which an employee has concerning his employment relationship."

According to Beach, "Grievance is any dissatisfaction or feeling of injustice in connection with one's employment situation that is brought to the attention of management"

Richard P. Calhoon defines "a grievance as anything that an employee thinks or feels is wrong, generally accompanied by an activity disturbing feeling."

2. Steps in grievance redressal procedure

Ans :

Steps involved in grievance redressal procedure.

i) Identify Grievances

Employee dissatisfaction or grievance should be identified by the management if they are not expressed. If they are ventilated, management has to promptly acknowledge them.

ii) Define Correctly

The management has to define the problem properly and accurately after it is identified/acknowledged.

iii) Collect Data

Complete information should be collected from all the parties relating to the grievance. Information should be classified as facts data, opinions, etc.

iv) Analyse and Solve

The information should be analysed, alternative solutions to the problem should be developed and the best solution should be selected.

v) Prompt Redressal

The grievance should be redressed by implementing the solution.

vi) Implement and Follow-Up

Implementation of the solution must be followed up at every stage in order to ensure effective and speed implementation.

3. Procedural Aspects for Settlement of Grievances

Ans :

Grievances can be settled through the following methods:

i) Collective Bargaining

Collective bargaining is a grievance handling process where a large number of employees are involved and their issues are handled collectively.

ii) Mediation

Mediation is a voluntary, informal process designed to address grievances which are still outstanding after the formalised grievance procedure is exhausted and prior to the matter proceeding to arbitration.

iii) Conciliation

Conciliation is a process in which the conciliator suggests solutions that are presented to the parties with a view of getting them to agree as to show how a grievance or dispute can be resolved.

iv) Arbitration

Arbitration is the process of resolving a grievance outside of the court system by presenting it to an impartial third party or panel for a decision that may or may not be binding.

v) Adjudication

Adjudication consists of settling grievances or disputes through the intervention of a third party appointed by the government. An industrial dispute can be referred to adjudication by the mutual consent of the disputing parties. The government can also refer a dispute to adjudication without the consent of the parties.

4. Causes of Grievances

Ans :

The causes of grievances may broadly be classified in the following categories :

A) Grievances Resulting from Working Conditions

- i) Improper matching of the worker with the job.
- ii) Changes in schedules or procedures.
- iii) Non-availability of proper tools, machines and equipment for doing the job.
- iv) Tight production standards.
- v) Bad physical conditions of workplace.
- vi) Failure to maintain proper discipline (excessive discipline or lack of it. Both are equally harmful.
- vii) Poor relationship with the supervisor.

B) Grievances Resulting from Management Policy

- i) Wage payment and job rates.
- ii) Leave
- iii) Overtime
- iv) Seniority
- v) Transfer
- vi) Promotion, demotion and discharges
- vii) Lack of career planning and employee development plan.
- viii) Lack of role clarity, delegation etc. (or) Lack of regard for collective agreement.
- ix) Hostility towards a labour union.

C) Grievances Resulting from Personal Maladjustment

- i) Over-ambition
- ii) Excessive self-esteem
- iii) Impractical attitude to life, etc.

5. Conciliation

Ans :

Conciliation is a process by which representatives of workers and employers are brought together before a third person or a group of persons with a view to persuade them to come to a mutually satisfying agreement.

Definition of Conciliation

According to the **International Labour Organisation**, "Conciliation is the practice by which the services of a neutral third party are used in a dispute as a means of helping the disputing parties to reduce the extent of their differences and to arrive at an amicable settlement or agreed solution. It is a process of rational and orderly discussion of differences between the parties to a dispute under the guidance of a conciliator".

6. Arbitration

Ans :

Arbitration is the process in which a neutral third party listens to the disputing parties, gathers information about the dispute, and makes a decision to be binding on both the parties. It differs from conciliation in the sense that in arbitration, the arbitrator gives a decision on a dispute while in conciliation; the conciliator merely facilitates the disputing parties to arrive at a decision.

Qualities of an arbitrator concern the individual's attributes. There are a number of generic attributes relevant to most good arbitrators, such as language abilities and experience, reputation for professionalism, integrity impartiality and decisiveness.

Types of Arbitration

In India, there are two types of arbitration which are as follows :

1. Voluntary Arbitration

In voluntary arbitration, the arbitrator is appointed by both the parties through mutual consent. The arbitrator acts when the dispute is referred to him. In order to promote voluntary arbitration, Government of India constituted National Arbitration Promotion Board in 1967. The Board promotes the concept of voluntary arbitration by providing updated list of arbitrators, booklets containing procedures and positive sides of voluntary arbitration.

2. Compulsory Arbitration

When the disputing parties exhaust other means of settling their disputes, the Government can force the parties for compulsory arbitration, or the Government may refer the dispute for arbitration on the written request of both the parties. The award of the compulsory arbitration is binding on both the parties. Where the dispute has been referred to arbitration, the Government may prohibit any unilateral action by any of the competing parties.

7. Adjudication

Ans :

Adjudication is the ultimate remedy for the settlement of disputes in India. An industrial dispute can be referred to adjudication by the mutual consent of the disputing parties. The government can also refer a dispute to adjudication without the consent of the parties.

The Industrial Disputes Act, 1947, provides three-tier adjudication machinery which includes the following :

1. Labour Courts [Section 7],
2. Industrial Tribunals [Section 7-A],
3. National Tribunals [Section 7-B],

Under the provisions of the Act, Labour Courts and Industrial Tribunals can be constituted by both Central and State Governments but the National Tribunals can be constituted by the Central Government only.

8. Code of discipline.

Ans :

Discipline is the key to success. Theodore Roosevelt has said "With self-discipline almost everything is possible". Self-discipline makes employee realize what is required at work. Discipline can be positively related to performance. It is the bridge between goals and accomplishments. Effective discipline should be aimed at the behavior, and not at the employee personality. This is because the reason for discipline is to improve performance rather than punishing the employee.

