

LABOR LEGISLATION IN INDIA

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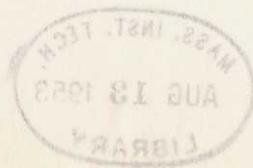
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LABOR LEGISLATION IN INDIA
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Thesis

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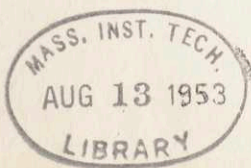
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ABSTRACT

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The thesis is primarily concerned with that part of the labor legislation that deals with the freedom of association and is calculated to promote the growth of trade unions.

The growth of trade unions in India has been haphazard and largely influenced by political organizations. A short history of the growth is presented to indicate this political influence.

The Trade Union Act, 1926 with its various amendments is still the law of the land governing the conduct of unions. The State of Bombay was the first one to undertake in 1934, 1938 and 1946 elaborate labor legislation with a view to promote healthy growth of unions. No important legislation was undertaken by the central government till 1947. The Bombay and central legislation have received elaborate treatment especially the problems of "outsiders" and "union recognition."

The recent trends in labor policy as seen from the speech of the labor minister Mr. V. V. Giri are indicated to show the possible development in future legislation.

The conclusions deal with suggestions for a strong union growth. The appendix is divided into two sections. The first one is the collective agreement of the Ahmedabad Textile Association with the Ahmedabad Millowners' Association. The second is the questionnaire on trade unions that was recently sent out by the central government and the answer of the I.N.T.U.C., the largest of the trade union federations in India.

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Professor Earl B. Millard
Secretary of the Faculty
Massachusetts Institute of Technology
Cambridge 39, Massachusetts

Dear Professor Millard:

In accordance with the requirements for graduation, I herewith submit a thesis entitled "Labor Legislation in India."

My first contact with labor is through Professor Myers and Professor Brown in the summer of 1952. I was fortunate to take a labor seminar under Professor Myers again in the fall which gave me the necessary background to undertake this study.

My greatest difficulty in studying this problem of labor legislation in India with particular reference to the freedom of association, was in adequate literature at M.I.T. I was fortunate to secure some government publications through Mr. V. V. Giri, the union labor minister and also through Dr. Pillai, the director of I.L.O. office in New Delhi. I like to thank Mr. Giri and Dr. Pillai for their kind help.

This study would not have been possible but for the guidance and help of Professor Myers who readily consented to supervise my thesis. Professor Myers took a great deal of interest in my work as he, himself, was engaged in a study of the utilization of the human resources in India under the Ford Foundation. I personally owe him a debt of gratitude for his valuable advice.

I was very fortunate to meet a number of labor men who made visits to M.I.T. this spring. They helped to clear some of the doubts in my own mind.

My thanks are also due to Professor Brown and Professor Baldwin who readily consented to serve on the thesis committee. Mr. Kannappan, who has been working with Professor Myers on the Ford Foundation, was very helpful in getting a complete bibliography on the subject. I like to take this opportunity to thank him also for letting me use many of the books he had collected.

Yours sincerely,

Signature redacted

P. R. Ramakrishnan

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Labor Legislation in India

Introduction

The title of the thesis, "Labor Legislation in India" may be a misnomer. It is not a compilation of all the volume of legislation that has been undertaken regarding labor in India. But an attempt has been made to focus that part of the legislation that pertains to trade union growth and freedom of association. For want of a better title the present one is chosen.

Chapter one deals with the history of the growth of trade unions and trade union federations. In reading this material one thing must be constantly borne in mind that until 1947, India was a subject country and a substantially large volume of business and manufacturing operations were handled by British or other European firms. The labor consciousness and struggle is so mixed up with the political consciousness, it is hard to separate these two, especially in the early part of the struggle of union organization. So it is thought wise to introduce in the first chapter a short account of the influence of the Indian National Congress on the trade union movement as a whole. This chapter also contains a descriptive treatment of two other organizations, The Ahmedabad Textile Labor Association and Hindustan Seva Sangh, which have been greatly influenced by the Indian

National Congress. The Ahmedabad Textile Labor Association is a unique experiment in labor organization because of the impact of the Gandhian ideals of truth and non-violence in labor movement. The Hindustan Mazdoor Seva Sangh is a result of the desire to carry the Gandhian ideals to other union organizations in India. A short account of the struggle for power, especially by those strongly motivated by political dogmas, in trade union federations, is included to show the reasons for the stunted growth of the movement.

The second chapter deals with the Trade Union Act, 1926 and the various amendments. No significant change was made until the trade union recognition amendment was introduced in 1947. A detailed account of the amendment is given. But for some reason the Government of India never issued a notification to the effect of making it enforceable. The problems of victimization and outsiders and recognition are dealt with in great length.

The third chapter deals with that portion of the Industrial Relations laws that is calculated to promote a strong and healthy trade union movement in the country. The Bombay Industrial Disputes Act of 1938 brought in an elaborate registration provision and created qualified, recognized and representative unions and specified their bargaining limits. The Central Industrial Disputes Act of 1947 modelled on the Bombay Industrial Relations Act of 1946 is

described in detail especially those sections that deal with work committees and compulsory arbitration. No attempt has been made to describe the other provincial legislations because these are all modifications of the Central Act.

Finally the recent trend in labor policy is indicated as seen from the union labor minister's speech. Portions of the questionnaire sent out by the Government of India regarding proposed labor legislation are reproduced in the appendix. Some collective agreements now in operation in India are also included.

CHAPTER I

The Growth of Trade Union Movement in India

(a) The early unions.

The modern trade union movement as we know it today in India is the result of rapid industrial development. The first textile mill was started in Bombay in the year 1851 and the first jute mill was built in Calcutta in 1855. This marked the beginning of the Industrial Revolution in India. India was and had been for a long time the biggest market for British cotton goods. It is not surprising therefore, that Lancashire should have been concerned about the young and growing textile industry in India and the employment of cheap labor. As early as April, 1874, questions were raised in the House of Commons regarding the treatment of little children and women in the Indian cotton textile industry. The matter was brought to the attention of the Secretary of State for India in London. Probably the remarks made by the Earl of Shaftsbury in the House of Lords are quite indicative of the grave anxiety and growing awareness of the British industrialists of possible unfavorable Indian competition. On 30th July 1875 in the House of Lords the Earl of Shaftsbury remarked, "We must bear in mind that India has the raw materials and cheap labour; and

if we allow the manufacturers there to work their operations 16 or 17 hours and put them under no restrictions, we are giving them very unfair advantage over the manufacturers of our country and we might be undersold even in Manchester itself, by manufactured goods imported from the East."¹

In the year 1875 the first factory commission was appointed. Primarily it was the Lancashire businessmen who first focused the attention of the Indian government on the problems of Indian labor. Their pressure played a significant part in the initiation of the early labor legislation in India.

In the year 1881 the first Factory Act was passed. It met with great opposition as it proved "gravely and palpably inadequate." As a result, a second factory commission was appointed in the year 1884. In Bombay a big conference was convened during that year and it drew up a memorandum demanding weekly holiday, half hour recess at noon every working day, regular monthly payment of wages and adequate compensation in case of accident. This was the first collective representation made by labor.

The prime mover of this conference was one N. M. Lokhandy who later organized a mammoth labor meeting in Bombay and successfully represented the case of the workers for

¹Trade Unionism in India by S. D. Punekar p.57

a weekly holiday before the Bombay Millowners' Association. Out of this effort grew an organization known as the Bombay Mill Hands Association. Mr. Lokhandy was its president. He started life as a factory worker and dedicated his whole life for the cause of labor. The Association was very active under his leadership and enjoys the credit of being the first one to start a labor journal known as "Dinbandhu" (Friend of the poor). After Mr. Lokhandy's death, the Association slowly disintegrated.

The Bombay Mill Hands Association was a loose combination rather than a corporate body. It had no active membership, no regular constitution nor regular funds. It served as merely a clearing house for grievances for the Bombay mill workers. It served a much more useful function. It achieved this distinction that it was the first time that public as well as the government attention was brought to bear on labor problems by a combination of workers. In the modern sense of the word the Bombay Mill Hands Association cannot be called a trade union.

The first labor organization that was registered under the Indian companies act was the Amalgamated Society of Railway Servants of India and Burma, which came into existence in 1897. This union still exists, but after the enactment of the Trade Union Act, 1926, it was re-registered under a different name. Among the early attempts

of labor organization may be mentioned the formation of the Printers' union in Calcutta in 1905, the Postal union in Bombay City in 1907 and Kamgar - Hitwardhak - Sabha (workmen's welfare association) also in Bombay City in 1910. During the end of the nineteenth century and early part of the twentieth century, many welfare organizations for the amelioration of the workers came into existence. There were isolated formation of workers. There were also some religious organizations like the Brahma Samaj at Calcutta which undertook social work for the betterment of workers.² These early labor organizations were more of the nature of welfare organizations than trade unions working for the benefit of the workers, educating them to better their conditions of living and also making representations to employers in case of disputes.

(b) The emergence of a modern trade union movement

It was not until after the first world war that the modern trade union movement could be said to have begun in India. The emergence and successful continuance of trade union after this period are due to many reasons, chief among which are:

²The Indian working class by Radhakamal Mukerjee p.352

1. The war brought in an unbalance in the economic condition in the country. At the close of the war the country was faced with the problem of inflation. The workers' money wages fell far short of the rise in price of commodities. The millowners had made huge profits during the war which they were unwilling to share with their workmen. This created dissatisfaction among the workers who were already put to great suffering due to the inflationary prices. The dissatisfaction combined with suffering acted as a spur to organize in order to demand an increase in wages and also a proper share in the war profits.

2. The influenza epidemic which broke out with an unprecedented fury at the close of the war took a heavy toll of many able bodied workmen creating a serious labor shortage.

3. The extension of union organization and growth of labor self-consciousness during the war all over the world had a salutary effect on the Indian workmen. They awoke to the possibility of combination for making demands for increased wages and better working conditions. The war also brought in a new concept of social justice and racial equality.

4. During this period the national struggle for independence began to take the form of a mass struggle led by

the Indian National Congress. The worker received a great inspiration from this national struggle for independence. The national congress intensified the growth of trade union movement by endorsing labor demands and supplying trained leadership.

5. The Russian Revolution and the subsequent establishment of the U.S.S.R. awakened the hope of a new social order. The introduction of class struggle in the Indian labor movement dominated the Indian labor scene for more than a decade (1924-34).

6. The establishment of the International Labor Organization gave rise to the integration and formation of a Central Trade Union Organization in India. The formation of the AllIndia trade union congress led to the formation of many independent labor organizations throughout the country.

(c) A short history of the modern development of trade union movement in India

The modern trade union movement began with the development of the Madras Textile Labor union. It came into existence in Madras in 1918 as a result of social and economic causes. The organizers were outsiders purely interested in social work. They seized upon the social and economic discontentment and launched a successful trade union. At one time all the work force of the Buckingham and

Carnatic Mills were members of this union. The union owed its initiation and successful working to Mr. Wadia who was then the assistant editor of a nationalist weekly. The union represented the grievances of the workers and thus established for sometime an effective machinery for collective bargaining. The union ran its own co-operative stores. It had organized a library for the use of its members. In 1920 a suit was brought against the union leaders for criminal conspiracy; this led to the arrest of its leaders and the consequent dissolution of the union.¹

The working of this early union brought to light some interesting problems which the trade unions had to face for many years after this. It showed the great need for protective labor legislation. The communal feeling in the labor world was a source of great danger. There was great rivalry among the leaders for power. The problem of outsiders in the labor union occupying positions of responsibility had its own repercussions. There was lack of sympathy for the working class in the existing government. The attitude of the employer was hostile to unions.

During 1918 seven new unions were started, important among them were the Madras Labor Union, the Indian Seamen's Union, and the Calcutta and Clerks' Union, Bombay.

During 1919 ten additional unions were started; five in Bombay, two in Madras, and one each in Bengal, United

1. The Madras Labor Union was later revived under the same name and is still operating under the same name.

Provinces and the Punjab. Chief among the new unions were the Employees' Association, Calcutta, the M & S.M Railway Employees' union, Madras, and the Seamen's union, Bombay.

During 1920 union formation was becoming more general. The newly formed All India Trade Union Congress, a national federation of labor unions showed an affiliation of 107 unions of which 64 unions had a membership of 140,854. The important event during the year was the creation of a new technique in handling labor problems in The Ahmedabad Textile Labor Association by Mr. Gandhi. (The development of the Ahmedabad union is dealt with separately). The Ahmedabad union claimed in 1920 an affiliation of 6 unions with a total membership of 16,450, which formed about 43 per cent of the total labor population in Ahmedabad. The All-India Postal and R.M.S. Association with its seven provincial branches claimed a membership of 20,000. It is reported that in 1920, there were 125 unions with a total membership of 2,500,000.³

There is no way of telling how these figures were arrived at regarding union membership. It is very likely that they are highly exaggerated. Even though no reliance could be placed on the accuracy of the union membership figures, the important thing to note here is that there was rapid growth between 1918-20.

³Trade Unionism in India by S. D. Punekar

In 1921 the post-war boom showed signs of decline. Between 1921-25 there was no appreciable expansion in the trade union movement. There might have been a decline in the number of trade unions because in the early stages a great majority of the workers were brought together as loose combinations for achieving immediate objectives. After the termination of a strike or successful resumption of normal conditions in industry, many of these combinations ceased to exist. It became very clear by this time that the spirit of trade unionism had come to stay and had taken a firm root. A foundation had been laid. In 1924 the Directory of Trade unions showed that there were 167 unions with a total membership of 223,000. It also showed a list of 8 labor federations with a membership of 195,800.

The influence of labor unions on both the employers and the state during this period was very little. In spite of the claim of the All India Trade Union Congress to represent more unions than any other single organization in the country, the Government of India selected an independent union leader from Bengal to represent Indian labor at the international labor conference at Geneva in 1923. The A.I.T.U.C. vigorously protested against this but failed to create any impression either on the government or on the public. The annual conferences of the national federation of labor failed to attract much response from the workers' organizations.

During a period of ten years (1924-34) the communists exerted considerable influence in the Indian labor movement. According to the Royal Commission the communist successes were due to mainly the absence of any other strong union organization combined with the hardships of prolonged strikes. Mr. Siva Rao writes in *The Industrial Worker of India*⁴ that the employers did not show any disposition to yield to moderate and ordinary trade unions but showed considerable disposition to yield when the communist influence gained ground. There was also on the part of the employer, Mr. Siva Rao writes, a tendency to encourage extreme elements to discredit the moderate elements in the hope of undermining the influence of unions. The communists played their game well with the employer till they were sure of their ground and then struck at the most opportune moment.

In India the communists came into the limelight at the Cawnpore trial in 1924 when five communists were charged with conspiracy for an attempt "to overthrow the sovereignty of the King Emperor over British India by means of an organized violent revolution." The Cawnpore trial made heroes out of unknown communists. Instead of a setback in the movement, it gained considerable momentum. Its influence

⁴ Industrial worker in India by Mr. B. Siva Raopp, pp.167-178

began to grow. In 1928 the communists conducted the biggest strike in the history of the Bombay textile industry. The grave economic situation which prevailed at that time provided them a fertile field to spread their doctrine of class struggle. Even though few in numbers, their influence was considerable because of their hard work and unusual powers of organization. In 1928 they organized two powerful trade unions in Bombay, the Girni Kamgar union (membership 54,000) and the G.I.P. Railwaymen's union (membership 41,000).

In 1929 the communists got control of both the general and executive body of the A.I.T.U.C. (details are given in a separate section). In the same year the A.I.T.U.C. claimed an affiliation of 51 unions with a membership of 189,436. Between 1928-30 there was rapid increase in the number of new unions even though there was not any considerable increase in the total membership. This was due to the fact that in 1926 the Trade Union Act was enacted which gave trade unions legal status and recognition. Most of the employers refused to deal with unions that were not registered under the Act. The newly enacted Trade Union Act gave a new stimulus.

In 1929 the government became quite alarmed at the rapidity with which the communist movement was taking hold of the labor movement and of the general industrial unrest. They were concerned about the foreign help mainly from U.S.S.R. that was pouring into the country in support of

labor. The government undertook many measures to handle the situation. The Industrial Dispute Act of 1929 was enacted as a measure to check the growth of the communist menace. The Public Safety Bill was introduced. The communist leaders were arrested. The government then undertook the long and costly Meerat trial of the communists. This raised a storm of protests both inside and outside the country.

After 1930 the communist influence in the trade union organization began to decline rather rapidly. The strength of the communists mainly consisted in the creation of a disturbance and exploitation of existing grievances. During periods of industrial unrest, the membership of communist unions swelled and during periods of normal working, it fell off markedly.

In 1928 the Bombay Girni Kamgar union registered 54,000 members and its membership fell to a low of 800 in June 1930. Again the communist dominated Cawnpore Mazdoor Sabha, a small organization in 1937-38 with a membership of 100, rose to be a strong union of 30,000 during the two big general strikes after the war. After the strike fever subsided, it went back to its original "moribund state of inactivity." Strikes have been used to bring the workers into the union's fold. But retention of a stable membership calls for a different type of organizational ability. The communist use

of class struggle seems very effective at the time of strikes but quite unsuccessful during periods of stable and normal industrial conditions.

There was another important factor that contributed to the rapid decline of the communist influence after 1930. During that year Gandhiji started his Dandi march which marked the beginning of a mass civil disobedience movement in India. The communists kept out of this struggle for national independence and so were completely ignored.

During the years 1930-34 the industrial worker kept himself aloof from trade unions. Even the few unions in existence were disinterested in central affiliation. In 1929 the communist dominated A.I.T.U.C. was split at the Nagpur session into A.I.T.U.C. and Indian Trade Union Federation. Again in 1931 the A.I.T.U.C. was split into the Red Trade Union Congress and the Trade Union Congress (dealt with in detail under National Federation of Trade Unions).

In the year 1934 there was revival of communism and Indian trade unionism. The country was once again threatened with a general strike situation when the employers attempted wage reduction and nationalization. In 1934 the Bombay government introduced the Bombay Trade Dispute Conciliation Act, 1934, with an attempt to check the militant and extremist tendencies in labor organizations.

Even though the government was able to check communist influence by legal enactments, the strike fever began to spread to other places and different industries like railways, textiles of Bengal and the United Provinces. The whole of northern India was subjected to a series of strikes which was unknown to them before. "The increasing industrial unrest brought with it, as it usually does in India, an improvement both in the number and membership of the registered trade unions."¹

The Government of India Act was passed in 1935 which came into force in 1937. The Act recognized the importance of representation for labor unions in the nation's legislatures. Accordingly 38 seats in the provincial legislatures and 10 in the Federal assembly were provided. This was the first time labor had received such recognition. Before the enactment of India Act, 1935 labor had a single seat in the centre legislature and nine seats in provincial legislature. The representation was always by government nomination. In contrast to this, the employers' organizations had enjoyed a representation of 85 seats in both provincial and central governments. In the new act the numbers of seats allotted to the labor and employers' organizations were equal in number and thus the constitutional inequality was set right. The labor seats were to be filled through the registered trade union constituencies or through

¹Trade Unionism in India by S.D.Punekar, p.100

special labor constituencies. So many unions were set up to qualify as electoral units. There was sudden growth in unions and union membership. Between 1935-36 and 1938-39 the registered unions increased from 241 to 555.⁵

The Indian National Congress had set up popular governments in eight out of eleven provinces in India in 1937. This opened up new possibilities for union development. There was general recognition of unions and union leaders. The government was in sympathy with union aspirations. In the election manifesto in 1937, the Indian National Congress expressed its labor policy as follows "To secure for the Industrial worker a standard of living, hours of work and conditions of labor in conformity, as far as the new economic conditions in the country permitted, with international standards, suitable machinery for settlement of disputes between employers and workmen, protection against the economic consequences of old age, sickness and unemployment and the right of workers to strike to protect their interests."

