Chapter-IV
CORPORATE SOCIAL RESPONSIBILITY AND INDUSTRIAL RELATIONS

The fourth chapter deals with Corporate Social responsibility and industrial relations, it discuss India’s New CSR Regime, Corporate Social Responsibility Voluntary Guidelines (2009), Corporate governance and employess: an ethical conundrum, Importance of Indian MSME Industry, business strategy and labour relations, Cost Leadership and Differentiation Strategies, sophisticated cost cutting and labour relations.

The modern business corporations are shrouded with a perplexing question about which person should perform the governance activity and the manner in which he has to bestow risks and rewards on various stakeholders of the company. According to one school of thought, shareholders can be labeled as “principals” for whose interests the managers undertake various profit making activities. Moreover, if the corporate control is transferred to another entity for enhancing the share capital, it is considered as a rational business strategy. Whereas another school of thought put forth an opposite view wherein, corporate entities are considered as ‘social beings’. It implies that they owe obligations towards not only shareholders but also towards employees and the society as a whole. Therefore, they have to bear the interest of various stakeholders before taking any business decision that solely benefits shareholders. Hostile takeover is one such controversial measure that is looked upon reluctantly by the managerial class of the target company. On one hand, it is considered as an efficient mechanism to deal with incumbent managers but it is perceived as others as a blunt capitalist
tactic. Such a form of corporate acquisition has been employed in a varied manner across different countries. The other ‘perfect formula’ to save companies who were suffering during recession was that they should adopt the merger route. This is increasingly being used inspite of the fact that many companies accrue ineffective results after opting for merger. The first part of the paper delves into the ethical significance of corporate governance and comparative position of myriad corporate governance measures adopted by various developed nations and India. The second part of the paper proposes the apt legal measures that need to be undertaken to safeguard employees’ interests. By relying on various landmark cases, scholarly opinions and legislations, the paper provides a comprehensive overview of the current corporate governance perspective on employee’s position at the time of transfer of undertaking. In conclusion, the paper puts forth a view that is a dire need for the evolving a concept of corporate governance in India that promotes workplace democracy.

4.1. India’s New CSR Regime
Charitable giving has long been a priority for many Indian corporations. Some of the largest business houses in India, such as the Tata Group, have had a sustained focus on corporate philanthropy. Long before any discussion of CSR as a legal requirement, some of India’s largest conglomerates established separate philanthropic funds and welfare programs or initiatives as a form of charity to indicate the virtues of the company or the organization. For example, two-thirds of all the profits made by Tata Group companies go into two charitable trusts that support an assortment of socially responsible causes, institutions, and individuals. Some scholars have argued that business
responsibility in India is rooted in Gandhi’s trusteeship model, with companies seen as trustees who manage resources on behalf of society.

This spirit of philanthropy, while quite strong in some companies, has not necessarily translated into widespread good governance among Indian companies. Beginning in the late 1990s, the Indian government, along with industry groups, began a concerted push toward better corporate governance standards. India’s reform efforts were spurred by the needs of its rapidly expanding economy, including a significant widening of its investor base to encompass increased foreign and institutional investors.

India’s governance reforms began with the introduction of voluntary standards proposed by leading industry groups. Over the years, however, the Securities Exchange Board of India (SEBI), the country’s primary capital markets regulatory authority, and the Indian Ministry of Corporate Affairs (MCA) have worked to move India’s corporate governance regime toward a rigorous set of mandatory requirements. These efforts culminated in comprehensive revision of India’s primary corporate law, the Companies Act. Section 166 of the Companies Act, 2013 provides that directors must “act in good faith in order to promote the objects of the company for the benefit of its members as a whole, and in the best interests of the company, its employees, the shareholders, and the community and for the protection of environment.” This broad vision of directors’ duties to stakeholders is reiterated in the Code for Independent Directors, which provides that independent directors shall
The vision of directors’ duties espoused in the Companies Act has its roots in earlier efforts by the Indian government. In 2009, the MCA made its first formal CSR-related efforts when it introduced the Voluntary Guidelines for Corporate Social Responsibility (CSR Guidelines). Since then, the Indian government has introduced several other efforts to address CSR concerns, including instituting a requirement for Central Public Sector Enterprises to create a CSR budget. In 2013, the Companies Act, 2013 was finally passed, and the Act’s CSR rules became effective in 2014. One of the few countries to impose CSR requirements, India’s company law now mandates extensive CSR policies, spending, and disclosure.

Unlike the Western vision of CSR as a voluntary undertaking, the Indian vision of CSR anticipates CSR as a central component of corporate activity. This is driven by a belief that the private sector has to assist the government in furthering economic growth that is inclusive, with wealth distributed among the Indian population, a view clearly articulated by Salman Khurshid, then-Minister of Corporate Affairs, in proposing the

- **CSR Guidelines:**
  We have seen the business sector generating wealth and value for the shareholders in the last sixty years, but simultaneously we also have the problems of poverty, unemployment, illiteracy, malnutrition etc. facing the nation. The corporate growth is sometimes seen as
widening the gap between the India and Bharat through its income-skewing capability. This gap needs to be bridged. While the Government undertakes extensive developmental initiatives through a series of sectoral programmes, the business sector also needs to take the responsibility of exhibiting socially responsible business practices that ensures the distribution of wealth and well-being of the communities in which the business operates.

- **Corporate Social Responsibility Voluntary Guidelines (2009)** in late 2009, the MCA proposed groundbreaking CSR Guidelines in what has been deemed the first concrete attempt to recognize CSR from a regulatory standpoint. The fundamental principle of the CSR Guidelines is that: “[E]ach business entity should formulate a CSR policy to guide its strategic planning and provide a roadmap for its CSR initiatives, and that this should be an integral part of overall business policy and aligned with a company’s business goals. The policy should be framed with the participation of various level executives and should be approved and overseen by the Board.”

According to the CSR Guidelines, the CSR Policy should cover the following core elements:

- Care for all stakeholders, including shareholders, employees, customers, suppliers, project-affected people, society at large, etc.;
- Ethical functioning, transparency, and accountability;
- Respect for workers’ rights and welfare;
- Respect for human rights;
- Respect for the environment; and
- Activities for social and inclusive development.
• **ESG Guidelines** In July 2011, the MCA issued the National Voluntary Guidelines on Social, Environmental & Economic Responsibilities of Business (ESG Guidelines). The ESG Guidelines establish concrete measures that may be voluntarily adopted by companies to address interests of various stakeholders such as employees, customers and the environment. They revolve around nine core principles:

Businesses should conduct and govern themselves with ethics, transparency and accountability; Businesses should provide goods and services that are safe and contribute to sustainability throughout their life cycle; Businesses should promote the well-being of all employees;

Businesses should respect the interests of, and be responsive towards all stakeholders, especially those who are disadvantaged, vulnerable and marginalized; Businesses should respect and promote human rights; Business should respect, protect, and make efforts to restore the environment; Businesses, when engaged in influencing public and regulatory policy, should do so in a responsible manner; Businesses should support inclusive growth and equitable development; and Businesses should engage with and provide value to their customers and consumers in a responsible manner.

Nevertheless, there has been little indication of widespread adoption of the ESG Guidelines by Indian businesses. To increase transparency and adoption of the ESG initiatives, in August 2012 SEBI issued a circular mandating that the top 100 listed companies based on market capitalization submit Business Responsibility
Reports ("BRR") regarding their ESG initiatives. The BRRs must be submitted as part of a company’s annual report. SEBI also encouraged other listed companies to voluntarily disclose information on their ESG performance in the BRR format. Failure to comply with the BRR requirement will be construed as noncompliance with Clause-55 of the Equity Listing Agreement, although it remains unclear how SEBI will deal with defaulting companies.

