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CHAPTER II

2.1 EXISTING LEGAL SYSTEMS VIS-À-VIS INDUSTRIAL RELATIONS IN DIFFERENT COUNTRIES.

1.1 LEGAL SYSTEM IN U.K.:

During the period of laissez faire, Industrial relations was governed by laws of contract and property.

The Code of Hummurabi (2250 BC) the first code in the Industrial field fixed the wages of all artisans, physicians, veterinarians.

English Industrial legislation came in the year 1351 A.D. was relating to the hours of work of the labourers. Earlier, English Industrial legislation was often not in favour of the worker but quite the reverse. The statute of labourer of 1351 required "all artisans and labourers hired by time to be and continue at their work at or before 5 'O' clock in the morning and continue at work and not depart until between seven and a half hours in the course of the day being allowed for meals and drinking".

The first pro-worker attempt was made in the year 1802 by enacting first Modern Factory Act to improve the conditions of workers. However, the effect of this Act and those of the four succeeding Acts were almost nil, although they were based upon the findings of Commission after Commission appointed to investigate the evils of the factory system.

Consequent upon the popular agitation for an effective law, a factory law was passed in 1891 which regularised some of the evils of the factory system and industrial revolution.
In 1896, the Act of Parliament was passed for compulsory arbitration but the parties to the disputes preferred voluntary arbitration. In 1919, the Act of Parliament also encouraged the reference of Industrial disputes to arbitration. The employment protection (consolidation) Act, 1978 is the major statute in the field. Much of the British system is attractive to societies which place a high value on voluntarism, as opposed to governmental compulsion. The British system of Industrial relations is often characterised as a voluntary system. There is no major country in the world in which the law has played a less significant role in the shaping of Industrial relations than in Great Britain. The Industrial Tribunals of Britain enforce a variety of laws, including the Employment Protection Act, 1975, the Employment Protection (consolidation) Act, 1978 and the Employment Act, 1980, Equal Pay Act, 1970, the Sex Discrimination Act, 1975.

The British Industrial Relations Act, 1971 was passed to bring about an improvement in Industrial Relations, firstly by putting pressure on management to implement those personnel policies which prevent disputes from breaking out, or providing the means whereby they can be peaceably resolved; and secondly, to bring about a more orderly pattern of industrial conflict (where conflict is inevitable) by wresting trade union power away from the shop floor and placing it, in the hands of a strengthened union hierarchy. The so-called 'Voluntary system' of industrial relations has thus been supplemented and reinforced by a more legalistic system, but it must be stressed that the latter has not replaced the former. The emphasis throughout the Act is on voluntary methods for the resolution of disputes, at almost every stage of the legal process it is possible for the parties to draw back and settle their differences. Only when the voluntary machinery has broken down or ceased to be effective, the legal provisions of the Act can be invoked. Equally, the Act is not designed to cripple or hamper the trade union movement, which, after a period of consolidation and trial, should emerge as a stronger and healthier organisation.
ORGANISATIONAL STRUCTURE:

Central to the new system is the National Industrial Relations Court (NIRC), which is a branch of the High Court charged with the responsibility of dealing with legal issues which arise under the British Industrial Relation Act, 1971 and associated measures. The Court has a judge as its President but it also includes lay members who are chosen for their knowledge and experience of industrial relations. Procedure before the NIRC is more informal than is usually found in British Courts, and it is capable of acting with great speed when the circumstances so require. Any award made by the court will be governed by principles of justice and equity.

The handmaid of the NIRC is the Commission on Industrial Relations (CIR), which is largely a fact-finding body. The NIRC will refer certain issues, such as applications for bargaining agencies, agency shop applications, and approved closed shop agreements to the C.I.R., receive its report and make orders as appropriate. The C.I.R. will also keep general matters relating to industrial relations under review and can be asked to report thereon. Industrial tribunals were formerly concerned mainly with applications for redundancy payments. They have now been given additional jurisdiction to deal with cases of unfair dismissals, and at a later stage will have power to hear all disputes arising out of contracts of employment's (other than damage for personal injuries).

The tribunals are situated in regional centers and consist of a legally qualified Chairman with two lay members.

The old Industrial Court, set up in 1919, has been resumed the Industrial Arbitration Board. It will still perform its former functions of Arbitration (with mutual consent), but its work under the Act is confined to receiving certain applications, which may be made by registered trade unions. In addition, it may hear allegations that an employer is failing to observe the terms and conditions of a collective agreement.
UNFAIR DISMISSALS: - SAVE GUARDED

The most important part of the Act relates to the new law on unfair dismissals, and a new floor of rights is granted which should give employees a greater sense of job security. Hitherto, very few employees enjoyed any form of job security, for as long as proper notice was given, an employee could be dismissed at any time. The Act provides against this and makes provision, incidentally, for extending the minimum periods of notice which must be given to long serving employees. It is now a Unfair Industrial Practice to dismiss an employee unfairly on one or more of the following reasons, namely:-

(a) Incapability of the employees, including lack of qualifications, health, etc.
(b) the conduct of the employment in question;
(c) the redundancy of the employee;
(d) the fact that the firm could not continue to employ him in that position without contravening an enactment or
(e) any other substantial cause.

In addition, the employer must act reasonably in treating that cause as sufficient grounds for dismissal. Certain employees are excluded from the unfair dismissals provisions, including employees with less than two years service, employees over retiring age, those who work less than twenty one hours per week, or work abroad, or who work in establishments which employ less than four employees. A failure to renew a fixed term agreement of more than two years will amount to an unfair dismissal unless the parties agreed in the contract to exclude the provisions of the Act. A dismissal of a worker because he exercised his right to belong to a registered trade union, or not to belong to any trade union, is generally unfair.

An employee who feels that he has been unfairly dismissed may apply to the Industrial Tribunal, which may make a recommendation that he be re-engaged or
alternately award compensation, as the Tribunal thinks just and equitable. The maximum compensation payable is £4,160 or two years pay whichever is the lesser sum. A dismissed employee is always under a duty to minimize his loss by securing suitable employment.