9. Industrial disputes?

Ans :

The Industrial Disputes Act, 1947, was enacted to promote industrial peace by providing appropriate machinery for amicable settlement of disputes arising between employers and employees.

Meaning of Industrial Disputes

According to Industrial Dispute Act 1947, Industrial disputes is "any dispute between employers and employees, and between employer & workman, between workman & workman, which is connected with the employment or non employment or the terms of employment or with the conditions of labour, of any person."

The practical meaning and form of the concept of 'industrial dispute' is unrest and discontent among the workers, which, in turn give rise to a number of complicated situations and difficult problems. Generally, the industrial disputes are the spill-over or a consequence of deterioration of relations between workers and employers.

These disputes give rise to conflicts and tensions which manifest themselves in the form of strikes, gears, hostile demonstration and even sabotage. Due to industrial disputes the worker remains discontented and unable to keep the pace of production or put in his best efforts. This results in the loss of production. Therefore, in the ultimate analysis, the employer stands to lose by the continuance of the industrial disputes. India is a welfare state. Therefore, the Indian Government has given special attention to the labour welfare. Many efforts have been made to prevent and resolve industrial conflicts and disputes.

10. Employee participation.

Ans :

Worker participation in management also gives the employees a sense of belonging and commitment to the organization. They feel that they are contributing physically as well as intellectually to the organization, which boosts their morale and raises their self-esteem. Worker's participation also helps the management maintain harmonious industrial relations as there is little scope for conflicts to arise. In fact, it is considered to be one of the industrial disputes prevention instruments.

Keith Davis defined the term 'participation' as the mental and emotional involvement of a person in group goals and sharing of responsibilities in them.

11. Quality of work life*Ans :*

Quality of work life is defined as “the quality of relationship between employees and the total working environment.” Quality of work life (QWL) programs can be anything from union management efforts to bring about a decrease in the number of accidents and avoid health problems to painting the workplace walls, improving lighting facilities, and cleaning the workplace. They can include anything from providing a recreational center to the employees to paying their monthly bills.

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Rahul Publications

MANAGEMENT OF INDUSTRIAL RELATIONS

Time : 2 Hours]

[Max. Marks : 75

**Answer any five questions
All questions carry equal marks**

ANSWERS

1. Define the term 'Industrial Relations'. Explain how does the concept of industrial relations differ from the concept of human resource management? **(Unit-I, Q.No. 12)**

Ans :

Industrial Relations	Human Resources Management
1. Ensuring a smooth flow of business operations.	1. Creating job opportunities that align with company's vision, mission and objectives.
2. Reducing industrial disputes that directly impact productivity.	2. Maintaining employees to accomplish goals of an organization.
3. Increasing the morale of employees with peaceful and safe environment.	3. Providing fair treatment and pleasant working conditions for employees.
4. Promoting economic growth and development based on employee performance and employer leadership skills.	4. Creating positive and friendly work environment.
5. Discouraging unfair practices through accepted rules and procedures.	5. Providing a structure to help employees work effectively.

2. Explain the functions of trade unions. Why do unions need security? **(Unit - I, Q.No. 19)**

Ans :

Functions

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

- To secure fair wages to workers.
- To safeguard security of tenure and improve conditions of service.
- To enlarge opportunities for promotion and training.
- To provide for educational, cultural and recreational facilities.
- To co-operate in and facilitate technological advance by broadening the understanding of workers on its underlying issues.
- To promote identity of interests of workers with their industry.

(vii) To offer responsive co-operation in improving levels of production and productivity, discipline and high standards of quality and prove working and living conditions.

(viii) To promote individual and collective welfare.

-
3. Illustrate the public sector bargaining and social security in detail. (Unit - II, Q.No. 9)
 4. Explain the procedure for strengthening tripartite social dialogue. (Unit - III, Q.No. 5)
 5. Discuss the types and levels of tripartite. (Unit - III, Q.No. 2, 3)
 6. Give a brief account of the genesis and the obligations of an employer under payment of Bonus Act, 1965. (Unit - IV, Q.No. 12)
 7. Explain the scope, objectives, powers of Labour courts and Industrial Tribunals under Industrial Dispute Act, 1947. (Unit - V, Q.No. 8, 9)

Ans :

The act was drafted to make provision for the investigation and settlement of industrial disputes and to secure industrial peace and harmony by providing mechanism and procedure for the investigation and settlement of industrial disputes by conciliation, arbitration and adjudication which is provided under the statute. The main and ultimate objective of this act is "Maintenance of Peaceful work culture in the Industry in India" which is clearly provided under the Statement of Objects & Reasons of the statute.

The Act also lays down:

1. The provision for payment of compensation to the workman on account of closure or lay off or retrenchment.
2. The procedure for prior permission of appropriate Government for laying off or retrenching the workers or closing down industrial establishments
3. The actions to be taken against unfair labor practices on part of an employer or a trade union or workers.

According to se 11A. Where an industrial dispute relating to the discharge or dismissal of a workman has been referred to a Labor Court, Tribunal or National Tribunal for adjudication and; in the course of the adjudication proceedings, the Labor Court, Tribunal or National Tribunal, as the case may be, is satisfied that the order of discharge or dismissal was not justified, it may, by its award, set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require :

Provided that in any proceeding under this section the Labor Court, Tribunal or National Tribunal, as the case may be, shall rely only on the materials on record and shall not take any fresh evidence in relation to the matter.

