CHAPTER-3
COLLECTIVE BARGAINING IN INDIA AND GOVERNMENT ROLE

The method of negotiation to settle personal and group conflicts, differences and disputes is as old as human society. The process of mediation, arbitration and direct negotiation in some form or other to settle individual and community disputes did exist in ancient times, but the history of collective bargaining is as old as the history of industrialisation in India which started during the middle of the 19th century. Indigo plantations were the first to herald industrialization in 1831, followed by a cotton mill in Bombay in 1853 and a jute Mill in 1855 in Calcutta. And the first indication of industrial unrest came to the fore in 1877 on the initiative of the weavers of the Empress Mills, Nagpur. But the workers' unrests during this period were suppressed with an iron hand as there was unequal strength between the employers and the workers under the 'Laissez Faire' policy of the British Raj. But the passing of the Factories Act in 1881 awakened the working class and in 1884. A memorandum by about 5000 workers was presented to the Bombay Factory Labour Commission under the leadership of Sh. N.M. Lokhande. In 1890 the first labour association viz Bombay Millhands Association was established. In 1905 Printers' Union and in 1907 Postal Union were formed. But after the completion of Tata Iron & Steel Works in 1911 and extension of rail lines throughout the country, industrial development got a fillip and the trade unions slowly but steadily felt conscious of their bargaining power, and the first trade union known as the All India Trade Union Congress (AITUC) came into being in the year
1920. Before the formation of All India Trade Union Congress, there had been intermittent, irregular collective protests by the workers, but all were temporary in nature.

"There was only sporadic and irregular concerted action among Indian labourers, even on the scale of individual shop. When occasionally there was a united action, it was rather that of a mill mob aroused over a particular, temporary, purely local and after personal grievance, not that of business like trade union". ¹

It was the struggle for the national independence during the beginning of the 20th century which gave initial directions and character to the Indian labour movement. In the words of G.D.H. Cole,

"In each country, trade unionism is shaped not only by the form and stage of economic development, but also by political conditions and general structure of the society in which it has to work." ²

The efforts of the Congress to consolidate and sustain the participation of all sections of society in the freedom movement linked the trade union movement with political parties and ideologies. The linkage and affiliation on political lines still continues and is the bane of weak, fragmented unions and inter-union rivalries.

¹ Buchman, The Development of capitalist Enterprise in India, Mcconillan, Newyork, 1934, P 416.
But the formation of the Ahmedabad Textile Labour Association proved to be a pioneer in the development of collective bargaining in India. The textile industry in Ahmedabad has the longest history of settlement of disputes by mutual negotiation and voluntary arbitration. Mahatma Gandhi provided the mature and dynamic leadership in promoting negotiation and voluntary arbitration in the textile industry in Ahmedabad and showed light to other employers, union leaders and workers to resolve their differences on the negotiation table. He used to say,

"Quarrels must be made impossible by making arbitration popular and obligatory. If we cannot, after the manner of the civilised man, resort to arbitration, we shall perish. The strongest combination of employers must accept the principle of arbitration, if capital and labour are ever to live in peace." 3

He was in favour of resolving conflicts through mutual discussion and negotiation directly between the parties. But he favoured voluntary arbitration only if direct negotiation failed between the parties.

In the year 1918, he led a workers' struggle in the textile industry which resulted in a wide spread strike in the industry. Mahatma Gandhi went on a fast for a public cause which had an electric effect on the mill owners and the workers, who accepted the arbitration proposed by Gandhiji. The workers' demands were accepted in the arbitration award.

3 Indian worker, Gandhi Jayanti Number 1967 P 29 quotes from Gandhi speeches.
The collective bargaining developed in the textile industry at Ahmedabad at two levels: (a) between the Mill Owners Association and the Textile Labour Association, and (b) between individual mills and the Textile Labour Association. The experience of the Ahmedabad textile industry worked well until 1939 and succeeded in preventing local strikes to a great extent. Ahmedabad enjoyed much peaceful industrial relations than any other large industrial centre in the country. But the Bombay Industrial Disputes Act of 1938, which created a permanent industrial court for the purpose of voluntary arbitration to which disputes could be referred by parties, developed some cracks in the working of voluntary arbitration and collective bargaining in Ahmedabad.

Motivated by the Ahmedabad experience, Mahatma Gandhi helped to form the Jamshedpur Labour Association on the model of the Ahmedabad Labour Association. Helped by prominent leaders, Tata Iron & Steel workers achieved their demands through collective bargaining. This company is now the pioneer in formulating the most progressive and enlightened of collective bargaining and industrial relations policies. Another example of early collective bargaining was in the coir industry of Travancore (Kerala) in 1938, when the workers’ union won a special wage increase from the employers. The Travancore Coir Factory Worker’s Union and the employer’s association set up a joint body known as the industrial Relations Committee in 1943. The union worked very satisfactorily until 1947 when inter-union rivalry created problems for it. The labour investigative
committee reporting on the working of this system in the coir industry noted that ever since the inauguration of this committee, the relations between the union and the employers had improved as there were opportunities for a closer and more direct contact.

Another important agreement was signed between the Mariners' union and the management of Joint Steamer Company of Calcutta in 1946. The joint board system of discussion and negotiation between the union and the companies was the first of its kind in India. Another agreement was signed in Dunlop Rubber Company (West Bengal) in 1946 between the union and the management.

**GOVERNMENT ROLE BEFORE INDEPENDENCE**

The British policy was of non-interference in the field of industrial relations and before 1926 only the 'Employers & Workers (Disputes) Act 1860 was in existence for speedy disposal of wage claims of workers engaged in the constriction of railways, canals and other public works. But the arrival of Mahatma Gandhi as a dynamic national and labour leader on the national scene, formation of ILO in 1919 and AITUC in 1920, formation of Labour Party in Great Britain, setting up of Bengal and Bombay committees in 1921, and progressively the increase in the labour activities and strikes in almost all industries viz, the textile industry in Bombay, Ahmedabad, Sholapur and Boach, TISCO in Jamshedpur, in Calcutta & Madras, forced the Government to enact the 'Trade Union Act in 1926 and the Trade Disputes Act...
in 1929. The former act gave tremendous encouragement to the trade union movement as it provided for the registration of trade unions; and the latter act provided a machinery for the prevention and settlement of industrial disputes, like Court of Enquiry, Board of Conciliation and labour officers. But both these acts did not contain any provision for the promotion of collective bargaining like recognition of the union as a bargaining agent, prohibition of unfair labour practices, and the binding force of conciliation and arbitration decisions which are the minimum necessary conditions for the growth of collective bargaining.

In 1929, the Royal Commission was appointed to go into the various problems of the labour class, and as a result of its recommendations the Act of 1929, whose life was only 5 years, was placed on the statute book. In 1934 the Bombay Trade Disputes Act was passed which for the first time provided for the appointments of labour officers and conciliation officers for the redressal of workers' grievances. The successful experience of this Act led to the passing of the Bombay Industrial Disputes Act in 1938 which was a pioneer in many respect. It made provisions for the appointment of Board of Conciliation, labour court and court of industrial arbitration for the settlement of industrial disputes. It made obligatory on the disputant parties to exhaust fully the machinery of conciliation and voluntary arbitration before resorting to a strike or a lockout. The act also had provisions for the recognition of unions as a bargaining agent for collective bargaining. The Act also provided for the registration
of trade unions which fulfilled the requirement of having the membership of minimum 25 percent of workers in the industry, in plant or company. Under this Act the official machinery of the government was not to intervene in the industrial disputes where the employers and the unions had themselves agreed to refer the same to arbitration.