Briefly we may say, in England, the trade unions were originally liable to legal process under the common law. They were guilty of inducing breaches of contract, they had formed a combination to raise wages, they had resorted to intimidations, they had interfered with freedom of contractor, they had used violence in breach of the Civil law. Trade Unions were given no legal status until 1871. By Trade Unions Act, 1871 and by a further Act of 1875, the Unions were fully legalised and freed from nearly all form of criminal liability in respect of industrial conflict. The Conciliation Act of 1896 prescribes some Government help in resolving disputes but in a purely voluntary basis. Then followed the Trade Disputes Act, 1906, which gave the Unions a position of exceptional privilege, one fortified by subsequent legislation in 1913 and 1945. There was no change to this position until the Industrial Relations Act was passed in 1971.

Classical British Labour law had its own ideology, one to which 'post industrial pluralists' made their contribution, predicting that, as unions 'matured' concentrating on pragmatic collective bargaining and pressure group activities, they would become an acceptable and integral part of a pluralist society within the system of 'Voluntary' Labour radiations.

2.1.2. LEGAL SYSTEM IN U.S.A.

In America, the first Federal law affecting the Industry was the Sherman Act, 1890. It aimed at prohibiting any restraint on the Interstate Commerce in any form of contract / agreement. The Clayton Act, 1914 exempted the Labour unions from the restrictions of the Shermans Act, but was ineffective. The Norrista Guardia Act, 1932 finally exempted the Labour unions from the provisions of Shermans Act by forbidding the Federal Courts to issue injunction in Labour disputes. The National Industrial Recovery Act, 1933 made another attempt to
regulate all industries by voluntary codes set up by individual industry. It was an effort to lift the country out of a deep depression. The National Labour Relations Act, 1935 commonly known as Wagner Act aimed at avoiding the weakness of the National Industry Recovery Act, 1933. The Act was administered by National Labour Relation Board composed of 3 members appointed by the President. The Act excluded from its purview the agricultural workers and domestic servants.

Section 7 of the Act provides "Employees shall have the right to self organisation to further, join or assist Labour organisation to bargain collectivity through representative of their own choosing and to engage in concerted activation for the purpose of collective bargaining and other mutual aid or protection".

And Section 8 defines unfair Labour practices thus, to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in Section 7. Industrial Relations in USA is mainly based on the principles of representative Government. Work Council was set up in each industry. They reflect in themselves the essence of industrial democracy.

The principal strengths of the grievance arbitration system in the USA are its largely voluntary nature and flexibility, and the opportunity it provides to employees, through their unions, to participate in a process so vital to their employment. Further, the remedies available through arbitration in the USA tend to parallel statutory remedies available in the courts. The Chief difference between judicial and arbitral remedies is that the former sometime include primitive damages, whereas the latter almost never do.

In an attempt to redress the balance which was thought to weigh too heavily in favour of the Unions, changes were made by the Labour Management Relations Act, (Taft – Hartley) 1947. A number of unfair Labour practices by union were forbidden, including (a) restraining or co-ercing employees in the exercise of their guaranteed collective bargaining rights, (b) causing an employer to
discriminate against an employee because of Union membership or non-membership; (c) refusing to bargain in good faith with an employer about the terms and conditions of employment when it has been designated as bargaining agent. (d) Secondary boycotting (e) striking in order to force an employer to bargain with a Union in circumstances which another Union has been certified as the bargaining agent. This Act also made changes in the rules relating to election for bargaining agencies and lays down provisions with respect to strikes, which cause a National Emergency.

The final pillar of American Labour Law is the Labour Management Relations Act, 1959 (Landrum – Griffin). This Act laid down a new code of conduct for union officials, unions and employers as well as management consultants. Every union has to have a constitution with certain minimum standards and safeguards. An Annual report on union policies, procedures and finances must be filed each year and published to union members. A number of amendments were made to the Taft-Hartley Act which were a mixture of Labour sweeteners and added restrictions.

2.1.3 LEGAL SYSTEM IN JAPAN

In Japan, the Industrial Relations are maintained under the Labour Relation Adjustment Law, 1946. For the public sector, the Public Co-operation Labour Relations Law, 1948 was passed. This Act provides for the methods of selecting negotiating committees representing the corporation and the employees for the purpose of collective bargaining. Under this law, Labour Relations Commissions consisting of equal number of persons representing employers, workers and public interested persons are set up. The primary functions of the Labour Relations Commissions include conciliation, mediation and arbitration. The disputes relating daily working conditions can be settled by a Joint Grievance Adjustment Board set up by mutual agreement of the corporation and its employees.
In Japan, both individual and collective disputes are handled by the ordinary courts. The distinction between disputes over rights and conflicts of interests is never very clear because the Law courts often give rulings on questions of appropriateness as well as on strictly legal issues. The Court may also play the role of a mediator, especially in respect of the appropriateness of such matters as collective dismissals or the procedural problems of bargaining sessions, whether the matter before the Court requires only a ruling on appropriateness or a legal decision depends largely on how it is raised. The reason for this confusing situation is that the Japanese, like the British, regard Labour contracts as gentleman's agreements and only rarely are disputes not resolved by mutual agreement. In traditional Japanese Society, disputes are often settled by men of influence with sufficient authority who can and do appeal to sentiment rather than to any universal norm.
2.2 INTERNATIONAL LABOUR ORGANIZATION: ITS IMPACT

International Labour Organisation (ILO), an Intergovernmental Organisation founded on April 9, 1919 by peace conference convened at the end of 1st world war at versailles. ILO became the first specialised United Nations agency in 1946.

The ILO is an international organization, a new social experimental institution trying to make the world conscious that world peace may be affected by the unjust conditions of its working population. It symbolises social justice, universal peace and human dignity. India is a founder member of I.L.O. since 1919.

