Chapter III

Origin and growth of labour and Industrial relations in India
Origin and growth of Labour and Industrial Relations in India:

3.1 Introduction:

This chapter deals with the origin and growth of industrial relations especially in India. A brief origin is described along with the various types of industrial relations. Origin of labour legislature has also been discussed along with their classifications. A brief write up on laws related to industrial relations, wages, and specific industries, empowerment of women, social security, employment and training is listed briefly. It is understood that the balance of social justice does not mean doing everything for the welfare of labour to the utter disregard of the employer, the balance leans neither side.¹

A comparative study of industrial relations before and after independence is done. Various industrial policies with reference to Five Year Plans have also been highlighted. Various reasons for industrial sickness are listed out along with the help of a table.

A thorough discussion on Trade Unions is also made as this is playing a major role in labour and the Industrial relations. Trade Unions Acts are also briefed up. Other topics like Industrial disputes, Collective Bargaining of labour, Worker’s participation, etc are also discussed along with relevant tables for the above-mentioned topics.

¹ Punjab National Bank Ltd. V. Its Workmen. AIR 1960 SC 160
Industrial Relations are a dynamic socio-economic process. The relationship between the labour and the management is based on the mutual adjustment on interests and goals. It depends upon the economic, social and psychological, satisfaction of the parties. Higher the satisfaction higher the relationship. Industrialism is a major interacting factor in the growth of the labour problems. In industrial society there used to be a private ownership of the means of production. There is a complex system of division of labour as well of system of exchange and distribution. Under this system, self-labour is replaced in terms of wage labour.

Industrial relations play a vital part in the establishment and maintenance of industrial democracy. The economic activity is the central field of industrial relations. The economic system of any nation affects the industrial relations, which in turn affects the social order. A man has to struggle with his environment for earning his bread and satisfaction of his material wants. Economic progress is also bound up with industrial peace. Industrial relations are therefore not a matter between employers and employees and employees alone but a vital concern of the community, which may be expressed in measures for the protection of its larger interest.¹

The labour exchanges his labour power and in turn receives wages. He is compelled to work under the conditions, which serve the interests of those who control the means of the production. It is because labour is perishable commodity. Labour is the worker’s own life activity. He sells that life activity to secure the means of live hood and subsistence. However, here we can notice there is always a tough competition. The buyer (master or the employer) wants to buy the labour cheaply and the seller (labour) sells it as dearly as possible.

¹ The first Five Year Plan…p. 572
Finally this would result in a conflict between them over the question of their shares in the production. This conflict is nothing but the labour problem which is always intimately connected with the industrialism. To reach the objectives of the present research, the industrial relations in India can be broadly studied under the heads of Industrial Relations before the independence and Industrial Relations after the independence.

3.2 Definitions:

a. Industrial relations

Industrial relations are used to denote the collective relationships between management and the workers. Traditionally, the term industrial relations is used to cover such aspects of industrial life as trade unionism, collective bargaining, workers’ participation in management, discipline and grievance handling, industrial disputes and interpretation of labor laws and rules and code of conduct. Law plays an important role in shaping the structure of the industrial relations. It prevents the disputes so that production might not be adversely affected.¹

The simple meaning of industrial relations may be discussed as “it is a kind of interaction between employers, employees, the government, institutions and associations through which such interactions are mediated.

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¹ Banaras Ice Factory Ltd. V. Its Workmen AIR 1957 SC 168.
“Lester” expresses his opinion on industrial relations as “Industrial relations involve attempts at arriving at solutions between the conflicting objectives and values; between the profit motive and social gain; between discipline and freedom, between authority and industrial democracy; between bargaining and co-operation; and between conflicting interests of the individual, the group and the community”

Originally, “industrial relations” was broadly defined to include the totality of relationships and interactions between employers and employees. From this perspective, industrial relations cover all aspects of the employment relationship, including human resource (or personnel) management, employee relations, and union-management (or labor) relations.

So industrial relations or otherwise termed as the labour relations is a term frequently used not only for the relationships between employers and trade unions but also for those involving government with the aim of defining policies to face the problems of the labour. The labour wants to achieve their gains, which includes grant of allowance and benefits.¹

Social justice requires that the state for its won existence owes an obligation to the community to bridge the gap between the two classes and evolve a healthy social order; it is from this fountain of social justice that the necessity of legal regulation of industrial relations has flown.²

¹ Hariprasad Shiv Shankar Shukla  V. A.D. Divekar, AIR 1956 SC 121.
² G.M.Kothari.A study of Industrial law 1984 ed p.3.
When we observe the overall skeletal work of the industrial relations consists of the State labour policy, enactments and enforcement of the labour Laws, role of labour in economic development, recruitment, selection and training, standing orders, absenteeism, labour turnover, migration, Working conditions, labour welfare, social security, personal management policies and practices, wage problems, incentives, joint consultative machinery, workers association with the management, similarly, the collective bargaining and collective agreements, prevention and settlement of the disputes, strikes and lockouts have a direct bearing on the industrial relations.

Among the other things, industrial relations involve the interplay of various types of factors such as rate of growth, degree of industrialization, technology, personal characteristic of the labour and the management. Frankly speaking, the industrial relations in India are really highly structured by the State intervention. Actually, the Government realized the gravity of the problem and could not remain as a spectator and the Government had to intervene to settle the disputes in the interest of national economy and the welfare of the society.¹

¹ V.V.Giri. Labour problems in Indian Industry Asia Publishing House, Bombay, 1958) p119
There are four parties visible in the skeleton consisting of the State, management, workers and trade unions.

According to the National Commission on Labour, "industrial relations affect not merely the interests of the two participants’ i.e., labour and management but also the economic and social goals to which the state addresses itself. To regulate these relations in socially desirable channels is a function, which the state is in the best position to perform. The term Industrial relation covers all such factors that really influence the work place and people at the work place. Among them, there are four important factors."
They may be summarized as

I. The Organs:

It includes the government, employers, trade unions, union federations or associations, government bodies, labour courts, tribunals and other organizations, which have direct or indirect impact on the industrial relation system.

II. The matter:

It includes matter pertaining to employment conditions like pay, hours of works, leave with wages, health, and safety disciplinary actions, lay-off, dismissals retirements etc., laws relating to such activities, regulations governing labor welfare, social security, industrial relations, issues concerning with workers’ participation in management, collective bargaining, etc.

III. The Characters:

It aims to study the role of workers unions and employers’ federations officials, shop stewards, industrial relations officers/ manager, mediator/conciliators / arbitrator, judges of labor court, tribunal etc.

IV. The Fundamental Methods:

Methods focus on collective bargaining, workers’ participation in the industrial relations schemes, discipline procedure, grievance redressal machinery, dispute settlements machinery working of closed shops, union reorganization,
organizations of protests through methods like revisions of existing rules, regulations, policies, procedures, hearing of labor courts, tribunals etc. From the above meaning the concept of the industrial relations may well be accepted as:

a) A composition of the rules for the management of the respective employment.
b) A framework of defining those rules.
c) Interaction process (actions and reactions) between the organs basically involved in such relation.
d) The basic organs may be noted as employers and workers organizations and their representatives, the State and the institutional bodies.

b. Industry

The definition and scope of the term “industry” is much wider than what is generally understood. Section 2 (j) of the Industrial Disputes Act gives the definition of the term “industry” as it means any business, trade, undertaking manufacture or calling of employers and includes any calling, service, employment, handicraft or industrial occupation or avocation of workmen. Industry is a joint venture belongs to equally both (the employer and workmen). Thus many hospitals, educational institutions, universities, charitable institutions and welfare organizations have got covered under the Act.

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In Bangalore Water Supply and Sewerage Board V. Rajappa\(^1\), a very wide interpretation to the term “industry” was given. It was held that profit motive or a desire to generate income is not necessary. Any systematic activity organized by the cooperation between employer and employees for the production and/or distribution of goods and services calculated to satisfy human wants and wishes is “industry”. Thus, it does not consist either by employers alone or by employees alone.\(^2\)

c. Industrial Dispute

According to the Industrial Disputes Act, 1947, Industrial Dispute means any dispute or difference between employers and employers or between employers and workers, or between workmen and workmen, which is connected with the employment or non-employment or the terms and conditions of employment or with the conditions of the labour, of any person.

Sec 2 (k)) and section 2(A) provides that dismissal, discharge, retrenchment of even a single workman will be “industrial dispute” even if no other workman or any union is a party to the dispute.

d. Workman

Workman under this Act means any person (including apprentice) employed in any industry to do any manual clerical or supervisory work for hire or reward. It includes dismissed, discharged or retrenched person also. However it does not include 1. Armed Forces (those subject to Army Act, Air Force Act, Navy Act 2. Police or employees of prison 3. Employed in managerial or

\(^1\)AIR 1978 SC 548.

\(^2\)Management of Safdarjang Hospitals, Delhi V. Kuladip Singh AIR 1970 SC 1407.
administrative capacity or 4. Person in supervisory capacity drawing wages exceeding Rs.1600 per month or functions are is mainly of managerial nature (Section 2 (x)). For the settlement of the disputes, the Act provides suitable machinery through which the disputes may be settled. The order of the settlement may refer from initial body (Works committees) to the Highest. i.e. first Works Committees – Conciliation Officer, - Board of Conciliation – Labour court or Industrial Tribunal -.National Tribunal.(three tire system of adjudication).

3.3  **Labour legislation and its origin in India:**

In the eighteenth century, India was not only a great agricultural country but a great manufacturing country too. Mahatma Gandhi had once said, 'A nation may do without its millionaires and without its capitalists, but a nation can never do without its labour'. Labour legislation in India has developed with the growth of the industry. Labour legislation is necessary for maintaining peaceful atmosphere for the growth of the industry.

Labour laws emerged when the employers tried to restrict the powers of workers' organizations and keep labour costs low. Actually if the human element refuses to cooperate, the industry will certainly fail to run. Therefore the profit of the industry must be shared between employers, workers and the community, the workers must have dominant share being the producers of the wealth.¹ The workers began demanding better conditions and the right to organize to improve their standard of living. Employer’s costs increased due to workers demand to win higher wages or better working conditions.

¹ V.V.Giri, Industrial relations 1958 , p.27
This led to a chaotic situation that required the intervention of Government. In order to put an end to the disputes between the ever-warring employer and employee, the Government enacted many labour laws.

In India the labour laws are so numerous, complex and ambiguous that they promote litigation rather than the resolution of problems relating to industrial relations. The labour movement has contributed a lot for the enactment of laws protecting labour rights in the 19th and 20th centuries. The history of labour legislation in India can be traced back to the history of British colonialism. The influences of British political economy were naturally dominant in sketching some of these early laws. In the beginning, it was difficult to get enough regular Indian workers to run British establishments and hence laws for chartering workers became necessary. This legislation essentially reflected an accommodation of sorts between the interests of British industry, seeking protection for its domestic enterprises against cheap foreign labour, and Indian social reformers intent on improving what were regarded as sub-human working conditions in Indian factories\(^1\). This was obviously labour legislation in order to protect the interests of British employers.

The British Government in India as a matter of policy discouraged Indian manufacturers in order to encourage the rising manufacturers of England. Their policy was to make India subservient to the industries of Great Britain and to make Indian people grow only raw materials.\(^2\)

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2. R.Dutt. Economic History of Indian under early British rule. VIII-X.(1930)
The British oppression in India continued for a considerable time, which led to the growth of Indian Nationalism and to a vigorous renaissance. Nationalism has an obvious economic aspect, which in our country was reflected in the urge for economic reforms and for industrialization.  

The British enacted the Factories Act with a self-centered motive. It is well known that Indian textile goods offered serious competition to British Textiles in the export market. In order to make India labour costlier, the Factories Act was first introduced in 1883 because of the pressure brought on the British parliament by the textile moguls of Manchester and Lancashire. Thus, we received the first stipulation of eight hours of work, the abolition of child labour, and the restriction of women in night employment, and the introduction of overtime wages for work beyond eight hours. While the impact of this measure was clearly for the welfare of the labour force, the real motivation was undoubtedly the protection of their vested interests.  

India provides for core labour standards of ILO for welfare of workers and to protect their interests. India has a number of labour laws addressing various issues such as resolution of industrial disputes, working conditions, labour compensation, insurance, child labour, equal remuneration etc. Labour is a subject in the concurrent list of the Indian Constitution and is therefore in the jurisdiction of both central and state governments. Both central and state governments have enacted laws on labour issues. Central laws grant powers to officers under central government in some cases and to the officers of the state governments in some cases.  

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1 Indian Law Institute, Labour Law and Labour Relations, p.5
In the eighteenth century, India was not only a great agricultural country but a great manufacturing country too. Asian and European markets were mainly fed by the looms supplied by India, but the British Government in India as a matter of policy discouraged the Indian manufacturers in order to encourage the rising manufacturers of England. Their policy was to make India subservient to the industries of Great Britain and to make Indian people grow only raw materials. The British oppression in India continued for a considerable time, which led to the growth of Indian nationalism and to a vigorous renaissance. Nationalism has an obvious economic aspect with in our country, which was reflected in the urge for economic reforms and for industrialization.

In the twentieth century, the national movement took a new turn and there was a common demand for the Indian goods. A non-co-operation movement which is known as The Swadesi movement was started, which urged the people to use goods made in India and to boycott foreign goods. The non-co-operation movement synchronized with periods of economic crisis gave impetus to industrialization.

Not only that, growth of Indian private sector owes much to these popular movements. No doubt, the Indian Economist drew their inspiration from British classical Economists but they outgrew those ideas.

Like British Economists, Indian Economists not only advocated that the trade and commerce should be free but they laid emphasis on the free trade of local goods. An attempt was made to put forward a theory of economic development and planning suited to conditions of our country. After thirties, the
planning was accepted by the national movement as the economic ideology. Thus, planned industrialization became our main goal.

In India, a number of labour legislation has been enacted to promote the condition of the labour keeping in view the development of industry and national economy. However, for industrial regeneration it is necessary that the partners of the industry must cure their respective defects. Since independence, both legislation and public opinion have done a lot, to better the condition of the workers. At the same time, it is the duty of the workers and their organizations to improve the work efficiency and help in securing better production resulting in greater profits.

The management with workers and the community at large should share prosperity of the industry. Workers are the dominant partners in the industrial undertakings and without their co-operation, good work, discipline, integrity and character, the industry will not be able to produce effective results or profits. If the human element refuses to co-operate, the industry will fail to run.

Therefore, the profit of the industry must be shared between employers, workers and community; The Government and the factory owner must completely understand the labour psychology and a change in their outlook and attitude is desired to secure the industrial peace.

Nothing should be done under threat or coercion but on a clear understanding that whatever is good and is due to the labour must be given. Industry owners should treat the workers as co-partners. Workers in the country must understand fully that if they desire to secure their due place in the industrial world they must think more in terms of responsibilities and duties. Sabotage and
violence of all kinds, bitterness in thought, word and deed must be eschewed. An improvement in labor regulations will provide an opportunity to accelerate manufacturing growth and development of nation.

3.4 **Industrial Relations before independence:**

The roots of modern industrialism and labour problem can be traced back in the scientific advancement of the 17th and 18th Centuries. During this period, a steady growth of material knowledge took place. Industrialization in India has undergone so many changes. The persons who control the industry naturally will have the tendency to multiply their wealth. This tendency is not checked in time the rich grows richer, the poor grows poorer, and the gap between them will separate them into two distinct classes.

The above situation continued for some time in our country. Gradually the workmen came to a realization that they must unite together to put better stage. Perhaps their realization took them to unrest leading to the strikes and lockouts. On the other hand, with the raise in the cost of living there has been consistent demand of labour leading to the raise in their wages. Simultaneously democratic values and ideas were grown with the growth of industrialization in the country. These values and ideas awakened the workers.

This awakness and their struggle has resulted in the recognition of certain cardinal principles, which are strongly considered fundamental and basic not only in India but also in almost all other country.
These are as follows.

a. The right of the labour/workmen to combine unites and to form in to associations or other wise called as unions.
b. The right of the labour/workmen to bargain collectively for any injustice in their work field or for the betterment of their working conditions of service.
c. The right to agitate for the better conditions.
d. The right of their welfare
e. The State must interfere to protect them from any social evil.
f. The origin of tripartite consultation must be there (the workers, Employers and the Government)
g. Minimum standards must be sanctioned through the State legislation.

Factory system production can be traced in India in the middle of the 18th century. The first Factories Act was enacted in the year 1881. Since then the Act has been amended on so many occasions. There has been a large-scale factory industry in India and the Trade union movement is the out come of Factory system, which has based upon the labour philosophy i.e. “United we stand, Divided we fall “

The labour movement in India is about 14 decades old, since it may be traced from 1860. In the year, 1875 a protest was made by Sarobji Shapuri in Bombay against the poor conditions of the workers, which was brought to the notice of the Secretary of State for India. As a result of this the First Factory Commission was appointed in the year 1875 consequently the Factories Act, 1881 was passed. Unfortunately, the Act was unable to provide the accurate provisions

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1 S.D Punekar described it as social welfare period of early trade union movement.
2 N.M. Joshi, the trade union movement in India 1927, p.8
relating to the working conditions of women in the work place and child labour. Noticing the great disappointment with regard to the above situation and the inadequacy of the protection of the law another Factory Commission was appointed in the year 1884. A memorandum was signed by the labour (5300 workers) demanding Sunday as holiday, work between sunrise and sunset, half an hour recess, payment of wages in the early days of the month, compensation for the injuries.

Frankly speaking, the early years of labour movement were very often full of difficulties. The emergence of the strike committees naming themselves as the trade unions without any responsibilities and dedicated duties. Several strikes occurred in the period post 1890.

There were several labour association formed after 1890. Amalgamated society of Railway servants in India and Burma in 1897, Printers union, Calcutta in the year 1905, Bombay postal union in the year 1907, Kamgar Hityardhak Sabha in the year 1910.

During the period of 1860 to 1917, the labour movement was initiated. The movement was in fact was started by social reformers but not by workers and there were no organized trade unions. The trade unions existed as early as 1897. The demands of these unions were mostly relied upon the petitions, memoranda, and demands.

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1 R.K. Das, the labour movement in India, Berline De Gruyer, 1923 p.9
This early movement was really totally confined to the conditions of child labour and women workers in the industry. Even though there were some strikes in this period it was considered to be a law and order problem as a result of such attitude both in the workers and the Government and public there were some instances where the police force was used and some times false cases were also lodged against the workers on strike¹.

During the First World War period, with the rise in prices the profit to the employers increased but the wages of the worker were not increased. The Indian Industrial Commission was appointed in the year 1916 to look after the industries and their development for the profitable employment to the capital of the country.

The modern trade unionism arose in the period of 1918 to 1924 and a large number of trade unions were formed. Madras labour union, Ahemadabad Textile Labour Association All India Postal and RMS Association, Indian seamen’s Union Calcutta Clerk’s union were some of the best examples for this. One of the remarkable features of this period was the formation of All India Trade Union Congress in the year 1920. In the same year First Trade Disputes Act was enacted .under this Act Courts of Enquiry and Conciliation Boards are in emergence. This Act had forbidden strikes in public utility services without one month’s notice in writing.

The growth of the trade unions was accompanied by so many strikes; this is because of the deteriorated economic conditions of the workers resulted in strikes. The employers earned huge profits because of the demand of the Indian goods like cotton, cloth, kerosene and the living. The political conditions also

¹ Report of the AITUC first session held at Bombay, 1920 ,p.12
helped the growth of labour movement at that time and the need for trade union co-operation in securing industrial peace and labour support for industrialization and economic development (economic nationalism) was paramount\(^1\).

International Labour Organization was set up in the year 1919 and our county was the founder member. The constitution of ILO required one representative from the Government of each state. The Government sent the representative without consenting any union. Because of this, the workers developed anxiety and it resulted in the formation of AITUC in the year 1920.

During the period, 1925 to 1934 there was a split in the AITUC namely leftist and rightist. After wards in 1929 All India Trade Union Federation was formed out of AITUC. The beauty of this period is that there was noticeable downfall of the conflicts in the industrial sectors. The Trade Disputes Act, 1929 was passed which prohibits strikes and lockouts.