Between 1927-28 and 1934-35 the number of registered unions increased from 29 to 213 and their membership from 100,619 to 284,918. This total was not exceeded until 1937-38 when it reached 390,112. By 1942-43 it had risen

⁵Indian Labor Year Book 1949-50

to 685,299. It will be seen that from 1937-38 to 1942-43 the number of registered trade unions increased from 420 to 693 or by 65 per cent and that the total membership of unions submitting returns increased from 390,112 to 685,299 or by 75.7 per cent. The above figures do not accurately tell the complete story of the organized strength of unions because a large percentage of registered unions (30 per cent during the war) failed to submit returns. Accurate estimates of unregistered unions are not available.

The great increase in union membership recorded during World War II was due to increased employment. It was also due to the rising prices that necessitated concerted action on the part of the industrial worker to secure proper adjustments in their earnings. According to Dalal's report, factory employment during war increased by about 750,000.¹ Apart from this almost a million workers were engaged in the construction of aerodromes, roads, etc. for military purposes.

In 1947 India attained its complete independence; in addition, the country was divided into India and Pakistan. The figure shown in table LVIII relates to the Dominion of India with the exception of East Punjab. 1946-47 figures show a phenomenal growth in registered trade unions and their membership. The increase is 75.5 per cent. This increase is mainly due to the desire for concerted action

¹Quoted in Wartime development in trade union organization in India, I. L. Review, Vol. 53 May-June 1946, p.354.

against the employer to demand higher wages and partly to the enforcement of the Industrial Employment (Standing orders) Act. There has been a steady increase in the membership of trade unions. Still only a small portion of the working people are organized.

Available statistics regarding the number of registered trade unions and the membership of unions submitting returns 1927-38 to 1948-49 are given in table LI. In the year 1948-49 there was an increase of about 14 per cent in the number of registered trade unions as compared to the previous year.

Table LIII shows the regional distribution of registered trade unions and their membership for the years 1947-48 and 1948-49.

Table LVII contains information regarding the income of the trade union during 1927-28 to 1948-49.

Table LXIII shows the distribution of the unions and membership of the four all-India workers' organizations as on 31st March 1950 for certain important states and industries.

Table LIV analyses the number and membership of trade unions for the year 1947-48 and 1948-49 according to the industries.

The 1951 census gives the following figures.

TABLE LI
REGISTERED TRADE UNIONS AND THEIR MEMBERSHIP

Year	Number of registered trade unions	Number of unions from which returns under the Act were received	Total membership of the unions shown in column 3			Average membership per union submitting return	Percentage of women members
			Men	Women	Total		
1	2	3	4	5	6	7	8
1927-28 ..	29	28	99,451	1,168	1,00,619	3,594	1·2
1932-33 ..	170	147	2,32,279	5,090	2,37,369	1,615	2·1
1937-38 ..	420	343	3,75,409	14,703	3,90,112	1,137	3·8
1938-39 ..	562	394	3,88,214	10,945	3,99,159	1,013	2·7
1939-40 ..	667	450	4,92,526	18,612	5,11,138	1,136	3·6
1940-41 ..	727	483	4,94,415	19,417	5,13,832	1,064	3·8
1941-42 ..	747	455	5,56,426	17,094	5,73,520	1,260	3·0
1942-43 ..	693	489	6,59,327	25,972	6,85,299	1,401	3·8
1943-44 ..	761	563	7,60,101	20,866	7,80,967	1,387	2·7
1944-45 ..	865	573	8,53,073	36,315	8,89,388	1,552	4·1
1945-46* ..	1,087	585	8,25,461	38,570	8,64,031†	1,480	4·5
1946-47§ ..	1,725	998	12,67,164	64,798	13,31,962	1,335	4·9
1947-48§ ..	2,766	1,628	15,60,630	1,02,299	16,62,929‡	1,021	6·2
1948-49 ..	3,150	1,848	18,31,514	1,19,355	19,60,107	1,061	6·1

TABLE LIII
REGIONAL DISTRIBUTION OF REGISTERED TRADE UNIONS

	Number of registered trade unions		Number of unions submitting returns		Membership of unions submitting returns	
	1947-48	1948-49	1947-48	1948-49	1947-48	1948-49
<i>States' Unions</i>						
Assam ..	80	71	43	43	46,706	1,07,725
Bihar ..	238	315	104	141	1,23,137	1,48,234
Bombay ..	306	410	246	295	3,16,622	4,21,128
Madhya Pradesh	94	88	55	60	40,198	33,590
Madras \	512	597	346	296	2,42,628†	1,50,180
Orissa ..	54	72	25	27	5,634	13,407
Punjab ..	7	8	7	8	760‡	2,866
U. P. ..	282	359	209	292	1,27,682	1,38,403
West Bengal	926	1,049§	483	534§	4,18,906	4,38,883
Ajmer ..	11	16	11	15	6,031	5,532
Coorg	1	..	1	..	320
Delhi ..	47	59	32	48	20,444	25,486
<i>Central Unions</i>	109	105§	67	88§	3,14,181	4,74,353
Total ..	2,666	3,150	1,628	1,848	16,62,929	19,60,107

TABLE LIV

NUMBER AND MEMBERSHIP OF REGISTERED TRADE UNIONS SUBMITTING RETURNS CLASSIFIED ACCORDING TO INDUSTRIES

Industry	1947-48				1948-49			
	No. of unions submitting returns	Number of members at the end of the year			No. of unions submitting returns	Number of members at the end of the year		
		Men	Women	Total		Men	Women	Total
Railways (including workshops) and other transport (excluding tramways)	150	3,83,683	1,180	3,84,863	193	5,23,047	2,033	5,25,080
Tramways ..	6	17,634	52	17,686	8	18,726	48	18,774
Textiles ..	227	3,85,099	45,745	4,30,844	221	4,29,667	43,732	4,73,399
Printing Presses	63	25,670	67	25,737	71	28,335	107	30,367
Municipal ..	70	34,567	4,587	39,154	76	46,429	5,264	51,693
Seamen ..	9	64,616	..	64,616	11	50,735	2	50,737
Docks and Port Trusts ..	28	42,861	232	43,093	24	50,203	154	50,357
Agriculture ..	13	10,292	335	10,627	12	4,979	162	5,141
Engineering ..	192	97,201	1,132	98,333	195	77,988	909	78,897
Miscellaneous	862	4,99,007	48,969	5,47,976	1,037	6,01,405	66,884	6,72,776
Total ..	1,620*	15,60,630	1,02,299	16,62,929	1,848	18,31,514	1,19,355	19,00,107†

*Municipal ..

TABLE LVII

TRADE UNION MEMBERSHIP AND INCOME

Year	No. of registered trade unions	Unions submitting returns				
		Number	Member-ship	Income	Income per union per annum	Income per member per annum
				Rs.	Rs.	Rs. a. p.
1927-28 ..	29	8	1,00,619	1,63,581	5,842	1 10 1
1937-38 ..	420	343	3,90,112	6,92,644	2,022	1 12 5
1938-39 ..	562	394	3,99,159	8,89,822	2,258	2 3 8
1939-40 ..	667	450	5,11,138	11,21,797	2,493	2 3 1
1940-41 ..	727	483	5,13,832	12,12,927	2,511	2 5 9
1941-42 ..	747	455	5,73,520	17,67,446	3,884	3 1 2
1942-43 ..	693	489	6,85,299	15,96,984	3,266	2 5 3
1943-44 ..	761	563	7,80,967	23,18,780	4,119	2 15 6
1944-45 ..	865	573	8,89,388	19,39,969	3,386	2 2 11
1945-46 ..	1,087	585	8,64,031	24,67,607	4,218	2 13 8
1946-47 ..	1,725	998	13,31,962	42,50,331	4,259	3 3 1
1947-48 ..	2,666	1,628	16,62,929	56,89,361	3,494	3 6 9
1948-49 ..	3,150	1,848	19,60,107	58,83,662	3,184	3 0 3

In 1948-49, the unions which submitted returns showed a closing balance of Rs. 60.79 lakhs, as against an opening balance of Rs. 57.10 lakhs. Details regarding the general funds of trade

TABLE LXIII

DISTRIBUTION OF UNIONS AND MEMBERSHIP OF THE ALL-INDIA WORKERS' ORGANISATIONS

	I. N. T. U. Congress		A. I. T. U. Congress		H. M. Sabha		U.T.U. Congress	
	Unions	Member- ship	Unions	Member- ship	Unions	Member- ship	Unions	Member- ship
<i>States—</i>								
Bihar ..	89	1,58,611	57	53,546	74	1,09,908	45	20,567
Bombay ..	140	3,10,410	74	1,31,302	102	1,77,695	5	6,951
Madras ..	130	90,073	202	1,50,536	55	1,57,640	72	1,28,862
U. P. ..	161	1,46,605	42	40,026	52	36,501	43	21,967
W. Bengal ..	344	4,53,039	182	2,36,843	85	88,132	106	1,27,168
<i>Industries—</i>								
Railways ..	36	1,42,285	22	1,52,328	14	45,412	2	10,488
Other Transport	56	50,966	49	36,140	33	1,28,850	33	81,866
Textiles ..	119	3,03,695	82	1,18,818	53	1,16,609	25	52,969
Engineering ..	149	1,30,068	81	45,848	36	37,418	22	17,643
Municipalities	43	22,321	55	26,362	92	73,867	28	15,444
Printing Presses	33	13,977	31	14,956	17	20,385	8	11,668
Collieries ..	50	97,732	15	27,508	29	86,929	3	19,411
Plantations ..	29	1,52,720	9	10,740	7	14,888
Trade and Com- merce	74	39,635	38	18,047	23	14,918	11	12,344

Total population	356,829,485
Agricultural class	249,122,449
Industries other than agriculture	37,660,197
Commerce	21,308,871
Transport	5,620,128
Other services	42,982,744

(d) The influence of political organization in the growth of trade unions in India

1. The Indian National Congress and labor movement

The modern trade union movement took birth after the first war. The Indian National Congress played a significant part in its development. The Indian National Congress which came into existence in the year 1885 began to take a permanent interest in 1919 in the improvement of social and economic conditions of the working class and formation of workers organization for realising those objectives. By a resolution adopted at the 35th session at Amritsar in 1919, Congress directed its provincial committees and other affiliated unions "to promote labor unions throughout the country with a view to improving social, economic and political conditions of the laboring classes and securing for them a fair standard of living and a proper place in the body politic of India."

During 1919 there was considerable union activity and

the labor movement was gaining appreciable momentum. The congress resolution and its interest in the working class produced an unfavorable reaction from the Indian Government, which was greatly concerned about the possibility of using this concentrated labor force for political ends. The employers were unsympathetic and often times quite hostile toward labor unions. Probably it would help to recall here that the majority of industries was either British financed or operated by British personnel. The earlier textile mills in Bombay, Madras and the jute mills in Calcutta are good examples of European domination of India industry. There was suppression of attempts of labor combinations and the unsympathetic government helped the employers make this possible. This is clearly borne out in the congress resolution at its Nagpur session, which reads,

"This congress expresses its fullest sympathy with the workers of India in their struggle for securing their legitimate rights through the organization of trade unions, and places on record its condemnation of the brutal policy of treating the Indian workers of no account under false pretext of law and order. The congress is of opinion that Indian labor should be organized with a view to improve and promote their well-being and secure for them their just rights and also prevent exploitation (1) of Indian labor, (2) of Indian resources by foreign agencies; and that the Indian Congress Committee to take effective steps in that behalf."⁶

⁶ Congress & Labour Movement in India by P. P. Bakshman, p.18

The Indian National Congress had a double motive in organizing labor. They were motivated by high ideals. They clearly saw a betterment of social and economic conditions for the worker through their own organizations. They were also concerned with keeping these organizations under congress control with the object of educating them to unite with other classes than their own for a common struggle - the struggle for national independence.

The All India Trade Union Congress was formed in 1920 as a central organization. Its organization was brought about by the efforts of prominent trade unionists. The Indian National Congress welcomed its formation and appointed a committee of six congress volunteers to work for the organization. In 1922 at its annual session held at Gaya, a resolution was passed which reads, "...it is resolved that this congress while welcoming the move made by the All India Trade Union Congress and various Kisan Sabhas in organizing the workers of India, hereby appoint the following committee with power to coopt., to assist the executive council of the All India Trade Union Congress for organization of Indian labor both agricultural and industrial."

The All India Trade Union Congress owed its initial growth and strength to the support and active interest of the Indian National Congress and many individual congressmen. Mr. Lala Lajpat Rai, then president of the Indian National Congress, was elected as its first president. For many years the congress presidents were also presidents of A.I.T.U.C. at the same time. Pandit Jawaharlal Nehru, now the Prime Minister of the Indian Union and Mr. V. V. Giri, the present labor minister at the centre, served as presidents of A.I.T.U.C. in the tenth and twentieth sessions respectively.

In 1924, as noted above, the communists began to infiltrate into trade union movement. Slowly they gained strength. In 1928 they conducted the biggest textile strike in Bombay which led to rioting in Bombay City on a scale previously unknown. The communist infiltration created a problem for the congressmen. The differences in ideology expressed themselves in their attitudes of approaching the labor problems. The communists were highly motivated by their political dogma and their demands were directed to achieve short term popularity. The congressmen looked to the interests of a healthy growth in trade unionism. Their efforts were directed toward long term stability in union organization. They favored plans to educate the workers toward a democratic union and believed in the promotion

of peaceful relations between employees and employers. At the Gauhati session in 1922 the congress embodied that idea in the following resolution: "The work in the country shall be directed to the education of people in their political rights and training them to acquire the necessary strength and power of resistance to win those rights by carrying out the constructive program of the congress with special reference to...the organization of labor, both industrial and agricultural, the adjustment of relations between employers and workmen and between landlords and tenants."

In 1929 the communist domination in labor unions reached its peak. The communist-sponsored Girni Kamgar union achieved spectacular success. Driven by their extreme views, the communists created a split in the A.I.T.U.C. by capturing its General and Executive Council. (a detail account could be found under Indian Labor Federations, pp. 43). The history of the trade union movement in the thirties in India was the history of the labor leaders fighting against one another. Many prominent congress leaders kept out of the labor field because they did not approve of the revolutionary methods of the communists. Some of them kept out because it was evident at that time that any measures other than what the communists were employing would not have found favor with the workers and would have served in further

weakening of the workers' organizations.

In 1931 at the Karachi session the congress passed a resolution in which it stated its labor policy in a Swaraj Government as follows:⁷

1. A living wage for industrial workers, limited hours of labor, healthy conditions of work, protection against the economic consequences of old age, sickness and unemployment.
2. Labor to be freed from serfdom or conditions bordering on serfdom.
3. Protection of women workers, and, especially adequate provisions for leave during maternity period.
4. Prohibition against employment of children of school-going age in factories
5. Right of labor to form unions to protect their interests with suitable machinery for settlement of disputes by arbitration.

In 1932 the Indian National Congress launched on its program of mass civil disobedience movement for national independence. Soon after this, it was declared an illegal body. Mass arrests were made and all the congressmen were jailed. In 1934 the Gandhi-Irwin pact brought the civil disobedience movement to an end. The political prisoners were released and the ban on the congress organization was lifted. In 1934 the congress working committee met at Wardha and discussed plans of giving effect to its Karachi resolution.

⁷Congress & Labor Movement in India by P. P. Lakshman p.29

Even though there was no way of implementing its labor program in full, it lost no time in doing all it could to give effect to that part of the resolution which expressed the freedom of association and settlement of disputes through arbitration. Responsible congress workers were urged to take up labor organizational work. A labor committee was appointed which functioned from 1935-38. It helped in labor organizational work, collected mass of information relating to industrial labor in India and also advised the congress governments in 1938 after they were set up in eight out of eleven provinces in India.

In 1937 the congress had set up popular governments in eight provinces. The press note issued by Bombay Government in August 1937 summarises the labor program which the congress government proposed to undertake in all its provinces. The press note laid stress on the need for a minimum wage, security in employment, alternate employment, better living and working conditions, development of a comprehensive system of social insurance, and peaceful settlement of industrial settlements through the channel of voluntary negotiation, conciliation or arbitration. The note further added,

"While the government proposes to do all that is practicable for the amelioration of the conditions of the working classes, they are convinced that no legislative programme can be a substitute for the organised strength of the working class and till

organization of workers, run on genuine trade union lines grow up in the various fields of employment, no lasting good can accrue. Government is, therefore, anxious to assist in removing real hindrance in the way of the growth of labour organizations, and to promote collective bargaining between the employers and employees. Means will be devised to discourage victimization for workers for connection with a labor organization and participation in legitimate trade union activity..."⁸

In assessing how far the popular governments were able to fulfil their campaign promises, it is only fair to recall here that their powers were quite limited by the Government of India Act, 1935. In 1938 the Bombay Government passed a comprehensive industrial dispute act which provided an elaborate machinery for the settlement of Industrial disputes by conciliation and arbitration (details are found under Industrial Relations pp. 84). The central and Berar governments passed the Unregulated Factories Act in 1937.

The congressmen who believed in the Gandhian philosophy of truth and non-violence in labor organization became alarmed at the communist influence and the militancy in labor unions. As a result of this a new organization by the name of Hindustan Mazdoor Sevak Sangh came into existence to propagate the Gandhian ideal which was being

⁸Bombay Labor Gazette, Aug. 1937, p.922.

successfully applied in Ahmedabad Textile Labor Association (dealt with separately under Hindustan Sevak Sangh)

In 1938 the All India Trade Union Congress and National Trade Union Federation merged into a single central organization. This union did not last very long. After the declaration of the second world war, the congress government resigned as a protest against India being dragged into a war, without her knowledge and against her will, which was not her own. Individual civil obedience was declared by congress. The A.I.T.U.C. was split into two, an organization that favored collaboration in the war effort and another which declared an attitude of neutrality with respect to the war effort.

In 1944 Gandhiji was released and the congress working committee met at Calcutta to map out their future program. The communists were expelled from the congress organization. The Hindustan Sevak Sangh was revived. In 1946 the interim government was set up with the top leaders of Congress as cabinet members. In 1947 India attained complete independence. During the early periods of independence the country had to face many difficult problems because of partition of the country into India and Pakistan and also the difficulty of unifying the country. Added to this a wave of strikes broke out which led to the formation of the Indian National Trade Union Congress in June 1947 sponsored by the Hindustan Mazdoor Sevak Sangh.

(e) Congress-sponsored Labor Organizations

(1) Ahmedabad Textile Labor Association - A
Local experiment in trade unionism

The history of the labor movement in India would be incomplete without a detailed description of the origin and growth of the Ahmedabad Textile Labor Association. Its influence on the course of labor legislation in India is very significant.

Ahmedabad is the second largest textile centre in India, Bombay being the largest. In its 70 mills are employed 1,030,000 workmen. Most of the workmen are drawn from nearby areas of Gujavit and Kathiawar. So there is homogeneity of language, food and social customs in the work force.

Before the first world war, the workers in Ahmedabad mills suffered the same hardships of long working hours and low wages as other workers in other parts of India. The impact of war with its inflationary prices, growing consciousness of their rights on the part of the workers, and the realization of the effectiveness of collective action brought the Ahmedabad workers into the fold of Gandhiji whose influence and guidance was primarily responsible for the unique experiment in trade unionism.