Tripartite representation at all the proceedings of ILO is given to workers and employees besides governmental agencies. There are three groups, namely “the governments which finance it, the workers, for whose benefit it is created and the employers who share the responsibility for the welfare of the workers.

2.2.1 OBJECTIVES OF THE ILO

The objective of the ILO are enunciated in the preamble to its constitution supplemented by Article 427 of the peace Treaty of Versailles, 1919 as well as by the Philadelphia Declaration of 1944.

The Philadelphia Declaration 1944 has reaffirmed the principles of ILO, namely that:

(a) Labour is not a commodity.

(b) Freedom of expression and of association are essential to sustained progress.
The declaration of Philadelphia set forth 10 objectives which the ILO was to further and promote among the nations of the world. The theme underlying these objectives is social justice. The objectives are as follows:

(a) Full employment and the raising of standards of living.

(b) The employment of workers in the occupation in which they can have the satisfaction of giving the fullest measures of their skill and make their contribution to the common well being.

(c) The provision, as a means to the attainment of this end, and under adequate guarantees for all concerned, of facilities for training and the transfer of labour including migration for employment and settlement.

(d) Policies in regard to wages and earnings, bonus and other conditions of work calculated to ensure a just share of the fruits of progress to all, and a minimum living wage to all employed and in need of protection.

(e) The effective recognition of the right of collective bargaining, the cooperation of management and labour in the continuous improvement of productive efficiency and the collaboration of workers and employers in social and economic measures.

(f) The extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care.

(g) Adequate protection for the life and health of workers in all occupations.

(h) Provision for child welfare and maternity protection.

(i) The provision of adequate nutrition, housing and facilities for recreation and culture.

(i) The assurance of equality of educational and vocational opportunity.
The impact of the activities of the ILO on the Indian Labour Scene is two fold. Firstly, the ILO is the principal source for labour legislation in India through the ratification of the ILO conventions and recommendations. The principles of these standards are incorporated into the existing labour laws. Secondly, the effect of Article 3 of the constitution of the ILO which provides for the nomination of non-governmental delegates and advisors to the International Labour conference which is held every year is in furthering the process of organisation among employers and workers in India.

According to the National Commission of Labour "International obligations which devolve on India as a result of the long association with the ILO have to be discharged in the following directions : (i) adopting the aims and objects of the ILO for national action (ii) co-operation in the ILO's programmes and (iii) progressive implementation of the ILO's standards".

2.2.2. I.L.O. CONVENTIONS AND RECOMMENDATIONS -HIGHLIGHTED

We may discuss the relevant conventions and recommendations relating to collective bargaining and settlement of Industrial Disputes, so that we can have an idea about International norms influencing the relevant field of Industrial jurisprudence.

2.2.2.1 RIGHT TO ASSOCIATION AND COLLECTIVE BARGAINING:

Reaffirming the Philadelphia declaration that "freedom of expression and of association are essential to sustained progress" General Conference of the ILO has adopted the Convention no. - 87 (Convention Concerning Freedom of Association and Protection of the Right to organize) on 9th July, 1948. We may refer the relevant Articles of this convention.
Article 2
Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.

Article 3
(1) Workers and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representations in full freedom, to organise their administration and activities and to formulate their programmes.

(2) The public authorities shall refrain from any interference which would restrict their right or impede the lawful exercise thereof.

Article 4
Workers and employers organisations shall not be liable to be dissolved or suspended by administrative authority.

Article 5
Workers' and employers' organisations shall have the right to establish and join federations and confederations and any such organisations, federation or confederations shall have the right to affiliate with international organisations of workers and employees.

Article 8
(1) In exercising the rights provided for in this convention workers and employers and their respective organisations, like other persons or organised collectivities, shall respect the law of the land.

(2) The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this convention.
Article 10
In this convention the term ‘organisation’ means any organisation of workers or of employers for furthering and defending the interests of workers or of employers.

Article 11
Each member of the ILO for which this convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise.

2.2.2.2 RIGHT TO ORGANIZE AND TO BARGAIN COLLECTIVELY:
The General Conference has adopted the convention No 98 on 1st July, 1949.  

Article 1
(1) Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.

(2) Such protection shall apply more particularly in respect of acts calculated to –

(a) Make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership.

(b) Cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours.

Article 2
(1) Workers' and employers' organisations shall enjoy adequate protection against any acts of interference by each other or each other's against or members in their establishment, functioning or administration.
In particular, acts which are designed to promote the establishment of workers' organisations under the domination of employers or employers' organisations or to support workers organizations by financial or other means, with the object of placing such organisations under the control of employers or employers organisations, shall be deemed to constitute acts of interference within the meaning of this Article.

Article 3
Machinery appropriate to national conditions shall be established where necessary, for the purpose of ensuring respect for the right to organise as defined in the proceeding Articles.

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

2.2.2.3 CONVENTION CONCERNING PROTECTION AND FACILITIES TO BE AFFORDED TO WORKERS REPRESENTATIVES IN THE UNDERTAKING.

The General Conference has adopted Convention No. 135 on 23rd June, 1971.

It uphold the protections to workers' representatives so that they can carry out their functions promptly and efficiently.

Article 1
Workers representatives in the undertaking shall enjoy effective protection against any act prejudicial to them, including dismissal based on their status or activities as a workers representative or an union membership or participation in union activities, in so far as they act in conformity with existing laws or collective agreements or other jointly agreed agreements. The General Conference has
adopted Recommendation No. 143 on 23rd June 1971, in this regard to supplement the convention No. 135.

The General Conference has adopted Convention No. 154 on 19th June, 1981 for the promotion of collective bargaining.

For the purpose of this convention the term collective bargaining extends to all negotiations which take place between an employer, a group of employers or one or more employers organisations, on the one hand, and one or more workers’ organisations, on the other, for:

(a) determining working conditions and terms of employment; and/or

(b) regulating relations between employers and workers; and/or

(c) regulating relations between employers or their organisations and a workers’ organisation or workers’ organisation.