Passing of Trade Unions Act, 1926 was a significant feature, which provides for the registration of the Trade Unions and affords legal protection to intervene in trade disputes. This was an important piece of legislation. It is an important event in the Trade Union’s history. The Trade Disputes Act, 1929 was also passed in this same period, which started the settlement of disputes with the intervention of the State. The Act as already observed prohibited the strikes and lockouts in the public utility services and general strikes affecting the community as a whole. This Act provides ad hoc Conciliation Boards and Court of Enquiry for the settlement of trade disputes.

In the year 1928, the Government of India appointed the Royal Commission to investigate and report the matters relating to the working conditions in the industry, health conditions of the workers, their potentiality. The Government also insisted the Royal Commission to report the matters relating to the industrial relations between the employees and Employer.

Subsequently the Royal Commission submitted its report in the year 1931, with bright recommendations. It recommended for the need of the Welfare Officers, works committees, conciliation officers. It has gone through the various labour problems and finally prepared its report and submitted to the Government. Thus, the Royal Commission brought reforms in the industrial relations. With the growing demands of the workers, the Factories Act, 1934 reshaped with many modifications that provide to suit the working conditions of the workers in the factories. The Payment of Wages Act, 1936 was passed, regulating the wage – policy with regards to its limit as per that statute.

In the year, 1935 revival of the trade union activity took place forcing the trade unions to come and unify. This is mainly because there was a change in the political set up. The congress party formed its government in 1937 in several provinces strengthened the union movement and improved the conditions of the labour. On the other hand the labour also realized their rights and fought for the better conditions. Adding to this surprisingly the attitude of the employers also changed in favour of the workers to certain extent. In this year, All India Red Trade Union Congress was merged with AITUC again in 1938, an agreement was made between All India National Trade Union Federation and AITUC and NTUC affiliated with AITUC.
In the year 1938 National Planning Committee was set up by the Government of India which constituted sub committee on labour and these are to deal with the problems of the labour in their employment, the terms and conditions, output of efficiency, wage patterns, working hours. These aspects will cover the factories, mines, workshops, plantations, railways, transport services, docks etc.

The social security aspects were also the subject of these sub committees, which includes insurance for sickness, disabilities, accidents, maternity and old age, safety measures, housing etc. In the same year (1938) a significant State enactment, The Bombay Industrial Disputes Act, 1938 was made which covers the compulsory recognition of the unions by the employer. This Act gave the worker a right to represent his case through a union (elected representatives) in the absence of such through Government Labour Officer. The certification of the Standing Orders, setting up of an Industrial Court, prohibition of strikes and lockouts under certain conditions were also imposed under the Act. The scope of this Act was limited to certain industries only\(^1\).

During the Second World War period (1939 to 1946) brought chaos in the industrial relation. There was total industrial unrest, the rise in prices could not keep pace with the increase in wages, adding to it there was a split in the AITUC due to the nationalist movement. During this period, there were many retrenchments and large number of strikes due to which the problem of the unemployment was in rise. There was a remarkable increase in the membership of the trade unions and the number of the women workers in the registered trade unions increased a lot.

\(^1\) Report of the National Commission on Labour, Government of India, New Delhi, 1969 p.319
Noticing the above situation the Government of India enforced Defence of India Rules, 1942. Rule 81 (A) of these Rules empowered the Government requiring the employers to observe the terms and conditions of the employment specified, to refer any kind of dispute to conciliation or adjudication, to enforce the decision of the adjudicator, unless a reasonable notice is given, the prohibition of strikes and lockouts were ordered. Sources reveal that this position might be the base for the subsequent law of arbitration in our country.

Even though during this period the Government was criticized as, it is using the economic coercion; the Government was caring enough to take appropriate steps to organize labour conferences. The system of tripartite consultative Machinery was the out come in the year 1942 and in the same year, the Government enacted the Indian Statistics Act, which would have the data of the labour and its conditions in the factories.

Thus during the Second World War time there was a serious industrial unrest. Large-scale retrenchments, unemployment were in hike. In the year 1944 the Government of India set up a labour investigation committee known as Rege Committee which was entrusted with duties of investigating the conditions of the employment and the wages of the labour in the industries. The Rege Committee\(^1\) submitted its report clearly stated that in an industry, the industrial worker has the right to know the terms and the conditions of his employment and not only that, the rules relating to the discipline in the industry.

\(^1\) Report of the Rege Committee, 1946, p.113 referred by Khan and Khan’s.
The Industrial Employment (Standing orders) Act, 1946 played a great role of significance in the industrial relations which was passed with a view to bring uniformity in the conditions of the employment of the workers in the industries which would minimize the conflict between the workmen and the employer. The Act insisted that the working conditions must made known to the workmen by the employer.

3.5 **Industrial Relations after the Independence (After 1947):**

Immediately after Independence, steps have been taken up to safeguard the interest of the workers and to ensure industrial peace and harmony. It has come to be realized that “an industry is a social world in miniature.”

After independence, it was felt that the labour policy must strongly emphasize upon the self-reliance. The people of India declared under the constitution to constitute India into a Sovereign, Socialist, Secular, Democratic, Republic and to secure to all its citizens Justice, social, economic and political, Liberty of thought, expression, Belief, faith and worship, Equality of status and of opportunity, and to promote among them all. Fraternity assuring the dignity of the individual and the unity and integrity of the Nation.

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1 S.S.Rly Co. V. Worker’s Union . AIR 1969 SC ,513  
2 Industrial Employment (Standing Orders ) Act, 1946 –Preamble.  
3 Dr. Goswami V G Labour and Industrial Laws , Central Law agency , Allahabad (1993) p.23
Under the Directive Principles of State Policy of the Constitution, the State has been given direction to promote the welfare of the people. The State has been directed to secure an adequate means of livelihood. Equal pay for equal work for men and women. The health and strength of workers. Right to work, to education and to public assistance in cases of undeserved want.

Just and humane condition of work and for maternity relief living wage and decent standard of life of labourers. The participation of workers in the management of undertakings or industrial establishments by suitable legislation or otherwise. Higher level of nutrition and standard of living and improving public health.

Thus, the Constitution of India imposes strong limits to the labour policy. To this affect the labour legislation should never be inconsistent or opposing the fundamental rights of the constitution. If so, in any such case, the infringement or violation of such rights, the fundamental rights enumerated in part III of the Indian constitution can be questioned under Article 32 which guarantees the right to move the Supreme Court of India for the appropriate relief by writs and 226 of the Indian constitution, Which empowers the Indian High Courts to issue appropriate writs for the enforcement of the provisions of Part III of the Indian constitution.

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1 Art.38 of the Indian Constitution.
2 Art. 39 (a) of the Indian Constitution.
3 Art 39 (d) of the Indian Constitution.
4 Art 39 (c) of the Indian Constitution.
5 Art 41 of the Indian Constitution.
6 Art 42 of the Indian Constitution.
7 Art 43 of the Indian Constitution.
8 Art 43 of the Indian Constitution (42nd Amendment) Act, 1976
9 Art 47 of the Indian Constitution.
10 State of Bombay V. United Motors (1953) , SCJ 373
The constitution of India guarantees the right to speech and expression, to assemble peacefully and without arms\(^1\), to form associations or unions\(^2\).

The constitution of India is the very basis and plays a major role in giving the guarantee to the labour and industrial relations. Briefly analyzing the situation there are certain issues which are directly affecting the industrial relations are placed in the Union list, List-I, the State List, List-II and the Concurrent List, List III.

Under the Union List (List-I) in item no. 55 regulation of labour and safety in mines and oil fields, in item no. 61 industrial disputes concerning union employees, in item no. 94 inquiries, surveys and statistics for the purposes of any of the matters in this List.

Under the State List (List-II) relief for the disabled and unemployable

Under the Concurrent List (List-III) in item no. 20 - economic and social planning, in item no. 22 - trade unions, industrial and labour disputes, in item no. 23 - social security and social insurance, employment and unemployment, in item no. 24 – Welfare of labour including conditions of work, provident fund, employer’s liability, workmen’s compensation, invalidity and old age pensions and maternity benefits, in item no. 25 – vocational and technical training of the labour, in item no. 36 – the factories, in item no. 37 – boilers, in item no. 45 enquiries and statistics for the purposes of any of the matters specified in the List –II and List-III.

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\(^1\) Art 19 (1) (b) of the Indian Constitution.
\(^2\) Art 19 (1) (c) of the Indian Constitution.
All the above provisions are directly affecting the industrial relation and the labour in a direct and effective manner without giving any scope for the doubt and are reflected in many of the Labour legislations. The labour legislation is a benevolent or beneficial legislation of whose basic philosophy is “protection” which was afforded by the Constitution of India.

3.6 A General systematic categorization of Various Labour Legislations according to their specific protection and purpose of category:

A number of Acts were passed from 1863 onwards to protect the interests of the employers and the workers. There are around 45 legislations on labour from the Central Government and the number of legislations enacted by the State Governments is close to almost four times that of the Central Acts.

In India, it is convenient to study the Labour Legislations, which can be classified into the following eight classes: (I to VIII)

I. Laws related to Industrial Relations:

For the purpose of the study of the industrial relations under the convenient classification of the labour legislation in India, there are three major pieces of labour legislations viz. 1. The Trade Unions Act, 1926, 2. The Employment (Standing Orders) Act 1946 and 3. the Industrial Disputes Act, 1947.
1. Trade Unions Act, 1926:

i. The Trade Unions: Actually, the labour movement in India is about 14 decades old, since it may be traced from 1860s. The modern industrial process creates the labour problems in such forms as employment of women and children even for heavy manual work, long hours of work, low wages, lack of elementary facilities, bad working conditions heavy work load and inhuman treatment of workers by their superiors. Individually the workers find it difficult to stop such exploitation by the management, so they organize themselves into trade unions and fight the employers directly in the industrial field. Through their collective action, workers ask for more wages, fewer hours of work, reasonable amenities and human treatment. Thus the trade unions were born. The Supreme Court in Tirumala Tirupati Devasthanam’s case held that any group of employees may be registered as a trade union under the Act for the purpose of regulating the relations between them and their employers of between themselves.

In India, the real need for the trade unions law was felt because of the legal decision of the Madras High Court in the case of Madras union led by B.P. Wadia and the Buckingham & Carnatic Mills. The company filed a complaint against the union, charging the organization incited the workers. In the absence of the trade union law, this legitimate activity became conspiracy under the common law and the High Court granted injunctions restraining the union from interfering with the business of the mill. Union leaders were sentenced and the union was broken.

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1 The Trade Union Movement in India, by N.M. Joshi 1927 p.8
2 Tirumala Tirupathi Devasthanam V. Commissioner of Labour (1995) supp (3) SCC 653.
The necessity of law was felt to give freedom to the association of workers and provide for their right to voice their grievances and to agitate for their redress through organized action. With this purpose, in view a Bill was introduced in 1921, which in due course became the Trade Unions Act, 1926, came in to force from 1 June 1927.

The preamble of the Act clarifies that the main purpose of the Act is to provide for the registration of the trade unions and to define the law relating to the trade unions in certain aspects which shows that the Act is not exhaustive and entire ramification was not made as it is not covering or defining certain matters like recognition of the unions and unfair labour practices in detail. A trade union is a continuous association of the wage earners for the purpose of the maintaining the condition of their lives. However, the statutory definition under Sec.2 (h) of the Act uses the expression “combination “instead of association. The word combination is giving wider meaning.

ii. The Trade Unions Act, 1926: The trade Unions Act, 1926 provides for registration of trade unions with a view to render lawful organization of labour to enable collective bargaining. The rules framed by the trade unions under the Act are rules meant for internal administration and therefore cannot create any statutory obligation. It also confers on a registered trade union certain protection and privileges. The Act extends to the whole of India and applies to all kinds of unions of workers and associations of employers, which aim at regularizing labour-management relations. In India the Trade union philosophy and movement as it, birth pangs in the economic exploitation, political oppression and ideological hostility, which emanated from the dominant groups, which viewed

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1 Tirlok Nath Tripathi v. All India Postal Workers Union. AIR 1957 All.234.
trade union freedom suspicious indifference and total opposition. Hence, both regulating and judicial process before and after independence become the major instruments or defeating or denying and controlling trade union freedoms.\[^{1}\]

A Trade Union is a combination whether temporary or permanent, formed for regulating the relations not only between workmen and employers but also between workmen and workmen or between employers and employers. It has been observed that the definition brings under the term trade union not only combination of workmen, but also combination of employers such as employer’s federation or union of employers.\[^{2}\]

The Trade Unions Act, 1926 made the provisions for

A. the Conditions governing the registered Trade Unions.
B. the obligation imposed upon registered trade unions.
C. the rights and privileges of the registered trade unions.

The Royal Commission on Labour made some recommendations after examining the working of the Act. Those are----

A. It should be ensured that the bonafide trade union is not deprived of applying for registration. The Act was to be re-examined for every three years. The limitations imposed upon the activities of the trade unions and their office bearers were to be reconsidered.

\[^{1}\] Ganga Sahai Sharma: Trade Union Freedoms in India, 1990, P – 189.
\[^{2}\] Radhakishan Jaikishan Ginning and Pressing Factroy V. Jimnadas Nursery Ginning and Pressing Co Ltd. AIR 1940 Nagpur, 228.
B. The accounts of the trade unions should be audited free of charge by the Government officers.

C. At least two third members of the executive of the trade union should be persons actually engaged in the industry or employed in the industry to which the union relates.

D. The trade union should not be deprived of carrying on co-operative societies.

The Trade Unions Act, 1926 was amended in 1929 so as to provide for the procedure for appeal against the decisions of the Registrar refusing to register.

iii. Indian Trade Union (Amendment) Act, 1947.

The Act of 1926 made provision for the registration of the trade union (under sec. 3 to sec. 9) but the employer was under no obligation either to recognize or deal with such trade union even if it was a registered one. The Royal Commission on Labour pleaded for recognition of representative Trade Unions and the matter was repeatedly discussed in various labour Minister’s Conference and Standing Committees. Consequently, the Act was amended in the year 1947 providing for the compulsory recognition by employers of representative Trade Unions.

In National Organization of bank worker’s Federation of Trade Unions V. Union of India & others that where a Federation of Trade Union is not registered it is not a trade union under the Act.

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1 1993 II Lab.LJ 537 (Bombay)
It is not a juristic person and is not competent to raise a demand on behalf of employee, which can fall in the ambit of industrial dispute. It cannot file a writ petition.

This Amendment Act contains the following provisions.

1. Recognition of Trade Unions by employer’s. Any dispute regarding recognition was to be decided by the Labour court set up under the Act.

2. Recognition was to be granted if the union applying for such recognition was representative of all workers in the concerned establishment or industry.

3. If a registered trade union has applied for recognition to the employer, but failed to get recognition within 3 months, it could apply to the Labour Court set up for the formal recognition by the employer. The required particulars were to be furnished along with any such application. If the Labour Court, after necessary investigation is satisfied that the union fulfils all the conditions necessary for recognition by the employer, it shall pass an order directing such recognition.

4. The executive of a recognized Trade Union has the right of negotiation with the employer in respect of any matter connected with the employment, non-employment, terms of employment, conditions of work if all or any of its members.

5. Certain acts amounting to unfair labour practices on the part of the Trade Unions and certain others on the part of employers were declared in the Act. The Act further refrains from, both the Trade Union and the employer to desist from unfair practices.
The employer can withdraw the recognition of any trade union found guilty of unfair practice on an application to the Registrar. In case of an employer found guilty of unfair practice a fine up to Rs.1000 may be imposed by the Registrar on an application by the Trade Union.

6. Some of the acts, which were declared unfair practices, are as follows:

1. Participation, support or instigation of an irregular strike.
2. Submission of returns containing false statement.
3. Discharge or discrimination against any officer of a recognized trade union.
4. Interference with the formation or administration of a Trade union.

iv Trade Union Bill 1950.

The Chief Labour Commissioner (Central) in his report on the representative character of the All India Trade Union Congress suggested that the periodical inspection of registers, records and account books of the Trade Union by the Registrar or some other person deputed by him was necessary for the development of the trade union on healthy lines as the Avenement act of 1947 did not provide for the inspection of books of trade union by the Registrar of Trade unions.

The same matter was also discussed at the eleventh session of the Standing: Labour Committee in January 1949, on the basis of the discussion held in the Standing Labour Committee in February 1950, the bill lapsed with the dissolution of the parliament.
The Labour Conference held in October 1962 considered the desirability of enacting suitable legislation. The Indian Trade Union (Amendment) Act of 1960 made some change in sections 2 (f), 3, 4, 6, 14, 16, 28, of the Act. By the Indian Trade Union (Amendment) Act of 1964 the word ‘Indian’ has been deleted from the Act.


Provided that any seven or more members of a trade union may apply for registration provided that no trade union of workmen shall be registered unless at least 10 per cent or one hundred of the workmen, which ever is less, engaged or employed in the Establishment or industry with which it is connected, are members of such trade union. This Act also provides for circumstances under which a registration may be cancelled. (sec.10), inter alia if the registrar is satisfied that a registered trade union of workmen ceases to have the requisite number of members as amended by the Act no.31 of 2001.

In a case decided by the Karnataka High court, the respondent authority refused to register the petitioner as trade union on the ground that the applicants were not workmen within the meaning of Section 2 (s) of the industrial Disputes Act, 1947.

The High Court observed that as per Section 2(g) of the Trade Union Act, 1926 the word “workman” include all persons employed in a trade or industry. It was not a restricted definition as in any other Labour Law enactment. The
emphasis was on the purpose for which the union was formed and not so much on the persons who constituted it\(^1\).

Section 17 of the Act, provides for the immunity for an office bearer clearly from Section 120-B of Indian Penal Code (Criminal conspiracy) which is a greatest menace for many trade unions activities all over the industrial world. Section 18 provides for immunity from civil liability by providing that no suit or other legal proceeding shall be maintainable in any Civil Court against any registered trade union or its office bearer or member in respect of any act done in contemplation or furtherance of trade dispute. In exercise of the powers contained in section 29 of the Act, the Central Government made the Central Trade Union Regulations, 1938.

vi A brief note on Trade Unions in India

GDH Cole defines Trade Union as an association of workers in one or more occupations – an association carried on mainly for the purpose of protecting and advancing the members economic interests in connection with their daily work.

Laster defines Trade unions as an association of employees designed primarily to maintain or improve the condition of employment of its members.

\(^1\) G.T.R.T.C.S and Officer’s Association, Bangalore and another V .Assistant Labour commissioner and Deputy Registrar of Trade Unions Bangalore Division I and others - 2002 II LLJ 335 (Karnataka).
Connison defines Trade Union as a monopolistic combination of wage earners who stand to the employers in relation of dependence for the sake of their labour and even for the production and that the general purpose of the association in view of that dependence is to strengthen their power to bargain with the employers.

Sydney and Beatrice web have defined Trade Union as a continuous association of wage earners for the purpose of maintaining or improving the conditions of their working lives.

Franklin D Rusevelt, President of United States of America, expressed that “I see an American where the workers are really free through their great union and dominated by outside force or any director within, can take their proper place in the commercial tables, with the owners and managers of business where the dignity and security of the working man and woman are guaranteed by their strength and fortified by the safeguard of the law.¹”

The origin of the passing of the Trade Unions Act, in India was the historic Buckingham Mills Case of 1920 in which the Madras High court granted an interim injunction against the Strike Committee of Madras Labour Union forbidding them to induce certain workers to break their contract of employment by refusing to return to work. Trade union leaders found that they were liable to prosecution and imprisonment for bonafide union activities and it was felt that some legislation for the protection of trade unionism was necessary.

In March, 1921 Mr. N. M. Joshi, the then General Secretary of All India Trade Union Congress successfully moved a resolution in the Central Legislative Assembly that the Government should introduce legislation for the registration and protection of trade unions. However, at that time opposition from the employers were so great for the adoption of that measure and after that the Trade Unions Act, 1926 was passed.