8. What are the barriers of QWL? Explain the strategies for improvement of QWL. (Unit - V, Q.No. 13)

JAWAHARLAL NEHRU TECHNOLOGICAL UNIVERSITY HYDERABAD

MBA III-Semester Examinations

R17

December - 2019

MANAGEMENT OF INDUSTRIAL RELATIONS

Time : 3 Hours]

[Max. Marks : 75

Note: This question paper contains two **Part A** and **B**.**Part A** is compulsory which carries 25 marks. Answer all questions in **Part A**.**Part B** consists of 5 Units. Answer any **One** full question from each unit.

Each question carries 10 marks and may have a, b, c as sub questions.

PART - A (5 × 5 = 25 Marks)**ANSWERS**

1. Write a short note on the following :

(a) Non-Union Firms

(Unit - I, Q.No.25)

(b) Collective Bargaining

(Unit - II, SQA.1)

(c) Social Dialogue

Ans :

Social dialogue should occur at both the macro and micro levels. It should expand not only in the realm of industrial relations and labour market issues, but also in wider issues involving labor's partition in the development of social policy and the national macroeconomic agenda.

The policies of international financial institutions, public policies on economic liberalization at the national level, and the external pressures of globalization and competitiveness, for instance, are impinging heavily on labour markets and industrial relations. Social dialogue should cover both planning and implementation rather than be restricted, as in the case of structural programmes, to implementation. Ownership of social programmes is critical for social participation.

(d) ESI Act, 1948

(Unit - IV, SQA.4)

(e) Employee Participation

(Unit - IV, SQA.10)

PART - B (5 × 10 = 50 Marks)

2. What is Trade Union? And write the objectives, growth and structure of Trade Unions in India.

(Unit - I, Q.No.17,18,21)

(OR)

3. Discuss the various Approaches to Industrial Relations.

*Ans :***1. Unitary Approach**

The unitary approach is based on the strong argument that there is only one source of authority i.e., the management, which owns and controls the dynamics of decision making in issues relating

to negotiation and bargaining. Under unitary approach, industrial relations are grounded in mutual co-operation, individual treatment, team-work, and shared goals.

Work place conflict is seen as a temporary aberration, resulting from poor management, from employees who do not mix well with the organizational culture. Unions co-operate with the management and the management's right to manage is accepted because there is no 'we-they' feeling.

The underlying assumption is that everyone benefits when the focus is on common interest and promotion of harmony. Conflict in the form of strikes is not only regarded as necessary but destructive.

2. Pluralistic Approach

The pluralistic approach totally departs from the unitary approach and assumes that the organization is composed of individuals who form distinct groups with their own set of aims, objectives, leadership styles, and value propositions.

The organization is multi structured and there will be continued tension due to conflicts within and between the various sectional groups. In contrast to the unitary approach, the pluralistic approach considers conflict between management and employees as rational and inevitable.

3. Marxist Approach

It is based on economic activities of production, manufacturing, and distribution are majorly governed by the objective of profit. Marxists, like the pluralists, regard conflict between employers and employees as inevitable.

However, pluralists believe that the conflict is inevitable in all organizations. Marxists see it as a product of the capitalist society. Adversarial relations in the workplace are simple one aspect of class conflict. The Marxist approach, thus, focuses on the type of society in which an organization functions.

4. Write about the nature and legal frame work of Collective Bargaining. (Unit - II, Q.No.2,3)
(OR)
5. Describe the Management relations in after-liberalization India. (Unit - II, Q.No.6)
6. Enumerate and explain the levels of Tripartism. (Unit - III, Q.No.3)
(OR)
7. Write about the Reform process of Social Dialogue in detail. (Unit - III, Q.No.4)
8. Answer briefly on :
 - (a) Factories Act, 1948 (Unit - IV, Q.No.1)
 - (b) Workmen's Compensation Act, 1923 (Unit - IV, Q.No.7)
 - (c) Minimum Wages Act, 1948. (Unit - IV, Q.No.11)(OR)
9. What is National Wage Policy? And write about contemporary issues in wage system. (Unit - IV, Q.No.13, 16)
10. How can you manage good Industrial relations in your company? (Unit - V, Q.No.14)
(OR)
11. Write the meaning, nature and scope of Industrial disputes. (Unit - V, Q.No.8,9)

JAWAHARLAL NEHRU TECHNOLOGICAL UNIVERSITY HYDERABAD

MBA III-Semester Examinations

R17

April / May - 2019

MANAGEMENT OF INDUSTRIAL RELATIONS

Time : 3 Hours]

[Max. Marks : 75

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Each question carries 10 marks and may have a, b, c as sub questions.

PART - A (5 × 5 = 25 Marks)**ANSWERS**

1. (a) Who are the three actors of industrial relations ? Explain their roles.

Ans :

Some of the major parties to industrial relation are as follows :

1. **Employees**

Among the participants to IR, employees are considered as the most affected one by the IR system prevalent in an organisation. Employees with their various characteristics such as their commitment to the work and the organisation, their educational and social background, their attitudes towards the management and so on affect and are affected by the system of IR.

Generally, employees perceive IR as a means to improve their conditions of employment, voice against any grievances, exchange views and ideas with management and participate in organisational decision making processes

2. **Employer**

Employer is the second party to IR. In the corporate organisation, employer is represented by the management. Hence, management becomes responsible to various stakeholders in an organisation including employees.

3. **Government**

The role of government in the matter of industrial relations has been changing along with changes in industrial environment and management perspective. For example, till century, the governments everywhere in the world adopted a policy of laissez faire.

The IR matters were left to be settled by the employees and employers. But, towards the end of the 19 century, the attitude of the government in the changed conditions of conflicts between employees and employers, changed to some kind of intervention in the matter of IR.

- (b) What are the principles of collective bargaining?

Ans :

Collective bargaining process should give due consideration to hear the problems on both sides. This will develop mutual understanding of a problem which is more important for arriving at the solutions.

