CHAPTER – II

ORIGIN AND DEVELOPMENT OF TRADE UNIONS

2.1 Introduction

The origin and development of trade union movements, historical development of trade unions in India, growth of employees and employer’s organizations, aims and objectives of trade unions, definition of trade union and trade disputes, recognition of trade unions are discussed in this chapter.

Trade Unions play an important role in the settlement of industrial disputes. The trade unions of employees and employers bargain collectively in solving the grievances of the industrial workers. Before going to discuss the role of trade unions in the settlement of industrial disputes it is appropriate to project the historical background for establishing the trade unions. Not only the workers associations, but also employers’ associations are regarded as trade unions. The worker’s union or association as well as employer’s union have to be registered their union under the Indian Trade Union’s Act, 1926. Therefore, under the existing law the expression “Trade Union” includes both employers and workers organizations.
The origin, growth and development of Trade Union Freedom are determined by multiple concomitant factors and it is not feasible to isolate a single factor from the rest in the context of the reluctant dynamics. In order to have a scientific and rational study of the trade union freedom in India, it is rather imperative to investigate and enquire into various economic, political and legal situations available in some major countries where trade union freedom has now become an integral part of the national mainstream. Since, it is a vast subject to deal with the developments of trade unions of each and every country and it is very difficult to do so, the researcher confined to the historical background of the trade unions to the England only.

2.2 History of Trade Union Movement in England:

The origin of Trade Union dates back to the 14th Century with the outbreak of trade union movement in England. In fact the introduction of statutory wage fixing and the compulsory payment and acceptance of the rates so fixed necessarily involved the prohibition of agreements or combinations, either of workmen or employer, to alter wages or conditions of labour. From 1360 onwards, therefore, numerous statutes were passed prohibiting such combinations under penalty, first as regards particular trades, and later
generally. Combinations in defiance of these statutes thus involved an agreement to commit a statutory crime were, therefore, criminal conspiracies. It is not until the decay of the system in the eighteenth century, however, that prosecutions for conspiracies to raise wages appear.¹

At first many of the combinations formed by workmen had as their object the presentation of petitions to the legislature, calling for the enforcement of the wage fixing or apprenticeship legislation so far as they were concerned. Combinations of this kind, although within the letter of the statutory prohibitions, were not in practice treated 'as being criminal conspiracies' since their purpose was to enforce, not to defeat, the existing law. Many of the petitions were successful in obtaining special statutes ordering the justices to fix wages in the particular trade concerned. Notwithstanding this, however, the system continued to decline for the reasons already mentioned, and as a result workmen were forced to combine together to preserve and improve their wage levels and conditions of employment and to make provision by way of a common fund for their relief and sustenance during, times of sickness, unemployment and old age.

¹ R.V.Journeymen Tailors of Cambridge, (1721) 8 Mod.10.
As mentioned earlier, combinations of this type were already prohibited by statute in so far as their object was to alter wages and conditions but to combat them as they arose in the eighteenth century the legislature adopted the practice of passing special Acts relating to the particular trade concerned. Such legislation generally had the two-fold object of removing the grievance as well as prohibiting the extra-legal remedy. The Acts would often assess the wages payable and some times the hours to be worked, at the same time prohibiting agreements or combinations in contravention of them.

These Acts met with only partial success. The upheavals brought about by the Industrial Revolution and the inability of individual workmen to bargain effectively with their employers led to increased industrial unrest. Trade Unions, having all the elements of permanence, therefore, became established despite the combination laws.

To counter this growth of this legislature, influenced by the contemporary revolution in France, embarked upon a policy of wholesale repression of combinations. To the earlier Acts, which did not cover many of the new industries, were added general enactments relating to the whole of
trade and industry, namely the Combination Act, 1799, superseded in the following year by the Combination Act, 1800.

The Act of 1800 made all combinations of workmen to regulate conditions of their work illegal. All contracts, covenants and agreements for obtaining an advance in wages, altering the hours of work or decreasing the quantity of work, preventing workmen hiring themselves or attempting to include them to leave work, were declared illegal; so also was attending any meeting held for any of these purposes. Likewise, all contracts and agreements between employers or others for reducing wages or altering hours of work or increasing the quantity of work were made illegal.

The Act of 1800 was in reality the last prop of the already decayed wage-fixing system, and while it achieved its object of crushing workers' trade unions in some trades, it was ineffectual to prevent combinations, either of workmen or masters, in others.²

Repeal of the Combination Laws:-

As a result of the efforts of Benthamite reformers, such as Joseph Hume, Francis Place and J. R. Me Culloch, a Select Committee on Artisans and

² C. Hedges and Winterbottom, “Legal history of Trade Unionism”, p.32; webb History of Trade Unionism, p.77; Report of committee on artisans and machinery, 1824.
Machinery in 1824 recommended that employers and workmen should be free to make such agreements as they thought fit, that the restrictions imposed upon this freedom

By statute should be removed and that the law making combinations for such purposes criminal conspiracies should be altered. These recommendations were implemented by the Combination Laws Repeal Act, 1824, which substantially repealed all the earlier Combination Acts including that of 1800. This Act expressly removed all criminal liabilities for conspiracy, whether under the Common or the Statute law, for combining to alter wages, hours or conditions of work, to regulate the mode of carrying on any manufacture, trade or business or to induce persons to leave, refuse or return to work.

The Act of 1824, although containing penal provisions against the use of violence, threats or intimidation, was followed by a series of industrial stoppages involving some rioting, violence and bloodshed. It was, therefore, replaced by a stricter measure, the Combination Laws Repeal (Amendment) Act, 1825. This Act narrowly defined the combinations which were to be free from criminality, limiting them solely to the
determinations of the wages, prices and hours of work to be required by those combining.

However, the Act of 1825 did not expressly legalise strikes and lock-outs or the persuasion of persons to leave, refuse, or return to work. In addition to penalising violence, threats and intimidation, the 1825 Act applied also to 'molestation' and obstruction. With the exception of violence, all these terms were vague and ambiguous, their meanings being undefined. Therefore, Molestation of Workmen Act, 1859, made it clear that no person was to be deemed guilty of molestation or obstruction under the 1825 Act or liable for criminal conspiracy, by reason merely of his agreeing with other to fix wages or hours of work or endeavouring, in a peaceful or reasonable manner, to persuade others to cease or abstain from work for that purpose.

