

## TRADE UNIONISM IN THE 21<sup>st</sup> CENTURY

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**Abstract:** According to Perlman, three factors reveal as basic in any modern labor situation, “First the resistance of power of capitalism, determined by its own historical development; second the degree of dominance over the labor movement, by the intellectual’s mentality which regularly under-estimates capitalism resistance power and over estimates labor’s will to radical change; third the degree of maturity of trade union mentality”. Industrial relations are formerly concerned with Union-Management relations, techniques of negotiations, collective bargaining, evolution of labour contracts, discipline, joint consultation, strikes, lockout, labour costs etc. In the modern industrial society labour management relationship have become complex than it was in the past, and has been given a sharp edge because of widespread labour unrest. Today workers have their own trade unions and have gained enormous bargaining power which enables them to give a tough fight to their employer’s in order to establish their rights in growing industrial society. The presence of trade unions has ensured equal bargaining power for employees. Industrial relations is a by product of healthy labour management relations the promotion of which pre-supposes the existence of strong, well organized, democratic and responsible trade unions and associations. The researcher aims to relate two major variable of labour laws i.e. trade union and industrial relations. It is imperative to point out that both these are closely related to one another and rather industrial relation is a by-product of evolution of trade unions. It thus becomes all the more important that both these are studied in relation to one another, which shall be the aim and objective of research.

**Research Methodology:** It is theoretical study based on international and national laws, instruments, reports, articles and the internet.

**Key words:** Industry, Industrial Relations, Trade Unions, Freedom of Association, Collective Bargaining, Employer- Employee, Industry.

## I. INTRODUCTION:

*The Worker does not sell his labour, but his labour-power*

Karl Marx and Engles

All Laws have a social function, whether created by religion, or whether created by an act of the Parliament. Sociologists and institutional economists and jurists have emphasised a two-way traffic between laws on one hand and social economic changes on the other. In this concern it was quoted by Justice P. Gajendragadkar in relation to social functions of law:

... Law in relation to liberty and social justice has to be considered in its aspect of a flexible instrument of social change and social adjustment. In this concern law is not merely the command of the legislature or monarch. Its functional aspect is of utmost significance. It is a social institution, democratically evolved in order to achieve the object of making social adjustments to meet the challenge which necessarily and increasingly flows from unsatisfied, legitimate human desires and ambitions.....

Yesterday cannot overpower today, and cannot obstruct today's attempt to build a social structure so as to meet the challenge that faces it. That is why law is never static and must always be dynamic if it is to discharge its function properly... Call it pragmatism or call it scepticism, the approach dealing with problem must not be burdened with belief in any absolute.<sup>1</sup>

Similarly Justice William O' Douglas of the United States Supreme Court has written: When we speak of law, we normally think of statutes which legislatures enact, rules that judges announce, and orders laid down by an administrative agency, by a military official or by some other spokesman of the executive department....

Yet law in its broader sense embraces all the influences that shape and condition human conduct. The most effective law is the command which comes from the hearts of people. It may be rooted in village custom, family tradition, ecclesiastical teachings, or tribal attitudes. These... can be, and often are, more powerful than any directives of government. Government edicts can, indeed be empty phrases if they run counter to deep seated customs that have long directed human affairs in families, tribes, villages or even larger entities.

Thus law reflects changing patterns of society, but this reflection is more or less distorted. The laws influence may retard or may accelerate the pace with which society moves in particular direction.

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<sup>1</sup> P.B. Gajendragadkar, *Law, Liberty and Social Justice*, 45-49 (1965).

## II. CONCEPT OF LABOUR AND ITS GROWTH:

The concept of labour has undergone drastic changes in the recent years. We have come a long way since the days of absolute capitalism governed by doctrine of laissez faire to the days of industrial democracy when the labour and capital have come to be regarded as joint partners of production. During the early stages of capitalism, human labour had no recognition except that it was a means of production.<sup>2</sup> The pre industrial revolution age was mainly the age of handicrafts and if at all machines were used, they were simple machines which could be handled by unskilled labourers. Agriculture was the primary occupation of people at large. A drastic change in the scenario was brought forth by the industrial revolution which gradually transformed a medieval society into modern society. The revolution began in England with invention and adoption of new machines and technological processes. The industrial revolution in England was crucial event in European and World History and from it we can date the advent of machine age. The immediate effect of industrialization was the growth of towns where factories sprang up in numbers and depopulation of the country side. All those who sought employment in the factories could not be absorbed in the factories for supply exceeded the demand greatly. The factory system led towards the growth of capitalist class in the society. The doctrine of laissez faire encouraged the factory owners to exploit the labour. The condition of labour was inhuman by modern standards. The aftermath of Industrial Revolution was followed by industrialization all over the world. The waves of industrialization also influenced under developed country like India which was at that time under the British rule. The factories Act, 1891 passed was on the lines of English Factories Act and somehow gave no or little power to the workers. It was with the emergence of Welfare states and with the growth of strong trade unionism, the labouring classes of the world have come to be recognized as distinct legal entity having a voice of its own.