Under the Indian law, according to Section 2 (b) of the Trade Unions Act of 1926, a trade union is any combination of persons, whether temporary or permanent, primarily for the purpose of regulating the relations between workers and employers, or between workers and workers and for imposing restrictive conditions on the conduct on the of any trade or business and includes the federation of two or more trade unions.

A trade union is essentially an association of employees belonging to a particular class of employment, profession trade or industry. In that, an employee joins that out of his free will that is why a trade union in India is a voluntary association. A person cannot be compelled to join a union. A trade union is usually a permanent body, members may come and members may go but the union remains. The members in it have certain matters of common interest of job security, better pay and working conditions and so on, which bring them together.

Even when an individual employee has any grievance over certain management decisions, the matter is sorted out by the intervention of the trade union. Employees are able to initiate collective action to solve any problem concerning any particular employee or all the employees. The trade union seeks to improve relations between the employees and employers. The officials of the trade union hold talks with the members of the management concerning the
problems of the employees in the order to find an amicable solution. It is thus possible for the employees to have better rapport with the management.

In fact, the workers in India join trade unions to achieve certain objective that they may not be able to achieve in their personal capacity. Therefore, they felt to join the trade unions. The main reason why an employee joins a trade union is to get him secured. Apart from the job security, he needs the better pay for his skills. When he gets any grievance, they may not be able to convey the same to the management in their personal capacity. Such grievances may be brought to the knowledge of the management through the trade union. Some times the members of the management may be so indifferent to the demands of the individual employee but they cannot be so when it comes to the union demand.

vii A brief historical evolution of trade unions in India

The historical evolution reveals that the foundation of the modern industry was laid in the mid of the 18\textsuperscript{th} century (1850-1870) The Indian working class started emerging at this time. In the National Economy, one could see the growth of the Indian enterprises along with the English ones, growing in a steady manner.

During that period, the working and living conditions of the labour were very poor and their working hours were long. The Indian Factory Labour Commission (1908) and the Royal commission on Labour (1931) have rectified the fact in their reports. The working hours were long, the wages were low, and the general economic condition was poor in the industries. The Indian Factories Act, 1881 was enacted to regulate the working hours and other service conditions of the Indian textile laborers; as a result, child labour was prohibited. This act
required the formation of machinery of the inspection of factories. In 1885, the birth of the Indian National Congress has provided the background for the emergence of the Trade unions.

The trade Union movement in India can be divided into three phases. **The first phase falls between 1850 and 1900** during which the inception of trade unions took place. Guided by educated philanthropists and social workers the growth of the trade union movement was slow in this period in all the industrial cities many strikes took place in the two decades following 1880 due to the prevailing poor working conditions and long hours of work. Small associations came out in Bombay and Calcutta. **The second phase falls between 1900 and 1947.** This phase was characterized by the development of organized trade unions and political movements of the working class. It also witnessed the emergence of militant trade unionism. Organized trade unionism was prepared during 1900-1915. End of First World War and the Russian revolution of 1917 gave a new turn to the India Trade Union movement and led to organized efforts on the part of workers to form Trade Unions. It was estimated that in 1920 there were 125 unions, with a total membership of 2,50,000.

In 1920, the First National trade Union organization was established. Many of the leaders of the organization were leaders of the National movement (Monappa, 1937).

**The third phase** began with the emergence of the independence of India. The government sought the cooperation of the unions for planned economic development. The working class movement was also politicized along the lines of the political parties. Indian National Trade Union Congress is the Trade union
arm of the community part of India. Subsequently, the socialists left to set up another national worker federation, the Hind Mazdoor Sabha.

The centre of Indian trade unions organized in 1970 has close links with the communist party of India the trade unions came in to being for a variety of purpose. Individual workers found it more advantageous to band together and seek to establish their terms and conditions of employments. They realized that if they bargain as individuals, the employer would have a better leverage, for an individual would not matter as much as a group in terms of the running of the enterprise.

A group’s contribution is much larger than an individual’s so are the effects of its withdrawals. An individual may not be able to organize and defend his interest as well as group can. Therefore, the workers saw the advantage of organizing themselves into groups to improve their terms and conditions of employment.

Employers also found it advantageous to deal with a group or a representative of a group rather than go through the process of dealing with each individual over a length of time, with the changed political, social and equational environment in terms of awareness of rights. “The right to organize”, “the right to bargain and settle terms and conditions of employment”, labour or worker unions sprang up in order to protect and further, worker in acquiring a foot hold in the labour movement also provide the impetus for the formation of labour unions.
In brief, the major objectives of the trade unions in India may be summarized as follows:

1. Better wages and working conditions,
2. Protection against the exploitation and victimization,
3. Provide welfare measures,
4. Promote the industrial peace,
5. To take up the collective bargaining,
6. To look after the interest of the trade.

Thus, the trade unions in India are the major components of the modern industrial relation system. A trade union of workers is an organization formed by workers to protect their interest, to improve their working conditions. All the trade unions have objectives to achieve, which are contained in their constitution and each has its own strategy to reach those goals.

viii Functions of Trade Unions in India:

As per the Indian Trade Union Act, 1926, the primary functions of a trade union are to protect and promote the interests of the workers and the conditions of their employment. A trade union can raise or sponsor a trade dispute and represent on behalf of its members in legal proceeding in consequence of an industrial dispute.\(^1\) They can also have other objectives, which are not inconsistent with this primary purpose or any thing opposed to any law for the time being in force.

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\(^1\) Workers of B and C Co V. Labour Commissioner AIR 1964 Mad.538.
In India the Trade Unions generally undertake the following functions.

1. To achieve higher wages and better working and living conditions for the members.
2. To acquire control over running of the industry by the workers.
3. To minimize the helplessness of the individual workers by making them stand up united and increasing their resistance, power, through collective bargaining, protecting the members against victimization and injustice by the employers.
4. To raise the status of the workers as partners in industry and citizens of society by demanding an increasing share for them in the management of industrial enterprises.
5. To generate self-confidence among the workers.
6. To encourage sincerity and discipline among workers.
7. To take up welfare measures for improving the morale of the workers.

ix The National Commission on Labour

The Commission has underscored certain basic functions to which trade unions have to pay greater attentions such as

1. To secure fair wages for the workers.
2. To safeguard the security of tenure and improve conditions of service.
3. To enlarge the opportunities for promotion and training.
4. To improve working and living conditions.
5. To provide for educational, cultural and recreational facilities.
6. To cooperate and facilitate technological advancement by broadening the understanding.
7. To promote identity of interest of the workers with their industry.
8. To offer responsive cooperation in improving levels of production and productivity, discipline and high standards of quality.
9. To promote individual and collective welfare.

The Commission also entrusted the unions, the responsibility of “Promotion of National integration, installing the sense of responsibility to the industry and community in their member, active participation in their formulation at various levels influencing the socio economic policies of the community.

The Five Year Plan while spelling out the role of trade unions emphasized that they should present the plans to the workers so as to create enthusiasm among them for the plans, exercise the utmost restraint in regard to work stoppage, formulate wage demands which are attuned to the requirements of economic development and are in keeping with consideration of social justice, assume greater responsibility for the success of the productive effort.

x The short comings or the weakness of the trade union movement in India:

The Indian trade union movement faced many obstacles leading to the weakness of the movement.

1. Unsound financial position and lack of balanced growth.

This is one of the reasons weakening the trade union, The Indian worker is by nature self-centered and wants to share the benefits and never the losses. Non-payment of subscription regularly is also leading to the poor financial position of the union, as they cannot run the programmed like dharna, wearing the black badges, meetings etc.
2. Low membership

This is another cause of the situation. Hardly 30% of the workers in any industry become members of trade unions, the other 70% remains away from the trade unions, playing a role of only “take and not give”. In India, many workers or employees are not willing to join but they are ready to enjoy the benefits. Fear of punishment and pay cuts makes them to hesitate to join the union and is not interested to take part in strikes.

3. Outside leaderships and Political unionism:

The different political parties run most of the unions in India and their respective political ideologies are given more importance than the real cause of the workers. Moreover the outside leadership has provided an improper leadership, care for their personal growth or for the political party for which they work.

4. Lack of able leadership

This is another barrier to the growth of trade unions. These leaders give strike notice even for the petty cases that can easily solved by talks and some of the leaders have secret pact with the management. They take unilateral decisions that are thrust on the employees. Because of these tendencies, the members of the union do not make prompt payment of the union subscription and they do not bother to attend the general body meetings. All they do is to expect the office bearers to do the necessary to achieve the demands.

5. Multiplicity of unions

This is another cause for the non-development of the union’s strength, as there exists more than one union within the same industry having the conflicting
ideology. In India, many of the unions are general unions. As a result of which the strength of the union will be affected. Where one union comes with the strike proposal and the other differs. This is sometimes leading to the internal union rivalry among them.

6. Ineffective collective Bargaining:

The above factors are leading to the situation of ineffective collective bargaining. It is observed on several occasions that the unions have neither the patience nor the ability to convince the employer. This constitute the main cause for lack of effective collective bargaining, added to all these, the low membership and unsound finances of the union does not permit the leader to outright refusal of the offers of the employer as he knows this will not stand for a longer duration, if he has call for any method of agitation. Thus, it will be seen that this is a vicious circle and to come out of this is very difficult with the present set of laws and the manner of functioning of the trade union in India.

7. Recognition of the trade unions in India:

This is the process where the management acknowledges the trade union as representative of some or all of the workers in an establishment or industry and with which it is willing to conduct discussions on all issues concerning those workers. One of the peculiar features of our industrial relations system is that employers are not obliged to recognize any union prior to 1946, there was no provision in either Central Law or State legislature for the grant of recognition of trade unions. The Bombay Industrial Relations Act, 1946, which provided for the
recognition of representative unions in the local area. This Act applied to the State of Gujarat, to the States of Madya Pradesh and Rajasthan in a modified form.


The Indian Trade Union (Amendment) Bill was introduced in 1946, it received the assent of the Governor General on 20th December, 1947. The Trade Union (Amendment) Act, 1947 provided for the recognition of unions by 1. Agreements, 2. by the order of the court on satisfying the conditions laid down in relevant section so the Act. But the Act has not been given any date of effect so far, indicating the lack of interest on the part of legislature in one of the important areas of industrial relations. After the independence of India, the Trade Union Bill 1950, concerning the recognition of trade unions through planning was accepted. Planning commission was constituted and the evolution of labour policy during the planed, recognition has been accorded due importance by the planners, but the bill could not be brought in the form of the Act because of the strong oppositions. The Bill lapsed on the dissolution of the Legislature.

The Indian Labour Conferences 1958 in its 16th session provided for the recognition of trade unions on voluntary basis. This Code however has not been implemented effectively as a result of which as many as 10,402 cases of breach of Code of Discipline were reported in the period of 1960 to 70. Adding to this situation there are numerous unreported cases also.
The Central Implementation and Evaluation Division in the Ministry of Labour made much work in this regard. This Division secured recognition to 24 unions during 1968 to 1970\textsuperscript{1}. In the year 1978, the Industrial Relations Bill 1978, inter alia incorporated the provision for recognition trade union, but the bill lapsed on the dissolution of 6\textsuperscript{th} Lok Sabha on 30\textsuperscript{th} August, 1978.

\textbf{xi The central labour organizations in India are}

1 The All India Trade Union Congress (AITUC)
2 Indian National Trade Union Congress (INTUC)
3 Hindu Mazdoor Sabha
4 Centre of Indian Trade Union

\textbf{1. The All India Trade Union Congress (AITUC):}

This union has distinction of being the first national trade union organization of India. The need to bring the workers to fight against the tyranny and suppression of the employers was felt for a long time. But nobody came forward to do this job, finally all the trade unions were amalgamated to come under one central trade union organization and the Indian National Congress was the prime mover towards this. This lead to the formation of All India Trade Union Congress on October 31\textsuperscript{st}, 1920. Till the second world war all the Indian leaders including those of congress and communists were encouraging the cause of AITUC and the AITUC was totally captured by the communists since most of the National leaders were arrested during the independence struggle.

\textsuperscript{1} Industrial Relations and Labour Laws by S.C. Srivastava, 4\textsuperscript{th} revised edition =2001
Thus, AITUC became the labour wing of the communist party of India. As on 31-1-1980, AITUC had 1,080 unions with the membership of 3,44,746 as per the figures given by the central government after verification. The AITUC emphasis is that the trade union an organization for the working class in struggle, against all pervading power of the capitalist class with a goal to abolish capitalism and wage slavery and establish socialism in which not only the working class but all layers of society are freed from exploitation.

2. Indian National Trade Union Congress (INTUC):

After independence, the congress party formed the Government at the centre and states. The congress party felt the dominance of communists over the entire labour force in the country and wanted to have its pocket of influence also. The INTUC is of the opinion that the union should serve their members and cater to the many sided requirements of workers as responsible citizens.

The union according to the goals of INTUC should plan for sustaining the interests of their members during times of industrial peace by organizing intellectual, social cultural and recreational activities, consumer co-operatives credit co-operatives and cooperative housing societies and the union should be given an effective role in the affairs of the industry. The Hindustan Mazdoor Sevak Sangh ,which had many congress people in its fold was asked to organize a Central Trade Union Organization of the party. Today, it is the largest trade union organization in the country with a membership of 22, 36, 128 comprising of 10,444 unions as on 31st December 1980. Later with the split in the congress party and socialist forming a separate political party, the Hindu Mazdoor Sabha was formed next.
3. Hindu Mazdoor Sabha:

With the splitting of the congress party and formation of socialist party the need for a separate trade unions organization of the socialist was also felt. The unions having sympathy towards the socialist leaders came out from INTUC and found the Hindu Mazdoor Sabha in December 1947. As on 31st December 1980, it has 409 unions under which it with a membership of 7,35,027. The Hindu Mazdoor Sabha made it clear that the trade unions should never be diverted from their traditional role in the name of requirements of economic development; the weaker and exploited sections of the working-class will find themselves terrorized and deprived of safeguards to an even greater extent.

4. Centre of Indian Trade Union:

With the split of the communist party of India due to their respective affiliation towards communism of Russia and china, the communist party of India came to being. This political party also felt to have its own central trade union organization and with their sympathizer unions coming out of AITUC formed the CITU in May, 1970 it has 1474 unions its fold with the membership of 1,31,031 as on 31-12-1980.

xii Collective Bargaining in India:

Collective bargaining is a technique by which disputes as to conditions of employment are resolved amicably by agreement, rather than by coercion. The dispute is settled peacefully and voluntarily, between labour and management.¹

¹ Karnal Leather Karmachari Sangathan V. Liberty Foot Wear Co. AIR 1990 SC 247.
Collective bargaining has been characterized as a form of industrial democracy and industrial government. Collective bargaining is concerned with the relations between management representatives and union representatives. It is a method of technique of both the unions and the managements for the reconciliation of their conflicts. Collective bargaining is concerned with the relations between management representatives and union representatives. It involves the process of negotiation, administration, and interpretation of collective agreements covering wages, hours of work, and other conditions of employment for a specific period of time. For some issues, collective bargaining occurs when one party’s goals conflict with those of the other party. The style and substance of the negotiations are affected by the legal requirement to bargain in good faith.

The final product of negotiation process is a collective bargaining agreement. Effective administration of collective agreement is vital to the health of the union-management relationship. Successful administration of an agreement depends on mutual respect among employees, management and union. Collective bargaining today faces a crisis. Severe environmental pressures, particularly competition and technological change make it increasingly difficult for the parties to reach a mutually satisfactory settlement. Collective bargaining is not a just means of raising wages and improving conditions of neither employment nor it is merely democratic government in industry, it is above all a technique in social sovereignty as well as for more welfare and greater security and liberty for its members.¹

¹ Principles of collective bargaining – Pearlman.S 1936  p 154-159
The phrase collective bargaining is said to have been coined by Sydney and Beatrice Webb of Great Britain. According to encyclopedia of Social sciences, bargaining is a process of discussion and negotiation between two parties, one or both of whom is a group of persons acting in concert. The resulting bargain is an understanding as to the terms and conditions under which a continuing service is to be performed, more specifically; collective bargaining is a procedure by which employers and a group of employees agree upon the conditions of work.

ILO has defined collective bargaining as, negotiation about working conditions and terms of employment between an employer and a group of employees or one or more employee, organization with a view to conclude an agreement, wherein the terms serve as a code of defining the rights and obligations of each party in their employment/industrial relations with one another. Collective bargaining involves discussions and negotiations between two groups as to the terms and conditions of employment. It is called ‘collective’ because both the employer and the employee act as a group rather than as individuals. It is known as ‘bargaining’ because the method of reaching an agreement involves proposals and counter proposals, offers and counter offers and other negotiations.

The right of a trade Union to speak legitimately on behalf of their members is recognized in Indian law but it does not in any way derogate an individual from his right to judge for himself, independently of any Trade Union, as to an offer advantageous to him, concerning his employment. The limits of this

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1 Encyclopedia of Social Sciences Volume III, 1951 p.628

doctrine of collective bargaining inherent in the representative capacity of the Trade Unions vis-à-vis freedom of individual worker to protect his economic interest has been stated by Mr. Justice Anantanarayanan.

In India Collective bargaining has passed through several important phases during the last few decades. It was during the 1960s that it began to show up in some pockets across the country due to two reasons. One reason was that during these periods large industries with well-developed employers’ association and trade union centers had come up in many big cities, which facilitated collective bargaining. Examples were the cotton textile industry in Mumbai.

In India, collective bargaining has passed through several important phases during the last few decades and has some impetus from various statutory and voluntary provisions. The Trade Disputes Act 1929, the Bombay Industrial Relations Act 1946, the Industrial Disputes Act 1947, and the Madhya Pradesh Industrial Relations Act 1960, provided machinery for consultation and paved the way for collective bargaining. Among the voluntary measures, mention may be made to the different tripartite conferences, joint consultative machineries, code of discipline, and Central, State Implementation, and Evaluation Units. In India, collective bargaining was not very popular until the end of the Second World War. However, there had been a few instances where wages and working conditions were regulated by collective agreements even earlier. The collective bargaining agreements have been concluded at three levels – at plant level, industry level, and national level.

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1 Tamil Nadu Electricity Workers Federation v Madras State Electricity Board, AIR 1956 Mad 111.
Collective bargaining was traditionally conducted at the plant level as in the case of TISCO, Indian Aluminium Company, and Bata Shoe Company. In some industrial units, detailed grievance procedures have been laid down by mutual agreements. The collective agreement signed between the TISCO and the Tata Workers’ Union in 1956 embodies a provision for grievance procedure and closer association of employees with management.

The Belur Report of 1958, which is a study by Subbiah Kannappan and his associates in the Indian Aluminium Company, is one of the best-published case studies on collective bargaining in India. It throws light on the factors responsible for creating a favorable bargaining relationship between the management and the union.

The best example of an industry level agreement is offered by the textile industry of Bombay and Ahmedabad. The agreement between the Ahmedabad Millowners’ Association and the Ahmedabad Textile Labour Association, which were signed on 27th June 1955, laid down the procedure to be followed for the grant of bonus and the voluntary settlement of industrial disputes. The practice of industry-wise bargaining continues to prevail in the cotton textile industry in Maharashtra, Gujarat, and Tamil Nadu; in Jute Textiles and in the plantation industry in Karnataka, Tamil Nadu and West Bengal. In most other industries, particularly in modern industry groups, collective agreements are entered into at the plant or enterprise level.

The agreements at the national level are generally bipartite agreements and are finalized at conferences of labour and management convened by the Government of India. The bonus agreement for plantation workers was concluded in January 1956 between the representatives of the Indian Tea Association and the
India Tea Planters’ Association on the one hand, and the Hind Mazdoor Sabha (HMS) and the Indian National Trade Union Congress (INTUC) on the other. The agreement was about the Payment of bonus to about one million plantation workers.