- **CSR and state-controlled entities** In addition to various guidelines applicable to private sector entities, the Indian government has imposed CSR requirements for state-controlled entities. In April 2010, the government issued guidelines for Central Public Sector Enterprises (CPSEs) which require such companies to create a CSR budget. In April 2013, new “Guidelines on Corporate Social Responsibility and Sustainability for Central Public Sector Enterprises” took effect. These new guidelines view CSR as a core component of the work of public sector enterprises and require every CPSE to undertake “at least one major project for development of a backward district.” Despite lofty aims to impose stringent CSR standards on state-controlled entities, evidence suggests that much work remains. For example, in December 2013 the Parliamentary Standing Committee on Industry noted that many CPSEs had not been using their CSR funds. Another report by the Comptroller and Auditor General of India indicated that many CPSEs spent much less than required on CSR activities.

- **Amendment of the Companies Act** In 2010; the MCA began to move toward incorporating CSR, and a more mandatory version of
CSR, into a proposed Companies Act. MCA efforts fluctuated between imposing mandatory CSR requirements into the Companies Bill and adopting CSR recommendations with a “comply-or-explain” approach.56 Following significant criticism of the mandatory spend provision in the draft Companies Bill, a compromise approach emerged. On December 18, 2012 the Lok Sabha (the lower house of the Parliament of India) passed the Companies Bill (2012) to replace the Companies Act (1956).57 The Companies Bill (2012) was approved by the Rajya Sabha (the upper house of the Parliament of India) on August 8, 2013. Unlike the Companies Act (1956), the Companies Bill (2012) included substantial corporate governance provisions, together with CSR requirements to be fulfilled by the board of directors. The Companies Bill (2012) received presidential assent on August 29, 2013 and became the Companies Act, 2013.58 In late February 2014, the MCA stated that the CSR provisions of the Act would become effective as of April 1, 2014.

4.2. The Requirements of the Companies Act, 2013

Section 135 of the Companies Act, 2013 (hereinafter “Companies Act” or “the Act”) sets out the contours of India’s new CSR requirements, which will be applicable beginning in the 2014-15 fiscal period. 60 The reach of the CSR clause is expected to be vast. While it is not yet clear exactly how many companies will be covered by the CSR clause in the Companies Act, the Indian Institute of Corporate Affairs estimates that at least 6,000 Indian companies will be required to comply with the CSR provisions of the Companies Act.
Under the Companies Act, CSR is considered a board-level activity. Every company with a net worth of rupees five hundred crore or more (approximately $81 million), or turnover of rupees one thousand crore or more (approximately $162 million), or a net profit of rupees five crore or more (approximately $811,400) during any financial year must constitute a CSR committee of the board consisting of three or more directors, of which at least one must be independent. The Act empowers the CSR Committee with (i) formulating and recommending to the board a CSR policy that indicates the activities to be undertaken by the company; (ii) recommending the amount of CSR expenditure to be incurred on such activities; and (iii) regularly monitoring the CSR initiatives of the company. The board must take the committee’s recommendations into account and approve the company’s CSR policy.

Under the Act, the board must “ensure that the company spends, in every financial year, at least two per cent of the average net profits of the company made during the three immediately preceding financial years, in pursuance of its Corporate Social Responsibility Policy.” If a company does not have adequate profit or is not in a position to spend the prescribed amount on CSR, the regulation requires the directors to provide disclosure and give suitable reasons in their annual report, with a view to checking noncompliance.

While there was much debate over whether the CSR spending provision ought to be mandatory, the final consensus was to approach spending through a “comply or explain” framework.
Thus, while there is no penalty for failing to spend on CSR, there are penalties for failing to report on CSR activities conducted or failing to explain why CSR spending was not carried out. Failure to explain is punishable by a fine on the company of not less than 50,000 rupees (approximately $900) and up to 25 lakh rupees (approximately $46,000). Furthermore, officers who default on the reporting provision could be subject to up to three years in prison and/or fines of not less than 50,000 rupees (approximately $900) and as high as 5 lakh rupees (approximately $9,200). To date, however, the MCA has provided “no guidance as to what constitutes a sufficient or statutorily valid explanation for failure to spend in the board report.” The Companies Act includes a detailed schedule of CSR activities (Schedule VII) that companies “may” undertake, and Section 135 states that CSR should preferably be spent in local areas where the company operates. This scheduled list of activities was further updated and amended by the MCA in final rules issued in early 2014.

- **The MCA’s rules** In September 2013, the MCA released draft rules that provided important additions and clarifications to Section 135 of the Companies Act. After a period for comments from various stakeholders, the MCA amended and updated the draft rules. The rules were finalized on February 27, 2014 when the MCA notified Section 135 of the Companies Act, 2013 (CA 2013) and the Companies (Corporate Social Responsibility Policy) Rules, 2014 (CSR Rules). The final rules took effect from April 1, 2014. The CSR Rules are broadly prescriptive and provide clarifications to Section 135 of the Act, as well as arguably imposing additional requirements.
It is evident from the above chart that south Africa disclosure is highest of charitable contributions i.e 36 % followed by brzil 34 %, Russia 22 %, china 20%, mexico 19 %, India 9 %, turkey 5 % and 4 %.

• **Applicability of the CSR requirements** As noted above, the Act’s CSR provision is applicable to companies with an annual turnover of 10 billion rupees and more, or a net worth of 5 billion rupees and more, or a net profit of 0.05 billion rupees or more during any financial year. Companies that trigger any of these conditions must spend at least 2 percent of their average net profits made during the three immediately preceding financial years on CSR activities and/or report the reason for spending or non-expenditure. The final rules mandate that the CSR require-
ments are applicable to every qualifying company including its holding /subsidiary company.73 more importantly; the final rules expand the coverage of the Act’s CSR requirements to foreign companies with branches or project offices in India, so that foreign companies with Indian businesses will be subject to the Act’s mandatory CSR provisions.

- **Scope of CSR activities** The final rules define CSR to mean and include (but not limit to) projects or programs relating to activities specified in the schedule; or projects or programs relating to activities undertaken by the board in pursuance of recommendations of the CSR committee per the declared CSR policy, subject to the condition that such policy covers subjects enumerated in the schedule.75 The final rules provide important limitations regarding what counts as CSR, so that CSR activities and expenditures do not include:76 expenditures incurred in undertaking normal course of business; CSR activities undertaken outside of India; projects, programs, or activities meant exclusively for employees and their families; and direct or indirect contributions to any political party.

In addition to defining CSR, the MCA issued a new Schedule VII which expands the scope of CSR activities included in the Companies Act and adds several new activities under the rubric of CSR. Under Schedule VII (as amended), the list of permitted CSR activities includes:

1. eradicating hunger, poverty and malnutrition, promoting preventive health care and sanitation and making available safe
drinking water; II. Promoting education, including special education and employment enhancing vocation skills especially among children, women, elderly, and the differently a bled and livelihood enhancement projects; III. promoting gender equality, empowering women, setting up homes and hostels for women and orphans; setting up old age homes, day care centers and such other facilities for senior citizens and measures for reducing inequalities faced by socially and economically backward groups;

IV. ensuring environmental sustainability, ecological balance, protection of flora and fauna, animal welfare, agro forestry, conservation of natural resources and maintaining quality of soil, air and water;

V. protection of national heritage, art and culture including restoration of buildings and sites of historical importance and works of art; setting up public libraries; promotion and development of traditional arts and handicrafts

VI. measures for the benefit of armed forces veterans, war widows and their dependents;

VII. Training to promote rural sports, nationally recognized sports, Paralympic sports and Olympic sports;

VIII. contribution to the Prime Minister’s National Relief Fund or any other fund set up by the Central Government for socio-economic development and relief and welfare of the Scheduled
Castes, the Scheduled Tribes, other backward classes, minorities and women;

