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Industrial Relations in India

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by

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INTRODUCTION

One of the most important events in the history of the world took place in New Delhi, the capital of India, on August 15, 1947. Lord Mountbatten, the last Viceroy and Governor-General of India, in an impressive and solemn ceremony, handed over complete economic, administrative and political power to Pandit Nehru, and through him, to about 356 million people who form one-seventh of the human race. Leaders of the struggle for freedom found themselves as popular ministers in the central government or in the states; lesser men, as responsible members of the various legislatures. The British trained Bureaucrats who ran the formal administration of the country, worked as efficiently as they did with their British masters, but now felt more important. Members of the judiciary, both high and low, trained in the highest traditions of British justice, proudly protect the rule of law as they did in British India. The grace with which the British quit India is commendable for had they resisted, the progress of India would have been retarded by about fifty years. The result is that India remains a loyal and dutiful member of the British Commonwealth, and the British business community (numbering about forty thousand), scattered throughout the country, are loved and respected by the Indians. Foreign investments in India are overwhelmingly British. Before independence, these interests had statutory safeguards from executive and legislative interference, but now British business relies
safely on the good intentions of India.

After about 160 years of British rule, the Indians became the heirs of their own country. They inherited the economic, social, political and administrative structure built up by the British rulers to suit their own ends, and are now faced with the gigantic task of transforming the whole structure to meet Indian needs. The burdens of raising the standard of living, remedying the poverty and misery, and raising the national income and prestige, lie heavily on those responsible. India lost no time in coping with the job. Speedy industrialization of the country and "grow more food campaigns" are in progress. Labor management relations in any country are a complex problem. It is even more complicated in impoverished India where a well organized Communist Party operates in all branches of life, especially in labor unions.

India has been accused of showing impatience to catch up with the highly industrialized world. She sets her eyes on Russia and China, her two neighbors, for determined planning for progress. At the same time, she is aware of the fact that to follow in their wake without reservation would bring about the absence of freedom, enslavement of the mind, and the rejection of the rule of law. India certainly wants to avoid these catastrophes. Even though she is disposed towards solving the problem of poverty by socialist means, private enterprise, both Indian and foreign, are encouraged. As long as there is progress and the desired objects are achieved, controlled capitalism will be encouraged, nay preferred. She is also anxious to bring about industrialization of the country without the evil effects of the vi
industrial revolution which the West suffered in the process.

The most important aspect of the developments in India is that other Asian countries are watching and comparing the progress made by India and China. If China surpasses India, the future of the free world is grim. On the other hand, if India succeeds, the Asian countries are bound to regain confidence in liberal and democratic ideas. This explains the charge of impatience levelled against India by some. This fact has been realized by the intelligentsia in India as well as in America and elsewhere. In passing, it may be pointed out that the Indian policy of neutrality is actually based on the Gandhian philosophy of non-violence, and should not be taken as a sign of her having fallen under the Russian spell.

Modern India is a rare combination of what the West has brought to India coupled with her own ancient philosophy intensified by self government.¹ This is true of her industrial relations as well, inasmuch as her labor management relations are imbued with Western influence, especially British and American and Gandhian philosophy. By and large, her industrial relations are influenced by the report of the Royal Commission on Labor of 1931 with Honorable J. H. Whitley (ex-Speaker of the House of Commons) as the chairman, a series of labor legislation enacted both before and after independance, the emanciation of the labor policy by the government in the First and Second Five

Year Plans and also on the speeches made by labor ministers and labor leaders from time to time.

The active participation of India in the conferences of the International Labor Organization from its very inception in 1919 has profoundly influenced her labor relations. Other influences are: the legal procedures used in Britain for securing industrial peace; the anxiety of the British ruling class to protect the interests of the British industrialists operating in India; and above all, the political and economic association with Britain where regulation of national affairs by means of legislation is a distinct feature. It is difficult to separate the foreign influences which are present in the different phases of Indian labor relations. Each case must be judged in view of its attendant circumstances. In many cases, such influences were indirect. The foreign influence, wherever discernible in different aspects and phases of labor management relations, will be pointed out while dealing with the various topics in the chapters that follow.

This thesis attempts to provide an introductory study of industrial relations in India with special attention to the role of foreign influences. The literature on the subject is limited and none of it in the author's opinion places proper emphasis on foreign influences. The survey of the relevant literature was supplemented with his own experience in the labor field in India.
CHAPTER I

SOCIAL AND ECONOMIC IMPORTANCE OF THE INDUSTRIAL WORKER IN INDIA

Foreign Influence on Evolution

"At a time when Europe, the birthplace of modern industrial systems, was inhabited by uncivilized tribes, India was famous for the wealth of her rulers and the high artistic skill of her craftsmen," says Sir Thomas Holland, President of the Industrial Commission in 1916-18. The muslin (thin cotton cloth) of Deccan in central India was popular among the ancient Greeks. The brassware industry of Benares, the shawl industry of Kashmir, the silk industry of Murshidabad, and the textile industry of different parts of India, were famous. These products and steel articles were carried across the seas. In 1600, the East India Company, the forerunner of the British rulers, obtained a charter from Queen Elizabeth to carry the manufactures and commodities of India to Europe. Lecky, in his history of England of the eighteenth century, writes that by the end of the seventeenth century, the fine qualities of the cheap and graceful Indian calicos, muslins and chintzes, which were exported to England, found such favor with the English that the woolen and silk manufacturers of that country were

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seriously alarmed. Acts of Parliament were passed in 1700 and 1721 absolutely prohibiting, with a few specified exceptions, the use of printed or dyed calico in England, either in dress or furniture. The use of printed or dyed goods, of which cotton formed any part, was also prohibited. The weaving of wrought silk from India, China and Persia was prohibited and a penalty of two hundred pounds was imposed on all persons having or selling the same by Acts 11 and 12 of William III of England. A letter dated March 17, 1769 from the director of the East India Company to the authorities in Bengal reveals that the company desired that production of raw silk should be encouraged in Bengal and, at the same time, manufacture of silk fabrics should be discouraged. Furthermore, silk winders were forced to work in the company-owned factories, and prohibited from working in their own homes.² This policy of the East India Company created the first factory system to replace the cottage industries that prospered in India before the advent of the British. Historians are unanimous that India, the great workshop of cotton manufacture for the world since time immemorial, became flooded with English cotton goods and that India, which had been chiefly an exporting country, became an importing country within a short period.

"During the period from 1800 to 1850, there was in force an elaborate network of mercantile provisions designed to aid the British textiles and bring money into the British Treasury and also having the effect of penalizing Indian textiles in British markets, in foreign markets, and even in Indian markets. These provisions included high import duties ranging

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² Ibid., p. 387
from 40 per cent to 60 per cent on textile goods coming into Great Britain, which effectively shut the British market to Indian manufacturers. Consequently, Indian exports had to go to foreign countries. The Excise Tax on Indian exports was doubled if the goods were carried in foreign ships. If carried in British ships, goods had to pay the monopoly freight charges of the East India Company, plus a toll levied on all goods brought to Britain for re-export. Even within India, British textiles had to pay only a small 3½ per cent advalorem import duty, while local manufacturers and traders in Indian textiles had to pay anywhere from 6 per cent to 18 per cent advalorem inland transit duties, duties from which British traders were exempt.3

These unrestricted controls crippled the Indian manufacturer, trader and textile worker. Discriminatory legislation was eventually repealed when laissez faire philosophy triumphed, but relief did not come until India had been reduced to a textile importing country. "A Mr. Brockelhurst, a representative of the British Textile Industry, testified very candidly that the damage was already done, and noted the fact that weavers, either in the one country or the other, must be sacrificed."4

Meanwhile, the industrial revolution in England resulted in clamor for raw materials and British investments poured in to develop tea and coffee plantations. The cultivation of raw materials for England and the development of plantations created industrial agriculture in India. Thus, the agricultural worker neglected the cultivation of food essential to a sound


4 Ibid., p. 468
economy. The Royal Commission on Agriculture in 1929 described the agricultural laborer as one "born in debt, lives in debt, and dies in debt."  

Foreign Influence and Modern Factory System

British private capital, along with the development of communication and transport, helped to revive industry and the modern factory system in India. The impact of the British opened up India. Railway systems now connect the main ports with important agricultural regions. The first excursion into modern production began in tea, coffee and rubber plantations when with the export of these agricultural products, certain processing activities in factories were necessitated. The majority of factory workers come from the impoverished, landless, laboring castes of the villages and from the small agriculturists, whose resources from the land were insufficient to eke out a half starving existence. These people accepted the irksomeness of factory work and even walked long distances to reach it because the circumstances in which they were living were hopeless.

At the beginning of the First World War, economic activity of the modern type was very limited in India. Manufacturing was represented chiefly by cotton and jute textile mills; plantations, chiefly by tea and coffee; and mining of coal, chiefly by and for the railway companies. In the early stages of industrial development, capital and management, as well as technical personnel, were foreign. Today, except for a few highly specialized foreign experts, technical personnel are normally

5 Ornati, Oscar A., Jobs and Workers in India, p. 28.
Indian, some of them foreign trained. The rather uncertain future induced many British interests to transfer ownership from British to Indian hands in the early 1940's.

An important aspect of the life of the industrial worker in India is the heavy concentration of modern industry in particular centers and regions, and total absence in others. This disparity is now being overcome by the Government establishment of industries, including heavy industries, in suitable places throughout India. The very fact that the urban population is only 15 per cent of the total population is an indication of under-development. It must, however, be remembered that India is the foremost among the so-called under-developed countries. Apart from the large modern industries, towns big and small, afford employment in a number of miscellaneous industries such as the Beedi or country cigarettes, bakeries, flour mills, tile factories and small modern workshops for repair and maintenance.

In 1951, 51 per cent of the world's population lived in more and 49 per cent in less industrialized countries than India. The last census figures (1951) disclosed that 68.9 per cent of the male population depend mainly on agriculture for their livelihood and 9.9 per cent of the population live in

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7 Davis, Kingsley, Social and Demographic Aspects of Economic Development in India in Economic Growth of Brazil, India and Japan, Edited by Simon Kuznets and others, p. 257.

8 Ibid., p. 270.
cities with a population of 20,000 or more.  

The number of non-agricultural workers in 1950 was 7,314,170. The performance of the Indian worker is generally low, for instance, in the textile industry the maximum number of ring frame spindles handled by an Indian operator is 380 compared to 800 in Britain, 1,200 in the United States, and 2,400 in Japan. Furthermore, absenteeism is high among industrial workers. The low performance and high absenteeism of the Indian worker can be attributed to the fact that a majority of them find work in the factory less satisfactory than work in the fields. Low physical stamina due to malnutrition, poor housing and sickness also contribute.