At the end of the first world war, the workers in Ahmedabad mills started agitating for increased wages to

compensate for the rise in the cost of living. An approach was made by the workers to Srimathi Anasuyaben, who was then a social worker conducting night class for the benefit of the workers, to take up the cause of the workers and lead them in their struggle against the employers. With great hesitation, she undertook this stupendous task and led them to a successful strike, which resulted in granting all the labor demands. All through the strike and conciliation period, Smt Anasuyaben sought the guidance and help of Mahatmaji, who had then taken up his abode in Ahmedabad. "It was this event which gave birth to the machinery of arbitration which was to play an important role in the settlement of disputes between capital and labor in Ahmedabad."¹ This event which occurred on December 4th is still being celebrated in Ahmedabad as "Majur Din" (Labor Day) to commemorate the birth of a new organized life.

Just on the heels of the above strike, Ahmedabad faced another strike. And it was this strike that led to the historic fast of Gandhiji and that drew the attention of the whole country. The weavers of Ahmedabad made demands for increased wages to compensate for the inflationary prices. The employers were adamant against any increase. A deputation with the consent of Smt Anasuyaben waited on Gandhiji with a request to intercede on behalf of the workers for their just claims. Gandhiji carefully studied the whole

¹ Indian Federation of Labour, May 1947, The Official Bulletin of I.N.T.U.C.

situation and became convinced that the demands made by the workers were just. He proposed arbitration for the settlement of the dispute. In case the employers would not agree to arbitration he would lead them in their struggle with the understanding that arbitration would be acceptable at any stage of the struggle. With this general understanding, he agreed to lead them.

In the beginning the employers expressed their willingness to accept arbitration. As these negotiations were being carried on, the workers were impatient for quick action. As a result of this some decided to strike. Gandhiji persuaded them to resume work. During this confusion the employers had declared a lockout. Then the workers were faced with a lockout. "Thus commenced an epic struggle in which Gandhiji laid down certain fundamental principles which have a permanent value for all trade unions."¹

The struggle lasted for about 20 days. During this period Gandhiji addressed a number of meetings; wrote pamphlets educating the workers. The workers were asked to take a pledge that they would not return to work till their demands were granted in full. Anusuya Ben and Shri Banker went from house to house trying to keep up the morale of the workers. After a week the workers showed signs of weakness and vacillation. This prompted the employers to declare the mills open.

¹ibid., p.4

The reported weakness of the workers reached Gandhiji's ears. He was distressed because it was in violation of the pledge they had taken. It was his firm belief that the only effective weapon of the worker against the powerful employer for securing social justice was a peaceful, well disciplined and organized resistance based on truth and non-violence. This weakness of the worker was because he was unwilling to make the necessary sacrifice. Gandhiji then declared his momentous decision to fast unto death unless the workers' demands were satisfied. This fast, he clarified, was taken not against the employer, but against the worker who failed to keep his pledge.

The fast produced the desired effect. It created a new determination among the workers to continue the fight till their demands were accepted. It inspired the weak among them and strengthened their determination to continue the struggle. A strong public pressure was brought to bear on the millowners to accept arbitration and thus save Gandhiji's life. Gandhiji admitted that the fast was directed primarily at the workers to awaken their conscience and he also expected a secondary coercive effect on the employers.

Through the mediation of Acharya Anand Shanker Dhruva, a settlement was reached agreeing to refer the dispute to arbitration. Acharya Dhruva himself was appointed arbitrator. He conducted an impartial enquiry and gave an award which

sanctioned the full demand of the workers. "Thus ended an epic struggle which was to leave very deep impressions on the working class in Ahmedabad and brought into existence for both the parties, traditions, conventions, usages and the technique of settlement of disputes which could not be ignored by either side whenever any dispute arose."¹

During his association with the Ahmedabad workers Gandhiji formulated certain basic principles for the conduct of the unions. They have been and are being faithfully followed. They could be briefly stated as follows:

"(1) The workers or their leaders should not exaggerate their demands; they should carefully study the pros and cons of the case carefully before formulating their demands. They should always be ready for correction if the opposite party is able to convince them that they are in the wrong.

(2) The weapon of strike which is really the very last weapon in the armoury of the industrial workers should not be resorted to unless all peaceful and constitutional methods of negotiation, conciliation, and arbitration are exhausted. Even during the course of a strike, the worker should be prepared for any just settlement or reference to arbitration.

(3) Peaceful and non-violent behaviour even under provocation is the sine qua non for obtaining justice through any mass struggle of this type. The workers while on

¹Ibid., p.5

strike should see that they do not damage the property or injure the person of anybody. They should not bear ill will to their employers or officers inasmuch as what they are fighting against is the evil in the employer and not the employer himself personally.

(4) Workers should be self-respecting and therefore should not rely on any funds from outside for the successful conduct of a strike. A worker on strike should take up some other alternative occupation to maintain himself and his family during the period and no type of work should be considered below his dignity. A weaver for instance should cheerfully accept to work in making roads or do any manual job during the period of unemployment.

(5) A strike is a form of "satyagraha"; a striker should not submit to superior force or hardships. Once he has taken the resolve, he keeps firm to it even at the cost of severe privations including starvation.

(6) While on strike, the striker must be truthful, courageous, just, free from hatred or malice toward anybody and should be prepared for all necessary sacrifices putting his faith in God. The worker is a co-owner in the industry, and as such his responsibility to the industry and community is great."⁹

⁹Indian Federation of Labor, May 1947. An official bulletin of the I.N.T.U.C.

Commenting on the success of the Ahmedabad union, Shri Jagjivan Ram, the first labor minister of the independent India, remarked, "The Ahmedabad Labor Association which owes its birth to his (Gandhiji's) inspiration is even today a bulwark of workers' solidarity and a monument of what honest trade unionism can achieve not only a shield against employers' unfair dealings, but also as an instrument for the promotion of welfare and higher moral and material standards. This Association is even today a perfect pattern of co-operative and constructive effort - an example which other trade unions may well emulate. It is also a glorious example of the success of the method of co-operation aided by conciliation and arbitration, rather than of conflict and hostility, in the approach to the problems of industrial peace."¹⁰

The Ahmedabad Association has achieved singular success as a new method in trade unionism. On the permanent Board of Arbitration, Gandhiji was a permanent representative of labor. His forceful personality and the trust of both the workers and employees in his fair mindedness was a source of strength to the organization.

¹⁰ Jagjivan Ram on Labour Problems edited by Shachi Rani Gurtu, p.53

The Association has evolved a regular procedure for the settlement of disputes. The Association receives about 7,000 complaints a year. Direct contact with the individual mills by the Association's Labor officer is the first attempt at settlement. When private settlement fails, the aid of conciliation, the machinery set up under the Bombay Industrial Relations Act is sought. The Association always insists on recourse to arbitration in cases of disagreement. This is done to avoid conflict by direct action. The Association maintains a peaceful atmosphere, constantly trying to preserve the rights of the workers in the true Gandhian principle of truth and non-violence.

The Association runs about twenty social centres which cater to the intellectual and social edification of the workers. The Gandhian constructive program for the development of the individual personality is effectively put into use especially those calculated to promote education, medical aid, removal of untouchability, abstinence from drink, removal of indebtedness, proper use of wages, etc.

The Association runs three dispensaries, runs its own press and labor journal, "Majur Sandesh." It is the only labor organization that has reached a high level of stability and administrative efficiency. Its 256 employees have served to keep the industrial peace in Ahmedabad.

Even though the Association received its support from many congressmen, it was never under congress control. It kept out of the national labor organizations till the Indian National Trade union congress was formed. Gandhiji hoped that the Ahmedabad Association would serve as a model to other labor organization in India. Many labor associations received their inspiration from Ahmedabad. "In central India and Bombay trade unions have been started following the policy of the Ahmedabad Association. They were assisted in the initial stage financially by the Ahmedabad workers. The Rastriya Mill Mazdoor Sangh in Bombay has succeeded in drawing to its fold 40,000 textile workers, inspite of the fact that Bombay has been the stronghold of the communists for a number of years in the past."¹

Ahmedabad Textile Labor Association is today "the biggest of its kind in India and one of the soundest organizations in the world."

(2) The Hindustan Mazdoor Sevak Sangh (Indian workers service association)

The successful working of the Gandhian ideal of truth and non-violence in the Ahmedabad union emboldened them to set up a labor subcommittee in 1937 to explore the possibility of widening its application to other unions in the country. In 1938 as a result of this preliminary investigation, the Hindustan Mazdoor Sevak Sangh (H.M.S.S.) was

¹Congress and Labour Movement in India by P.P. Lakshman, p. 144.

evolved into an organization with a permanent constitution in 1938. The preamble of the constitution expresses its objective,

"Whereas there is urgent need for making vigorous and continuous efforts to organize the workers in all industrial centres in the country on right lines for the purpose of establishing just industrial relations, eradicating exploitation in any form, securing speedy improvement of their conditions of work and life and their status in industry and society and further it being of highest importance in the interests of labor as well as the peaceful progress of the country that the principles of truth and non-violence taught by Mahatma Gandhi are stressed and applied to the utmost extent in the activities of the organization of labor, in the day to day work of trade unions and in the handling of trade disputes, a society known as the Hindustan Mazdoor Sevak Sangh is hereby formed."¹¹

The constitution further stated its aims which can be described briefly as follows:

- (a) To assist in the formation of trade unions and in securing their recognition by employers.
- (b) To train workers for the work of organization and administration of trade unions.
- (c) To guide trade unions in matters of policy and administration.
- (d) To establish welfare activities in industrial centres for the uplift of the working class and development of its internal strength.
- (e) To make efforts to get suitable legislative enactments for ameliorating the condition of workers.

¹¹Congress and Labor Movement by P. P. Lakshman p.146

- (f) To propagate the principles of truth and non-violence in relation to the labor movement and spread enlightenment regarding their value and efficiency.

The working committee consisted of eight members with Mr. Patel, a prominent congress leader and close associate of Gandhiji, as its president.

The H.M.S.S. is not a labor organization with a central body having affiliated member trade union organizations. It is an organization composed of specialists solely devoted to Gandhian ideals of truth and non-violence in labor work and devoted to render help to labor organizations seeking the Gandhian ideals to better themselves. It offers a training ground for leadership in trade union administration. Membership of the Sangh was restricted to congressmen only. This provision makes it necessary for anyone to belong to the Sangh to be a firm believer in the Gandhian principle of non-violence and also a wearer of Khadi. The Sangh requires everyone of its members to sign a pledge that they will uphold the traditions and ideals for which the Sangh stands.

Between 1938-42 the Sangh was quite active. It received donations from public institutions and sympathisers. The Ahmedabad Textile Labor Association made an initial contribution of Rs 11,000 for the Sangh's activities. Mr. G. L. Nanda and Mr. Daulatram who were appointed as secretaries

were quite active. "In the course of two years following its establishment the Sangh trained 34 workers in the appropriate means and methods of promoting the best interests of labor and put them to work in different parts of the country."

In 1942 most of its members were imprisoned and the activity of the Sangh came to a standstill. On May 6, 1944 Gandhiji was released from prison. Many congressmen who were interested in the revival of H.M.S.S. sought the advice of their leader as to the ways and means of strengthening the influence of congress in labor organizations. It may be recalled here that during war, the communists gained considerable influence among labor. While the congressmen were in prison, the A.I.T.U.C. became dominated by the communists and I.F. of labor became closely associated with the British Government.

In the course of an interview, Gandhiji outlined a program of work which is briefly stated as follows:

1. H.M.S.S. will guide the activities of all congressmen who engage in labor work.
2. The Sangh will provide for the training of congressmen seeking to take up trade union work.
3. The Sangh to set up Provincial and Local branches to guide the work of congressmen occupied in labor movement in particular areas.

4. The Sangh through its members working in various unions to exercise influence on the labor movement.
5. Congress organizations are to form their labor committees to maintain touch with and also promote political consciousness among the workers, industrial and others.
6. The labor committees of congress to co-operate with the Sangh in all possible ways and help with funds, workers, etc.
7. Sangh to refrain from direct trade union work and labor committees to refrain from direct participation in labor work.¹²

In March 1945 the Sangh constitution was amended to enable it to form provincial, district and local branches. The amended constitution also provided for election of office bearers every two years and the constitution of a central elected body. There were provisions made to enlist regular trade unions as associate members. The H.M.S.S. began to function again picking up the thread where it had left off.

The relationship between H.M.S.S. and the All India Congress Committee (A.I.C.C.) has always been one of understanding and mutual respect. The congress urged its members interested in labor welfare to seek the advice and assistance of the Sangh. It passed a resolution at Wardha on August 13, 1946 praising the H.M.S.S. for its active work and its full support. The working committee appointed a three man body consisting of Sadar Patel, Patwardhan and Nanda to make

¹² Congress and Labor Movement in India by P. P. Lakshman p.147

reports on the working of the Sangh and to make suitable recommendations for improvement and closer affiliation with congress. The committee created the following obligations:

- (a) Any activity undertaken by the congress organization for the benefit of the working class, in the interests of the economy, efficiency and uniformity of the policy and direction be entrusted to the appropriate branches of the Sangh and the congress organizations concerned will give its full support and co-operation to the Sangh in the conduct of these activities.
- (b) Any intervention of congress on labor question will be on the basis of the policy and decision of the Sangh and as far as possible after consultation with the Sangh.
- (c) The Sangh will continue to offer full scope for activity within the organizations to persons belonging to all groups in the congress who conform to the policy of the Sangh.
- (d) Members of the Sangh belonging to different groups will function as a homogeneous whole within the Sangh performing their duties in such a manner as would promote the object and program of the Sangh and of the congress. There will be no thought or effort on the part of any member to create sectional loyalties or advance the sectional aims of any groups.
- (e) The Sangh to make reports to the congress from time to time."¹³

¹³Quoted in Congress & Labour Movement in India by P. P. Lakshman p.151-52.

After the Sangh began to function again as an active organization, it kept a neutral attitude toward the national organizations A.I.T.U.C. and the Indian Federation of Labor. The Sangh was quite concerned about their members belonging to militant labor organizations and so cautioned them to choose organizations which did not violate the Gandhian ideal of truth and non-violence.

In 1946 efforts were made to apply the Sangh principles to A.I.T.U.C. to reform the organization. The central committee of H.M.S.S. passed a resolution urging all unions where Sangh members were active to affiliate with the A.I.T.U.C. The Sangh fervently hoped to propagate its ideals through the A.I.T.U.C. But the efforts proved a failure and this was evident within a period of six months. Sharp differences of opinion arose between the two organizations over the effectiveness of compulsory arbitration envisaged in the Bombay Industrial Relations Act, 1947.

The disagreement became so serious that the Sangh decided to withdraw its support of A.I.T.U.C. and in a statement issued by secretary Nanda the development of a new central organization was urged. As a result of this move, a new central organization by the name of Indian National Trade Union Congress was sponsored by the Sangh in 1947.

Even after the I.N.T.U.C. became a full fledged organization, the H.M.S.S. continued to operate. The Indian

National Congress in a resolution by its working committee defined its relation with the Sangh as follows:

1. The basis of congress' work in labor would be that congress do not seek to control or interfere with the administration of any trade union but expects to be able to shape the trends and influence the tone of the movement, through a large body of H.M.S.S. workers, taking part in trade union activity in every industry and in all parts of the country.
2. The congress recognized the H.M.S.S. as a specialized organization for work in labor.
3. In respect of their labor activities, the workers of the Sangh should work in harmony with the Provincial Congress Committee, which should not set up, support or recognize any labor committee or organization working independently of the Sangh.
4. Congressmen who offer labor work as a qualification for becoming effective members should be assigned to the Sangh for the performance of their duties in this field.¹⁴

The activities of H.M.S.S. were subject to severe criticism by other labor organizations/ In November, 1949 the H.M.S.S. started publishing an official monthly journal by the name of "The Worker."

¹⁴Congress Bulletin No. 2 (New Delhi office of the All India Congress Committee, Feb. 1949) p.11.

(f) National Federations of Indian Trade Unions and the struggle for power

The AllIndia Trade Union Congress and the Indian Federation of Labor were the only two major national federations with trade union affiliations from all over the country, before the second world war. They had provincial, regional and local branches. Besides these two, there were other federations like All-India Railwaymen's Federation and the All-India Postal and Railway Mail Service Conference. Their membership is confined to public utilities. In addition to this there were provincial and local independent federations. The most important of them is the Ahmedabad Textile Labor Association.

Since the second world war, three other important national federations of trade unions have been formed, namely, the Indian National Trade Union Congress, The Hind Mazdoor Sabha and United Trade Union Congress.

The All India Trade Congress (A.I.T.U.C.) was organized in the year 1920. There was a great need for such an organization to unify the rapidly growing trade unions after the war. The formation of the International Labor Organization was mainly responsible for the early formation of this national federation. Its formation marked an important step in the history of trade union development in India. Its constitution stated the objects for which it

stood. The most important of them are amelioration of the social and economic conditions of the working class; the coordination of the activities of the affiliated labor unions; the abolition of political and economic advantage based on caste, community and religion; the nationalization of the means of production, distribution and exchange as far as possible; and the establishment of a socialist state in India. All these objectives are to be gained by "legitimate, peaceful and democratic methods."

The Indian National Congress took great interest in the newly formed all India labor body. The first president of All India Trade Union Congress was Mr. Lala Lajpat Rai who was also the president of the Indian National Congress. In 1923 Mr. C. R. Das was elected president. Among the important nationalist leaders who served as presidents of A.I.T.U.C. were Mr. Nehru, now the Prime Minister of India, Subhas Chandra Bose and Mr. V. V. Giri, the present union labor minister.

In the year 1924 the communists began to infiltrate into the Indian labor movement. For nearly a decade (1924-34) their influence on labor was substantial. In the year 1929 the communists reached the peak of their influence, which resulted in a bid for the capture of the General Council and the Executive Committee of A.I.T.U.C. The affiliation of the Bombay Girni Kamgar union and the G.I.P.

Railway workers union with A.I.T.U.C. with exaggerated union membership gave them an absolute majority. At the tenth session at Nagpur in 1929 the communists succeeded in getting resolutions passed affiliating A.I.T.U.C. with the International communist organization, boycotting the Royal Commission on Labor in India and rejecting the I.L.O., the Nehru report, the Asiatic Labor Conference and the Round Table Conference on India. The progressive elements in A.I.T.U.C. were unable to stem the tide of communist domination. Mr. Nehru, who was then general secretary of the Indian National Congress was relieved of his office of presidency of A.I.T.U.C.

As a result of differences of opinion with the communists in A.I.T.U.C., there was a split in the all India labor body. The moderate trade unionists under the leadership of Mr. N. M. Joshi left A.I.T.U.C. and formed a new national federation known as Indian Trade Union Federation. The newly organized labor body began to grow in strength. In 1933 before it was amalgamated with the National Federation of Labor, it claimed a membership of 78,677 with 41 affiliated unions.

The All-India Railwaymen's Federation, which till that time was an affiliated body of the A.I.T.U.C. left congress in 1929.

In 1931 at the eleventh session of A.I.T.U.C. a further split occurred with the formation of the Red Trade Union Congress distinct from A.I.T.U.C. The Red Trade Union Congress was dominated by extreme left wing elements. Thus in the thirties there existed four organizational groups, the All India Trade Union Congress, the Red Trade Union Congress, the Indian Trades Union Federation and the fourth group consisted of the All-India Railwaymen's Federation and the Ahmedabad Textile Labor Association which stood aloof from any central organization.

Trade unionism in India during this period was at its lowest ebb. None of these above labor federations represented the bulk of the working class as to claim any representation on their behalf. The weakness of the central organizations had become quite apparent as the individual union began to look with suspicion and showed extreme reluctance to join any one of them. This created a situation where it became evident that for the interests of a strong trade unionism in the country there should be more unity. So attempts at trade union unity began.