To meet the demands and exigencies of World War II the Government promulgated the Defence of India Rules in 1942 to effectively intervene to prevent strikes or lockouts. It also compelled the employers and the workers to refer their disputes to conciliation and arbitration and accept the decisions. Consequently the machinery provided under the Trade Disputes Act, 1929, became inoperative. In 1946, the Bombay Industrial Disputes Act, (1938) was replaced by another comprehensive legislation but the basic structure of rule 81-A of D.I.R. Continued. The legislative framework during pre-Independence days did not provide fertile provisions for collective bargaining. The main aim of various enactments was to prevent strikes or lockouts and state intervention either through conciliation or courts of enquiry. So, collective bargaining could not grow on barren legislation which did not provide necessary condition for its growth.

GROWTH-AFTER INDEPENDENCE

The process of collective bargaining, started with the Ahmedabad experience, increased its volume and speed immediately after Independence and many new bargaining agreements were
entered into between employers and unions of many large scale industries, such as Bata Shoe Co. (1948), Aluminium Co; Belur (1951) Imperial Tobacco Company (1952), Mysore Iron & Steel Works (1953), Textile Mills of Coimbatore (1956). There was considerable increase in collective bargaining agreements during 1955-56 as more and more companies started entering into agreements with their workers for varying periods of 2 to 6 years which covered issues like wages, D.A., bonus, grievance handling etc.

The growth of collective bargaining immediately after Independence can be judged from a study of the collective agreements published in 1962 by the 'Employers' Federation of India'. There were 114 agreements entered into during the period of eight years from 1954 to 1961 between some members of Employers" Federation of India and their unions in 12 major industry group employing about 4 1/2 lacs of workers.4

39.5 percent of these agreements were really voluntary collective agreements and rest of the agreements, 57 percent, were really 'settlements' i.e., agreements arrived at through conciliation proceedings, and remaining 4% of the agreements were consent' awards. The survey indicates that a sizeable number of industrial disputes were being resolved through collective agreements from 1956 onwards.

4 The employers Federation of India, Collective Agreements, trends in sixties-Bombay 1962.
Table No. 3.1

RESOLUTION OF DISPUTES THROUGH COLLECTIVE BARGAINING.

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage of disputes resolved through collective agreements</th>
</tr>
</thead>
<tbody>
<tr>
<td>1956</td>
<td>32.22</td>
</tr>
<tr>
<td>1957</td>
<td>69.86</td>
</tr>
<tr>
<td>1958</td>
<td>73.75</td>
</tr>
<tr>
<td>1959</td>
<td>69.19</td>
</tr>
<tr>
<td>1960</td>
<td>66.19</td>
</tr>
<tr>
<td>1961</td>
<td>69.81</td>
</tr>
<tr>
<td>1962</td>
<td>69.84</td>
</tr>
<tr>
<td>1963</td>
<td>65.48</td>
</tr>
</tbody>
</table>

Source: The Employers Federation of India, Collective Agreements. A study, Bombay.

The Employers Federation of India published another study in 1971 which showed that there were 109 agreements negotiated successfully relating to the operative staff of 111 undertakings managed by 77 companies and the members of 11 industrial associations.\(^5\) Out of these 109 agreements 79 were settlements (including the agreements reached during the conciliation proceedings and outside the conciliation proceedings but registered as settlements'), 28 were purely bipartite agreements, and 2 were consent awards (negotiated by the parties themselves during the course of compulsory arbitration). The survey also shows the spread of collective bargaining in different industries during the sixties as shown by the table 3.2.

\(^5\) The Employers Federation of India, Collective Agreements, Trends in the sixties, Monograph No 15 Bombay, 1971, P. 5
Table 3.2

INDUSTRIES COVERED BY THE COLLECTIVE AGREEMENTS OF
THE EMPLOYERS FEDERATION OF INDIA SURVEY.

<table>
<thead>
<tr>
<th>INDUSTRY</th>
<th>NO OF AGREEMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>MANUFACTURING</td>
<td></td>
</tr>
<tr>
<td>1 Food Processing</td>
<td>4</td>
</tr>
<tr>
<td>2 Cotton Textiles</td>
<td>4</td>
</tr>
<tr>
<td>3 Jute Textiles</td>
<td>1</td>
</tr>
<tr>
<td>4 Chemical &amp; Chemical Products</td>
<td>22</td>
</tr>
<tr>
<td>5 Paints and Varnishes</td>
<td>1</td>
</tr>
<tr>
<td>6 Engineering</td>
<td>28</td>
</tr>
<tr>
<td>7 Iron &amp; steel</td>
<td>6</td>
</tr>
<tr>
<td>8 Petroleum Products</td>
<td>9</td>
</tr>
<tr>
<td>9 Aluminium</td>
<td>9</td>
</tr>
<tr>
<td>10 Electricity, Gas &amp; steam</td>
<td>1</td>
</tr>
<tr>
<td>11 Electrical Equipments</td>
<td>5</td>
</tr>
<tr>
<td>12 Automobile Manufacturing</td>
<td>1</td>
</tr>
<tr>
<td>13 Asbestos cement</td>
<td>2</td>
</tr>
<tr>
<td>14 Non-Metalic Minerals</td>
<td>2</td>
</tr>
<tr>
<td>15 Leather and leather Goods</td>
<td>4</td>
</tr>
<tr>
<td>16 Rubber and Rubber Products</td>
<td>2</td>
</tr>
<tr>
<td>17 Jute Pressing</td>
<td>2</td>
</tr>
<tr>
<td>18 Paper &amp; Paper Products</td>
<td>1</td>
</tr>
<tr>
<td>19 Printing Press</td>
<td>2</td>
</tr>
<tr>
<td>B Plantations</td>
<td>3</td>
</tr>
<tr>
<td>Total</td>
<td>109</td>
</tr>
</tbody>
</table>

Source: Employers Federation of India, Collective Agreements Trends in the Sixties, Monograph No.15, Bombay 1971, P.6

There was also a tremendous increase in the issues covered under the collective agreements during the period (see Table 3.3).