The two problems given highest priority by the government of India now are problems of social security and housing, especially for industrial workers. The Provident Fund Act and the Employees State Insurance Act are working satisfactorily, but do not give the social security that the industrial worker needs. Extensive schemes are included in the Second Five Year Plan to remedy the housing situation.

**Income**

The average per capita income in India in the year 1867-68, on an investigation conducted by Dadabhai Naoroji was found to be twenty rupees.

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9 Ibid., p. 269.

10 Ornati, Oscar A., Jobs and Workers in India, p. 9.

11 Ibid., p. 45.
It was twenty-seven rupees in 1882, and in 1901, when conducted during the Viceroyalty of Lord Curzon, it was thirty rupees. In 1921-22 it was found to be seventy-four rupees by K. T. Shah and K. J. Khambata; and in 1931-32, V. R. K. V. Rao estimated it to be sixty-two rupees. At that time, Rao estimated 14.2 million earners in the category of workers occupied in industry. According to him, 53 per cent of the national income came from agriculture, 20 per cent from industry, including handicrafts and modern style factories, and the other 25 per cent from trade, communications, government professions, etc. The most authentic estimate of the present decade is in the report of the National Income Committee in April, 1951. According to this, the per capita income in India in 1948-49 was estimated to be 225 rupees. This was calculated on a total population of 341 million. Of the total national income, 47.6 per cent came from agriculture, 17 per cent from industry, 19.5 per cent from commerce, transport and communications, and 16 per cent from other sources. The net output per person occupied in agriculture was estimated to be 500 rupees; in factories and mines 1,700 rupees, and in communications 1,900 rupees. The low national income and national dividends can well be imagined from the above figures when compared with those of the United States. The monthly income of a worker in India, at present, is estimated to be between 70 rupees and 100 rupees ($14 to $21). Skilled workers earn more in certain industries and in larger cities.

12 Thernar, Daniel, Long-Term Trends in Output in India, in Economic Growth of Brazil, India and Japan, Simon Kuznets and others, p. 106-118.
13 Ibid., p. 106-118.
14 Ornatii, Oscar A., Jobs and Workers in India, p. 80.
CHAPTER II
GENERAL LABOR LEGISLATION

Foreign Influence on Legislation To Protect Industrial Laborers

Labor legislation regulating hours of work and other working conditions, amenities and welfare of the industrial worker, has been influenced by several factors, most of which are foreign. Britain ruled India for many years and English was then and is, even now, the official and administrative language. Thus, it is understandable that much of Indian labor legislation was the result of copying or adapting British laws most applicable to the country as in the case of the Factories Act, the Workmen's Compensation Act, and the Payment of Wages Act.

"Indian labor legislation had its beginning in the 1830's when the abolition of slavery led to the immigration of contract labor to the other British colonies, and government found it necessary to regulate the recruit- ment of labor."¹ Early protective legislation was mainly due to the pressure put on the British by Indian philanthropists, and in England, by British sympathizers.

¹ Ornati, Oscar A., Jobs and Workers in India, p. 81.
British Influence on Labor Legislation

British influence on labor legislation varied at different times for different reasons. The Workmen's Breach of Contract Act of 1859 and the Plantation Act of 1859 were enacted to regulate recruitment practices and to protect employers, mostly British, against desertions or attempts at combination by workers. Gradually this attitude of the British rulers changed because of the political uprising and agitation, though feeble, of organized labor, the pressure of Indian social workers and philanthropists, that of British sympathizers at home, and the I. L. O. During the First World War and soon afterwards, the British felt the necessity of industrializing India to some degree. Provincial autonomy (self-government) introduced in 1937 through constitutional reforms brought the Indian National Congress to power in several provinces. All these factors contributed to protective labor legislation. Early legislation reflected the interest of the British to keep India as a consumer of British manufactures and a provider of raw materials to the Empire. With a change in the economic structure and the other developments mentioned above, legislation for the protection of labor came towards the last quarter of the nineteenth century.

The I. L. O. and Labor Legislation

As in other countries, factory legislation in India began with women and children. The inter-war period saw progressive labor legislation. This was partly due to India's membership in the International Labor Organization. In the years following 1920, I. L. O. conventions strongly urged progressive legislation. The Indian Factories Act of 1922, amended in 1934, consequently
gave effect to the I. L. O. conventions relating to hours of work, the minimum age for admission to industrial employment, and night work for women.² The Indian Mines Act of 1923 and amendments, especially the provision prohibiting the employment of women on underground work in mines, were in pursuance of the ratification of the relevant I. L. O. convention. The Indian Railway Amendment Act of 1930 sought to give effect to the I. L. O. convention regarding hours of work and weekly rest.³ The I. L. O. convention concerning minimum age (industry) (revised), 1937, had fixed thirteen years as the minimum, in the case of India, for employment of children in railways and docks. The Employment of Children Act of 1938, however, raised it to fifteen in both cases.⁴ The Minimum Wages Act of 1948 was enacted fulfilling all essential requirements of the Minimum Wages Fixing Machinery Convention, (No. 26 of 1928).⁵ The Maternity Protection Convention of 1919 has been taken care of under the Employees State Insurance Act of 1948.⁶ The forty-eight hours a week work prescribed in the Hours of Work Convention, has been implemented in the Indian Factories Act of 1948.⁷

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² Indian Factories Act of 1934 (XXV of 1934) Sections 28, 29 and 45.
³ Pillai, P. P., Labor in South East Asia, p. 23.
⁴ Employment of Children Act (XXVI of 1938) Section 3 (1).
⁶ The Employees' State Insurance Act, 1948 - Section 50.
⁷ The Indian Factories Act, 1948 - Section 51.
Even though India was not an independent nation before 1947, she had independent representation on the I. L. O., and had been taking an active part in the deliberations. In the same year in which the I. L. O. was set up (1919), India received its first constitution under the Montagu Chelmsford reforms. In the constitution of 1919, the Government of India Act of 1935 and the new constitution of India in 1950, the central and the states governments (previously provinces under British rule), were given concurrent powers on labor matters, except a few central items. If legislation in the center or in any state proved to be conflicting, the Central Act obviously prevailed. The overruling powers of the central legislation, especially in the earlier constitutional reforms, is said to have been designed, or at least utilized, by the Government of India to ratify the I. L. O. convention and recommendations. In spite of the fact that only twenty-one out of the 104 conventions were adopted by India, labor legislation in India has been greatly influenced by the I. L. O. 8

The constitution and structure of certain labor commissions and forums created by the Government of India have been influenced by the tripartite constitution or pattern of the I. L. O. The Royal Commission on Labor set up in 1929, recommended in 1931, Industrial Councils to be constituted giving representation to management, labor and the state, the first tripartite pattern for any such organization in India. This was a replica of the I. L. O.

In 1942, the Ministry of Labor established the Indian Labor Conference modeled at the national level on the tripartite pattern of the International Labor Conference. Subordinate to this body, the Standing Labor Committee was formed which was also tripartite in character.

The International Labor Code, based on eighty-five conventions and an equal number of recommendations so far adopted at the conferences, has been given due respect by India. The interest shown by independent India in the I. L. O. is evident from the fact that in 1954 the Government of India set up a committee on I. L. O. to make a study of the International Labor Conventions and to introduce as many principles as possible concerned with raising the standards of living from the conventions and recommendations. 9

"The labor statutes relating to the hours of work and weekly rest applicable to industry, night work applicable to young persons and women, protection against accident (dockers), workmen's compensation (occupational diseases), minimum age (trimmers and stokers), medical examination of young persons (sea), Seamen's Articles of Agreement, equality of treatment (workmen's compensation), the right of association (agriculture), underground work (women), inspection of immigrants, convention or holiday pay, forced labor, minimum wage, minimum age (industry), and maternity protection are a direct consequence of the ratification of the relevant conventions by India." 10

The Unemployment Convention was ratified by India in 1921 on the basis of the Famine Relief System, but was denounced in 1938. 11 However, public

9 Ibid., p. 551.
11 Ibid., p. 69.
employment agencies have been functioning since 1945. This was brought about after the Second World War when the question of finding suitable employment for India's returning veterans began to engage the attention of the government. The Labor Department set up a chain of employment exchanges to help resettle the veterans. It is now developing into a chain of public employment exchanges which help in the placement of unemployed workers, especially the skilled.

**Industrial Worker and Legislative Protection**

The first Factories Act was introduced in 1881 mainly to protect children and provide health and safety measures as well as to regulate hours of work in factories. This Act was amended by Act XI of 1891 due to the influence of the first International Labor Conference held in Berlin in 1890. While the earlier Act fixed the minimum age of a child for employment in a factory at seven, the amendment fixed it at nine. Their hours of work were reduced from nine to seven hours. After several minor amendments in 1911, 1922, 1923, 1926, 1931, 1934 and 1947 to the original Act, a comprehensive Act known as the Indian Factories Act of 1948 was put into force throughout India on April 1, 1949. It lays down as the responsibility of the employer to provide washing facilities, first-aid appliances, non-profit canteens, rest shelters, creches, seating arrangements, and other amenities for workers. It also provides

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13 The Indian Factories Act of 1948 - Sections 42 to 48.
that the employer appoint a welfare officer in factories employing more than five hundred workers. The duties and conditions of service of such officers are defined in the Act and rules framed thereunder by the central government and the various state governments. A few institutes of social and industrial relations in India supply trained welfare officers in large numbers. These officers enjoy certain legal protection from dismissal by the employer in that dismissal requires ratification by the State Labor Department. The officers do liaison work between labor and management.

After several amendments to earlier acts concerning mines and plantations, the Mines Act of 1952 came into force on July 1, 1952 and the Plantations Labor Act of 1951 came into force on April 1, 1952. These were enacted to regulate the conditions of work. The provisions are quite similar to those of the Factories Act. Under the Plantations Labor Act, every employer must provide and maintain necessary housing accommodations for every worker and his family, and workers have to be provided with umbrellas, blankets, raincoats, and other equipment for protection against rain and cold. Planters employing more than three hundred workers have to appoint welfare officers.

Special protection has been afforded to women and children workers. The

14 Ibid., Section 49.


16 Ibid., pp. 55 to 57.
minimum age for employment of children has been fixed at fourteen by the Factories Act of 1948.17 A person between the ages of fifteen and eighteen is classified as adolescent, and no child or adolescent can be employed in any factory unless certified by a certifying surgeon to be fit for work which he is to do.18 This certificate has to be renewed every year. Similar provisions prevail in plantations except that the minimum age of a child worker is fixed at twelve. Employment of women and children between 7 P. M. and 6 A. M. is prohibited.19 Forty hours of work has been prescribed for children and adolescents whereas that of an adult in the plantation is fixed at fifty-four.