IX. Contributions or funds provided to technology incubators located within academic institutions which are approved by the Central Government;

X. Rural development projects.

- **Methods for undertaking CSR activities** The CSR Rules provide several different acceptable methods through which companies can undertake CSR activities:

  Conducting CSR through a third party: CSR activities may be undertaken through a registered society or trust or a Section 8 Company (i.e. a non-profit company) under the Companies Act so long as such entitled have a track record of three years in undertaking similar projects or programs. Such an entity would have to follow the specifications and modalities regarding utilization of funds, monitoring and reporting requirements as provided by the spending company. Conducting CSR through group entities: Companies may also carry out their CSR activities through their own or holding or subsidiary or associate company’s registered society or trust or Section 8 Company. Collaborating or pooling resources: Companies may also collaborate with other companies for undertaking CSR projects or programs so long as the collaborating companies are in a position to report separately as per the reporting requirements under the Companies Act.
• **Constitution of CSR committee** Upon passage of the Companies Act, there was significant confusion over constitution of the CSR committees for companies which otherwise do not need to appoint independent directors. The CSR Rules have dispensed with the requirement of appointing an independent director on the CSR Committee of the board of an unlisted company or a private company which does not otherwise need to have independent directors on its board. Further, the CSR Rules have relaxed the requirement regarding the presence of three or more directors on the CSR Committee. For a private company with only two directors on the Board, the CSR Committee can be constituted with these two directors. For a foreign company to which the CSR rules apply, the CSR Committee must comprise of at least two persons, with one person a resident of India and the other person nominated by the foreign company.

• **Calculation of net profits** Every company will have to report its stand-alone net profit during a financial year for the purpose of determining whether it triggers the threshold criteria as prescribed under Section 135(1) of the Companies Act. For an Indian company, the final rules have clarified that in determining the net profit, dividend income received from another Indian company or profits made by the company from its overseas branches are excluded. Moreover, the 2 percent CSR spend is computed as 2 percent of the average net profits made by the company during the preceding three financial years. The CSR Rules prescribe that the CSR requirements are applicable to a foreign company with a branch or a project office in India. The CSR Rules further prescribe that the balance sheet and profit and loss account of a foreign company will be prepared in
accordance with Section 381(1) (a) and net profit to be computed as per Section 198 of the Companies Act. The rules do not clarify how to compute net worth or turnover for a branch or project office of a foreign company.

- **Reporting and disclosure** One important aspect of the CSR provisions in the Companies Act is the move toward additional disclosure. The Companies Act requires that the board, after taking into account the recommendations of the CSR committee, approve the company’s CSR policy, disclose its contents in their report, and publish the details on the company’s website. In addition, if the company fails to spend the prescribed amount, the board, in its report, must specify the reasons.

Many Indian companies fail to fully disclose their CSR policies, so additional disclosure could be a tool for NGO advocates and lawyers to pressure companies to comply with their CSR policies. A 2010 study of CSR reporting by India’s top 500 companies found that nearly half reported on CSR, but most do not mention the amount spent. Another report found that CSR reporting is “qualitative rather than quantitative in nature,” and that most listed Indian companies do not have stand-alone CSR reports. There is also a larger focus on CSR outputs compared with CSR outcomes. Even for information technology companies, CSR reporting on the internet is reported as “strikingly low.” Indian firms may not clearly see the benefits of CSR reporting. A 2007 study of Indian companies found that, when asked if there was a business case for CSR reporting, respondents were unsure whether the benefits accrued from CSR were from CSR reporting or actual CSR activities.90 Respondents were unsure of the
extent to which CSR reporting impacted employee morale, and they doubted the efficacy of CSR reporting on certain employees. They also did not think CSR reporting improved customer relations. Other companies saw value in CSR reporting, stating that they believed that institutional investors cared about it.

4.3. CORPORATE GOVERNANCE AND EMPLOYEES: AN ETHICAL CONUNDRUM

The Committee on Financial Aspects of Corporate Governance has provided an apt definition of corporate governance. This term has been extrapolated in a twofold manner as it demarcates duties and obligations for both the board of directors and the shareholders. It is defined as:

“...Corporate governance is the system by which companies are directed and controlled. Boards of directors are responsible for the governance of their companies. The shareholders’ role in governance into appoints the directors and the auditors and to satisfy them that an appropriate governance structure is in place. The responsibilities of the board include setting the company’s strategic aims, providing the leadership to put them into effect, supervising the management of the business and reporting to shareholders on their stewardship. The board’s actions are subject to laws, regulations and the shareholders in general meeting.”

In Charitable Corporation v. Sutton, the court for the first time recognized that the directors owe a duty towards the corporation and will be held liable for breach of trust on non-performance of their duty.3 In 1934, Humble Justice William O. Douglas
criticized in strong words about the despicable behavior of corporate managers who are exercising their power for an untoward purpose. The paragraph cited herewith shows his disapproval towards the corporate atmosphere prevalent in those times.

The criticism levied at corporate practices has been symptomatic of indignation and disapproval of many different abuses and malpractices disclosed in recent years including . . . secret loans to officers and directors, undisclosed profit-sharing plans, timely contracts unduly favorable to affiliated interests, dividend policies based on false estimates, manipulations of credit resources and capital structures to the detriment of minority interests, pool operations, and trading in securities of the company by virtue of inside information, to mention only a few.

These are not peculiar to recent times. They are forms of business activity long known to the law Business, and its legal advisors, have shown great ineptitude in appreciating and appraising the social importance and significance of many of their activities.”

The post-Enron era has also witnessed a reoccurrence of the above-mentioned corporate abuse. The foundational Berle and Dodd debate still persists as there is a tussle between the shareholders’ interests and “broader constituency” in a corporate entity. In traditionalist sense, employees are not considered to be an integral part of corporate machinery. The same thread follows in the contemporary corporate theories where incorporate governance has been interpreted in a limited sense as it solely
governs the link between manager and shareholder. This principle is being advocated in Australian corporate jurisprudence and the Corporate Law Economic Program. The rationale behind adoption of such a principle is that it allows smooth decision making process for the managers of the company. Various instances have come to fore which indicate that ignoring employment issues inevitably leads to merger failure. London Times has reiterated the fact that “getting the responsibilities and liabilities for the work force wrong can be costly business in a takeover and may even scupper the deal.”8 Even New York Times shared the same views and said that “cultural differences are often the biggest barrier to international auto mergers”. This was also stated by training consultant that in any international merger or acquisition, “the people part is always most difficult.”

Legal scholars have acknowledged the fact that entrenchment has dire consequences for the company. This includes impact on the control transactions and increase in incidences of shirking, empire building and personal benefits by incumbents. The IRRC provisions on Corporate Governance incorporate entrenchment provisions which throw a light on the various strategies that can be implemented by the managers. These include staggered board, limitation on amending bye-laws, limitation on amending the charter, supermajority to approve a merger, golden parachute and poison pill. Corporate Governance being the core competent of cultural incompatibility in merger, acquisition or alliance

Puts forth immense challenges for both companies. The case of DaimlerChrysler merger bears testimony to the fact that
overlooking the cultural integration aspect can destroy the potential value of the merger. Moreover, AT&T/NCR was another seminal multinational merger which faced a deadlock as “bad global talent integration5Leonard I. and clashing corporate cultures” were held to be significant factors contributing to its downfall. In United States, the figures are startling as 50-75per cent of all US merger deals eventually failed. The relationship between employees and corporation can be viewed through the lens of comparative corporate governance. The European corporate governance mechanism provides for dual recognition to the position of employees in the corporation. First, it states that employees should be considered within the ambit of “best interest of the company”. Second, the employees should be given an opportunity to be a part of the decision making process of a company.