The report on collective bargaining published by the Labour Bureau during the late sixties reveals that the determination of wages and conditions of employment through collective agreements has spread to most of the major segments of the economy. In this connection the National Commission on Labour (NCL) observes:
### TABLE 3.3

**SUBJECTS COVERED BY THE COLLECTIVE AGREEMENTS OF THE EMPLOYERS FEDERATION OF INDIA SURVEY 1969.**

<table>
<thead>
<tr>
<th>Subject</th>
<th>No of Agreements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wages</td>
<td>96</td>
</tr>
<tr>
<td>DA</td>
<td>59</td>
</tr>
<tr>
<td>Tiffin allowance</td>
<td>20</td>
</tr>
<tr>
<td>Canteens</td>
<td>19</td>
</tr>
<tr>
<td>Retirement benefits</td>
<td>53</td>
</tr>
<tr>
<td>Bonus</td>
<td>50</td>
</tr>
<tr>
<td>Annual leave</td>
<td>40</td>
</tr>
<tr>
<td>Paid holidays</td>
<td>36</td>
</tr>
<tr>
<td>Causal leave</td>
<td>26</td>
</tr>
<tr>
<td>Job classification</td>
<td>26</td>
</tr>
<tr>
<td>Overtime</td>
<td>25</td>
</tr>
<tr>
<td>Incentives</td>
<td>23</td>
</tr>
<tr>
<td>Shift allowance</td>
<td>22</td>
</tr>
<tr>
<td>Acting allowance</td>
<td>22</td>
</tr>
<tr>
<td>Medical benefit</td>
<td>19</td>
</tr>
<tr>
<td>Grievance</td>
<td>14</td>
</tr>
<tr>
<td>Work study</td>
<td>13</td>
</tr>
<tr>
<td>Fresh supply of milk</td>
<td>13</td>
</tr>
<tr>
<td>Housing</td>
<td>12</td>
</tr>
<tr>
<td>Promotion</td>
<td>12</td>
</tr>
<tr>
<td>Rationalisation</td>
<td>11</td>
</tr>
<tr>
<td>Accident benefit</td>
<td>11</td>
</tr>
<tr>
<td>Permanency</td>
<td>10</td>
</tr>
<tr>
<td>Joint consultation</td>
<td>9</td>
</tr>
<tr>
<td>Sick leave</td>
<td>9</td>
</tr>
</tbody>
</table>


"Most of the collective agreements have been at the plant level, though in 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 equipment and automobile repairing, arrangements for settlement of disputes through voluntary agreements have become 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, the employers and the unions are in recent years coming closer to reach collective agreements. In the Life Insurance Corporation of India, except for the employers' decision to introduce automation which has upset industrial harmony in some centers, there has been a fair measure of discussion across the table by the parties for settling differences. 6

During the seventies, collective bargaining got a further fillip and there have been more and collective agreements. During the eighties, and now in the nineties, collective bargaining has become more common. This method has found application in nearly all the industries in the organised sector, notably the Plantation, mining, manufacturing, transport and communications, Ports and Docks, financial institutions and services. This trend has been continuing during these days with additional industries coming within the purview of collective bargaining. Not only the coverage has been extended but the horizon of subject matters has

tremendously expanded. Some companies have path setting and unusual agreements covering almost every area of industrial life. There are now agreements in both public and private sectors covering such issues like productivity, productivity linked wages, DA and bonus, modernisation and computerisation, optimum utilisation of human resources, business recession/crisis, employment of dependents, encashments of LTA, benefits of children of deceased/retired employees, contract and part-time workers. These subjects of collective bargaining were unthinkable during the seventies and upto mid-eighties.

Collective bargaining is conducted not only at plant and company level, but at industry level, where the parties are organised at the regional or national level, as in case of cotton, textile, jute, plantation and coal mines.

A major landmark event influencing post-Independence era labour policies was the report of the Labour Investigation Committee, 1946. The national Government in 1946 drew up a four year phased program to:

a) revise the existing labour legislation to meet the changing needs of the time,
b) eliminate completely and/or control contract labour,
c) extend employment opportunities to cover all classes of workers

d) evolve fair terms of service and deal for workers.
GOVERNMENT ROLE AFTER INDEPENDENCE

Ever since Independence, government has assigned for itself a major and more direct role to govern the industrial life, to achieve the rapid and planned economic development, to fulfill the responsibilities of a welfare state, to reduce socio-economic unbalances between various sections of society, to maintain industrial peace and harmony etc. As the National Commission on Labour (1969) observed:

"The concern of the state in labour matters emanates as much from its obligations to safeguard the interests of workers and employers as to ensure to the community the availability of their joint product/service at a reasonable price."\(^7\)

The first step in this direction was the passing of the Industrial Disputes Act, 1947, and retention of some of the provisions of the Defence of India Rules (DIR) that were promulgated by the British Indian Government during the second world war. This Act was enacted with a new to place the industrial relations machinery on a permanent footing by providing a regulatory legal framework for industrial relations and for the working of collective bargaining. The purpose of the Act, as stated in its preamble was, "to make provision for investigation and settlement of industrial disputes" with the viewpoint that "Industrial peace will be most enduring when it is founded on voluntary settlement." Keeping in mind the protection of workers' interest and maintenance of industrial

\(^7\) National Commission on Labour 1969 op. cit.

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peace, the government enacted some other Acts, as Minimum Wages Act, 1948, The Factories Act, 1948, and the Industrial Employment (standing orders) Act, (1946) in the early post-Independence period. The Minimum Wages Act empowers the government to fix minimum wages in certain scheduled employments. The Factories Act specifies in detail the safety conditions, health measures and certain amenities to be provided by the employers in the factories. The Industrial Employment (standing order) Act makes the drawing up of the conditions of employment relating to the methods of paying wages, hours of work, overtime, night shifts, disciplinary action and the termination of employment etc by the employer and certified by the competent authority or the conciliation officer. The Industrial Disputes Act, 1947, provided for the setting up of two new institution for the prevention and settlement of industrial disputes.

(a) **Works Committees**

The Act provides for the setting up of such committees consisting of the representatives of employers and workers both in industrial establishments employing 100 persons or more. Such committees are set up to promote measures for securing and preserving unity and good relations between the employers and the workmen. However, the recommendations of such committees are only recommendatory and not legally binding on the parties.

(b) **Industrial Dispute Settlement Machinery**

The Act empowers the appropriate government to
appoint a conciliation officer or a board of conciliation to mediate in, and promote, mutual settlement of differences between employers and workmen. It also empowers the appropriate government to refer disputes for adjudication by a labour court or tribunal. It provides for compulsory conciliation to resolve the disputes arising in the public utilities services. The government can also constitute a court of enquiry for investigating into any matter connected with a dispute.

The Trade Union (Amendment) Act, 1947, and the Trade Union Bill, 1950, if adopted would have gone a long way to create a healthy and strong union movement and thus minimise the labour disputes in the country. The former Act provided for the recognition of trade unions and listed unfair practices by recognised trade unions as well as employers. The Act received the assent of the Governor General, but in the absence of its notification the Act never came into force. The latter remained a Bill, and lapsed due to the prorogation of the first parliament. The Labour Relations Bill of 1950 was an epoch making bill providing for the regulation of the relationship between employers and employees for the prevention, investigation and settlement of labour disputes. The Bill envisaged three new authorities - Standing Conciliation Boards, Labour Courts and the Appellate Tribunal. The Bill proposed an elaborate system for the election of representative union as a sole bargaining agent, compulsory collective bargaining and to make voluntary settlements binding in the same way as tribunal awards. But due
to the dissolution of Constituent Assembly, the Bill could not be given a legal shape and was never revived thereafter. The Bill, if adopted, would have gone down in history as the first and for most piece of constructive legislation putting the industrial relations in their right perspective.