1. Both the management and union should analyze the alternatives to arrive at the best solution.
2. There must be mutual respect on both the parties. The management should respect the unions and the unions should recognize the importance of management.
3. Both the union and management must have good faith and confidence in discussion and arriving at a solution.
4. Collective bargaining required effective leadership on both sides, on the union side and management side to moderate discussions and create confidence.
5. In collective bargaining both the union and management should observe the laws and regulations in practice in arriving at a solution.
6. In all negotiations, the labour should be given due consideration – in wage fixation, in working conditions, bonus etc.

(c) What is the link between tripartism and bipartism ?

Ans :

Bipartism and tripartism are interlinked concepts that reinforce each other at all the levels. Both are like two sides of a coin. The aspects that contribute to the success such as equality among the parties, freedom of association, right to collective bargaining and democratic decision making are same for both bipartism and tripartism. Tripartite agreements are mostly affected by the political aspects and state support, whereas bipartite agreements are affected by the economic aspects of the nation.

(d) What are the objectives of ESI act ?

(Unit - IV, Q.No.8)

(e) What is quality of work life ? What is its relevance to productivity and employer ?

Ans :

Quality of work life (QWL) refers to the favorableness or unfavourableness of a job environment for the people working in an organization. The period of scientific management which focused solely on specialization and efficiency, has undergone a revolutionary change.

The traditional management (like scientific management) gave inadequate attention to human values. In the present scenario, needs and aspirations of the employees are changing. Employers are now redesigning jobs for better QWL.

Relevance of Quality of Work Life to Productivity

Quality of Work Life (QWL) and productivity are linked. Many researchers identified a relevance between the QWL and productivity. Improved QWL leads to increased productivity, which is the prime objective of any organization. Improved quality of work life brings positive attitude in employees towards work, which in turn results in increased productivity. Similarly, inappropriate standards of quality of work life demotivates the employees and thereby reduces productive efficiency.

Relevance of Quality of Work Life to Employer

Quality of work life is very important to the employer/organization. It focuses on the level of satisfaction of the employees by maintaining a stress-free environment.

PART - B (5 × 10 = 50 Marks)

2. (a) What are the problems of trade unions in India ?

Ans :

Some of the major problems faced by trade unions in India are as follows:

1. Small Size

According to the veteran trade union leader V.V. Giri, "the trade union movement in India is plagued by the predominance of small sized unions". To quote there were 9,023 trade unions submitting returns during the year 1992. The total membership of these unions was 57.4 lakhs, with an average membership of 632 per union. Nearly three-fourths of the unions have a membership of less than 500. Smallness in size of the union implies, among other things, weakness in bargaining power.

2. Poor Finance

Small size of unions has its direct bearing on its financial health. Total income and total expenditure of 9,073 trade unions with a membership of 57.4 lakhs were Rs. 3,238 lakhs and Rs. 2,532 lakhs respectively in 1992. The per member income and expenditure, thus, come to Rs. 56.4 and Rs. 44.1 respectively". These are, by all means, very low. It is the small size of trade unions accompanied by small subscriptions; the trade unions cannot undertake welfare activities.

3. Politicisation

A serious defect of the trade union movement in India is that the leadership has been provided by outsiders' especially professional politicians. Leaders being affiliated to one or the other party, the unions were more engrossed in toeing the lines of their political leaders than protecting workers' interests.

Ironically, in many cases, the political leaders possess little knowledge of the background of labour problems, fundamentals of trade unionism, the techniques of industry, and even little general education. Naturally, unions cannot be expected to function efficiently and on a sound basis under the guidance of such leaders.

- (b) How is union formed? What is the difference between recognized and registered trade union?

Ans :

According to the provisions of Trade Union Act, A union is formed with atleast seven members. A union is formed by labour, employees, workers and even managers. The main purpose of forming a trade union is to improve the work atmosphere, working conditions and wages. To form a trade union, the union is required to show that it has majority of employees in its bargaining unit. There are two ways in which the union can demonstrate it to the Employee or the National Labour Relations Board (NLRB).

1. Firstly, the union should collect authorization cards signed by employee who are interested in joining the union. The employer may or may not recognize the union which has managed to collect cards from employees.
2. If the employer doesn't recognize the union, the union can file a representation petition and request for an election with the regional office of the NLRB.

S.No.	Recognized Trade Union	S.No.	Registered Trade Union
1.	Recognition of a trade union is done by the management as a collective bargaining agent/ council.	1.	Registration of a trade union union is done with the registrar of the trade unions.
2.	Sections 28 of trade unions Act, 1926 deals with recognized trade unions.	2.	Section 4-14 of trade union Act, 1926 deals with registration of trade unions.
3.	Recognition of a trade union is important to maintain peaceful and stable industrial relations.	3.	Registration of a trade union is mandatory and basis requirement for unions in an organization.
4.	In case of multiple unions, the union with more numbers of workers is recognized.	4.	One or more number of unions can get registered.

(OR)

3. (a) What are the advantages of employer organizations?

Ans :

1. They help the employers in providing training and development programmes to their employees.
2. They provide advice to employers regarding the important matters such as grievance handling, expatriate recruitment, negotiation settlement of disputes, collective bargaining etc.
3. They help in maintaining safe and healthy work area for employees.
4. They help in maintaining good public relations.
5. They help the employees in developing strong leadership skills.
6. They represent the views and interests of its members/employers in any meetings with government and other agencies.
7. They help their members/employers in resolving issues with the unions/employees.

(b) Trace briefly the history of trade union movement in India.

(Unit - I, Q.No.17)

4. What are the factors that contribute to success or failure of collective bargaining ?

(Unit - II, Q.No.12)

(OR)

5. Explain the changes that have been brought about in Union-Management relationship due to liberalization and globalization.