The employment relations have not been looked at with utmost importance by the legal and finance scholars. On the contrary, Japan has been one such nation that has put adequate emphasis on the role of employees in implementing the principles of corporate governance. It has been witnessed in the companies of Japan that inspite of shareholders being the instrumental stakeholder in the company but the pragmatic scenario has displayed that the companies do function to further the interests of the employees. Professor Fukao, an eminent economist has laid out hierarchy of stakeholders to whom the assets of the company shall be allocated – 1) creditors; 2) regular workers; 3) management; 4) shareholders and finally 5) non-regular workers.17 Professor Tami has opined that the reason behind the emphasis being paid
to the employees is that they make a contribution towards the company by virtue of seniority based wage and retirement allowance system in a inconspicuous manner.

In the Indian context, there has been a pragmatic shift from “maintaining labor peace” as an indispensable aspect of industrial relations to “the enhancement of firm level competitiveness through increases in numerical flexibility”. The term ‘transfer of undertaking’ has a wide connotation. The EU Council Directive 2001/23/EC (the revised Transfer of Undertakings Directive) has defined it in a precise manner by stating that “there is a transfer of an economic entity which retains its identity, meaning an organized grouping of resources which has the objective of pursuing an economic activity, whether or not that activity is central or ancillary”. In order to construe the term ‘transfer of undertaking’ in its entirety, it is imperative to look into the definition of undertaking as put forth by the Indian judiciary.

In *P.S. Offshore Inter land Services ( P) Ltd &another v. Bombay offshore suppliers and services*, the issue raised in this case was whether ‘sale of a vessel by the company constitutes ‘sale of an undertaking ‘?Humble Justice D.R. Dhanuka opined that “undertaking used in this section is liable to be interpreted to mean ‘the unit’ the business as a going concern , the activity of the company duly integrated with all its components in the form of assets and not merely some of the assets of the company …. Having regard to the object of the provision, it cans at the most, embrace within it all the assets of the business as a unit or practically all such constituents……”
In *R.C. Cooper v. Union of India*, Justice Ray opined that “undertaking meant a going concern”. Undertaking meant the entire organization. “In reality the undertaking is a complete and complex weft and the various types of business and assets are threads which cannot be taken apart from the weft”. In shares deal structure, “The buyer “steps into the shoes” of the seller and “acquires” all employees with their current individual and collective terms and conditions independently of the jurisdiction in which they are located.” Whereas, the asset deal mechanism provides that the buyer does not purchase the entire undertaking or its subsidiary. Such deals are governed by local laws wherein the interests of the affected employees are safeguarded.

In European Union, the 2001/23/EC Directive provides that “on the approximation of the laws of the Member States relating to safeguarding of employees’ rights in the event of transfer of undertakings, businesses or parts of undertakings or businesses,” stipulates that once the transfer of undertaking takes place, the employees of transferor shall be deemed to be employees of transferee with same terms and conditions of employment. The rights and obligations stipulated in contract of employment get transferred to transferee. Whereas, the Member States of European Union have absolute discretion to accrue joint liability to both the transferor and transferee. Each Member State has incorporated the amended EU acquired rights directive within its jurisdiction. For example, France labor code Article L. 122-12; Italy law 428/1990 (as amended); and the UK Transfer of Undertakings (Protection of Employment) Regulations 2006 (herein after referred to as TUPE). Moreover, the transferee is
bound by collective agreements. Also, if the transferred undertaking is autonomous in nature then employee representation arrangements are deemed to be continued on the same terms as that of pre-transfer basis. The Directive has placed some restrictions on dismissal wherein it states that an employee cannot be retrenched merely on the ground of transfer of undertaking. On the contrary, the employees can be retrenched on the ground of economic, social or organizational reasons. Moreover, the representative of employees must be intimated about the date of transfer, reasons for transfer and legal, social and economic implications of transfer. In cases where in the transferor or transferee decide to implement any new decisions that have an impact on employees, then such a decision must be taken in consultation with employee representative so that there is consensus between two parties. In United States and to a certain degree in United Kingdom, the shareholder-centered model has been followed

Wherein the objective of management should be to increase shareholder wealth.27 “Public companies are not in the business to reward creditors, inspire devotion of their employees, win the favor of the communities in which they operate, or have the best products. These are all means to an end making shareholders richer”. On the other hand, Germany and Japan are proponents of the stakeholder-centered conception of the firm. Such model provides that “each group of stakeholders merits consideration for its own sake and not merely because of its ability to further the interests of some other group, such as shareowners”. Such a kind of model stipulates that boardroom should refrain from profit
maximizing risks and should adopt certain internal measures such as incorporating various interests of labor, creditors and regulatory agencies in the board of directors.

In United States, at the time of transfer the affected employees do not get automatically transferred to purchasing company and an employment agreement with new terms and conditions is entered into between the parties. The new employer has been granted with unrestrained power to not serve any notice or pay any severance pay to dislocated employees. The majority of workers are governed by ‘employment-at-will ‘doctrine. Employment-at-will results from “the dominant attitude that employment is simply the purchase of labor and entails no future obligations.” On the contrary, the unionized workers’ rights are safeguarded by virtue of collective bargaining agreements. The new employer can also use his discretion for matters relating to “financial costs and freedom of operation”. Hence, it is purchasing company’s prerogative to hire or not hire these affected employees. The discharged employee only receives unemployment compensation by virtue of contribution made by society at large and this accounts for a mere forty percent of the former salary for six months.

In *John Wiley & Sons, Inc. v. Livingston*, the Apex Court for the first time decided on the issue pertaining to the successor employer’s duty to undertake the predecessor’s labor obligations. The Court opined that “[T]he disappearance by merger of a corporate employer which has entered into a collective bargaining agreement with the union does not automatically terminate all
rights of the employees covered by the agreement, and ... inappropriate circumstances, present here, the successor employer may be required to arbitrate with the union under the agreement.”

In *NLRB v. Burns International Security Services*, the Court was of view that if the transferee does not terminate the employees of the collective bargaining group then it has to seek union’s opinion before finalizing the terms and conditions of employment. It is mandatory to consult union in such matter because at the time when the transferee hires most of the transferor’s employees then it clearly depicts that the transferee has consented to the fact the collective bargaining agreement persists. Moreover, the Court gave a restrictive meaning to the ‘successorship doctrine’ laid down in *Wiley case* by stating that the successor has discretion to make changes in the work shift by modifying the timing of its hiring or by modifying the conditions of employment. Such discretion can be exercised prior to negotiating on the same with the union. Moreover, the court in *Howard Johnson Co. v. Detroit Local Joint Executive Bd.* opined that the employer of the transferee company is not liable to employ the workmen of the transferor company. Such a power is vested in the employer of the transferee regardless of the fact that he brings no change in the operational activity of the transferred entity.

In *Fall River Dyeing & Finishing Co. v. NLRB*, the court reiterated the Successorship doctrine and based its ruling on three prime factors. First, “[the employees] might be inclined to shun support for their former union, especially if they believe that such
support will jeopardize their jobs with the successor or if they are inclined to blame the union for their layoff and problems associated with it.” Also, “without the presumptions of majority support and with the wide variety of corporate transformations possible, an employer could use a successor enterprise as a way of getting rid of a labor contract and of exploiting the employees' hesitant attitude towards the union to eliminate its continuing presence.” The union member’s rights will be safeguarded only if there is continuation of a majority of workforce. Second, the Court inferred that substantial continuity determinations depend upon the employees’ viewpoint and whether they consider their work profile as unchanged one. Third, the Court provided that the continuity of majority of employees can be deduced if “substantial and representative” complement of employees have been employed in the transferee company. In United Kingdom, the above-mentioned principle has not been propagated. The British common law system has disregarded the ‘employment at will’ principle as the employees’ rights are protected under Employment Protection (Consolidation) Act, 1978. The said Act provides the right to appeal to those aggrieved employees Whose employment has been terminated by virtue of substantive or procedural unfairness. The term ‘fairness’ has been construed as that employer must act prudently in order to decide whether there is any adequate reason behind termination of employment of that workman. He can “determine in accordance with equity and [the] substantial merits of the case.” Moreover, they said Act places no restriction on dismissal done on economic grounds or “commercial necessity or for sound business reasons” Hence, the
Employment Appeals Tribunal does not have the authority to question the business objective behind the decision of dismissal of employees taken by him.