No woman can be employed in a mine below ground or above ground between 7 P. M. and 6 A. M. The minimum age of a child for employment in a mine is fixed at fifteen with the restriction that no child can be present in any part of a mine which is below ground or any open excavation in which mining operations are being carried on. Adolescents between the ages of fifteen and eighteen cannot work under ground unless certified as medically fit.20

The hours of work for adults in factories has been fixed at forty-eight a week and nine hours per day with a spread over of 10½ hours in any day. An interval of rest for half an hour must be given to a worker after five hours

17 The Indian Factories Act, 1948 - Section 67.
18 Ibid., Sections 68 and 69.
19 Ibid., Sections 66 and 71.
of work. Special sanction from the State Inspector of Factories must be obtained for relaxing these restrictions, but in no case, can the total number of hours of work exceed ten in a day, overtime work exceed fifty hours in a quarter, and the spread over exceed twelve hours in a day. Employees put on overtime work receive twice their normal rates of wages compared to time and a half in the United States. In addition to one holiday every week, a worker is entitled to leave, with wages, for one day for every twenty days of work subject to a minimum of ten days (children one day every fifteen days subject to a minimum of fourteen days), after twelve months' continuous service in a factory. Pregnant women are prohibited from working four weeks prior to date of delivery and four weeks following delivery. For this period, payment of maternity benefits is the liability of the employer. Creches are to be maintained by the employer to keep and feed children (below the age of six) of women employees during their working hours. Factory inspectors, as provided in the Act, are appointed by the state to inspect factories and establishments and see that these statutory provisions are duly observed.

21 The Indian Factories Act, 1948 - Section 51 to 56.
22 Ibid., - Sections 56 and 59.
23 Ibid., Section 79.
24 Employees' State Insurance Act 1948 (Act XXXIV of 1948), Section 50.
25 The Indian Factories Act, 1948 - Section 48 (1).
26 Ibid., Sections 8 and 9.
CHAPTER III

LABOR UNIONS AND THEIR STATUS

Indian labor unions have almost all the vices of foreign unions, but few of their virtues. They are intrinsically weak and their organization is poor. They distrust the employers and welcome government interference. They are influenced by political parties and draw their key leaders from them. This leads to rivalry between two, or sometimes three, unions of different political color in the same industry or plant. Political considerations are almost always put before union objectives. Rivalry between leaders of different unions in the same industry or plant makes each search for opportunities to surpass the achievement of the other. In such an atmosphere, no grievance procedure or welfare scheme can satisfy the individual worker since each group gives false hopes and promises. The rivalry creates difficult problems for the employers, the workers and the unions themselves. Most unions are more concerned with problems of their own survival than the needs of workers but they stress the needs of workers in order to survive.

The average Indian worker has not yet realized the advantage of a well organized union. He is inclined to consider it only as an ad hoc body through which he can get his grievances redressed or as the organizer of strikes. He is reluctant to pay union dues, even though they are small, unless some trouble is in the offing. Most of the unions, therefore, are financially
unstable and too poor to undertake any welfare work or mutual insurance schemes. Instead, they expect and believe that these are the duty of the government.

A systematic functioning of unions and organized relations with management on the plant level, such as there is in the United States or Britain, exists only in a few Indian textile and steel industries or plants. In a majority, such relations are still at an uncertain fluid or experimental stage. In many others, the function of a union is unknown to the majority of workers at the present time, except as an organization to put a memorandum of demands before management on behalf of the workers, to threaten a strike, and eventually to represent the workers in compulsory adjudication proceedings.

The tendency of labor unions was to organize vertically, that is, by industrial establishments. Even where more than one union is formed in the same industry and in the same center, the division is generally by factories and not by occupation. The lack of national markets and the absence of craft unionism contributes to the vertical organization of unions in India. So, too, does the multiplicity of languages which is so great that it, and not geographical position, is the basis for division of India into states.

1 Report of the Royal Commission on Labor In India, London, 1931, p. 320
Growth of Trade Unions

Labor unionism, as such, is of recent origin in India. In the early days, the seventies and eighties of the last century, labor grievances were the province of philanthropists and social workers. In 1881, they protested in Bombay against the inadequacy of the first Indian Factories Act. 2

Under the auspices of the Brahma Samaj (a Hindu Religious Society), the Working Men's Mission was established in Calcutta in 1878 to teach workers practical religion and morality. The Mission also established a night school for workmen and depressed classes. Sasipada Banerjee started the Baranagar Institute in the eighties to promote education and social welfare among the jute workers. In 1872, eight night schools were established for the working population of Bombay by P. C. Majumdar, a Brahma Samaj worker of Bengal. The first Indian adult education movement for workers in the slums of the city of Calcutta was organized in 1905 by the Working Men's Institute. 3

Social workers, S. S. Bengales and N. N. Lokandhe tried to better the conditions of women and children in the cotton mills in Bombay. In 1890, Lokandhe established the Bombay Millhands Association and became its chairman. He obtained a weekly holiday for the workers. 4 The Royal Commission on Labor refers to this association as the first attempt to form a union and

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2 R. Mukerjee, The Indian Working Class, Bombay, 1952, p. 352
3 Ibid., p. 352-353
4 Ibid., p. 352-353
says "attempts were made as early as the eighties to organize the millhands of Bombay in support of the proposals for labor legislation and the Millhands Association was formed. But, it did not survive." In Bombay, the Kamgar Hitavardhak Sabha, a welfare organization established in 1911 was making representations on behalf of workers to the government and was also intervening in labor disputes. Prior to the First World War, labor organizations scarcely extended beyond the better paid railway employees and some classes of government servants. Social workers and philanthropists concerned with the welfare of the laborers and not labor agitators, tried to form labor organizations in India before the workers became aware of their necessity.

Two or three years following the close of the First World War, due to grave economic difficulties, a large number of labor organizations sprang up. The world-wide consciousness of labor rights extended to India. India's political turmoil helped to provide labor leaders. The leaders of the independence movement who proved to be men of high spirit, intellect and character, were the so-called "outsiders" and were dubbed agitators. Employers announced their readiness to negotiate with their own workers, but refused to negotiate with, or recognize, the outsiders. This mixing of the labor and independence movements and the common leadership in many cases,

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harm the cause of labor.

India's membership in the I. L. O. led to the formation of the All India Trade Union Congress with affiliated unions in all parts of the country, so that the workers' delegate to the conferences could be nominated. This organization formed the link between trade unions in India and in Europe. Union leaders participated in the International Labor Conferences and other international meetings.

Those who were trying to build up the trade union movement had serious obstacles to surmount. The first was the migratory character of Indian labor, workers left an industrial center and returned to agriculture, or changed employers. The wages were poor for sustained work and they always looked forward to an escape from industry and factory life. A small union subscription was an appreciable burden to them. The differences in caste and language were also separating factors. Frequent struggle for leadership among political parties and the lack of rank and file leaders also hindered progress. While labor leaders and philanthropic sympathizers were carrying on the struggle, workers remained docile and unorganized.

Need for Protection of Unions

The trade union movement was soon exposed to the English common law applicable in India, which treated the association of workers as a conspiracy in the absence of protective legislation. In the early stages, industrial

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disputes were dealt with by the police and the Magistracy who served
injunction orders on labor leaders restraining them from entering the plant
area in which there was a strike, in the name of preserving law and order
under the preventive provisions of the Criminal Procedure Code. In 1921,
while the workers in a textile mill in Madras were on strike, their employer
obtained an injunction from the Madras High Court ordering the union leaders
to refrain from interfering with their business.9

In that year, the legislative assembly adopted a resolution in favor of
legislation for the registration and protection of trade unions. M. M. Joshi
introduced a trade union bill, but it was not passed.10 It was only in 1926
that the Indian Trade Union Act, the first of its kind in India, was passed.
This Act enhanced the status of the unions by the recognition of trade
unions in the Statute Book, and not so much from any rights or liabilities
that the Act created. As a result, eighty-seven unions were registered
with 133,000 members up to the end of 1929.11

Main Provisions of the Trade Union Act

The Act provided for registration of unions. The provisions followed
approximately, the recommendations of the Royal Commission on Trade Disputes

10 Ibid., p. 354.
and Trade Combinations that sat in England in 1905. The Act invalidated the penal provisions to which certain trade union activities were exposed under early English common law, conferring on them and their members a measure of immunity from civil suits and criminal prosecutions for anything done in furtherance of the legal object of the union. 13

The Act was amended in 1928 and 1942, and again in 1947 to provide for compulsory recognition of representative unions by the employers concerned. The amended Act recognizes certain unfair practices on the part of both employers and unions bearing some similarity to those contained in the Taft-Hartley Act. The Act declares that it is an unfair practice on the part of a recognized trade union if a majority of its members take part in an irregular or illegal strike, if the executive of the union advises, supports or instigates an irregular strike, or if an officer of the union submits false returns of receipt and expenditure of union dues. The recognition can be withdrawn if a recognized union commits an unfair practice. 14

The Act prohibits certain unfair labor practices on the part of the employers also. To interfere in any way with the rights of his workmen to organize a union or to engage in concerted activities for the purpose of mutual aid or protection, to interfere with the formation or administration

12 Ibid., p. 318.
13 Indian Trade Unions Act, 1926 - Sections 17 and 13.
14 Ibid., Section 28 J and 28 G.
of any trade union, to contribute financial or other support to it, to dis-
charge or discriminate in any manner against any officer of the union because
he is such officer, or to discharge or discriminate against any workman
because he has made allegations or given evidence in any inquiry or proceed-
ings under the Act, constitute an unfair practice on the part of the employer.
To refuse to negotiate with the recognized union or to deny any privileges
granted to them under the Act, also fall under the same category. Any
employer who commits any unfair practice can be punished by a competent
criminal court to a fine which may extend to one thousand rupees.

According to the Indian Trade Unions Act, any association with seven
members or more can apply for registration provided half the total number of
office bearers in the union are actually engaged in the industry to which the
union belongs. The Registrar of the trade union is authorized to withdraw or
cancel registration if the union violates the rules laid down under the Act.
If the employer refuses to recognize a representative union, the labor courts
are empowered to hear and decide disputes arising out of such refusal.
The executive of a recognized union is entitled to negotiate with the
employer in respect to matters connected with employment or non-employment,
terms of employment and conditions of labor of all or any of its members.

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15 Indian Trade Unions Act, 1926 as amended by Act XLV of 1947 -
Section 28 K (a) to (e), Sections 5 to 10.

16 Ibid., Section 32 A (1).

17 Ibid., Section 28 A and B, Sections 5 to 10.

18 Ibid., Section 28 F.
Registered unions are required to submit annual returns of duly audited receipts and expenditures to the Registrar in the form prescribed for the purpose. The account books are open to inspection to an officer or any member of the union. The Act also restricts the use of funds of a registered union. 19

All registered unions can represent their members in collective bargaining and before labor courts. Legislation restricting or denying this status to a minority union in a plant or industry is essential to the strengthening of unionism. However, as long as there are rival political parties with different ideologies and unions affiliated with them, such legislation will not be feasible because the Communists, at least in some parts of India where they are in majority, would drive out those unions affiliated with any of the moderate political parties.