The General Conference has adopted Recommendation No. 163 on 19th June, 1981 to supplement the Convention No. 154.

Recommendation No. 163 provides for measure so that the negotiators of collective bargaining can get appropriate training.

2.2.2.4 CONVENTION AND RECOMMENDATION CONCERNING EMPLOYMENT SECURITY

The General Conference has adopted the Recommendation No. 119, Termination of Employment, 1963 on 5 June, 1963 at the forty seventh session at the Geneva.
STANDARDS OF GENERAL APPLICATION.

Article 2

(1) Termination of employment should not take place unless there is a valid reason for such termination connected with the capacity or conduct of the worker or based on the operational requirements of the undertaking, establishment or service.

(3) The following, inter alia, should not constitute valid reasons for termination of employment:

(a) Union membership or participation in union activities outside working hours or with the consent of the employer, within working hours;

(b) Seeking office as, or acting or having acted in the capacity of, a workers' representative;

(c) The filing in good faith of a complaint or the participation in a proceeding against an employer involving alleged violation of laws or regulations; or

(d) Race, colour, sex, marital status, religion, political opinion, national extraction or social origin.

Article 4

A worker who feels that his employment has been unjustifiably terminated should be entitled unless the matter has been satisfactorily determined through such procedures within the undertaking, establishment or service, as may exist or be established consistent with this recommendation, to appeal, within a reasonable time, against that termination with the assistance, where the worker so requests, of a person representing him to a body established under a collective agreement or to a neutral body such as a court, an arbitrator, an arbitration committee or a similar body.
Article 5
(1) The bodies referred to in paragraph 4 should be empowered, if they find that the termination of employment was unjustified, to order that the worker concerned, unless reinstated, where appropriate with payment of unpaid wages, should be paid adequate compensation, or afforded such other relief as may be determined or granted such compensation and other relief as may be so determined.

Article 7
(1) A worker whose employment is to be terminated should be entitled to a reasonable period of notice of compensation in lieu thereof.

(2) During the period of notice the worker should, as far as practicable, be entitled to a reasonable amount of time off without loss in pay, in order to seek other employment.

Article 9
Some form of income protection should be provided for workers whose employment has been terminated; such protection may include unemployment insurance or other forms of social/security, or several allowance or other types of separation benefits paid for by the employer, as a combination of benefits depending upon national laws or regulations, collective agreements and the personal policy of the employer.

Article 10
The question whether employers should consult with workers' representations before a final decision is taken on individual cases of termination of employment should be left to the methods of implementation.

Article 11
(1) In case of dismissal for serious misconduct, a period of notice or compensation in lieu thereof need not be required, and the severance allowance
or other types of separation benefits paid for by the employer, where applicable, may be withheld.

(2) Dismissal for serious misconduct should take place only in cases where the employer cannot in good faith be expected to take any other course.

(3) An employer should be deemed to have waived his right to dismiss for serious misconduct if such action has not been taken within a reasonable time after he has become aware of the serious misconduct.

(4) A worker should be deemed to have waived his right to appeal against dismissal for serious misconduct if he has not appealed within a reasonable time after he has been notified of the dismissal.

(5) Before a decision to dismiss a worker for serious misconduct becomes finally effective, the worker should be given an opportunity to state his case promptly, with the assistance where appropriate of a person representing him.

(6) In the implementation of this paragraph the definition or interpretation of 'serious misconduct' as well as the determination of 'reasonable time' should be left to the methods of implementation.

Considering that since the adoption of termination of employment Recommendation, 1963, significant developments have occurred in the law and practice of many member states on the questions covered by that Recommendation, Recommendation No. 158 has been adopted by the General Conference in its 68th session on 2nd June, 1982 to supplement the Recommendation No. 119.

Article 5.
Another ground has been added which will not constitute valid reasons for termination of employment (1963 Reco. Art. 2).
(e) absence from work during maternity leave.

Article 6:
(1) Temporary absence from work because of illness or injury shall not constitute a valid reason for termination.

(2) The definition of what constitutes temporary absence from work, the extent to which medical certificate shall be required and possible limitations shall be determined in accordance with the methods of implementation.

Article 7:
The employment of a worker shall not be terminated for reasons related to the worker's conduct or performance before he is provided an opportunity to defend himself against the allegations made, unless the employer cannot reasonably be expected to provide this opportunity.

PROCEDURE OF APPEAL AGAINST TERMINATION.

Article 8
(1) A worker who considers that his employment has been unjustifiably terminated shall be entitled to appeal against that termination to an impartial body, such as a court, labour tribunal, arbitration committee or arbitrator.

(2) Where termination has been authorised by a competent authority the application of paragraph 1 of this Article may be varied accordingly to national law and practice.

(3) A worker may be deemed to have waived his right to appeal against the termination of his employment if he has not exercised that right within a reasonable period of time after termination.

Article 9
(1) The bodies referred to in Article 8 of his convention shall be empowered to examine the reasons given for the termination and the other circumstances
relating to the case and to render a decision on whether the termination was justified.

(2) In order for the worker not to have to bear alone the burden of proving that the termination was not justified, the methods of implementation referred to in Article 1 of this convention shall provide for one or the other or both of the following possibilities:

(i) The burden of proving the existence of a valid reason for the termination shall rest on the employer.

(ii) The bodies referred to in Article 8 of this convention shall be empowered to reach a conclusion on the reason for the termination having regard to the evidence provided by the parties and according to procedures provided for by national law and practice.

Article 10
If the bodies referred to in Article 8 of this convention find that termination is unjustified and if they are not empowered or do not find it practicable, in accordance with national law and practice, to declare the termination invalid and/or order or propose reinstatement of the worker, they shall be empowered to order payment of adequate compensation or such other relief as may be deemed appropriate.