**Royal Commission on Trade Unions 1867-69:**

The steady growth of trade unionism, the occurrence of certain outrages at Sheffield and Manchester and the unsatisfactory state of the law as to trade unions led to the appointment in 1867 of a Royal Commission to enquire into the whole question of the reform of the law. This Commission issued eleven reports in 1869, all favoring the legal
recognition of the trade unions and the conferring upon them of rights and powers. As a result of its recommendations, and in particular those of the Third Dissent or Minority Report, the Trade Unions Act, 1871, the 'Charter of Trade Unions' was passed. It remains the earliest of the existing legislation.

**Trade Union Act, 1871:**

The policy of the Trade Union Act, 1871, was two-fold. In the first place it partially legalized trade unions and secondly, it instituted a system of voluntary registration, conferring with it special legal status and powers and imposing certain obligations. The Act defined the term 'Trade Union', to include not only combinations of workmen or employers to regulate conditions of employment, but also those for imposing restrictive conditions on the conduct of a trade or business, e.g., trade associations.

In 1871, The trade union movement sought to reform socio-economic conditions for working men in British industries, and the Unions’ search for this led to creation of Labour Representation Committee which effectively formed the basis for today’s Labour Party, which still has extensive links with the trade union movement in Britain. Margaret Thatcher’s governments weakened the powers of unions in the 1980’s, in particular by making it more difficult to strike legally, and some
within the British Trade Union Movement criticized Tony Blair’s Labour government for not reversing some of Thatcher’s changes. Most British Unions are members of the Trades Union Congress or where appropriate, the Scottish Trades Union Congress or the Irish Congress of Trade Unions, which are the countries principal national trade union centres. It has been, therefore it is rightly remarked that, Trade Union Movement has been from illegality to legality.3

2.3 Historical Development of Trade Union Movement in India:

The Trade Union Movement in our country has passed through the similar conditions after the advent of factory system in India. It would be desirable to know how the factory system came in our country, with all its evils and problems.

The first Cotton Mill in India was established in 1851 in Bombay and the first Jute Mill in 1855 in Bengal. This was the beginning of the modern factory system in India. After 1851 and 1855, the number of factories began to increase both in Bombay and Bengal. The modern factory system brought in its wake employment of women and children, long and excessive hours of work, undermining of morality, lack of education, poor

3 http://en.wikipedia.org/wiki/tradeunionsintheunitedkingdom
housing and an excessively high death rate. Prof. S. N. Dhyani has observed that the year 1875 was landmark in the history of trade union movement. For the first time in India factory workers united together for securing better working conditions in the factories. The growing consciousness of a common cause for amelioration brought the working class closer despite several hindrances. The Secretary of State for India was kept informed of all these evils of the modern factory system and the first Factory Commission was appointed in Bombay in the year 1875 and the first Factories Act was passed in 1881.

The 1881 Act proved highly inadequate and its provisions regarding protection to child labour and absence of any regulation for women labour were highly disappointing. Consequently, another Factory Commission was appointed in 1884. Mr. Lokhandey organised a Conference of Workers in Bombay and drew up a Memorandum signed by some 5,300 workers to be presented to the Factory Commission. This was the beginning of modern Trade Union Movement in India. The Memorandum submitted and adopted at this meeting demanded a weekly rest, half an hour's recess, compensation for disablement, payment of wages not later than 15th of the month following the one in which they were earned, limitation on hours of work from 6.30 A.M. till sun-set.
Broadly speaking the historical development of trade unions can be divided into pre-independents and post-independents.

**Period prior to First World War (1875 – 1917):**

The trade union movement developed in India as a response to the challenges faced by the working class as a consequence of industrial development. The history of organized trade union movement in India which was begun eight decades ago has been in contrast to the modern trade unionism in Great Britain which began during 18th century as a consequence of decay of the modern medieval system of structuring wage system.

It can be said that in India the trade union movement had begun very late because of slow progress of industrialization, the problems arising out of illiteracy and poverty of the workers, their migratory habits and predominantly all the workers depending on agriculture only. The process of industrialization commenced in India much later than that in Europe and America. It was not before the 1920s that industrialization could make considerable progress in India. The trade union movement, therefore, can be said that it is of recent origin of industrialization. The germs of trade

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4 Hickling criteria’s “Trade Union Laws” (3rd ed), 1967, p.3
unionism could be traced in the early days of industrialization at the beginning of 1850s with the establishment of Cotton and Jute Mills in Bombay and Calcutta in 18515.

In India, living and working conditions of the workers were deplorable and there was a wide spread discontentment among the workers arising out of their efforts to mitigate or remove the evils of industrialization provided the major task for trade unionism to take root.

The main elements in the development of trade unions of workers (Unions) in every country have been more or less the same. The setting up of large scale industrial units created conditions of wide spread of machinery, the establishment of new lines of production, the changes in working and living environment of workers and concentration of industries in large towns, all of which introduced a new class of workers who were dependent on wage for their livelihood. They were at a disadvantage in an age when doctrine of ‘laissez faire’ held the field. In the absence of collective action, they had to be content with the wages which each one of them could separately negotiate with employer from a position of disadvantage. Protest by individual workers could have no effect in such

circumstances, because of a plentiful supply of labour. Workers had to join together at least to maintain if not improve, their bargaining power against the employer; where joint action was inadequate, the sanction which workers evolved was joint withdrawal from work. Recognition of the community of this right to combine, organize for collective action and withhold labour was long and painful process, everywhere but perhaps less so in India unions have now come to symbolize

(i) Workers Right to Organize and
(ii) their Right to Press their demand collectively and to go on strike if their claims are not accepted.

In early times there was a support to trade unionism by certain groups of social workers, humanists and philanthropists who were distressed with the injuries of workers and tried to assist workers by exposing their courage through publishing journals or sending their appeals to the British Governments.

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Consequently, the Factory Commission was constituted in the year 1875, to enquire into the workers’ problems and even by the end of the decade 1881–1890 the Government conducted nothing in the nature of minimum wage was found. However, during this period many important commissions were constituted in this regard such as Bombay Factory Commission 1884, the Indian Factory Labour Commission 1890. The Royal Commission on Labour 1902 and the Factory Labour Commission 1908\(^8\).