The Employer’s Federation of India (EFI) in a study of collective bargaining in its member organizations in the late sixties (published in a monograph in 1970) classified collective agreements into three categories: (i) agreements which have been drawn up after direct negotiations between the parties and are purely voluntary in character for the purpose of their implementation; (ii) agreements which combine the elements of voluntarism and compulsion, i.e., those negotiated by the parties and registered before a conciliator as settlements; and (iii) agreements which acquire legal status because of successful discussion between the parties when the matters in disputes were under reference to industrial tribunal/courts and could be considered subjudice, the agreements reached being recorded by the tribunals/courts as consent awards.

The EFI study covered 109 collective agreements, relating to 77 companies and 11 industrial associations. Results of the study show that the collective agreements have included all levels. Industry-wide agreements were concluded in engineering, textiles, and tea plantations and plant-wide or company-wide agreements were the norm in most other industries.

The EFI study found “two categories of subjects (which) appear to have figured prominently in the collective agreements, one having a direct bearing on the pay packet and the other relating to leisure and leave.” Wages, dearness allowance, retirement benefits and bonus (appearing in a majority of agreements) are illustrations of the first category, and annual leave, paid holidays, and casual
leave are (included in a smaller but substantial number of agreements) of the second.

Out of the 109 agreements analysed, 96 dealt with wages and 50 with bonus. As for the duration of the agreements as many as 49 (i.e. 45 percent) were for a period of 3 years, 18 were for a period of 5 years and only a small number were for a period of less than 2 years.

There are 31 agreements, which dealt with the whole range of topics comprising wages, conditions of employment, and fringe benefits. The rest of them covered one or more specific subjects. The study makes the following concluding observations: “Another notable feature of the agreements under reference, which is of considerable importance for the development and maintenance of harmonious industrial relations, is the recognition of their mutual rights and responsibilities by the representatives of management and employees. Under a number of agreements, the unions have recognized the right of the management among other things, to introduce new or improved methods of production, establish production schedules and standards, and make rules for maintaining discipline and securing effective operation of the plant. The right of the management to discharge workers for just cause, including inefficiency and lack of work, has also been conceded.

The managements on their part have recognized the unions as bargaining agents and pledged to desist from unfair labour practices such as interference with the right of the workman to organize and join a union and discrimination against them because of their membership of a union. In the same manner, the trade unions have agreed to follow the constitutional methods as laid down in the
grievance procedure to redress the grievances of their members and to desist from indulging in or encouraging unfair labour practices.

A significant development of the 1970s is the emergence of bipartite national industrial committees in certain key industrial sectors such as coalmining, textile, sugar, electrical machinery, steel and cement. These committees comprise representatives of all major trade unions and employers in a given industry, and operate under broad terms of reference, which include a revision of wage structure and conditions of employment. These negotiating committees have covered both public and private sectors. The development of joint negotiating committees is a clear indication of the preference of the parties for collective bargaining over other methods.

Although a variety of industries have been covered under this approach, confining our examination to two of the most important ones, namely, steel and coalmine. The new experiment, in the form of bipartite negotiating committees was first pioneered in the iron and steel industry in 1970. Early in that year a Joint Steel Wage Negotiating Committee [later on re-christened as National Joint Committee for the Steel Industry (NJCS)] was formed.

The NJCS is composed of representatives of employers and employees. The employers’ side is represented by Indian Iron and Steel Company (IISCO) and Tata Iron and Steel Company (TISCO), and from all the public sector steel plants. On the employees’ side, there are three members each from the central trade union organizations, namely, the All India Trade Union Congress (AITUC), the Indian National Trade Union Congress (INTUC), Centre of Indian Trade
Unions (CITU), and the Hind Mazdoor Sabha (HMS). Till now, the Committee has signed six agreements.

The coalmines in India were nationalized in 1973. There were agitations by the unions prior to 1973 because wage improvements sanctioned by the Coal Wage Board in 1967 had not been implemented by several (private) mine owners and operators. The government was not in favour of appointing another wage board for the industry and felt; instead, that wages and other matters in coalmining should be settled through negotiations and collective bargaining. With this end in view, a Joint Bipartite Committee for Coal Industry (JBCCI) was constituted on August 14, 1973 with union representatives from INTUC, AITUC and HMS, and management representatives from Coal Mines Authority, Tata Iron and Steel Company, and Indian Iron and Steel Company. Subsequently, the committee has signed six bipartite settlements regarding wage revision, working conditions, and other issues relating to coal industry.

The National Commission on Labour (1966-69) reported the existence of collective agreements at all levels. Most of the collective agreements have been at the plant level, though in the important textile centers like Bombay and Ahmedabad, industry-level agreements have been common. Such agreements are also to be found in the plantation industry in the South and in Assam, and in the coal industry. Apart from these, in new industries like chemicals, petroleum, oil refining and distribution, aluminium, manufacture of electrical and other equipment, and automobile repairing, arrangements of settlement of disputes through voluntary agreements have been common in recent years. In ports and docks, collective agreements have been the rule at individual centers. On certain matters affecting all ports, all India agreements have been reached. In the banking
industry, after a series of awards, employers and unions are in recent years coming closer to reach collective agreements. Overall, the record of reaching collective agreements has not been unsatisfactory, though its extension to a wider area is certainly desirable. For promotion of collective bargaining, the commission recommended, among other things, statutory recognition of representative union as the sole bargaining agent.

In India Collective, bargaining took back seat, as did industrial conflict with the declaration of emergency in 1976. With civil liberties suspended and the government bestowing extraordinary powers upon it, the environment became least congenial for collective bargaining. However, as soon as the emergency was lifted in 1977, a new chapter in collective bargaining has been with unions making unprecedented demands on employers. It was Boulwarism in the reverse; the labour power was at its peak like never before. It was asking for all sorts of allowances from the employers or face strike.

The above phase continued until the late 1980s when union power began to plateau. The pendulum had taken its swing from one end to other. Now it was the employer’s turn to gain upper hand. Initially employers demands were for efficiency or productivity. But they soon began to bargain for increased productivity through lockouts. Notable lockouts were at Bata and Wimco in West Bengal and at Hindustan Lever in Mumbai. The four-month lockout at Bata compelled workers to accept sweeping changes in the work methods and labour deployment.
The sixteen-month lockout at Wimco forced workers to accept new production norms and the year-long lockout at Lever authorized management to modernize the plant and prune the workforces as it wanted. The Unions and the employers, while making a collective bargaining must be sufficiently watchful that the agreement arrived at should be in conformity not only with the provisions of a general law touching upon the subject of dispute, but also be in conformity with the provisions of the industrial law having a bearing with the subject matter of dispute. It has also to be born in mind while making an agreement that the interests of the workers who are not the members of the Trade Union are also protected and the workers are not discriminated against.¹

At present, there is a sea change in the environment. Unions, which have been accustomed to making demands, are now at the receiving end, with employers asking them to roll back wages and reduce benefits. Concession bargaining or the practice of employers asking labour to make concessions, has become commonplace, managements have also been attracted by Japanese work practices which focus on multi-skills, flexible deployment, and greater worker involvement in improving productivity. The centrality of the two institutions trade unions and collective bargaining, which all prior theories have upheld, is suddenly in doubt. The strategic management approach to industrial relation is now demanding productivity and performance form the system.

xiii Workers’ participation

In India, we observe so many revolutionary changes in this century. These depict not only changes in the technological world but also in the field of human

¹ D.Bakarum V The State Industrial Court, Nagpur, AIR 1959 Bom.70
relations. Now a day’s society accepts that industrialists and labour both are active participants in production. The concept of worker’s participation in management crystallizes the concept of industrial democracy, and indicates an attempt on the part of an employer to build his employees into a team, which works towards the realization of common objectives. Participation is a system of distribution social power in the industry to be shared among all or perhaps breaking the concentration of decision making by the management. It is a fact that industrial disturbance affects production.

The aim of the industry is to earn profits which depend on both management and workers cooperation. Industry will get cooperation from workers side when they have right place in the industry and management of the industry. Participation of workers in the management is, in other words a channel of communication and consultation either formal or informal through which all the employees are kept informed about the affairs of the industry. Through participation, the workers can express their opinion by which they get maximum satisfaction. The essence of labour participation in the management lies in the belief and confidence, capacity and ability by which he contributes with his head and hands. One can say that workers’ participation in management is nothing but industrial democracy in action base on the principles of equity and equality. It gives an opportunity for an employee to criticise a foolish or hasty decision of the management, offers very good suggestions through the channel, and discards the narrow outlook of the management. The main principle of the workers’ participation in the management affords a self-realization in the working environment and psychological needs of the workers at work by eliminating the large extent of frustration and feeling of futility.
Though industry’s aim is to earn profits but this depends on both co-operation, increase in production, capable organizations, resources, appropriate use and improved techniques all favors in the uplift of an industry by affecting the raise in the production. Labour and management cooperating is not a new thought. Different countries have owned this in different ways. However, their forms of application depend on economic, technical, historical, social and psychological conditions. Some countries have used this voluntarily while some have been forced by law.

Mahatma Gandhi also accepted both labour and capital are members of the same family. He liked to establish industrial democracy. Every politician and labour leader and national leader praised the scheme and admitted that labour cooperation can be had only when their honour and participative position in the management is safe.

Pandit Nehru expressed his view regarding this as in the age of today’s economy, in industrial field it is not the master and the workers relation but it should be partnership and cooperation, then only economic problem can be peacefully solved in a very less time. India needs increase in production. Because of developing nation, industries have not fully developed and have enough scope for it. There are struggles for labour on capital. At times, these struggles are baseless.

Indian industrialists being conventionalists and do not like outer interference in their field. Their view is that by wages they purchase labour and pay them on the basis of demand and supply. They do not want to give equal status and dignity to the worker. Management’s view is that the workers do not
understand their problem and have no capability to manage and control the industrial managerial activities. In addition, they question why they should give such an importance to the persons who have nothing to do in the investment.

When we observe all these things, we can conclude that for industrial development it needs friendly atmosphere, mutual good feeling by ending the industrial struggles and blocking the external control. All these can be achieved only when worker is given due honor and status. i.e. providing a good place in managerial decisions.

The concept of worker’s participation aims at providing an opportunity to the workers to take part in the management decision making. Worker’s participation is adopted and practiced differently in different organization while in some places, the employees might be required to just give their suggestions and final decision making authority vests with the management, in other places, the workers might be involved in taking only operational decisions. In some other places, however workers might get to actively participate in all the decisions of the organization, including those at the strategic level. Worker’s participation in management can be in any shape, from establishing work-committee to auto management by the employees. The aim of management is to get work through others. Workers if they are permitted to participate and involve themselves in some of the decisions relating to work situation etc. perhaps more effectively the company objectives can be achieved.
Objectives of Worker’s participation in management in India:

The objectives may be looked up as in ideological point of view to develop self-management, a means for attaining peace and harmony, humanitarian act of giving acceptable status to the worker and to establish harmonious industrial relationships. Workers participation in management ensures that the capabilities of the workers are properly utilized and that they are able to make a significant contribution to the effectiveness and economic welfare of the organization.

Some of the important reasons for the workers participation may be summarized as follows.

1. Workers feel valued and therefore are more committed to their work.
2. It bridges the gap between the management and workers by authorizing the workers to take part in the managerial functions.
3. The workers will feel that they have the ability to influence organizational decisions and this makes them more responsible in performing their duties.
4. Since they are involved in the process of decision, making any change in the organization can be implemented without resistance from them.
5. Participation also ensures that each party understands the problem and constraints of the other. This help in reducing industrial conflict.
6. Participation enables equal distribution of power in the industry so that it tends to be shared among all those engaged in organizational work. Participation facilitates, effective communication between the workers and the management.
7. Participation facilitates effective communication between the workers and the management. The increased use of technology in industry has necessitated the growing cooperation of workers because of the complex operation of production.
The main objectives of the scheme of worker’s participation in Indian industries are to active higher productivity, greater efficiency and job satisfaction, improved industrial relations, better discipline especially to create sense of belongingness and establishment of good industrial relations.

The psychological objective of this is to bring changes in the worker, i.e. until now they were thinking to be a part of machine. If they were given a share in management, they will feel to be cooperating in production work. They will feel self-honor and social consciousness by this, system changes fully and feel the work as their own.

Thus participation gives the worker, a sense of importance, by this he is said to be motivated highly and it provides for the integration of his interests with that of the management by making the worker a joint partner in the enterprise.

Economical objective of this implies the assumption that employees can contribute substantially to the progress and prosperity of the enterprise and hence have a legitimate right to share equitably and gains higher productivity of the undertaking in which they are employed.

Higher productivity is obtained through fullest cooperation between labour and management for poor labour management relations do not encourage the worker to give more that the minimum necessary to retain the job and that in many cases is all he gives.
The main objective is to finish unthoughtful struggles between labour and management. In this system in the form of motivating power, in place of maximum profit, maximum economic welfare is given importance. Worker will get job satisfaction esteem will increase and producer will get economic profit.

Sociologically, the need for participation arises because modern industry is considered as a social institution. The aim at reducing industrial disputes and creates positive conditions and atmosphere in which industrial harmony and peace can develop. Workers participation thus improves the progress and prosperity of the enterprise as workers put in their best efforts, psychologically. It helps in fulfilling the non-monetary needs of the employees and sociologically it reduces the number of industrial disputes and creates a positive atmosphere and interest in the work being performed.

The greatest benefit of participative management is that the employee identifies himself or herself with the work and this leads to an improved performance. Participation tends to improve motivation because employees feel more accepted and involved in the situation. Their self-esteem job satisfaction and cooperation with the management will also improve. It reduces conflict and stress more commitment to goals, better acceptance of a change.

Employees may also reduce turnover and absences when they begin to feel that working conditions are satisfactory and that they are becoming more successful in their jobs. The act of participation in itself establishes better communication as people mutually discuss work problems. The management tends to provide workers with increased information about the organization’s finances and operations and this helps employees to give better quality suggestions. Participative management has ethical dimensions also. The ethical
orientation stems from morality the impartial promotion of human welfare, recognize the inherent value and dignity of the human being.

The self worth of the individual enhances, participation relates to the mental and physical health of employees, ethical justification for worker participation is derived from negative consequences of hierarchical and authoritarian organizations of work.

Participation of workers in the management is nothing new for India. In 1920, Mahatma Gandhi had suggested this on the ground that workers contributed labour and brains, while shareholders contributed money to the enterprise and that both should therefore share in its prosperity. He observed that employers should not regard themselves as sole owners of factory of which they may be legal owners. They should regard themselves as trustees.

There should be perfect relationship of friendship and cooperation among them. As per unions he said the aim should be to raise the moral and intellectual height of labour and thus by sheer merit, make labour master of the means of production instead of slave that it is. He insisted that capital and labour should supplement and help each other. They should be a great family living in the unity and harmony. The influence of Mahatma Gandhi bore fruit and for the first time, joint consultation model was adopted in the cotton textile industry. A few works committees were also set up in the printing press of the Government. The year 1920 may be regarded as milestone in the history of joint consultation in India. In 1958, Delhi Cloth and General Mills and Co.Ltd. accepted an elected representative on the Board of its Directors. In some Railway Companies, works Committees were set up.
The Royal Commission in 1923 suggested that for cultivating industrial harmony not only works committees be set up but also trade unions be developed and labour officers be appointed. The first major step in this direction was the enactment of Industrial Disputes Act, 1947. Industrial Policy Resolution, 1948 expressed its intention to associate labour in all matters concerning production.

The First Five Year Plan also called for the constitution of joint Committees for consultation at all levels. The Second Five Year Plan explained the philosophy of the Worker-Management relation as ‘a socialist society is built up not solely on monetary incentives but on ideas of service to society and the willingness on the later to recognize such service. Workers should be made to feel that in his own way he is helping to build progressive state.

For creation of industrial democracy increased association of labour with management is necessary. The Government of India’s Industrial Policy Resolution of April 1956 also emphasized the need for workers participation in the management. In the Second Five Year Plan, the purpose of worker’s participation was defined as follows:

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

The Government of India accepted that the representatives of workers should be taken on the board of directors of public sector enterprises. The worker’s director (the representative of the workers) is to be elected by all the
workers of the company through a secret ballot. Another tool that has become popular as form of participative management in an organization is the employee stock option plan (ESOP). These ESOPs offer emotional and financial ownership to the employees.

2. **The Industrial Employment (Standing Orders) Act, 1946:**
   (Along with The Industrial Employment (Standing Orders) Rules, 1946)

   This is another important piece of legislation. Under this Act, the employers are required to formally define the conditions of employment and to make the said conditions known to the workmen employed by them.

   The object of the Act is to regulate the conditions of recruitment, discharge, disciplinary action, holidays etc. of the workers employed in industrial undertakings. The Act has also introduced uniformity of terms and conditions of employment in respect of workmen belonging to the same category and discharging the same or similar work in an industrial establishment.\(^1\) The Act requires the employers to define the conditions of service in their establishments, to reduce them to writing, and to get them compulsorily certified with a view to avoid unnecessary industrial disputes.\(^2\)

   In Indian industries, the rules of services are not definitely set out and their purview is so elastic to suit or to meet the requirements of the employers ultimately those would give the employer the upper hand in respect of all the disputable cases. Due to this, the industrial work atmosphere and the workers

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\(^1\) Salem Erode Electricity Distribution Company (Pvt) Ltd. v. Employee’s Union, AIR 1966 SC 808.

\(^2\) Shahadara S. Light Railways Co. v. S.S. Railway Workers Union, AIR 1969 SC 513.
were subject to doubt and ambiguity. In many industrial establishments the conditions of service of the employees were not in the written form and in some large industrial establishments there were rules and orders to govern the relations between the employer and employees but with the sole aim of giving some grip to the employer over the employees without any consultations with the workers or the Government. This would always leads to fiction between the management and workers in the industry. The Act imposes an obligation on the employer to explain and state the terms and conditions of service before a person accepts the employment.¹

Any worker, especially an industrial worker has the right to know the terms and conditions under which he is employer and the rules of discipline which he is expected to follow. In the modern era, the modern law of industrial employment requires that the terms of employment, conditions of service and the rules of discipline should not only be reduced unto a written form and known to the employee concerned, but it should also be reasonable, fair and uniform. Before passing of the Industrial Employment (Standing Orders) Act, 1946 the conditions of the employment were mainly covered by the contractual form some times express and some times in the implied manner. The workers were under no uniformity and regulations. The Labour Investigation Committee observed all the above difficulty and submitted its report to the Government in this regard. The discriminatory treatment of the employers was detrimental to the interests of the workers and is negatively working against the interest of the industry resulting in unnecessary industrial conflicts.

It has been observed that working conditions imposed by the employers were not in conformity with the social justice and the pity is that there is no statutory protection to the workmen. In order to overcome all these types of difficulties and to achieve the industrial peace and to give effect to the new ideology the Industrial Employment (Standing Orders) Act, 1946 was enacted by the Central Government. Under this Act, the employers must also be made known to the workmen employed by such employers. The Act made obligatory upon the employers to define the working conditions of the employment. The object of the Act is to regulate the conditions of recruitment, discharge, disciplinary action, holidays of the workers employed in industrial undertakings.

The Act has also introduced the uniformity of terms and conditions of employment in respect of workmen belonging to the same category and discharging the same or similar work in an industrial establishment¹. Industrial Employment (Standing Orders), 1946 is an Act particularly designed to define the terms of employment of workmen in industrial establishments to give the workmen collective voice in defining the terms of employment and to subject the terms of employment to the scrutiny of quasi-judicial authorities by the application of the test of fairness and reasonableness².

The liberty of the employers in prescribing the conditions of service was limited to the extent that they are to be in conformity with the model Standing Orders. The Act seeks to define the terms and conditions of the employment of all categories of employees who discharge the same or similar work in an industrial

¹ Salem Erode Electricity distribution com .(pvt.) Ltd. V. Employees’ Union AIR 1966 S C 808.

establishment and to make those terms and conditions widely known to all the workmen before they could be asked to express their willingness to accept the employment\textsuperscript{1}.

\textbf{ii Main features of the Act.}

The employer of every industrial establishment to which the Act applies is required to frame draft Standing Orders and to submit them to the Certifying Officer, who is generally the Labour Commissioner for such certification. The definition of workmen under this Act includes a Supervisory Technical Personnel under certain conditions. The certifying officer is empowered to modify or ask to the draft standing orders so as to render them certifiable under the Act. A group of employers of similar industrial establishments may submit joint standing orders for certification. The Government may by rules set out model standing orders for the purposes of the Act. The Draft Standing Order framed by an employer should as far as practicable be in conformity with the Model Standing orders.