(Unit - II, Q.No. 6)

6. What is tripartism? Make a critical assessment of tripartism arrangement in India.

(Unit - III, Q.No.1,2)

(OR)

7. (a) What is the role of government in industrial relations?
(b) What is industrial tribunal? Explain the process of appointing a industrial tribunal.

(Unit - III, Q.No.6)

Ans :

For the adjudication of the industrial disputes, the appropriate government may, by notification constitute one or more industrial tribunals. Matters relating to the following are:

- Retrenchment of labour.
- Compensatory and other allowances and rules of the discipline in the workplace.

- If the company is in profit, then matter related to bonus and profit sharing.
- Work manual such as hours of working and interval for rest.
- Wages and provident fund of workmen.
- The duty of the Industrial Tribunal to hold its proceedings fast and submit its report to the state government within the specified time given.

To resolve the industrial disputes, the appropriate government gives notifications in the official gazette for appointing one or more industrial tribunals. The industrial tribunal handles any matter whether specified in the second schedule or the third schedule of the industrial disputes Act. Apart from this, the various other matters which emerge in the form of new demands and result in industrial disputes are also referred to an industrial tribunal.

8. What are the salient features of The Payment of Bonus act ? (Unit - IV, Q.No.12)

(OR)

9. What are the contemporary issues in fixing minimum wages on a country wide basis ? (Unit - IV, Q.No.16)

10. (a) What are the causes of employee grievances? (Unit - V, Q.No.2)

- (b) What are the approaches to deal with industrial conflict ? (Unit - V, Q.No.11)

(OR)

11. Discuss briefly the terms, 'agreement', and 'settlement' and 'award' and bring out the differences among them.

Ans :

Agreement

Definition

According to Section 2 (e) of Indian Contract Act, " Every promise and every set of promises forming the consideration for each other is an agreement". In simple words, A promise is said to be an agreement.

Sec. 2 (b) defines promise as "when the person to whom the proposal is made signifies his assent thereto, the proposal is said to be accepted . A proposal, when accepted becomes a promise".

Settlement

Definition

According to Section 2 (p) "Settlement is an agreement by means of a conciliation". Settlement can be a bi-party settlement (or) Tri-party settlement. Bi-party settlement is when two parties reach an agreement through direct conversation. Tri-party settlement is when a conciliation officer appointed by government makes a settlement between two parties.

Every settlement is an agreement or arrangement but not every agreement or arrangement is a settlement. The primary objective of settlement is to maintain industrial peace.

Award

Definition

Section 2(b) of the Act defines ' Award' as a final determination or interim of any industrial dispute or any termination of Industrial dispute or any question relating to that by any industrial tribunal or labour court.

An Award is of judicious nature and it is a decision of the arbitrator, industrial tribunal or labour court. It is similar to the judgement of a court.

JAWAHARLAL NEHRU TECHNOLOGICAL UNIVERSITY HYDERABAD

MBA III-Semester Examinations

R17

December - 2018

MANAGEMENT OF INDUSTRIAL RELATIONS

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PART - A (5 × 5 = 25 Marks)**ANSWERS**

1. (a) What is meant by Occupational Unions ? List the functions of trade union.

Ans :

A worker's union is organized for the members of a specific occupation is called occupational union.

Functions

- (i) **Increasing Co-operation and Well-being among Workers :** The modern industry is complex and demands specialization in jobs. This results in extreme division of labor, which leads to the growth of individualism and development of impersonal and formal relationships. There is no common unifying bond among the workers.
- (ii) **Securing Facilities for Workers :** Most of the industrialists are not very keen on providing the facilities and proper working conditions to the workers. They are more interested in getting their work done to the maximum extent. In such conditions, trade unions fight on behalf of the workers and see that the facilities have been provided by the management.
- (iii) **Establishing Contacts between the Workers and the Employers :** In present days, there are many industries, which have grown into giants. A single unit in a particular industry may employ hundreds of employees. Many times a worker or employee may not have a chance to see their managers. In this situation, the workers are not able to express their grievances before their employers, and even the management does not know the difficulties faced by the workers.
- (b) Define the term social security. What is public sector bargaining ? **(Unit - II, Q.No.9)**
- (c) Differentiate between Bipartism and Tripartism.

Ans :

S.No.	Basis for Differentiation	Bipartism	Tripartism
1.	Number of parties	Bipartism include two parties such as employees and employers.	Tripartism includes three parties such as state, employees and employers.
2.	Purpose	Bipartite bodies are labour management committees established as a part of a grievance process.	Tripartite bodies were set up by Indian government to resolve labour and industrial relation issues.
3.	Constitution/Body	There are two important bipartite bodies such as work committees and Joint Management Councils (JMC).	There are three levels of tripartite bodies such as the Indian Labour Conference (ILC), The Standing Labour Committee (SLC) and the Committee on Conventions.

(d) Define the terms Factory and Industrial Establishment.

(Unit - IV, Q.No.1)

(e) What are the major causes of Industrial conflict ?

Ans :

(1) Economic Causes of Industrial Conflict

(a) Wages : The demand for wage increase is the prime-most cause of the industrial disputes. A large number of strikes are being organized to raise a voice against the rise in prices and cost of living.

(b) Dearness Allowance and Bonus : Increase in cost of living was the main cause of the demand of dearness allowance by the workers to equate their wages with the rise in prices. Bonus also plays an important role as a cause of industrial dispute. It is interesting to note that in 1966, 49 percent of the disputes were related to wages and bonus.

Both the quantum and the method of bonus payment have led to a number of disputes. There is an increasing feeling among the workers that they should have a greater share in the profits of the concern and this fact has not been recognized by the employees and non-acceptance of this fact has been a source of friction among employers and employees.

(c) Modernization and Automation of Plant and Machinery : The attempt at modernization and introduction of automatic machinery to replace labor has been the major cause of disputes in India. Workers go on strike, off and on, to resist rationalization and automation. A strike in cotton textile industry in Kanpur in 1955 is an example of such disputes. Workers in Life Insurance.