PERIOD OF NOTICE:

Article 11
A worker whose employment is to be terminated shall be entitled to a reasonable period of notice or compensation in lieu thereof, unless he is guilty of serious misconduct, that is, misconduct of such a nature that it would be unreasonable to require the employer to continue his employment during the notice period.
2.2.2.5 UNITED NATIONS COVENANTS: INTERNATIONAL COVENANT ON ECONOMIC SOCIAL AND CULTURAL RIGHTS 1966 AND INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS 1966


While Article 6 guarantees the right to work, Article 7 upholds the workers right to fair wages and healthy working conditions and Article 8 ensures the right of every one to form trade unions and right to strike.

Article 6
1. The States Parties to the present covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 7
The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular,

(a) Remuneration which provides all workers, as a minimum, with:
(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

Article 8
1. The States Parties to the present Covenant undertake to ensure:

(a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of other;

(b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;
(c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedom of others;

(d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.

3. Nothing in this article shall authorize State Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

We may also refer Article 8 of the International Covenant on Civil and Political Rights adopted by the General Assembly resolution 2200 A (XXI) of 16 December, 1966.

Article 8

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

2. No one shall be held in servitude.

3. (a) No one shall be required to perform forced or compulsory labour;

   (b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a
crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;

© for the purpose of this paragraph the term “forced or compulsory labour” shall not include:

(i) Any work or service, not referred to in sub-paragraph (b), normally required of a person who is under detention in consequence or a lawful order of a court, or of a person during conditional release from such detention;

(ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;

(iii) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;

(iv) Any work or service which forms part of normal civil obligations.

2.2.2.6 IMPACT OF INTERNATIONAL LABOUR ORGANIZATION:

International Labour Law has its most important source in the norms promulgated by the International Labour Organization (ILO), established in 1919, which declared as one of its principles that “Labour should not be regarded as a commodity or article of Commerce”.

In terms of their content, ILO norms have slowly but surely increased in number and scope and cover a huge range of topics. However, the standard of the norms adopted has often been minimal: the lowest common denominator. In terms of their adoption and enforcement, the tripartite principle of participation of representatives of employers and workers along with governments has increased the likelihood of approval of norms by ILO institutions and enhanced their legitimacy. However, the mechanism of enforcement of norms adopted have been acknowledged as often inadequate.
However, the conventions and Recommendations of ILO along with the two International covenants have created an awareness amongst the concerned communities and played a role of persuasive force upon the member states to give due consideration of the said norms in law making process.
2.3 LEGAL SYSTEM IN INDIA

2.3.1 ANCIENT INDIA - EVOLUTION OF LEGAL CONTROL

Ancient India was not merely a pastoral land. Labour laws in India has its own historical background and evolution.

Handicrafts achieved a stage of excellent perfection and were being exported to Egypt, Mesopotamia and other far east countries.

Just as Romans had some preliminary principles laid down about master and servant relationship, so Kautilya, Manu, Brashaspati, Vishnu and other laid some preliminary, but more enlightened norms governing the master – servant relationship more than about 2000 years ago. 13

Ancient Dharmasutras, (800 – 900 B.C.) described the servants or labourer into two categories namely agricultural labour and herdsman. In later period different classifications were made to indicate the status of labourers. 14

In ancient India, the Jurists and their smritis prescribed modalities for settlement of master – servant disputes by arbitration and imposition of fine for committing breach of the contract of employment.

Disputes if not settled by arbitration could be taken to a court of law, but there was no separate labour courts or tribunals. 15

2.3.1.1 CONCEPT OF DISCIPLINARY ACTION AND MISCONDUCT:

The concept of disciplinary action for committing misconduct by the servants was not unknown in Ancient India.
Ancient labour law in India prescribed punishment for non-performance of work. These punishments varied according to the times and regions and according to the area of influence of different Jurists.

A workman who did not work after accepting the wage had to pay a fine of double the amount of the wage besides his liability to refund the amount. 16

On the other hand, to ensure protection to the labour, ancient Indian Jurists prescribed punishment for employer's default in giving proper treatment to the labour 17

All these rules witnesses the labour disputes and it follows that there must have existed a machinery for the settlement of these labour disputes, though there were no separate labour courts or tribunals. Importance of harmonium relations between the employer and employee was realised even in early vedic times. Labour disputes were settled on the basis of oral and documentary evidence. 18

2.3.2 PRE – INDEPENDENCE PERIOD : - LAWS INNUNCIATED.

The impact of colonial domination in Asia, Africa and Latin America mostly by European powers, seems to have caused two opposite effects on the poverty phenomenon in these countries. On the one hand, the colonial powers extensively exploited the resources and siphoned off huge resources to their home countries, but, on the other hand, in order to facilitate this resource transfer, they laid substantial infrastructure such as roadways, railways, ports and communication networks and installed education and health services which, in turn, provided some employment and earning opportunities in the colonies as well as in the home countries. In 1850, the Apprentice Act was passed with the object of facilitating the training for children so that when they come of age, they could earn their livelihood. The first legislation with regard to industrial disputes
was the employer and workman (Disputes) Act, 1860. It provides for speedy and summary settlement of trade disputes relating to wages of workmen employed in Railway, Canal and public works. The Act declared the breach of contract as criminal offence. The Act continued till 1932 when the said Act was repeated by employer and workmen (Disputes) Repealing Act, 1932. The trade Disputes Act, 1929 was passed on the model of British Industrial Courts Act, 1919 and the British Trade Disputes and Trade Union Act, 1927. The 1929 Act provided for compulsory adjudication of Industrial Disputes. The Act was replaced by Trade Dispute extending Act, 1938.

The Trade Disputes Act, 1929 was enacted which provided for courts of inquiry and conciliation Boards and forbade strikes in public utility service. However this Act failed to provide for any machinery for the setting of industrial disputes.