The differences between the federations were over politics rather than over the industrial or economic function of trade unions. In 1931 the All India Railwaymen's Federation formed a Trade union unity committee which called a representative conference with a view to resolving the

differences and amalgamating the various federations into a single organization. The unity committee made several observations important among them were: (a) unity with communists was not attainable; (b) the non-communists could form an united organization independent of communists.

In 1933 the Red Trade Union Congress was amalgamated into its parent organization A.I.T.U.C. In the same year at the joint session held at Calcutta of Indian Trades Union Federation and the National Federation of Labor, the two federations united to form a single federation, called the National Trades Union Federation.

In 1935 a renewed effort was made at unity. The A.I.T.U. Congress showed much more co-operation and willingness for such unity than it did previously. But it made its own terms. The joint organization should be known by the original name of All-India Trade Union Congress. It was prepared to accept the constitution of the National Trade Union Federation with certain modifications. The new working committee was to be composed of equal members of both organizations. No foreign affiliation was to be sought.

In 1936 the National Trades Union Federation (N.T.U.F.) submitted two alternative proposals for the consideration of A.I.T.U.C. One of the proposals known as "Giri proposal" was accepted by A.I.T.U.C. with certain modifications. The negotiations continued for two years and finally in 1938

at the Nagpur session the two organizations were amalgamated into one. "Thus the two wings of the Indian trade union movement which had drifted apart in 1929 in Nagpur, united together in the same place after nine years under the banner of one central organization."

The second world war created a number of problems for the trade union congress. Prices were rising. Increased production called for longer working hours. Dearness allowances and war bonuses were inadequate to keep up with the rise in prices. The wartime legislation introduced many new restrictions. There was a shortage of foodstuffs. The congress governments had resigned from office and embarked on an individual civil disobedience movement. Public pressure for non-cooperation with the war effort was slowly mounting.

As the war progressed, in the year 1941 there was a new split in the national federation because A.I.T.U.C. had issued a statement announcing its neutrality to the war effort. The new national federation known as the Indian Federation of Labor (I.F.L.) was founded with a two-fold purpose, namely:

1. To mobilize labor for conscious and purposeful participation in the war effort.
2. To secure for the workers decent wages and amenities to maintain the workers' morale during war.

The federation started with 182 unions with a total membership of 288,676. In December 1944 the federation claimed an affiliation of 222 unions with a membership of 407,773.¹⁴

It is difficult to attach any validity to these membership figures because each organization was claiming to be the representative body. The question as to which of these two organizations was the most representative assumed vital importance when the decision of the workers' representatives to the Philadelphia conference (1944) of the I.L.O. had to be made. The Government instead of investigating into the membership of these two organizations decided to agree for alternate representation and appointed Mr. Jamnadas Mehta, president of I.F.L. to be the delegate.

In May 1946 the Government of India appointed Mr. S. C. Joshi, Chief Labor Commissioner at the centre to investigate and make a report as to which of these two organizations was the most representative of the workers in the country. Mr. Joshi made an elaborate investigation and concluded that the A.I.T.U.C. was becoming more representative while I.F.L. was gradually losing. The enquiry revealed that A.I.T.U.C. had 326 unions with 696,555 members

¹⁴Wartime development in trade union organization in India, I. L. Review, Vol. 53. May-June, 1946

whereas I.F.L. had only 134 unions with 313,807 members.¹⁵

In 1946 the popular governments once again assumed power. The country was slowly getting adjusted to postwar conditions. The governments proposed the machinery of conciliation and arbitration for the peaceful settlement of the increasing postwar industrial disputes. They looked for support from labor organizations to carry out their program of work. The attempts of the Indian National Congress to transform the ideals of the A.I.T.U.C., then declared as the most representative organization of labor, to that of something near its own, ended in failure.

The executive and the general council of the A.I.T.U.C. were, according to the report of Mr. N. M. Joshi, the general secretary, composed of communist members. The Indian National Congress which won 65 per cent of the labor seats was out-voted in its attempt to secure a foothold in the most representative national labor federation by communists, who failed to secure even 25 per cent of the labor seats. The congress government faced great opposition in implementing its labor program. The communists used their dominant position in the national federation to great advantage. They seized upon the reactionary elements in labor

¹⁵S. C. Joshi, Report regarding representative character of the A.I.T.U.C. and I.F.L., 1946 (New Delhi Government of India from 1946) p.9.

and exploited the growing dissatisfaction arising out of the readjustment to postwar conditions by fermenting labor strikes.

The congress leaders had no love for the communists. Even when the communists formed the left wing of congress during their struggle for independence, there always existed a deep distrust between these two groups. During war, while the congressmen declared individual civil disobedience and opposition to war, the communists actively participated, directed by the Third International. The distrust between the two parties deepened and led to the expulsion of communist party from congress in 1945. The communist harassment of the nationalist government was very much resented and was expressed in a statement issued by Mr. Nanda, the secretary of H.M.S.S. "This is a critical period in the history of the country. To dislocate the productive organization of the nation in these times is to strike a blow at the life of the nation and its political integrity. It will not be easy to undo the economic damage or the political harm which the communist activity is causing from day to day if the mischief is not counteracted at once." ¹

There was a growing feeling on the part of congressmen that another central labor organization, independent of communists, was of immediate need. The H.M.S.S. was called upon to take the necessary initiative toward the fruitition

¹Congress and Labour Movement in India by P.P.Lakshman, p.155

of such an organization "which will strive to secure the highest benefits for the maximum progress of all categories and classes of labor while preserving the national spirit and outlook and which will conduct the struggle of the workers for improved standards and just conditions in accordance with the principles set out in the statement of the working committee of the Indian National Congress dated August 13, 1946 at Wardha."¹⁶

A conference was called in New Delhi for the third and fourth of May. Sardar Patel, the Deputy Prime Minister of India and also the president of H.M.S.S. presided while Mr. Kripalani, the president of the Indian National Congress inaugurated the conference. There were many invitees and among the prominent leaders present were socialist leaders like Dr. Ram Manohar Lohia, Sri Asoka Mehta and Srimathi Aruna Asaf Ali.

Mr. Kripalani in his inaugural address stressed the Gandhian ideals of labor and capital and urged active congress participation in the new organization. Sardar Patel in his presidential address explained the need for a new organization and hoped that this body would "provide machinery for coordinating the scattered forces of those

¹⁶ Statement by Secretary Nanda, Harijan Vol. XI, No. 16, May 18, 1947

who are in fundamental opposition to the communists in their approach to labor matters."

The conference at Delhi gave birth to a new organization known as the Indian National Trade Union Congress (I.N.T.U.C.) which adopted an elaborate constitution which described its goal. Section II of the Constitution deals with union organization.

- II. (i) To secure an effective and complete organization of all categories of workers, including agricultural labor;
- (ii) To guide and co-ordinate the activities of the affiliated organizations;
- (iii) To assist in the formation of trade unions;
- (iv) To promote the organization of workers of each industry in a nation-wide basis;
- (v) To assist in the formation of Regional or Provincial Branches of the Indian National Trade Union Congress

Section IV of the Constitution relates to Industrial Relations.

- IV. (i) To establish just industrial relations;
- (ii) To secure redress of grievances, without stoppage of work, by means of negotiations and conciliation and failing that by arbitration and adjudication;
- (iii) Where adjudication is not applied and settlement of disputes by arbitration is not available for the redress of grievances, to facilitate recourse, on the part of the workers to other legitimate methods including strikes or any suitable form of saty graha;

- (iv) To make arrangements for the efficient conduct and satisfaction and speedy conclusion of authorized strikes or satya graha.¹⁷

The setting up of the I.N.T.U.C. raised a storm of protest from other union leaders especially from communists. Dange, the communist labor leader, issued a protest saying that the I.N.T.U.C. was an attempt to split labor forces and that the formation of this rival union was bound to cause great harm to the cause of Indian Labor. Mr. N. M. Joshi, secretary of A.I.T.U.C., issued a statement alleging that I.N.T.U.C. was not a non-party labor organization as its constitution stated but was sponsored by interested congressmen. The A.I.T.U.C. complained loudly in their monthly bulletins (Trade Union Record, Oct, Nov. 1947 issues) of government partiality and deliberate encouragement of I.N.T.U.C. by providing special facilities.

The formation of I.N.T.U.C. caused confusion and consternation among the socialist labor leaders. They met on June 15, 1947 and the national executive of the socialist party decided that they would not support I.N.T.U.C. Shri Jai Prakesh Narain, president of the socialist party issued

¹⁷Congress and labor movement in India, by P. P. Lakshman p.157.

a statement announcing the withdrawal of the socialist party from A.I.T.U.C. In March 1948 the socialists announced the formation of a new labor organization known as the Hind Mazdoor Panchayat. In December of the same year they transformed their trade union Hind Mazdoor Panchayat into a national trade union organization and gave it a new name of Hind Mazdoor Sabha. The function of the new organization, according to the socialists, is to combine both the economic and political aspects of trade unionism. They hoped that they would be able to attract unions with steady membership and unions manned by officers drawn from the workers themselves. They also hoped to set up a model college staffed with labor experts for the purpose of training workers for leadership and also set up a labor research bureau similar to that of the American C.I.O. for the purpose of investigating labor problems. After three months of its existence, it claimed a membership of 380 affiliated unions and 618,802 members.

In May 1949 a group of non-party socialists founded another national labor union by the name of the United Trade Union Congress. According to its leaders Mr. K. T. Shah and Mrinal Bose, the U.T.U.C. would be a non-political body with no strings attached to the socialist party. They claimed a membership of 347,428 with 236 affiliated unions.

According to the Indian Labor Year Book 1949-50 the membership claims of the major federations were then as follows:

<u>Trade Union Federations</u>	<u>Membership</u>
All India Trade Union Congress	730,634
Hind Mazdoor Sabha	698,720
Indian National Trade Union Congress	1,431,878
United Trade Union Congress	<u>366,401</u>
Total	3,327,633

The schematic diagram on page 56A shows the split in the national federations and the present setup. There is a discrepancy in the labour figures quoted. This is because of the exaggerated claims made by the labor federations regarding membership.

ALL-INDIA TRADE UNION CONGRESS
(1920-1929)

SPLIT IN NAGPUR · 1929

INDIAN TRADES UNION
FEDERATION (1930-32)

ALL-INDIA RAILWAYMEN'S
FEDERATION (1921)

AITUC

CALCUTTA SPLIT · 1931

RED TUC

AITUC

NATIONAL TRADES UNION
FEDERATION (1933-38)

TRADE UNION UNITY
COMMITTEE (1931)

NATIONAL FEDERATION
OF LABOR (1933)

CALCUTTA · 1935

AITUC

JOINT COMMITTEE (GIRI)
PROPOSALS · 1935

INDIAN LABOR
ORGANIZATIONS
1920-1949

AITUC WITH NTUF AS AN
AFFILIATED UNIT · NAGPUR · 1938

AITUC
UNIFIED AT BOMBAY · 1940

INDIAN FEDERATION OF
LABOR (M.N. ROY · 1941)

1949

AITUC
(COMMUNIST)

INTUC
(CONGRESS ·
MAY 1949)

HIND MAZDOOR SABHA
(SOCIALIST ·
DECEMBER 1948)

1949

UNITED TUC
(INDEPENDENT-
SOCIALIST · MAY 1949)

CHAPTER II

The Trade Union Act and Government Protection of Union Organization

After the first world war the rising Indian trade union movement felt the strong need for protective labor legislation. The lack of such legislative protection was felt in 1921 when a suit was launched against the Madras labor union by the Buckingham and Carnatic Mills for instigating the workers and dissuading them from work. The mills filed a claim for the losses which occurred because of work stoppages and applied for an injunction which the Madras High Court granted.

The action of the Madras High Court brought a volley of protests from trade unionists in the country and also of those in England. The secretary of state for India was notified of the labor injunction and the need for protective legislation for trade union purposes was stressed.

Mr. N. M. Joshi, who is sometimes called the "father of the Indian labor movement" introduced in the Indian Legislative Assembly in 1921 a resolution calling for legislation for the registration and protection of trade unions. It was not until the year 1926 that such a trade union act was enacted and on the first of June 1927, the Trade Union Act, 1926 came into force. The Madras labor union was

indirectly responsible for the legislation of the Act. The Act was amended in 1928 and 1942, but no important changes were introduced in the Act until the year 1947,¹ when the country attained complete independence. The Trade Union Act, 1926 is still the basic law.

Under the Trade Union Act, 1926, a trade union is defined as "any combination whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or for imposing restrictive conditions on the conduct of any trade or business and includes any federation of two, or more trade unions." This definition allows even employers' organizations to register as trade unions. Available information shows that there were no fewer than 72 employers' organizations which had registered themselves as trade unions.²

The Trade Union Act of 1926 can be looked upon as consisting of three major divisions. The first section deals with the problem of registration of trade unions. The law requires the provincial governments to set up a separate department under the Registrar of trade unions who is empowered to register them for the purpose of the law.

¹The Indian Labor Year Book 1947-48, p.72

²The working of the "Indian Trade Union Act, 1926 during 1947-48" Ministry of Labor "Labor Bureau Government of India" p.2

Seven or more members of a trade union may combine and apply for registration. So long as they do not violate the provisions set up in the law, they are eligible for registration. The statutory provisions call for a regular constitution, proper audit of accounts and admission of new members, etc. Sec. 22 of the Act states that the executive body of a registered union must be composed of at least fifty per cent by persons who are actually engaged or employed in the industry with which the union is concerned.

The original act provided for the cancellation of union registration, but there was no provision in the act for appeal against the decision of the Registrar, who was the final authority. This provision was amended later in 1928 to provide appeal against the decisions of the Registrar.

The second section deals with rights and privileges of a registered trade union. The important thing to be made clear here is that the Trade Union Act does not provide for compulsory registration of trade unions. Registration under the Act is purely voluntary. The Act provides immunity against civil and criminal laws. The officers and members of a registered union are not liable to punishment under the present criminal law of sub section 2 of section 120B of the Indian Penal Code which deals with breach of contract as criminal conspiracy. Legitimate trade union activities like combining into trade unions for collective action and

pressing labor demands through the use of strikes weapon were legalized. No suit or legal proceedings can any longer be maintained against the officers and members of the union for any act done in contemplation or furtherance of a trade dispute on the ground that is an interference with the trade subjecting it to serious loss. The Act provides immunity in respect of any tortious acts of its agents if committed without the knowledge of or contrary to the express instructions given by the executive of the union.

The third section deals with liabilities and obligations of the registered unions. Unions enjoying this legal immunity are subject to certain obligations. A limitation on the use of general union funds is the important one. The use to which the general fund can be put include secretarial and management expenses, legal costs in suits against the unions or its members, expenditure in trade disputes, or social insurance and mutual benefits and the cost of publication of journal or books. The general fund is not to be used for political purposes. But provision is made to raise a separate optional fund for the promotion of civic and political interests of its members, provided the contributions to such a fund are voluntary and do not put any non-subscriber in a place of disadvantage.

The Act requires all registered unions to submit annual audited union accounts with respect to receipts and

expenditures, assets and liabilities in a form prescribed for the purpose. A general statement showing any changes made either in office bearers or rules and regulations during the year is to be submitted annually. The account books of the union are to be kept open for inspection of any officer or member of the union. Changes in the name of the organization, amalgamations, dissolution or alteration in the rules are to be reported immediately to the Registrar. The Act provides penalties for failure to submit returns required under the Act and also falsifying any information submitted.

Another important section of the Act is section 29 which deals with decentralization of powers. The state governments have been delegated authority to make their own regulations for putting into effect the provisions of the Act. Sub-section (2) of section 29 specifies the area to be provided for in these regulations. They are:

- a) The manner in which Trade Unions and the rules of Trade Unions shall be registered and the fees payable on registration;
- b) The transfer of registration in the case of any registered Trade Union which has changed its head office from one state to another;
- c) The manner in which, and the qualifications of persons by whom the accounts of registered Trade Unions or of any class of such unions shall be audited;

d) The conditions subject to which inspection of document kept by Registrars shall be allowed and the fees which shall be chargeable in respect of such inspection; and

e) Any matter which is to be or may be prescribed.

This section has been subject to severe criticism. Because it establishes concurrent and overlapping jurisdiction, there is bound to be confusion and contradictory action.

The Indian Trade Union Act, 1926 gave statutory recognition to trade unions for the first time. The Royal Commission¹ in 1931 found that the stimulus resulted from the Act was not so much from any rights and liabilities that it created, as from the enhanced status given by the recognition of trade unions in the statute book.¹ Registered unions in particular have gained in the eyes of the public and employers and even unregistered unions have benefited from the greater confidence given to the movement as a whole. The Act gave the unions stability and an enhanced sense of responsibility.

After the Act many employers refused to recognize and deal with unions that were not registered. This refusal by the employer was a compelling force on the part of unregistered unions to seek recognition and status by registering under the Act. Even the extremist union like the Bombay Girni Kamgar union (Red flag) was forced to register. In

¹Report of the Royal Commission on Labour in India (London, H. M. Stationery Office 1931)

the circular issued by the Government of India on trade union registration, the government hoped that if the unions were enabled and encouraged to define their objects, methods and organization by adopting a regular constitution, they would take a step in the right direction toward a strong trade union movement. It could be said that the procedural requirements set up in the Act had helped many unions to regularise their administrative functions and thus exist as a permanent organization for the benefit of workers.

When the Act first came into force, a considerable number of unions were unwilling to register under it.³ Probably this was due to the fact that under the Act there was restriction on the use of the general funds of the union and at this period the political organizations had considerable influence on the unions. Also the unions were considerably suspicious of the British Government in control of India. The Registrar had extraordinary powers regarding registration and cancellation. No provision for appeal against the decisions of the Registrar was provided. Some unions were quite apprehensive that whenever it suited the government it might extend recognition and whenever it felt the union was acting against the interest of the government, it could have the registration cancelled. No justice was possible under the Act as it stood.

³Industrial Labor in India, I.L.O. Publication 1938, p.110

The Royal Commission in its report on the Trade Union Act made a series of recommendations. The Act, the commission stated, should be reexamined at least once in three years and reconsidered in the light of its working. The commission felt that such a revision would remove all suspicions and make it easy for all well conducted bona-fide unions to apply for registration. Among the most important recommendations of the Royal Commission are that the government should undertake all union audits by their own auditors free of charge; the proportion of outsiders in the union executive be decreased to 25 per cent; and the unions must be encouraged to run their own co-operative society activities.

Even after the enactment of the Trade Union Act, for many years only a small proportion of the total working population in India was organized into trade unions. The Royal commission in its findings on the working of the trade unions came to the conclusion that the membership figures on the books of many unions were highly questionable. Membership was loosely defined and books showed members who long ceased to be paying members.

The Indian trade union movement development presented many obstacles. The first and foremost among them was the migratory character of the bulk of the Indian labor. There were frequent changes from one industrial centre to another and also changes of employers in the same place. This ruined

their chances for sustained interest in any labor organization. The commission found that "the present conditions of industrial life in India are not conducive to the unflagging endeavor which proved so necessary in the west for the maintenance of trade unions; those whose wages and leisure are barely adequate for sustained work in the factory are not likely to find energy or leisure for activity outside it."¹ The strength of the union movement in any local area was directly tied down to whether or not the labor force was drawn from the surrounding rural agricultural areas or not.

The second major obstacle was the abject poverty of the worker. Even a small subscription could be an appreciable burden on the poor worker since most of them were eternally in debt. Collection of union dues was and is still never an easy matter in India. Except in times of great stress, few unions were able to secure adequate funds without external assistance. Added to this India presented a peculiar problem probably not known to the western world. India is a country of many languages and diverse customs. The differences in languages and communal differences are serious difficulties in union formation.

