Conflicts are inevitable in industrial societies. Broadly speaking, industrial conflicts surface due to limitation of resources, competitiveness and differences in values, interests, goals, attitudes, aspirations, etc. Such conflicts have been a source of mounting concern, for recurrence of these causes much disruption to planned economic development in a developing country such as India. Besides, it involves huge losses all concerned such as workers, employers, government and consumers at large. The traditional approach had been to suppress and thus eliminate all conflicts. However, this kind of approach has proved ineffective for the simple reason that conflicts can never be preempted and industrial peace in absolute terms is impossible to achieve. Accordingly, the idea took shape that industrial conflicts need be handled and resolved professionally with a view to strengthening the vitality of the organisation and remove as far as possible the discontent in workers and employers alike.

Among the various institutional devices evolved over the decades to ensure industrial peace, collective bargaining has emerged as the principal component of industrial relations. The role of collective bargaining in conflict management is found very significant as disputes and conflicting perceptions are resolved by dialogue, discussion and interaction. It ensures that the management does not take any unilateral decision. Further, it acts as employers' regulating device, while increasing the scope
for employees' share of influences in decision-making at different levels in a given organisational hierarchy. Such joint decisions, instead of unilateral decisions, not only improve the level of acceptance as well as implementation of decisions jointly obtained, but also go a long way to satisfy the workers' urge for achievement, recognition, responsibility, growth and accelerated self-acquisition. The cardinal value of collective bargaining stems from its proven ability to provide a method for the regulation of the conditions of employment by such segments as are directly concerned and affected by the operation of the agreements. The relatively important findings and conclusions of the study are summarised as follows.

I

The National Commission of Labour and all central trade union federations recognise the important role of collective bargaining in the settlement of disputes. They look upon it as a very effective method to resolve industrial disputes as it leaves little or no rancour or ill-will behind and creates, on the other hand, an environment of harmony and co-operation. The majority of the respondents (125 managers, 125 union leaders and 550 workers) belonging to the sample organisations consider collective bargaining to be the best method to resolve collective disputes.

II

Collective bargaining is a very dynamic and flexible institution. It has demonstrated remarkable qualities of resilience, adaptation and strength in all the sample companies.
Over the years it has weathered the cycles of depression, recession, inflation, deflation, besides industrial strife or peace and harmony. It is well entrenched in all the sample companies in varying degrees. In some companies collective bargaining is used to determine terms and conditions of employment. Significantly in several others it has grown into a multi-faceted institution performing various related roles and serving several different needs. It is by and large used as a rule-making and policy formulating institution. It has grown as a referant for resolving problems as well as for formulating power relations in the larger interests of co-operation and fruitful participation. The various theories of collective bargaining generally reflect the diversity of opinions among the different actors who have changed its character from a divisive or distributive function to an integrative function, from simple wage-labour to high productivity, and from the squalid environment of discontent and despair to fruitful bargaining for concessions and rights, in all the sample companies.

III

There has been over the years a tremendous growth in collective bargain agreements covering a wide spectrum of industries. The institution has gained wide acceptance and application in nearly all the industries in the organised sector, notably in plantation, mining, manufacturing, transport, communications, ports and docks, and financial institutions and services. This trend has got further strengthened over the years with additional industries coming within its ambit. Not only its
coverage has been extended but also the horizon of its functioning has tremendously expanded. A few companies have opted for trend-setting and unusual agreements covering almost all aspects of workplace relations and industrial life. However, despite rapid strides in industrialisation of the country following Independence merely 10 percent of the total labour force is employed in the organised sector. As a result, collective bargaining covers only about one percent of the total labour force in the country. Secondly, the wider acceptance of collective bargaining, in terms of its success in ensuring industrial tranquility and harmony and its effectiveness to prevent the growing incidence of direct third-party intervention in industrial disputes, varies from industry to industry and from plant to plant. In some organisations it is still in the initial stage of growth, whereas in others it has consolidated itself as a stable machinery.