The law now recognises a distinct status of industrial labour. Every labour or industrial law now defines worker in clear and precise terms. Different laws confer on the industrial workers or workmen different rights. There are protective as well as remedial statutes which safeguard the legitimate interest of workers and also provide for remedial action against unfair practices resorted by the employer or management.

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<sup>2</sup> K.P.Chakravarti, *Labour Management and Industrial Relations*, 2(1988).

According to the modern concept of industry, it is a joint venture of labour and capital. Industry is not an isolated phenomenon. Society has an interest in industrial activities or its products. Therefore the state has pivotal role to play in maintenance of industrial peace and harmony, which has been furthered by the emergence of (I.L.O.)<sup>3</sup>.

## II. HISTORY AND GROWTH OF TRADE UNIONS IN INDIA:

The origin of the trade union movement in India may traced back to earlier times, when in every village, panchayats and guilds settled disputes between their members and masters. Ordinarily the disputes between the master and servant were settled by the panchayats and on failure of the panchayats to do so; there was a total boycott of the particular employer as the last resort. There was a code of conduct to be followed by every member of the guild, the non observance of which led to the expulsion of the member from the community.<sup>4</sup> The scenario in the growth of trade unions changed drastically thereafter.

For the purpose of convenience, the growth and development of trade unions can be divided into the following three stages<sup>5</sup>:

- I. Period prior to the First World War (1875-1917)
- II. Period between World Wars (1918-1946)
- III. Post Independence Period (1947-1987)

The establishment of Bombay Mill Hands' Association is considered as the first phase of the labour movement in India. In 1905, the Printers Association of Calcutta and Dock Union Board in Bombay were formed.<sup>6</sup> However the trade union movement actively started at the end of the World War I. Trade Union formation became the need of the hour in order to coordinate activities of individual workers. The movement, over a period of time, systematically spread to almost all industrial centres and became an integral part of the industrial process in India.<sup>7</sup> A number of trade unions came up, such as the Madras Labour Union in 1918, the All India

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<sup>3</sup> International Labour Organisation

<sup>4</sup> V.V. Giri; *Labour Problems in Indian Industry*, (1972).

<sup>5</sup> *Ibid*

<sup>6</sup> <http://www.importantindia.com/8419/brief-history-of-trade-union-movement-in-india/> (visited on 24<sup>th</sup> September, 2017).

<sup>7</sup> Vikram Shroff and Akshay Bhargav, "Trade Unions Act and State Laws Provide Legal Protections to Trade Unions In India", *SHRM Legal Report*, March 2010.

Trade Union Congress (“AITUC”) in 1920, the Bengal Trade Union Federation in 1922 and the All India Railwaymen’s Federation in 1922. In March 1921, Shri N.M. Joshi, the then General Secretary of the AITUC, recommended through a resolution that the Government should introduce legislation for the registration and protection of trade unions in India. Eventually, the Trade Unions Act, 1926 (“TU Act”) was enacted for the purpose of ensuring governance and protection of trade unions.<sup>8</sup> Today, the Bharatiya Mazdoor Sangh (“BMS”), the Indian National Trade Union Congress (“INTUC”) and the AITUC are considered to be the largest trade unions in India.

#### IV. TRADE UNION AND TRADE UNIONISM:

According to Sidney and Beatrice Webb<sup>9</sup> the term trade union in common parlance is understood to be a voluntary continuous association of wage, salary and fee earners for improving the conditions of its members inside and outside the place of employment. Trade unions are voluntary organisations of workers formed to promote and protect their interests by collective actions. The inception of trade union movement in India can be traced back to earliest times when guild and panchayats in every village settled disputes between members and its masters. The usual procedure was representation at first instance and later if necessary direct action, that is, refusal to work for a particular master. The success and failure of these depended upon justness of demands and sanctions behind them.