The first plan recognised the importance of industrial labour in the fulfillment of plan targets and in creating an economic organisation in the country which would best subserve the needs of social justice. The plan reiterates its industrial relations policy in the following words:

"The endeavour of the state has all along been to encourage mutual settlement, collective bargaining and voluntary arbitration to the utmost extent, and thereby reduce to the minimum, occasions for its intervention. The workers' right of association, organisation and collective bargaining is to be accepted without reservation as the fundamental basis of mutual relationship."\(^8\)

The guiding principles of the labour and collective bargaining policy in the First Five Year Plan have continued throughout the subsequent plans. The second plan also declared;

"For the development of an undertaking or an industry, industrial peace is indispensable. Obviously, this can be achieved by the parties themselves. Labour legislation and the enforcement machinery set up for

\(^8\) First five year plan, Planning Commission, Government of India PP 573-74.
its implementation can only provide a suitable framework in which employers and workers can function. The best solution to common problems, however, can be found by mutual agreement."  

The labour ministers, Sh. V.V. Giri and Sh. G.L. Nanda, strongly advocated mutual negotiation and conciliation as a means of settlement of disputes, and opposed compulsory adjudication and state intervention in the field of industrial disputes.

But inspite of this unambiguous assertion, the government did not have any supportive legislation. In the absence of any provisions for the compulsory negotiation, recognition of bargaining agent and prevention of multiplicity of unions in the Industrial Disputes Act, 1947, and the failure to pass the 'Trade Union Bill, 1950, and Industrial Relations Bill, 1950, more and more labour disputes started going for compulsory arbitration. The works committees and conciliation machinery failed to prevent such a shift in the legalistic approach. In order to improve the industrial relations, the tripartite committee of Indian labour Conference evolved the Code of Discipline in 1958. Under the Code of Discipline, both management and unions affirmed their faith in the democratic principles in industry and to resolve all future differences, disputes and grievances by mutual negotiation, conciliation and voluntary arbitration, and to promote constructive cooperation between representatives at all levels. Under the Code of Discipline,

9 Second five year Plan, Planning Commission, Government of India PP 574.
management has to establish a grievance procedure to ensure full investigation of disputes to help in their settlement. Almost all the state governments and union territory administrations have either set up Arbitration Promotion Board or made some other institutional arrangements to popularise voluntary arbitration.

To monitor the implementation of the code an Evaluation and Implementation Cell was set up at the centre, as there were complaints from both sides of violation of principles of the code. However, there was a lot of controversy on the compulsory implementation of the code. As a face-saving formula, the then labour minister proposed that the function of such cells would be only to discuss and review the complaints and leave it to employers and trade unions to take actions against the offenders. Such kind of informal procedure without any legal sanction was bound to fail to achieve the desired objectives of the code.

The second Five Year Plan recommended the formation of Joint Management Councils (JMCS) in certain industries, in addition to the existing scheme of works committees under the Industrial Disputes Act, 1947. During the period of emergency, the government introduced another scheme of workers' participation, which provided for the establishment of shop councils and Joint councils and workers' representation in the Board of Directors. However, these schemes have not been successful due to the negative attitude of management and unions and lack of follow up action by the government.
To maintain industrial peace during the Chinese attack on our country, an Industrial Truce Resolution was adopted by the central organisations of employers and workers in 1962.

It laid down that maximum efforts would be made to increase the production, to promote constructive cooperation between management and workers and not to interrupt or slow down production. A standing committee was set up in August, 1963, to review the working of the Truce Resolution. The Resolution had a salutary effect in reducing the industrial disputes and number of mandays lost for sometime, but it lost its importance after the psychological effect of war was over.

During the early seventies, the Maharastra Recognition of Trade Union and Prevention of Unfair Labour Practices Act, 1971, and the Maharastra Act No I of 1972, were enacted, which provided punishment for certain unfair labour practices. But its implementation is restricted only in Maharastra state. After the change of government at the centre, the Janata government enacted the Industrial Relations Bill, 1978, which contained certain favourable provisions (including the determination of majority union as the sole bargaining agent) to streamline some of the persistent problems of industrial relations. But because of vociferous protests from employers, unions and workers, this legislation was never notified and implemented.

Another statutory measure which provides for government intervention in industrial disputes is the Essential Services Maintenance Act [ESMA], 1981. This ordinance imposes a
ban on strikes/lockouts in essential services for a period of 6 months and provide for punishment for the violation of provisions of the Act. The Industrial Disputes (Amendment) Act, 1982, also prohibits, and declares illegal, certain unfair labour practices including failure to implement award, settlement or agreement) on the part of both employers, unions and workers.

The government introduced a bill in May, 1988. It proposed to change the title of Industrial Disputes Act to the Industrial Relations Act. It provided for the setting up of Industrial Relations Commission both at the centre and state levels for expeditious disposal of disputes. It laid stress on the need to exhaust all modes of settlement, like tripartite discussion, conciliation and voluntary arbitration before resorting to direct action. Stringent penalties were also provided in case of major breaches of the Act, such as, illegal lay off, retrenchment, lockouts and closures, breaches of settlements, award etc. However, this bill also met the fate of other previous bills.

The present government after announcing the new industrial policy of liberalisation and privatisation has also prepared a Industrial Relations Bill. Though it has not been introduced in the parliament, but in addition to other provisions it will make going on a strike very difficult, requiring the voting of 51% of workers in favour of a strike. But the political parties, union leaders and workers, have already started opposing it and the bill might meet the same fate as others bill met in the past.
Thus the government has been playing a comprehensive and dominant role in the formation, maintenance and direction of the structure, and in shaping the pattern of industrial relations through the plethora of laws, which have the distinction of having the highest number of industrial laws in the world. State intervention primarily aims at preserving industrial peace and has, therefore, focused attention of (a) the avoidance of industrial disputes and (b) an expeditious settlement of industrial disputes when they do arise. Though it has been determined to build up a stable bipartite relationship between labour and management, government intervention has often been resorted to for the settlement of disputes. Thus, the government has failed in the avoidance of disputes and maintenance of peace and settlement of disputes by bipartite negotiations as is shown in Table 3.4 & 3.5.

**TABLE NO 3.4 MANDAYS LOSS AND SEVERITY OF INDUSTRIAL DISPUTES IN MANUFACTURING SECTOR**

<table>
<thead>
<tr>
<th>YEAR</th>
<th>MANDAYS LOST PER 1000 WORKERS</th>
<th>SEVERITY RATE</th>
<th>INDEX 1961=100</th>
</tr>
</thead>
<tbody>
<tr>
<td>1977</td>
<td>3316</td>
<td>1493</td>
<td>324</td>
</tr>
<tr>
<td>1980</td>
<td>2529</td>
<td>1161</td>
<td>248</td>
</tr>
<tr>
<td>1983</td>
<td>5769</td>
<td>2910</td>
<td>564</td>
</tr>
<tr>
<td>1986</td>
<td>3941</td>
<td>2249</td>
<td>386</td>
</tr>
<tr>
<td>1989</td>
<td>3423</td>
<td>1744</td>
<td>335</td>
</tr>
<tr>
<td>1990</td>
<td>2280</td>
<td>1183</td>
<td>223</td>
</tr>
<tr>
<td>1991</td>
<td>2835</td>
<td>1466</td>
<td>277</td>
</tr>
<tr>
<td>1992</td>
<td>2419</td>
<td>1254</td>
<td>236</td>
</tr>
</tbody>
</table>

(i). Severity Rate- Ratio of mandays lost to one lakh mandays scheduled to work.