Important Unions and Their Status

India's four prominent federations of unions are: The Indian National Trade Union Congress (I.N.T.U.C.), the All India Trade Union Congress (A.I.T.U.C.), the Hind Mazdoor Sabha (H.M.S.), and the United Trade Union Congress (U.T.U.C.).

The Indian National Trade Union Congress, founded by the Nationalists or the Congress Party in 1947, claims a membership of 1,375,782. 20 The

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19 Indian Trade Unions Act, 1926 - Sections 15 and 16

stated objective of this federation is:

To establish an order of society which is free from hindrance in the way of all around development of its individual members, which fosters the growth of human personality in all its aspects and goes to the utmost limit in progressively eliminating social, political, or economic exploitation and inequality, the profit motive in the economic activity, and the antisocial concentration of power in any form.

In order to achieve these objectives, it proposes:

To redress grievances, without stoppage of work, by means of negotiation and conciliation and failing these arbitration, adjudication; and where adjudication is not applied and settlement of disputes by arbitration is not available for the redress of grievances, to facilitate recourse on the part of workers to other legitimate methods including strikes or any suitable form of Satyagraha; and further to make the necessary arrangements for the efficient conduct and satisfactory and speedy conclusion of authorized strikes or Satyagraha.21 (Non-violent picketing or hunger strike initiated by Gandhi.)

These objects and methods reflect both Gandhian and Christian philosophy.

The All India Trade Union Congress, founded in 1920, claims a membership of 675,377.22 and is dominated by Communists. Its avowed aims and objectives are: "(a) to establish a socialist state in India; (b) to socialize and nationalize the means of production, distribution and exchange as far as possible; (c) to ameliorate the economic and social conditions of the working class; (d) to watch, promote, safeguard and further the interests, rights and privileges of the workers in all matters relating to their

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21 I.TUC Constitution, Article I (i); Article IV (ii), (iii), (iv)
employment. The leaders of this organization are also the Communist leaders of the country.

The Hind Mazdoor Sabha was formed in December, 1948 under the leadership of the socialists who left the Congress Party and established the Socialist Party of India. This organization claims a membership of 804,494. Its objectives are:

To promote the economic, political, social and cultural interests of the Indian working class; to guide and coordinate the activities of affiliated organizations and assist them in their work; to watch, safeguard and promote the interests, rights, and privileges of workers in all matters relating to their employment; to promote the formations of (a) federations of unions from the same industry or occupations, and (b) national unions of workers employed in the same industry; to secure and maintain for the workers right to work or maintenance, right to social security and right to strike.

It is committed to the promotion of its aims through the employment of all legitimate peaceful and democratic methods, and to the realization of industrial democracy. The federation also wants to minimize outside interference in the affairs of disputing parties.

The United Trade Union Congress was formed in 1949 by seceding elements from A.I.T.U.C. who would not join either the Congress or the Socialists. This union claims a membership of 442,137. Though its formal aim is to establish a trade union free from political influences, it is ready to

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23 AITUC Constitution (Bombay, 1947) - Article II
25 U. S. Constitution, Article II (i), (ii), (iii), and (iv).
cooperate with the Communist Party. It engages in strong condemnation of the government's labor policy. Government intervention to force employers to comply with agreements reached through negotiation is favored. The policy of the United Trade Union Congress is similar to that of the A.I.T.U.C.

The I.N.T.U.C. and H.M.S. are members of the International Confederation of Free Trade Unions and the A.I.T.U.C. of the World Federation of Trade Unions. The I.N.T.U.C. also represents Indian labor in the International Labor Organization.

Special mention should be made of the Ahmedabad Textile Labor Association (A.T.L.A.). The A.T.L.A. was founded by Mahatma Gandhi, the father of the nation and the Congress Party, as early as 1918. Ever since, it has remained an ideal union. It has developed a full fledged grievance procedure through a succession of steps from plant to a conciliation board consisting of a representative of the employer and the employees. Gandhi was the labor representative on this board for a long time. If the board disagreed, the dispute was placed before an independent third party. The State labor authorities help in the nomination of this arbitrator if the parties fail to agree. The efficiency of this board has been applauded in the report of the Royal Commission on Labor in 1931. The A.T.L.A. has been famous throughout India and is a model to other unions. In addition to collective bargaining, it does welfare work in the areas of education, health, housing and cooperatives. This is the solitary union in India which bears any semblance to American unions. It is a federation of craft unions operating in the textile industry in Ahmedabad and Bombay. Some 72,586
workers are members of this union.27

Another independent union of any great consequence is the National Federation of Indian Railway Men formed by the amalgamation of the All India Railway Men's Federation and the Indian National Railway Workers Federation in April, 1953. The former was founded in 1921; the latter, the first union of workers in India, was founded as early as 1890. Other important independent Indian federations are the All India Postal and Railway Main Service Union and the All India Seafarers Federation.28

Unions and Political Parties

It is only natural that the unions that developed under the leadership of politicians should be influenced by political parties. As a matter of fact, with the exception of the United States, all the unions in Europe and in the rest of the world, are involved in politics. In England and some other countries, all or most of the unions are interested in one political party, and the unions exert influence on that party, but in India, unions have divided political interests and it is the political parties that influence the unions.

In the early days, unions drew leaders from those who led the fight for the political emancipation of India. These men had no particular political ideology, and even if they had, the fight for freedom came first. The situation in India changed as it did in the other countries of the world with the Russian revolution and the ascendance of the Communist Party to power. Communists and Socialists all over the world drew their inspiration and courage from Moscow. The Communist Party found the impoverished and miserable

27 Ornati, Oscar A., Jobs and Workers in India, p. 131-132.
28 Ibid., p. 133.
condition of the masses in India a very fertile ground to work on. In the words of the Royal Commission on Labor, "For some time efforts have been made by Communists in India and beyond its border to capture the movement (labor). These met with the greatest success in Bombay in 1928." 29 The Royal Commission referred to the organization which was formed by the Communist Party, encouraged by a prolonged strike in the cotton mills in Bombay, and developed in the absence of any other strong organization. The Communists swept over 50,000 workers.

The Congress Party was reluctant to import politics into labor unions, but this inertia on the part of the Congress Party only encouraged the Communists to consolidate their position. On May 3, 1947, Nanda, the Secretary of the Hindusthan Mazdoor Sangh, convened a meeting of all Congress unions, leading Congress men and trade union workers and formed the All India National Trade Union Congress (I.N.T.U.C.). Based on Gandhian ideology, the main feature of this union was that all affiliated unions had to agree to submit every dispute not settled by negotiation to arbitration. The unions also had to agree not to sanction or support strike until all other means of settlement had been exhausted.

In 1947 and 1948, some more groups withdrew from the A.I.T.U.C. under the leadership of the socialists and formed the Hind Mazdoor Panchajat (Council of Indian Workers). Later in 1948, the socialist elements who left the Congress Party founded the Hind Mazdoor Sabha (Indian Labor Association).

29 Royal Commission on Labor in India, p. 319.
Meanwhile, some of the other seceding elements from A.I.T.U.C. who would not join either the Congress Party or the Socialist Party, formed the United Trade Union Congress (U.T.U.C.). This is more or less a wing of the A.I.T.U.C.

The history of unionism in India has been marred by recurrent struggle for leadership between organizations having differing political ideologies. This struggle becomes acute during a strike in a plant when each camp takes advantage of the mistakes committed by the other.

A peculiarity with industrial unions in India is that the local branches are the central and the basic elements within the organization. The absence of many craftsmen, the influence of politicians as leaders, and the ad hoc nature of some of the local unions, contributed to this.

In order to keep the enthusiasm of the local units alive, the I.N.T.U.C., following the pattern of the British T.U.C., elects the president of the federation from one of the more important of the 1,232 local unions scattered throughout India, by rotation every year. Another similarity between the I.N.T.U.C. and the T.U.C. is that the post of the president of both unions is honorary.

The leaders of most of the unions are either labor lawyers or local officers with no considerable experience and education. A majority of the latter lack experience to deal with employers. Both are closely connected with a political party. Communist labor leaders succeed in keeping up a neutral or non-party status to the majority of the workers in localities where the Communist Party is not popular. The Communists are the most vigorous of all the organizers; they find themselves most welcome among the
lower classes who are, in fact, the industrial workers.

The most important gain of Indian unions recently has been government encouragement of worker participation in management. It is not known what shape it is going to assume. Representatives of government, while giving vent to their thoughts in this direction, have co-determination now working in West Germany in their minds. How co-determination is going to work poses a problem because Indian trade unions, in general, distrust employers and evince much reliance on government.

Of the four major trade unions, the Indian National Trade Union Congress has almost double the membership of any other. It was founded by the Congress Party, which has been the ruling party ever since independence and it is believed that it will remain in power for several years to come. The key positions in governmental structures are held by members or sympathizers of the Congress Party. For these reasons, the I.N.T.U.C. is criticized by other unions as one subservient to the Congress Party or the government. Future success of the I.N.T.U.C. will depend on the abilities of its leaders to satisfy the current worker needs and support and implement the labor policy of the government.
CHAPTER IV

COLLECTIVE BARGAINING, AGREEMENTS AND GRIEVANCE PROCEDURE

There is no doubt that collective bargaining procedures in India are essentially both British and American in origin. It is promoted by western trained intellectuals who are in authority in the labor movement and in government. The Gandhian philosophy that "right will triumph" and "non-violence alone can succeed," which is the basic faith of the Indians, is in conformity with the principle of frankness, honesty of spirit, and good will underlying collective bargaining.

Organized unionism and collective bargaining are of very recent growth in India. In fact, the term "collective bargaining" in its present meaning, is still unknown to many unions. Instead, the collective bargaining process is covered by what is commonly known as "conciliation talks" with the employer. According to Chamberlain, this is exactly how collective bargaining developed in the United States.

"One other aspect of this half century of development should not pass unnoticed. The shift from the unilateral imposition of terms in their joint negotiation carried with it an interesting consequence. Under the former system, unions attempted to enforce a wage scale or working condition which they had decided upon in their own councils. Their 'demands' were terms which they actually expected to win, and hence were adopted only when the workers were, themselves, convinced of their feasibility and desirability. This was equally true of the employers. But, when negotiations supplanted such impositions-of-terms, a new
approach—the bargaining or "horse-trading" approach—began to creep in. Unions asked for more than they expected to win so that in negotiations compromise would be feasible without conceding what was actually sought. This, too, was equally true of employers. And, as this tactic became recognized, the original demands or counter-offers of the parties came to be treated lightly. They simply served to disguise the true "demands" and one function of the bargaining process became the probing by one party for the actual expectations of the other—the resistance point beyond which concession would not be made without a stand.