Trade Unions directly stand for the social and economic betterment of the workers and indirectly for the transformation of social order. “It is of course, true that a trade union may well have as an immediate objective the betterment of its members within the present structure and an ultimate objective the establishment of an entirely different structure of society”.<sup>10</sup> But a trade union cannot afford to have the sole objective of altering the existing social order as there is likelihood of its becoming either a revolutionary or a political body.

The first quarter of the twentieth century saw the birth in India of the trade union movement. The germs of the movement are to be found in the last quarter of the nineteenth century. Some

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<sup>8</sup> Supranote 6.

<sup>9</sup> Martha Beatrice Webb, *Baroness Passfield, FBA, English sociologist, economist, socialist, labour historian and social reformer*. Webb coined the term “collective bargaining”.

<sup>10</sup> H.S. Kirkaldy, *The Spirit of Industrial Relations*, 21-32.

form of trade unions came into existence after establishment of factories in India in eighteenth-seventies.

There are many theories of growth of trade unionism. According to Marx and Engels, its origin is due to competition under capitalism and inherent contradiction between interests of industrialists and workers in a capitalist society. "The growing competition among bourgeois, and the resulting commercial crisis make the wage of the workers even more fluctuating. The increasing improvement of machinery, ever more rapidly developing, makes their livelihood more precarious."<sup>11</sup> The Webbs also partly agree with Marx and Engel and their response and analysis of trade unionism as a response to competition under capitalist although they do not believe in class struggle. J.R. Commons expresses that, "labour movement is always a reaction and protest against capitalism."<sup>12</sup> He also differs from another labour economist Frank Tannenbaum- who believes that, "labour movement is the result and the machine is major cause."<sup>13</sup> Kerr and Siegel also concede with Tannenbaum, but they however do not accept the common assertion that the trade union movement is a result of capitalism.<sup>14</sup> These theories are subject to criticism and can hardly explain the growth of trade unionism in some countries where industrialisation commenced much before the trade union movement. Trade unions emerged with the increase in complexities of economic structure of man's life. Industrial revolution made it all the more essential. It exists because it is important in modern industrial setup. Trade unions have had a gradual growth owing to socio economic conditions prevalent in the country. The industries have now grown vast, impersonal and specialized. Factors like economic system prevailing in a country, the nature of ownership of the means of production, social tradition, cultural, religious and historical background and political system determine the growth of trade union movement. Theories propounded by Pearlman and others do not sufficiently explain the growth of this movement.<sup>15</sup>

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<sup>11</sup> *Karl Marx and Frederick Engels, Communist Manifesto: A Socialist Landmark*, 130 (H.J. Laski, 1948).

<sup>12</sup> *Encyclopedia of Social Sciences*, , 1951, 16-17( Vol. 8).

<sup>13</sup> *Labour Movement: Its Conservative Functions and Social Consequence*, 29 (1921).

<sup>14</sup> S. Ghosh, *Trade Unionism in Under Developed Countries*, 16-17.

<sup>15</sup> According to Pearlman, three factors reveal as basic in any modern labour situation, "First the resistance of power of capitalism. Determined by its own historical development; second the degree of dominance over the labour movement, by the intellectual's mentality which regularly under estimates capitalism resistance power and over estimates labour's will to radical change; third the degree of maturity of trade union mentality". *A theory of the Labour Movement*, New York, X (1949).

## V. INDUSTRIAL RELATIONS:

The labour dictionary defines “industrial relations” as the relations between employers and employees in industry.<sup>16</sup> According to Dale Yoder, “industrial relations describe relationships between managements and employees or among employees and their organisations, that characterise or grown out of employment”.<sup>17</sup> In order that the term Industrial Relations could cover every sector of the labour force in all parts of the world; the International Institute of labour studies has defined it as “social relations in practice”<sup>18</sup>. Few elements of term ‘industrial relations’ that are now clear are:

- a. that originally the term stood for employer-employee relations in any industry
- b. that when the workers organised themselves into trade unions and the latter started dealing with the employers trade union activities came to be included under this term.
- c. later, when the relation between employers and employees came to be vested with public importance and ceased to be private, the State had to be involved in such relations. Therefore the activities of a State designed to modify, regulate and control relations between employers and employees also became part of industrial relations.
- d. that the term industrial relations is no longer confined to a small segment of economic activity but has come to include all gainful employments, including services under states. The relationship between the state and its employees has also come to acquire many characteristic features of employer- employee relationship in the industry. Therefore, employer employee relationship under public services has also come to be covered by the term.