(ii). Index of mandays lost per 1000 workers employed on base 1961=100.


82
The above table shows that mandays lost due to industrial disputes are quite substantial.

**TABLE 3.5**

**DISPUTES RESOLVED BY DIFFERENT METHODS OF SETTLEMENT (PERCENTAGE DISTRIBUTION)**

<table>
<thead>
<tr>
<th>Year</th>
<th>Government intervention</th>
<th>Mutual settlement</th>
<th>Voluntary Resumption</th>
</tr>
</thead>
<tbody>
<tr>
<td>1976</td>
<td>44.4</td>
<td>20.5</td>
<td>35.1</td>
</tr>
<tr>
<td>1977</td>
<td>43.3</td>
<td>27.3</td>
<td>28.4</td>
</tr>
<tr>
<td>1978</td>
<td>43.3</td>
<td>31.1</td>
<td>25.6</td>
</tr>
<tr>
<td>1979</td>
<td>30.7</td>
<td>29.9</td>
<td>39.4</td>
</tr>
<tr>
<td>1980</td>
<td>28.6</td>
<td>33.6</td>
<td>37.8</td>
</tr>
<tr>
<td>1981</td>
<td>32.6</td>
<td>33.5</td>
<td>33.9</td>
</tr>
<tr>
<td>1982</td>
<td>26.5</td>
<td>31.0</td>
<td>42.5</td>
</tr>
<tr>
<td>1983</td>
<td>27.6</td>
<td>28.1</td>
<td>44.3</td>
</tr>
<tr>
<td>1984</td>
<td>37.1</td>
<td>23.7</td>
<td>39.2</td>
</tr>
<tr>
<td>1985</td>
<td>42.1</td>
<td>26.7</td>
<td>31.2</td>
</tr>
<tr>
<td>1986</td>
<td>46.7</td>
<td>29.3</td>
<td>24.0</td>
</tr>
<tr>
<td>1987</td>
<td>42.0</td>
<td>21.1</td>
<td>35.9</td>
</tr>
</tbody>
</table>


The table shows that about 30 to 45 percent of industrial disputes are resolved through government intervention, 20 to 33 percent through mutual settlement, and 35 to 40 percent by voluntary resumption (conciliation, arbitration). Therefore, the government intervention plays a considerable role in resolving industrial disputes. Thus, the adjudication and other regulative measures continue to form the core part of industrial relations in India, which negates the very essence of industrial democracy to a great extent.

From the above discussion, it is obvious that the government has been consistent in all its declaration and pronouncements in official policy, favouring collective
bargaining, but the existing legislations have not promoted collective bargaining. Prof V.D. Kennedy has characterised this as a dual image:

"One is the ideal goal or model of implant labour relations which India has set for herself, the other is the actuality which has little resemblance to the ideals."\(^{10}\)

On the one hand it has enacted a plethora of Acts like The Trade union Act, 1926', The Minimum Wages Act, 1948, the Employment (standing orders) Act, 1946, the Factories Act, 1948, and the Industrial Disputes Act, 1947 plus other measures like Code of Discipline, Industrial Truce Resolution, and on the other hand, bills which would have given a sound footings to collective bargaining have not been enacted, such as Trade Union (Amendment) Act, 1948, Industrial Relations Bill, 1950, Industrial Relations Bill, 1978, and Industrial Relations Bill, 1988. All these bills, which were framed and debated very intensively and extensively, provided for the recognition of sole bargaining agent, compulsory bargaining, legal sanction to bipartite bargaining, promotion to internal leadership, punishment for unfair labour practices, complete exhaustion of bargaining processes before resorting to other forms of settlement. These conditions are very vital for the growth and promotion of collective bargaining, which has not yet attained a level of maturity as it has in the United States, Britain and other advanced countries of the world. As a result of

10 Kennedy, V.D.: The Role of the union in the Plan in India, Reprint No 83, P. 490.
this duality, there is a considerable measure of confusion and vagueness in the government labour policy.

"The labour policy enunciated in Chapter XV of the Third Plan is a string of generalizations and pious hopes giving no positive lead even in regard to matters of current agitation."\textsuperscript{11}

The same lack of precision and directorn characterized the government policy on all vital matters of industrial society. Mr Subramaninan rightly summarised the policy in the following words:

"Government’s labour policy is like starting on a long voyage with only a vague idea of the destination and with neither a chart nor a compass to mark the course. Fear of storms ahead makes the ship wander hither and thither, always seeking the calm and avoiding the straight but difficult route traversed by expert mariners. Already she has wandered far and might never be able to get back into line. We are told that the ship of state is in delicate health and is not fit to face storms. But whether she can ever reach the destination is more than anyone can say."\textsuperscript{12}

The ship metaphor vividly concretizes the present state of the management-labour relations gone haywire.

So, the greatest need in the field of labour-management

\textsuperscript{11} Subramanian K.N. - Labour Management relations in India, Asia Publishing house, 1967, P 543.

\textsuperscript{12} Ibid P. 589.
relations is to evolve a long term labour policy which does not do only lip service to the cause of collective bargaining, but really encourages it, which considers industrial peace not an end itself, but as a means of attaining the full potential of our productivity capacity and which is free from the dread of industrial strife.

LEGISLATIVE FRAMEWORK AND COLLECTIVE BARGAINING

This section reviews the legislative framework which has direct impact on collective bargaining to see whether these laws support the declared policy of the Indian Government to promote collective bargaining or there is any gap between what the government preaches and what it practices.

I The Trade Union Act, 1926

i) Sec 4(i) seven or more members can get a trade union registered by subscribing their names.

ii) Sec 4(ii) even if upto half of the number of persons who made the application have either ceased to be members or disassociated themselves from the application, the registration of a union will not be effected.

iii) Sec 18 provides immunity from civil cases or legal proceedings against union office-bearers or members in respect of any act done in furtherance of a union objective.
iv) Sec 22 a union can have fifty percent of office bearers or members actually engaged or employed in the same industry, plant or company, or in other words a union can have half of its members as outsiders.

ANALYSIS

The Act is the result of a long drawn struggle starting in 1884, when the first meeting of workers was organised in Bombay and a memorandum was submitted to the second Bombay Factory Commission. Passing through the history of persecution, arrest, conviction and imprisonment of union leaders, the Act was passed in 1926 to promote labour movement by granting legal status to trade unions and various rights and privileges to union leaders. The Act encouraged and increased the number of trade unions when employers were hostile to any idea of unions in their establishments.

But now after more than six decades of its passing, when unions have become a part of industrial life, the Act has some very adverse impact and has weakened and fragmented the labour movement.

(i) Requiring only 7 or 4 (as a union is required to have not less than half of its members or office bearers internal employee in the same plant/company) to get a union registered, there is no restriction on the number of unions, which led to multiplicity and inter-union rivalry. Sometimes employers also sponsor their own unions to weaken other
unions in their organisation.

(ii) The Act provides for the registration of a union, but does not provide any provision, procedure and obligation to determine the majority character of the union. It gives wide discretion to the employer to recognise the union of his choice as the bargaining or representative union.

(iii) There is no statutory provision that a registered union will be recognised by the employer. The employer may or may not recognise a union. There are hundreds and thousands of such cases, where registered unions are not recognised by employers. The employer can take advantage of the scramble and inter-union rivalry to weaken the bargaining power of different unions.