The Royal Commission found two serious fundamental deficiencies in trade unionism in India - a lack of democratic spirit and education. The former was as a result of the latter. The worker could not be persuaded of the long-term benefit

¹Report of the Royal Commission on Labour in India, p.321.

of a strong and well organized union. The worker was uninterested in anything that did not produce immediate returns. He was reluctant to pay any union dues except when a dispute was imminent or in progress.

The Royal Commission found that the need for organization was still very great. Commenting on the need for internal strength, the commission observed, "Legislation can act as a palliative and prevent grave abuses, but there are strict limitations to the power of government and the public to protect workmen who are unable to protect themselves. Labor laws, indeed, find one of their most effective sanctions in the support of organized unions. Other forms of organization such as work councils and work committees, serve a useful purpose when employers are well disposed, but they cannot be a substitute for trade unionism. Machinery such as industrial tribunals and conciliation boards can assist labor, but its operation is seriously hampered without organization. It is in the power to combine that labor has the only effective safeguard against exploitation and the only lasting security against inhuman conditions."¹

The commission also observed that there was practically no obstruction to union formation. "The importance of developing healthy trade unions is denied by practically none. Government had declared its policy to be one of

¹Ibid., p.322

encouragement, and a great majority of employers appearing before avowed a similar aim; while a minority of employers are frankly opposed to trade unions we have been struck by the considerable measure of unanimity on this point on the part of responsible employers' organizations and individuals, including officials in charge of government establishments."⁴

On the contrary the unions have bitterly complained of employer opposition to a healthy union organization. The employer opposition showed itself in victimization of active union members and refused to recognize the registered unions as a bargaining agent for their employees. The Royal Commission referring to the attitude of some employers remarked, "In many cases we found it difficult to ascertain what active steps had been taken to encourage the growth of healthy trade unionism whilst the attitude of some employers in their dealings with trade unions was singularly ill-calculated to secure that end."⁴ The report on the textile enquiry committee Bombay found the statement of the Royal Commission with fair accuracy depicted the attitude of employers in the textile industry of the province of Bombay.⁵

There were a number of allegations made by labor organizations of unfair labor practices by the employers.

⁴Royal Commission Report, p.323 , 1931

⁵Bombay Textile Enquiry Committee Report, p.940, p.373, 1941

These labor allegations struck a sympathetic note in both the public and government circles. Labor charged the employers with victimization, starting rival company unions, fomenting communal differences among workers aimed at splitting the workers from powerful combinations, using systematic espionage, employing goondas as strike breakers and lastly with trying to bribe weak union leaders. Such alleged employer opposition to the promotion of healthy unionism is not peculiar to India alone. In the early attempts at union organization and solidarity, every country had to face this ugly spectacle. But in the industrialized west, there was early realization of the importance of the development of strong unions and improved industrial relations. Governmental steps were taken soon enough with a view to promote healthy organizations. India, being a subject country till 1947, had to face serious difficulties because of the unsympathetic government for such development. The labor felt that they had to contend with two opposing forces, an unsympathetic government and a hostile employer.

Among the labor charges the most important ones are victimization and refusal of union recognition for collective bargaining. Because of their importance on union organization, they need elaborate treatment.

a) Victimization

Victimization is blacklisting of employees who have been active as union organizers or those who wield considerable influence with the unions and are at the same time union sympathisers. This is an effective weapon of the employer for the suppression of union activity. This is especially a powerful weapon in India because of its abundance of labor supply. Commenting on the security of employment and fear of victimization, the labor investigation committee report (1946) observes, "Our surveys show that a majority of the workers, in organized and unorganized industries alike, barring a few exceptions such as cotton textiles, engineering, etc., are more or less on a temporary basis, with the result that there are constant fears of losing their jobs. Even in the case of the so-called "permanent" workers, the workers seldom enjoy security of employment and are liable to be discharged at short notice at the sweet will of the employer or his subordinate officers."⁶ The Bombay Textile Enquiry Committee in its final report observes, "The workers and their representatives who gave evidence before us in Bombay stated that the chief of these difficulties (in effective trade union organization) were the hostility of the employers, their refusal to

⁶ Labor Investigation Committee Government of India Main Report, 1946, p.371

recognize the unions and the fear among the workers of being victimized for associating themselves with trade union activities."⁷ The enquiry committee reports of Mr. Khandubhai Deasi, for a long time secretary of the Ahmedabad textile union of having said that "even in Ahmedabad Trade unionism had a chequered career during the last two decades of its existence and no employer, with the exception of one or two, in spite of existing agreements, had allowed a union to be formed without resistance, victimization and strikes." In the annual report of the Ahmedabad Textile Labor Association for 1936-37 an important observation regarding victimization was noted. The report reads: "The most powerful factor discouraging the spread of labor organization is the fear of victimization. It is no idle or imagining fear. The Association has paid out Rs 45,000 in the shape of 'victimization benefit' during the last 10 years. Not a step can be taken in the direction of extending the union membership without provoking mass dismissals and large scale victimization."⁸

The literature on cases of victimization is abundant. It became clear for the leaders of the congress party which

⁷Bombay Textile Committee report Bombay 42-43. p.373,374

⁸Radhakamel Mukerjee "The Indian Working Class" Bombay 1951. p.359.

had set up popular governments in 1937 that labor grievances were genuine and needed immediate legislation for the protection of union organization. Bombay Province, being the most highly industrialized one in the Indian Union, gave a lead to the rest of the provinces. Mr. G. L. Nanda, who was then the labor minister in the Bombay Government, was for many years connected with the Ahmedabad Textile Labor Association. He is a great believer in Gandhian ideals of truth and non-violence in the labor movement. Through his efforts the Bombay Industrial Dispute Act, 1938 was enacted which recognized victimization as a deterrent to union formation and took steps to illegalize it (see Industrial Relations for details).

b) Union recognition

The Indian Trade Union Act of 1926 gave the registered trade unions a legal status and its members immunity from criminal and civil laws. But it did not carry with it the obligation of the employers to agree to bargain collectively. The employer more often refused to negotiate with a non-registered union and this refusal proved an incentive to many unregistered unions to seek recognition of the employer by registering under the Trade Union Act. The registered unions also labored under the same difficulties of recognition and the employers' reluctance to bargain.

There has been widespread controversy over the question of "recognition" of trade unions by employers. According to the Royal Commission the word recognition originated from the government recognition rules which were framed in the year 1920 to regulate the relations between government and its employees. Before the formulation of the Recognition Rules, the government servants were prohibited from submitting "collective memorials and petitions." Unions conforming to these rules were formally "recognized" for conducting negotiations with government on behalf of their members. The government also conceded the principle of the right of their employees to have outsiders as leaders.

The employers in private industry tended to adopt similar methods because the pattern was already set with regard to negotiations. The private employers began to set down acceptance rules as a condition of recognition similar to the one laid down by government in their Recognition Rules. To an enquiry from the Bombay Government to the Bombay Mill-owners' Association as to the conditions under which they would be prepared to give recognition to trade unions, the mill owners' association had set down the following conditions:¹

1. The employers organization should not be called upon to recognize any labor union which was not prepared to agree to make strikes the last weapon in its armoury instead of the first

¹Textile Labour Inquiry committee Report, Bombay 1941, p.377

2. The union receiving recognition should not encourage class war
3. The views held by some of the officials of a trade union on the political or economic structure of society ought not to influence the working of the union as such
4. The union must be registered under the Trade Union Act
5. The union should be run and controlled by actual mill workers
6. A strike should not be called unless a ballot had been taken previously and not less than two thirds of votes cast and not less than 50 per cent of the workers involved were in favour of a cessation of work.

The requirements of the union as a condition of recognition by many employers would run similar to that stated by the Bombay Millowners' Association. The G.I.P. railway, modeled on the Government of India rules framed its own "Recognition Rules" i.e., terms and conditions to recognition of the union of employees of the G.I.P. railway. Many such cases can be cited regarding conditions as a necessary requisite for recognition.

The Royal Commission found that the word recognition was a much misunderstood concept. "Some seem to think that 'recognition' means that the employer recognizes the right of the union to speak on behalf of all his workmen or at any rate all the classes for which the union caters." The commission held that it was an erroneous concept and

states its definition of recognition as "In our view recognition should mean that the employer recognizes the right of the union to negotiate with him in respect of matters affecting either the common or the individual interests of its members...Recognition in the letter must be followed by recognition in the spirit, by a readiness to discuss sympathetically points put forward by the union by accessibility to its officers and by willingness to let them have credit where it is due."⁹

In the award of the Industrial Tribunal in Madras in 1947 the adjudicator observed in regard to a labor demand of recognition of unions by the employer, "The management and representatives of the union meet several times, discuss many problems and they are even prepared to carry on correspondence with the secretary whoever he may be, and yet they do not want to say that they will recognize the union - a peculiar attitude, with no ostensible reason - except perhaps, prestige."¹⁰

The concept of recognition is still very vague both in the minds of the unions and employers. Recognition, the Royal Commission report stated, could not be denied either on the plea that a union embraced only a minority

⁹ Report of the Royal Commission on Labor in India, pp. 323-324.

¹⁰ Award in Textile Industry in Madras Presidency Madras, 1947, p.57.

of the workers as members or there was already an existing union. The concept of multi-union representation in a plant has been responsible for the whole confusion regarding recognition. The Commission strongly held the view that compulsory recognition by statute would be as harmful as the employer putting conditions before recognition because recognition may mean much, but it may mean nothing. No law can secure that genuine and full recognition."¹¹

In the case of an economically strong and well organized union, the problem of recognition is of little importance because it is in a position to enforce it. But the problem is of significance only when the union strength is weak and there is a genuine grievance. The Royal Commission was emphatic on the view that recognition to be effective must be based on reason and not on force. The multi-union representation in a plant should not be a concern of the employer but should be the concern of the unions because all unions recognize that combination is strength.

The employers always looked to the government pattern of its relation with its employees as adequate for their dealings with their employees. But the government did not approve of the private employers following their pattern

¹¹Royal Commission Report on Labor, p.324

and required of them a different treatment and standards. The employers' reaction to recognition and the government's concern over the issues raised by them point to the path of future labor legislation. The employers were unanimous on the question of granting recognition to trade unions, but they felt that the trade unions lacked many desirable features that made them unacceptable. Many conditions were put forward as prerequisites for recognition. The two most important ones were the problem of the outsider and the amount of representation of employees in the union before it could claim recognition. The former is discussed below while the latter is discussed under industrial relations.

The problem of the "outsider"

The most common and invariably the most important controversial demand on the part of the employer has been the elimination of the "outsider" from the labor union. It has been the feeling of the employers that outsiders are superfluous and disturbing elements in the labor organizations. Their arguments are as follows. The labor unions have long served as stepping stones to young and aspirant men for political life. Because the outsiders' interest in the labor movement is only temporary, they are usually out to exploit the already existing dissatisfaction, discontentment, low wages and other minor grievances by prolonged and costly strikes. Most of the major

strikes were conducted by outsiders and the failure to reach an early and honourable settlement was always because of outside element looking to short term popularity. The employers deplored the mischief of outsiders preaching the doctrine of class struggle and widening the gulf between labor and management.

Employers distinguished two different types of outsiders, one employed as a paid labor official and the other who is a social worker. The latter type was the most dangerous because he was an opportunist playing on the sympathies of ignorant and illiterate workers posing as selfless leaders and looking for popularity.

The outsider usually does not fully comprehend the labor problems because of his ignorance of the nature of industry and working arrangements. This ignorance may lead him to indifference and irresponsibility in trying to arrive at a settlement in labor disputes.

There is also another important type of labor leader about whom the employer is often concerned. There are the ex-employees of the organization. Especially the dismissed employer, who becomes a labor leader is likely to be malignant whetted more by a sense of his own grievance than by a desire for the welfare of others. These leaders may be a severe trial even to the most sympathetic employers.

Since the pattern for the private employer was always set by the government in its relationship to its employees, it is quite appropriate to record as to how this outsider problem was handled by the Provincial Governments. Until 1920 outsiders were legally prohibited to be members of a union of government employees. In 1920 the Government of India conceded the right of outsiders to participate in union activities. But this concession was only in name. The Provincial Governments adopted their own devices for keeping outsiders out of government employee unions. The Bombay Government refused to recognize the Government Poens' and Menial Service Union on the ground that it contained outsiders as office bearers. The general secretary of the Trade Union Congress in his report at the 9th session accused the government of forcing the Cordite Factory Labor Union, Aravankadu and the Bombay Telegraph Workmen's Union to sever their connection with the Congress. Defending this action Sir E. Atkinson stated before the Royal Commission that such a step was necessary because of outsiders in the union.

Even though the inclusion of outsiders in the executive body of the union was hotly debated, the intensity of it began to wear off as time went by. The Trade Union Act legally permitted 50 per cent non-union members in the executive. It is generally conceded in India that the

domination of the outsider is an inevitable thing in Indian conditions. The worker is illiterate, afraid of victimization for union activity and there is lack of training for leadership. The initiation and active organization work has to come mainly from outside labor ranks.

Trade Union Recognition Act, 1947

There was an important amendment to the Trade Union Act, 1926 known as the Trade Union Recognition Act, 1947. This was a result of the Trade Union Amendment Bill, 1943 adopted by the central legislature for circulation to elicit public opinion for the need of providing compulsory recognition of unions. Until 1946 no action was taken. After the interim national government assumed power Hon'ble Jagjivan Ram, then labor minister indicated that the government was contemplating a statutory provision for compulsory recognition. In 1947 it became law.

The main features of the Amended Act, 1947 are

- (a) Imposition of an obligation on the employer to recognize trade unions fulfilling certain specified conditions.
- (b) The establishment of labor courts to hear and decide disputes arising out of the refusal by employers to recognize particular unions
- (c) The specification of certain acts as unfair practices on the part of recognized unions and employers
- (d) The provision of penalties for unfair practices.

When a registered union fails to get recognition within three months of making an application for recognition, it may appeal to a labor court. The labor courts are special courts to be set up by appropriate governments for dealing with recognition issues. The composition and special powers of the labor courts are defined in the Act. The labor court can issue orders directing recognition by the employers.

The recognized union has the right to negotiate with employers in respect of matters connected with employment, non-employment, the terms of employment, condition of work for all or any of its members. In other words it becomes a certified union for collective bargaining but not an exclusive bargaining agent.

Section 28G deals with the withdrawal of recognition of unions. The Registrar or the employer may apply in writing to labor court for withdrawal of recognition on any of the following set of conditions

- (a) That the executive or the members of the trade union have committed any unfair labor practice
- (b) That the trade union has failed to return the required regular returns
- (c) That the trade union has ceased to be representative of the workmen.

The registered union which has been taken out of the list of recognized unions may apply for recognition

after a period of six months after withdrawal.

Chapter IIIA of the Amended Act, which deals with the recognition of trade unions, imposes several conditions on trade unions, the fulfillment of which is necessary before they are recognized. The conditions are:

- (a) That all its ordinary members are workmen employed in the same industry or industries closely allied to or connected with one another;
- (b) That it is representative of all the workmen employed by the employer in that industry or those industries;
- (c) That its rules do not provide for the exclusion from membership of any class of the workmen referred to in clause (b);
- (d) That its rules provide that a meeting of its executives shall be held at least once in every six months; and
- (e) That it is a registered Trade Union, and that it has complied with all the provisions of the Act.

There is another important provision of the Act which relates to fifty or more per cent of government employees. Any union which consists of workmen more than fifty per cent of whom are employed by the central government or railway administration or a major port, mine or oil field, for the purposes of dealing with the union, it would be considered as a Trade Union consisting of workmen employed by the central government or by railway administration or in a major port, mine or oil field.

Chapter III B deals with unfair practices and they are as follows:

"On the part of a recognized union it would be an unfair labor practice

- (a) For a majority of the members of the Trade union to take part in an irregular strike;
- (b) For the executive of the trade union to advise or actively support or investigate an irregular strike;
- (c) For an officer of the trade union to submit any return required by or under the Act containing false statements.

On the part of Employers, it would be an unfair labor practice

- (a) To interfere with, restrain or coerce his workmen in the exercise of their rights to organize, form, join or assist a trade union and to engage in concerted activities for the purpose of mutual aid or protection;
- (b) To interfere with the formation or administration of any trade union or to contribute financial or other support to it;
- (c) To discharge or otherwise discriminate against any officer of a recognized trade union because of his being such an officer;
- (d) To discharge or otherwise discriminate against any workman because he has made allegations or given evidence in an enquiry or proceeding relating to any matter such as referred to in subsection (i) of section 28E;
- (e) To fail to comply with the provision of section 28F."

The compulsory recognition amendment was never put into operation. No labor courts were set up as laid down by the Act. It was hoped by the government that the new amendment would contribute substantially to the strengthening of the trade union movement in India. The trade unions did not receive the Act kindly. It was felt that conditions laid down for trade unions seeking recognition were rigid and the rights granted inadequate. Nobody seems to know the exact reasons for not bringing the Act into force. Nothing is found in the literature. It is a good guess to assume that the unions were as much afraid to press for recognition under the Act as the employers probably were. In the regular publication of the Trade Union Act of 1926 corrected up to date, the recognition amendment has been omitted to indicate that the amendment never received official sanction by the issue of a Government notification.

CHAPTER III

Industrial Relations Legislation

The strength of an industrial union varies after every industrial dispute depending upon the results. If the union emerges victorious, its cohesiveness and strength as a collective bargaining unit is stepped up. The esteem of the union leaders in the eyes of their fellow members is enhanced. This situation is especially relevant to Indian situations because of the marked unbalance in the economic position of these two organizations and their leaders. Because of this wide gap in the economic strength, even if the trade unions are successful in getting minor demands approved by the powerful employers' union, their membership receives a big boost. The reverse is equally true. If a strike sponsored by a union is to end without the employer fully conceding the labor demands, there will be a rapid decline in union membership. It would be, usually, several months before the union could regain its lost confidence and membership. Since the industrial disputes and their resolutions contribute so much toward a healthy development and ultimate stability of the trade unions, the study of industrial relations in its relation to union growth becomes very important.

Prior to the first world war, strikes in India were a rare occurrence. This was because there was no effective leadership or organization. After the war the strike situation became quite serious and attracted a lot of public attention. The State of Bombay being much more industrialized experienced a wave of strikes. According to the Royal Commission, by winter 1920 industrial strike became almost general in organized industry. The Commission observed "the main cause was the realization of the potentialities of the strikes in the existing situation, and this was assisted by the emergence of trade union organizers, by the education which the war had given to the masses and by a scarcity of labor arising from the expansion of industry and aggravated by the great epidemics of influenza."¹

Behind the immediate causes, however, wider influences were at work. "The great outbreak of strife after the war had obvious economic causes; a rise in wage levels was overdue, and the workers awoke to the disabilities from which they suffered in respect of long hours and other matters."²

¹Royal Commission Report p.333

²Royal Commission Report p.334

The postwar strike intensity was aggravated by the intensive political agitation during the years 1920-21. Strikes were organized by political leaders and in their opposition to government they intensified the disputes that were economic in origin. In Assam Tea Gardens in 1921 a dispute rose because of the failure of the tea industry to raise wages to keep pace with the cost of living and this situation was completely exploited for political reasons.³ The Royal Commission found that there was rarely a strike of any importance which was not entirely or largely due to economic reasons even though there were nationalist, communist or commercial influences.

It is necessary to review briefly the methods adopted to prevent and solve labor disputes before the passage of labor legislation to fully comprehend the development of legislative enactment in India.

Early settlements in labor disputes

In the year 1920 the Government of India formed "works committees" in various state and central undertakings modelled on the British pattern. It also directed public attention to the potentialities of works committees as a means of preserving industrial peace. Many private industrial concerns undertook similar moves. The Royal

³ Bulletin of Indian Industries and Labor: Industrial Disputes in India 1921-28, pp. 4,5.