In 1884 N.M. Lokhandey convened a meeting of factory workers and a memorandum was submitted to the Factory Commission demarcating limitation of hours, a weekly rest day, noon time recess and compensation for injuries.

The Bombay Mill Hands Association was formed and organized in the year 1890, N.M. Lokhandey as its Chairman. The News Paper called Dheena Bandu started focusing the problems of the workers. It is very important to note here that during this period many other associations, such as Amalgamated Society of Railway Servants of India and Burma(1897), Printers Union 1904, the Bombay Postal Union (1907). The Kamgar Hitwardhak Sabha (1909), the Press Employees Association were

established. All those associations were established in Bombay only. Such that the labour was exploited and many labour problems were existed in that area of Bombay only. Many efforts were made by some eminent social workers like Sorabji Bengali, Lokhandey to organize the workers focusing injustice done to the large number of working people. N.M. Lokhandey the very famous leader of Indian workers took Initiative to organise the associations and protest against the attitude of the mill owners and against the deplorable conditions existed in Indian factories. N.M. Lokhandey was supported by a very eminent Parsi Philanthropist and social worker by name Sorabji Bengali. It is a significant act that in the year 1890, the first labour union was formed called Bombay Mill Hands Association. However it was not a trade union in real sense, because this association had no membership, no rules and regulations and no funds and it is merely a welfare association and so no trade union was focused by the Bombay Mill Hands Association.

Although during this period a sort of labour movement began by social workers, it could not wipe out the evils of industrialization. But, it gave birth to a trade union movement and created a sort of consciousness on trade unions among workers and trade union freedoms were germinated. It can be said that the first decade of 20th century witnessed some spurt in
labour activity mainly because of political factors associated with the partition of Bengal, such as Desi Movement and lonely sentence of Balagangadhar Tilak. At that time there was complete lack of commitment of workers towards industry. There was a slow growth of trade union movement because of two factors responsible i.e., slow and general proletarian and weakness and disability of Indian working class. The bulletin of Indian industries and labour stated as below:

“The workers who for the most part were the villagers, endeavoring to improve their position by a temporary alliance to industry, were submissive and unorganized and the conditions became too distasteful. The natural remedy was not a strike but abandonment by individuals of the mill or industry generally”

Immediately after of the war time hostilities in 1917, an important land mark in the history of Indian trade union movement took place, that was the establishment of Ahmedabad Textile Labour Association under the leadership of Mahatma Gandhi. The Association declared a strike making the labour demand for higher wages, war bonus, etc. It is important to mention here that the establishment of Ahmedabad Textile Labour

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Association was considered India’s biggest and best labour union which was closely associated with Gandhian philosophy and principles of trade unionism. After this another union the Textile Labour of Madras under the leadership of B. P. Wadia known as the Madras Labour Union at Madras on 27th April, 1918 was established Mr. B. P. Wadia, a leader of the Indian National Congress and a close associate of Dr. Annie Besant in the Home Rule Movement was considered the earliest trade union leader in organizing trade unions in India. The birth of the Madras Labour Union was the result of the difficulties, hardships and problems which the hired employees suffered at the Buckingham and Carnatic Mills. The establishment of Madras Labour Union gave a sense of solidarity for a trade union consciousness among the workers.

The important characteristics of the early trade union movement were, that it adopted constitutional approach for redressing in grievances and it was led by philanthropists and intellectuals. Yet, there was no trade union movement as such during this period, it should not be set that workers were inactive and it is a fact and true that workers were illiterate and inexperienced. However the workers were reacted to inhuman conditions prevailing in the organized industry and they were aware of their
organized strength which indicated by the strikes which were taken place during the period.

**The Period between Two World Wars 1918 – 1946:**

During the first quarter of 20th century the emergence of trade union freedom had become one of the most powerful and challenging problems of Indian social and economical institutions. There emerged two fold objectives—one to provide militant force to national movement and the other to protect the general interest of the workers during the year 1919-1920. Many Unions started in Bombay, Madras, Punjab and Bengal were inspired. The railway workers and seamen also worked for strengthening their existing union and led for the establishment of new unions. Since 1919 the Indian Trade Union Congress began to take interest in trade union movement. It is significant to mention here that the trade union movement thus became an integral part of freedom movement though the main objective was to use trade union as a weapon to fight against the British Government, yet it did also some constructive activities for labour movement in the beginning. At the end of First World War, there was a rapid progress in the field of trade unionism in India. In the post war period the trade union movement got a fresh stimulus on account of economic and
social unrest. According to the Punekar in his book “trade union movement in India compiled by V.P. Singh in Industrial Labour in India” observed “that the period immediately after the war revealed the expectation of the people for a new social order, higher wages to keep pace with rising prices of profits and lastly the political aspiration and agitation to gain freedom. The first factor provided the goal, the second intense fight and third supplying, willing and active leaders.\textsuperscript{10}

**Buckingham case leading to trade union movement:**

In the Buckingham Mill there arose some labour problems in October, 1920 relating to the passing over of the claim of a side jobber for the promotion. The union projected the other grievances of the workers of the Buckingham and Carnatic Mills: among those were the issues relating to a mid – day recess in 12 hours a day, the subjection of workers to abuse, insults and assault by the European supervisory officers. Because of this trouble the management instituted a campaign of dismissal and about 50 workers were dismissed within a short time. As a result of the mass dismissal, the weaving master was confined and kept in his room and immediately after this incident the management declared a lock out. After

\textsuperscript{10} V. B. Karnik: *Indian Trade Unions – a survey*, 1966 P – 6(Quoted by Punekar, SB.: Trade Unionism in India, 417).
the declaration of lock-out, the Messers Binny & Co (the managing agent of the Buckingham Mills) file a civil suit in the Madras High Court against B.P. Wadia and other leaders of the union claiming damages for interfering with the normal duties assigned to the workers dissuading from working and there by causing a severe loss to the company and claimed damages to the tune of Rs. 75000/- for inciting the workers to commit a breach of their contract of service and the management also applied for an injunction order against the union leaders. The Madras High Court granted the injunction pending the disposal of the suit following the principles of English.