IV

The tardy growth of collective bargaining in terms of successful handling of industrial disputes and the growing incidence of direct third-party intervention can be attributed mainly to the gap in the policies and practices of the system adopted by the government in addition to the attitudinal disposition of the other actors. Inspite of the avowed recognition and appreciation of the merits of free and fair collective bargaining in all its public pronouncements and Five Year Plans, the legislative framework gives preference to third party intervention and adjudicates in resolving industrial
disputes. The legislative enactments framed by the government from time to time aim at protecting the interest of workers by prescribing minimum wages, conditions of employment, health and safety conditions at workplace and the machinery for settlement of industrial disputes. Although there are innumerable labour legislations at the national and international levels, there are no provisions for compulsory recognition of trade unions, determination of sole bargaining agent and majority unions, compulsory bargaining before approaching the third party, system of check-off, legal sanction to voluntary bi-partite agreements, regulation of inter-union and intra-union conduct, etc. which are vital for the growth of effective collective bargaining. The various legislative bills, which contained provisions covering the subjects mentioned above besides several other subjects, could not be adopted due to lack of political will in the face of stiff opposition from trade union leaders, workers and employers. It was generally felt that the proposed legislative could have broken fresh grounds in the field of collective bargaining. Besides, the government has not yet implemented the recommendations of the National Commission on Labour. Nor has it ratified the resolution of the ILO on collective bargaining. Even the unanimous recommendations of the Indian Labour Conference have not been implemented. This was despite the fact that the government was vested with a large measure of discretionary powers both in the matter of the choice of settlement process and also of the basic decision to intervene in labour management relations. Some positive measures such as code of conduct, code of
discipline, constitution of works committees and joint management councils, though oriented positively towards collective bargaining, often met with failure in the absence of provisions making the exercise compulsory. Thus, there is a wide gap between what the Government preaches and what it actually practises. Thus, in practice, instead of smoothing the path for collective bargaining, legislative at times encroaches upon its territory and often restricts it in several ways, virtually preventing the exercise. However, the fact that collective bargaining has continued to expand despite such obvious limitations is perhaps an eloquent proof of its inherent vitality and of the irreplacable role it has since played regulating relations between workers and employers.

V

Besides, there is wide diversity not only in the collective bargaining processes, procedures and content but also in the basic approach to this instrument as is evident from the working of the different sample companies. Each company has evolved its own style of collective bargaining reflecting by and large its own particular values and cultural characteristics. Factors such as history, union strength, market practices, financial position, profitability, industrial relation policies and approach to unions have influenced the process of collective bargaining in different companies. The sample companies have different forms of collective bargaining: industrial level, company level, plant level and departmental level with single union and multiple unions. Only one company faced the serious
problem of inter-union rivalry resulting in violence and lock-out. Presently all other sample companies are free from inter-union rivalry which largely characterises the industrial scene in the country.

VI

While framing their characters of demands some unions take into account price index, financial position of the company, past agreements and national trends. At times unions consult outside leaders. However, mostly the unions take into account only the past agreements and present demands unsupported by factual data. Accordingly, a wide gap exists between the charter of demands and what is acceptable under bargaining agreements. Only two sample companies were not victim of this approach. In fact, lack of financial data, negative attitude of the management, past traditions, inter-group or intra-union compulsions and short-sighted interests calculated to sustain the loyalties of the workers at any cost are some of the factors responsible for such a populistic charter of demands.

The office-bearers of unions or members nominated by them act as workers' representatives in the bargaining team in 13 companies. Only in 2 companies the workers directly elect their representatives for negotiations.

As far as managements are concerned, it is the top executive choice to nominate any manager as their representative on the bargaining team. The number of workers' and management representatives was not equal in any company. For the decisions were not taken by majority but by consensus. In all the companies
the union leaders were found satisfied with the choice of management representatives and with the measure of authority delegated to them to take spot decisions on the negotiating table.

Largely the success or failure of collective bargaining depends on the maturity, negotiating skill and attitudinal disposition of the negotiating team. If both parties-representatives of the employers and those of the employees—are committed to certain higher values and determined to resolve the points of contention in a fruitful manner through mutual discussions and patient negotiations and accommodate as far as possible their conflicting interests, collective bargaining is bound to succeed. In certain companies agreements were signed only in one or two meetings, whereas in other companies bi-partite negotiations failed to resolve the points of contention and accordingly third-party intervention became inevitable.