(2) Managerial Causes of Industrial Conflict

These causes include autocratic managerial attitude and defective labor policies etc.

(a) Denial of Recognition to Trade Unions : Failure on the part of the employer to recognise the trade unions or to recognise the rival union for representation, insult of trade union leaders by the employers are some of the examples of autocratic managerial attitude worth mentioning as the causes of industrial disputes. The attitude of employers towards the labour associations had never been sympathetic. They want to divide them and rule.

Moreover, the management is generally not willing to talk over the dispute with the workers or workers' representatives or refer it to 'arbitration' even when the workers are willing to do so.

(b) Defective Recruitment Policies : The recruitment practices in Indian industries are defective. Recruitment is generally made by the contractors who exploit the workers and suppress their individuality. The defective promotion, demotion, transfer and placement policies encourage dissatisfaction among workers.

(c) Irregular Lay-Off and Retrenchment : Lay-off and retrenchment are reasons to be mentioned for encouraging industrial disputes. Indian employers follow the policy of 'Hire and Fire'. As a matter of practice, workers are not made permanent for a pretty long time to deprive them of their legitimate rights.

PART - B (5 × 10 = 50 Marks)

2. What is Marxist perspective of Industrial Relations? Differentiate between Unitary and Pluralist perspectives concerning Industrial Relations.

Ans :

Marxist it is based on economic activities of production, manufacturing, and distribution are majorly governed by the objective of profit. Marxists, like the pluralists, regard conflict between employers and employees as inevitable.

Marxist Perspective of industrial Relations

Marxist perspective of industrial relations emphasizes mainly on the employee-employer relationships in the capitalist society which is assumed to be exploitative. This perspective considers industrial relations as a part of society which outlines the conflicts in the capital labour relationships. Society is categorized into two classes,

- Class which owns the means of production.
- Class which does not own means of production.

The class which owns the means of production is interested in increasing their profitability by utilizing the other class (labour) as one of the factors of production. The theory argues that the class conflicts form the basis for changes in the society. These conflicts occur mainly due to unequal distribution of economic power within the society (especially between the two mentioned classes). The social and political conflicts indirectly express the economic conflict in the society. Marxist perspective says that the industrial conflicts occur as a result of organizational job demands and also due to social, political and economic systems. Conflicts in any form arise due to the disparities or inequalities between the capital and labour within the society. Thus, the conflicts are said to be continuous and unavoidable. The employees' belief in capitalism resulted in the growth of trade unions.

(OR)

3. Explain the following typologies of trade unions :

- (a) Industrial unions
- (b) Territorial unions
- (c) Enterprise unions
- (d) State-sponsored unions.

Ans :

(a) Industrial unions

The workers on the basis of industry can form unions irrespective of their craft. For example, if the entire workforce of a cement industry decides to form a union consisting of workers of different craft; the union is called an industrial union. Therefore, an industrial union is open to the members of workers of a factory like Girni Kamgar Union at Bombay. This type of union encourages workers' solidarity and makes negotiations easy because a single agreement covers all workers of a particular industry. One major drawback of this type of union is that the skilled workers in it feel that their specific demands are not scientifically taken care of.

(b) Territorial unions

Territorial unions are the federations which aim at coordinating the unions of workers either vertically, horizontally (or) based on the political ideology. National federations such as the Britain's trade union congress is a good example of central horizontal structures. For blue and white collar workers, separate vertical federations are formed. These type of unions are found in Australia (ACSPA and ACTU) and Sweden (TCO and LO). There are also confederations which follow various ideological and political lines. The examples of such confederations in India include the national trade union centres (BMS, HMS, AITUC, INTUC and CITU).

(c) Enterprise unions

Enterprise unions are formed in an organization without having restrictions from employer and the state. Employees prefer to an organization, the organization assure employment for lifetime and both management and labour emphasize on harmonious relations. Western unions were doubtful about enterprise unions as these unions have narrow focus and they don't emphasize on harmony.

Enterprise unions in Japan and Singapore are associated/linked to a great extent. However, they generally don't participate in general strikes.

(d) State-sponsored unions

State-sponsored unions are formed specifically for centrally planned economies, socialist countries and also for authoritarian and military regimes. In socialist and centrally planned economies, the main aim of state in organizing unions is to combine the union's role in attaining the state's objectives. In authoritarian establishment, the main aim is to restrict unions and to deny the human rights and trade union rights.

4. Elucidate the factors that contribute to the success or failure of collective bargaining.

Ans :

- It is necessary for the management to recognize the union and to bargain in more good faith. This also puts pressure on the union to formulate plans and demands in a systematic manner.
- There should be a change in the attitude of employers and employees. They must realize that collective bargaining approach does not imply litigation as it does under adjudication. Both the parties should keep this in mind that they have to resolve their differences on their respective claims quietly and calmly, with their own resources, reducing their dependence on the third-party intervention.
- For the purpose of collective bargaining, employers should be represented by the management and workers by their union representatives. Careful thought and selection of the negotiating team is very much essential. For management team, it is better to have a mixed composition, such as production, finance, industrial relation experts and headed by a personnel expert.
- It is also appreciable to have open minds; each party should listen to others' concern and point of views and should have some flexibility in making adjustments to the demands.
- To ensure collective bargaining, unfair labor practices should be avoided and abandoned by both; otherwise, atmosphere and confidence will be vitiated by malpractice if either side takes advantage of the other by resorting to unfair practices.
- Either side should avoid putting any irrational or unreasonable demand.
- Negotiations can be successful only when the parties rely on facts and figures to support their points of view. That is why trade union should be assisted by specialists, viz., economists, productivity experts, etc.

