CHAPTER: II

STRIKES IN INDUSTRIAL CONFLICT.
Historically, strikes in industrial conflict, can be looked upon as indicators of the extent to which cordiality and goodwill exists between the employer and his employees. Frequent occurrences of strikes will tend to indicate a very unstable and disturbed relationship between the two parties and also expose the lack of proper machinery that will help solve the differences that may arise between them. A study of strike occurrence helps one to draw conclusions as to the reasons behind the workers resorting to such a drastic step and the ultimate goal they are going to achieve by resorting to such a measure. The historical account given here below brings out the undercurrents that exist between capital and labour and indicates the trends and directions this conflict finally takes manifesting itself in a strike form. Such an outcome seems but natural, given the imbalance in economic well-being and inequality in the distribution of wealth.

1. THE INDUSTRIAL REVOLUTION AND THE BIRTH OF INDUSTRIAL CONFLICT:

It has been firmly established in modern history that, it was the industrial revolution which set the formidable pace for the creation of capitalist relations. The technical inventions which were put into practical applications, created the conditions that brought about the industrial production radically leading to mass production.
Machines became an instrument of labour as Engels put it, in the year 1845,

"The history of the working class in England begins with the last half of the past (eighteenth) century, with the invention of the steam engine and the machines for the manufacturing of cotton cloth."

The industrial revolution, also brought in its fold, the new factory culture, by which raw materials were converted into finished products with the assistance of human labour. This change in technology and organisation of production, the conversion of the manufactory into a "machino-factory" and the spread and establishment of the factory system, created a new category of direct producers, the factory proletariat and in Engle's view, this was³,

"the mightiest result of... industrial transformation."

At this point of time, the significant aspect of industrial working class was that, it was entirely at the mercy of the employer. Before joining the factory establishment, the workers were small craftsmen, but with some socio-economic status. These, cottage industry workmen were independent and at least had some land holdings to fall back upon, when the need did arise. By joining the class of wage labourers of the manufactory period, the cottage
industry workers were deprived completely of these means of production. With this sense of insecurity, such a workman who became a wage earner, had only one prospect before him - to remain as such for the rest of his life. The only property left with him was his labour power. He could earn a living only by selling it to the capitalists. Explaining the predicament in which the worker found himself, Engles wrote,

"The manufactory worker is torn up from his patriarchal relations by large scale industry, loses the property he still has and thereby only then himself becomes a proletarian."

However, in course of time, the growth of industry in all its gigantic form, created a huge reservoir of human wage earners which phenomenon continues until this day. The wage workers, thus came to occupy a clearly defined place in the system of production. This reality made the workers feel that they were class by themselves as Marx wrote,

"The economic conditions had first transformed the mass of the people of the country into workers. The domination of capital has created for this mass a common situation, common interests. This mass is thus already a class as against capital."

The recognition by the workers that they belonged to a 'class' distinct and different from that of the employers,
was the starting point, of the sowing of the seeds of
dissent between these two groups The employer or the
'capitalist' group was motivated largely by profit and the
labour or the working class by their desire to secure for
themselves a fair share in the profits gained only to
improve the conditions of their living.

The constitution of these two distinct groups with
conflicting interests, created the ground for bringing about
a new social order, where both the nobility and the small
peasant disappeared, dividing every leading European country
into these two new groups, calling for new approaches and
new solutions. As Ralf Dahrendorf put it, 8

" Precisely these features (nobility and
peasantry) were eliminated by the
industrial revolution Surprisingly soon
it created - to begin with, in England -
two rapidly growing new strata, those
of enterpreneurs and workers There was
no 'precedent' for either, even if in
England the Poor Laws mixed the old and
new aristocracy. Both these strata
'bourgoise' and 'poletariat', which had
grown together and were tied to each
other had no tradition of rank, no myth
of legitimacy, no 'prestige of descent'
(to quote Max Weber). They were
characterised solely by the possession
and non-possession of domination and
subjection. Industrial capitalists and
labourers had no 'natural', no
tradition, unity or strata. In order to
gain it, they had to stabilise, and
create their own traditions. They were,
so to speak, nouveaux riches and
nouveaux peuvers, intruders in a system
of inherited values and messengers of a new system. And for these strata, bare of all traditions and differentiated merely by external, almost material criteria, the concept of 'class' was first used in modern social science. In the analysis of these strata this concept became a sociological category.

Apart from bringing into existence the class conflict, industrial revolution was responsible for bringing about the following important changes in society and which are important for deeper understanding of strike occurrences:

1. **A WAGE LABOURER ALL HIS LIFE:**

   As already mentioned, a worker who was born as a wage labourer had only one prospect before him — to remain as such for the rest of his life. He had no capital, no land, always at the mercy of the employer who could hire his labour and fire him from the job at will. There could not be a greater uncertainty and suspense in the life of a person so employed. He was forced to work under great strain and mental agony, not knowing when he and his family would be thrown on to the roads.

2. **THE DECAY OF CRAFT AND MANUFACTORY INDUSTRY:**

   The new attraction and prospect of a factory job, and the guarantee of a steady wage for labour sold,
made the craft and manufactories, which were unable to compete against machine production, fall into decay. This, in a way, made the wage labourer more and more dependent on his job in the factory as he could not compete with the mass production tactics of the factory.

**CONCENTRATION OF MASSES OF WORKERS IN NEW INDUSTRIAL AREAS:**

As the Industrial Revolution developed, another feature became clearly manifest in the formation of workers class, that is, the concentration of growing masses of workers not only in new industrial cities and regions but also at an individual enterprise, a process which reflected an increase in the scale of production. It seems in Britain, in each of the Manchester's 43 factories 300 persons and more worked in 1816, and two of them had more than 1000 workers each. In the same year, Glasgow's 41 cotton factories employed more than 244 workers. Large masses of workers were concentrated in the iron and steel, mining and other industries. In the late 18th century there were iron and steel works with up to 1000 workers in South Wales. Carron's iron foundry in Scotland in 1841 was the biggest enterprise of its kind in Europe. About 2,000 workers were employed there. A number of other iron works each employed 500 to 1500 workers in the period 1820 to
In the thirties one of the South Wales plants employed a few thousand workers, just as, incidentally, a glass works in Dumbarton, Scotland. Each mine in the Tyne river basin had an average 300 workers, two-thirds of whom worked underground. Some 170 workers were employed at each of Cornwell's ten mines. The concentration of the working population in the cities and large enterprises was an extremely important factor in the formation of the proletariat as a class. This helped in the recognition of class consciousness and workmen gained a sort of sense of security by living and working together. This did bring about a community of interest, because, as against the power of the employer, the workmen could only count their members, and that too, if they remained together. Thus, Engles wrote,

"the workers begin to perceive that, though feeble as individuals, they form a power united."

He described the cities as the foci of the labour movement, and said,

"In them the workers first began to reflect upon their own conditions, and to struggle against it, in them the opposition between proletariat and bourgeoisie first made itself manifest."
(iv) WOMEN AND CHILDREN AS WORKERS:

The Industrial Revolution, threw up a new variety of workers and that was women and children. It is reported that in 1830's the proportion of adult workers (over 18 years of age) in Manchester's large factories was 28 percent and in some industries was even smaller. In 1835 women and children under 13 years of age constituted 61 percent of all workers of England's textile industry, and the period 1834-1847 out of all workers in the English cotton mills about one-quarter were adult men, over half and more (upto 55 percent) women and girls and the balance, boys below the age of eighteen. This labour force was largely unskilled and the creation of such a large force did bring about community of interest, for they had to survive or perish together. Newer technology would throw out some of the unskilled labour force and by sticking together the labour force could prevent labour workers from loosing their livelihood.

(v) THE "UNEASY" NATURE OF WORKING CONDITIONS:

Workers who came from village, small towns near and far, crop farmers, craftsmen and journeymen gathered under one factory roof felt extremely "uneasy". They were encountered with totally unfamiliar working
conditions leading to depression and disappointment
However, they had to go on. They had to make their living
and this they could do only by changing their way of living
and embracing the adversities that came by. For many, the
work in the factories symbolised a rupture with the past,
which in itself was a change for the worse in their lives.  

Thus, from the above developments, one can see that the
worker was degraded in social status and many a time lived
in inhuman conditions. The Industrial Revolution did
create work opportunities but the tragedy of the system
during its early period was the scant respect for human
labour and non-recognition of the working class as a
participant in the process of production.

2. THE CLASS STRUGGLE FOR UNITY AND THE BIRTH OF TRADE
UNIONS:

Apart from the factors mentioned above which arose
as a consequence of Industrial Revolution, there were some
others which caused economic distress to the working
labourers. The introduction of machines into production was
accompanied by systematic reduction in the wages of millions
of workers. The machine reduced the demand for skilled
manual labour and hence its price. Matters were rendered
worse by paying in kind, forcible purchase at higher prices
goods produced in the factory, compulsory deduction from
wages for omissions from work (often fictitious) and for any other 'offences', and paying workers "just enough to meet the means of subsistence that he requires for his maintenance, and for the propagation of his race," as per Ricardo's, Iron Law of Wages. Also, different wages were paid both to workers of different industries and within the limits of one and the same industries and even in one enterprise, workers had to slog for 13 to 14 hours in a day to earn whatever was dished out to them. These conditions, made the factory a veritable hard labour camp for the workers. There was no safety engineering and occupational accidents were a common occurrence. Women were paid lesser wages than men, though they performed the same work and still worse was the plight of children employed who were paid very low wages even after extracting heavy work.

Inspite of all the above indignities to which the labour class was subjected to, they bore everything with patience and in a sense of helplessness and they had no right to agitate or rise up against the powers that be. Laws were passed to forbid workers to undertake joint actions or set up their own organisations to defend their vital interests. Example would be Le Chapelier's Law of 1791 in France and Napoleon's Penal Code of 1810 which provided for imprisonment of strikers for three months to
one year and of strike leaders or instigators for two to five years. The Law of 1845 promulgated in serf-owning Russia, whereby:

"in the event of disobedience of factory and plant workers to the owner or manager committed by a whole artel or a crowd, the culprits were subjected to punishment for insurrection against the constituted authority as ordained by the government; namely; detention from three weeks to three months for 'instigators of a strike', and from seven days to three weeks for others."

Under the English Law on "Master and Slave" dating back to the fourteenth Century and modified repeatedly in the eighteenth and nineteenth Century, a worker who had quit work for his employer was subject to imprisonment, whereas an employer who had dismissed a worker before the expiration of the labour contract was simply fined.

In the eighteenth century and early decades of the nineteenth century it became a matter of routine in many countries to issue to workers special labour cards by means of which employers tried to tie the workers to their factories and keep them under their heel. Not infrequently these cards were used as means of establishing police surveillance over the workers.

Thus the workers were helpless before the employer and
the Law. Far from protecting him, the employer and the State became instruments of oppression and terror. Hence, the working class had no choice but to fight, even though with their backs to the wall. The difficult economic and humiliating social condition of the working class was the objective cause which pushed the young working class to the path of resistance to its capitalist exploiters, the basis for the emergence of the labour movement.

The only way the labour could express their unhappiness over the prevailing state of affairs was to go on strikes. Strikes came to be accepted as expressions of the workers determination to fight rampant injustice and inequalities. Strikes came to be recognised as manifestations of industrial conflict.

3. STRIKES IN INDUSTRIAL CONFLICT:

Strikes do occur as an expression or manifestation of industrial conflict, when the conflict situation reaches a point, where both the parties refuse to see eye to eye in respect of the demands made by the workers. It is in this situation that the workmen feel compelled to refuse to continue to perform their duties under the contract of employment and until such time a compromise or agreement is reached in respect of their demands. In as much a strike is
recognised as an outflow or passions arising out of industrial conflict, this can be compared to a safety valve which allows the steam to escape when excess steam is accumulated. Further, it is authoritatively accepted that strikes sometimes act as a necessary release of psychological tension, especially when men and women have to work under physical or psychological strain. Thus, the question that is pertinently asked is not whether strikes should occur or not, but, rather how strikes are to be understood. Further, for what purpose 'strike' is used and legally what this concept has come to mean. The role of strikes in industrial conflict, requires to be properly and precisely understood and defined.

If one looks at the historical evolution of strikes, one can see that sometimes strikes have come to mean and been accepted as mere work stoppages, and the causes for such work stoppages may be many. It may be connected with the achievement of an industrial demand or may be for achieving a political gain or benefit or may be mere expression of dissent or resentment at a particular event happening and which is not to their liking. Some other times, strikes have been looked upon as instruments of achieving collective bargaining. This form of achieving demands has been recognised as the best method for the
solution of industrial conflict, that is, when the parties sit together and solve their problems after discussing their grievances across the table. As the National Commission on Labour put it, 26:

"It is obvious that the best way to solve industrial disputes is for the parties to the dispute to sit at a table, talk over their differences, enter into a process of negotiations and bargaining, and settle them. Settlements of disputes, reached by mutual discussion, debate and negotiations, leave no rancour behind and help to create an atmosphere of harmony and co-operation. In that process, trade unions become more friendly and responsive to trade unionists."

Now, if one does look to strikes as weapons of achieving collective bargaining, then, one will see that not too many restraints are used on the right to strike. There must be a positive attitude to understand why a strike does occur and if a strike does disturb the public peace and tranquility or well-being, then the law can step in. If we adopt a negative attitude and unduly try to control strikes, then we land ourselves in a state of confusion, because, we have not understood the meaning of a strike.
It is but proper that the Government of the day, defines and tells us what its attitude to strike is and by controlling strikes what it is trying to achieve. If the Government looks to strikes as mere work stoppages, there should be reason why it is doing so and if it is looking to strikes as a weapon of collective bargaining, then what machinery it hopes to provide to achieve the ultimate goal. In the absence of such a declaration of attitude, it seems futile to talk of strikes in industrial conflict. The workers go on strike with a purpose in mind and if the Government does not see the same way, then with the parties acting at cross purposes, there is hardly any chance of bringing to the end the industrial conflict.

If one looks to the Trade Union Law, one can see that the provisions therein have been created to prevent any legal action being taken against the Trade Union leader or the members of the Union for bringing a breach of contract of employment through strike action. A Trade Union acts as an agency to bargain on behalf of its members and in pursuit of that end, may call a strike to pressurise the employer to accept its demands and in so doing requires protection of the Law for achieving its goals. Thus, it would be wrong to look at strikes as abnormal activities. One has to look at them as legitimate manifestations of industrial conflict.
We may now see how the Government, the judiciary and the workmen themselves have looked upon strikes, so as to help us draw appropriate conclusions later.

(1) THE ROLE OF THE GOVERNMENT:

Justifying the reasons behind the State intervention to prevent work stoppages, the National Commission on Labour had this to say:

"In the sphere of industrial relations the State has to watch and understand the attitudes of unions and employers in regulating their mutual relations in so far as they concern collective bargaining and the consequent direct action which either party may resort to for the realisation of its claims. This understanding is necessary to chalk out the course the State should adopt, which in turn is determined by the short-term and long-term welfare goals it sets for itself. The State's anxiety about work stoppages arises because of two factors:

(1) the impact on the community by way of inconveniences inflicted by interruption in supply of essential goods/services and

(2) the social cost to the parties themselves in the form of loss of wages/production It has, therefore, a special interest in the methods chosen by the parties for regulation of their mutual relations."

Further, describing the practice followed by the Governments in India, the Commission said:
The State has enacted procedural as also substantive laws to regulate industrial relations. In the distant past, State intervention in labour matters was for protecting the commercial interests of the British rulers. Later, pressures from the public to guard the interests of the workers in the face of difficulties created by the operation of the economic system prevailed. More recently, State intervention in labour matters has been necessitated by the larger need for regulation of the economy with the focus on rapid overall growth. Apart from planned development, the requirements of the Welfare State envisaged in our Constitution has been another important reason for state intervention.

From the above, one can conclude that the State has reserved for itself power to intervene in the settlement of the industrial conflict to help protect the public interest by preventing work stoppages which may interrupt supply of essential goods/services and help prevent loss of wages/production. Though, this seems to be a legitimate ground for State intervention, nothing can prevent the State from so using this power under the umbrella of public interest, to curtail the freedom to strike by enlarging the list of essential services by referring disputes for adjudication. There have been no built-in safeguards provided to prevent such a misuse of power. Such a misuse could be prevented if the Government had a declared philosophy behind the control of strikes. In the absence of
such a philosophy, mere control would tend to merely curb strikes without thereby achieving any goals. Further, by referring just one or two demands for adjudication, the employees could be technically prevented from going on a strike with reference to the demands under reference. This again could freeze the Freedom to Strike. Thus instead of protecting the 'public interest', the restrictions have the power to virtually eliminate the Freedom to Strike. If the attitude of the Government is merely to prevent strikes then this attitude must undergo a change. Even the National Commission on Labour seems to adopt a negative approach in its recommendations

Such an approach on the part of the Government has created confusion in understanding the proper policy perspective regarding strikes.

(11) THE ROLE OF THE JUDICIARY:

The varied interpretation put by the Courts in India in respect of the provisions dealing with strikes have led to a lot of uncertainty in the law. The narrow and highly technical interpretation put on the various provisions, has only created an atmosphere of further stifling the Freedom to Strike. Instead of limiting the areas of conflict, inadvertently, the Courts seem to have
created more possibilities for opening newer battle zones, which have further limited the Freedom to Strike. The contribution of the Courts in declaring certain strikes as 'justified' and others 'not justified' seem to have only helped in putting tremendous pressure on the Freedom to Strike. It has only helped in dragging the strike issue to the Courts because issues pertaining to non-payment of wages during strike period or disciplinary action for strike initiation have ultimately landed in the Court for a final decision on the matter. The employer has the money power to drag the workmen to the Courts, can the workmen fight on an equal plane? What seemed to have got the Courts in this state was probably the Government own confusion regarding the scope and meaning of 'strike'.

(111) ROLE OF THE TRADE UNIONS:

The trade unions in India too do not seem to have a clear idea of what they mean by strike. They have called strikes for all sorts of reasons and all sorts of causes without limiting the use of strikes to achieving results through collective bargaining. Collective bargaining demands hard work, intelligent leadership and full awareness of what is going on in the enterprise and the ability to sacrifice everything for the cause being fought for. The trade unions in India appear to be busier with
problems pertaining to political and social sphere rather than putting their own house in order. More time is spent on intra-union rivalry than on evolving norms and procedures for putting collective bargaining on more even plain. What seems to have caused satisfaction to the trade unions is the very act of reference of specific disputes for adjudication by the appropriate Governments. They, by and large, have failed to make an all out effort to streamline the collective bargaining machinery at the plant and industrial level. The political affiliation of the trade unions have only made matters more difficult.

Thus, one can see that the attitude of the Government, Judiciary and Trade Unions, regarding the establishment of appropriate approaches towards strike action and collective bargaining is not fully spelt out. Let us now see what role strikes have played in the process of achieving collective bargaining in Great Britain and in India.

The Chapters that immediately follow, bring out the historical perspective very clearly which leads us to definite conclusions regarding the role of strikes in achieving collective bargaining.
FOOT NOTES:

1 The International Working Class Movement - Problems of History and Theory, - vol 1 "The Origins of the Proletariat and its Evolution As a Revolutionary Class", Progress Publishers, Moscow

2 Quoted by Dahrendorf, Ralf, in, Class and Class Conflict in Industrial Society, at P 5

3 See Foot Note 1 at p 121

4 Ibid.

5 Marx, Karl and Engles, Fredrick, Collected Works vol 6, p 492

6 See Foot Note 1 at p.122

7 Ibid

8 Dahrendorf, Ralf, Class and Class Conflict in Industrial Society, at p 7

9 See Foot Note 1, at p 131.

10 Ibid

11 Ibid

12 See Foot Note 5 at pp 418-419

13 Ibid

14 See Foot Note 1, at p 133

15 Ibid at p 136

16 Ibid

17 Ibid at p 175

18 Ibid

19 Ibid at p 181

20 Ibid at p 185
21. Ibid.

22 Ibid at p 186.

23 Ibid.

24 Ibid at p.190.

25 Kahn-Freund, O, and Hepple Bob, Laws Against Strikes, pp 5-8

26 The National Commission on Labour Report, at p 60

27 Trade Unions Act, 1926

28 Sections 17, 18 and 19 of the Trade Unions Act, 1926

29 The National Commission on Labour Report, p 308.

30 Ibid, p. 309

31 Ibid, p. 314