It is an important fact to be noted that the Madras High Court following the Principles of English Common Law of illegal conspiracy and combination in restraint of trade regarded the trade union as an illegal conspiracy and granted the injunction pending the disposal of the suit. The suit was eventually withdrawn on compromise, the terms of the compromise that all the workers except 13 ring leaders were taken back into service and all outsiders including Mr. B.P. Wadia were compelled to severe their relations. The granting of the injunction by the Madras High Court came as a rude shock not only to the leaders of Indian trade union movement which was rapidly growing in strength at the time but also to the trade unionists in England who keenly interested in Indian trade unionism.
The British Labour Government Secretary of the State of India said that “you cannot have industrialization of a great empire like India without the assistance of organized labour and, therefore, just as you have got to use capital and research, you have got to try and see that labour is properly and carefully organized. Therefore, not only ought to welcome the new trade union movement in India but we ought to recognize them as one of the essential of Indian development”\(^\text{11}\).

The grievances of the workers of the Buckingham and Carnatic Mills were brought to the notice of the Secretary of State for India by the British Labour Party. Later in 1921, the Indian Legislative Assembly adopted a resolution requesting a legislation action for registration of trade union and for their protection from civil action. But it was not until 1926 that the Indian Trade Union Act was placed on the statute book\(^\text{12}\). Besides the international economic crisis caused by the First World War, there were a few other reasons which helped the evolution of the Indian trade union movement during this period. The first and the foremost was the new upsurge of national movement. Leaders like B.P. Wadia, Lokmanya Tilak, Annie Besant, Mahatma Gandhi and Lala Lajpati Rai and many others

\(^\text{11}\) V. B. Karnik: *Indian Trade Unions – a survey*, 1966, p. 6 (Quoted by Punekar, SB.: *Trade Unionism in India*, 417).
“nurtured the sapling in the initial stages so well that it bosomed to full before long”. The second important event was the Russian Socialist Revolution of 1917 under the leadership of Lenin which held out hopes for oppressed people of the World\(^\text{13}\).

Another important factor was the establishment of the International Labour Organization (1919) of which India was the founder–member. The imperatives of ILO Constitution impelled the need of workers’ organizations to represent Indian workers. This led to the establishment of the All – India Trade Union Congress in 1920 as the central body of workers’ representing the various trade unions affiliated to it. This central organizations grew in strength in the course of time ad came to occupy a crucial position in the movement.

**Trade Union of workers:**

The Trade Unions of Workers were formed in the year 1926. The historic Buckingham Mill case 1920, where in the Madras High Court issued an injunction order against the strike committee of the Madras Labour Union prohibiting them from going on strike. The trade union leaders were liable to prosecution and imprisonment for bonafide trade

\(^\text{13}\) Ibid
union activities and it was felt that some legislation for the protection of trade union leaders and safeguard their freedom was necessary. Mr. N.N. Joshi the General Secretary of AITUC at that time, in March, 1921 moved a resolution successfully in the Central Legislative Assembly recommending that the Government of India should introduce a legislation for the registration of trade union and the protection of trade union freedoms. In addition to the above said developments which contributed for the passing of the trade union law in India. The establishment of the International Labour Organization in 1919, the interest for the national movement and formation of the organizations of trade unions and founding of AITUC in 1920 helped much in the process and the result was the enactment of the Trade Union’s Act 1926. There were also oppositions from employers to the adoption of such measures for the formation of the trade unions and ultimately the ‘Trade Unions Act’ was passed in the year 1926. This Act now continues to be the very important legal instrument for the existence, continuance and functioning of the trade unions in India. The Act has given to infant trade union the legal sanctity, social status, an organizational cohesiveness either to unknown. Legally, trade unions could no more be regarded as conspiratorial associations against the established law and order by the Government. The significance of the Act lies in the fact that inspite
of several pit falls, it is still found on the statute book. Therefore, now it can be said that the passing of the Trade Union’s Act, 1926 is a very important land mark in the history of trade union movement and trade union freedoms in India developed due to the efforts and sacrifices of many trade union leaders.

2.3.1. Origin and Growth of Employers Organizations:

It is to be mentioned that the origin, growth and development of Employers’ Organizations have two distinct phases;

(a) The Pre Independence period :
(b) The Post Independence period.

a) Pre Independence Period:

The period prior to 1930 was characterized mainly by the formation of associations of merchants in the form of Chambers of Commerce. Subsequently Industrial Associations were also constituted with an aim of protecting the commercial transactions and rights of their members and securing concessions from the Government. With a different approach regional associations at important centers of industrial activity, such as the Bombay Mill Owners Associations, the Bengal Mill Owners Associations,
the Ahmadabad Mill Owners Associations, etc., were established because of the need for industrial development and promotion of indigenous entrepreneurship. The First World War did the organizations consider it important to deal labour problems. There were stray references about undue militancy shown by labour, but these were also rare. By and large, the attitude of the employers towards labour was of indifference and at times of aggression. Individual members had autonomy or freedom in working their units in dealing with the labour problems in their own way and as they like. Notable exceptions were the Indian Jute Mills Associations and the Bombay Mill Owners Associations which, because of conditions created by the First World War, regulated the working hours of member mills and introduced a system of payment of standard remuneration to workers.

The Ahmedabad Mill Owners Association followed, after some time. In those days there was a shortage of skilled workers which made the individual employers to identify the workers for paying better wages. The workers benefited in the process but this did not long last since the employers immediately realized the disadvantage of such individual arrangements. During this period the unions gaining importance and also simultaneously the movement for freedom of the country also contributed for gaining importance.
The Indian National Congress was putting efforts to synthesize the interest of workers and employers by bringing them politically under one fold. It is also to be mentioned here that there was a limited success achieved in the process of combining their interest and some of the employers were outside the political influence. The combined effect of factors like establishment of ILO, the passing of the Trade Unions Act, 1926 and the Trade Disputes Act, 1929 motivated and it was the realization on the part of the individual employers, of the necessity for greater cooperation and coordination of workers’ organizations and employers organizations led for collective interest.

The period between 1931 and 1946 was considered to be an important period when the employer organizations played an important role in tackling the problems of the workers. Organizing Chambers of Commerce and Industrial Associations for dealing with a variety of problems connected with the labour matters too. The All India Organization of Industrial Employers (AIOIE) and the Employers Federation of India (EFI) came into existence in 1933 to comprehend and deal with problems of industrial labour in a concerted manner.