Globalization and fast changing business practices putting organizations under tremendous pressure to constantly improve product or process quality, delivery index, performance, and responsiveness along with reducing costs. Organisations also increasingly exploring ways to leverage their supply chains and giving more focus on the role of suppliers in their chain. In other words firms are now more trying to utilize their resources and increasing the value of the supply chain and in return they are experiencing more flexibility and responsive to the demands and customers. Outsourcing allows firms to exploit the capabilities, expertise, technologies, and efficiencies of their suppliers. Increased outsourcing, however, implies greater reliance on suppliers and commensurate need to manage the supplier base (Kannan & Tan, 2006). Development and maintenance of long-term relationships between buyers and sellers is the key to industrial buying success. Existing supplier relationships are a powerful competitive advantage for a company (Ford, 1980). Relational exchanges can contribute to product differentiation and create barriers to switching for suppliers and buyers (Day and Wensley, 1988). Today, large and small companies are making partnerships with suppliers a foundation of their supply strategies (Minahan, 1998). At an operational level, the benefit to a buyer of developing close relationships with key suppliers comes in the form of improved quality or delivery
service, reduced cost, or some combination thereof. At a strategic level, it should lead to sustainable improvements in product quality and innovation, enhanced competitiveness, and increased market share (Kannan & Tan, 2006).

In Indian manufacturing set-up the micro small and medium enterprises (MSME) plays a very vital role. The outsourcing in manufacturing varies largely starting from 20% to 90%. This sector’s contribution to the Indian GDP, employment, domestic consumption and social balance is remarkable. Moreover the focus from the government agencies has increased tremendously in recent pasts. As large manufacturing companies largely dependent on this MSME sector it is vital for them to build long lasting relationship with MSME sector as well as understand their problems and act as a strategic partner. The moral duty of large scale manufacturers are also to be a guide and developer to this MSME sector, from the perspective of the country’s economic and industrial growth. Through this paper we have tried to understand the large-scale manufacturing industries buyer’s expectations from the micro small medium (MSME) manufacturing sectors as suppliers. The views of the front line buyers on buyer supplier relationships and the attributes they consider for a healthy buyer supplier relationship also explored. RIDIT Analysis applied to rank the attributes considered for sound relationship. The reason of such attributes also discussed in detail to give clarity on the outcomes. The recommendations were also
made so that management can use the survey as a tool to strengthen the buyer supplier relationship and to close the existing loop holes.

4.4. **IMPORTANCE OF INDIAN MSME INDUSTRY**

Micro, Small and Medium Enterprises (MSMEs) enterprises generating the highest rates of employment growth, account for a major share of industrial production and exports along with key role in the economic development of the country. MSME sector avails the focus from state governments as well as central government of India. Both state and central government encourages entrepreneurship, employment and livelihood opportunities and enhance the competitiveness of MSMEs in the changed economic scenario. As per the annual report of Government of India Ministry of Micro, Small and Medium Enterprises (2009-10) the micro, small and medium enterprises (MSME) sector contributes significantly to the manufacturing output, employment and exports of the country. It is estimated that in terms of value, the sector accounts for about 45 per cent of the manufacturing output and 40 per cent of the total exports of the country. As per Indian industry act, 2006 the category of the industries defined as per the plant and machinery investment made (Excluding land and buildings) by the organisation. The detail definitions explained in the table no.4.1
MSME sector provides employment about 59 million persons in over 26 million units throughout the country. Further, this sector has consistently registered a higher growth rate than the rest of the industrial sector. There are over 6000 products ranging from traditional to high-tech items, which are being manufactured by the MSMEs in India. It is well known that the MSME sector provides the maximum opportunities for both self-employment and jobs after agriculture sector.
### Table No:-4.2
**Growth Rate of MSME Units Based on Index of Industrial Production (IIP)**

<table>
<thead>
<tr>
<th>Year</th>
<th>Growth rates of 1970 base lip</th>
<th>Growth rates of 2001-02 base lip</th>
<th>IPP(Overall Industrial Growth Rate of Sector) (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002-2003</td>
<td>7.68%</td>
<td>8.68%</td>
<td>5.7</td>
</tr>
<tr>
<td>2003-2004</td>
<td>8.59%</td>
<td>9.64%</td>
<td>7.0</td>
</tr>
<tr>
<td>2004-2005</td>
<td>9.96%</td>
<td>10.88%</td>
<td>8.4</td>
</tr>
<tr>
<td>2005-2006</td>
<td>10.40%</td>
<td>12.32%</td>
<td>8.1</td>
</tr>
<tr>
<td>2006-2007</td>
<td>10.12%</td>
<td>12.60%</td>
<td>11.5</td>
</tr>
<tr>
<td>2007-2008</td>
<td>11.58%</td>
<td>13.00%</td>
<td>8.0</td>
</tr>
</tbody>
</table>

*Source: Annual Report (2009-10), Government of India Ministry of Micro, small and Medium Enterprises, # - Source: http://www.mospi.gov.in*

### Table No:-4.3
**Contribution of MSME Sector in Country’s GDP**

<table>
<thead>
<tr>
<th>Year</th>
<th>Contribution of MSME (%) at 1999-2000 price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Production</td>
<td>Industrial</td>
</tr>
<tr>
<td>1999-2000</td>
<td>39.74</td>
</tr>
<tr>
<td>2000-2001</td>
<td>39.71</td>
</tr>
<tr>
<td>2001-2002</td>
<td>39.12</td>
</tr>
<tr>
<td>2002-2003</td>
<td>38.89</td>
</tr>
<tr>
<td>2003-2004</td>
<td>38.74</td>
</tr>
<tr>
<td>2004-2005</td>
<td>38.62</td>
</tr>
<tr>
<td>2005-2006</td>
<td>38.56</td>
</tr>
<tr>
<td>2006-2007</td>
<td>4412</td>
</tr>
<tr>
<td>2007-2008</td>
<td>45.00</td>
</tr>
</tbody>
</table>


The data on MSME sector clearly demonstrate the importance of this sector in Indian economy. The major opportunities in this...
sector are less capital requirement, extensive government support both by state government as well as central government, easy funding by national and State level financial institutes, liberal tax systems in material procurement, machinery procurement, Export promotions and training programs by government. This aspect helps in creating entrepreneurs, creates opportunity for engagement of Indian manpower, export opportunity and more over creates social balance. Therefore it is more important for managers and the buyers of the buying organizations to look very carefully to this segment of business. Most of the supplier segment belongs to this MSME sector. So the buyer and supplier relationship has to be very strong between large scale manufacturing industry and MSME manufacturing industry.