VII

Advance preparations for collective bargaining together with submission of the charter of demands about 60 days before the expiry of the existing agreement provide a conducive atmosphere for success in collective bargaining. In 33 cases, the charter of demands was submitted before the expiry of the agreement, and in 7 cases the charter of demands was submitted after the expiry of the existing agreement, whereas 15 agreements were signed before the expiry of existing ones.

Although in a majority of the companies both management and union representatives tend to sign bi-partite
agreements, but because of legal provisions such agreements are signed as settlements. However, conciliation officers play an important role in bringing the two parties together to sign an agreement. Conciliation officers are involved either directly or indirectly in all the LTAs signed in the sample companies. All unions submit a copy of their charters of demands to the conciliation officer and apprise him of their viewpoints even before the beginning of negotiations with the managements.

VIII

In some companies between the management and the union a sort of nexus begins to assume shape. For the management as a rule supports the internal union and internal leadership and is against the formation of a second union or any outside leadership. The union in turn prefers to meet the needs of the management rather than the needs of the ranks and file. Often it chooses to enjoy the patronage of the management by providing a peaceful workforce through suppression of any possible disturbance to the status quo. The workers of these companies know all about the close ties existing between the union leaders and the employers. Generally, the workers seem to be indifferent and apathetic to such unions. They do not seem to have any choice as the union leaders in such cases prove to be more autocratic and authoritarian in their conduct with workers than with the management. In the sample companies the union leaders have, though unofficially, arrogated to themselves the job of personnel management and, in the process, do no attend to their assigned jobs. Generally speaking, in these companies the union leaders
are provided various other benefits and high priority in housing loans, leave and promotions. However, in several other companies, the management normally does not interfere with the workers' choice of union and leaders. It prefers maintaining a direct and effective communication with workers and as well as with whosoever become office-bearers. Such union leaders also attended to their assigned duties. In such companies the workers seem to be more satisfied, happy and productive. The 'cradle-to-grave' care by the company for its employees and their families has created a discernably paternalistic attitude on the part of the management and also a corresponding loyalty to the company among the rank and file of the workers. The SFFI and the Atlas, to name the two outstanding companies in their field, have 32 welfare schemes, each designed to upgrade the life-style of the workers and their families on the clear understanding that such welfare measures are outside the ambit of collective bargaining. In some cases, the management takes care of its workers even beyond the eight-hour schedule. The management does not depend on the union leaders in such off duty relations with the workers and their families.

IX

The contents of the LTAs vary considerably from company to company. Different companies have covered different issues and have different rules governing DA, Bonus, Wages, HRA, Conveyance, LTA, leave retirement benefits and productivity bargaining. Even the rate and rules of these monetary benefits are different in any two companies located at the same place side by side and
turning out identical products. The LTAs of Escorts & Eicher, Sona & Lumax, HNG & HSW are different in all respects, although their manufacturing units are broadly similar in production, location and even ownership. There is no regional or locational uniqueness, and each company has evolved its own system of labour-management relations and collective bargaining.

Collective bargaining, mostly in a variety of companies, has not evolved in terms of the range of issues covered under the LTA. The good many issues which invite attention under collective bargaining relate only to wages, the variety of admissible allowances and other financial perks. Only 5 companies have comprehensive schemes of productivity bargaining and a small number of companies have provisions like management rights and the union's responsibilities, discipline, absenteeism, health and safety, anti-pollution, in-service training, promotional avenues and employment prospects, etc.

In all the companies the demands remain confined to monetary benefits. No demands whatsoever are raised which are unrelated to monetary benefits, 95 to 100 percent demands being wholly related to economic scenario. Only one union demanded workers' participation in management, pollution control and promotional avenues under the LTA.

In the sample companies, where there are more than one union, the managements have shown a measure of pragmatism in dealing with the vexed problem of multiplicity of unions. Instead of confining itself to bargaining with the majority union, the
management forms what it calls Joint Negotiation Committee with proportional representation from all unions. It has been found that such joint committees are gaining much vogue and recognition in comparison with multiple unions. It has come to be accepted that the joint committees reflect, to a large extent, the democratic opinion of the workers who act in such situation as true representatives of the workers' interests. All unions are represented on the joint committees and so they are as much a party to final decisions as others. It is for this reason that they conduct themselves with much dignity and responsibility by adopting legal methods for redressal of grievances. The joint committee ensures, if nothing else, that industrial peace is not destroyed in any organisation by a determined minority.