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The All–India Manufacturers Organization (AIMO) followed in 1941. The establishment of these organizations was again as in the case of the workers union. The responsibility to the need then felt for representation on International Conferences and Legislative Bodies. It can be noted here that for a long time since 1920, the Government of India used to nominate delegates or members to represent employers interest at some forums from amongst members of Chambers of Commerce but subsequently the employers realized that the Chambers of Commerce could not represent effectively the interest of the labour matters. The three organizations had a different sponsorship. The All – India Organization of Industrial employers (AIOE) consisted mainly of indigenous entrepreneurs and had connection with the Federation of Indian Chambers of Commerce and Industry. The Employers Federation of India (EFI) in those days had a predominant membership of British industrial interest. The All – India Manufacturers Organization (AIMO) was sponsored by small sized establishment to take care of their interest. It is to be observed that the Government of India Act, 1935 made a provision for the representation of employers and labour in legislative bodies. The Constituents of the AIOE and EFI thus got an opportunity to be representative in the central and provincial legislatures. Labour legislation during this period in some
provinces made it necessary for local employer organizations to expand their services to members in the labour fields. The creation of labour department in the Central Government and the Constitution of tripartite bodies like Indian Labour Conference and the Labour Standing Committee during the years of the Second World War helped to develop further these activities within the local associations and federations.\(^\text{15}\)

b) The Post-Independence Period:

This is a very important period after the independence of the people who suffered and struggled a lot in the hand of the Britishers for achieving their freedoms and trade rights. The period since independence witnessed the growth of planning, industrial activity, extension of democratic apparatus, passing of several labour laws and a growing trade union movement, all of which acted as a spur for the strengthening and the expansion on employers organizations. Experience of the employers organizations has shown that working together convinced them to be benefited a united action. It is to be pointed out that the employers’ organizations got their strength mainly to meet the requirements of individual employers for advice on labour problems. In some instances the employers organizations made their strength and support to match that of

organized labour, in others, it was the other way round. The employers’ organizations after Independence of the country are being organized at three levels.

i. Employers operating through their local organizations or otherwise:

ii. Industrial Associations which cut across state boundaries: and

iii. Federations which comprise representatives of both industries and centers.

It can be pointed out that of the three above specified organizations, local organizations which would be operated mainly through the chambers of commerce covered all the industries in an area, their activities in the labour field are very less comparatively.\(^ {16} \)

2.3.2. Industrial Associations

There is another pattern of association of employers which is called Industrial Associations of Employers in India. These are constituted at area or regional level as also at the All – India level. The regional or industrial associations are usually affiliated to Central Industrial Organization at the national level.

The individual employers are also admitted to these associations. The important reason for the growth of these industry wise associations is the common nature of problems being faced by each industry. The setting up of Wage Boards on industry wise basis, the Industrial Committees at Central and state levels, development of collective bargaining at industry level in certain regions have helped their growth. Jute, Cotton Textiles, Engineering, Tea, Sugar, Cement, Paper, Chemicals are important industries which have associations at All–India level with their branches in areas and states. Most of these associations are affiliated to National Federation and development of these associations has been gradual. These Industrial Associations have been instrumental in providing specialized labour advisory services and developing training facilities for management personnel.

After the independence of India the trade union movement became very weak, internally divided and highly politicized. The workers got trade union right to organize and to secure the settlement of industrial disputes through industrial relation machinery as it existed and political right to influence Government through tripartite at forums. Upto May 1947, All India Trade Union Congress (AITUC) was the only and the principal

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17 C.K. Johari: Unionism in developing economy, Asia publishing house P. 222.
central federation of Indian workers under the domination and patternize of Indian National Congress as the AITUC did not toe the line of Congress Party. In May, 1947 the INTUC with seasoned trade union leaders like Sri Kandhu Bhai Desai, Sri Hariharnath Sastry and Sri Guljarilal Nanda, was formed based on ideologically on the Gandhian Philosophy of the Non–Violence and resolution of disputes by peaceful means.

It is to be noted that the Post Independence period witnessed a continuing process of collaboration between political parties and trade unions as developed during the period of struggle for political emancipation. The ruling party sought to control the trade unions so as to carry out its socio economic programmes and political cultural programs and opposition political parties wanted control over trade unions in order to dislodge the party in power as again its anti – democratic policies. In the year 1949 another Federation called the United Trade Union Congress (UTUC) was formed. In the year 1953, the Jansangh formed its own wing in the labour front called the Bharatiya Mazdur Sangh (BMS) based on Hindu ideology. The result of the formation of these central union organizations led to their political ideologies which was very unfortunate and affected the interest of the working class. The result was the existence of the following Central Trade Union Organizations each with its own
aims, objectives and affiliations, collaborations with its own political party. It can be briefly mentioned about the aims and objectives of each central union organization which are shown below:

1. **All-India Trade Union Congress (AITUC):** The First National Trade Union formed in India was the AITUC and it was established in 1920 with a necessity for having a central body to represent Indian labour in the conferences of the ILO and to effectively consolidate and effectively coordinate many activities which are in different nature at all India level. The AITUC has its foundation and base in West Bengal, Kerala and Andhra Pradesh. The AITUC has the support in Steel, Defense, Engineering, Communication, Industries, etc., and also in White Collor Unions. Since the 1964 division in the Communist Party of India, the AITUC has been working with the policies and ideologies of CPI. The AITUC is affiliated to World Federation of Trade Unions which is an International Trade Union Organization.

2. **Indian National Trade Union Congress (INTUC):** In India INTUC is the largest National Trade Union Central Organization and it was formed by the group of Nationalists and Gandhian labour leaders who were then associated with Hindustan Mazdur Sevak Sangh. The INTUC
supports the Congress (I) party and it is affiliated to the International Confederation of Free Trade Unions (ICFTU). It is divided into industrial sections with its base mainly in North India and strong support in Textiles, Mining and Heavy Industry and also in the Plantations. It is generally moderate in its demands and its actions and has got the support of the Government.