- Trade union should encourage the internal union democracy and periodic consultation with the general rank and file of the union members.
The terms of contract and the results of the negotiation should be in writing and should be embodied in a document. If no agreement is reached the parties should proceed to conciliation, mediation or arbitration.
- If no settlement is arrived, then the workers should be free to go in for strike and the employers for lockout. However, utmost care should be taken to resolve difference mutually.
- Strikes and lockouts should be the last resort. Periodic discussions may be necessary between management and unions to interpret the provisions of the contract and clarify doubts.
- Trade unions should be equally concerned with quality of work that leads up to a consistent concern for the viability of the firm and its products and services.
- Once the agreement is reached, it must be honored and fairly implemented.

(OR)

5. Define the term negotiation. What are the points that the parties should keep in mind while negotiating ? **(Unit - II, Q.No.10)**
6. Explain how the formation of Special Tripartite Committee (STC) has advanced the reform process and social dialogue in India.

Ans :

The Special Tripartite Committee is established under Article XIII of the Maritime Labour Convention, 2006 :

1. The Governing Body of the International Labour Office shall keep the working of this Convention under continuous review through a committee established by it with special competence in the area of maritime labour standards.
2. For matters dealt with in accordance with this Convention, the Committee shall consist of two representatives nominated by the Government of each Member which has ratified this Convention, and the representatives of Shipowners and Seafarers appointed by the Governing Body after consultation with the Joint Maritime Commission.
3. The Government representatives of Members which have not yet ratified this Convention may participate in the Committee but shall have no right to vote on any matter dealt with in accordance with this Convention. The Governing Body may invite other organizations or entities to be represented on the Committee by observers.
4. The votes of each Shipowner and Seafarer representative in the Committee shall be weighted so as to ensure that the Shipowners' group and the Seafarers' group each have half the voting power of the total number of governments which are represented at the meeting concerned and entitled to vote.

(OR)

7. Discuss in detail the types of interventions by the government in Industrial relations. **(Unit - III, Q.No.7)**

8. Explain the main provisions of Minimum Wages Act, 1948. (Unit - IV, Q.No.11)

(OR)

9. Discuss in detail the salient features of the Payment of Bonus Act, 1965. (Unit - IV, Q.No.12)
10. Discuss the concept of workers' participation in management. List the rules that management might follow to maintain good industrial relations. (Unit - IV, Q.No.14)

Ans :

Workers participation in management refers to the participation of non-managerial employees in the decision-making process of the organisation. Workers participation gives employees the mental and psychological satisfaction and thereby increase their involvement in the affairs of the organization. Workers participation in management is the most accepted principle of industrial relations in modern industry throughout the world and in India too. In the words of Keith Davis "Participation is a mental and emotional involvement of a person in a group situation which encourages to contribute to group goals or objectives and share responsibilities."

According to the British Institute of Management Workers participation in management is the practice in which employees take part in Management decisions and it is based on the assumption of commonality of interest between employer and employee in furthering the long term prospects of the enterprise and those working in it.

Sawtell defined participation as any or all the processes by which the employees other than managers contribute positively towards the reaching of managerial decisions which affect their work. Workers participation is a system where the workers get the rights to participate in decisions on issues which are of concern to the workers like wages, working conditions, safety, welfare, sharing of gain, production related aspects, incentives and allowances were considered to be legitimate areas of workers concern and therefore workers should be consulted when these are determined.

(OR)

11. What is meant by misconduct? Discuss the traditional approaches to dealing with indiscipline.

Ans :

Misconduct is defined as the improper, wrongful behaviour of an employee.

Different Approaches towards Discipline in a Management are as follows :

1. Judicial Approach

Under this approach, the nature of offence in a particular situation is determined by carefully weighing the evidence and taking all the steps prescribed for disciplinary procedure. The law of natural justice is followed, i.e., the offender is given an opportunity to defend himself, cite mitigating factors and to plead for clemency.

This is a fair process but it is time-consuming and leads to delays. In India, we are more accustomed to this approach than to any other. This approach is best exemplified by domestic enquiry.

2. Human Relations Approach

Under this approach the offender is treated as a human being. If he has violated the rules, the human relations approach would ask the question, why did he violate the rule? For example, sleeping during the night-shift might be due to the fatigue caused by factors over which the man has no control, e.g. illness in the family.

In such a case, an attempt should be made to help the worker to get over such a personal difficulty or to change the shift of duty or to shift him to a job which he can conveniently handle rather than take an extreme view and punish him severely.

3. Human Resources Approach

Under this approach every employee is looked upon as a resource to the employer and that the human resource is the most important factor of production. This resource has to be trained, motivated and brought up to the level of efficiency required by the organization.

4. Leadership Approach

Every manager has to develop a leadership quality as he has to guide, control, train, develop and lead a group of men and act as a leader whatever may be his position in the organizational hierarchy.

He can administer discipline among the men, whose work is under his direct supervision, much more than even the top management can. He has a day-to-day relationship with his men and the worker listens to him. Again they would listen to him all the more if his own behavior is disciplined.

JAWAHARLAL NEHRU TECHNOLOGICAL UNIVERSITY HYDERBAD

M.B.A II - Year III - Semester Examination

R19

MODEL PAPER - I

MANAGEMENT OF INDUSTRIAL RELATIONS

Time : 3 Hours]

[Max. Marks : 75

Note: This question paper contains two **Part A** and **B**.

Part A is compulsory which carries 25 marks. Answer all questions in **Part A**.

Part B consists of 5 Units. Answer any **One** full question from each unit.

Each question carries 10 marks and may have a, b, c as sub questions.