XI

A judicious and yet effective grievance redressal machinery is an integral part of collective bargaining. The sample companies have formulated grievance redressal procedures largely patterned after the Indian Labour Conference's "Model Grievance Procedure", which evidently seems to have been tailored to respond to specific plant conditions. What seems to have complicated the issue is that the perceptions of the management, union leaders and workers regarding the effectiveness of the various components of grievance settlement are different. Union leaders in both types of grievance procedure--step-ladder and open-door play an important role depending on the strategies they bring to the exercise. However, the main function of the grievance procedure in some cases is on the one hand to
strengthen the employees' commitment to work and prevent, on the other hand, the latent individualistic or petty group or faction dissatisfaction snow-balling into collective industrial disputes. In such companies collective bargaining is also used as a participative forum to resolve various grievances on day-to-day basis.

XII

Collective bargaining is not only an instrument to settle wages and other monetary benefits but also a device to order workplace relations. To say the least, it is a dynamic concept which has been successfully tested by the management and the unions in not a few companies to increase productivity, introduce tougher work norms, expose the workers to automation and reduce absenteeism. Further, it seeks to improve labour management relations and maintain industrial peace and harmony. Various organisations were beset with the problems of late coming, sleeping, loitering, absenteeism during working hours, poorer workmanship, non-performance of assigned tasks and non-compliance of existing rules and norms. The situation in some companies was really alarming. However, these companies tried in their own ways to grapple with the problems and turned all these problems into well-defined agenda of collective bargaining. The unions of these companies bargained tough terms on the economic front with the management, vested in the hands of the management the right to discipline the workers and accepted the new productivity scheme. The LTA analysis shows that collective bargaining is playing an increasingly important role in
determining working conditions and regulating workplace relations. It has been found that collective bargaining has dynamic qualities of its own which make it better equipped than unilateral decisions to tackle partial programmes and details of workers' life.

With the passage of time collective bargaining has come to hold very bright prospects. This instrument is bound to flourish, playing a healthy, constructive and effective role. It has the potential to ensure peaceful industrial relations in the country.

RECOMMENDATIONS

With the collapse of communism, the fall of the Berlin wall, the Chinese transition to modern market economy and globalisation on the one hand and the policy of liberalisation, privatisation and market economy under the new industrial policy on the other, have brought about drastic changes in the industrial scene. There has been a growing trend towards automation, upgradation of production targets, lowered manning levels and forming out business to ancillaries, thereby reducing the strain on the management. Not only the management, but even union leaders are finding it increasingly difficult to manage the rank and file. The depressed market sentiments and recessionary tendencies in a particular industry require cutting down of costs and a better utilisation of labour. All these factors have caused major shifts of emphasis in labour-management relationship. Such far-reaching changes call for radical rethinking about the traditional role of all the major actors — workers/unions, employers and government. They have to devise non-traditional
methods of handling workplace relations.

I

It is being increasingly realised that the management and the unions must come out of their traditional shell. The management must recognise and accept unionism as an integral and indispensable part of the industrial society. It should share with the workers its traditional prerogatives and develop a participative culture in the organisation. The unions, on the other hand, must take the onus of disciplining workers, and ensure the maximum utilisation of workforce after having bargained work norms and favorable terms and conditions of employment.

II

The long overdue recommendation of the National Commission on Labour to set up Industrial Relations Commission should be implemented both at the centre and in each State. The main functions of the IRC should be administration and enforcement of labour laws, registration and certification of membership of bargaining agents and conciliation, mediation, adjudication etc.

III

The grievance settlement machinery should be equipped to deal with disputes arising from interpretation or implementation of LTAs. In every industrial organisation employing 500 or more workmen, a panel of names of Grievance Arbitrators mutually agreed upon should be maintained and the
employee must be given a choice to choose anyone out of the panel to arbitrate on his grievance. The section concerning Grievance Settlement Authority inserted by the Industrial Disputes (Amendment) Act, 1982, must be enforced.

IV

There is need to set-up independent and non-profit membership associations to promote peaceful relations between employers and employees through research, and to conduct an objective inquiry into major or controversial industrial relations policy matters and industrial disputes which have a wider impact. There is a great need for the government officials, economists, educationists and union leaders to join hands to form such associations which will go a long way to promote collective bargaining in India.