Commission found that works committees were working with considerable success in the Buckingham and Carmatic Mills at Madras. The Commission observed that the results achieved through works committees generally were disappointing. There were doubts in some employers' minds as to the suitability of works committees for Indian conditions. They based their argument on the small measure of success achieved by works committees. The Commission found that "in the minds of many employers there is the belief that works committees will provide a substitute for trade unions, while they are regarded by trade union leaders as rival institutions deserving of no encouragement."⁴ The Commission expressed its belief that if proper encouragement was given to works committees, they could play a great part in deepening the understanding between employee and employer.

The Royal Commission noted with satisfaction the conciliation machinery set up by the Ahmedabad Textile Labor Association, the working and development of which was described earlier. The Ahmedabad trade union movement was directed by Gandhiji's followers of non-violence. The popular governments after resumption of power directed labor legislation based on the workings of the Ahmedabad union.

⁴Royal Commission Report, p.342

In the early industrial disputes, the Indian National Congress took considerable interest in the settlement of disputes.¹ Whenever disputes resulted in a deadlock leading to a possible strike, the unions appealed to the congress president or other responsible congress leaders to step in and resolve the issues. The congress leaders readily responded as conciliators and mediators between the parties. They employed several methods to make their mediation effective. They issued public statements regarding the dispute, urged appropriate governments to appoint courts of enquiry and brought pressure on the employer indirectly by other methods. Relief funds were organized to help the workers on strike. When the disputes assumed serious situations, in such difficult times the efforts of an individual congressman might seem hopeless. An appeal was always made to the working committee to handle such difficult and complex situations. The congress working committee would study the details as reported by congressmen and suggest a possible solution for settlement.

The congress working committee was fairly successful in bringing out a settlement. There were also times when congress intervention was taken for uncalled for intrusion and led to strong repressive methods by the management aided by the local police. Such a situation arose in 1927 when congress intervention failed to bring about a settlement

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between the employees and employers of Burma Oil Company at Madras. Unarmed workmen were shot upon, which provoked severe public resentment. The congressmen organized civil disobedience to indicate the right of workers to organize and strike to achieve their demands, The working committee intervened passing a resolution in sympathy for the cause of the strikers and urging the Madras Legislature to organize civil disobedience as a protest against government repression.

There are a number of cases where either individual congressmen, heads of provincial congress committees or the working committee intervened on behalf of the workers for an honourable settlement. In the strike in Golmuri Tin plant in 1929 the intervention of prominent leaders like Gandhiji, Motilal Nehru, Dr. Rajendra Prasad and many others failed to bring a settlement. The working committee took the responsibility on itself and went so far as to prevail on the local and central governments to repeal the special amenities granted to the employer in an effort to force the employer to settle through arbitration.

Thus congress intervention on behalf of weak unions fighting for a just cause supplied the necessary strength to fight the economically strong employer.

During 1919 and 1920 first attempts were made in Madras by the appointment of formal bodies for the settlement of labor disputes. On four occasions courts of enquiry, consisting of an official chairman and one member of each of the contending parties, were appointed. The courts seemed to have had a fair amount of success. No such courts were appointed after 1920 in Madras. Bombay and Bengal followed the example of Madras in the year 1921 setting up representative committees for settlement of industrial disputes.⁵

The Bengal Committee rejected all schemes which sought the due process of law to enforce findings as inapplicable to Bengal and advocated the settlements through joint committees of employers and employees. It emphasized that the parties should agree on the need for setting up boards of conciliation. In case of public utilities a board of conciliation should be set up on the application of one or both of the parties or by government on its own initiative. In no case, the committee stated, should the boards seek legal sanction for enforcement of their decisions; they should rely on the strength of public opinion to provide the necessary inducement for adoption.⁶

⁵ Royal Commission report p.339

⁶ Labor Gazette, Oct. 1921, pp.26-27.

A conciliation panel in public utility services was formed and reconstituted every year until 1929, but its services were never utilized.

The Bombay Committee favoured legislation for the establishment of courts of enquiry and to be followed by courts of conciliation if found necessary. A court of enquiry was to be composed of a chairman selected from a panel constituted for the purpose and three representatives each of the employer and the employee. In the case of public utilities, the court was to consist of a chairman, drawn from the Panel as before, and three representatives each of the government, the employees and the public. This is to be followed by a court of conciliation if found necessary. While the courts of enquiry could be formed on the request of either party, a court of conciliation could be formed only on the request of both the parties. No immediate action was taken on the recommendations of the committee.⁷

Trade Dispute Act, 1929

As already stated 1928 was a year of great industrial unrest. In 1929 the first legislation which related to the settlement of industrial disputes was enacted, Trade Dispute Act. The Trade Dispute Act embodied in it the recommendations made

⁷Labor Gazette, April 1922, pp. 22-23.

by the Bombay Committee by setting up courts of enquiry and courts of conciliation. The court of enquiry was to be constituted on an ad hoc basis with an independent chairman and one or more independent members as thought fit. The board of conciliation was also to be on ad hoc basis also and would consist of a chairman and one or more independent members. The Act prohibited strikes and lockouts in public utilities without giving previous strike notice. It prohibited any strike or lockout which had no other object other than the furtherance of a trade dispute within a trade or industry. It made illegal any move to promote, support and finance an illegal strike or lockout.

There are a number of defects in the Act. It did not contemplate a permanent industrial court. There was no provision in the Act for the enforcement of the decisions or findings of the industrial courts. It was left to enlightened public opinion to bring the necessary pressure on the contending parties the desire for mutual settlement. The Act was designed more to handle the immediate strike situation and lacked any long term provisions designed to find a solution for promoting industrial harmony and the growth of trade unions.

According to the Royal Commission, the Act had been used only 3 times up to the end of 1929. In 1938 Mr.

Jamnadar Mehta, a prominent labor leader, charged the central government of having deliberately shied away from the use of the provisions of the Act. The government member replied that out of six cases admitted only in two cases, a conciliation board and a court of enquiry were appointed, while four other applications were rejected. At any rate the Act was never in general use in any part of the country.

Bombay labor legislation

Bombay Province being more highly industrialized than other provinces in India has been much more progressive in labor legislation. It took a lead in 1934 by enacting the Bombay Trade Conciliation Act, which was a more positive enactment than the Trades Dispute Act, 1929 of the central government. The Act was a result of two things. In 1934 the Bombay Government appointed a departmental enquiry which made recommendations for new labor legislation. The Royal Commission recommendations regarding industrial relations were still to be implemented in any labor law in the country.

The Trades Dispute Conciliation Act, 1934 was made initially applicable only to the textile mills of Bombay and immediate suburbs. It is the first time a permanent setup for conciliation was envisaged in an Act. The

Commissioner of Labor was named the ex-officio chief conciliator of the province. The Act empowered the government to appoint suitable persons as special or assistant conciliators. It authorized the conciliators to initiate conciliation proceedings in cases where a trade dispute existed or threatened. The Act further provided for the appointment of a government labor officer. He was "to watch the interests of workmen with a view to promote harmonious relations between employers and workmen and to take steps to represent the grievances of workmen to employers for the purpose of obtaining their redress." The labor officer was given special powers to carry on his duties efficiently and effectively. With proper notice, the labor officer could inspect any work place and call for any relevant documents pertaining to the grievances of workers.

The Bombay labor officer has done great service in industries where there are no unions. A controversy raged for years on the desirability of creating this function under government. The unions contended that the appointment of a labor officer was a handicap for them. The settlement of day to day grievances, the unions contended, was a legitimate task of a trade union, whose strength depended on the manner in which and the extent to which it

secured the redress of their grievances. The labor officer duplicating these functions of a trade union served to weaken the organization of unions. The government contended that even though the appointment of labor officers did not help the growth of trade unions, but certainly they did not retard the growth. A sympathetic and understanding labor officer could assist in the growth of the trade unions by working in close co-operation with the union. In places where there were no unions the government reported their services were of immense value.

The Bombay Industrial Dispute Act, 1938

The Bombay Industrial Dispute Act, 1938 replaced the earlier Act of 1934. This Act was a measure undertaken by the popular government set up under the Government of India Act, 1935. It incorporated many new features and ideas mainly drawn from the workings of the Ahmedabad Textile Labor Association. Mr. G.L. Nanda, who was for many years connected with the Ahmedabad Textile Labor Association and a firm believer in Gandhian principles of truth and non-violence in labor, was then the labor minister in Bombay.

The Act provided XI chapters and dealt exhaustively with the registration of unions, standing orders, conciliation, arbitration, strikes and lockouts. It was

a comprehensive labor law designed to bring improved industrial relations and for the first time also aimed at encouragement of the growth of unions.

The elaborate provision in the Act on registration of trade unions was a deliberate attempt to encourage their formation and promote their stability. When the bill was introduced in the Bombay legislature, there was vehement criticism of this section by labor unions. The registration, under the Trade Union Act, 1936, is intended to give the unions a legal status and nothing more. But the registration under the Bombay Industrial Dispute Act, 1938 was intended to give unions status as bargaining agents. Registration under the Act carried recognition by the employer.

The Act conceived of three classifications of unions for bargaining purpose. According to their classification their bargaining powers were limited. The classifications were based on their membership strength and also on the fact whether the union was recognized by the employer for bargaining purposes or not before registration.

The three classifications were:

- (a) Recognized union - a union which has been recognized in the prescribed manner by an employer or by an association of employers in any industry.

- (b) Qualified union - a union which has for a period of six months next preceding the application, a membership of not less than 5 per cent of the total number of employees employed in the industry or occupation.
- (c) Representative union - a registered union which has for the whole of the period of six months next preceding the date of application a membership of not less than 25 per cent of the total number of employees employed in the industry or occupation, as the case may be.

A registrar of unions was appointed to register the unions according to their classifications. The Act limited the number of unions in any one industry or occupation in any locality to one. But it admitted other occupational unions in industries where there was already a registered industrial union, provided that occupational union had represented more than 25 per cent members from that occupation. If two or more industrial or occupational unions applied for registration under the Act, the one that had the largest membership was registered and could replace the smaller one already in existence. No industrial or occupational union could be registered where there was already in existence a qualified union if the union seeking registration had for the whole period of six months next preceding the date of application a membership less than the qualified union.

Union representation and collective bargaining

For representation and negotiation on behalf of the workers, the unions were divided into two classes, qualified unions recognized by the employers and representative unions. A qualified union representing only 5 per cent of the employees and recognized by the employer could represent only if the majority of the employees affected by any particular change were its members. A qualified union which had only 5 per cent of the employees as members and not recognized by the employers could not take part in negotiations but was entitled to assist the representatives of the employees in all proceedings under the Act, when more than 50 per cent of its members were involved.

The representative union was one having at least a minimum of 25 per cent employees as members. No recognition of the employer was necessary for becoming representative unions. A representative union under the Act attained full certification as a bargaining agent. It could negotiate with employers in all cases, even when a change affected only a small portion of its members.

Any qualified union could become a representative union provided it could show a membership of a minimum of 25 per cent before six months of its application.

In case two unions having a minimum of 25 per cent sought to be recognized as a representative union, the one that had the largest membership was recognized.

The registrar was given special powers under the Act to refuse to register a union if he was convinced that the application for registration was not in the interests of the workers, but was intended for the benefit of the employers. These discretionary powers vested in the registrar were intended to check the growth or promotion of company unions.

There was criticism of the recognition provisions of the Act. The main objection was the elaborate procedure and the creation of different classification of unions for specified representation. The 25 per cent minimum for representative unions was thought to be very high. The cancellation provision regarding registration was also subject to attack. The provision stated that any union claiming a larger membership than the registered union would apply for the cancellation of the registered union. This provision, the unions contended, would generate rivalry forces and was bound to create a split in the workers' ranks. Some responsible labor leaders held the view the minimum of 5 per cent employer recognized unions would encourage the formation of rival company unions in spite

of the discretionary powers of the registrar. Their fear was based on the belief that it would be difficult to prove whether a union was a company union or not. But the working of the Act showed that the fear of company unions was unfounded.

The most important step taken by Bombay Government in the Act was the introduction of compulsory conciliation. The Act made it obligatory on the disputing parties to obtain a settlement through conciliation before resorting to economic measures.

Another important measure related to the "Standing orders." Standing orders are laws regulating the industrial relations between the employee and the employer with regard to all industrial matters. The industrial matters are described in the Act as follows:

"Industrial matter means any matter relating to work, pay wages, reward, hours, privileges, rights or duties of employers or employees, or the mode, term and conditions of employment or non-employment and includes

- (a) all matters pertaining to the relationship between employers and employees, or to the dismissal or non-employment of any person;
- (b) all matters as to the demarcation of functions of any employees or classes of employees;
- (c) all matters pertaining to any right or claim under or in respect of or concerning an agreement, submission or award made under this Act; and

- (d) all questions to what is fair and right in relation to any industrial matter having regard to the interest of the person immediately concerned and of the community as a whole."

All employers coming under the provisions of the Act were required to submit to the Commissioner of Labor standing orders for approval. The commissioner then would forward a copy to the appropriate unions. The unions desiring a change in a particular provision or addition of other provisions would have to notify the commissioner within a fixed time. Once it was approved by the commissioner, all the industrial matters were governed by the standing orders. The employer or the employees desiring a change should intimate both the government concerned authority and the other party governed by the standing orders. In cases where there was a dispute, it was referred first to conciliation, failing that to a board of conciliation and failing that to arbitration. A court of industrial arbitration was created to interpret law as it applied to specific cases and also to decide appeals in various cases arising out of the operation of the law.

Under the Act strikes and lockouts were made illegal under certain conditions.

Another important protection in the Act calculated to promote union development was the prohibition of victimization. The Act reads:

"No employer shall dismiss or reduce any employee or punish him in any other manner by reason of the circumstance that the employee

- (a) is an officer or member of a registered union or of a qualified union or of a union which has applied for being registered or declared as a qualified union under this Act; or
- (b) is entitled to the benefit of a registered agreement, submission or award; or
- (c) has appeared or intends to appear as a witness or has given any evidence or intends to give evidence in a proceeding under this Act; or
- (d) is an officer or member of an organization the object of which is to secure better industrial conditions; or
- (e) is an officer or member of an organization which is not declared unlawful; or
- (f) is a representative of employees; or
- (g) has gone on or joined a strike which is not illegal under the provisions of this Act."

The Bombay Trade unions were very critical of the Act ever becoming an instrument for encouraging the growth of trade unions and ensuring their independence. The first objection raised related to the principle of the introduction of compulsory conciliation. They argued conciliation by its very nature was voluntary and there was no need to introduce the element of compulsion. It was pointed out that the principle of voluntary conciliation

provided in the Central Trades Disputes Act, 1929 relating to trade disputes was scarcely availed of. The unions feared that they lacked the organized strength of the employers' unions. Since the final outcome of conciliation by state officials was to a great extent dependant on the systematic and forceful presentation of cases, the unions felt that they were not strong enough to meet the challenge of the employers. Their failure to present the cases forcefully might help perpetuate the existing conditions for the workers.

The second objection raised by the labor unions related to the provision that prohibited strikes and lockouts during the conciliation proceedings. They claimed that by depriving them of the strike weapon, the Act served to weaken the already economically weak unions. Two months were specified as a period after the completion of conciliation during which the unions could resort to their strike after this period. This two month period was considered very short and unsatisfactory. But of course there was a snag in the Act. If the unions were not able to strike during the two months, they could ask for another conciliation proceeding and extend that two month period to any length till they were ready to undertake a strike. Similar restrictions were imposed on employers also. But the unions brushed them aside, saying that lockouts

were rare and the employers were in a much better bargaining position.

In places where there were no unions, the Act made provisions for the election of five representatives for the workers and stated that in case such members were not elected, the duty of representation was to hinge on the labor officer. The Bombay textile enquiry committee admitted that "it is possible that if workers have to continue to depend on the good offices of a labor officer, however sympathetic he may be, their power of initiative and their spirit of self-reliance may suffer and consequently the development of a strong and independent trade union movement among them may be retarded." ¹

Between 1938 and 1947 three amended acts modified the provisions of the Industrial Dispute Act, 1938. All these amendments were introduced during the war period to cope with an emergency situation. The amendment introduced in 1941 empowered the government to refer an industrial dispute to the court of Industrial Arbitration if it considered that the dispute would lead to serious outbreaks of disorder, would adversely affect the industry concerned, or cause prolonged hardships to a large section of the community. The second amendment was introduced in 1942. It exempted the employers from notifying changes regarding hours of work and rest periods. The third amendment

¹ Bombay Textile Labour Enquiry Committee 1941, p.380

introduced in 1945 gave the power to the labor officer to convene a meeting of the workers at any time he chose on the premises, where they were employed. It was required by law for the employer to post notices of the labor officer announcing the meeting in such conspicuous places in the premises as desired by him.⁸

Bombay Industrial Relations Act, 1947

In 1947 after Indian independence the entire Industrial Dispute Act, 1938 was repealed and replaced by a new act known as Bombay Industrial Relations Act, 1947. The object of the new act was to facilitate a quick and more efficient disposal of industrial disputes and also to provide greater impetus and stimulus for labor to organize and strengthen their organization.

The new act retained many provisions and introduced many changes as a result of the experience gained during the working of the previous acts. It introduced two fundamental concepts in the creation of (a) an approved union; (b) compulsory arbitration.

Bombay Industrial Relations Act, 1947 abolished "occupational unions" and employer "recognized unions." But it created a new class of union, namely the "primary union."

⁸ A decade of Labor Legislation, I.L. Review, Vol. 59, p. 517.

in addition to the representative union and qualified union originally conceived in the act, 1938.

The concept of "Approved Unions" is new. Approved Unions are those which are prepared to take certain obligations in order to enjoy certain privileges. The obligations regarding internal organizations and administration are:

- 1) The membership subscription should not be less than 4 annas per month
- 2) Their executive committees shall meet at intervals of not more than three months
- 3) All resolutions issued shall be recorded in a minute book
- 4) Their accounts be audited every year by an auditor appointed by government.

Apart from these regulations regarding internal organization and administration there are two other important obligations, namely, a) every industrial dispute in which a settlement is not reached by conciliation shall be submitted to arbitration and government's reference of any dispute to arbitration will not be refused; b) no strike shall be sanctioned or resorted to until the provisions of the act have been exhausted and a majority of its members have voted in favour of a strike; c) a union may be removed from the approved list for failing to observe the specified conditions.

The special privileges granted to the unions are:

1. Union dues can be collected by union officers on the premises where wages are paid
2. Union is allowed to erect and use a notice board on such premises
3. Union can hold discussions with its members, or the employer on such premises
4. Unions are allowed to inspect places where their members work
5. The Approved union can apply for legal aid at government expense in important proceedings like proceedings before the Industrial Court or Labor Courts.

A representative union according to the Industrial Relations Act, 1947 is one which for the preceding three months has a membership of 15 per cent of the total number of employees in any industry in a local area. The figure of 25 per cent under the 1938 Act has been changed to 15 per cent under the new act. The recognition of the employer to a 5 per cent union to make it a registered union is withdrawn. Primary union is one which has a membership of not less than 15 per cent in any single undertaking and meeting the requirements for listing as an approved union. This can be registered only in an area where neither a representative union or a qualified union is registered.

The act empowers the selection of delegates in the following order of priority to represent employees.

1. A representative union for such industry
2. A qualified or primary union of which the majority of the employees concerned are affected by the change concerned
3. Any qualified or primary union authorized by the employees concerned
4. A labor officer authorized by the concerned employees
5. A five member committee elected by the employees
6. Subject to certain conditions, the labor officer.