(iv) Different unions have equal rights in the organisation. A union with one percent of the potential membership in a plant or industry has the same legal right as a union with seventy five percent membership to approach an employer for bargaining purposes and to have resulting dispute aired in conciliation proceedings and settled by arbitration. The consequences for collective bargaining are fatal.

II. The Industrial Employment (Standing Orders) Act, 1946

Prior to the enactment of the Act, an individual contract of service between the employer and the employee determined the terms & conditions of service. In many cases lack of uniformity, doubts and ambiguities resulted in great deal of
industrial unrest and hostile industrial relations. But now under this Act, all industrial establishments, which employ 100 or more workmen on any day of the preceding 12 months, must have a set of certified standing orders regarding working hours, pay days, holidays, granting of leave to the employers, temporary stoppages of work, termination, suspension, dismissal of employees, disciplinary matters and grievance procedure. The object of the Act is to project the interest of workers from the unilateral actions of employers.

I) The Act casts upon the employer the obligations

(i) to submit draft standing orders with the required information to the certifying officer for certification

(ii) to act in conformity with the certifying standing orders in day to day dealings with the workers

(iii) to modify certified standing orders only with the approval of the certifying officer.

(iv) post prominently the text of the certified standing orders in a language understood by the majority of the workmen near the entrance through which the majority of workers enter the establishment and also in all the departments where workmen are employed.

II. The obligation of the workmen under the Act is to work in conformity with the certified standing orders, and comply with the provisions of the Act in regard to modification and interpretation of standing orders.
III. The amendment of 1956 empowers the certifying officer and the Appellate Authority to go into the question of reasonableness or fairness of the draft standing order submitted by the employers.

IV. The amendment confers the right to individual workmen to contest the draft standing orders submitted by the employers for certification on the ground that they are neither fair nor reasonable.

V. Sec 6 incorporates a finality clause, namely that the decision of the Appellate Authority shall be final. This provision means that there is no further appeal or revision against the order.

VI. The Act was amended in 1963 which provided for the applicability of Model Standing Orders, framed by appropriate government, operative in all establishments covered by the Act.

Analysis.

The government professes its faith in collective bargaining, yet it takes away matters out of the purview of employers and employees and vests them in their own officials who would scrutinize these standing orders framed by the employers. Such provisions of the Act run counter to the very spirit of collective bargaining. It usurps the right of the employers and employees to determine the terms and conditions of employment by mutual discussion and negotiation.
(ii) The Act was amended in 1982 which confers the right to apply for modification of standing order on a union or other representatives of the workmen.

(iii) The Act compels employers to shape their standing orders in conformity with the model set by the government. Whereas the standing orders framed by employers have to be approved by the unions and not by government officials, if the government really wanted to promote collective bargaining. V.D. Kennedy made a brilliant comment on the situation that

"important responsibility for setting standards rests with each government as it promulgates model standing orders with which employers are to conform --- Nothing in the Act makes bargaining as such necessary or facilitates it in balance, therefore; the effect of the Act is to provide an alternative means of determining an important segment of the total range of employment conditions".\(^\text{13}\)

III THE INDUSTRIAL DISPUTES ACT, 1947

After the second world war industrial disputes had grown considerably, and production had been seriously affected. The provisions of the Defence of India Rules (81A) were, therefore kept in force for a further period of six months by the Emergency Powers (continuance) Ordinance, 1946. The industrial situation, however, was such that temporary measures for a short

\(^{13}\) V.D. Kennedy : op. cit. P 492.
period were not considered adequate. It was necessary to evolve a permanent legislation as there was no time for experimentation. The Industrial Disputes Act, 1947, was passed which embodies the essential principles of the Rule 81A.

The primary object of the Industrial Disputes Act is the prevention of industrial strife, maintaining industrial peace and establishing a harmonious and cordial relationship between labour and capital by means of conciliation, mediation and adjudication.

Provisions affecting collective bargaining.

I Sec 3 provides for the constitution of works committee consisting equal numbers of representatives of employers and workmen to promote measures for securing and preserving amity and good relations between employers and workmen and endeavour to resolve any material differences of opinion in respect of certain matters.

II Sec 4, 5, 6 provide for the appointment of conciliation officers, Board of Conciliation and Court of Enquiry. All these authorities are appointed by the appropriate government to settle disputes.

III. Sec 7 provides for the setting up of Labour Court. The setting up of Labour Court is at the discretion of the government to adjudicate on matters referred to it by the appropriate government.
IV. Sec 10 The government is vested with large measures of discretion, both in the matter of the choice of settlement processes as also in regard to the basic decision to intervene in labour management relations.

V. Sec 10A provides for the reference of a dispute to voluntary arbitrator at any time before the dispute has been referred under sec 10 to a Labour Court, Tribunal or National Tribunal.

VI. Sec 12 lays down specific time limit for conciliation proceedings. The conciliation officer shall submit the report either within 14 days of the commencement of conciliation proceedings or earlier.

VII. Sec 2(P) of the Act provides legal sanction to collective agreement arrived at otherwise than in the course of conciliation proceeding, provided that such agreements are in writing and have been signed by the parties in the prescribed manner, and a copy of which has been sent to the officer authorised for the purpose and the conciliation officer.

VIII Sec 19 permits any of the party to the settlement to terminate the agreement any time by giving a two months notice, though it was signed for a specific period.

IX. Sec 22 During the conciliation proceedings and the operation of settlement, strikes or lockouts in respect of any matter covered by it are illegal.
Sec 36 gives authority to any workman involved in an industrial dispute to get himself represented in any proceedings by any official of any trade union connected with his industry whether or not the workman is a member of the union.

The amendments in 1982 have included certain actions of both workers and management within the definition of "unfair" labour practices. Sec 25T and sec 25 U ban such practices absolutely and provide for punishment with an imprisonment extending to 6 months or fine upto Rs 1000 or both.

ANALYSIS.

I. It authorises the appropriate government, central or state, to intervene compulsorily in the enquiry or the arbitration of the dispute. This is negation of collective bargaining which makes it incumbent upon the parties to thrash out their differences between themselves without the intervention of a third party. If they fail to achieve this, they may take the help of the conciliation or mediation agency. But the Act unfortunately empowers the government to take the dispute to an adjudicator.

II. The provision that any outsider, whether or not he is a member of the union, can represent the worker in any proceedings, cuts at the very root of a healthy trade union movement. A provision like this prevents the growth of internal leadership on healthy and constructive lines.
Collective bargaining, on the contrary, requires a strong and effective trade union.

III. The dispute settlement machinery does very little to promote collective bargaining, because it functions largely under the government instructions and agencies like conciliation officer, Board of Conciliation, the court and the Tribunal. The report is submitted to the government which has the power to review and modify it.

IV. The Industrial Disputes Act in India proceeds not on the assumption that industrial peace is endangered by the absence of collective bargaining, but that industrial peace is possible only through the system of compulsory adjudication.

V. Conciliation agencies suffer from the statutory limit of time of 14 days on their efforts. It has several alternatives—Board of Enquiry, courts, tribunal, etc. Such provision has a great psychological drawback. No one takes the conciliation proceedings seriously because the disputants have their eye on the next step.