This Act normally applies to every industrial establishment wherein one hundred or more workmen are employed. The Certifying authorities and appellate authorities shall have all the powers of a Civil Court in respect of certain matters provided in Section 19 of the Act. The employer can be penalized for failure to submit draft standing order for the certification or for contravention of any provision of the standing order finally certified.

\textsuperscript{1} Uptron India Ltd. v. Shammi Bhan, 1998 LLR 385.
The appropriate Government may by a Gazette notification exempt any establishment or class of industrial establishment from any of the provisions of the Act. The appropriate Government may after previous publication by notification in the Official Gazette, make rules to carry out the purposes of this Act.

The Parliament, in the year, 1956 made amendment to the Act and enlarged the scope of the Act. Section 4 as amended by the Act 36 of 1956 imposes a duty on the certifying officers and Appellate authority to adjudicate upon the fairness and reasonableness of the standing orders of the certifying officer, while doing so should consider and weigh the social interests in the claims of the employer and in the demands of the workmen.

The Act does not place any restriction on the right of the employer or workman to apply for modification. Prior to the Amended Act, 1956 the right to apply for the modification was conferred on the employer alone which was highly unsatisfactory But the Amending Act, 1956 permits both the employer and the workmen to apply for the modification of the standing orders.

The Amendment Act, 1982 permits the employer and the workmen and also the trade union and other representatives of the workmen to apply for modification of standing orders. Thus, the Industrial Employment (standing Orders) Act, 1946 (referred as IESOA) provides cheap remedy to the employees and employers to get their conditions of employment determined in the manner required by modification in the certified Standing Orders.
3. The Industrial Disputes Act, 1947:

This is famously referred to as the mini constitution for the labour. This Act provides the machinery and procedure for the investigation and settlement of industrial disputes. Justice V R Krishna Iyer speaking for the Supreme Court observed that this Act is a measure, which seeks to pre-empt industrial tensions. The object of the Act is not only to make provision for investigation and settlements of industrial disputes, but also to secure industrial peace so that it may result in more production and improve national economy and to ensure fair settlements to the workmen and to prevent disputes between the employers and employees so that production may not be adversely affected and the larger interests of the public may not suffer.

The economic growth of any country depends upon the development of industry, the industrial laws play key role in the national economy of the country. Before Independence, the industrial law was in a germinating stage. However, slowly it gained momentum. Large numbers of people are affected by the industrial laws, which are evident from the bulk of the cases before the Supreme Court. Previously in the 18th century, the Employers’ and workmen Dispute Act, 1860 was there to which gives speedy disposal by the Magistrates, of the disputes concerned with the wages of a particular sectors Viz. Railways, canals and other public works. During that period the Government has no active role to directly regulate the economic coercion faced by the worker. Later the Trade Dispute Act, 1929 came into force, which provided for the constitution of two adhoc bodies, the court of enquiry and the board of conciliation to inquire and promote the resolution of trade disputes. There was a major defect traced with regard to the

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1 Life Insurance Corporation of India V. D.J. Bahadur AIR 1980 SC 2181.
working of the trade disputes under the Act. is that, it has only imposed restriction up on the strikes and lockouts but could not show a remedy or settlement of such disputes by referring the matter to the courts or to any Board of conciliation.

The Act was amended in the year, 1932, The Trade Disputes Act 1934 and the Trade Disputes (Amendment) Act, 1938 came to provide for appointment of conciliation officers with duty to cover the differences and to provide settlement of such disputes. Later the Bombay Industrial Relations Act, 1938 which was later replaced by another enactment known as Bombay Industrial Relations Act, 1946 tried to provide more efficient disposal of the industrial disputes by their comprehensive legislation.

During the Wars, Rule 81 –A of the Defense of India Rules (DIR) was intended to provide speedy remedies for industrial disputes by referring them compulsorily to conciliation or adjudication, by making the awards legally binding on the parties and by prohibiting strikes or lock outs during the pendency of conciliation or adjudication proceedings and for two months thereafter. The said rule also put a blanket ban on strikes, which did not arise out of genuine trade disputes. With the termination of World War II, Rule 81-A was to lapse on 1st October, 1946 but it was also kept live by issuing an ordinance in the exercise of the government’s emergency powers. This was followed by the Industrial Disputes Act., 1947.

All kinds of interruptions in the growth and production are manly due to industrial disputes. The production is always possible functioning of the industry is very smooth .which is possible by the harmonious relationship between the management and the labour which would automatically reduce the disputes
between them. With this aim, the Industrial Disputes Act, 1947 came into operation on the first day of April 1947.

The Supreme Court of India observed that (by Justice Krishna Iyer) this Industrial Disputes Act, 1947 is a benign measure which seeks to pre-empt industrial tensions, providing dispute resolution machinery so that the energies of partners in production may not be dissipated in counter productive battles and assurance of industrial justice may create a climate of goodwill\(^1\). The primary objective of the Act was making provision for investigation and settlement of industrial disputes and for certain other purposes.

Those may be noted as here under:

1. To provide an internal machinery for internal conflicts.
2. To provide permanent conciliation machinery for the speedy dispute settlement
3. To provide compulsory arbitration or adjudication in public utility services.
4. To reduce delays in dispute settlements.
5. To put restrictions on strikes and lockouts in public utility services, prevent them during pendency of conciliation or arbitration proceedings and to provide for sufficient notice for other party.
6. To clarify duties of employers in cases of changes in service conditions or requirements.
7. To clarify status of collective agreements and their bindings.

\(^1\) Life Insurance Corporation of India V .D.J. Bahadur AIR 1980 SC 2181
8. To identify unfair labour practices.
9. To provide for compensation in case of lay-off and retrenchment.
10. To restrict closure of establishments

i. Three tier system of Adjudication:

The Act provides a three-tier system of adjudication

A. Labour Courts constituted by the State Government (u/s 7 of the Act), having powers in respect of interpretation of the Standing Orders, Violation of the Standing Orders, discharge or dismissal of a workman, withdrawal of any customary concession or privilege, illegality or otherwise strikes or lockouts. The Labour Court will be presided over by the presiding officer.

B. Industrial Tribunal Constituted by the State Government (u/s 7 A) having powers in respect of Wages, including period and mode of payment, Compensatory and other allowance, hours of work and rest intervals, leave with wages and holidays, Bonus, profit sharing, Provident Fund and Gratuity, Shift working changes, Classification by grades, Rules of discipline, Retrenchment of workers.

C. National Tribunal: This is formed by the Central Government for adjudication of the industrial disputes of the National importance or where industrial establishments situated in more than one State are involved. (section 7 B). The Act has undergone several amendments since 1947. Chapter V –A has been introduced in the Act of 1953 making provisions for compensation in cases of lay-off and retrenchment, in cases of transfer and closures. Section 9-A inserted by the amendment of 1956 provides that no employer, who proposes to effect any change in the conditions of service applicable to any workman in respect of a
matter specified in the fourth schedule, shall effect such change without giving notice as laid down. Section 10 A of 1956 provided for the voluntary reference of disputes to arbitration. Sections 11 to 21 deal with the procedure, powers and duties of the authorities. Section 33 C inserted in 1964 for a speedy recovery of the money due to the workmen. Chapter V-B in 1976 for check the indiscriminate resort to lay-offs, retrenchments and closures. Chapter II –B of 1982 proposed setting up of grievance settlement authorities and reference of certain individual disputes to such authorities.

Section 22 provides for prohibition of strikes and lockouts without notice etc. Section 23 lays down a general prohibition for strikes and lockouts during the pendency of conciliation proceedings .section 24 declares that a strike or lockout as illegal if it is commenced or declared in contravention of section 22 or section 23 or is continued in contravention of an order made under section 10- (3). Section 25 –G incorporated the principle of last come first go in the cases of retrenchments.

Certain restrictions have been placed by Section 10 (3), section, 10 (3), 10 A (4A), section 22 and section 23 of the Industrial Disputes Act on the right to strike. The Supreme Court in B.R. Singh’s case ¹ held that the strike is a form of demonstration. Though the right to strike or right to demonstrate is not a fundamental right, it is recognized as a mode of redress for resolving the grievances of the workers; it is not an absolute right. Chapter V-B of 1976 provides for special provisions relating to lay-off, retrenchment, and closure in

¹ B.R.Singh V Union of India (1989) II Lab LJ 591 (SC)
certain establishments. Chapter V –C prohibited unfair labour practices which was introduced in 1982 (having its effect from 1984)

ii. **Central Industrial Relations Machinery in India:**

This machinery was set up in the month of April, 1945 in pursuance of the recommendation of the Royal commission on labour in India. The main object of this machinery is to promote peaceful and harmonious industrial relations in the central sphere through prevention and settlement of industrial disputes in the industries for which central Government is the appropriate government. This machinery is also verifying the trade unions’ membership. The machinery is concerned with enforcement of labour laws in the central sphere.

The main functions of the machinery are:

A. It administers the labour laws in the industries for which the Central Government is the appropriate Government under this Act.
B. Prevention and settlement of industrial disputes
C. Enforcement of labour laws
D. Verification of membership of trade union.
E. Enforcement of Awards and settlements.
F. Conduct of inquiries in to the breach of Code of discipline.
G. Promotion of works committee and Workers’ Participation in Management.
H. Collection of the statistical information
I. Defending the court cases and Writ Petitions with regard to implementation of the labour laws.
It is praise worthy to notice that the machinery is in progressive steady improvement in the settlement of the industrial disputes through its conciliation process since 2000-2001 this is in progress. However, over the years there is a steady fall in the number of Industrial disputes referred to CIRM. Consequently, the number of disputes being seized in conciliation is also showing a decline. There is also decline in the cases of threatened strikes. Similarly, the number of awards received for implementation is also on decline. There is also no improvement in the number of awards implemented mainly due to stay orders from the courts and non-availability of sanction under 197 Cr. PC from the employing Ministry. However, in the year 2005-06, 80 percent settlements were fully implemented. The officers of CLC(C) organization successfully completed Phase I and Phase II of General Verification within record time of 3 years. They verified the membership of 18,168 trade unions affiliated to 13 Central Trade Unions (CTU) with claimed membership of 42 million workers. The final phase of verification i.e., declaration of provisional results and inviting objections from CTU Organizations is yet to be undertaken due to status quo order given by the Kolkata High Court. According to the Labour Bureau there are 133 settlements were arrived at between various Managements and Workers’ Union in the Central sphere during the quarter ending March 31, 2007. Most of these settlements were arrived through conciliation proceedings by the Central Industrial Relations Machinery (CIRM) under the Industrial Disputes Act.

Some of the settlements were also arrived at through bi-partite negotiations. About 43 percent of these settlements involved service matters, 41 percent included wages, Dearness Allowance and Bonus while house rent allowance, health, conveyance, leave and liveries were common issues in the large number of these settlements. Issues like compensation, shift allowance and retrenchment compensation were also the issues that comprised most of the
remaining settlements. The four disputes involving about 9000 workers are the major settlements pertaining to Cochin Port Trust, Defense Electronic Laboratory, Hyderabad and Orissa Mineral Development Company Limited, Thakuran.

**The Industrial Disputes Act, 1947 was amended w.e.f. 15.09.2010:**

1. To amplify the term ‘appropriate government’ defined under section 2(a) of the Act;
2. To enhance the wage ceiling from Rs.1,600/- to Rs.10,000/- per month to cover workmen, working in supervising capacity;
3. To provide direct access for the workman to the Labour Court or Tribunal in case of disputes arising out of Section 2(A) of the Act;
4. To expand the scope of qualifications of Presiding Officers of Labour Courts or Tribunals;
5. To establish Grievance Redressal Machinery;
6. To empower the Labour Court or Tribunal to execute awards

**iii. Industrial Relations and National Commission on Labour**

Setting up of the National Commission on labour is the landmark development in the industrial relations sphere. The First National commission on Labour (in the year 1966) gave its recommendations.

The commission through its verification made it clear that the conciliation machinery has not been found satisfactory. It should be free from the outside influences, it should be independent and be adequately staffed. The Commission also suggested for the voluntary arbitration as an alternative method for the settlement of the disputes. It also recommended that the unfair labour practices
should be identified and be eliminated. Works Committees and Joint Management councils should be set up with a clear allotment of their functions and powers.

The Commission has made a categorization of the industries as essential and non-essential for the purpose of the strikes and lockouts. The commission while laying down the procedure for the settlement of the disputes said that the best way of settling the industrial disputes is by negotiation and bargaining, and if this fails, the parties may go for voluntary arbitration. In case of the essential services, when the collective bargaining fails and the parties do not want to go for the arbitration, either party may notify the matter to the IRC about the failure of the settlement and the IRC shall adjudicate on the dispute. The Commission has observed that for the effective grievance procedure, statutory backing should be provided with flexible and simple procedure with a time limit to such. The Commission has suggested that in the discipline procedure there should be standardization of the punishment for the various types of misconduct, there should be some workers’ representatives in the domestic enquiry committee with a right to appeal to the administrative tribunals and a time limit should be fixed for the tribunal proceedings giving wide powers to examine, modify, cancel, any order of punishment ordered earlier.

Further, the Commission has recommended for the setting up of the Labour Courts in each state, the members of it should be appointed with the recommendations of the High Courts of the State by the Government. The Labour Courts will deal with the disputes relating to rights, obligations, awards and their implementation, claims etc. Appeal over the decisions of the Labour Court in certain clear matters may be with the High Court with in such jurisdiction.
II. Laws related to Wages

A. The Payment of Wages Act, 1936 (The Payment of Wages Rules1937):  

The general purpose of the Act is to provide that employed persons shall be paid their wages in particular form and at regular intervals without any unauthorized deductions.\(^1\)

The preamble of the act states that the object of the Act is to regulate the payment of wages to certain classes of employed persons. It is of two-fold nature. First the date of payment of wages and secondly the deductions from wages whether as fine or otherwise. The Bombay High Court observed that the general purpose of the Act is to provide that the employed persons shall be paid by wages in a particular form and at regular intervals without any unauthorized deductions over time, wages claimed do not have to be taken in to account in determining the applicability of the Payment of wages Act.\(^2\)

B. The Minimum Wages Act, 1948  

(The Minimum Wages (Central) Rules, 1950)

Wages means all remuneration capable of being expressed in terms of money, which would if the terms of contract of employment, express or implied were fulfilled, be payable to a person employed in respect of employment or of work done in such employment. The Act was enacted to secure the welfare of the workers in a competitive market for a minimum limit of wages in certain employments.\(^3\) The Minimum Wages Act, 1948 provides for fixation and enforcement of minimum wages in

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1 Arvind Mills Ltd. V. K R Gadgil AIR 1941 Bom 26.  
2 Baboo Husain v. N.P.Nopany (1979) I L.L.J 103 (Guj)  
3 Preamble of the Minimum Wages Act, 1948
respect of scheduled employees to prevent sweating or exploitation of labour through payment of low wages. As per the recommendations of Royal Commission on Labour in India, a draft bill was considered by the Indian Labour Conference in 1945, introduced in Indian Legislative Assembly in 1946, which was followed by the adoption of Minimum Wages Act, 1948. The Act was enacted to secure the welfare of the workers in a competitive market for a minimum limit of wages in certain employments. The Act is meant for the benefit of workers who are not in a position to bargain with their employer.\(^1\)

The object of the Act is directed against the exploitation of the ignorant, less organized and less privileged members of the society by the capitalists. The Act aims at preventing exploitation of the workers and for this purpose; it aims a fixation of minimum wages which employer must pay.\(^2\) India, being a developing country faces the problem of unemployment on a very large scale, is not unlikely face the situation that the labour may offer to work even of starvation wages. Therefore, the aim of the Act is to prevent such and to prescribe minimum wages. In this particular context the capacity of the employer need not be considered as the State assumes that every employer must pay the minimum wages for the employee’s labour.\(^3\)

(iii) Amendment Proposals at various stages of consideration

1. It is proposed to amend the Minimum Wages Act, 1948 to,
   inter-alia, make National Floor Level Minimum Wage statutory and applicable to all “other” employments.

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\(^1\) All India Reserve Bank Employees Association V. Reserve Bank of India, AIR 1966 SC 306.

\(^2\) Edward Mills Co.Ltd.Beawar V. State of Ajmir and others AIR 1953 Raj 40.

\(^3\) Crown Alluminium Works V. Their workmen AIR 1958 SC 30.
C. The Working Journalist (Fixation of Rates of Wages) Act, 1958
(Working Journalist (Conditions of service) and Miscellaneous Provisions Rules, 1957)

D. The Payment of Bonus Act, 1965 (The Payment of Bonus Rules, 1975):

The object of the Act is to provide for payment of bonus to persons employed in certain establishments and for matters connected therewith. The entire scheme of the Act covers the following four major points.

1. To impose statutory liability upon an employer of every establishment covered by the Act to pay bonus to the employees in establishment.

2. To define the principle of payment of bonus according to the prescribed formula.

3. To provide for payment of minimum and maximum bonus and linking the payment of bonus with the scheme of set-off and set-on.

4. To provide machinery for enforcement of the liability for payment of bonus.

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1 Amendment (Act No 43 of 1977) in 1977.
2 Jalan Trading Co v. Mill Majdoor Sahba AIR 1967 SC 691
III. Laws related to Specific Industries

A. The Factories Act, 1948:

The Factories Act is the principal legislation, which governs the health, safety, and welfare of workers in factories. This is an Act to consolidate and amend the law regulating the labour in the factories. It is a social enactment to social reform and must be construed liberally to achieve its legislative purpose without doing violence to the language.¹ The Act makes provisions for the appointment of inspectors in order to ensure safe, healthy and sanitary working conditions including rest intervals and measures of their welfare, and to see that the object of the Act is achieved and benefits are ensured to the workers.² The main aim is to ensure adequate safety measures and to promote the health and welfare of the workers employed in factories initiating various measures from time to time to ensure that adequate standards of safety, health and welfare are achieved at all work places.³

It is proposed to amend the Factories Act, 1948 to introduce new Terms like ‘hazardous substance’, ‘disability’ etc., redefines certain other terms and provide for new provisions on Health, Safety, Hazardous Process, Welfare, Working Hours for Adults, Employment of Young Persons, Annual Leave with wages and Penalties & Procedures including provision of flexibility in the matter of Employment of women during night in factories.

¹ Works Manager Central Railways Workshop, Jhansi .V. Vishwanath. AIR 1970 SC 488.
B The Dock Workers (Regulation of Employment) Act, 1948:
An Act to provide for regulating the employment of dock workers.

C. The Plantation Labour Act, 1951:
This is an Act to provide for the welfare of the labour and to regulate the conditions of work in plantations.

The Plantations Labour Act, 1951 was amended w.e.f. 01.06.2010:

1. To provide safety and occupational health care to plantations workers.

D. The Mines Act, 1952:

The Mines Act, 1952 seeks to regulate the working conditions in mines by providing measures to be taken for the safety of the workers employed therein. The Act contains detailed provisions relating to their health and safety, hours and limitations of employment, leave with wages. Provisions were made regarding drinking water, medical appliances, working hours (above ground and below ground.), wage employment of women, shifts, extra wages for over time, notice of accidents to proper authorities, the punishments and penalties etc.

The Mines Act, 1952 Amendment Bill

A Bill was introduced in Rajya Sabha on 23.03.2011 to make it more relevant and effective in the present economic scenario.
The new Bill proposes:

1. To Impose heavier fines and increase terms of imprisonment for any violation of the provisions of the Act affecting the safety and security of workers;

2. To Cover the whole of India including areas coming under the jurisdiction of Territorial Waters, Continental Shelf, Exclusive Zones and other Maritime Zones Act, 1976;

3. To Revise the definitions of “owner”, “foreign company” and directors living abroad relevant to present times.

An Act to regulate certain conditions of service of working journalists and other persons employed in newspaper establishments.