To achieve successfully the tactics described above, not only clever and accomplished but experienced labor leaders are required. Unfortunately, India lacks such leaders just now. Collective bargaining is only in its original stage, that state which existed in the United States prior to 1900. This is one of the reasons why strikes are frequent and compulsory adjudication has become the order of the day.

Appreciable improvement has been made in this phase of labor relations. For instance, the Ahamedabad Textile Association has been engaging in successful collective bargaining with the Mill Owners Association for some time now. Agreements have been made between the Bombay Mill Owners Association and the Rastriya Mill Mazdoor Sangh, and the Tata Iron and Steel Company, Jamshedpur and its union. This is also true of some other employers and their employees. No doubt, these unions are well organized and powerful compared to the majority.

Foreign Influence in Collective Bargaining

Whereas unions of industrial workers are of recent growth in India, associations of employers, with whom Indian unions have to negotiate, have long been organized. The early employers' associations controlled by British businessmen were constantly consulted by the government (British) prior to independence, with regard to labor policy. The first one, the European Chamber of Commerce, was founded in Calcutta in 1834, and later in 1836, at Bombay and Madras. The first Indian Chamber of Commerce was founded in Calcutta in 1867, and the first Indian Merchants' Chamber in Bombay in 1907.2 The most important industrial associations have been the Bombay Mill Owners Association founded in 1875, the Indian Tea Association in 1881, the Indian Jute Mills Association in 1884, the Ahamedabad Mill Owners Association in 1891, and the United Planters Association of South India in 1893. Employers' associations organized with the purpose of dealing with labor questions are the Employers Federation of Southern India founded in 1920, the All India Organization of Industrial Employers founded in 1933, and the Employers Federation in India founded in 1933 by the Bombay mill owners.3 These employers' associations, a majority of whose members are British or American, have been setting the pace for collective bargaining practices in the country. The absence of any prescribed regulation to conduct bargaining leaves these


3 Ibid., p. 521-522.
associations in a position to keep up the practices and spirit manifested in Britain and the United States, provided the unions rise to the occasion. Wherever these associations operate, strong labor unions grow out of sheer necessity. The labor leaders who come into contact with them become educated in collective bargaining procedures and import their experience to others; in turn, lesser employers who are mostly Indian, have to equip themselves or engage labor lawyers to conduct negotiations with their unions.

However, a persistent tendency can be seen towards the regulation of labor management relations by legislation. The political and economic association of India with Britain, where regulation of national affairs by means of legislation is a distinct feature, can easily suggest itself as an influence.

Impediments to Collective Bargaining

The size of most of the Indian industries does not promote collective bargaining. "Of nearly 21,000 factories reporting in 1951, over 1,400 employed under 50 workers each, and only 825 employed five hundred or more. Further, only some two-fifths of India's unions and union members are in manufacturing industries." Another obstacle to the development of collective bargaining is the legal right available to minority unions to bargain and implead themselves as parties in adjudication between their employers and the

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majority union pending before tribunals. The employer and, more so, each of
the unions, is afraid to close a bargain for fear of what the other union will
do to gain an advantage. As a matter of fact, in a plant or industry where
two rival unions operate, the unions vie with one another to put forth a
memorandum of demands more advantageous or appealing to the workers. The
employer is then faced with a preposterous set of demands which cannot be met.
The unions welcome compulsory adjudication to escape the responsibility of
coming to an agreement on the issues with the employer because they do not
know what the other unions will do to make the contracting unions unpopular
with the workers. As long as unions influenced by different political parties
exist, this obstacle to free collective bargaining will remain.

Except for a few educated labor leaders, Indian laborers are ignorant of
the implications and importance of collective bargaining. It is a common
occurrence for a reasonable or moderate labor leader to become unpopular with
the workers after he has reached an agreement with the management through
collective bargaining because of the suspicion of the workers that the labor
leader concerned has been won over by the employer. Rival unions help to
create the misunderstanding and fan the downfall of the opponent in the hope
that it would contribute to their own popularity and strength.

Both employers and unions are paternalistic in their attitude towards the
workers, because the ordinary industrial worker is an ignorant, backward
villager, incapable of looking after his interests. Management, in the
anxiety to keep the loyalty of the workers, tries to forestall the union by
an increase in wages or amenities before the union can demand it. The unions
are always on the alert against such maneuvers and frequently put forth a
demand if they suspect such a move.

Agreements

Recently there have been some healthy developments in the direction of
voluntary agreements in seriously disputed issues. An agreement was signed in
June, 1955 between the Ahamedabad Mill Owners Association and the Textile
Labor Association concerning the question of bonus. They have also agreed to
settle future disputes, if any, by mutual negotiation and discussion without
recourse to strikes and tribunals. Voluntary arbitration has been set up as
the last resort in case the parties fail to settle the disputes by negotiation.
The agreement has been working smoothly. Early in 1956 a bonus agreement was
signed by the Bombay Mill Owners Association and the Rastriya Mill Mazdoor
Sangh on similar lines. Another agreement was signed in 1956 between the Tata
Iron and Steel Company, Ltd., Jamshedpur, and the union which provides for the
first time in India, union security, workers cooperation in measures for
higher production and modernization and acceptance of schemes for job eval-
uation. The same company has a profit sharing system which gives the employees
27\(\frac{1}{2}\) per cent of the annual net profits.\(^5\) It is distributed in proportion to
the basic salaries and wages. Annual bonus payment assessed according to the
profits of the previous year is prevalent in almost all industries, big and

small. One of the important points in dispute between employers and unions in India is the fixing of the quantum of bonus, in collective bargaining as well as before tribunals. An expert committee on profit sharing appointed by the government of India has recommended in September, 1948 that in six industries, namely, cotton, textiles, jute, steel, cement, manufacture of tires, and cigarettes, labor be allowed to share 50 per cent of the surplus profits. 6

Grievance Procedure

After a union and an employer have agreed upon the general terms which shall govern their relationships, there still remains an area of potential differences of opinion over (1) the meaning of the terms they have agreed upon; (2) the proper application of the general terms to particular situations; (3) matters which arise which were not covered in the basic agreement and which call for general solution; and (4) situations which arise which are not governed by the terms of the agreement and which call for solutions applicable only to individual cases. 7

In the absence of many collective bargaining agreements, the type of grievance procedure existing in the United States or Britain is almost unknown to a majority of plants in India. Systematic functioning of unions and organized relations with managements on a daily basis in the plant or at the

6 Ibid., p. 508.

7 Chamberlain, Collective Bargaining, p. 96.
work place are largely unknown at the present time. However, situations arise in every plant which call for solutions to individual problems and individual workers. These problems are usually thrashed out in an haphazard manner by union and management, and at times, a deadlock will assume disproportionate importance because other conditions for general unrest among workers exist. Every industrial concern employing one hundred or more workmen is responsible for having a set of standing orders (rules of conduct of employees in general) in conformity with the provisions of the Industrial Employment (Standing Orders) Act of 1946. Instances can be found in the case of big foreign undertakings in India where standing orders existed even before the statutory requirements were made. The standing orders actually form the basis of grievance procedure in Indian plants. They cover, among other things, the classification of workmen, periods and hours of work, holidays, paydays, wage rates, procedure for the settlement of grievances, layoffs, and suspensions or dismissals for misconduct. These have to be certified by the State Labor Department after consulting the union regarding their objections, if any, to any of the orders. Management encourage or require the presence of union representatives while inquiries into an alleged misconduct of a

8 Van Dusan Kennedy, The Role of the Union in the Plant in India, Industrial Research Association, 1955, p. 249.

9 The Industrial Employment (Standing Orders) Act, 1946 (XX of 1946) - Schedule to Sections 2 (g) and 3 (s).

10 Ibid., Sections 5 and 6.
worker, are held. The case has to be disposed of according to the rules laid down in the standing orders. 11 The standing orders maintained on every industrial establishment contain the procedure to be adopted by an employee in getting his grievance redressed. The first phase is the representation of the grievance by the worker before his supervisor or the head of his section, either accompanied by the union representative in the section or not, at the discretion of the worker. If the matter is not settled, it is taken up by the union through the welfare officer to a higher management authority. If the matter still remains unsettled, the union may, or may not, at its discretion, take it to the highest management authority. The matter may then be reported to the conciliation officer under the provisions of the Industrial Disputes Act. The conciliation officer succeeds in settling the case unless some union official is involved or victimization is alleged and the union is tenacious for political reasons to force the issue.

The greatest impediments to the smooth working of grievance procedure are the paternalistic attitudes adopted by unions towards their members, and the distrust and suspicion with which unions and workers view any grievance procedure sponsored by the management. Paternalistic tendencies make the unions reluctant to refuse to take up the grievance of a worker however frivolous it may be, thereby giving the management the unpopular task of turning down the

11 Ibid., Section 2 (b) and 15 read with Industrial Establishment (Standing Orders) Central Rules 14 and 15.
request and disappointing the worker. The distrust or suspicion in which unions and workers hold management representatives is strengthened by the social gulf that exists between the parties. A feeling of master and servant relations still persists; Indian society is still highly class conscious.

Given time, these tendencies are bound to die out, thus collective bargaining and grievance procedure will be more practical and successful. The fact that there are successfully concluded agreements and smoothly working grievance procedures in some plants indicates that improvements in this direction can be made.

**Government Interference Preferred by Unions**

Since at present labor unions are still weak and comparatively less organised than employers or employer associations, they find government regulation and legislative protection necessary to bring them concessions which their collective bargaining power cannot obtain. Management also finds the government machinery convenient because of the wide choice of procedures ranging from joint consultation at the factory level to compulsory arbitration. Moreover, there are government conciliation officers to ward off embarrassing situations for the employers between these procedures. Employers rely on, or are confident of government intervention, to avoid strikes because the government in the present phase of her national economy and industrial planning considers intervention and application of legislative protection a duty in her anxiety to avoid interruptions in the over-all production schedule. Hence, the dependence of both labor and management on government regulations at critical or convenient stages has become the usual procedure. This also
explains the slow development of the collective bargaining process in India.