In fact, till the end of world war I, the trade Union movement has not taken deep roots in the Indian soil. World war, brought a new awaking among the working class. The prevailing economic misery was aggravated. Workers realised that their salvation lay in their own hands. The concept of employer – employee relationship assumed a new aspect. The feeling of class-consciousness was generated. Workers had to resort to strikes and employers retaliated by declaring lock outs. Industrial peace was, thus, violently disturbed. Ultimately the Government was compelled to enact Trade Disputes Act, 1929 for promoting early settlement of disputes.

This Act authorised the Central and Provincial Government to establish two tribunals, e.g. the board of conciliation or the court of inquiry to investigate and settle a dispute when it arose or was apprehended. The court of inquiry was adhoc in nature and was only to inquire into specific matters referred to it and to submit its report.
The duty of a board of conciliation was to endeavour to bring about a settlement, after investigating into the merits of a dispute and in case of failure to send a full report to the appointing authority.

A serious defect in the Trade Disputes Act, 1929 was that there was no provision for setting up any internal machinery to prevent and settle disputes in the initial stages by mutual negotiations.

The Royal Commission on labour, 1931 after a careful study and scrutiny of the Act suggested three possible lines, namely (1) development of stable trade unions (2) appointment of labour officers, and (3) formation of labour committee.

The Commission also recommended the appointment of conciliation officers to bring about a settlement between the parties at the earlier stages of a dispute. Except for the appointment of conciliation officers, for which provision was made in the Trade Disputes (Amendment) Act, 1938, nothing was done for a long time to implement the recommendations of the Commission. ¹⁹

Due to rapid industrialization in Bombay, the Government felt the compulsion to enact a law towards settlement of industrial disputes. The Bombay Industrial Disputes Act 1938 was passed to provide for a permanent machinery in the shape of an industrial court for the settlement of disputes. This Act was later replaced by a still more comprehensive legislation namely Bombay Industrial Relations Act, 1946 which provided for efficient disposal of industrial disputes.

It is the Trade Disputes Act, 1929 which fathered the idea of State intervention in the settlement of industrial disputes. This Act empowered the Government with powers which could be used whenever it considered fit to intervene in industrial disputes. It contained special provisions regarding strikes in public utility services and general strikes affecting the community as a whole.
The Report of the Royal Commission on labour recommended that the attempt to deal with unrest must begin rather with the creation of an atmosphere unfavorable to disputes than with machinery for their settlement. In compliance with this Recommendation and to implement the experience gathered in the working of the Bombay Trade Disputes (Conciliation) Act, 1934, 1929 Act was amended in the year 1938 authorising the Central and Provincial Governments to appoint the conciliation officers for mediating in or promoting the settlement of industrial dispute

However, Colonial Government under British Crown was not so keen to forsake its laissez faire policy and advocated for selective intervention at the most. Where government intervened, the procedure consisted of appointing an authority which would investigate into the dispute and make suggestions to the parties for settlement or allow the public to react on its merits on the basis of an independent assessment

In September, 1939, the second world war broke out and this led to a tremendous increase in trade and industrial activity in support of the war effort. Being comparatively away from the actual field of warfare, at least in the early part of the war, the Indian sub-continent was well suited for the uninterrupted production of goods and services for the benefit of the war, and the utmost stress was laid during those days on the prevention of any activity tending to disrupt production. With increased industrial activity the problem of employer-workmen relations assured added significance. To smoothen relations between capital and labour, the idea of the Indian labour conference was conceived, and its first session was called in 1942

The Government of India promulgated the Defense of India Rules to meet the exigency created by the second world war and in view of the inadequacy of the Trade Disputes Act, 1929, Rule 81 A was added to the Defense of India Rules to provide for the settlement of disputes and to forbid strikes and lock-outs. This
rule gave powers to the appropriate Governments to intervene in industrial disputes, appoint industrial tribunals and to enforce the award of the tribunals and to enforce the award of the tribunals on both sides. In fact this rule was intended to provide speedy remedies for industrial disputes by referring them compusorily to conciliation or adjudication, by making the awards legally binding on the parties, and by prohibiting strikes and lock-outs during the pendency of conciliation or adjudication proceedings and for two months thereafter. This rule put a blanket ban on strikes which did not arise out of genuine trade disputes.

Experience of the working of the Trade Disputes Act, 1929 has revealed that its main defect is that while restraints have been imposed on the rights of strike and lock-out in public utility services, no provision has been made to render the proceedings instittutable under the Act for the settlement of an industrial dispute, either by reference to a Board of conciliation or to a court of inquiry, conclusive and binding on the parties to the dispute. This defect was overcome during the war by empowerng under Rule 81-A of the Defence of India Rules the Central Government to refer industrial disputes to adjudicator and to enforce their awards.

Though the rule was promulgated under the stress of the emergency caused by the war, it proved an important step forward in the development of the industrial law in the country and a large volume of decisional glist grew in the field of industrial adjudication as the tribunals created under this rule laid down some important principles while adjudicating upon a large variety of industrial disputes pertaining to vast variety of subjects.

With the end of the war, this rule was due to lapse on 1.10.1946, but it was kept in operation for further period of six months by invoking the Emergency Powers (Continuance) ordinance, 1946. Since industrial unrest was checked under this rule, the need of a permanent legislation in replacement of this rule was gaining momentum to combat the post-war industrial re-adjustment. To stream line the
employer – employee relationship, the Government passed the Industrial employment (Standing orders) Act, 1946 and the Industrial Disputes Act, 1947. Since these two Acts along with Trade Unions Act, 1921 constitute the very foundation of employer-employee relationship in independent India, we will deal with these three Acts at appropriate places.

2.3.3 CONSTITUTIONAL ASPECTS: WORKER’S RIGHTS IN INDEPENDENT INDIA

The Preamble of the Constitution declares India to be a sovereign socialist Secular Democratic Republic. It pledges to ensure Justice Social, economic and Political to all its citizens. The Directive principles of State Policy along with the Fundamental Rights ensures socio economic justice to the working class of the Nation.