F. The Merchant Shipping Act, 1958:
An Act to forerest the development and ensure the efficient maintenance of an Indian mercantile marine in a manner best suited to seven the national interests and for that purpose to established a National Shipping Board and a Shipping Development Fund, to provide for the registration of Indian ships and generally to amend and consolidate the law relating to merchant shipping.

G. The Motor Transport Workers Act, 1961:
An Act to provide for the welfare of motor transport workers and to regulate the conditions of their work.
H. The Beedi & Cigar Workers (Conditions of Employment) Act, 1966:
The Act has been enacted to provide for the welfare of the workers in beedi and cigar establishments and to regulate the conditions of their work and for matters connected therewith.

I. The Contract Labour (Regulation & Abolition) Act, 1970:
An Act to regulate the employment of contract labour in certain establishments and to provide for its abolition in certain circumstances and for matters connected therewith.

It is proposed to amend the Contract Labour (Regulation and Abolition) Act, 1970, to ensure that in case contract labour perform the same or similar kind of work as the workmen directly appointed by the Principal Employer, they shall be entitled to the same wage rates, holidays, hours of work and social security provisions. Furthermore, whenever a contract worker is engaged through a contractor, the contract agreement between the Principal Employer and the contractor shall clearly indicate the wages and contribution towards social security schemes and other benefits to be paid by the contractor to the contracted workman.

J. The Sales Promotion Employees (Conditions of Service) Act, 1976:
The Sales Promotion Employees (Conditions of Service) Rules, 1976:

The scope of this Act was expanded w.e.f. 01.02.2011 to include 10 additional industries, i.e., Cosmetics, soaps, household cleaners etc.; Readymade garments, etc.; Soft drinks manufacturing industries; Biscuits and confectioneries; Ayurvedic, Unani, etc.; Automobiles including accessories, etc.; Surgical
equipments, etc.; Electronics, computers, etc.; Electrical appliances; Paints and varnishes.

k. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979:
It is proposed to amend the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 to make it gender neutral and for entitlement to social protection measures.

L. The Shops and Establishments Act

   The Cinema Workers and Cinema Theatre Workers (Regulation of Employment) Rules, 1984

N. The Dock Workers (Safety, Health & Welfare) Act, 1986

O. The Building & Other Construction Workers (Regulation of Employment & Conditions of Service) Act, 1996:
   It is proposed to amend the Building and Other Constructions Workers’ (Regulation of Employment and Conditions of Service) Act, 1996 and the Building and Other Construction Workers Cess Act, 1996 to overcome difficulties experienced by States / UTs in effective implementation of these Acts.

P. The Dock Workers (Regulation of Employment) (Inapplicability to Major Ports) Act, 1997


S. The Beedi Workers Welfare Fund Act, 1976
T. The Beedi Workers Welfare Cess Act, 1976
X. The Cine Workers Welfare Cess Act, 1981

Z. The Coal Mines (Conservation and Development) Act, 1974

IV. Laws related to Equality and Empowerment of Women

A. The Maternity Benefit Act, 1961:

This Act is to regulate the employment of women in certain establishment’s periods before and after childbirth and to provide for maternity benefit and certain other benefits. The intention of this Act is to achieve social justice to the women workers and to makeup her dissipated energy, nurse her child, preserve her efficiency as good worker and restore it as it stood prior to the delivery of the child.¹

B. The Equal Remuneration Act, 1976

The Act provides for the payment of equal remuneration to men and women workers and for prevention of discrimination on the ground of sex, against women in the matter of employment and for matters connected therewith or incidental thereto. The Act ensures against discrimination in recruitment and promotion of men and women. This Act was enacted to provide equality of pay for equal work between men and women, which is apart of the principle equal pay for equal work.¹

V. Laws related to Deprived and Disadvantaged Sections of the Society:

A. The Bonded Labour System (Abolition) Act, 1976:

The Act is a social welfare legislation providing for socio-economic justice to the weaker section of the society. The Act aims to prevent the economic and physical exploitation of the weaker sections of the people and for matters connected therewith or incidental thereto. There are still exists in different parts of the country a system of usuary under which the debtor or his descendants or dependants have to work for the creditor without reasonable wages or with no wages in order to extinguish the debt. Soon after the commencement of this Act any bonded labour system shall stand abolished and every bonded labourer shall on such commencement, stand free and discharged form any obligation to render any bonded labour. After the commencement of this Act, no persons shall make any advance under, or in pursuance of the bonded lanbour system or compel any person to render any bonded laobnour or other from of forced labour. Any custom

or tradition or any contract, agreement or other instrument, whether entered into or executed before or after the commencement of this Act, by virtue of which any person or any member of the family or dependent of such person is required to do any work or render any service as a bonded labourer, shall be void and inoperative.

B. The Child Labour (Prohibition & Regulation) Act, 1986:

Children are the important component of the social structure and the potential future careers of culture. They are the potential embodiment of our ideals, aspirations, ambitions, dreams and hopes.\(^1\) The child by reason of his physical and mental immaturity needs special safeguards and care. There are a fairly large number of labour laws in our country and the Child Labour (Prohibition and Regulation) Act, 1986 is one of such important legislature.

VI. Laws related to Social Security:

A. the Workmen’s Compensation Act, 1923:

This Act was one of the earliest measures adopted to benefit the labour. The object of the Act was to make provision for the payment of compensation by certain class of employers to their workmen for injury by accident. This Act was framed for providing compensation to workmen incapacitated by an injury from accident arising out of and in the course of employment.

It guarantees against the hazards of employment to which a workman is exposed because of his employment. Compensation is not the only benefit flowing from this Act; it has important effects in furthering work on the prevention of cadent, in giving workmen greater freedom from anxiety and in rendering industry more attractive.¹

The Act is amended recently to meet the emerging needs of the economy in the following:

**The Employees’ Compensation Act, 1923 (earlier called ‘the Workmen’s Compensation Act, 1923) was amended w.e.f 18.01.2010 to, inter-alia:**

1. To increase the wage ceiling limit from Rs.4,000/- to Rs.8,000/- per month for the purpose of calculating compensation;
2. To enhance the compensation for death, disablement, funeral expenses;
3. To allow reimbursement of the actual medical expenses on treatment of injuries caused during work without any ceiling;
4. To make compensation gender neutral;
5. To dispose cases of compensation within a period of three months from the date of reference.

¹ Report of the Royal Commission on Labour in India .p.298.
B. The Employees’ State Insurance Act, 1948:

This Act is a legislation, which aims at bringing about social and economic justice to the poor labour class of the land. It aims at the labour welfare. The term labour welfare is an elastic term bearing somewhat different interpretation in one country from another according to different social customs, the degree of industrialization and the educational development of the workers.\(^1\) The point for appreciation is that the benefits under this Act are superior to International standard.\(^2\)

The Employees’ State Insurance Act, 1948 was amended w.e.f. 01.06.2010:

1. To improve the quality of service under the scheme;
2. To enable ESI infrastructure to be used to provide health care to workers in the unorganized sector.

C. The Employees’ Provident Fund & Miscellaneous Provisions Act, 1952:

The object of the Act is to provide for the institution of provident funds, pension fund and deposit linked insurance funds for the employees in factories and other establishment. The principal duty is laid upon the employer to put the Provident Fund Scheme into operation and to make contribution of both the

\(^1\) Report of the Royal Commission on Labour.P.261
employees and employers share to the fund immediately and deduct the employee’s share from their wages\(^1\)

It is proposed to amend the Employees’ Provident Fund and Miscellaneous Provisions Act, 1952 to bring down the threshold limit from 20 and above to 10 and above for coverage of establishments.

**D The Payment of Gratuity Act, 1972**

Originally, gratuity was meant to be gratuitous payment made by the employer at his pleasure, but the judiciary has transformed it into a legitimate claim for the meritorious service rendered.\(^2\)

The Act aims to provide for a scheme for the payment of gratuity to employees engaged in factories, mines, oil fields, plantations, ports, railways shops or other establishments and for matters connected therewith or incidental thereto. It was pointed out that the object of providing a gratuity scheme is to provide a retiring benefit to the workmen who have rendered long and unblemished service to the employer and thereby contributed to the prosperity of the employer\(^3\).

The Payment of Gratuity Act, 1972 was amended through notification dated 31.12.2009:

1. To cover teachers in educational institutions w.e.f. 04.04.1997;
2. To enhance the ceiling on gratuity from Rs.3.5 lakh to Rs.10 lakh w.e.f. 24.05.2010.

\(^1\) Kumar Brothers (Bidi ) Pvt. Ltd. V.Regional Providnet Funds Commissioner, Bhir (1968) Lah. IC 1578 (Pat).

\(^2\) Garment Cleaning works V. Workers , 1961 , ILLJ , SC 513.

\(^3\) Delhi Cloth and General Mills Co. Ltd. V. Shambu Nath Mukharji and others AIR 1978 SC 8.
VII. Laws related to Employment & Training:

A. The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959:

It is proposed to amend the Employment Exchange (Compulsory Notification of Vacancies) Act, 1959, inter-alia, to change the Nomenclature of ‘Employment Exchange’ to ‘Employment Guidance and Promotion Centre’ to give primacy to employment promotion, Vocational guidance and counseling and also to bring more Establishments under the Act for the purpose of submitting Employment returns to obtain more realistic labour market information.

B. The Apprentices Act, 1961:

The object of the Act is to meet an increasing demand for skilled craftsmen, in the development of the country. The Act provides for the regulation and control of training of apprentices in trade and for matters connected there with. The Act does not apply to contracts of personal service entered on behalf of minors and such contracts do not stand on the same footing as contract of apprentice.¹

It is proposed to amend the Apprentices Act, 1961, in order to bring more establishments under the framework of Apprenticeship Training Scheme and also to revamp the system by emphasizing qualitative improvement through activating training in actual workplace environment.

¹ Raj Rani V. Prem Adib .AIR 1949 Bom 215
VIII .Others:

A  The Fatal Accidents Act, 1855
B  The War Injuries Ordinance Act, 1943
C  The Weekly Holiday Act, 1942
D  The National and Festival Holidays Act
E  The War Injuries (Compensation Insurance) Act, 1943
G  The Personal Injuries (Compensation Insurance) Act, 1963
H  The Labour Laws (Exemption from Furnishing Returns and Maintaining Register by Certain Establishments) Act, 1988

The Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Amendment Bill, 2011:

A  Bill was introduced in the Rajya Sabha on 23.03.2011. The main Proposals of the new Bill, 2011 are:

1. To Change the definition of small establishments to cover 10-40 workers as against 10-19 workers in the Principal Act;
2. To Increase the number of Acts to be covered under the Principal Act from 9 to 16;
3. To Simplify and consolidate the returns to one form for very small and small establishments and maintenance of register for very small establishments and 2 registers for small establishments.
4. To Maintain the registers and returns in computer, floppy, diskette or other electronic media and return submitted through e-mail;
1 The Public Liability Insurance Act, 1991:

3.7 Five Year Plans with special reference to labour and the Industrial Policy:

Planning is a method of decision-making that proposes or identifies goals or ends, determines the means or programmes which achieve these ends, and does so by the application of analytical techniques to discover the fit between ends and means and the consequences of implementing alternative ends and means.¹

Planning is a socio-economic process and it derives the social assumptions and objectives from the Directives of State Policy of the Indian Constitution. The chief architect of the constitution, Dr. Ambedkar referred the Directive Principles of State Policy as a socialist charter and contended that they were to be made the basis of all legislative and executive action in the governance of the country².

India switched to the concept of planned economy very soon after, it became Independent. The doctrine of Laissez-faire could no more be the maxim for the economic activities and social living. Development through planning was accepted. The planning commission was set up in March 1950. Now the State is no more an onlooker now. India adopted the principle of secular state; she embarked upon the idea of welfare state. The successive five year plans ultimately laid down certain strong principles and basic concepts.

² Constituent Assembly debates vol. 11 , p.316
Planning is not a once-for-all exercise for a five-year period. It requires a continual watch on current or incipient trends, systematic observation of technical and social data and adjustments of programmes in the light of new requirements.

The Constitution of India imposes heavy responsibility on the three organs of the State, namely legislature, executive and judiciary, to steer the ship of governance to have a smooth sail to reach the preamble destination. Accordingly, the executive has taken up its responsibility and started its mission through planning and formulating policies. There are certain constitutional directives to be complied with by the State while planning for the development, accordingly they set out some strong objectives like, increase in production, full employment, reduce inequalities in income and wealth, to set up socialistic society. As it was rightly declared by the Indian National Congress in 1931 (in the Karachi Resolution), “political freedom should include economic freedom for the starving millions but how to do it? The State shall own, or control, key industries and services mineral resources, railways, waterways, shipping and other means of public transport.” In the year, 1939, the Indian National Congress set up the National Planning Committee (NPC). The main objectives are attainment of national sufficiency and doubling of per capita income within a decade. To achieve these objectives, NPC envisaged radical structural changes.

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1. The Executive wing of the Constitutional organs of the State is vested with the power function of planning and formulation of policies and the same are to be adopted by the Legislature to give them public sanction.


3. All India Congress Committee (AICC) , Resolutions on Economic Policy and Programme, 1924-54 ,New Delhi (1954) p.4

i. The first five year plan (1951-52 to 1955-56):

This was configured to correct the disequilibrium in the economy caused by the Second World War and simultaneously to balance the development, which would ensure the rise in national income and steady improvement in the living standards. The plan gave considerable attention to the labour problems like strikes and lockouts. It has observed and recognized the position of worker and his rights, the right to have the recourse to peaceful direct action for the defense of their rights and improvement of their conditions can never be denied and can never to be curtailed. It was declared that the main object of the economic policy should be to achieve a socialist pattern of society. Legal provisions relating to trade unions and industrial disputes have to be framed and interpreted in relation of these objectives.

ii. The Second Five Year Plan (1956-57 to 1960-61):

This Plan sought to promote a pattern of development to establish socialistic society in India. This plan was conceived in an atmosphere of economic stability. The main aim of the plan was to increase in the national income, rapid industrialization, reduction of inequalities in the income and wealth. This plan laid special stress on industrialization. This plan states that greater stress should be laid on industrial democracy so that the individual worker should recognize that he is also an important part of the industry. The plan recognizes that in settling the industrial disputes, mutual negotiations would play a greater effective mode. Altogether, the plan tried to maintain the industrial peace.

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Two significant steps were undertaken in the Second Five Year Plan. Firstly, the worker’s participation in the management was evolved. Joint management councils were established on an experimental basis and the duty of these councils are to bring about mutual consultations between the employer and the workers on any issues of the industry, which affects their relations. Secondly, there was an implementation of the scheme of worker’s education, which comprises of training of teaching administrators and worker-teachers.

This scheme has enlightened the worker to increase his self-confidence and increased the knowledge of taking due advantage of the protection that was afforded under the labour legislation. This trend was a significant role and importance in the elements of the labour policy of India.

iii The Third Five-Year Plan (1961-62 to 1965-66):

The Plan laid down emphasis on collective bargaining. It developed a concept that both the parties, the worker and the management were equal partners to achieve the common goal and to establish the industrial peace. Even though the plan gave priority to agriculture it laid adequate emphasis on the development of the basic industries which were vital to the development of the country. The Industrial Truce Resolution, 1962 was also an important issue to be noted, which was passed on November 3rd, 1962. This was in fact a result of the conflict between the India and China, which resolved by both parties i.e. the employers and the workers that the management and the workers shall strive together to promote the defense efforts of the country in all possible means. The Third Five-Year Plan also laid emphasis on the aspect that the fruits of the progress should be shared in an equitable manner. If there is any surplus generated, neither the employer nor the workers can lay an exclusive claim, it is to be remembered that the worth of
the contributions of both the worker and the management in achieving the surplus has to be taken in to criteria in the distribution of such subject to the requirement of further development and to the satisfaction of the basic needs of the both members, i.e. the management and the working class. This concept is clearing the position of private gains at the expenses of the general and due to this; the individuals are moved with a sense of obligation to meet the end.

iv The fourth Five-Year Plan (1969 to 1974):

Actually after the Third five-Year Plan, which ended on March, 31st, 1966 the annual plans of 1966-67, 1967-68, 1968-69 were implemented and the fourth Five-Year Plan began on April 1st, 1969 which expressed the real need for the more effective implementation of the labour administration for the better enforcement of the labour legislation. This plan contained in its document, a special chapter relating to the labour and employment. In this plan, effective measures were taken to improve the efficiency and the productivity of the labour. Number of schemes was launched to improve the efficiency of the labour, but the fifth plan targets were viewed as utterly unrealistic and impossible of achievement.¹

v The Fifth Five-Year Plan (1974 to 1979):

In this plan, special emphasis was laid down for the rapid growth of core industries, adequate supply of mass consumption goods, creation of surplus capacity for export promotion, encouragement of village and small-scale industries, development of industrially backward areas. Many effective measures

¹Economic Failures of Nehru and Indira Gandhi by M L Gujral, p181
were taken to substantial employment to the labour, improve the efficiency and productivity of the labour. Unfortunately the Fifth Five-Year Plan was terminated by the Janata party at the end of the fourth year of the plan in March, 1978.

vi  The Sixth Five-Year Plan (1980-1985):

conceived the need for certain methods which would be easy for the both parties i.e. the employer and the worker, it emphasized that there must be a kind of procedure for the assurance of justice in an easier manner for the quick disposal of the industrial disputes. Basing on this it stressed the need for the establishment of various labour courts and Tribunals in addition to the present, which are not sufficient for the quick disposable of the existing and future industrial disputes, for this reasons the industrial relations machinery should be strong, was the plea of this plan.

vii  The Seventh Five-Year Plan (1985 to 1990):

This plan expressed the need for the improvement of the worker-management relations by establishing cordial relationship in between them. The plan felt that this is possible only by the industrial relations being properly managed with proper identification of each other’s duties and responsibilities. It was also suggested that the rivalry between the union and the outsiders and rivalry among the union members themselves should be removed. This plan laid emphasis on proper utilization of the present assets, improvement of efficiency, modern technology and latest equipment.
viii The Eighth Five-Year Plan (1992 to 1997):

Even though the eighth five-year plan was approved in September 1989 and introduced in year 1990, there were series of changes in the Government at the centre leading to constant reconstitution of the planning commission in different versions of approach were prepared. Finally, the fourth version (1992-1997) of planning was approved. As it was rightly said by our ex-prime minister Mrs. Indira Gandhi that growth has not been merely for the sake of growth. A vigorous thrust for social justice is an integral element of our country. Basing on the same the Eighth Five Year plan has given a remarkable attention to the working conditions of the worker, welfare and social security, considerable attention to the women sector and child labour, the enforcement of the labour legislation.

The Plan has taken care of the industrial promotion, safety and education, encouragement of worker’s participation in management. The Plan also laid emphasis on healthy industrial relations and the enforcement of the labour legislation to safeguard the worker. The Plan also critically examined the role of the public sector in the context of economic reforms and liberalization and really redefined the role of public sector.

ix The Ninth Five-Year Plan (1997 to 2002):

The actual focus of the Ninth Plan is on “Growth with social justice and Equality. “It laid emphasis on social security and conditions for the improvement of the labour. Creation of the industrial harmony through an infra structure for the
healthy industrial relations. It also recognized that the insurance is an other aspect of social security, to be remembered the efforts are being extended to the old age pensions, maternity benefits, and family benefit for the girl child, and casual workers in the urban and rural areas. Re vitalization of laws, a thorough scrutiny to be made to proceed for the omissions and additions as per the requirement of the situation in the labour legislation. The Plan also suggests that the role of trade unions is very important to promote and bring developments in the work culture and can bring changes for the betterment of the labour community. The government has developed the strategy under this plan that rapid economic growth requires large number of investment and extensive industrial modernization; our import needs are necessarily to improve.

x **The tenth Five-Year Plan (2002 to 2007):**

In tenth five-year plan, it is proposed that in addition to the 8% growth target, some other targets should also be considered as being central to the attainment of the object of the Plan.