It is quite common to find unions putting forth fantastic "demands" to employers every year and forcing the hands of government by methods ranging from appeals for government sympathy to coercion by strikes, to have their demands referred to compulsory arbitration. The unions are confident that at least a part of their demands will be conceded in adjudication. This is so because the tribunals were very sympathetic with the demands of labor in early days, and, in fact, went a long way with labor in protecting the standard of living and providing better wages and amenities. Most of the industries had developed on a basis of cheap labor, and the tribunals, without much opposition from employers, raised wages. Now, it has come to a stage where any radical improvement in wages would raise the cost of production above the level of foreign competitors. This is particularly true of the tea industry which is receiving keen competition from the East African Tea Industry, to maintain its markets in Britain. Such a loss will bring unemployment and misery to plantation workers. Government control of labor relations has become necessary instead of leaving the problem to collective bargaining between irresponsible unions and their hard pressed employers. After all, free collective bargaining is not a panacea for all evils, especially in a poor country like India where employers, not without justification, refuse increases in wages unless the workers increase their present rate of productivity.
CHAPTER V
INDUSTRIAL DISPUTES AND STRIKES

 Strikes were unusual in India in the nineteenth century. Whenever one did take place, it manifested itself in the workers' abandoning the plant without trying to get their grievances redressed by concerted action. With union organization, the workers began to resort to strikes until a settlement was reached one way or the other. Industrial disputes and strikes, however, became significant in the economic life of India only after 1918. At that time wages did not keep pace with the increase in cost of living and there was a spread of class consciousness among the workers. During the First World War many industries made considerable profits. There was some increase in wages, but prices soared. The resulting distress caused a series of strikes in 1918 and 1919. The initial success of these strikes promoted solidarity among the workers and drew able labor leaders to the cause. Strikes came to be regarded as an unfailing weapon. The Russian revolt aroused mass consciousness and the Indian press carried the gospel of freedom and power of the workers and peasants to the Indian "have-nots". The Indian political movement educated the masses through their propaganda.  

1 Mukerjee, The Indian Working Class, p. 373 and 374.
Types and Frequency

Among the larger strikes in the early twenties are the Assam Tea Garden strike in 1921, the Assam Bengal Railway strike and the strike on the river steamers in the same year. All of them failed because of poor organization. The general strike in Bombay in 1924 was bigger than any previous strike. It involved 160,000 workers. Nonpayment of bonus which was given in previous years was the cause. In 1925 a cut in wages set off another strike in Bombay which caused a loss of eleven million man days. The cut was restored. In both 1928 and 1929 there were strikes in Bombay involving one hundred thousand workers. These strikes are important because they were the first ones in which Communist groups influenced workers in India. The 1929 strike lasted for six to seven months and all the textile workers in Bombay were involved. In 1928 the iron and steel workers of Jamshedpur, about twenty-six thousand in all, went on strike over the retrenchment (layoff) of some workers which lasted for one hundred and five days. A final settlement was reached in which workers obtained certain substantial concessions, but they had to yield to the retrenchment.

Another big strike in 1929 occurred in the Bengal Jute Mills in Hooghly. Two hundred and seventy-two thousand jute mill operatives were involved for a period of eleven weeks. It occurred when working hours were increased from fifty-five to sixty a week. The strike was significant for it was settled by direct negotiation and a majority of the demands of the workers were conceded. The biggest strike that ever took place in Bengal was in 1938 when two hundred and ninety-one thousand workers in the jute mills struck work for the restora-
tion of a wage cut effected in 1932. Another in 1938 involving fifty thousand workers occurred in Kanpur when employers refused to redress the grievance of workers through the union. The employers were firm and took the stand that they were ready to have the grievances of workers looked into individually without the union. They went to the extent of refusing government intervention and rejected the recommendation of the inquiry committee appointed by the government. 

Generally speaking, strikes occur over disputes with regard to demand for higher wages, wage cuts, bonus or stoppage of bonus, retrenchment, and punishments alleged to be undeserved. When any of these conditions exist, it is common that an assault, abuse or misbehavior, either alleged, true or exaggerated on the part of a management man, is given as an excuse or immediate provocation for a strike. Before the amendment of the Trade Unions Act in 1947, the non-recognition of unions by employers had occasioned strikes. One such strike occurred in Kanpur in 1937 because the employer refused to recognize the Mazdoor Sabha.

Accurate figures are available regarding strikes in the years subsequent to 1921. The table is as follows:

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2 Ibid., p. 375 to 378.
<table>
<thead>
<tr>
<th>Year</th>
<th>No. of Disputes</th>
<th>Workers Affected (Thousands)</th>
<th>Man Days Lost (Millions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1921</td>
<td>396</td>
<td>600</td>
<td>7.0</td>
</tr>
<tr>
<td>1922</td>
<td>278</td>
<td>435</td>
<td>4.0</td>
</tr>
<tr>
<td>1923</td>
<td>213</td>
<td>301</td>
<td>5.1</td>
</tr>
<tr>
<td>1924</td>
<td>133</td>
<td>312</td>
<td>8.7</td>
</tr>
<tr>
<td>1925</td>
<td>134</td>
<td>270</td>
<td>12.6</td>
</tr>
<tr>
<td>1926</td>
<td>128</td>
<td>187</td>
<td>1.1</td>
</tr>
<tr>
<td>1927</td>
<td>129</td>
<td>132</td>
<td>2.0</td>
</tr>
<tr>
<td>1928</td>
<td>203</td>
<td>507</td>
<td>11.7</td>
</tr>
<tr>
<td>1929</td>
<td>111</td>
<td>532</td>
<td>12.2</td>
</tr>
<tr>
<td>1930</td>
<td>148</td>
<td>196</td>
<td>2.3</td>
</tr>
<tr>
<td>1931</td>
<td>166</td>
<td>203</td>
<td>2.4</td>
</tr>
<tr>
<td>1932</td>
<td>118</td>
<td>128</td>
<td>2.0</td>
</tr>
<tr>
<td>1933</td>
<td>146</td>
<td>165</td>
<td>2.2</td>
</tr>
<tr>
<td>1934</td>
<td>156</td>
<td>221</td>
<td>4.8</td>
</tr>
<tr>
<td>1935</td>
<td>111</td>
<td>111</td>
<td>1.0</td>
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<tr>
<td>1936</td>
<td>157</td>
<td>169</td>
<td>2.4</td>
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<tr>
<td>1937</td>
<td>379</td>
<td>618</td>
<td>9.0</td>
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<tr>
<td>1938</td>
<td>399</td>
<td>401</td>
<td>9.1</td>
</tr>
<tr>
<td>1939</td>
<td>406</td>
<td>409</td>
<td>5.0</td>
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<td>1940</td>
<td>322</td>
<td>145</td>
<td>7.6</td>
</tr>
<tr>
<td>1941</td>
<td>359</td>
<td>291</td>
<td>3.3</td>
</tr>
<tr>
<td>1942</td>
<td>694</td>
<td>773</td>
<td>5.8</td>
</tr>
<tr>
<td>1943</td>
<td>716</td>
<td>525</td>
<td>2.3</td>
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<tr>
<td>1944</td>
<td>658</td>
<td>550</td>
<td>3.4</td>
</tr>
<tr>
<td>1945</td>
<td>820</td>
<td>748</td>
<td>4.1</td>
</tr>
<tr>
<td>1946</td>
<td>1629</td>
<td>1962</td>
<td>12.8</td>
</tr>
<tr>
<td>1947</td>
<td>1811</td>
<td>1841</td>
<td>16.6</td>
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<tr>
<td>1948</td>
<td>1259</td>
<td>1059</td>
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<td>1949</td>
<td>920</td>
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<td>6.7</td>
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<tr>
<td>1950</td>
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<td>720</td>
<td>12.9</td>
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<td>1951</td>
<td>1071</td>
<td>661</td>
<td>3.6</td>
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<tr>
<td>1952</td>
<td>963</td>
<td>809</td>
<td>3.3</td>
</tr>
<tr>
<td>1953</td>
<td>772</td>
<td>467</td>
<td>3.4</td>
</tr>
<tr>
<td>1954</td>
<td>840</td>
<td>477</td>
<td>3.4</td>
</tr>
</tbody>
</table>


A high proportion of strikes end in failure due to the Indian wage earners' poor staying power, and sometimes due to the existence of rival trade unions or both. Wildcat strikes which are known as token strikes are prevalent in India. These are resorted to by workers to protest or bring pointed attention of the management to particular issues.

It is interesting to note that the greatest progress in the settlement of disputes by peaceful means has been made in Bombay, a textile center, where both employers and unions are well organized and well matched. Between 1921 and 1941, failure of strikes was the largest in mines where unions were least organized and the smallest in textile and engineering industries where there are strong trade unions. The number of disputes in proportion to the number of workers is smallest in mines because of lack of trade unions and the largest in railways and engineering workshops where there are strong labor unions. Nothing testifies to the necessity of organized unionism of the right type for industrial peace in a country more than the fact that in Ahamadabad where the well organized Textile Labor Association operates, there were only 249 strikes involving 180,694 workers compared to 313 strikes involving 961,820 workers in Bombay between the years 1928 and 1940.5

Legislative Interference and Foreign Influences

Labor unrest which flared up soon after the First World War, forced the government of India in 1921 to institute two committees, one in Bombay and the

5 Mukerjee, The Indian Working Class, p. 378.
other in Bengal, to recommend remedial measures. The Bengal committee favored the idea of mutual adjustment by parties, but the Bombay committee preferred government interference in labor disputes. The Trade Disputes Act introduced in 1929 essentially provided for an adhoc Board of Conciliation and Court of Inquiry, the conciliation procedures and awards of which were not mandatory.

While the duties of the Court of Inquiry were confined to mere investigation, the Board of Conciliation was charged with the duty of attempting to effect a fair and amicable settlement. The Act contained provisions rendering punishable by fine or imprisonment "wildcat" strikes and lockouts in certain public utility services, and provisions aimed at the prevention of general strikes. These resembled some of the clauses of the British Trades Disputes and Trade Unions Act of 1927. The provisions to prevent the disclosure by members of the boards and courts, of confidential information relating to unions and industrial businesses, generally follow the British Act. In the provision concerning the appointment of conciliation officers, India tried to copy the less valuable part of the machinery employed in Britain, ignoring the most valuable part. In Britain, less reliance is placed on adhoc public inquiries of the kind contemplated by the Indian Trade Disputes Act than on the efforts of conciliation officers to bring the parties to agreement privately before strikes or lockouts occurred. The Trade Disputes Act of 1929 is

6 Royal Commission on Labor in India, June 1931, p. 337 and 338.
7 Ornati, Oscar A., Jobs and Workers in India, p. 160.
modeled, to a large extent, on the British Industrial Court Act of 1919, but it does not provide for any industrial court. However, the Industrial Disputes Act of 1947, amended in 1956, constitutes labor courts and tribunals.

End of the Era of Hesitation and Compulsory Adjudication

During the inter-war period there were several strikes in the textile industry. The period between 1930 to 1937 was one of relative calm. With the advent of popular ministries in the provinces, there was a recrudescence of industrial unrest in 1937 and 1938. After the outbreak of the Second World War, industrial disputes increased. While it was 322 in 1940, it was 694 in 1942. The era of hesitation as to whether government should intervene in disputes came to an end. The Royal Commission on Labor in India with the Hon. Whitley as chairman also had recommended in 1931 that, in its opinion, intervention in conflicts was the duty of the government.