3. Hind Mazdoor Sabha (HMS): Following the establishment of INTUC, a new Central Trade Union Organizations was established on 24th December, 1948 as Hindu Mazdoor Sabha. The HMS follows the principles of Socialist Party. The HMS is close to the Lohia and the Praja Socialist Party and now gets support from the Janata Party which formed the Government in Center in 1977. The main object of the HMS is to bring into existence a Socialist State in India. The HMS is particularly strong in Maharashtra, West Bengal, Uttarpradesh and Karnataka. Its strategic industries are Railways, Iron and Steel, Ports and Docks, Printing and Government Postal Services. This organization was strongly supported by late Jayaprakash Narayan. It opposes compulsory arbitration and upholds the right to strike, trade union freedom and independence of trade unions.
4. United Trade Union Congress (UTUC): The United Trade Union Congress was established in Calcutta (now Kolkata) in April, 1949 as an off-shoot of the Revolutionary Socialist Party of India. The founders of the UTUC separated from HMS due to their differences with the principles of HMS. The UTUC desired to establish a Workers and Peasant State in India. The UTUC in fact has no direct connection with any political party but ideologically follows the policies of the Communist Party (Leninist) and thus following the leftist ideals.  

5. Bharatiya Mazdur Sangh (BMS): BMS was established in the year 1955 under the leadership of Mr. D.B. Thengdi. The BMS has links with the Bharatiya Jana Sangh presently known as Bharatiya Janata Party. The BMS believes in patriotism and nationalism and ultimately wish to establish the Bharatiya order of society. The BMS inculcates the spirit of service, cooperation and dutifulness in the minds of the workers and generates a sense of responsibility towards the country. The BMS believes in legitimate means to achieve the ends and use the weapon of strikes as a lost resort.

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18 Dayal Sri Vastava Kirpal; “The law relating to Trade Unions in India”, 1982, pp.36-42
6. Centre of Indian Trade Unions (CITU): As a consequence of some ideological differences within the communist movement the left wing within the AITUC separated and constituted its own central federations known as Centre of Indian Trade Unions in the year 1970 under the Presidentship of Sri B.T. Ranadev. The CITU organization was established under the auspicious of the Communist Party of India (Marxist). The CITU focuses on the removal of exploitation of the working class by establishing a Socialist State in which all means of production, distribution and exchange will be socialized. The CITU to began with severely weak end but now it has gained momentum. The main objectives of CITU are

(a) Nationalization of all foreign monopoly concerns:

(b) Nationalization of Indian monopoly concerns:

(c) One union and One industry:

(d) Replacement of the Bourgeois landlord regime by a democratic regime: and

(e) Right to strike.
1. **Hind Mazdoor Panchayat (HMP):** The HMP was established in the year 1962 and associated with Samyukta Socialist Party. The HMP is active in Bombay region of Maharashtra State.

There are also some other trade union organizations including Labour Progressive Federation, National Front of Trade Unions, The National Labour Organizations (NLO) and Co-ordinating Committee of Independent Trade Unions. The Confederation of Central Government Employees Unions (CCGEU) covers members and the National Federation of Indian Railway Men (NFIR) is a strong sectional organization. The All – India Insurance Employees Association (AIIEA) is the national organization of the insurance employees.

In India, the differences in the functions of unions are also seen in their affiliation to the state or national federations. The Indian labour movement comprises a number of central organizations that affiliate individual unions. There are a few non-political federations, but most union federations are explicitly political. The political parties control them and supply them with the upper crust of their leadership. Every central trade
union claims to have a unique ideology, though in practice it is not easy to discern much difference between them\textsuperscript{19}.

\textbf{2.4 Aims and Objectives of International and National Trade Unions}

(i) Aims and objectives of World Federation of Trade Unions-The World Federation of Trade Unions, exists to improve the living and working conditions of the peoples of all lands to unite them in pursuit of the objectives sought by all freedom-loving peoples as set forth in the Declaration of the London World Trade Union Conference in February, 1945.

These aims and objects can only be fully attained by the establishment of a World Order in which all the resources of the world will be utilized for the benefit of all its peoples, the vast majority of whom are workers by hand and brain whose protection and whose progress depend upon the union of all their organized force nationally and internationally.

The World Federation of Trade Unions therefore proclaims its prime purposes to be-

\textsuperscript{19} K. Subash Das: Trade Unions in India, Union membership and Union Density, I.J.L.E., Vol. 51-4 -2008, pp. 970-972.
a. to organize and unite within its ranks the trade unions of the whole world, irrespective of considerations of race, nationality, religion, or political opinion;
b. to assist wherever necessary, the workers in countries socially or industrially less developed, in setting up their trade unions;
c. to carry on the struggle for the extermination of all fascist forms of government and every manifestation of fascism, under whatever form it operates and by whatever name it may be known.
d. to combat war and the causes of war, work for a stable and enduring peace; by giving full support to the establishment of a powerful and effective international organization armed with all necessary power to prevent aggression and maintain peace, by supporting the widest possible international co-operation in the social, economic spheres and measures for the industrial development and full utilization of the resources of the underdeveloped countries, by carrying on a struggle against reaction and for the full exercise of the democratic rights and liberties of all peoples.
e. to represent the interest of world labour in all international agencies whose responsibility will be to solve the problems of world organisation, resting upon agreements or conventions concluded
between the United Nations, and in such other international bodies as may be decided upon by the World Federation of Trade Unions;

f. To organize the common struggle of trade unions of all countries. Against all encroachments on the economic and social rights of the workers and on democratic liberties.

For the satisfaction and the need of the workers for security of full employment, for the progressive improvement of wages, hours and working and living conditions of the workers for full and adequate social security to protect workers and their families against the hazards of unemployment, sickness, accident and old age for the adoption of all other measures furthering the social and economic well being of the workers;

g. To plan and organise the education of trade union members on the question of international labour unity and to awaken them to a consciousness of their individual responsibility for the realization of trade union purposes and aims.

In order to achieve these ends, the World Federation of Trade Unions bases its work on the following principles:-
(1) Full democracy within the trade unions of all countries and close collaboration among them.

(2) Permanent contract with affiliated Trade Union Organizations, fraternal support and assistance to them in their work.

(3) Systematic exchange of information and experience in trade union work with the object of strengthening the solidarity of the international labour movement.

(4) Co-ordination of action by the workers’ organizations for the realization of their international aims and decisions.

(5) Protection of the interests of the workers in emigration and immigration.

(6) Using every available means of making known and explaining the purposes for which the World Federation of Trade Unions is organized, the objectives which it seeks, its programme for the achievement of these objectives and its decisions on specific issues.