These are:
1. Reduction of the poverty ratio by five percentage points by the year 2007.
2. Universal access to the primary education by 2007.
3. Gainful employment to the labour force.
4. Reduction in the rate of population growth.
5. Increase in literacy by 75 % by 2007.
6. Reduction in the infant mortality rate to 45 per 1000 live births by 2007 and to 28 by 2012.
7. Reduction of Maternal Mortality ratio (MMR) to two per 1000 live births by 2007 and to 1 by 2012.
8. Increase in forest and tree cover to 25 per cent by 2007 and 33% by 2012.
9. All villages to have access to potable drinking water by 2012.
Cleaning of all polluted rivers by 2007 and other notified stretches by 2012.

3.8 The Industrial Policy:

The concept of the industrial policy covers all the procedures, policies, principles, rules and regulations that controls the industries in India and structures the industrialization. This includes fiscal, monetary, tariff policy and labour policy.

i. The Industrial Policy Resolution 1948:

This was announced by the Government of India on 6th April, 1948, which contemplates a mixed economy, reserving a sphere for the private and public sector with one of its objects as setting up of Planning Commission.1 The main theme of the Industrial Policy, 1948 was laying foundation for the mixed economy in which both the private and the public sectors would march together for the development of the industries. Under this Policy the industries were divided in to four main categories.

1. The production and control of the atomic energy, manufacturing of arms and ammunition, management and ownership of the railway-transportation which were to be under the monopoly of the Central Government.

---

1 At the time of announcing the IPR,1948, Planning Commission was not in existence.
2. The coal, iron, steel, aircraft manufacturing, ship building, manufacturing of telephone, telegraph and wireless apparatus, any new undertakings in these industries be undertaken only by the State.

3. The industries of such nature having such importance as the Central Government may feel to regulate and plan them.

4. All the other remaining industries, other than the above three categories were left open to the individual, private and co-operative enterprises.

To prevent unfair competition, the Second Fiscal Commission was appointed in April 1949, which advocated the policy of developmental protection in the place of hither to existing safeguarding protection.¹

The Industrial Licencing Policy formulated in 1951 makes it clear that big industrial houses started misusing the provisions of the policy through their influence and money power. Hence, the Government appointed Hazari Committee to review the working of industrial licensing under the Industries (Development and Regulation) Act, 1951 and the committee made some sensational disclosures.

ii The Industrial Policy Resolution, 1956:

This second Industrial Policy Resolution was adopted in 1956 replacing the Industrial Policy Resolution, 1948 as some important developments necessitated this fresh statement of Industrial Policy. Under this fresh Resolution, new classification of industries was made with clear-cut grouping of industries under three schedules. The State was to facilitate and encourage the development

¹ The First Fiscal Commission was appointed by the British Govt. in 1921.
of the industries in the private sectors and to generate confidence and efficiency in them and would continue to give financial aid to the industries noticed. Encouragement was also given to the small scale and village industries. The Policy stressed the need for the provision for amenities for the labour. It also recognized that to achieve the industrial peace, the worker should participate, as he is also a partner in the common task of the development of the industry.

iii The Industrial Policy Statement, 1977:

The policy mainly stressed upon the development of the small-scale sectors, the role of the large-scale industry would be only to meet the basic needs of the population and the areas for the large-scale sector were prescribed. For this purpose, the Government set up in each district an agency called the District Industries Centre (DIC) for the development and service to the small scale and cottage industries. The public sector would be charged with the responsibility of encouraging the development of wide range of ancillary industries.

iv The Industrial Policy Statement, 1980:

Under this Policy, which was announced in July, 1980 the Government of India decided to launch a drive to revive the efficiency of the Public Sector. The launching of various antimonopoly legislations like FERA and MRTP Acts were driven by determination to bring in prevention of concentration of economic power at all costs even against the incubatory disaffection of the rich who wanted a different alignment of the structure. The Policy took up the responsibility of reddefining the small units and the promotion of the industries in the rural areas.

and made all efforts to integrate the industrial development and tried to identify the industrially backward to generate as many ancillary industries as possible. The Policy also suggested for the removal of the regional imbalances of industries and amplified the automatic expansion of all industries.

The Policy facilitated that the sick industries which showed adequate potential in the past, be merged with the healthy units which are capable of restoring their vitality and for this purpose the Government made arrangements for liberalization of the Tax concessions under Sec. 72 of the Income Tax Act. The launching of various anti monopoly legislations like FERA and MRTP Acts were driven the determination of bringing prevention of concentration of economic power at all costs even against the incubatory disaffection of the rich who wanted a different alignment of the structure. The Policy also brought sea change in the liberalization of the licensing policy in favour of large businesses specially making them free from the MRTP Act and FERA. Relaxation of the industrial licensing and industrialization of backward areas for which ample relief in Income Tax concessions were made under this Policy.

v The Industrial Policy, 1991:

This new Industrial Policy was announced in July 1991, which took interest in industrial licensing, foreign investment and technology, public sector policy and MRTP Act. The policy designed to remove the restraints of the capacity of the industries. The industrial licensing to be abolished for all projects except for short listed industries related to security and strategic concern. This is a bold step taken by the Government under the Policy.

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1 An attempt at Political Appraisal by K B Indira Gandhi, Economic and Political Weekly Vol XX, No.12, Bombay, 23 March, 1985, pp 499-502
The Policy has adopted a new approach to the public enterprises. Government is to strengthen the public enterprises which fall in the reserved areas of operation or in high priority areas or generating good or reasonable profits. The public enterprises which are sick would be referred to the Board of Industrial and Financial Reconstruction (BIFR) for the formulation of the revival or rehabilitation scheme. This new Industrial Policy was able to attract the foreign investment and gave boost to domestic investment.

vi **Industrial Relations – National commission:**

The Government of India has taken an important step, which was a landmark development in the arena of the legislature of the Industrial Relations by setting up of the First National Commission on Labour in the month of December; 1966. The responsibility to undertake the review of the labour was given to this Commission. The Commission thoroughly investigated the problems of the labour and made strong recommendations.

vii **Economic and industrial growth of India:**

The study of the industrial relations insists the study of the economic and industrial growth of the country as both are inter connected for the proper evaluation of the present analysis.
3.9 Industrial Sickness:

i. Introduction:

Insurance sector, real estate sector, banking sector, social service sectors which are altogether categorized as the tertiary sectors got a marginal growth of 29% in 1950s, 33% in 1970s, 47% in 1999-2000 period. The slow down of the industrial production in India is also an indication that the industrialization in India is not grown strong enough\(^1\) any how it is clear from the above that the industrialization in India has not strengthened up to the mark.

Industrial relations can be healthy and progressive only when the employment opportunities are in higher state, because the position of the unemployment really influences the healthy industrial relations. In India the workers unions are really bothered to secure and protect the rights of the workers and they are of the opinion that the worker or employee seeking job opportunity even though he is already in employment means he is really exposed to the threat of loss of employment by the employer or by the external force if any. Majority of the factories in India are having less than 50 employees which constitutes 72.6% of the total factories. Majority of the factories with more than thousand employees are in the public sector.

Industrial sickness is a major element, which will have a strong effect over the industrial relations. The growing incidence of industrial sickness has been one of the persisting problems faced by the industrial sectors of the country. Substantial amount of loan-fund of the financial institutions is locked-up in sick

\(^1\) Source-Statistical outline of India 2001-2002 p.11
industrial units causing not only wastage of resources but also the healthy growth of the industrial economy.

Industrial units proven to be unable to financially sustain themselves are generally called "sick units" in India. A merely financially troubled company does not automatically become a sick unit: it has to be designated as such by the government. After careful analysis, the factors responsible for the industrial sickness in large and medium scale units are of two types.

A. The exogenous factors:

This relate to factors like Government polices pertaining to production, distribution and prices, change in the investment pattern with new priorities and plans, shortage of power transport conditions, raw materials. These factors will certainly affect the industrial units leading to the sickness of the industry; in such cases, the State must come forward to correct such.

B. The endogenous factors:

This relates to the factors like mismanagement, diversion of funds, wrong dividend policy excessive over heads, lack of provisions for the depreciation of machinery and other equipment, over estimation of the demand.
Table : 3.1

Sick units and locked up Bank credit:

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of Sick SSI Units.</th>
<th>Loans to the Sick Units (Rs.-In crores)</th>
<th>Average Loans Per unit (Rs.-In lakhs)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>1,77,000</td>
<td>4,819</td>
<td>2.72</td>
</tr>
<tr>
<td>2005</td>
<td>1,38,000</td>
<td>5,380</td>
<td>3.90</td>
</tr>
<tr>
<td>2008</td>
<td>85,187</td>
<td>3,083</td>
<td>3.62</td>
</tr>
<tr>
<td>2009</td>
<td>1,03,996</td>
<td>3,620</td>
<td>3.48</td>
</tr>
</tbody>
</table>


In 2001-02 there were 1.77 lakh sick SSI units with locked-up bank credit of the order of Rs.4,819 crores. However the no. of sick units declined in 2005-06 to 1.38 lakhs and though there was a decline in locked up bank credit to Rs.5,380 crores average bank credit locked up in SSI units increased from Rs.2.72 lakhs in 2001-02 to Rs. 3.48 lakhs in 2009.

Two major problems responsible for the sickness of small and tiny sector are lack of availability of adequate credit, especially working capital and problems associated with marketing of products.
Industrial sickness especially in small-scale Industry has been always a demerit for the Indian economy, because more and more industries like – cotton, Jute, Sugar, and Textile small steel and engineering industries are being affected by this sickness problem.

REASONS FOR SICKNESS IN SSI's

Production Related Reasons:

- Faulty Product Mix
- Acklog of Production
- Poor Quality of end product
- Delayed delivery schedule

Financial Reasons:

- Low Profitability
- Low fund generation
- Poor liquidity
- Step Cost structure
- Lack of financial resources
- Lack of credit facility
- Faulty credit utilization
- Low share value

Market Reasons:

- Poor marketing strategy
- Imbalance between production & marketing
- Wild market shifts
- Lack of awareness of consumer's preferences
- Lack of specific market segmentation
- Poor distribution network
- Poor market performance
It has been observed that the funds of the company are diverted to some other concern owned by the business house, taking advantage of the legal loopholes. In many situations, it has been found that the management not interested to run a particular unit and waiting to close it down declares it sick in the hope that it will get compensation for the land and buildings and equipments at the market prices and with that compensation, it can set up new units. To check these malpractices the report of the working group of central trade unions (1978) suggested that it is therefore necessary that whenever a company is take over, all other concerns belonging to the same family should also be taken over or recover the amount, so diverted or misappropriated, by the management from their other companies or the personal assets of the members of the board of directors.

In some other cases relating to the small scale units becoming sick, the various studies revealed that the main factor is lack of management expertise. The inexperienced young entrepreneurs with their romantic ideas without caring the economic measures and their non-observance of the basic principles of the business management leads to the sickness of the industry. Lack of working capital, lack of demand and non-availability of the raw materials leads to sickness. In case of small-scale industries, the State Government is also issuing approvals without proper screening.

In this regard, the Government made a policy statement on industrial sickness on 15th May 1978 that the Government should make suitable arrangements for monitoring and detecting industrial sickness at an early stage for that the Government should set up a screening committee to make recommendations relating to sickness whether to take over or to merge. The Government has been observing the element of dishonesty of the management also by constant vigil.
The Sick Industrial Companies (Special Provisions) Act, 1985 came into being which covers Private industries at that time. The Act was amended in the year 1991 (The Sick Industrial Companies (Special Provisions) Act, 1991) which included the Public sectors also under its purview. The Act has been amended from time to time, in the year 1993, and 1994 for the better appraisal and revival of the sick industries in the country. The Act was enacted with a view to securing the timely detection of sick and potential sick companies owning industrial undertakings, the speedy determination, by a body of experts, of the preventive, ameliorative, remedial and other nature which need to be taken with respect to such companies and the expeditious enforcement of the measures so determined and for matters connected there with and incidental there to. The object of the Act is to determine sickness and expedite the revival of potentially viable sick industrial company units or closure of unviable sick industrial company units.

It was understood and expected that by the process of revival, the idle investments in sick units will become productive and by closure, the locked up investments in unviable units would get released for productive use elsewhere.

The Board for Industrial and Financial Reconstruction (BIFR) is assigned with the responsibility of hearing cases that apply for being declared sick and deciding whether or not the unit deserves to be termed as "sick. Industrial sickness grew rapidly in the year, 1980 by the end of that year the total sick industries were 24,540. By the end of the month March, 1990 they grew up to 2,21,097. As of March 1995, according to a report in Business Line newspaper, there were more than 271,000 sick industrial units in India with outstanding bank credit of Rs. 13,739 crores (1 crore = 10 million). Of these, 99 per cent companies belonged to the small-scale industry.
These sick companies accounted for 6.7 per cent of the total bank credit and 13.3 per cent of the total bank advances to industry. However, the ratios were significantly lower than in the preceding two years, it adds.

By the end of the Month March 1999 it alarmingly increased up to 3,09,013. However, in the month of March, 2001 it came down to 2, 52, 947. Under the Company’s second amendment Act, 2002 constituted National Company Law Tribunals, which will handle the work of the BIFR and other agencies. This new law has redefined the term “sickness” and not only that it has set up a revival and rehabilitation fund for the rescue of the sick units.

3.10 Industrial labour:

i. Special Features of Industrial labour in India:

In India, in the year 1900 the number of workers in our factories was only 15 lakhs. Between 1950 and 1993, the estimated average daily employment in working factories has increased from 3 millions to 9.1 millions.
Table 3.2

<table>
<thead>
<tr>
<th>Year</th>
<th>Primary Sector</th>
<th>Secondary Sector</th>
<th>Tertiary Sector</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1950-51</td>
<td>83,154</td>
<td>18,670</td>
<td>38,642</td>
<td>1,40,466</td>
</tr>
<tr>
<td></td>
<td>(59.2)</td>
<td>(13.3)</td>
<td>(27.5)</td>
<td>(100.0)</td>
</tr>
<tr>
<td>1960-61</td>
<td>1,12,848</td>
<td>34,239</td>
<td>59,016</td>
<td>2,06,103</td>
</tr>
<tr>
<td></td>
<td>(54.8)</td>
<td>(16.6)</td>
<td>(28.6)</td>
<td>(100.0)</td>
</tr>
<tr>
<td>1970-71</td>
<td>1,37,320</td>
<td>64,258</td>
<td>95,331</td>
<td>2,96,909</td>
</tr>
<tr>
<td></td>
<td>(46.3)</td>
<td>(21.6)</td>
<td>(32.1)</td>
<td>(100.0)</td>
</tr>
<tr>
<td>1980-81</td>
<td>1,59,293</td>
<td>95,055</td>
<td>1,46,753</td>
<td>4,01,128</td>
</tr>
<tr>
<td></td>
<td>(39.2)</td>
<td>(23.7)</td>
<td>(36.6)</td>
<td>(100.0)</td>
</tr>
<tr>
<td>1990-91</td>
<td>2,23,114</td>
<td>1,88,601</td>
<td>2,81,115</td>
<td>6,92,871</td>
</tr>
<tr>
<td></td>
<td>(32.2)</td>
<td>(27.2)</td>
<td>(40.6)</td>
<td>(100.0)</td>
</tr>
<tr>
<td>2001-02</td>
<td>3,04,666</td>
<td>3,38,165</td>
<td>6,25,114</td>
<td>12,67,945</td>
</tr>
<tr>
<td></td>
<td>(24.0)</td>
<td>(26.7)</td>
<td>(49.3)</td>
<td>(100)</td>
</tr>
<tr>
<td>2010-11**</td>
<td>8,22,415</td>
<td>12,84,941</td>
<td>28,29,650</td>
<td>49,37,096</td>
</tr>
<tr>
<td></td>
<td>(16.7)</td>
<td>(26.0)</td>
<td>(57.3)</td>
<td>(100.0)</td>
</tr>
<tr>
<td>2011-12**</td>
<td>8,47,744</td>
<td>13,34,249</td>
<td>30,61,589</td>
<td>52,43,582</td>
</tr>
<tr>
<td></td>
<td>(16.2)</td>
<td>(25.4)</td>
<td>(58.4)</td>
<td>(100.0)</td>
</tr>
<tr>
<td>2012-13**</td>
<td>8,61,229</td>
<td>13,64,443</td>
<td>32,79,063</td>
<td>55,05,437</td>
</tr>
<tr>
<td></td>
<td>(15.6)</td>
<td>(24.8)</td>
<td>(59.6)</td>
<td>(100.0)</td>
</tr>
</tbody>
</table>


The above data reveal that GDP from the primary sector (viz, agriculture and allied entities like forestry and fishing) declined from 59 per cent from 1950-51 to 46 percent in 1970-71 and there after sharply declined to 15.6 percent in 2012-13. This was partially neutralized by an increase in the share of the secondary sector from 13 percent in 1950-51 to about 22 percent in 1970-71 and further increased to about 24.8 percent in 2012-13. But the biggest hike in GDP share occurred in case of services from about 27 percent in 1950-51 to 32 percent in 1970-71 to 59.6 percent in 2012-13.

A **Village base of the Indian workers:**

This can be identified as the following, which have affect on the trade union organization. Most industrial workers have their roots in villages and a large number of them left their villages and migrate to the cities in search of permanent or temporary employment. Most of them still have their attachment with the land and whenever the occasion comes, they revert to their villages for petty reasons and at the time of fieldwork.

B **Uneducated Industrial workers:**

The industrial labour is mostly uneducated due to this reason they cannot understand the actual problems of the industry and the persistent problems which their industries confront and the real problems, which they face in the field. They do not know how to comply with many legal requirements such as submission of returns to the authorities specified and concerned mentioned under the Act. This is one of the factors which the trade unions would be weakened and thereby affecting the industrial relations.

The Registered Trade Unions are required under Section 28 (1) to submit annual returns in the prescribed form to the Registrar along with an audited
statement of income and expenditure during each year of all receipts and expenditure during the year ending on 31\textsuperscript{st} day of December, next preceding such prescribed date.

Table showing the no. of Trade unions (workers & employers) registered and the membership of unions submitting returns for the years-

**Table 3.3**

<table>
<thead>
<tr>
<th>Year</th>
<th>No.of Regd. Trade unions.</th>
<th>No.Unions submitting returns.</th>
<th>Membership of unions submitting returns</th>
<th>Average membership per union for submitting returns</th>
</tr>
</thead>
<tbody>
<tr>
<td>1995</td>
<td>57952</td>
<td>8162</td>
<td>6538</td>
<td>801</td>
</tr>
<tr>
<td>1996</td>
<td>58988</td>
<td>7242</td>
<td>5601</td>
<td>773</td>
</tr>
<tr>
<td>1997</td>
<td>60660</td>
<td>8872</td>
<td>7409</td>
<td>835</td>
</tr>
<tr>
<td>1998</td>
<td>61992</td>
<td>7403</td>
<td>7249</td>
<td>979</td>
</tr>
<tr>
<td>1999</td>
<td>64817</td>
<td>8152</td>
<td>6407</td>
<td>786</td>
</tr>
<tr>
<td>2000</td>
<td>66056</td>
<td>7253</td>
<td>5420</td>
<td>747</td>
</tr>
<tr>
<td>2001</td>
<td>66624</td>
<td>6531</td>
<td>5873</td>
<td>900</td>
</tr>
<tr>
<td>2002</td>
<td>68544</td>
<td>7812</td>
<td>6973</td>
<td>893</td>
</tr>
<tr>
<td>2003</td>
<td>74649</td>
<td>7258</td>
<td>6277</td>
<td>865</td>
</tr>
<tr>
<td>2004</td>
<td>74403</td>
<td>5242</td>
<td>3397</td>
<td>648</td>
</tr>
<tr>
<td>2005</td>
<td>78465</td>
<td>8317</td>
<td>8722</td>
<td>1049</td>
</tr>
<tr>
<td>2006</td>
<td>79494</td>
<td>9037</td>
<td>8932</td>
<td>988</td>
</tr>
</tbody>
</table>

C. No unification:

In India, the industrial labour is not united but divided and sub-divided on many issues. For example on the basis of religion they divide themselves, on the basis of region they divide themselves, on the basis of their language they divide themselves, on the basis of caste they divide themselves. Particularly speaking only in the very recent period they are slowly tending their attitude to escape from at least some of such differences there is a slow progress in their change of their mind set towards the unification for the proper development of the economic considerations and their well-being.