Considering all these elements, the term industrial relations can be taken to stand for employees-unions-employers-government relationship in employment. As the term indicate industrial relations spring from the contacts between employers, employees and their trade unions. Such relations and contacts prevail at various levels and in various forms such as relation between single employer and single union of his employees, between single employer and more than one union or between many employers organised on one side and many unions grouped under federations, on the other.

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<sup>16</sup> P.H. Casselman, *Labour Dictionary*, 197.

<sup>17</sup> *Personal Administration and Labour Relations*, 5 (Herbert G. Heneman and John G. Turnbull eds.).

<sup>18</sup> *International Institute Of Labour Studies*, Bulletin No. 10, 3(1972).

The modern industrial relations are based upon two large aggregates: (a) accumulation and aggregation of large capital, and (b) aggregation of a large number of workers organised under trade unions. The availability and supply of large quantity of capital and large number of workers divorced from any ownership of the means of production is the sine qua non of the establishment and growth of modern industries. The centre of industrial relations is coming together with these two aggregates.

## VI. INDUSTRIAL RELATIONS - IT'S REGULATION THROUGH TRADE UNIONS

Industrial Relations play a vital role in the establishment and maintenance of industrial democracy.<sup>19</sup> Industrial relations is primarily concerned with union management relations, techniques of negotiations, collective bargaining, evaluation of labour contracts, discipline, joint consultation, arbitration matters, strikes and lockouts, labour costs, etc. in the modern industrial society labour management relationship has become more complex than it was in the past.<sup>20</sup>

“Industrial relations are an integral aspect of social relations arising out of employer-employee interaction in modern industries, which are regulated by State in varying degrees, in conjunction with organised social forces and influenced by existing institutions. This involves the study of the state, the legal system, and the workers and employers organisations at the institutional level; and the patterns of industrial organisations (including management), capital structure (including technology) compensation of labour force and a study of market forces all at economic level.”<sup>21</sup>

Industrial relations are a set of functional, inter dependent complexities involving historical, economical, social, psychological, demographic, technological, occupational, political, legal and other variables and call for an interdisciplinary approach to their study<sup>22</sup>. Thus it is obvious that industrial relations do not work in isolation but are multi dimensional in nature. And they are conditional by two set of determinants- institutional factors and economic factors.

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<sup>19</sup> V.V. Giri, *Labour Problems in Indian Industry*, 71 (1<sup>st</sup> ed. 1958).

<sup>20</sup> Dr. G.L. Gaur, *Trade Union and Industrial Relations*, 163(1986).

<sup>21</sup> V.B. Singh, *Climate for Industrial Relations*, 9 (1968).

<sup>22</sup> Supranote 14, pp 162-163



Dr. V.B. Singh observes, “A country’s system of industrial relations is not the result of caprice and prejudice. It rests on the society that produces it. It is a product of not only of industrial change, but of the preceding, total social changes out of which an industrial society is built and a n industrial organisation emerges. It develops and moulds itself according to the institutions that exists in a given society both pre industrial and modern. It grows and flourishes or stagnates and decays along-with these institutions. The process of industrial relations is intimately connected with the institutional forces which give a shape and content to economic policies at a given time.”

But this arbitrary role did not continue very long. Unions were formed and workers began demanding consultation in fixation of wages and other working conditions through their unions. Conflict starts with the formation of unions. Employers resent role of trade unions. They wish their employees to stay away from unions and do everything possible to stop the growth of unions. Employers were initially opposed to trade unions. Later they realised that unions facilitate efficiency on some formulated terms and conditions, and agreement that is mutual.<sup>23</sup>

The essence of establishment of trade unions is systematic organisations. Workers can be strong only if they are united.

## **VII. THE MEDIATING ROLE OF TRADE UNIONS IN REGULATING INDUSTRIAL RELATIONS**

Industrial relations are formerly concerned with Union-Management relations, techniques of negotiations, collective bargaining, evolution of labour contracts, discipline, joint consultation, strikes, lockout, labour costs etc. In the modern industrial society labour management relationship have become complex than it was in the past, and has been given a sharp edge because of widespread labour unrest. Today workers have their own trade unions and who have thus gained bargaining power which enables them to give a tough fight to their employers to establish their rights in growing industrial society. The presence of trade unions has ensured equal bargaining power for employees. It is through union’s effort that workers benefit from better pay and working condition and are treated with dignity and respect. The means by which trade unions have tried to regulate industrial relations can be summarised as *firstly* collective