PART - A (5 × 5 = 25 Marks)

ANSWERS

- | | |
|----------------------------|-------------------|
| 1. (a) Trade unions | (Unit-I, SQA 9) |
| (b) Duration of agreements | (Unit-II, SQA 3) |
| (c) Tripartism | (Unit-III, SQA 1) |
| (d) ESI Act 1948 | (Unit-IV, SQA 3) |
| (e) Arbitration | (Unit-V, SQA 6) |

PART - B (5 × 10 = 50 Marks)

- | | |
|--|---------------------|
| 2. Discuss about labour force in India. | (Unit-I, Q.No. 3) |
| (OR) | |
| 3. Explain about Theoretical Perspectives of Industrial Relation | (Unit-I, Q.No. 8) |
| 4. Explain the nature of collective bargaining. | (Unit-II, Q.No. 2) |
| (OR) | |
| 5. What are the Levels of Collective Bar-gaining and Agreements? | (Unit-II, Q.No. 4) |
| 6. What are the types of tripartitism? | (Unit-III, Q.No. 2) |
| (OR) | |
| 7. Discuss about social dialogue and the Reform process. | (Unit-III, Q.No. 4) |
| 8. Discuss about workmen's compensation Act 1923. | (Unit-IV, Q.No. 7) |
| (OR) | |
| 9. Discuss about the payment of wage act 1936. | (Unit-IV, Q.No. 9) |
| 10. Discuss about grievance handling employee grievence. | (Unit-V, Q.No. 1) |
| (OR) | |
| 11. Discuss about Adjudication procedura aspects for settlement of grievances. | (Unit-V, Q.No. 5) |

JAWAHARLAL NEHRU TECHNOLOGICAL UNIVERSITY HYDERBAD

M.B.A II - Year III - Semester Examination

R19

MODEL PAPER - II

MANAGEMENT OF INDUSTRIAL RELATIONS

Time : 3 Hours]

[Max. Marks : 75

Note: This question paper contains two **Part A** and **B**.**Part A** is compulsory which carries 25 marks. Answer all questions in **Part A**.**Part B** consists of 5 Units. Answer any **One** full question from each unit.

Each question carries 10 marks and may have a, b, c as sub questions.

PART - A (5 × 5 = 25 Marks)

ANSWERS

- | | |
|--------------------------------------|-------------------|
| 1. (a) The Indian Economy | (Unit-I, SQA 1) |
| (b) Collective bargaining | (Unit-II, SQA 1) |
| (c) ILO and Tripartism | (Unit-III, SQA 2) |
| (d) Workmen's Compensation Act, 1923 | (Unit-IV, SQA 2) |
| (e) Causes of Grievences | (Unit-V, SQA 4) |

PART - B (5 × 10 = 50 Marks)

- | | |
|--|---------------------|
| 2. What are the Key Issues and Critical Challenges in labour force in India? | (Unit-I, Q.No. 4) |
| (OR) | |
| 3. Explain the concept of Industrial Relations in a Comparative Framework. | (Unit-I, Q.No. 12) |
| 4. Discuss about legal framework of collective bargaining. | (Unit-II, Q.No. 3) |
| (OR) | |
| 5. Discuss about public Sector Bargaining and Social Security for improving workers relations. | (Unit-II, Q.No. 9) |
| 6. Explain about strengthening tripartite social dialogue. | (Unit-III, Q.No. 5) |
| (OR) | |
| 7. What are the types of government interventions? | (Unit-III, Q.No. 7) |
| 8. Explain about ESI Act 1948. | (Unit-IV, Q.No. 8) |
| (OR) | |
| 9. Discuss about the payment of bonus act 1985. | (Unit-IV, Q.No. 12) |
| 10. What is standing order? Discuss. | (Unit-V, Q.No. 6) |
| (OR) | |
| 11. Explain the nature/Scope of industrial disputes. | (Unit-V, Q.No. 9) |

JAWAHARLAL NEHRU TECHNOLOGICAL UNIVERSITY HYDERBAD

M.B.A II - Year III - Semester Examination

R19

MODEL PAPER - III

MANAGEMENT OF INDUSTRIAL RELATIONS

Time : 3 Hours]

[Max. Marks : 75

Note: This question paper contains two **Part A** and **B**.**Part A** is compulsory which carries 25 marks. Answer all questions in **Part A**.**Part B** consists of 5 Units. Answer any **One** full question from each unit.

Each question carries 10 marks and may have a, b, c as sub questions.

PART - A (5 × 5 = 25 Marks)

ANSWERS

- | | |
|--------------------------------------|-------------------|
| 1. (a) Trends in the labour market. | (Unit-I, SQA 2) |
| (b) National - Level Agreements | (Unit-II, SQA 2) |
| (c) Tripartism at the National Level | (Unit-III, SQA 3) |
| (d) Factories act 1948 | (Unit-IV, SQA 1) |
| (e) Employee grievance | (Unit-V, SQA 1) |

PART - B (5 × 10 = 50 Marks)

- | | |
|---|----------------------|
| 2. Write about employers organization and explain the origin and growth of employer organization. | (Unit-I, Q.No. 16) |
| (OR) | |
| 3. Write about trade union. | (Unit-I, Q.No. 17) |
| 4. Discuss about negotiation techniques and skills. | (Unit-II, Q.No. 10) |
| (OR) | |
| 5. Explain about drafting of an agreement. | (Unit-II, Q.No. 13) |
| 6. Explain the role of state in it at the State levels. | (Unit-III, Q.No. 9) |
| (OR) | |
| 7. What is the future role of the government? | (Unit-III, Q.No. 10) |
| 8. Write about national wage policy? | (Unit-IV, Q.No. 13) |
| (OR) | |
| 9. What are the contemporary issues in wages systems. | (Unit-IV, Q.No. 16) |
| 10. What are causes and consequences for industrial disputes. | (Unit-V, Q.No. 10) |
| (OR) | |
| 11. How to managing good industrial relation. | (Unit-V, Q.No. 14) |