D. Easy migratory nature:

Unfortunately, the Indian workers do not remain in the same job for considerable amount of time. They use to migrate for many reasons due to that the industry suffers; there would be a high rate of absenteeism and indiscipline in the industry. This may due to the reason because they are from the rural background where they are totally want to be free and love of leisure, lack of education and discipline. All the above factors will have a great impact on the trade union and makes it weak.
3.11 Impact of the International Labour Organization:

India’s admission to ILO was in the nature of a reward for the help she gave, in the first world war to the Allies.\(^1\) India is a member of the ILO since its inception and it gave great fillip to labour legislation in India. India has adopted many of the conventions and recommendations on international standards for improvement in labour conditions, under Article 3 of the constitution of the ILO. India has been nominating non-government delegates and advisors to the ILC every year. One of the main functions of the ILC; the legislative wing of the ILO is to formulate international labour standards. The ILC provides a forum for discussion and deliberation of international labour problems and then formulate the standard in the form of conventions and recommendations. A Convention is binding on the member-state, which ratifies it. Recommendation is intended as a guideline for national action.\(^2\)

The ILO adopted a series of conventions an recommendations covering hours of work employment of women, children and young persons, weekly rest, holiday, leave with wages, night work, industrial safety, health and hygiene, social security, labour management relation, freedom of association, wages and wage fixation productivity. One of the fundamental obligations, imposed on governments by the constitution of ILO is that they submit the instrument before the competent national or state authorities, written maximum period of 18 months of their adoption by the conference for such action as might be considered practicable. Elimination of the discrimination in respect of employment and

\(^1\) India and the ILO by Puri M. M (1958) p 30.
\(^2\) Govt. of India Report of the First National Commission on Labour (1968), 473.
occupation was one of the subjects of the Fundamental Principles and Rights at Work adopted by the International Labour Conference in June 1998.¹

India has been one of the founder members of the ILO and has been taking advice part in its deliberations. The ILO has so far adopted 173 conventions and 180 recommendations. India has ratified 36 conventions. The ILO standards have a decisive have been incorporated in the labour legislation. The ILO standards have a decisive impact on the factory mines, social security and wage legislation in India. The AITUC owes its immediate origin to it. Indian commitment to the ILO is reflected in its adherence to the institution of tripartism as a novel method of researching labour management conflicts.

The ILO standards have influenced Indian labour legislation especially after 1947 when the Indian national government assumed office at the centre. The objectives ILO are enumerated in the preamble to its constitution and the Declaration Philadelphia (1944) supplemented by Article 427 of the Peace Treaty of Versailles (1919). The Preamble affirms (1) where as universal and lasting peace can be established only if its is based upon social justice (ii) and where as conditions of labour exist involving such Injustice, hardship and privation of large numbers of people as to produce unrest so great, that the peace and harmony of the works is imperiled. (iii) Where as also the failure of any nation to adopt however the condition of labour is an obstacle in the way of other nations, which desire to improve the conditions in their own countries. ILO has been attempting to promote worldwide respect for the freedom and dignity of the working men and to create conditions in which that freedom and dignity can be more fully and effectively enjoyed.

A conference was convened at Philadelphia in April 1914 during the World War period. At this Conference during the discussion, the aims of ILO were redefined. This was termed as the Declaration of Philadelphia and the same was incorporated in the constitution of ILO namely.

1. Labour is not a commodity.

2. Freedom of expression and of association is essential to substantial progress.

3. Poverty anywhere constitutes danger to prosperity anywhere.

4. The war against want requires to be carried on with unrelenting vigor within each nation and by continuous and concerted international effort in which the representatives of worker and employees enjoying equal status with those of governments form with them in free discussion and democratic decision with a view to the promotion of the common welfare.

The ILO standards have influenced the Indian Labour Legislations. The ILO convention has formed the sheet anchor of Indian labour legislation especially after 1947 when the Indian national government assumed office at the centre. A Convention is binding on the Member-State, which ratifies it; a Recommendation is intended as a guideline for National action.¹

The Directive Principles of State Policy in articles 34, 41, 42 and 43 of the Indian constitution lay down policy objectives having close resemblance and influence to the ILO constitution and the Philadelphia Charter of 1944. The Review of Labour Law by the Second National Commission on Labour was

¹ Govt. of India Report of the First National Commission on Labour, (1968), 473
asked to take into account the emerging economic environment involving rapid technological changes, requiring response in terms of change in methods, timing and conditions of work, in industry, trade and services, globalization of economy, besides desirability to bring the existing laws in tune with further labour market needs and demands.¹

### 3.12 The Indian Constitutional provision in relation to labour administration:

The labour administration in the country acquired a new orientation with the adoption of the Indian Constitution in 1950. The Indian Constitution imposes an express limitations on the labour legislations. It should not be inconsistent with the fundamental rights, if so, to such an extent is void. Such rights are enforceable and cannot be denied in case of violation of fundamental rights.²

Under the Constitution of India, Labour is a subject in the Concurrent List where both the Central and the State Governments are competent to enact the legislation subject to certain matters being reserved for the Centre.

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¹ Hindustan Times, January 12, 1999, New Delhi.
² State of Bombay V. United Motors (1953) SCJ 373.
The Status according to the Constitution of India is –

Table no.3.4:

<table>
<thead>
<tr>
<th>Union List</th>
<th>Concurrent List</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Entry No. 55:</strong> Regulation of labour and safety in mines and oil fields</td>
<td><strong>Entry No. 22:</strong> Trade Unions; industrial and labour disputes.</td>
</tr>
<tr>
<td><strong>Entry No. 61:</strong> Industrial disputes concerning Union employees</td>
<td><strong>Entry No. 23:</strong> Social Security and insurance, employment and unemployment.</td>
</tr>
<tr>
<td><strong>Entry No. 65:</strong> Union agencies and institutions for &quot;Vocational ...training...&quot;</td>
<td><strong>Entry No. 24:</strong> Welfare of about including conditions of work, provident funds, employers’ invalidity and old age pension and maternity benefit.</td>
</tr>
</tbody>
</table>

Matters relating to Social Security are Directive Principles of State Policy and the subjects in the Concurrent List. The following social security issues are mentioned in the Concurrent List (List III in the Seventh Schedule of the Constitution of India) –
Item No. 23:

Social Security and insurance, employment and unemployment.

Item No. 24:

Welfare of Labour including conditions of work, provident funds, employers’ liability, workmen’s compensation, invalidity and old age pension and maternity benefits

Part III Fundamental Rights

Article 16

Equality of opportunity in matters of public employment.-

(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.
(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.
(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory] prior to such employment or appointment.
(4A) Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.

(4B) Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent reservation on total number of vacancies of that year.

(5) Nothing in this article shall affect the operation of any law, which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

Article 24.

Prohibition of employment of children in factories, etc. —
No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.
Part IV Directive Principles of State Policy

Article 41;

Right to work, to education and to public assistance in certain cases

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

Article 42

Provision for just and humane conditions of work and maternity relief

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

Article 43.

Living wage, etc., for workers.—

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

**Participation of workers in management of industries.**—
The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry.

The Indian Constitution enshrines the concept of *social justice* as one of the objectives of the State. The concept of the social justice has become an integral part of the industrial law. It is founded on the basic idea of socio-economic equality and its aim is to assist the removal of socio-economic disparities and inequalities. The constitution of India has also affirmed social and economic justice to all its citizens. Article 38 of the Indian Constitution provides that the State shall strive to promote the welfare of the people by securing a protecting as effectively as it may, social order in which justice, social, economic and political, shall inform all the institutions of the national life. Article 39 ordains that it shall be the duty of the State to apply certain principles of social justice in making laws. Article 246 and schedule 7 of the constitution contain provisions relating to distribution of legislative powers between the central and the state government. For legislative purpose, the subjects have been kept under three lists namely 1. the Union List 2. The concurrent list 3. The State list. Only the parliament can enact laws on matters included in the concurrent list subjects specified under state list come under the jurisdiction of state legislature. Of particular relevance under Article 14, “the State shall not deny to any person equality before the law or equal protection of laws within the territory of the India.”

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1 State of West Bengal V. Sobodh Gopal AIR 1964 SC 587.
The labour matters in the three lists are as follows.

1. **Union list**: Participation in international conferences, associations and other bodies implementing their decisions, regulation of labour and safety in lines and oil fields, industrial disputes concerning union employees, union pension, inter-state migrations and labour in major ports railways, posts telegraph and telephones and air, transport and union agencies and institutions for 1.professional, vocational or technical training and 2.promotion of special studies and research.

2. **Concurrent list**: Trade Unions, industrial and labour disputes, social security and social insurance, employment and unemployment, welfare of labour including conditions of work, provident fund, employers liability, workmen’s compensation, invalidity and old age pension and maternity benefits, vocational and technical training of labour, labour in factories, boilers and electricity, inquiries and statistics and economic and social planning.

3. **State list**: State pension and relief of the disabled and unemployables.

Under Articles 256 and 257, the Central Government is empowered to give directions to the state government in respect of laws enacted by the parliament.

Under Articles 258, the Central government can delegate powers to the state government and impose duties on them; the central government can also transfer to the state governments the power to legislate on matters in the concurrent list. A few clauses of fundamental rights and directive principles of State policy also influenced subsequent course of labour administration. The relevant fundamental rights are freedom of association (Art. 19) and right against
exploitation which prohibits forced labour, employment of children under 14 years of age in factories, mines and other hazardous employments, and traffic in human beings (Art. 23), the directive principles of state policy enjoin upon the state to direct its policy in such a manner as to secure to all men and women right to an adequate means of livelihood, equal pay for equal work, and within the limits of its economic capacity and development to make effective provision for securing the right to work, education and public assistance in the event of unemployment, old age, sickness and disablement or other cases of undeserved want. The state is also directed to make endeavor to secure to workers a living wage, humane conditions of work, a decent standard of life and involvement of workers in management of industries. The policy of the state is also standard of life and involvement of workers in management of industries.

The policy is also standard of life and Involvement of workers in management of industries. The policy of the state is also to be directed towards securing that the health and strength of workers, men and women and the tender age of children are not abused and that citizen are not forced by economic necessity to enter avocations unsuited to their age or strength. The state is further required to ensure that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment. On the other hand Pith and substance and incidental encroachment are the doctrines evolved by the courts to ensure that the federal machinery could function without serious friction.¹

¹ APSWL Co-operative Society Ltd. V. Labour Court, 1987 Lab, LC 642 at 649 (SC)
Under the Constitution of India, Labour is a subject in the concurrent list where both the Central and State Governments are competent to enact legislations. As a result, a large number of labour laws have been enacted catering to different aspects of labour namely, occupational health, safety, employment, training of apprentices, fixation, review and revision of minimum wages, mode of payment of wages, payment of compensation to workmen who suffer injuries as a result of accidents or causing death or disablement, bonded labour, contract labour, women labour and child labour, resolution and adjudication of industrial disputes, provision of social security such as provident fund, employees’ state insurance, gratuity, provision for payment of bonus, regulating the working conditions of certain specific categories of workmen such as plantation labour, beedi workers etc. This is how we have almost 44 labour legislations, which are categorized as follows:

A. **Labour laws enacted and enforced by Central Government:**

1. The Employees’ State Insurance Act, 1948
2. The Employees’ Provident Fund and Miscellaneous Provisions Act, 1952
3. The Dock Workers (Safety, Health and Welfare) Act, 1986
4. The Mines Act, 1952
8. The Beedi Workers Welfare Cess Act, 1976

(B) Labour laws enacted by Central and enforced by both the Central as well as the State Governments

17. The Industrial Disputes Act, 1947.
19. The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.

20. The Labour Laws (Exemption from Furnishing Returns and Maintaining Registers by Certain Establishments) Act, 1988
21. The Maternity Benefit Act, 1961
22. The Minimum Wages Act, 1948
23. The Payment of Bonus Act, 1965
24. The Payment of Gratuity Act, 1972
25. The Payment of Wages Act, 1936
27. The Building and Other Construction Workers Cess Act, 1996
28. The Apprentices Act, 1961

(C) **Labour laws enacted by Central Government and enforced by the State Governments**

29. The Employers’ Liability Act, 1938
30. The Factories Act, 1948
31. The Motor Transport Workers Act, 1961
32. The Personal Injuries (Compensation Insurance) Act, 1963
34. The Plantation Labour Act, 1951
35. The Sales Promotion Employees (Condition of Service) Act, 1976
36. The Trade Unions Act, 1926
37. The Weekly Holidays Act, 1942
38. The Working Journalists and Other Newspapers Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955
39. The Workmen’s Compensation Act, 1923
40. The Employment Exchange (Compulsory Notification of Vacancies) Act, 1959
41. The Children (Pledging of Labour) Act 1938
42. The Bonded Labour System (Abolition) Act, 1976
43. The Beedi and Cigar Workers (Condition of Employment) Act, 1966
44. The Unorganized Workers’ Social Security Act, 2008
(d) There are also labour laws enacted and enforced by the various State Governments which apply to respective States

The directive principles of state policy are not justiciable but are fundamental in the governance of the country, it is the duty of the State to apply these principles while making laws, and fundamental rights are justiciable. Thus, the role of the State manifested through three main modes.
1. Policy formulation
2. Legislation
3. Administration

A fourth role is political intervention, which does not operate independently, but is woven into the other roles. Policy formulation leads to legislation. However, legislation itself is enforced through administrative system. The most regular and frequent expression of the administrative role is through the State labour machinery and the labour directorates. The Indian labour legislation could be favorably compared with that of most industrialized countries. However, one of the drawbacks has the laxity and discrimination in enforcement of labour legislation.

A simple example is the matter of provident fund. While the law for compulsory employer contribution to retirement was enacted in 1948, the Government hands rests lightly on employers who defaults for years and years on payments to the workers under the Act. Another example is the contract Labour Act. Even though it was passed in 1970 to prevent exploitation of contract workers, but the government itself is the biggest employer of contract workers in perennial jobs and it cannot thus prevent private employers from taking advantage of the labour market, which is adverse for labour in India.

The brighter side of the State intervention in the industrial scene is the starting of public sector enterprises and they assumed the role of model employer after independence, clearly understanding the imperatives of nascent India. Even
this is slowly after privatization move have been watered down and has brought fresh controversies.

3.13 Summary:

Labour is one of the basic resources of any industry and has an important bearing on the performance and goals of the organisation. In India we have a plethora of Laws which deals with issues concerning Labour administration, labour welfare, regulation of industrial relations between the management and the workers.

Industrialisation poses a challenge for an entrepreneur in the form of management of the resources. The management and effective and efficient deployment of the resources of the organisation is the factor which decides the profitability and viability of any organisation.

The Indian Trade Unions Act, 1926, recognizes the right of workers to organize into trade unions, and when registered, they have certain rights and obligations and function as autonomous bodies. The Employees’ State Insurance Act, 1948, provides for sickness benefit, maternity benefit, disablement benefit and medical benefit. The Employees’ Provident Fund Act, 1952, seeks to make a provision for the future of industrial worker after he retires or in case, he is retrenched, or for his dependents in case of his early death. The Workmen’s Compensation Act, 1923, provides for compensation to injured workmen of
certain categories and in the case of fatal accidents to their dependants if the accidents arose out of and in the course of their employment.

It also provides for payment of compensation in the case of certain occupational diseases. The Indian Factories Act of 1948 provides for the health, safety and welfare of the workers. The Shops and Commercial Establishment Act regulates the conditions of work and terms of employment of workers engaged in shops, commercial establishments, theatres, restaurants, etc. The Maternity Benefit Act provides for the grant of cash benefits to women workers for specified periods before and after confinements. The Employment of Children Act, 1938, prohibits the employment of young children below the age of 15 years in certain risky and unhealthy occupations. The payment of wages Act, 1936, regulates the timely payment of wages without any unauthorized deductions by the employers.

The Minimum Wages Act, 1948, ensures the fixation and revision of minimum rates of wages in respect of certain scheduled industries involving hard labour. The Industrial Disputes Act, 1947, provides for the investigation, and settlement of industrial disputes by mediation, conciliation, adjudication and arbitration, there is scope for payment of compensation in cases of lay-off and retrenchment. The Industrial Employment (Standing Orders) Act, 1946, requires employers in Industrial establishments to define precisely the conditions of employment under them and make them known to their workmen. These rules, once certified, are binding on the parties for a minimum period of six months.
The industrial policy measures from 1948 to 1991 reveals the following findings. The IPR of 1948 was the first concerted attempt to enunciate a comprehensive industrial policy for the country and it served as the king pin of the country's industrial development planning, indicating the government's attitude and approach and laid the foundation for a mixed economy. There was demarcation of definite spheres for government sector, government reserved sector, government regulated private sector and private sector. Its aim was to bring about a rapid industrial development on an implied model of socialistic patterned mixed economy. The IPR of 1956 was governed on the one hand by the objective of the socialistic pattern of society and on the other, by the Directive Principles of State Policy.

The IPR of 1956 was governed on the one hand by the objective of the socialistic pattern of society and on the other, by the Directive Principles of State Policy.

The IPR of 1977 elaborated the controversial concept of joint sector and thrust was laid on small scale and village The IPR of 1980, while sticking to the spirit of the IPR of 1956, set in motion the slow entry of industrial liberalization with the triple object of modernization, expansion and balance development. The IPR of 1991 initiated the process of reforms and transformed the fabric of Indian industry extensively and has promoted new directions and dimensions for its development.

To understand paradigm shifts, it can logically be compared between Pre-reform Industrial Policies and Post-reform Industrial

Pre-reform Industrial Policy:
In India the labour laws are so numerous, complex and ambiguous that they promote litigation rather than the resolution of problems relating to industrial
relations. The labour movement has contributed a lot for the enactment of laws protecting labour rights in the 19th and 20th centuries Policies.


They were based on the belief that market mechanisms could not bring about judicious allocation of resources to meet the objective of growth with social justice and a much greater role was assigned to the State. Industries were constantly categorized and recategorized to balance the equilibrium of mixed economy. Nationalization measures were undertaken to see that means of production are not concentrated in a few private individuals. Legal controls in the form of Monopolistic Restrictive Trade Practices Act, FERA, Indian Companies Act. Capital Issue control was simultaneously implemented.

A plethora of labour legislations were enacted to ensure socialist democracy, industrial peace, labour justice and industrial socialism which are all mutually related to one another. In inviting foreign collaboration and foreign capital, 'Indianization of foreign concerns' reigned as first priority. Public sector was thought as an engine for self-reliant economic growth to develop a sound industrial base. The mixed economy was followed with public sector bias. The role of the State was very much felt necessary in regulating the economy and planning on socialistic pattern—a controlled planned regime. The sick units were given rehabilitation and reorientation measures Industrial licensing system operated through Industrial Development Regulation Act to control concentration of economic power and to channelize private sector industrial activities.
Ideologically desirable, theoretically sound and practically feasible but failed due to implementation faults.

Post-reform Industrial Policy:

The post-reform Industrial Policy covers the New Industrial Policy Resolution of 1991 and aftermath. New Industrial Policy 1991 is backed by economic necessity and compelling international pressures of globalization. It stood for denationalization, de-regulation, withdrawal of governmental control over domestic industry, withdrawal of subsidies for Indian industries, lot of incentives for foreign investments, increased role of private sector, shrinking of role of the State and contractualization of labour. The concept of regulation is replaced with the concept of competition. The concept of planned economy is replaced with the concept of market economy.

Thus Labour Laws harmonize many angles of the relationship between trade unions, employers and employees The final goal of labour law is to bring both the employer and the employee on the same level, thereby mitigating the differences between the two ever-warring groups. It is always desirable to have an overall view of the legal and judicial response relating to Industrial Policy Resolutions and measures. The labour welfare work, thus, covers a wide range of activities and in its present form is widely recognized and is regarded as an integral part of the industrial system and management.