It is also provided that an employee may be represented by any person in various proceedings under the act. The act also provides for the recognition of a combination of employees for representation in any proceedings under the act.

The new act retained the orders relating to the standing orders.

Another important innovation of the act is the establishment of labor courts. This is an institution entirely new to India. The purpose of these labor courts is to ensure quick and impartial decision with respect to illegal changes in standing orders or conditions of work. The government is empowered to appoint one or more labor courts with their jurisdiction defined. The labor courts may be constituted by such persons as the government may choose. The labor courts are competent to decide disputes relating to standing orders, and disputes referred to arbitration.

They can decide whether a strike or lockout is illegal; can try offences punishable as defined in the act. The court can order any employer to withdraw or carry out any change. Decisions of the labor court may be appealed to the industrial court.

Another important measure conceived in the act relates to joint committees. The formation of the joint committee is a purely voluntary measure and requires the unanimous consent of both the parties. This is designed to establish a direct and continuous touch in the day to day employer and employee relation. The joint committee may be constituted on the application to the registrar of either the employer or the union. If there is no representative union, a registered union having a membership of not less than 15 per cent of employees is necessary to set up a joint committee. In the absence of both, no joint committee can be set up. A joint committee shall consist of equal nominees of both the employer and the workers. The joint committee may suggest any change so long as the change suggested does not violate the provisions of the act. All suggested changes are to be notified to the union, employer, the labor officer and the commissioner for labor. In case of agreement for implementing the change, a signed memorandum by the joint committee is to be submitted by the

employer to the registrar and labor officer.

The provisions relating to compulsory arbitration are the most controversial. They practically give the government full authority to refer any matter to the arbitration of the industrial court.

In May 1948 an amendment was introduced empowering the government to set up wage boards for different industries in the province, a provincial wage board for all the industries together, and to direct the constitution of a joint committee even without the employers' consent when the registered trade union concerned asks for such a joint committee. Another amendment introduced is for the purpose of a speedy settlement in the dispute. An approved union can short circuit the intermediate stage of conciliation altogether and apply direct to the industrial court for arbitration.

Central labor legislation

Until 1947 the Trades Dispute Act, 1929 governed the industrial relations in all the provinces except in Bombay which legislated separate labor legislation described above. Wartime emergency conditions created the necessity for the formulation of Rule 81A in January 1942 under the Defence of India Act. The rule prohibited strikes and lockouts in connection with any trade dispute.

It empowered the governments to refer all trade disputes to conciliation or adjudication. It also required the employers to observe such terms and conditions of employment as might be specified and also to enforce the decisions of adjudicators.

In April 1943 when the political agitation reached its height, the Defence of India Rules were further amended. "Concerted cessation of work" or refusal to work by a body of persons in a work place, except in furtherance of a trade dispute directly concerning them, was prohibited. The provincial governments were given powers for enforcement of the wartime measures.

The emergency wartime industrial relations ceased to be operative with effect from 30th September 1946. Pending new legislation, it was extended to cover a period of further six months.

The wartime experience of the rule had convinced the government of its usefulness and effectiveness in checking the postwar industrial unrest in India. The main provisions of the Defence of India Rule 81A as it related to the public utility service were retained in the new legislation undertaken in 1947.⁹

⁹A Decade of Labor Legislation in India, I.L.R. Vol. 59, p. 514.

Industrial Dispute Act, 1947

On 1 April, 1947 the Industrial Dispute Act replaced the Trade Dispute Act, 1929. This new act was one of the series of legislations undertaken during 1947. The most important thing to note here is the conditions that existed at the time of legislation. India had become an independent country and still had been facing the stress of postwar industrial readjustment.

The new act brought into being two important institutions for the prevention and settlement of strikes, (a) works committees, and (b) industrial tribunals.

Works committees

The formation of works committees as a means of preventing industrial disputes and preserving industrial peace was first suggested by the Royal Commission in 1931. The Industrial Dispute Act, 1947 being the first enactment since the Trade Dispute Act, 1929 the central legislation gave effect to the recommendations of the Royal Commission. The act empowers the appropriate governments to issue general or special orders to all employers employing 100 or more workers to set up a works committee. The works committee is to be constituted with equal representation of employers and workers representatives. Wherever trade unions are existent, the workers' representatives are to be drawn in consultation and approval of the unions.

The committee is charged with the duty of promoting, securing and preserving amity and good relations between the employers and workmen by composing all differences by mutual consultation.

Industrial Tribunals

The creation of industrial tribunals is another innovation under the act. The tribunals are to be formed by the governments concerned. Either of the disputing parties can ask for a reference to a tribunal. The discretion rests entirely with the government. Even without the parties' consent the government may refer any dispute to a tribunal if it considers it expedient to do so. The procedure for the composition of the tribunal is described in detail under the act. When a dispute has been referred to a tribunal, the tribunal is expected to hold its proceedings expeditiously and submit its award to the concerned government. The government then declares the award binding on both parties by a written order. The award becomes enforceable after 30 days of the order.

When a government is a disputing party, it can set aside any award if it feels it will be inexpedient on public grounds to give effect to, provided it can get the necessary approval from the legislature. Whatever the legislature decides as to confirmation, modification or rejection becomes binding on the government.

The act has given a new orientation to the entire conciliation machinery. The concerned state governments can appoint conciliation officers for any specified area or specific industries. The act makes it obligatory on the part of the public utility services to seek the aid of conciliation machinery in all its disputes. The resort to conciliation machinery is optimal in non-utility services. When a settlement is reached, it has to be reported with accounts of full proceedings with a memorandum signed by the parties in the dispute to the appropriate government. In case of non-settlement a similar report is to be made in addition to a supplementary report of the conciliator as to the reasons as he sees them for the failure to arrive at a settlement. The government retains the power of referring the dispute to a board or a tribunal.

Time limits have been fixed for conciliation and arbitration under the act. The conciliator must make his report within a period of 14 days while two months have been allowed in the case of arbitration. This measure is designed to expedite the settlement of disputes. The settlements under conciliation are binding for such periods as may be agreed upon and in the absence of such agreement for a period of six months. In the case of an award, it is binding during periods specified in the award but in case of any absence of such mention for a period of a year.

Another new feature under the act is the general prohibition of strikes and lockouts. The workers may not strike nor may the employer declare a lockout:

- a) During the pendency of conciliation proceedings before a board and seven days after the conclusion of such proceedings;
- b) During the pendency of proceedings before a tribunal and two months after the conclusion of such proceedings;
- c) During any period in which a settlement or award is in operation, in respect of any of the matters covered by the settlement or award.

The act specifies that when the dispute is pending with a conciliator or before tribunal, the employers are prohibited from

- a) Altering, to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceedings;
- b) Discharging or punishing, whether by dismissal or otherwise, any workman concerned in the dispute, save with the express permission in writing of the conciliation officer, board or tribunal, as the case may be.

The provision that provoked much criticism from labor unions of depriving them of their strike weapon relates to the government powers of declaring any of the following industries as public utility service for the purpose of the act, for a period of six months. Industries which may be declared to be public utility services the purpose of the act are

1. Transport (other than railways) for the carriage of passengers or goods, by land, water or air
2. Coal
3. Cotton textiles
4. Food stuffs
5. Iron and steel.

The Industrial Dispute Act, 1947 was bitterly criticized by one section of labor while another section was in support of it.

The A.I.T.U.C. at its Calcutta session complained that the bill, then in the process of becoming law, had accentuated the objectionable features of the act, 1929 instead of removing them. According to the A.I.T.U.C. the objectionable features were (a) the definition of the term public utility was too wide; (b) the tribunal award to be binding for a year was objectionable; (c) the conciliation period was too long; (d) the prohibition of strike during conciliation and arbitration restricted the right to strike and also postponed it to a very long and even to an indefinite period of time so as to abolish it for all practical purposes.¹⁰

Dr. Suresh Chandra Banerjee, then president of I.N.T.U.C. voiced the attitude of the other section of

¹⁰ Trade Union Record, March 1947.

labor which supported the government move.¹¹ Inaugurating the Bengal Council on 13th September 1947, he extolled the government for its new legislation and added it was an effort to "stop exploitation of the employees by the employer." The creation of the Industrial Tribunal, he explained, was for the creation of equitable distribution of the profits between labor and capital. He felt that it was no time to hamper production by strikes. His support of the act was because it make strikes unnecessary. The recourse to law for settlement of disputes, he emphasized, was a path for civilized life. Unions had to resort to strikes because there was no effective alternative. He stated the policy of the I.N.T.U.C. that they "stand for arbitration and adjudication in industrial disputes, the rule of the law and the way of peace in the attainment of a just order of society."

The central legislation applied to all provinces in the Indian union. But in states like Bombay, Central Provinces and Berar and United Provinces where the concerned state governments legislated their own labor laws suited to their conditions and industries, the central legislation does not apply. The central legislation applies to all industries under its control. The central legis-

¹¹Indian Labour Journal, Oct., 1947.

lation applies to all industries to which the provincial legislation is not applicable. For instance, in Bombay the Industrial Relations Act is made applicable to only a few industries. (Cotton Textiles, Silk, etc.)

In 1948 the government of India legislated the Industrial Employment (Standing orders) Act modeled on the Bombay legislation. This act was made applicable to all provinces and such industries as were not covered by the Bombay Act. The employers had to submit to the labor commissioner of their respective governments a copy of the standing orders which the commissioner would forward to the appropriate union for approval. In usual practice the employers' organizations adopt one standard form of standing orders for all industries of the same kind based on government proposed standards. I heard from the employers representatives as well as the labor representatives who visited the country that there is seldom any disagreement regarding the provisions in the standing orders and it is practically the same for all industries.

CHAPTER IV

Recent Trends in Labor Legislation in India

We have seen in the earlier chapters dealing with "Industrial Relations" in India, there is a great emphasis on the governmental machinery and intervention for the settlement of industrial disputes. The Bombay Trade Dispute Act for the first time introduced compulsory conciliation and later the Industrial Relations Act, 1946 introduced compulsory arbitration. We have already seen that the split in the All India Trade Union Congress occurred in 1947 because of the serious difference of opinion among trade unionists on the desirability of introducing compulsory arbitration, a wartime measure in the Industrial Dispute Act, 1947. The newly set up national federation, Indian National Trade Union Congress, gave its full support to compulsory arbitration and fully co-operated with the government in the implementation of the Act.

During 1951 India held its first mass elections after independence. It was a unique experiment in the history of the world. As a result of the elections, the central cabinet was reorganized with Mr. V. V. Giri, a veteran unionist as the labor minister. With the change of person, there was a change of outlook in labor problems. Mr. Giri has been a great believer in collective bargaining.

This was very evident during his term of office as labor minister in Madras Province.

After assuming office as labor minister at the centre, Mr. Giri was firmly convinced that "it is far better for management and labor to settle their differences amongst themselves than for them to go as litigants and opponents before a labor tribunal or court." He felt that compulsory arbitration had its place during war or in times of emergencies. In times of peace and normality it was as "drugging is in health." He wondered whether the country was not weary of having had it for full six years after the war and it was not time to turn "a new leaf in the chapter of industrial relations."

Mr. Giri came to the conclusion that the retention of compulsory arbitration "as a measure inevitable in a period of economic uncertainty and emergency has given a great setback to the growth of trade unionism in this country."¹ He qualified his statement by saying that the spirit of self confidence and self reliance had given place to the "habit of importunity and litigation." The dependence on the third party brought a change of outlook toward each other by destroying goodwill and understanding.

¹Presidential address at the twelfth labor conference at Naini Tal

The feelings of victor and vanquished destroyed the spirit of forgive and forget. "The loser awaits the next opportunity to make good the loss, while the winner is carried away by a sense of victory which is not conducive to co-operation. Such an attitude of suppressed hostility in one party and of unconcealed satisfaction and triumph in the other may lead to a transient truce but not lasting peace."

Mr. Giri went on to add that compulsory arbitration had destroyed the urge to combine for collective action. There was no need for a strong union because the moment there was any discontent and dissatisfaction, the compulsory arbitration stood there as a policeman ready to mete out a "dose of costly and not wholly satisfactory justice." "The moment the back of the policeman is turned, the parties grew red in the face with redoubled determination, and the whole cycle of litigation starts all over again, with the proverbial law's delays and continued rancour and bitterness." Compulsory arbitration not only contributed to weak unions by striking at the root of the organization but also intensified the hatred and bitterness in industrial relations.

In the absence of the machinery for compulsory arbitration, Mr. Giri contended, the trade unions would become self reliant and strong because then there arose a necessity for self organization. Through organization and

development of their strength and resources, they would be in a position to stand up against the already highly developed and well-financed employer organizations. Through strength, they received recognition and achieved self respect. Mr. Giri said that he recognized the fact that the removal of compulsory arbitration would occasion trials of strength by both parties and in his opinion this was not particularly bad because "whoever has heard of a man learning to swim without having to drink some gulps of water." Learning to bargain collectively was a slow process. Once the parties learned the art and the advantage of collective bargaining, he felt that there was no other better way of attaining and maintaining a lasting industrial peace and the assurance of a strong and healthy trade union movement.

The union minister of labor affirmed his faith in internal settlement of disputes. He expressed the belief that the abolition of compulsory arbitration would make way for a genuine feeling for settlement because both the labor and the employer were fully aware that prolonged conflict meant great loss for the employer and considerable suffering and hardship for the worker. Amicable and quick settlement of disputes would contribute to the welfare of both and the country. He was conscious that some unionists were highly skeptical and suspicious of this move because

of their past experience with certain employers. The union minister said, "First let me say that I have not learned to view human conduct with so much suspicion and that when employers categorically and consistently express themselves as being whole heartedly in favour of mutual settlement of disputes, I must take them - or at any rate the large majority of them - at their word and not attribute motives to them." He hoped that employers would not be so foolish and ill-advised as to take advantage of their economic strength and try to suppress union activity, because if they did they would certainly stand to lose much more than the workers. A revival of compulsory arbitration because of the failure of any one party to play the game honestly and in the true spirit in which it was intended, Mr. Giri warned, would create an atmosphere of great frustration, bitterness and badly managed industrial relations.

The union minister indicated that no emergency provisions would be incorporated in the proposed new legislation. He was of the opinion that there was no need for an emergency provision because he would rather see such emergencies did not occur than to legislate a measure and wait to apply it. Emergency situations should be met with emergency power. If and when such situations did occur, the legislature might be appealed for such powers and in the absence of the legislature, special ordinances might

be issued for that purpose. Even in emergency situations the union minister was in favour of prolonged discussions and consultations among central and state governments calculated to bring about a settlement without resorting to the issuance of emergency powers. The parties to the dispute should be given a fair chance of being fully heard before resorting to the aid of emergency powers.

Mr. Giri expressed the belief that collective bargaining would work successfully in India. He hoped that his new proposal of embodying collective bargaining in the new proposed legislation would be given a "fair and natural trial, unhampered by the so-called safeguards and unrestricted by conditions and limitations."

In his presidential address to the twelfth session of the Indian Labor Conference at Naini Tal in October, 1952 Mr. Giri indicated that the existing Industrial Dispute Act, 1947 would be entirely repealed in favour of new legislation and that the Industrial Employment (Standing orders) Act, 1948 would be amended. No indication was given whether the Industrial Employment (Standing orders) Act, 1948 after its amendment would be incorporated into the proposed Industrial Relations Law or would be kept separate. There was also indication to believe that the state governments would have complete jurisdiction over the Industrial Relations of their own states and the central government jurisdiction would be kept to the

inevitable minimum. The new act was to apply primarily to industries and allied urban employments.

One of the subjects that will receive most attention in the new legislation, will be "right to strike and lockout." The workers' organizations are unanimously of the view that right to strike is the only weapon in their use and so no restriction need be placed. Some workers organizations are in favour of lockouts. Some hold the view that during certain stages of negotiation and conciliation restriction may be imposed on strikes and lockouts. One central labor organization expresses the view that at no stage of the negotiations is there to be any restriction. The employer organizations hold the view that during negotiation, conciliation and arbitration there should be restriction on strikes and lockouts.

The services are to be distinguished as public utility services and non-public utility services. There was indication in the minister's speech to show that the proposed legislation will prohibit strikes and lockouts in public utility services during the period of strike notice, conciliation, arbitration and during periods of binding agreement or award. In cases where the concerned government refuses to refer the dispute to arbitration, the parties will be allowed to resort to strike or lockout.

The non-public utility is going to be treated on a different basis regarding strikes and lockouts. Strikes and lockouts will be prohibited during the period of a binding agreement or award and perhaps during the initial period of change. During negotiation, conciliation and arbitration, the parties are to be subjected to no restraints. Since the negotiations, conciliation and arbitration are of a voluntary nature, full freedom is to be given to exercise all the forces that will help bring a speedy and honourable settlement. The law may require a definite period of notification before a strike or lockout may be declared.

One of the complaints made against the existing act is the multiplicity of authorities. The new act will give serious thought for the introduction of a simple structure by abolishing some of the unnecessary and duplicating functions. The following authorities may cease to exist

- (a) Standing conciliation boards
- (b) Commissions of enquiry
- (c) Labor courts
- (d) Registrars
- (e) The Appellate Tribunal

The following authorities may be retained

- (a) Works Committees or Joint Committees
- (b) Conciliation officers
- (c) Boards of Conciliation
- (d) Industrial Tribunal or Courts of Arbitration

To the above agencies a new addition, a panel of conciliators and arbitrators is to be made.

In India as we have seen already the problems of collective bargaining has presented many difficulties chiefly because of the absence of a certified union for bargaining purposes. The presence of one or more unions representing the same classification of workers is not too uncommon. We have seen earlier the elaborate provisions in the Bombay legislation for the determination of a bargaining body. Since no single union will have an absolute majority of workers as members to claim any right to bargain collectively, the employers usually take the easy course of refusing to recognize any of these unions and refusing to bargain.

In the proposed legislation, a simplified form of union representation procedure is to be introduced. In direct negotiations of collective bargaining, the most difficult problem so far in India has been the determination as to which union has the power to bargain collectively with the employer. There may be more than one union, or occasionally none at all, aspiring to be a bargaining

agent on behalf of the workers. Definite steps will be taken in the proposed legislation to find an accepted solution to this problem of certification. A union is entitled to certification if it has a specified (in the act) percentage of employees as members. The union that received certification will become the exclusive bargaining agent for the workers in the plant. The conciliation officer will be authorized to issue such certification after a thorough investigation of the claims of the union. In case there is a claim by other rival unions for certification or in case the employer refuses to grant the claim of the certified union, the conciliation officer is to hold an election by a secret ballot. The one that receives the largest number of votes will be certified as the "bargaining agent." In case two or more unions receive more than the requisite qualifying percentage of votes, the one getting the largest number of votes is to be entitled to certification. "One important point to be noted in these suggestions is that where an election by ballot is held, it is the preference of the workers rather than the actual membership of the union that will be the final deciding factor." Where a union is certified in a plant as the "bargaining agent," the concerned employer will be prohibited from entering into any collective agreement with any other union.

A provision of recognizing unions, that cannot claim large enough membership as to claim certification, is to be made in the proposed legislation. They can exist only when there is no certified union. They are to be registered as "recognized unions" and will have the right to enter into collective agreements with the employer. Those collective agreements will be binding on the members of the union. The non-members of the union are to have the choice of either requiring the employer to apply the terms of the agreement to them in which case the employer is obliged to carry it out or to be able to negotiate a separate agreement or agreements with the employer.

The procedure for registration is to be made very simple. The union wishing to be recognized as a "recognized union" is required to make an application to the conciliation officer. The conciliation officer will carry out the procedural enquiries necessary to enable him to make the decision whether to accept or reject such a request. After necessary investigation, the conciliation officer is to be given the power to make a decision. All parties are to be given the right of appeal to Industrial Court.