Early in 1942, the government took powers to prohibit all strikes and lockouts which would affect the country's war efforts and to refer industrial disputes to conciliation or adjudication and to enforce awards, as a wartime measure by Rule 81A of the Defense of India Rules. During the war, the need for rapid expansion in the production of war supplies was felt by government. All available skilled labor was mobilized and technical training schemes such as the Bevan Plan for getting men trained abroad started. Along with the pro-

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9 Pillai, P. P., Labor in South East Asia, p. 40
hition of strikes and lockouts, reference of disputes to adjudication and enforcement of awards, a tripartite labor organization following the pattern of the I.L.O. was set up to promote joint employer-worker-state collaboration in matters affecting labor. Even though industrial unrest was widespread due to the steady rise in the cost of living during this period, the emergency labor legislation kept the number of strikes and industrial disputes down. Hence, during the Second World War, India's legislative framework in industrial relations, namely, the Defense of India Rules, reflected British wartime legislation.

The wartime experience that India had with government intervention and compulsory arbitration taught her that such a measure could check unrest in her postwar planning to build up industries. Government intervention, in varying degrees, had appeared in England and the United States during the war period quite contrary to their tradition. In Britain, the T. U. C. agreed to continue compulsory arbitration system for six years after the end of the Second World War, subject to repudiation by either labor or management during the period. In New Zealand compulsory arbitration existed since 1894 and was intensified between 1939 and 1951 by the strike and lockout Emergency Regulation of 1939. The experience of these countries and that of India herself with emergency legislation influenced India to strike a balance between complete government control and the loose control under the 1929 Act in the Industrial Disputes Act of 1947.

Voluntary Conciliation, Arbitration and Compulsory Adjudication

Labor conflicts in India are now regulated by the provisions contained in
the representative union should have the sole right of taking up with management matters or disputes in connection with wages, allowances and other terms and conditions of service; that questions relating to the technical and human problems of the enterprise could perhaps be more effectively handled by the Works Committee.\(^{12}\) On the whole, Works Committees have failed so far to fulfill the purpose for which they were intended.

**Conciliation Officers**

Conciliation officers are appointed by the state under the Act for specific areas. The officer may or, in the case of public utility services, must hold conciliation proceedings for the purpose of inducing the parties to come to a fair and amicable settlement of disputes. In private industry, the conciliation officer assists at the request of either party. His work has helped screen disputes and aided the government to come to a decision as to whether or not particular disputes should be referred to arbitration or adjudication.\(^{13}\) Officers are doing good work with discipline cases and misunderstandings. When the conciliation officer fails to bring about a settlement the government has a choice with regard to further action. It may process the dispute through the board of conciliation, a court of inquiry or the tribunal, or it may not refer it at all, in which case it shall record and

\(^{12}\) Ibid., p. 576.

\(^{13}\) The Industrial Disputes Act, 1947 - Sections 4 and 12.
communicate, to the parties concerned, its reasons therefor. A majority of disputes are referred to tribunals, either labor courts or national tribunals, provided under the Act.

**Board of Conciliation and Court of Inquiry**

The board of conciliation and court of inquiry are constituted on an ad hoc basis. The board of conciliation, tripartite in composition, consists of an independent person as chairman and two or four members appointed in equal numbers on the recommendations of both parties. The court of inquiry may consist of one or more members at the discretion of the government. Both these bodies are expected to have great persuasive value upon the parties, especially since their reports are published by the government within one month of its receipt. These bear resemblance to the Fact Finding Board in the United States.

**Industrial Tribunals**

Under the Industrial Disputes Act, the appropriate state governments constitute labor courts and tribunals and the central government, national tribunals all with defined jurisdiction to adjudicate industrial disputes of specified importance. The awards of these are published by the government.

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14 Ibid., Section 12 (5).
15 Ibid., Sections 5, 6, 13 and 14.
16 Ibid., Sections 7, 7A and 7B.
within one month of receipt and are declared binding on the parties concerned. Reference of a dispute to any of the tribunals can be requested by the parties jointly or by the government at its discretion.

The only other country where there is compulsory adjudication is New Zealand. It is, however, claimed that in New Zealand no compulsion is used on the parties to bring them to submit to adjudication. In other words, "the voluntarism is confined only to the demand for arbitration; the arbitration remains essentially compulsory," as in India. While in New Zealand a strike or lockout must be called off before arbitration can start, in India they are prohibited after a dispute is referred to a tribunal.

Tribunals and Foreign Influence

A tribunal is not bound by contractual terms between the parties, but depends more on principles of common law and social justice. Indian labor courts and tribunals have been accused of drawing from foreign awards the principles on which they base some of their decisions. The accusation has been answered by the Supreme Court in re Spencer & Co., Ltd. vs. Labor Appellate

17 Ibid., Section 17.
18 Ibid., Section 10 (1) and (2).
20 The Industrial Disputes Act, 1947 - Section 10 (3).
The Supreme Court held that though decisions by American courts and tribunals are not binding in India, there is nothing to prevent Indian courts and tribunals from profiting by the experience recorded in the decisions of foreign courts or foreign writers and that there is nothing wrong in finding out what other countries like the United States, Britain, Canada and Australia with wider, longer and more varied experience, have been doing and profiting from their experience.

In coming to a decision as to whether a dispute of an individual workman with his employer is an industrial dispute, a full bench of the Labor Appellate Tribunal in India in Swadeshi Cotton Mill Company, Ltd. vs. their workmen, followed their Lordships Goddard, C. J. and Pitcher, J. J. in Rex vs. National Arbitration Tribunal South Shields Corporation and held in 1953 that a dispute or difference between an employer and a single workman did constitute an industrial dispute. However, in 1957 this decision was overruled by the Supreme Court of India in Newspapers Ltd. vs. Industrial Tribunal, Utter Pradesh State. It held that a dispute between an employer and a single employee cannot be an industrial dispute, but may develop into an industrial dispute if it is taken up by the union or a number of workmen.

In deciding what is "victimization," M. C. Banerjee Tribunal observed in J. K. Eastern Industries, Ltd. and others vs. their employees, as follows:

"In the case reported in 1947, 2 A.E.R. 693 (Rex vs. National Arbitration Tribunal Exparte Horatio Crawther & Co., Ltd.) Croom Johnson, J. states at one part of his Lordship's judgment: 'The real claim was that the alleged reason for their dismissal was not a true one and that they have been victimized, i.e. been got rid of because they were the members of the chemical workers union.' This statement of the learned judge clearly shows that victimization means getting rid of an employee because he was a member of the union and is a measure taken in retaliation of the employee's union activities."23

In the matter of "closure" of a business following Chief Justice Taft in the first Wolff Packing Co.'s case (262 V. S. 522) the Madras High Court held in the Indian Metal and Metallurgical Corporation case, that if under the constitution a citizen has the right to carry on any business, then he must be at liberty not to carry on that business if he so chooses and that a person cannot be compelled to carry on a business.

In deciding the question whether manual labor includes only work with the hands, following the decisions in Jaques vs. Owners of Steam Tug Alèxandra 1921, two appeal cases (House of Lords) Page 339 and Gardner case-Kings Bench Division (Reported in 1938-1-All England Law Reports-Page 20) the General Jute Tribunal's award (Calcutta Gazette Extraordinary, November 12, 1951, Page 1673) defined it as work done by physical effort to be distinguished from mental or intellectual effort. It also maintained that manual work may be done with the

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23 Calcutta Gazette, November 2, 1950, p. 2209.
hands or with any other part of the body.

As regards reinstatement after strike, the Supreme Court of the United States has held that an employer who has committed no unfair labor practice is not obliged to cease the conduct of his business if a strike has been declared against him, but may employ others to take the place of the strikers, and he may promise to retain such employees in his employ even after the termination of the strike. Under such circumstances, the employer’s obligation to reinstate extends only to such of the striking employees whose places have not been filled during the strike. This principle was followed by the Labor Appellate Tribunal in India the Bangalore Silk Throwing Factory vs. its workmen. Their Lordships held that when the places of striking employees were filled by the employer pending such strike, the relief of reinstatement could not be granted to such employees. The management was held to be entitled by law to fill the places of striking employees pending an unjustified strike.

A large volume of case law covering all aspects of labor relations has grown up. Some of these without specific statutory provisions are based on similar pronouncements of labor courts in Britain and the United States.

Restriction of Strikes by Government

If the government is of the opinion that an industrial dispute exists or

24 Calcutta Gazette Extraordinary, November 12, 1951, p. 1673.


is apprehended, it may intervene and refer the dispute, at its discretion, to a board of conciliation, labor court, tribunal or national tribunal. If the parties to the dispute apply to the government for such reference, the government shall do so provided it is satisfied through investigation made by the Labor Department that the persons applying represent the majority of each party. 27

Strikes and lockouts in a public utility service and those in other industrial establishments are treated differently by the government. The law with regard to these is laid down under Sections 22, 23, 24 and 26 of the Industrial Disputes Act of 1947 as amended in 1956, as follows:

22. Prohibition of strikes and lockouts.

(1) No person employed in a public utility service shall go on strike in breach of contract—
(a) without giving to the employer notice of strike, as hereinafter provided, within six weeks before striking; or
(b) within fourteen days of giving such notice; or
(c) before the expiry of the date of strike specified in any such notice as aforesaid; or
(d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

(2) No employer carrying on any public utility service shall lockout any of his workmen—
(a) without giving them notice of lockout as hereinafter provided, within six weeks before locking out; or

27 The Industrial Disputes Act, 1947 - Section 10 and 10A.
(b) within fourteen days of giving such notice; or
(c) before the expiry of the date of lockout
specified in any such notice as aforesaid; or
(d) during the pendency of any conciliation pro-
ceedings before a conciliation officer and
seven days after the conclusion of such pro-
ceedings.

(3) The notice of lockout of strike under this section
shall not be necessary where there is already in
existence a strike or, as the case may be, lockout
in the public utility service, but the employer
shall send intimation of such lockout or strike on
the day on which it is declared, to such authority
as may be specified by the appropriate Government
either generally or for a particular area or for a
particular class of public utility service.

(4) The notice of strike referred to in sub-section
(1) shall be given by such number of persons to
such person or persons and in such manner as may
be prescribed.

(5) The notice of lockout referred to in sub-section
(2) shall be given in such manner as may be pre-
scribed.

(6) If on any day an employer receives from any persons
employed by him any such notice as are referred to
in sub-section (1) or gives to any persons employed
by him any such notices as are referred to in sub-
section (2), he shall within five days thereof report
to the appropriate Government or to such authority
as that Government may prescribe the number of such
notices received or given on that day.

23. General prohibition of strikes and lockouts.

(1) No workman who is employed in any industrial
establishment shall go on strike in breach of
contract and no employer of any such workman shall
declare a lockout—
(a) during the pendency of conciliation proceedings
before a board and seven days after the con-
cclusion of such proceedings;
(b) during the pendency of proceedings before a labor
court, tribunal or national tribunal, and two
months after the conclusion of such proceedings; or
(c) during any period in which a settlement or award is in operation, in respect of any of the matters covered by the settlement or award.