VI. A settlement arrived at in the course of conciliation proceedings is binding not only on the parties but on all persons employed in the establishment and on all subsequently employed there. But agreements reached directly at the bipartite level do not carry any binding force unless it is countersigned by the conciliation officer and a
copy of it is submitted to him. So, it is not the parties concerned who can enter into an agreement and enforce it, but the submission of a copy or the signature of conciliation officer gives it legal sanctity.

As a result of these legal provisions, the disputant parties are forced to make bipartite agreements as tripartite in nature.

VII. The agreement reached through voluntary arbitration is binding only if it is published in the official Gazette. However, it is at the discretion of parties to submit such disputes to the appropriate government. Further, the government may or may not publish such an agreement. In the latter case, it has lost its legal force. But once it becomes binding, the disputant parties cannot appeal against it in any court except in a high court. The combined effect of such provisions is against the spirit of collective bargaining and in favour of adjudication.

VIII. The government has the absolute power to refer any case for compulsory arbitration. It is for the government to decide whether to refer dispute for adjudication or not, without even knowing the merits of a case. This kind of statutory arrangement giving the absolute power to the government hampers the growth of collective bargaining and encourages frequent government intervention even if it is not desired.

IX. By allowing for the termination of settlement by giving two
months' notice, the Act encourages frequent disputes among the parties. Both employers and unions or employees can take advantage of this clause whenever they find the position of other party vulnerable.

X. Strikes and lockouts are important instruments in the hands of a union and an employee to bring each other on the negotiation table to have a negotiated settlement. The Act empowers the government to ban or declare any strike or lockout illegal in any organisation and thus debars the parties of the potential weapon of collective bargaining.

XI. Works committees provided under the Act for the mutual settlement of differences and promoting co-operation and goodwill among the employers and workers are not effective, because they undermine the position of unions leaders and encourage conflicts among them. These committees are merely advisory in nature and can only make recommendations. The final decision rests with the management.

IV. THE UN-ENACTED LEGISLATIONS.

The government drafted some legislations but could not enact. These are analysed in the context of collective bargaining. The Government was well aware of the weaknesses and drawbacks of the labour legislations and drafted these to promote joint negotiation, strong trade unions and harmonious industrial relations.
The Trade Union (Amendment) Act 1947.

The Indian Labour Conference and the Standing Labour Committee discussed various issues of trade unions, specially the recognition at various sessions. The Act of 1947 was the result of such recommendations which provided for:-

(i) Compulsory recognition of trade unions provided they satisfied certain prescribed conditions.

(ii) A registered union which has failed to secure recognition with the three months of applying to the employer may apply to the labour court, which, if satisfied, will order recognition.

(iii) Compulsory recognition of a representative union for collective bargaining.

(iv) The employer and union committing an unfavour practices were liable to be punished.

The Act was passed but was not enforced and remained inoperative.

The Trade Union Bill 1950.

The Bill combined the functions of the 1926 Act and of the 1947 Amendment Act and introduced many new provisions to strengthen the internal leadership of unions by reducing the outside leadership from half to one fourth, recognition of one or more registered unions. Refusal to enter into negotiations with the other party or to bargain collectively was considered to be
an unfair practice on the part of both unions and employers.

The Bill was referred to the Select Committee. It lapsed as it could not be passed due to the dissolution of the then parliament and was never re-introduced due to stiff opposition from both employers & unions.


The Bill broke new grounds by providing the country with a comprehensive law on collective bargaining, superseding the Industrial Disputes Act, 1947. The notable features of the bill were:-

(i) The principle of collective bargaining was introduced for the first time.

(ii) The 'bargaining Agent' was authorised to conduct negotiation on behalf of all the employees. The 'bargaining Agent' represented the majority union or certified by the labour courts.

(iii) Once a collective agreement had been signed the parties were legally bound to observe it.

(iv) Parties violating the agreement could be punished upto six months imprisonment or fine or both. Workers could be denied their monetary benefits and employers had to pay wages during illegal lockouts.

(v) The basis of the Bill was the faith in the efficacy of negotiations between employers and workers without any coercion or undue influence by the government.
Unfortunately the Bill could not be passed due to the dissolution of parliament and a stiff opposition from unions and employers. The Bill, if it had been passed could have given a different direction and a sound footing to collective bargaining and industrial relations in the country.

D. THE INDUSTRIAL RELATIONS BILL, 1978 and THE INDUSTRIAL RELATIONS BILL, 1988

Both these Bills contained many positive provisions of the previous Bills of 1950. Most of the major trade unions called them "Black Bills", for they certainly seek to enforce a measure of discipline in trade union activity. Both these Bills also met the same fate of other previous Bills of 1950.

5. NON-IMPLEMENTATION OF THE RECOMMENDATIONS
   (A) THE NATIONAL COMMISSION ON LABOUR, 1969.

   The commission recommended the creation of conditions for the promotion of collective bargaining. The most important among them was the statutory recognition of a representative union as the sole bargaining agent. The place which strikes/lockouts should have in the overall scheme of industrial relations needs to be defined. Collective bargaining cannot exist without the right to strike/lockout.

   Even after 25 years there is no provision for the recognition of the sole bargaining agent under central government laws. The government has absolute powers under IDA 1947 to ban or declare any strike/lockout illegal not only in public utility
services but in any organisation.

(B) INTERNATIONAL LABOUR ORGANISATION—

(i) RIGHT TO ORGANISE AND COLLECTIVE BARGAINING CONVENTION, 1949 (NO 98)

Article 4 provides that appropriate measures appropriate to national conditions shall be taken, wherever necessary, to encourage and promote full development and utilisation of machinery for voluntary negotiation between employers or their organisations and unions with a view to the regulation of terms and conditions of employment by means of collective agreements.

(ii) COLLECTIVE AGREEMENTS RECOMMENDATION 1951 (NO 91).

I recommends an appropriate machinery appropriate to the conditions existing in each country should be established to negotiate, conclude, revise and renew collective agreements or to assist the parties in negotiation, conclusion, revision and renewal of collective agreements.

II ‘Collective agreements’ means agreements directly negotiated between employers/organisations and unions or workers’ representatives.

III Collective agreements should bind the signatories and those on whose behalf the agreement is concluded and also workers of all the classes employed in the undertaking covered by the agreements.
The supervision of the application of collective agreements should be ensured by the employers and workers' organisations are parties to such agreements.

ILO adopts International Labour Conventions and Recommendations at its conference held every year, after consultation with its member states. Although India is a member of ILO, it has not ratified the above conventions on collective bargaining. If a member state ratifies a convention, only then it becomes subject to legally binding international obligation.

The ILO has adopted 172 conventions on a variety of subjects till 1st June 1992. India has adopted 36 of the 172 conventions, although India has been a member of ILO since the inception of the latter in 1919.

6. INDIAN LABOUR CONFERENCE (ILC).

Recognising the need for tripartite consultation on labour matters on the pattern of the International Labour Organisation and in line with the recommendation of the Royal Commission on Labour, the government constituted, in 1942, the Indian Labour Conference and Standing Conference with a view to promote uniformity in labour legislation, to lay down a procedure for the settlement of industrial disputes. The ILC has members from government, employers, union federations, unorganised employers and workers. The ILC made valuable contribution in giving 'Code of Discipline, industrial Truce Resolution and Code of Conduct and other useful inputs in formulating labour policies. But during the last quarter century the tripartite
consultation suffered a major set back with the government taking a stand that it is not bound to incorporate even unanimous recommendation of ILC.