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<sup>23</sup> Ibid

bargaining, labour unions developed to grant employees equal bargaining power with their employers, who traditionally had the ability to exclusively set the conditions of work and pay. Unions represent workers within a given industry in negotiations with their employers. Since the union comprises of a group of workers, it has a greater voice than if employees were dealing with employers individually. *Secondly*, employee welfare, unions have fought successfully for better terms and conditions for workers. They represent workers interests and have secured a variety of benefits, such as higher wage for unionized employees, work life balance, job security and protection from arbitrary action of employers. *Thirdly*, unfair practices, labour unions check the unfair labour practices of employers by ensuring that the employers comply with the law. *Lastly*, legislation, unions play an important role in developing labour laws and regulations for effective worker protection. The unions initiate the push for regulation in areas that concern employees in workplace. Hence Industrial relations is a by product of health labour management relations the promotion of which presupposes the existence of strong, well organized, democratic and responsible trade unions and associations.

A Majority of unions in the underdeveloped countries restrict their activities to collective bargaining within the legal framework provided by national legislation on industrial relations. Most of the Asian countries have provided statutory machinery for collective bargaining.<sup>24</sup> The over-reliance of trade unions on government machinery however is partly responsible for their weakness. The industrial relations machinery in under developed countries gives the State an indirect weapon to control labour management relations. The distrust between employees and employers, their reluctance to arrive at a mutual agreement and active intervention of the State are contributory causes of State control over labour and industry. Since, adjudication or arbitration in a dispute by state official is widely prevalent this has practically negated voluntary collective agreements between parties to dispute.<sup>25</sup>

The desire of trade unions to play decisive role in the economic growth of the country can be achieved only if they are independent. Trade union movement in the country suffer from various inherent defects, which must be removed before unions undertake the rightful responsibilities in economic growth of the country. The main defect in the countries trade union is their unsound finances, low and anomalous membership, faulty administration and account

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<sup>24</sup> International Labour Office, *Asian Labour Laws*, 211-234 (1951).

<sup>25</sup> <http://www.journals.uchicago.edu/doi/abs/10.1086/449751?journalCode=edcc>, (visited on 30<sup>th</sup> December, 2017).

management, lack of experience and maturity amongst union leaders, influence of outsiders, political interventions, exploitation for political purposes, rivalry and multiplicity of unions, absence of welfare work and heavy reliance on government machinery are some of the bottlenecks in achieving the ideal industrial relations.<sup>26</sup>

### VIII. CONCLUSION:

High quality industrial relations are a key element in managing economic change and reducing its costs, helping workers and companies adapt to change while protecting them from transitory shocks. Good relations between workers and employers produce positive economic and social effects, both in times of slowing economic growth. Policies on working conditions and training and labor market policy cannot remain the sole responsibility of the state, unions and employers play an important role in this sense.<sup>27</sup>

The most important role of trade-unions is initiating of direct communication between management and employees along-with the loyalty and responsibility employees show towards the company. Trade -Union's reason for existence is to re -establish the balance of power between employers and employees. Trade unions participate with their own representatives, by the law, to negotiations and conclusions of collective labor contracts, to transactions or agreements with the public authorities and employers associations, and also in the specific structures of social dialogue. The role of trade unions in the management of industrial relation is of utmost importance, this role can be considered in terms of contributions to the welfare of their members, industrial peace, and democratic processes in industrial relations, productivity, and economic and social progress in relation to guidance counsellor in the industrial setting.

One of the conclusions which can be drawn is that trade unions have a vital role to play not only in the management of industrial relations but in the progress of the community. A second conclusion which can be drawn is the role of the trade unions in relation to collective bargaining, various services to their members including education and information, and

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<sup>26</sup> Ibid

<sup>27</sup> Cristina Balaneasa, *The Role Of Trade Unions In Regulating Labor Relations*, 9(1), The Annals of The "Ștefan cel Mare" University Suceava- Fascicle of The Faculty of Economics and Public Administration, 347(2009).

participation in social and economic decision-making can have positive or negative effect on industrial relations.<sup>28</sup>



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<sup>28</sup> Dr. O.O.Pitan, *Role of Unions in Industrial Relations: the Guidance Counsellor's Input*, 2(10) International Journal of Humanities and Social Science Invention ISSN (Online): 2319 – 7722, 52-57 (October 2013).