• **Expectations of Buyers from MSME**

**Sector Suppliers**

During the exploration of buyer supplier relationship attributes from the 14 buyer heads of large scale organizations the expectations of buyers towards MSME sector suppliers are also derived. We strongly believe the relationship becomes strong only when the mutual expectations of the organisations meet. It is more important to know the expectations of the buying organisation as they are the most influencer of the relationship building process. During the interview the questions were asked to the buyer heads are (1) what are the characteristics you want to see among the MSME sector suppliers (2) What are the major contributions of MSME sector suppliers to your Organisation (3) What are the major contributions your organisation
has made to the suppliers (4) What are the advantages of long term relationship with those suppliers

(5) Which are the reasons for which you would like to terminate relationship with suppliers (If at all needed)

(6) Which are the factors the suppliers expect from your buyers? This open ended question answers collected from the subject experts and their expectations are summarized as below.

MSME sector suppliers are the most contributors to the manufacturing outsourcing activities for large scale suppliers. This sector chosen based on their specific resources and how effectively they are utilizing their resources. The relationship largely driven by cost advantage to the buying organisation, flexibility in order management, technical skill they acquire, local cultural factors and interpersonal relationship with buyers. This statement also validated by Pfeffer and Salancik (1978) by stating “Three elements constitute the dependence that one organisation has on another: (a) the importance of the required specific resource, (b) the extent to which one party exercises control over the resources, and (c) the extent of available alternatives or substitutes. Small and medium

Enterprises have been found to be particularly influenced by the personal and social acquaintances of the owners and managers (Dickson and Hadjimanolitis, 1998). Buyer supplier relationship also carries a governance mechanism to safeguard the opportunistic and unfaithful act of suppliers. Buyers always expect trust, commitment and adaptation from the suppliers. Those suppliers who always exhibit such attitudes are preferred long term suppliers for the
organisations. Product knowledge, Process knowhow, engineering drawing reading ability, documentation ability is the key qualifying factors for selecting a supplier and continuing relationship. Adherence to the government rules, regulations, safe acts, good labour practices are also desirable from suppliers. Quality in the product, process, and delivery schedule adherence goes in the prime list without saying. Almost all experts gave emphasis on trust, loyalty, accommodative behavior, technical capability fora stronger buyer supplier relationship. Partnership approach, conflict management, fairness in order management and organizational strategy also found to be contributing factors for building strong buyer supplier relationship. Based on these factors questionnaire is prepared and tested on the samples to get the actual feeling of the buyers regarding the buyer supplier contributing factors.

4.5. **BUSINESS STRATEGY AND LABOUR RELATIONS**

There can be little doubt that a prominent feature of the current labour relations landscape in any significantly industrialized country is the great diversity of labour relations outcomes. For example, in the US, in industries ranging from autos and steel to airlines and telecommunications, there are union and nonunion enterprises introducing far-reaching experiments in labour relations at all levels of the enterprise, including various forms of ‘quality of work life’ and team work, firm performance based compensation, and alternative forms of dispute resolution procedures. At the same time and in the same industries, we can find counter-examples of labour relations characterized by extreme adversarialism, aggressive anti-union employers, and traditional Taylorist job design and authority relationships at the
workplace. This variety of labour relations is seen across union firms and across nonunion firms despite these firms having a common product market environment and technology. So, it is a daunting challenge for labour relations research to explain this diversity.

Recently, researchers have proposed that this diversity can best be understood using a strategic choice framework wherein the management’s choice of business strategy is a critical factor in determining labour relations outcomes (see Thurley and Wood, 1983; Sanz-Valle et al., 1999; Kawakita, 1997; Starkey and McKinlay, 1993). Business strategy, also referred to as competitive strategy or market strategy or corporate strategy, is the manner in which a firm positions itself competitively in a given market. Notable studies in this regard are Lazonick’s theory of ‘innovative’ and ‘adaptive’ strategies; theory of ‘high road’ and ‘low road’ strategies attributed to Sengenberger and Pyke (1992); and Porter’s theory of ‘cost leadership’ and ‘differentiation’ strategies. What follows is a brief review of these studies.

- **Innovative and Adaptive Strategies**

Drawing on the Schumpetarian demonstration that innovation rather than adaptation lies at the heart of the capitalist development process, Lazonick (1991) points out how, when faced with intensified new (international) competition, a dominant business organisation can choose from two broad, and very distinct, competitive strategies—one (market-shaping) innovative, and the other (market-defending) adaptive: “The innovative strategy is to plan, invest in, and create more powerful
organisational and technological capabilities, perhaps coordinating the organisation’s strategy with privileged access to resources provided by the state. Alternatively, the adaptive strategy is to compete on the basis of productive capabilities from the past.” In terms of Helper’s (1990, p.90) interpretation of this, innovation involves developing new techniques to cut costs or improve quality by increasing efficiency or ‘working smarter’; and adaptation means cutting costs using existing techniques—suppliers and workers do the same thing, only cheaper and faster. Lazonick’s distinction cannot be appreciated without going through his compelling analysis of changes in modern business organization in historical perspective pioneered by Chandler (1990). Lazonick (1991) argues that the dynamic developments within capitalism must be understood as an outcome of major successive—and each time superior—innovations in organization, rather than the result of invisible market forces; he notes that “during its era of greatest success, the modern managerial corporation has exercised considerable control over market forces rather than being controlled by them (ibid., p.191).

Lazonick’s argument draws on the strategy-structure argument of Chandler (1962) and builds on the distinction between innovative and adaptive economic activity made by Schumpeter (1947, pp.149-59). The strategy-structure argument suggests that when a firm undertakes an investment strategy to expand into new markets, it must also put in place an organizational structure to administer the more complex set of business activities that result from the new investment. And Schumpeter’s distinction suggests that through its investment activities, the innovative organization
plays a role in shaping its economic and social environment while the adaptive organization merely tries to minimize costs while taking the environment as given. The dynamic innovative organization is one “in which the organizational capacity of the business enterprise influences the extent to which the enterprise can transform the high fixed costs of its innovative investment strategy into high-quality products at low unit costs.” (ibid., p.198). While an adaptive organization will only combine physical and human resources according to known technical specifications in order to produce a saleable product at competitive cost, the innovative organization must develop its productive resources through superior organizational capabilities (see Chandler, 1992; Lazonick and Mass eds., 1995) in order to produce a superior product at competitive cost through product and process innovations. It follows from above that the adaptive organization will more likely adopt defensive firm-specific tactics to outcompete the innovative organization. Such tactics might include accepting lower profits, running down capital stocks, using inferior materials, extracting wage concessions and intensifying work efforts. Given the competitive uncertainty (pertaining to external economic environment), the innovative organization, unlike the adaptive one, confronts productive uncertainty (pertaining to the internal operations of the organization) as a matter of strategic choice by building up superior organizational capabilities which includes the ability to obtain sufficient effort from its workforce to achieve a high rate of productive resource utilization by means of suitable transformation of the work organization. High quality products at low unit costs are brought out through a dynamic interaction
between technological change and work organization, ultimately
effected on the shop floor (Lazonick, 1990, p.2).

Lazonick’s illuminating analysis of industrial capitalism in
historical perspective suggests that much of the future of labour
relations outcomes in terms of desirability may be found in the
“cooperative employment relations” in the large-scale enterprises
of the Japanese type, as his analysis moves from the British craft
based workshops of the 19th century, through the giant American
corporations of the mid-20th century to the modern Japanese
corporations of the 1990s. However, a problem with his analysis
is that he ignores how the large enterprises create heterogeneous
categories of workers and multifarious labour relations practices
within themselves and through subcontracting/outsourcing
arrangements aimed at cutting costs and increasing flexibility.

• **High Road and Low Road Strategies**
  This distinction is very similar to that of Lazonick as mentioned
above, and is attributed to Pyke and Sengenberger (eds., 1992).
As Sengenberger (1992) elaborates, the short-term, defensive
adaptive strategy aims to cut costs, especially labour costs using
existing techniques whereas the latter seeks to reduce costs or
improve quality or both by increasing efficiency. The adaptive
strategy can imply not only straightforward cost cutting (wage
and non-wage labour costs) but also rationalization of production
in various ways. These two options correspond to the numerator
and the denominator of unit labour costs defined as labour costs
divided by output. Anything that lowers the numerator, defined as
production cost per working hour, brings down labour costs as
well. And any improvement in the denominator, defined as output per working hour, will also lead to a reduction in unit labour costs. The various measures to do this could be, for example, (1) concession bargaining, i.e. the temporary or permanent reduction of wages, fringe benefits or other items of worker remuneration, on the understanding that this could save a firm or plant in difficulties; (2) extending operational hours or arranging for flexible working hours more in line with production needs; (3) increasing workloads (i.e. making workers work harder, unaccompanied by effort-saving technologies); (4) changes to labour legislation in terms of legal exemption from labour protection regulation; (5) relocating production to areas of lower labour costs or finding cheaper outsourcing of more expensive in-house production; (6) using and increasing different kinds of non-standard/atypical/precarious forms of employment. Since any of these measures downgrade labour standards, the adaptive strategy is the “low-road” competitive strategy. Sengenberger (1992) comments thus: “poor wages and worsening terms of employment hinder the firm from acquiring and keeping the staff required for efficiency and flexibility; they rarely induce the firm to ‘invest’ in its labour force to make it more productive. So, in the absence of better performance and alternative possibilities, further cost-cutting may become inevitable, resulting in vicious downward spiral.” In this low road approach which consists of seeking competitiveness through low labour cost and a deregulated labour market environment, institutions and rules aimed at regulating competition are seen as mere straightjackets, and should be kept to a minimum! By contrast, the innovative strategy is one of constructive competition, and at least in theory, can be the “high
road” competitive strategy in that the economic gains due to efficiency enhancement and innovation can make possible workforce requalification, ‘worker empowerment’, broadening of job content, etc. along with improvement of wages and other rewards, safeguarding of workers’ rights, providing adequate standards of social protection, etc. This high road is said to be found in many German and Japanese firms, or the industrial districts of north-central Italy (Holmstrom, 1997). Thus the perception of labour as a factor of industrial development and restructuring varies sharply between the two strategies. Obviously, labour is a static cost to be minimised in the “low road” whereas it is a dynamic resource for gaining competitive advantage on the “high road”.

- **Two Kinds of Labour Flexibility**

It is interesting to note the kind of flexibility associated with the above dichotomization of competitive strategy. Thus, the labour flexibility associated with the high road is “active versatility” or “offensive flexibility” which refers to deriving competitive advantage on the basis of a skilled and polyvalent labour force. By contrast, “passive pliability” or “defensive flexibility” refers to passing the flexibility requirements of the market to the workforce in a coercive manner through expanding and retrenching production volume, forcing wage concessions, making flexible use of short-time and casual employment, etc. (see Holmstrom, 1997). These two kinds of flexibility are similar to “dynamic flexibility” and “static flexibility” analysis of Deyo(ed., 1996) which we have elaborated in the ensuing chapter. It is important to note that high road flexibility “does not mean a job for life, but
it does mean freedom from fear of arbitrary dismissal, some shelter against short-term market forces, some minimum level of justified trust between workers and employers even where there are also conflicts: a new moral economy.” To put it differently, highroad flexibility has some kind of job security (not in the sense of job for life or even a job beyond the grave if the job could be passed onto one’s child) in exchange for multi-tasking and/or multi-skilling (Holmstrom, ibid.). It may also be noted here that Holmstrom (ibid.), a great fieldworker researching South Indian labour, has come to the conclusion that the trend in India over the 1990s has been towards passive, defensive and low-road flexibility, with exceptions in some companies, areas, and social groups—“Too many workers see the low road stretching before them, and do not like what they see.

- **Cost Leadership and Differentiation Strategies**

  This is the most popular typology, and is used by both business policy and industrial relations researchers. It is the one developed by Porter (1980; 1985 as cited in Arthur, 1992; also see Cappelli, 1999; Teece ed., 1987). According to Porter, there are two successful “generic” strategies that firms may use to achieve competitive advantage over other firms in a given industry. They may compete either by becoming the lowest cost producer of a given product or service (the Cost Leadership Strategy) or by “differentiating” themselves from other firms on some basis other than low cost that is valued by customers, such as customized service or product quality, in the hope that customers will then pay a premium price for this “uniqueness” (the Differentiation Strategy). Further, for each type of strategy, firms can choose to
compete in a broadly defined market or to focus on a specific segment of the market. It is interesting now to note the relationship between competitive strategies on the one hand and “industrial relations system” or employment relations on the other.

Borrowing from organisational strategy literature, Arthur (1992) defines an ‘industrial relations system’ as a “pattern in a stream of decisions regarding the policies and practices that govern the employment relationship. Employment policies and practices can be grouped into functional categories such as compensation, staffing, training, and work organisation and employee relations. These policies and practices represent choices about how to handle “generic” aspects of the employment relationship, including organizing work and designing jobs, attracting and maintaining qualified employees, and managing conflict in the workplace” (Arthur, 1992, p.490). In the cost-based competitive strategy it is possible for firms following it, to break down the work process into relatively narrow, well-specified job tasks a laTaylorism, in order to reap three benefits of this, what Littler (1978) calls, the “minimum interaction employment relationship”. First, the skill level requirements of employees needed to perform these tasks are reduced, which reduces wage levels needed to attract and retain qualified employees. Second, training costs for production employees are also reduced. Third, the combination of low skill requirements and low training investment reduces the costs of turnover for these firms. Production employees become more easily replaceable, interchangeable. Based on this logic, “Cost Reduction Industrial Relations System” (Table 1) is
predicted to be associated with the cost-based strategy because a primary objective of this type of system is to reduce direct labour costs and other employment-related expenditures such as outlays for training and employee involvement programmes. By contrast, “Commitment Maximizing Industrial Relations System” is predicted to be associated with the Differentiation Strategy. The logic is that for firms to succeed through this market strategy, they must be flexible enough to quickly shift production and organisational resources to meet rapidly changing markets and customer demands. So, it is hypothesized that employees must have the skill and training to perform a variety of different tasks. Because it is more difficult to predetermine all production contingencies and situations, standardization is reduced and the level of uncertainty in performing production tasks increases. Production employees engaged in uncertain tasks are required to use some discretion in determining when and how to perform specific activities, consistent with the goals of the firm. To put it differently, the proposition of this choice is that offering skilled employees high levels of involvement, autonomy, general training and wages and benefits as well as a formal due process procedure, can be seen as a way to attract, motivate, and retain qualified employees who will internalize the goals of the firm, and be committed to them. Although this “commitment” workplace approach or ‘empowerment work systems’ approach as against the old “control-oriented “approach was found only in a small fraction of the US workplaces by mid-1980s, it was glorified by Walton (1985) who expected it to spread rapidly from factory to factory, the diffusion process being fuelled not only by economic necessity but other factors like “individual leadership in
management and labour, philosophical choices organizational competence in managing change, and cumulative learning from change

Table No:-4.4
Two Systems of Workplace Industrial Relations

<table>
<thead>
<tr>
<th>Industrial Relations Functions</th>
<th>Type of System</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Cost Reduction</td>
</tr>
<tr>
<td>Organization of Work</td>
<td>Job tasks narrowly defined</td>
</tr>
<tr>
<td>Employee Relations</td>
<td>Very little employee influence over ‘management’ decisions; No formal employee complaint! grievance mechanism; Little communication/socialization efforts</td>
</tr>
<tr>
<td>Staffing/Supervision</td>
<td>Low skill requirements; Intense supervision/control</td>
</tr>
<tr>
<td>Training</td>
<td>Limited training efforts</td>
</tr>
<tr>
<td>Compensation</td>
<td>Limited benefits; Relatively’ low wages; Incentive-based</td>
</tr>
</tbody>
</table>
4.6. SOPHISTICATED COST CUTTING AND LABOUR RELATIONS

Just like the predicted link between Differentiation Strategy and the Commitment Maximizing Industrial Relations System, some leading protagonists of the “sophisticated cost cutting” competitive strategy based on lean production (or even system of acture) logic have put forward its ‘human side of enterprise’ (McGregor, 1960) by way of association with the following “high road” labour relations features in terms of high-performance work practices and personnel policies (MacDuffie and Krafcik, 1992 as cited in Cappelli and Rogovsky, 1994; IILS, 1993, pp.14-15; also see Macduffie, 1995):

(i) Employee empowerment (Kinlaw, 1995) and participation in decision-making: Production employees take over some tasks previously performed by supervisors, engineers and staff specialists

(ii) Team work: ‘quality circles’ (focusing on quality and productivity issues), quality of work life programmes covering more issues than quality circles, and autonomous or semi-autonomous teams (taking over some direct supervision) all organise participation through groups. Teams actually substitute for formal management structure.

(iii) Job rotation/cross-training: Employees swap tasks within teams and learn each other’s jobs, and their skills become more interchangeable. Employees learn a wider range of skills to enable this to happen.
(iv) Supportive personnel practices: Relatively high wages; profit sharing; pay for skill programme; employment security; training in basic communications and interpersonal skills and specific production knowledge and ‘socialization’ programmes which teach the values and implicit rules of the organisation, to develop high commitment.

(v) Labour-management relations based on consultation, consensus and cooperation. In other words, these are labour practices similar to the ‘new industrial relations’ or ‘human resource management’ which are nothing but serenading the great legacy of the old “quality of working life” and industrial democracy agenda (Gaudart et al., 1983) in new contemporary jargon of employee commitment based on employee empowerment.

The rise of these practices is seen as convergence with the Japanese ‘organisation oriented ‘employment system that is eulogised by Dore as the best way of obtaining competitive advantage by applying it to the core workforce (Dore, 1989). However, a problem with Dore’s analysis or that of Lazonick (1995) and the like is that they have ignored the downside of the Japanese employment system in the supply chains of the Japanese lead firms the exploitation of non-standard labour--that was highlighted so well by scholars such as Song (1982) and the like.

More importantly, the point that needs to be emphasized here is that the “cooperative employment relations” or “organization-oriented employment system” at the lead firms could be sustained
in Japan during the post war period when the overall market was expanding and each Japanese lead firm’s market share was expanding as well. But as the overall market started shrinking and many lead firms found their market shares declining, the much eulogized aspects of the Japanese cooperative labour relations crumbled. The same situation holds good today in the global automobile industry wherein the supply-sided competitiveness through lean production (based and downsizing and labour market flexibility) is reducing global aggregate demand even as aggregate demand is not expanding due to increase in gainful employment opportunities based on fiscal and monetary policies and many lead firms are finding it difficult to increase their falling market shares. In this milieu, inter-firm competition has intensified to eat into each other’s market share, and as such to expect presently the high road, generous employment conditions of the past is rather a misplaced fantasy. The adverse macroeconomic implications of supply-sided micro industrial restructuring in terms of downsizing and labour market flexibility are analyzed, unanalyzed very well by Bhaduri (1996; also see Harkness, 2008). Furthermore, as Lewin et al. (1997), point out, as is often the case, there is more rhetoric surrounding these new labour arrangements than actual implementation. Factories are, after all, microcosms of broader economic and social organization and whether genuine industrial democracy will permeate factory life in a context of dictatorship of free markets and pseudo political democracy in the broader society is a hundred-million-dollar moot question, so to say—democracy is under attack worldwide, as Chomsky (1997) has pointed out. In theory, lean production involves worker input but in practice it can be rejected
by management. Moreover, while the agenda of decent work factors in trade unions and “social dialogue” as part of good labour relations, the lean production agenda or the ‘new industrial relations’ agenda suggests as a preference the desirability of non-union good labour relations or a desirability for yellow unions of the type found in Japan enterprise unions.

• VARIETY OF LABOUR RELATIONS AT THE AUTO LEAD FIRMS
The tangible and intangible impact of lean production on labour is complex, with both positive and negative consequences pointed out in the literature. In fact, more negative write ups are there than rosy ones. Moreover, the diversity in employment relations associated with lean production suggests that changes in competitive positioning and manufacturing practices do not mechanically determine them in a particular way. Which means that the diversity needs to be explained keeping in mind not only the variation in the micro-implementation of JIT/TQC but also the national, regional and firm level variation in labour market conditions and institutions as also management cultures. In their celebrated book on car manufacturing styles, the ideologues of lean production (Womack et al., 1990) write: “Lean production is a superior way for humans to make things...It provides more challenging and fulfilling work for employees at every level, from the factory to the headquarters.” Thus, they suggest, without empirical proof, that labour’s skills and the quality of work would be enhanced, and that labour relations would become more cooperative. According to Humphrey (in IILS, 1993), there seem to be three reasons for upholding this belief:
“Firstly, the new organisational forms are held to provide a better and more varied work environment...the methods create their own positive labour relations climate. Thirdly, it is supposed that new production methods which (1) rely heavily on workers to produce good quality at the right time, (ii) are vulnerable to disruption, and (iii) seek worker input into improvements to the production process, can only be based on the active consent and participation of labour. Hence evidence of the methods being used can be taken as evidence of improved working conditions and labour relations.”

- Work Organisation and Worker Participation
There has been a great variety of experiments with team work, employee participation in problem solving and productivity improvements, quality circles and the use of TQM. However, diffusion of these practices remains uneven. For example, the Japanese and Korean plants are the most advanced in terms of multi skilling whereas plants in the USA and Canada remain the most specialized in their work systems. Interestingly, those assembly plants with the most multi skilled work systems also exhibited the lowest number of hours per vehicle, which is the indicator for productivity. In USA, Britain, Canada and Australia where there is the strongest tradition of job control by unions, some of the most profound departures from traditional work practices are observed. This is particularly the case where a new Greenfield plant or worksite is established or when major technological changes are introduced. In some situations, management has involved the unions and the employees in decisions about the introduction of workplace change, while in others a unilateral approach has been taken. In some Canadian plants there has been strong resistance to management
initiatives in the area of work redesign by the Canadian Auto Workers union on the basis that these were particularly of an anti-union strategy. Research indicates that the greatest commitment to change tends to occur where employees and their unions are involved at appropriate points in the decision-making process.

4.7. **CONCLUDING REMARK:-**

With globalization, it seems the negative consequences of businesses have intensified, as has the public call for corporate responsibility. Paradoxically, today, business firms are not just considered the “bad guys”, causing environmental disasters, financial scandals, and social ills. They are at the same time considered the solution of global regulation and public goods problems as in many instances state agencies are completely unwilling to administer citizenship rights or contribute to the public good. The global framework of rules is fragile and incomplete. Therefore, business firms have an additional political responsibility to contribute to the development and proper working of global governance. Considering the legal and moral rules of nationally bound communities as the point of reference for corporate legitimacy becomes a challenge against the background of a globally expanded corporate playing field. Obviously, there are no globally enforceable legal standards or broadly accepted moral rules that might circumscribe the legitimate activities of multinational corporations. CSR and Legislation With globalization an increasing number of companies are already focusing voluntarily on CSR issues, but it is clear, in the light of the poor corporate governance that resulted in both the Enron and World Com debacles, that some further
form of legislation is necessary. A balance has to be made between no regulation and full regulation.

Reference:-