V

In keeping with deregulated and liberalised economy, the day-to-day industrial relations matters are best left to the parties themselves in a substantial measure. The government should not have the power to directly intervene in union-management relations, except in cases of serious disruption of industrial life. The parties will learn in time through practice, experience, training and awareness of the benefits of collective bargaining to resolve their difference through bipartite negotiation.

VI

The Trade union Act, 1926, should be amended to provide
the following provisions:

i) The Act should provide that the minimum strength for registration of a trade union is either 10% or 100 employee, whichever is less, subject to a minimum of seven members.

ii) The Act should ban the registration of trade unions based on caste, creed, community and religion.

iii) The Act should restrict the number of outside leaders to one third instead of 50% of the office bearers/executive members.

iv) The Act should provide for compulsory recognition of unions, compulsory bargaining with either the sole bargaining agent or Joint Negotiation Committee of all unions, and 'check off' system.

VII

There is a need for a drastic overhaul of the industrial relations procedures and machinery under Industrial Disputes Act, 1947. The existing procedures are essentially concerned more with conflict resolution than with maintenance of harmony. The focus should shift from preventive approach to curative approach. The IDA 1947 should be amended to provide the following provision:

(i) The title of the legislation should be changed from the 'Industrial Disputes Act' to 'Industrial Relations Act' which will send positive indications.

(ii) It is important to set-up a 'Negotiation Council' consisting of an equal number of representatives of the employers and of the workers. In case of
multiple unions, proportional representation should be
given to all unions. If there is no union, 5
employees may be elected from labor side through
secret ballot.

(iii) Agreements reached in the Negotiation Council should be
binding on all workers without registering it as
'Settlement'.

(iv) Wherever the Negotiation Council records any
disagreement, the next stage should normally be
voluntary arbitration.

(v) Every establishment employing 100 or more persons
should maintain a standing panel of arbitrators agreed
to by both the parties.

(vi) The Arbitration Promotion Board, which was set-up some
years ago and which is now defunct, should be revived.

(vii) The failure to implement a settlement or an agreement
or an award, which is listed in Part I of the Fifth
Schedule of ID Act as an unfair labor practice on the
part of the employers, should also be listed in Part
II.

(viii) Strikes by workers should be preceded by a strike
ballot in which at least two-thirds of the workers
employed in an establishment should vote in favour of a
strike. However, the union can adopt other methods like
go-slow, work-to-rule, demonstrations etc. without such
a ballot.

(ix) The unfair labour practices under Sec 25-T of IDA
should be decided by both parties in Bipartite Committee and not through any legal provision.

(x) No workman should intervene in the proceedings of a dispute carried on by union leaders.

VIII

Distributive bargaining should gradually be supplemented by productivity bargaining and by new ways conducive to effective cooperative rule making for work-place relationship. The labor and the management should work together, not only to create the agreement itself, but to create an atmosphere of ongoing cooperation. Productivity bargaining will improve not only the quality and quantity of work but result in the survival of the company and jobs under depressed market economy.

IX

The traditional method of collective bargaining of a union making demands and management making offer should be replaced by both parties bringing their problems and needs to each other. The bargaining table can be the place of a thorough exploration of such problems long before a contract expires in a responsible joint manner. The object should be not to win but to reach agreements that best serve the needs of the parties and the organisation. Both parties should rely on facts and figures to support their points of view in a peaceful manner.

X

In crisis and depressed situations, concession bargaining becomes necessary. Both the parties see the writing on
the wall and productively respond and accommodate each other’s interests for collective survival. Concession bargaining like reduction in wages and allowances, freeze in DA, change in working practices, early retirement schemes, redeployment etc. should be mutually agreed upon and uniformly applied on all employees from top management to ordinary workers.

XI

The focus of collective bargaining should extend beyond economic issues and traditional employment relations, and cover aspects like quality of working life, post-retirement, social security benefits, flexibility in employment and reward system, occupational safety and health, new information technologies etc. Both the parties should have a pragmatic approach and bargain in good faith to integrate the objectives of both the parties and to maximise common good through win-win agreements. The imperatives of recent events and turbulent changes stress the need for considerable innovation at the bargaining table.