2.5 Definition of trade union

According to the Indian Trade Unions Act, 1926 ‘Trade Union’ means any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and
employers or between workmen and workmen or between employers and
employers, or imposing restrictive conditions on the conduct of any trade
or business, and includes any federation of two or more trade unions:

Provided that this Act shall not affect –

   i. Any agreement between the partners as to their own business;
   ii. Any agreement between an employer and those employed by
   him as to such employment or Any agreement in
   consideration of the good will of a business or of instruction
   in any profession, trade or handicraft.20

It is to be noted that the scope of the membership of Trade Union is
very wide. The definition in the Indian Act and the English Act being at
par, the interpretation put on the scope of the definition as to its
composition by the Courts in England would apply to the definition under
the Indian Act as well. The statement or object of the Trade Unions Act
does not to a prohibition for constituting a union of workers and employers
or any other combination provided the object of the union comes within the
purview of definition of Trade Union.

20 Sec. 2(h) of Indian Trade Unions Act, 1926.
The Scope of the term “Trade Union”:

The scope of the term ‘Trade Union’ has been examined in the case of Registrar, Trade Unions Vs M. Mariswamy\textsuperscript{21}, it was contended that Mysore State Employees Provident Fund was not a trade union within the meaning of section 2(h) of the Trade Unions Act of the 1926. Rejecting the contention a single judge of the Karnataka High Court observed that “if the set section is analyzed, it will be cleared that any combination whether temporary or permanent will be a trade union, if it is formed primarily for one of the following purposes:

a) to regulate the relations between the workmen and employers;

b) to regulate the relations between the workmen and workmen;

c) to regulate the relations between employers and employers

d) for imposing restrictive conditions on the conduct of any trade business.

The expression ‘Trade Union’ also includes federation of two or more Trade Unions. It is clear from the definition of the expression ‘Trade Union’ that it could be a combination either of workmen or of employees or of both, provided it is formed primarily for one of the purposes mentioned in clause (h) of Section 2 of the Act. It is therefore possible to

\textsuperscript{21} 1974, Lab IC 695(Kant).
have a Trade Union consisting only of employers. The emphasis 2(h) is on the purpose for which the union is formed and not so much on the persons who constitute the union.

The scheme framed under the Employees Provident Funds Act, 1952 has been referred and interpreted in this case.

Trade Union which has been defined in the Industrial Disputes Act, 1947 includes Trade Union as well as Federation, Petitioner Unions which the workmen are members and affiliated to the federation working in the field in which the class of industry, the workmen are involved. Therefore the petitioner union is competent to espouse the cause of the workmen.

2.6 Definition of Trade Disputes

The definition of ‘Trade Dispute’ is comprehensive. The scope of the term as defined under the section 2(g) of the Trade Union Act 1926 has been narrowed in its applications. The definition covers disputes –

(i) between employers and workmen, or
(ii) between workmen and workmen, or

(iii) between employers and employers, provided that the dispute is connected with –

(a) the employment, or

(b) non-employment, or

(c) the terms of employment, or

(d) the conditions of labour of any person.

It is to be observed that whereas the definition of ‘Trade Dispute’ is similar to the definition of Industrial Dispute Act, 1947, there is marked difference in the definition of the workmen under the two Acts.²³

The Trade Union Act defined the other terms such as the term Executive, Office Bearer, Registered Office, Registrar, etc., which require no further explanation.

2.7 Mode of registration of trade union

The registration of a trade union can be made under this Section 4 of the Indian Trade Unions Act, 1926 Act which says that any seven or more members of a trade union may by subscribing by their names to the rules of trade union and by otherwise complying with the provision of this Act with respect to registration, apply for registration of the trade union under this

²³ Sec. 2(g) of Indian Trade Union Act, 1926
Act. The section also provides that in case members applying for registration disassociate themselves from the application, or cease to be members of the union, after the date of application, but before the registration of the union and their number does not exceed half of the total number of the persons applying, the application shall not be deemed to be invalid. The Section 4 also provides

(a) That no trade union of workmen shall be registered unless atleast ten percent, or one hundred of the workmen, which is less, engaged or employed in the establishment or industry with which it is connected are the members of such Trade Union on the date of making of application for registration.

(b) no trade union of workmen shall be registered unless it has on the date making application not less than seven persons as its members, who are workmen engaged or employed in the establishment or industry with which it is connected.

In India there is a procedure to be followed before unions can be registered. There is no room for the registration of a trade union if any of the objects is unlawful. It is only when is satisfied that the trade union as complied with the requirement of the Act in regard to registration that a
registration will follow. It is to be mentioned here, once the trade union is registered, according to the procedure and the same is not withdrawn or cancelled the legal consequences will follow regarding the lies and liabilities.

2.7.1 Rules for Registration of Trade Union

The Section 6 of the Indian Trade Unions Act, 1926 provides that a trade union shall not be entitled to registration under this Act, unless the executive thereof constituted in accordance with the provisions of this Act and the rules thereof provide for the following matters:

(a) The name of a trade union;

(b) The whole of the objects for which the trade union has been established;

(c) The whole of the purposes for which the general funds of the trade union shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Act;

(d) The maintenance of a list of the members of the trade union and adequate facilities for the inspection thereof by the office – bearers and members of the trade union;
(e) The admission of ordinary members who shall be persons actually engaged or employed in an industry with which the trade union is connected, and also the admission of the number of honorary or temporary members as office – bearers] required under section 22 to form the executive of the trade union; The payment of a minimum subscription by members of the Trade Union which shall not be less than-

(i) One rupee per annum for rural workers;

(ii) three rupees per annum for workers in other unorganized sectors;

and

(iii) twelve rupees per annum for workers in any other case;

(f) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or forfeiture may be imposed on the members;

(g) the manner in which the rules shall be amended, varied or restricted;

(h) the manner in which the members of the executive and the other office–bearers of the trade union shall be elected and removed. The duration of period being not more than three years, for which the members of the executive and other office- bearers of the trade union shall be elected;]
(i) the safe custody of the funds of the Trade Union, and annual audit, in such manner as may be prescribed, of the accounts thereof, and adequate facilities for the inspection of the account books by the office–bearers and members of the trade union; and

(j) the manner in which the trade union may be dissolved.

In the case of IT Commissioner West Bengal Vs IS Mills Association\(^\text{24}\), Indian Sugar Mills Association was a registered trade union. Rules 4 and 64 were repugnant with each other. It was submitted that Rule 64 should be treated as void as it was inconsistency with the state of the objected union. It was held that the Court had no right to assume some of the stated objective of the association as primary to declare others in apparent conflict with them as of no effect. All rules framed by the association co–exist. Further the court had no right to re–write the rules of registered trade union by deleting any of them.