2.3.3.1 DIRECTIVE PRINCIPLES OF STATE POLICY

Article 39 of Directive Principles of State Policy of the Constitution of India provides:–

The State shall, in particular, direct its policy towards securing

(a) That the citizens, men & women, equally have the right to an adequate means of livelihood;
(b) That the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
(c) That the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment.
(d) That the health and strength of worker, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocation unsuited to their age or strength.
These principles together with other provisions of the Constitution contain one main objective i.e., making the building of a welfare State and an egalitarian Social Order and to fix certain social and economic goals for immediate attainment by bringing about a non-violent social revolution. Through such a social revolution, the Constitution seeks to fulfil the basic need of the common man and to change the structure of the society, without which political democracy has no meaning.

Article 41 - The state shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

Article 42 - The state shall have provision for securing just and human conditions of work and for maternity relief.

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

Article 43(A) ensure participation of workers in management of industries - The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organizations engaged in any industry.
2.3.3.2 FUNDAMENTAL RIGHTS

Article 19 (1)(C) of the Constitution of India provides all citizens shall have the right to form association or unions subject to certain reasonable restrictions in the interest of the sovereignty and integrity of India or public order. Article 19 (1)(g) ensures the fundamental rights to practice any profession or to carry on any occupation, trade or business. Article 19 (6) has imposed reasonable restrictions on this fundamental right.

The Judiciary is innovative to add new horizon to the concept of life and liberty under Article 21. The reasonableness of Article 19 can be examined with the search light of Article 21.

While Article 39 advocates nationalisation of material resources as well as utility services, Article 41 making the socio-economic justice meaningful and endeavour to establish a society where everyone can enjoy his fundamental right.

Article 43 is to uphold the reasonableness of the restrictions imposed by the Minimum Wages Act, 1948 upon the fundamental right of business guaranteed by Art 19 (1)(g) and to condemn unfair labour practice.

In the post independence period, a plethora of labour legislations have been enacted, Conventions and Recommendations of United Nations and its specialized agencies have been ratified and Institutions such as Human Rights Commission under the Protection Human Right Act, 1993 and Commission such as National Commission on Labour have been constituted to secure the just conditions of work as enshrined Article 42.
All these provisions aim at establishing of a socialist state as envisaged in the preamble which would endeavour to secure a decent standard of life and economic security to the working people.

The new Industrial Policy announced by the Government of India, as a part of economic reforms, laid down a new approach towards public enterprises. Public Sectors are now required to play a new role in emerging soci-economic scenario of the country. Government holdings of selected Public Sector units are to be disinvested with the objectives to provide further market discipline to the performance of public enterprises. 

In this context, it is reasonable to refer the issue, what role the State will play to protect the workers against the storm of market force. And further, when the economic systems the world over are converging towards market economy, what role, if any, does ideology have now in guiding the trade union movement.

The Government of India is contemplating major changes in labour laws to sharpen the edge of competitiveness of Indian Industry. It is to be ensured that the edge of market economy should not be allowed to liquidate the objects and mission enshrined in the constitution.

**RECOMMENDATIONS OF FIRST NATIONAL COMMISSION ON LABOUR - ANALYSED**

The Government of India constituted 1st National commission on Labour, 1969 under the Chairmanship of Shri P.B. Gajendra gadkar.

In the report, the National Commission recommended a wide range of reforms in the Labour Law.
The object of establishment of the commission was to consider all the relevant aspects and to advise the Government in the labour matters. We may discuss the Recommendation on the issues involved.

**CODE OF DISCIPLINE AND DISCIPLINARY PROCEDURE:**

After an indepth study into the Industrial relations system prevalent in India, the Commision observed that "The discipline to observe the rules of the game is an attitude of mind and requires, apart from legislative sanctions, persuasion on a moral plane." 25

The code of discipline, among other things, lay down that the management and unions will establish upon a mutually agreed basis grievance settlement procedure which will ensure speedy and fair investigation leading to settlement.

The commission also observed "Disciplinary procedure for misconduct leading to discharge / dismissal causes dissatationfaction among workers in a country where employment opportunities are inadequate. Attempts by the State to regulate the procedures are considered by employers as undue interference in the exercise of their light to 'hire and fire'. The present regulations in this regard, particularly the denial to the employer of a choice between reinstatement and payment of compensation, do not find favour with the employers as agroup. The law, as its stands today, lays down specific procedures in regard to dismissal, so as to ensure that there is no victimisation and that punishment is awarded on the basis of a full enquiry and established facts.

The employers wanted the law to be changed so as to allow them the right to choose between reinstalment and compensation when malafides are non-existent. They have expresses dissatisfaction about the law, as currently interpreted, particularly in regard to (a) delay and dilatoriness of the proceedings, (b) reference to tribunals even in case where the domestic enquiry has been in order, and (c) the attitude of tribunals in setting their face against
compensation. They have pleaded for a procedure involving minimum third party intervention and have suggested: (i) formulation of more comprehensive model standing orders classifying major and minor misconducts and specifying punishment to suit each type; (ii) provision of a milder punishment in lieu of dismissal; (iii) curtailment of tribunal powers to sit in judgment over management order; and (iv) payment of compensation rather than reinstatement for wrongful dismissal of workers. On the other hand, the Trade Union have opposed any such concession being granted, as in (v), as they apprehend that this right will be used to cut at the root of union activity. They have also alleged the arbitrary nature of punishment; punishment for the same misconduct has ranged from four days suspension to dismissal, according to the person involved. Their basic dissatisfaction is, however, about the employer combining it himself the functions of a prosecutor and judge. Some of the suggested changes are: (i) standardization of punishment for different types of misconduct, (ii) inclusion of a workers’ representative in the domestic enquiry committee, (iii) having an arbitrator to give decision in a domestic enquiry, (iv) an adequate show-cause opportunity to a workman, (v) presence of a union official to represent the case of a workman in the enquiry proceeding, (vi) supply of the record of proceedings to the aggrieved workman, (vii) payment of a subsistence allowance during the suspension period, (viii) right of appeal to administrative tribunals set up for the purpose, and (ix) fixing time limit for tribunal proceedings and giving unfettered powers to it to examine the case denovo, modify or cancel a punishment order by the employer.26