7. **NEW INDUSTRIAL POLICY**

The new industrial policy of liberalisation, privatisation, technological changes, entry of multinationals have caused major shifts of emphasis in labour-management relations. In the changing macro-economic context the compulsions of collective bargaining have changed. The recession, under employment and a tight-money market scenario have tended to affect collective bargaining. But the industrial relations policy and legislation are out of tune with our new economic policy and industrialisation strategies. The government has not come out with a new industrial relations and collective bargaining policy.

The government policy and labour laws are essentially paternalistic in character. The laws assume that Indian trade unions and labour relations are underdeveloped and would remain so. The laws assign to the government the paternalistic role of protecting the interest of workers, and, in the process, maintaining industrial peace by preventing strikes and adjudicating disputes. Under IDA, 1947, the government has assigned itself almost complete authority to interfere in disputes through conciliation and adjudication and obtained the power to prohibit strikes and lockouts. Frequent use of the power to interfere in industrial disputes shows strong preference for peace and harmony in labour relations. So, there are some positive aspects in the government policy favourable to
collective bargaining, such as:

(i) Some of the authorities provided under the IDA 1947 for prevention and settlement of industrial disputes, viz; conciliation officers/boards and voluntary arbitration, are directly compatible with the concept of collective bargaining.

(ii) The state has laid down by legislation the basic standards relating to conditions of employment and welfare. These are of great value in supplementing collective bargaining in such sectors and organisations where collective bargaining is still not effective because of weak and fragmented unions.

(iii) All labour legislations contain exemption clauses leaving enough scope for the parties to improve upon the terms of employment and various social security benefits by mutual negotiation.

(iv) Sec 2 (P) of the IDA 1947, defining "settlement", provides legal recognition to collective agreements arrived at otherwise than in the course of conciliation proceedings provided that such agreements are in writing, have been signed by the parties in the prescribed manner, and a copy of which has been sent to the officer authorised for the purpose and the conciliation officer.

(v) An important amendment has been made in the IDA 1947 an introduction of the new chapter VC, along with the Fifth
Schedule in sub section 2(ra) dealing with unfair labour practices. Any person who commits an unfair labour practice is liable to punishment under sec 254 of the Industrial Disputes (Amendment) Act, 1982.

(vi) Similarly provisions regarding the establishment of Grievance Settlement Authority under the Industrial Disputes (Amendment) Act, 1982, will promote and vitalise collective bargaining.

(vii) The Industrial Employment (standing orders) Act, 1946, provides for the regulation of conditions of employment and day-to-day employment. It also which provides a framework for mutual regulations of employment conditions. The measures like code of discipline and code of conduct also promote voluntarism and positive orientation towards collective bargaining.

Although, at present there are more than 200 labour laws including their amendments on the statute books of the central and the state governments, regulating practically all important aspects of industrial society, provisions regarding the successful but pre-requisites of collective bargaining, like compulsory bipartite negotiation, recognition of registered trade unions, recognition of the 'sole bargaining agent' or formation of Joint Negotiating Committee', legal sainitity of bipartite agreements, strong trade unions with internal leadership etc are not mentioned in any Act. The Government has failed to implement the recommendations of the National Labour Commission and the ILO.
on collective bargaining. All this prove that despite the avowed recognition and appreciation of the merits of free and fair collective bargaining, in all its public policy the government prefers adjudication to collective bargaining. There is a wide gap between what the government preaches and what it practices through its legislative set up.

The opinion of 800 respondents (125 managers, 125 union leaders and 550 workers) from 15 Industrial organisations have been obtained through questionnaires and interviews about the role of the government policy regarding collective bargaining. The results are shown in Table 3.6.

**TABLE 3.6**

'RESPONDENTS' PERCEPTION ABOUT THE GOVERNMENT POLICY & COLLECTIVE BARGAINING.

<table>
<thead>
<tr>
<th>What impact Government policy has on collective bargaining</th>
<th>Managers</th>
<th>%</th>
<th>Union leaders</th>
<th>%</th>
<th>Workers</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>a Promotes</td>
<td>32</td>
<td>25.6</td>
<td>53</td>
<td>42.4</td>
<td>207</td>
<td>37.6</td>
</tr>
<tr>
<td>b Hinders</td>
<td>87</td>
<td>69.6</td>
<td>63</td>
<td>50.4</td>
<td>319</td>
<td>58.0</td>
</tr>
<tr>
<td>c No-effects</td>
<td>4</td>
<td>3.2</td>
<td>3</td>
<td>2.4</td>
<td>11</td>
<td>2.0</td>
</tr>
<tr>
<td>d Can't say</td>
<td>2</td>
<td>1.6</td>
<td>6</td>
<td>4.8</td>
<td>13</td>
<td>2.4</td>
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<tr>
<td>Total</td>
<td>125</td>
<td>100.0</td>
<td>125</td>
<td>100.0</td>
<td>550</td>
<td>100.0</td>
</tr>
</tbody>
</table>

The table shows that 25.6 percent of managers feel that the government policy promotes collective bargaining whereas 69.6 percent of them are of the opinion that it hinders it, 3.2
percent feel that it has no effect and 1.6 percent are in the cannot' category. In case of union leaders, 42.4 percent feel it promotes, 50.4 percent feel it hinders, 2.4 percent are of the opinion that it has no effect, and 4.8 percent could not answer the question. 37.6 percent of the workers are of the opinion that the government policy promotes collective bargaining, 58 percent feel it hinders, 2.0 percent feel it has no effect, and 2.4 percent could not say any thing.

But the majority of respondents in all the categories are of the opinion that the government policy hinders the growth of collective bargaining and tripartite negotiation.

SUMMARY

The history of collective bargaining is as old as the history of industrialisation in India which began during the middle of the 19th century. But the formation of the Ahmedabad Textile Labour Association proved to be the pioneer in the development of collective bargaining in India. Motivated from the Ahmedabad experience other unions were formed and they signed agreements with the employers. But collective bargaining could not be promoted due to the British policy of 'non-interference' as the conditions during that time were heavily loaded in favour of employers. But collective bargaining increased its volume and speed immediately after Independence and many new bargaining agreements were entered into between employers and unions of many large scale industries. During the eighties, and now in the nineties, collective bargaining has widened in scope, structure, content, and has found application in nearly all the industries
in the organised sector. This trend has been continuing with additional industries coming within the purview of collective bargaining. The horizon of the subject matter has also been increased tremendously and some companies have path setting and unusual agreements covering almost every area of industrial life.

Inspite of having the highest number of labour legislation in the world regulating practically all the important aspects of industrial society on the one hand and the government professed policy of preference to collective bargaining on the other hand, the existing legislations which have been analysed in detail have not promoted collective bargaining. The legislative frame-work still lacking provisions for the recognition of trade unions and the sole bargaining agent, compulsory bargaining by parties before resorting to other methods of resolving disputes, legal sanction to biparte bargaining, promotion of interval leadership which are very vital for the growth and promotion of collective bargaining. The majority of respondents opine that government policy hinders collective bargaining.