In the case of B.S.V. Hanumantha Rao Vs Deputy Registrar of Trade Union and Deputy Commissioner of Labour\(^\text{25}\), the rules of Allwyn Workers Union were amended to provide for making the President of the Union as election authority, empowering him to nominate all office bearers and

\(^{24}\) AIR, 1975 SC 506.

denying authority to the general body to remove the president from office before expiry of his term. These amendments were registered by the Registrar. It was held that the amendments were contrary to the letter and spirit of the Trade Unions Act. The President who is vitally interested in the conduct of elections cannot be the person who entrusted with the authority to prepare the voters list, appoint returning officers and conduct elections. It is case of person being given the authority to perpetuate himself in office. Such a procedure amounts to constituting a person a judge in his own cost.

2.7.2 Registration

The Section 8 of the Indian Trade Unions Act, 1926 prescribes a duty on the Registrar to register the trade union if all the requirements of the Act with regard to registration have been complied with. The Registrar will, in such a case enter the particulars relating to the trade union in a register maintained in the prescribed form. The Registrar has the powers to examine whether the Union is to be registered or not and after fulfilling the conditions prescribed in the Act and the Registrar will have to make the registration of the trade union.
Where that is a dispute as to who are elected office bearers of trade union, it is not within the jurisdiction of the Trade Union, to determine which of the rival group of office bearers the real one is. In the absence of any provision in the Act such dispute has to be resolved in a Civil Court. The Registrar of the trade union will have to take suitable action according to the rules. There is nothing illegal to form a rival union. In fact rivalry and competition may be highly beneficial in many ways in case of a particular union seeking registration, all that it has to do is to ensure that the provisions of the Indian Trade Unions Act, 1926 and rules and regulations there under, have to be complied with once it is done the Registrar has no option but to register the union. There is nothing under the law which makes incumbent as a union applying for registration to give notice to the existing unions. In case of delay for making registration a writ can be filed against the Registrar on registering a trade union. There is an implied decision by the registrar that the employer is carrying on trade or business or an industry and that the employers are therefore workmen under the Act. Such a decision is one which is definitely against the interest of the employer if he contents that he was not carrying on a Trade, business or industry. Therefore, it cannot be said such an employer has no ‘locus–
to question the order of the registration of the union on the ground of being contrary to the provisions of the Act.\textsuperscript{26}

There are some disputes between two rival factions claiming to the office bearers of the trade union and a procedure is prescribed under the Bokaro Steel Workers Union Vs State of Bihar\textsuperscript{27}. The following are the Principles laid down by the Court:

a. In a dispute between two rival factions claiming to be office bearers of a trade union, it is open to the Registrar for the purpose of maintaining and updating the registers require to be maintained under Section 8 of the Trade Unions Act, 1926.

b. His decision in this regard shall neither conferred any right on any person or group of person nor deviate any person or group of persons of any lawful rights.

c. Consequently the Registrar has no authority or power to issue any direction asking or advising the labour department or the Government or the employer to recognize and treat any person or group of persons as the duly elected office bearers of the union in dealing with that union.

\textsuperscript{26} Tirumala Tirupati Devasthanam Vs Commissioner of Labour, (1979) 1 LLA 448 (A.P) (DB).

\textsuperscript{27} (1995) 1 LLN 1079 (Pat) (DB).
d. The Registrar, trade unions, has no authority or power to direct the holding of election of office bearers of a union under his own supervision or that of his nominee.

e. In the absence of any provision in the Act, any dispute of this kind can only be resolved by means of suit filed before a Civil Court.

f. The adjudication in a suit atleast in this state is normally a slow and time consuming process and does not constitute wholly satisfactory remedy for resolving the disputes.

g. The legislature will, therefore, be well advised to address itself to this lacuna in the trade unions Act and to take steps to find remedy for which has been long over due.

In the case of Inland Steam Navigation Workers Union\(^{28}\) held that where the objects of the Trade Union or not outside the objects prescribed by the Act and further all the requirements under the Act have been complied with the Registrar is bound to register the union.

2.8. Recognition of trade union

The Gajendragadkar Commission in 1969, and the Ravindra Varma Commission in June 2002, in their recommendations has given the clear

\(^{28}\) (AIR), 1936 Cal. 57.
findings, that statutory recognition of the bargaining agent is a crucial issue in the Industrial Relations Agenda of India, and the National Trade Union centers, now should sit together and evolve consensus on this in the country’s interests and in their own interests. The country has to march forward and achieve industrial growth and economic growth, in the present highly competitive environment in the global economy.

The Indian Trade Unions Act of 1926, gave legal cover to the activities of unions, and provided only for registration of unions, at the national level. The Act, did not however make provision for recognition of trade unions at the national level, except in very few States in India. The Central Trade Unions Act was amended in 1947, containing provisions for the recognition of unions and for penalizing unfair labour practices. This was an amendment of far reaching importance in the labour field. But this amendment was not notified and the recognition issue got postponed.


At the historic 15th Indian Labour Conference, held at Nainital, under the Chairmanship of late Guljarilal Nanda, the then Labour Minister of the Government of India, and a true Gandhian, the Code of Discipline was adopted on May 21, 1958. The code made a provision for recognition
of unions, for the purpose of collective bargaining. As per the code, the unions with a membership of fifteen percent (15%) of the workers in an establishment and twenty five percent (25%) of the workers in the industry, were entitled to recognition. Evaluation and implementation machineries at the Central and State Levels, were formed, to monitor the implementation of the code. The employers and the unions, experimented the provisions but as the code, was only a moral-code, and has no statutory backing the results were not impressive. The Hon’ble Minister, who shaped the code, acted sincerely and honestly and the code, really created awareness about the need for recognition of unions, in the bargaining field. As the code faded, the collective bargaining exercise continued, within the parameters of the Industrial Disputes Act, 1947. Conversion of the moral code, to a statutory code, by the Central Government in the sixties, might have strengthened the collective bargaining exercises in India. Recognition of trade union serves as guidelines for those employers and workmen who are willing to regulate their relationship on equitable plane.

29 C.P.Chandradas “Trade Union Recognition-The crucial issue in the industrial relations agenda, LLJ 2003, p.32-33