After an indepth analysis into the systems of other developed countries, the Commission recommended:

“To make the procedure more effective, the following provisions should be made. (a) In the domestic enquiry, the aggrieved worker should have the right to be represented by an executive of the recognised union or a workman of his choice;
(b) Record to the domestic enquiry should be made in a language understood by the aggrieved employee or his union. A copy of the record should be supplied to him;

(c) The domestic enquiry should be completed within a prescribed period which should be necessarily short;

(d) Appeal against the employer's order of dismissal should be filed within a prescribed period; and

(e) The workers should be entitled to a subsistence allowance during the period of suspension. 27

2.3.3.4 2ND NATIONAL COMMISSION ON LABOUR: TERMS OF REFERENCE


To expedite the reforms, the Government has constituted 2nd National Commission on Labour, 1999. Considering the contribution made by the 1st National Commission on Labour, it is expected that 2nd commission will play a crucial role to ensure fair play between capital and labour and to protect the Indian Labour against the storm of marked economy.

The terms of reference of the 2nd National Commission In Labour are as follows:-

(a) to suggest rationalisation of existing laws relating to labour in the organised sector; and

(b) to suggest an "umbrella" legislation for ensuring a minimum level of protection to the workers in the unorganised sector.
While developing the framework for its recommendations, the Commission may take into account, inter alia, the following:

(i) the emerging economic environment involving rapid technological changes, requiring response in terms of change in methods, timings and conditions or work in industry, trade and services, globalisation of economy, liberalisation of trade and industry and emphasis on international competitiveness and the need for bringing the existing laws in tune with the future labour market needs and demands;

(ii) the minimum level of labour protection and welfare measures and basic institutional framework for insuring the same, in the manner which is conducive to a flexible labour market and adjustments necessary for furthering technological change and economic growth; and

(iii) improving the effectiveness of measures relating to social security, occupational health and safety minimum wages and linkages of wages with productivity and in particular the safeguards and facilities required for women and handicapped persons in employment.
2.4 OBSERVATIONS:

The world economic order is undergoing through a restructuring process. The market economy demands minimum state intervention in the employer–employee relationship. The work force of the developing world is facing tremendous onslaught of the market economy. The industrial relations developed in the U.K., U.S.A., Japan and France should not be and could not be equated with the industrial relation of a developing country like India.

The I.L.O. is an International Organization, a new social experimental institution trying to make the world conscious that world peace may be affected by the unjust conditions of its working population. India is founder member of I.L.O. since 1919.

I.L.O. Conventions Concerning Freedom of Association and Protection of the Right to organize and the Recommendation relating to Employment Security along with the two 1966 United Nations covenants have created a normative frame work amongst the signatory States and playing a role of persuasive force to give due consideration of the said norms in law making process. In terms of adoption and enforcement of the conventions and Recommendations, the tripartite principle of participation of representatives of employers and workers along with Governments has increased the likelihood of approval of norms adopted by I.L.O. and enhanced their legitimacy. Article 9 of the Recommendation No. 158 categorically stipulated that the burden of proving the existence of a valid reason for the termination shall rest on the employer.
To ensure justice, State should not withdraw itself from the field. On the other hand, an effective grievance settlement machinery should be developed to ensure fair play between the capital and labour. The institution of domestic Enquiry may require further attention in the context of globalisation and liberalization of industry so as to evolve a creative and effective forum for solving industrial unrest. To appreciate the institution of domestic enquiry, it is now appropriate to study the three Central Legislations laying the foundation of industrial relations in India.
2.5 References


Normal, Selwyn – Labour Law in the U.S.A. Page 38.
5. T. Hanami, IELL (JAPAN), 1978, P.140.

Aaron. B. (Supra) page 355-356.


7. Date of coming into force - 4th July, 1950 – Not ratified by India.

8. Date of coming into force – 18th July, 1951.


10. Not yet come into force.

11. Article 427 of the Treaty of Versailles 1919, contains the first Constitution. The Constitution was revised in 1944, and Article 1 declares its aims and purposes to be those of declaration annexed to the Constitution, which reaffirms the fundamental principles on which the organisation is based and, in particular, that - (a) Labour is not a commodity.

12. Creighton, B - Essays 'The ILO and protection of freedom of Association in the United Kingdom.'


14. Naradsmriti (100 to 400 A.D.) described five kinds of servants or Labourers, four kinds of which were called Karmakars (Labourers) and fifth kind was of slaves ((Chapter viii, page 2, 3). In Rigveda the word ‘Dass’ or ‘Dasys’ was used for slaves. Ownership of slaves could be transferred. Rigveda – 1.51; 103, 117 - 71, II – II.2; 4.18; 19-III-29.9, V-70.3, VI – 5.6, VIII – 5.38, 19.36, 56.3.

15. Kane, P.V., History of dharmshastra, Volume III, Chapter XX.
Johri S. N., Industrial Jrisprudence, Metropolitan 1st Ed. 1984 Page 25

Brahaspati Smriti – Ch. XVI – 15, 16
Narad Smriti – Ch. VI – 5


18. Shukraṁithisar – Chap. IV Pt V 517 – 520


Page 319.

22. Bagri, P.R. – Law of Industrial Disputes 2nd edition Vol 1, Bharat Law House, Allahabad, Page – 1
23. Dhameja Nand, - Article 'PSU Disinvestment: Concepts and Practices in India – Published in Productivity Vol 35, January – March, 1995, No.4, Published by National Productivity Council:


