CHAPTER-VIII

CONCLUSIONS AND SUGGESTIONS
Labour is an important factor towards the development of growth. In fact, even after the enactment of various labour welfare legislations the suffering of the workers did not end. Rather new areas of conflict have emerged with the further expansion of industrial civilization, more so due to recent globalisation and liberalization. The lack of sound and effective industrial relations will lead to chaos, instead of industrial development. Attempts must be made to turn the relationship of subordination and command into that of co-ordination through law. To make the system of co-ordination succeed a suitable adjudicatory mechanism needs to be adopted, which may be supplemented by alternative techniques of conciliation and bargaining.

The re-examination of the existing dispute resolution mechanism is one of the adjustment processes that are going on all over the world. The pattern of employer-employee relations has changed considerably in the last several decades. After moving from an era of unrestricted laissez faire to a more regulated labour
market operating with in the confines of legal frame
work, it is once again moving towards greater
deregulation which has brought out tremendous changes in
the individual employment contract and labour market as
a whole.

The progress of industrialisation has been accompanied
by increases in industrial disputes in India. Industrial
disputes are natural in the capitalist economy since the
interests of the capitalists and the workmen are
diametrically opposite. While the former aims at
maximisation of profits, the latter aims of maximisation
of their wages and salary. Disputes on the issue of
wages and allowances, bonus, hours of working, leave,
privileges, victimisation of employees etc., are quite
common in all capitalist countries.

The two most important causes of industrial dispute in
India have been the issue of wages and allowances and
retrenchment. Industrial Disputes often lead to strikes
and lockouts. The workers to safeguard their interests,
while the capitalists to pressurise the workers and
compel them to agree on the dotted lines resort to
lockouts resort to strikes. Accordingly, both of these
activities form a part of industrial disputes and leads
to struggles disturbing the peace and tranquillity of the industrial sector. This affects industrial production and the targets laid down in the plans. It is on account of this reason, that all plan documents in India emphasized the necessity of preserving industrial peace.

India's Industrial Relation policy has had the following two basic objectives.

(i) Prevention and Peaceful settlement of disputes, and
(ii) Promotion of good Industrial relations through labour management co-operation.

A major step towards accomplishing the first objective was taken in 1947 themselves with the passing of Industrial Disputes Act, 1947. The Act empowered the government to appoint conciliation officers for bringing about settlement of disputes through conciliation. If such an attempt at conciliation fails, the government can refer the dispute for adjudication if it so wishes. So the intention of the Industrial Disputes Act is very clear, to prevent the occurrence of industrial disputes, but in practice, it is a dilatory process unsuitable to the present day needs. Industrial Relations have
remained shrouded in a jungle of laws ever since the Industrial Disputes Act was enacted in 1947. This would be clear from the fact that this Act has been amended 34 times till 1984 only to provide for the suggestions made by the Supreme Court on issues before it.

The structural changes and reforms introduced in 1991 in the Indian economy have ushered in era of change. There is an atmosphere of freedom for the entrepreneurs. Liberalisation and de-licensing have opened up the economy and industry to foreign capital and industry. But these changes have not been accepted by every section of the industry and labour.¹ The working of the labour justice system in India in the public sector has been fairly successful in imposing fair conditions of employment. However, in the private sector industries the labour justice system has had a bureaucratic approach to labour problems. The employers in the private sector have used the system to their advantage.²

Industrial relations in India are presently deadlocked with the contrary positions taken by the State, Management and the Unions. The fast track development in the area of technology and the need for industrial

¹ B.R.Patil, "Trade Unions 'responses to economic reforms in India", Economic Transition with a Human face p 228
² S.Debi. Saini, "Liberlization, Human Face, and the Labour Justice System", p238
growth and the integration of the Indian economy with that of the rest of the world calls for a breakthrough and a climate of stable industrial relations. The present industrial worker is a man with better education and skill and is more urbanised, better adjusted to the industrial way of life and is more vocal. This is a change from the worker at the dawn of industrialisation, which was illiterate with a rural background.

1. Labour Law Reform

In India, labour reform could not be put into action during the last half a century due to an unresponsive government, polarization among the employers and the unions. There have been too many committees and commission which have debated upon the subject of labour law reform in India. Instead of acting on, the Ramanujam Committee recommendations, and the pioneering work of the National Labour Law Association in drafting a labour code 1994, yet another commission was constituted to consider labour problems afresh. It is unwise to expect legal reforms on social and labour matters to address squarely the issues of globalisation and competitiveness in countries like India because of urgent and compelling
problems of poverty, unemployment and state inaction in the field of social security.

A country poised for significant development on industrial production will need to have a re-look of the existing law. The future labour dispute resolution will have to be free from outside influence, possessing independent character, and the provisions should inspire greater confidence in the parties' co-operation. The new law should give freedom to the parties, enhance the role of non-statutory bodies for dispute resolution and make interference as the last resort. The new judicial system for industrial conflict restitution would also have to devise procedures in such a manner that these cut down delays, expenses and frustration of the parties by providing quick relief. The new law would have, in fact, to get rid of the conciliation process and replace it by arbitration. The law, instead of becoming restrictive, should be 'enabling,' keeping in view the effect of non-employment of the work-force. The industrial relations system during the next decade has to be based on the expectations required from industries. These requirements are changing in the context of social, political, economic and technological developments of the country vis-à-vis other countries ion the globe. The
socio-economic and political changes will lead to very
different expectations, aspirations and demands of the
workers in the coming decade.

2. The Australian Experience

We have already seen that the Workplace Relations Act, 1996 has helped reduce industrial disputation in Australia to record low levels. The Act provides a fairer balance between the interests of employers and the community as whole and establishes effective measures which assist in ensuring that unjustified and unlawful industrial action can be stopped or prevented. In contrast to the earlier legislation the Workplace Relations Act, supports a more direct relationship between employers and employees and, with a reduced role for third party intervention. Since the commencement of the Workplace Relations Act, 1996, industrial disputations have changed in two significant ways. Firstly the number of disputes has dropped to record low levels. Secondly, the nature of industries action taken has changed dramatically.

The legislative provisions concerning industrial action and compliance have largely driven the changes in industrial disputation. The legislative scheme provided
in the Workplace Relations Act, 1996 strikes a fair and effective balance between the rights of those affected by industrial action. The Australian Government has also established effective means for preventing illegitimate industrial action. The Workplace Relations Act 1996 enhanced the powers of the Australian Industrial Commission to make enforceable orders to stop or prevent industrial action. This provision has had major contribution to the swift resolution of industrial disputes and prevented local strikes escalating into national disputes. Orders made by the Commission to stop or prevent inappropriate industrial action provide a simple means of getting striking employees back to work. The Federal court is able to enforce the orders by injunctions. According to the Australian Bureau of Statistics data, at 31st December 1998, employer had made over 510 applications for return to work orders. In most of these cases employees returned to work without the need for the orders to be made, although in at least 60 cases orders were issued. At least 7 applications have been made for the Court injunctions to enforce return to work orders. These figures demonstrate that

3 Industrial Disputes in Australia-Experience under the Workplace Relations Act, 1996- Ministerial discussion paper, April 1999.
applications for such orders play a useful role in cessation of industrial action.

India must continue to look at lessons learnt by other countries and draw on international workplace relations’ experience. We need to re-examine our system based on the existing Australian Workplace Relation system for the following reasons:

1. Both, India and Australia have strong democracies
2. India and Australia belong to the Commonwealth and connected by British Common law.
3. India was linked with labour legislations of Australia for than 50 years.
4. Today, India has entered free market economy and in order to change its pattern of labour- management relations, it will be ideal to look to the Australian model because Australia has always had free market economy.
5. India and Australia are a federation of States and hence dispute settlement machinery can be decentralised giving more power to the States, as in Australia.
The Government while ensuring industrial justice to the worker in terms of providing the best possible working conditions should also ensure the making of collective agreements. The Governments' objective must be to retain the right of the unions to make limited industrial action for the purpose of making collective agreements. The employers and not union should have a final say in decisions on taking industrial action. Secret ballots of workers will provide a fair and democratic process for determining employee support for insitgarial action. The Government should ensure that protected action couldn't commence until employees have able to express their wishes by way of a secret ballot. In addition, earlier notification of an intention to take industrial action will be required so that employees, union and employers have a genuine opportunity to discuss the matters subject to a claim before any potentially damaging industrial action commences. Formal legislative recognition should be given to the provision of mediation services in industrial disputes, for use on a voluntary basis, as an alternative or supplement to the quasi-legal process of the proposed Industrial Relation Commission. Bodies or persons external must provide
mediation services to the Commission, with an accreditation system recognised by statute.

These legislative reforms will provide further support to the development of more direct relationships between employers and employees at the workplace. The need to encourage employers and employees to adopt a more consensual and constructive approach to agreement making is an important issue for all involved in industrial relations.

By way of suggestion we have already put forth an alternate industrial dispute resolution mechanism in chapter 7 which is an outcome of the examination made of the existing dispute resolution mechanism in Australia and East European Countries. It will be worth experimenting with these suggestions only to find lasting solution to industrial conflict in India.