24. Illegal strikes and lockouts.

(1) A strike or a lockout shall be illegal if—
   (a) it is commenced or declared in contravention of section 22 or section 23; or
   (b) it is continued in contravention of an order made under sub-section (3) of section 10.

(2) Where a strike or lockout in pursuance of an industrial dispute has already commenced and is in existence at the time of the reference of the dispute to a board, the continuance of such strike or lockout shall not be deemed to be illegal, provided that such strike or lockout was not at its commencement in contravention of the provisions of this Act or the continuance thereof was not prohibited under sub-section (8) of section 10.

(3) A lockout declared in consequence of an illegal strike or a strike declared in consequence of an illegal lockout shall not be deemed to be illegal.


(1) Any workman who commences, continues or otherwise acts in furtherance of, a strike which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

(2) Any employer who commences, continues, or otherwise acts in furtherance of a lockout which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

For the purpose of the above sections, conciliation proceedings commence on the date on which notice of a strike or lockout under Section 22 reaches the
conciliation officer or on the date of the order referring the dispute to a board of conciliation or court of adjudication. Conciliation proceedings are deemed to have concluded when a settlement is arrived at and memorandum of settlement signed by the parties. If no settlement is arrived at, the date on which the report of the conciliation officer is received by government, and in the case of the board of conciliation the date on which the report of the board is published by the government, are deemed to conclude the proceedings. In the case of reference to arbitrator, labor court and tribunals, the proceedings commence when the reference is made by government, and conclude when the award becomes enforceable, i.e. thirty days after the publication of the award by the government.

Section 10 (3) of the Act says: "Where an industrial dispute has been referred to a board, under this section, the appropriate government may by order prohibit the continuance of any strike or lockout in connection with such dispute which may be in existence on the date of the reference."

It has to be borne in mind that it is the usual practice in India that a dispute is sent up by the conciliation officer to the government which, in turn, refers it to the tribunal.

The Indian government has introduced a system of arbitration under Section 10 (A) of the Industrial Disputes Act of 1947 when it was amended in 1956. Section 10 (A) reads:

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28 The Industrial Disputes Act, 1947 - Section 17A.
10 (A) Voluntary reference of disputes to arbitration.

(1) Where any industrial dispute exists or is apprehended and the employer and the workmen agree to refer the dispute to arbitration, they may, at any time before the dispute has been referred under section 10 to a labor court or tribunal or national tribunal, by a written agreement, refer the dispute to arbitration and the reference shall be to such person or persons (including the presiding officer of a labor court or tribunal or national tribunal) as an arbitrator or arbitrators as may be specified in the arbitration agreement.

(2) An arbitration agreement referred to in sub-section (1) shall be in such form and shall be signed by the parties thereto in such manner as they may prescribe.

(3) A copy of the arbitration agreement shall be forwarded to the appropriate government and the conciliation officer and the appropriate government shall, within fourteen days from the date of the receipt of such copy, publish the same in the Official Gazette.

(4) The arbitrator or arbitrators shall investigate the dispute and submit to the appropriate government the arbitration award signed by the arbitrator or all the arbitrators, as the case may be.

(5) Nothing in the Arbitration Act, 1940 shall apply to arbitration under this section.

"While in the United States grievance arbitration usually is voluntary and is a logical conclusion of the collective bargaining process, in India it is compulsory and antithesis (in most cases) to collective bargaining. In the United States the jurisdiction of the arbitrator is clearly defined with reference to the terms of the contract or the submission; in India the jurisdiction is limited by nothing but the statute which, in effect, gives a wide coverage without any reference to the contract or the submission. In the
United States the clinical approach in voluntary arbitration is being widely adopted; in India even the mediatory efforts of arbitrations (acting in good faith) is tinctured by an element of compulsion.  

Conclusion

The Industrial Disputes Act of India offers opportunities for free mutual adjustments. Compulsory adjudication is intended only for disputes which cannot be settled by negotiation between the parties themselves. In fact, compulsory adjudication is not favored either by labor or capital in India. It is pointed out that even though New Zealand introduced compulsory arbitration as early as the last decade of the nineteenth century, it has not succeeded in stopping strikes any better than the countries like Britain or the United States. Mr. Giri, one time labor Minister for the government of India, and one who is closely associated with the trade union movement, expresses faith in direct negotiation and collective bargaining. One of the biggest industrialists of the country, Mr. Naval T. Tata, says that the history of compulsory adjudication emanating from Indian enactments is not an inspiring one and has pleased neither party to the dispute. He says that an overdose of unwanted adjudication has made the disease of industrial disputes chronic.


30 Wadia and Merchant, Our Economic Problems, p. 540.

31 Ibid., p. 540.
CHAPTER VI
CONCLUSION

The labor policy of the government of India is contained in the Industrial Policy resolution which Pandit Nehru presented to the Lok Sabha (Parliament-lower house) on April 30, 1956.¹ According to this, India is to set up a socialist pattern of society. Her social and economic policy will be molded to achieve that end and the Industrial Policy will also be governed by that object. The creation of industrial democracy is a prerequisite for the establishment of this pattern. In the Second Five Year Plan, India envisages an increasingly greater responsibility for both workers and management. It constituted the Joint Consultative Board to study important problems which confront the industrialisation of the country. The government also wants increased association of labor with management in all industries and therefore proposes councils of management consisting of representatives of management, technicians and workers to discuss all matters which do not fall within the preview of collective bargaining. India is determined to accelerate the rate of economic growth and speed up industrialization with special emphasis on the heavy industries and machine making industries. She considers it important to

¹ Government of India Planning Commission - Second Five Year Plan, 1956 - p. 29.
reduce the disparity in income and wealth which exist today and to prevent private monopolies and the concentration of economic power in the hands of a small number of individuals. The state therefore, progressively would assume predominant and direct responsibility for setting up new industrial undertakings and developing transport facilities. Accordingly, all industries of basic and strategic importance, or in the nature of public utility service, would be in the public sector, that is, would be owned and run by the state. Other industries which are essential and require investment on a scale which in the present circumstances only the state can provide will also be in the public sector.

The following industries will be the exclusive responsibility of the state:

1. Arms and ammunition and allied items of defense equipment.
2. Iron and steel.
3. Heavy casting and forgings of iron and steel.
4. Heavy plant and machinery.
5. Heavy electrical plant including large hydraulic and steam turbines.
6. Coal and lignite.
8. Mining of iron manganese and chrome ore, gypsum, sulphur, gold and diamonds, copper, lead, zinc, tin, molybdenum and wolfram.
10. Aircraft.
11. Air transport.
12. Railway transport.
14. Telephones, telegraph and wireless except radio receiving sets.
15. Generation and distribution of electricity.

2 Government of India Planning Commission - Second Five Year Plan, 1956, p. 28 to 38.
It has been decided that privately owned units already existing in the category and approved by government, will not be precluded from expanding, and that the state will seek cooperation of the private sector in any of these if national interests so require.3

The following industries will progressively become state owned:

1. All other minerals except "minor minerals" under Section Three of the Minerals Concession Rules of 1949.
2. Aluminum and other non-ferrous metals not included under public sector.
4. Ferro alloys and tool steels.
5. Basic and intermediate products required by chemical industries such as the manufacture of drugs, dye stuffs and plastics.
6. Antibiotics and other essential drugs.
7. Fertilizers.
8. Synthetic rubber.
10. Chemical pulp.
11. Road and sea transport.

Generally, the state will take the initiative in establishing new undertakings, but private enterprise will not be excluded. Private enterprise will also have the opportunity to develop in this field either on its own or with state participation. 4

All other industries fall in the private sector. However, it is open for the state to start any industry in this category if it so desires. The state is prepared to render financial assistance to the private sector if necessary.

3 Ibid., p. 47-50.
4 Ibid., p. 45-50.
In the matter of labor relations, the state does not wish to make any distinction between public sector and private sector.

The Second Five Year Plan is administered under the aegis of the National Development Council. Its principal objectives are: to secure increase in the national income by 25 per cent, to enlarge employment opportunities, to absorb increases in labor force, and the industrialization of the country. It is deemed necessary in the Plan to create at least ten million job opportunities to prevent further deterioration of unemployment situation. The Plan further envisages three steel mills of one million tons ingot capacity; an increase in the output of locomotives from the present one hundred twenty per annum to three hundred; the manufacture of heavy electrical equipment; the development of mines; an increase of fertilizer production from forty-seven thousand tons to seventy thousand tons at the end of the Plan; and the development of shipyards. The Plan wants the private sector to expand increased manufacture of industrial machinery, jute and cotton textile mills, iron and steel mills, metallurgical industries, the automobile industry, etc. The Plan also proposes to give financial support to subsidize industrial housing and housing projects for workers in the coal and mica industries. 5

Several industries have made spectacular expansion after Indian independence such as the textile, iron and steel, sugar, jute, cement, paper, match, coal, leather, glass and chemical industries.

5 Ibid., p. 24-25.
National income is reported to have risen by 10 per cent at the end of the First Five Year Plan period. Though industrial investment by the state had fallen short of expectations, the outstanding concerns in the public sector, namely, the Chitteranjan Locomotive Factory ultimately is expected to produce India's requirement and the Sendri Fertilizer Factory has almost reached four hundred fifty thousand tons target in 1956; the three huge steel plants almost completed, are likely to surpass all other activities in the public sector.

Side by side with the heavy industries, the cottage and small scale industries are also being developed. These industries are part of the Gandhian tradition, designed by him probably as a safeguard against the social evils which followed in the wake of the industrial revolution in Europe.

The Second Five Year Plan assumes that 4,800 crores rupees (approximately 10 billion dollars) would be spent in the public sector. Of these, 2,400 crores have to be raised tentatively, 1,200 crores by deficit financing without undue inflationary effect, 800 crores from external assistance and 400 crores as an uncovered gap. The success of the Second Five Year Plan will depend largely on India's ability to fill the gap in her resources in foreign exchange, Foreign private capital, a government loan within India, loans from the World

6 Griffiths, Sir Percival - Modern India, p. 225.
7 Ibid., p. 209.
8 Ibid., p. 220 to 222.
Bank and grants from the various international aid organizations, particularly American, are the sources from which India could obtain the money.

American private business is not too interested in the absence of an insurance treaty protecting American nationals against expropriation of blockage of remittances. Loans from the World Bank are available for specific purposes. The World Bank Mission headed by T. H. McKinnick has, however, advised India that the Plan is too large or unwieldy, not to resort to undue deficit financing and that private business has not been sufficiently recognized. Therefore, if India does not get the foreign aid she expects, her economic and industrial policy will have to be modified.

The industrial relations in India will undoubtedly be allied with the labor policy of the government as most of the larger industries will be either owned or controlled by the state.

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