In the absence of any union, the employer is to be freed to bargain with any registered union. But such a union will, however, not to be entitled to claim the

the privilege of bargaining rights until it has built up the requisite membership.

The works committees or joint committees are to be retained in the proposed legislation. They are to be the first stage in collective bargaining. The certified union (the recognized union where there is no certified union) is to nominate not less than two or more than five persons to represent the workers. In the absence of any union, the workers may, by secret ballot, elect not less than two or more than five to represent them in negotiations with the employer. The representatives so chosen are to be communicated to the employer. The employer is required within 14 days of such communication to nominate an equal number to act on his behalf. The representatives of both parties so chosen will constitute the joint committee for the undertaking. In case the employer fails to nominate his representatives, he must be prepared to deal with one or two persons nominated on behalf of the workers and whose names have been communicated to him.

A federation of workers' unions may enter into collective agreements with employers on behalf of the workers of all establishments provided its affiliated unions have satisfied the minimum qualifications regarding membership and the federation itself represents not less than a certain percentage of the total workers in all establishments.

In case the parties fail to reach agreement through the joint committee, they can seek the aid of conciliation. The conciliation officer should get a written request from one of the disputing parties before he can offer his services. In case a request is made, his duty is to investigate and find out that the party making the request has, through the joint committee or otherwise, endeavoured sincerely to negotiate a settlement. On satisfying himself and arriving at a decision to offer his services he should intimate to the opposing party. Unless both the parties are willing to conciliate, the conciliation officer is not to offer his services. This measure is contemplated because of past experience where conciliators were taken as intruders and treated with certain amount of hostility.

The third stage of negotiation will be through a board of conciliation or a board of arbitration. The parties are to choose one person each of their own choice except in special cases. The conciliators or arbitrators are to choose their own chairman or umpire as the case may be, among themselves. If the parties so prefer, they may choose their own nominees or the chairman or the umpire from panels compiled annually and published by the appropriate government. In case of voluntary arbitration the parties by common consent may choose one individual to act as sole arbitrator. The dispute can be also submitted to a regular industrial tribunal designated by the appropriate

government, which may associate with itself assessors representing both sides.

All agreements entered into by parties are to be binding for such periods as mutually agreed and if no definite time limit is mentioned, for a period of one or two years.

In case of public utility service recourse to all the measures envisaged for the non-utility services should be available. In the event of final disagreement, the appropriate governments should be vested with powers to order adjudication if found absolutely necessary.

Dismissal and retrenchment have been frequent causes of industrial friction. The new legislation is to give some attention to this problem. The problem of reinstatement and payment of compensation are vexed questions and will be dealt with. The union minister's speech seems to indicate that it will not be proper to give the option to the employer either to reinstate the worker or make a decision on compensation. On the problem of retrenchments, there are divergent views among the unions and employers' organizations. The proposed legislation is to adopt a view most acceptable to both the parties possibly one based on the recommendations of the sub-committee of the Industries Development Committee as being in general agreement. The recommendations are to the effect that retrenchment arising out of rationalization can be minimized by

taking adequate steps such as suspending fresh recruitment, transfer to other departments, non-filling of vacancies caused by death, dismissal and normal retirement, etc.

One of the controversial provisions in the Industrial Dispute Act, 1947 relates to the conditions of service during conciliation and adjudication proceedings. The trade unions are apprehensive that victimization during conciliation or adjudication would lower the morale of the workers and so be harmful for union growth. The employers contend that it is not possible to maintain discipline unless they are free to take disciplinary measures against recalcitrant workers during the pendency of conciliation or adjudication. The union minister hoped that they would be able to resolve this dispute through the new policy of voluntary conciliation and voluntary arbitration.

Mr. Giri indicated that changes in the trade union law were contemplated. It is not very clear whether the entire trade union act, 1926 will be repealed in favour of a new legislation or there will be amendments to the same act so as to make it effective. He did indicate three areas which will receive considerable attention. We have seen under the Trade Union Act, 1926 that if majority of the members are civil servants, for the purpose of the act, the union will come under the provisions applicable to government servants. This provision has been criticized

by the unions. To the elaborate questionnaire sent out by the central government, the workers' organization expressed the view that no special restrictions should be imposed on trade unions merely because some of their members are civil servants and that the registration of trade unions should not be withheld on the ground that a trade union with a few civil servants as members has not prohibited all its members from participating either directly or indirectly in political activities. The failure to expel any member from political activity should not be held against the union in the cancellation of registration. The employers have held the contrary view. The provincial governments are not in favour of mixed unions. In the light of all these comments, the government of India will adopt a course most acceptable to the divergent viewpoint on this question.

Regarding the question of recognition of trade unions, divergent views have been expressed. Even among the workers' organizations themselves, there are differences of opinion. The question that is not settled in the Indian mind is what they mean by recognition by the employer.

I.N.T.U.C. and H.S.S.
Out of the four replies received, two unions/have held the view that the most representative union should be the one that should be recognized. The third union/is of the
A.I.T.U.C.
opinion that all unions having a prescribed minimum

membership should be recognized, while the fourth union has expressed the view that all unions irrespective of membership should be recognized. The employers and the state governments are in favour of recognizing the most representative union.

The workers, employers and state governments have favoured provisions for compulsory recognition. There is difference of opinion as to the machinery for enforcement of recognition and also the method of determination of the representative union. The workers' organizations are in favour of determining eligibility for recognition by voting by ballot, while the employers are in favour of ascertainment of stable membership ^{rather} than on voting by ballot. The state governments do not prefer voting by ballot. The proposed new legislation will take into account all these criticisms in evolving a suitable provision to solve the question of recognition satisfactorily.

The controversy over the problem of "outsiders" is an old one. The central labor minister made it plain that the outsiders cannot be excluded altogether, but it is necessary to reduce their numbers.

As a result of the enthusiasm showed by Mr. Giri, the central labor minister for collective bargaining, some of the stable and more mature labor unions like the Ahmedabad Textile Labor Association and the Tata workers'

association have taken steps to move in the direction of collective agreements with the employers' associations. In a country where trade unions are still weak and government has to provide all machinery to bring about a settlement, the collective agreement of the nature signed by Ahmedabad union must be reckoned as nothing short of epoch-making. The Ahmedabad agreement has broken new ground. This is evidenced by the fact that a similar collective agreement has also been signed, the Mill-Owners' Association and the Textile Federation of Saurashtra.

Since the Ahmedabad agreement is the first collective bargaining agreement and has aroused tremendous interest, it is reproduced in full in the appendix.

CHAPTER V

Conclusion

A proper understanding of the growth of the Indian trade unionism requires some knowledge of the economic, social and political background. Since the conditions in the West are so different to what they are in India, a proper appreciation of the immensity of the problem would be difficult, unless this background is constantly borne in mind.

India is a land of many races and cultures, consequently it is a land of many languages and differing social customs. The old and worn out social institutions like the caste system, the joint family system and untouchability have been slowly dying out giving place to new and unified outlook.

India under the British rule was divided: British India and 562 Indian native states ruled by autonomous Indian rulers. Conditions in the Indian states were much worse than what they were in British India. There was little or no labour legislation in most of the states. However, there were two states - Baroda and Mysore, which adopted progressive labour legislation. The Mysore Labour Act (1942) recognized the right of employees to combine into an association for the promotion of their common interests. This

gave adequate protection against victimization and made it obligatory on the employer to submit a statement of the standing orders to the Commissioner of Labour¹

India is still predominantly an agricultural country. Ninety per cent of its population live in villages where conditions are still very primitive. More than 75 per cent of its people are employed in agriculture or are idle part of the year. In recent years there have been rapid developments in modern industrialization. But still it cannot be said it is sufficiently industrialized. India is destined to go a long way along the road of industrialization and probably will in the long run become one of the leading industrialized nations in the world. It has great potential of power resources, raw material and labour. Its home market for manufactured goods is one of the largest in the world.

Today India is an independent country with many ambitious schemes. She is desperately trying to turn her vast human resources, which are a liability now, to economic advantage. As she becomes more industrialized she will be faced with more difficult and complicated labour problems.

¹The Indian Working Class by R. Mukherjee, p.361-362

In 1947 India undertook a great volume of labour legislation, in an attempt to improve the lot of the worker which was long overdue, and also restore order in the difficult post-war economic readjustment in labour relations.

There seem to be three stages in the trade union development in India.

- a) The rapid growth of unions after World War I.
- b) The growth of unions between 1926 and 1934 when the communistic influence was dominant.
- c) The setting up of popular governments in 1937 and the rapid growth from them.

In the early period, the growth of unions suffered due to the lack of any statutory protection for the formation of unions. The Trade Union Act (1926) was late in coming. Even though the Legislative Assembly adopted a resolution in 1921 in favour of a protective legislation, it took five more years for the Act to come into force. According to the Royal Commission the late coming of the trade union legislation was an impediment to the growth of trade unionism. "We consider that development would have been more rapid had trade unionism received earlier legislative recognition."² Just after the war the Indian National Congress began to emerge from being an organization of the

²Royal Commission Report on Indian Labor June 1931, p.318.

intellectuals to an organization of the masses. The nationalist influence on the labour movement was considerable as we have seen in the earlier chapters. According to the Royal Commission the influence of nationalist politics on the movement had mixed results. "It added intensity, but it also tended to increase bitterness and to introduce in the minds of many employers a hostile bias against the movement. This, in its turn, tended to obscure the justice of many of the demands made and the fact that the movement was based on genuine and pressing needs.

Gandhiji's historic fast gave new ideology in trade unionism in India. The Ahmedabad Textile Labour Association was an indigenous experiment in trade union development, the like of which does not exist anywhere in the world. The influence of the Ahmedabad Textile Labour Association on Indian labour legislation has been considerable. Its success and stability has amply demonstrated the efficacy of the principle of the Gandhian truth and non-violence in trade union movement. Now the Ahmedabad Textile Labour Association is an active member of the Indian National Trade Union Congress - a national trade union federation carrying on the Gandhian ideology in an effort to spread the doctrine to other trade unions in the country. It must be said to their credit that within a span of six years they have been able to achieve the distinction of being the largest

national federation in the country.

After the first world war the growth of trade unions was not a result of any organized effort but was haphazard and unplanned. Many independent labour organizations cropped up. There were unions which constituted only a few men who were opportunists. Ad hoc unions were set up with immediate objectives. The Royal Commission found that up to 1926 there was no effective organization in the cotton mill workers of Bombay but that a few of the jute mill workers of Bengal were organized.

According to the Royal Commission the obstacles to the development of trade unions were more internal than external - they came from labour itself. "Indian labour was migratory in character." They did not have a long standing interest in a labour organization. The Indian worker worked longer hours and had little leisure or energy for outside activity. The worker was so poor that even a small subscription was an appreciable burden because he was externally in debt. Difference of language and race were separating factors. They lacked the democratic spirit and education.

After setting up of the popular governments in 1937, labour problems received special attention. The popular governments were determined to legislate measures that would remove some of the obstacles for the growth of trade

unions. Labour for the first time received recognition and equal status and representation with the employer's organizations on the provincial and central legislatures. The increase in the number of registered unions showed the new interest that was created because of popular support for the movement.

In 1947 India emerged as a free country. During that year India saw a spate of labour legislation. The Industrial Dispute Act (1947) introduced the principle of compulsory arbitration. It met with great opposition from both the employers and the unions. The reasons for introducing compulsory arbitration for settlement of disputes were mainly two. India was then passing through a critical period. She was not strong enough to face a wave of strikes, which were threatening at that time. The partition of the country had brought in new and acute problems. The vast immigration, the resettlement of the immigrants and the unification of the country were no easy problems for a young and independent country. There was acute shortage of food and other common necessities of life. Mr. Nanda, commenting on the importance of compulsory arbitration says, "In the present condition, it lies on the side of arbitration and not on the side of strikes. It would be immense cruelty to add to the agony and suffering of the people of this

country by stopping production and dislocating the system of transport and distribution while it is possible to procure a more reasonable settlement in dispute by arbitration or other peaceful means."³

The second important reason is the faith of many of the leaders in compulsory arbitration as an important means of bringing industrial peace. This faith is based on the knowledge of the working of the Ahmedabad Textile Labor Association. "How fruitful both for employers and workers arbitration can prove is writ large across the industrial history of Ahmedabad." It was Gandhij who first realized the importance of establishing a machinery for the prompt disposal of complaints from workers. A permanent board of arbitration was a main feature in the labor activities of the Ahmedabad union. The board of arbitration consisted of each one of the workers and mill owners to decide all points in dispute, with a right of appeal. In case of disagreement the aid of an impartial umpire acceptable to both sides was sought. This has worked well and proved a remarkable success. The industrial stoppages were few in Ahmedabad. "The loss of wages in Ahmedabad

³Congress and Labor Movement in India, by P. P. Lakshman, p.88

was only about 15 per cent of that in Bombay. Again, during the period which covered the last war the number of strikes at Ahmedabad were relatively much smaller than those in other industrial cities, yet it was the Ahmedabad workers who secured the highest dearness allowance given in the country, offsetting 96.6 per cent of the rise in the cost of living."⁴

There was a definite case for compulsory arbitration because it was a period of transition and great national emergency.

Mr. V. V. Giri, the union minister for labor in his recent presidential speech to the 12th session of the labor conference at Naini Tal indicated the labor policy of the government of India during which he said - "I am afraid I cannot conceal my disappointment at the thought that the principle of compulsory arbitration, introduced for the first time as a result of wartime exigencies and continued thereafter as a measure inevitable in a period of economic uncertainty and emergency has given a great setback to the growth of the trade unionism in the country."⁵

⁴Congress and Labor Movement in India, by P. P. Lakshman, p. 84.

⁵Proceedings of the Indian Labor Conference Ministry of Labor, 1952 - pp. 6-7

He went on to add "Compulsory arbitration has cut at the very root of trade union organization. Unity among men, particularly trade unionists, is the direct outcome of necessity. If workers find that their interests are best promoted only by combining, no greater urge is needed to forge a bond of strength and unity among them. But compulsory arbitration sees to it that such a bond is not forged."⁶

Compulsory arbitration was opposed by all other unions excepting the I.N.T.U.C. which all along supported the government policy. But today when the government itself is proposing to abolish compulsory arbitration, the same unions who opposed it as a very heinous thing, felt that some form of compulsory arbitration should be retained in the interests of the working-class. The I.N.T.U.C. representative summed up the attitude of his organization in the following words "while there should be a definite departure from the old policy that guided our national policy during the last five or six years, at the same time having regard to the difficulties that were pointed out by me just now, disputes should be settled by the method of collective

⁶Proceedings of the Indian Labour Conference Ministry of Labour, 1952, p. 6-7

agreements, all the same governments should arm themselves with powers to refer any dispute to adjudication if they feel that it should be done in the interests of the community and in the interests of the workers."⁷

Mr. Dinakar Desai who was the representative of the Hind Mazdoor Sabha (H.M.S.) summarized the attitude of his organization in the following words - "The Hind Mazdoor Sabha have submitted a memorandum saying that conciliation must be tried, failing which government must refer the dispute to arbitration if labour or the employee wants it."⁸ The other two representatives of labour from I.T.U.C. and U.T.U.C. expressed similiar views of requiring a means of arbitration if collective bargains were to fail.

This is not surprising because the unions have realized during these five or six years that compulsory arbitration has been in force, how they have been able to protect themselves against the powerful and well organized employers. Because of the inherent weaknesses that exist in the union organizations, they are still not powerful enough to stand united to protect their interests.

⁷Proceedings of the Indian Labour Conference (Page 28)

⁸Ibid., (Page 32)

We should consider the changes in the views and attitudes of employers to understand the picture. The initial capital investment in India was mostly by the British and other European countries. The foreign interests completely dominated the Indian industry and business for a long period. During this period the employers' attitude was very unsympathetic. There were many complications. Being totally ignorant of the local conditions, social customs and language, the European and British employers were solely dependant on their lower supervisory staff for recruitment and management of labor.

Now there is a change in the picture. The indigenous business interests have slowly replaced the British and other European interests in India. There has been a general industrial awakening in India. During the early period of Indian independence many of the British and European firms either sold their interests or replaced their European management by Indian personnel. Now the attitude of most of the employers towards the unions is one of recognition and willingness to deal with unions for mutual benefit. Mr. S. S. Jain, the representative of the employer's federation to the 12th Labor Conference, expressed the view of the employers - "In fact, in the light of public opinion now growing in the country we consider the employers should

adjust themselves and should be prepared to work with labor." He further expressed the view that the employers would be perfectly willing to go along with any schemes that the government might propose in the interests of the country and people as a whole."⁹

It could be said today the employers have come to realise that the advantages to be gained from repression of unions are temporary and precarious and those that accrue from healthy union organizations are lasting. They have come to recognize that strong unions limit these powers. But, at the same time they also recognize that strong and properly organized responsible trade unions would bring order and peace in industrial relations.

But today in India there is no obstruction either from the employers or the government for the growth of healthy trade unionism. The government has declared its policy to be one of encouragement and the employers have avowed a similar aim. "Legislation can act as a palliative and prevent the graver abuses, but there are strict limitations to the power of government and the public to protect workmen who are unable to protect themselves."¹⁰

⁹Proceedings of the Indian Labour Conference Ministry of Labour, 1952 - p.40

¹⁰Royal commission report on Indian Labor, (Page 322)

"Today there is freedom from fear of victimization. According to the law of the land, there is perfect freedom of association. According to the I.L.O. convention on the freedom of association was ratified by the government of India in the year 1923."¹¹ Collective agreements, even though a few in existence today, marks the beginnings of a consciousness both on the part of labor and management of the effectiveness of collective bargaining.

The trade union movement in India even today suffers from some inherent weaknesses, the early removal of which are absolutely necessary to make it an effective investment for protecting the interests of the working class. These weaknesses are due to haphazard and unplanned manner of growth of unions. They still remain uncorrected because there was no conscious and sustained effort made by the trade union leaders for their removal. The time has come to recognize these weaknesses and to make an effort for their early removal. The weaknesses as I see them can be listed as follows:

- a) There are too many unions and too little unity.
- b) The unions are financially very weak and there is need for greater financial strength.

¹¹Labour investigation committee - Gov. of India Main Report, p.372

c) There are too few workers who are trade union leaders and very few of the officials are regularly paid officers. There is great need for trade union education and training

a) Too many unions - too little unity. Even a casual observer cannot but notice the political basis on which our national labor federation has been set up. The All Indian Trade Union Congress is primarily dominated by the communists; the Indian National Trade Union Congress by the Indian National Congress; the Hind Mazdoor Sabha by the Socialists and the United Trade Union Congress by independent socialists. This is not a healthy growth. The primary affiliated unions have retained their political color and have carried them to the individual workers. This has been the primary weakness of the trade unions in India today.

India is a land of small villages. It is not easy for any political party to organize these small villages to be an effective political force. In the early efforts to organize, the Indian National Congress took advantage of the concentration of labor. Not only did they see the amelioration of the working class through labor organizations but they also saw that labor unions were a big force in their effective mass struggle for national independence. Many strikes were politically inspired and every time a

prominent Indian leader was arrested, hartals were held throughout the country as a protest.

The communists got a foothold in the labor movement in 1924. In the year 1929 they reached the peak of their power then there was a split in the Indian Trade Union Congress. The communists for many years formed the extreme left wing of the Indian National Congress party putting up a united front for the Indian independence. During the second world war they actually supported the British Government in the war effort while the congress party opposed the war effort and the government gave them all the encouragement. In 1945 the communists were expelled from the Indian National Congress. But they retained their hold on the Indian Trade Union Congress and a great majority of working people especially in Bombay.

The Indian socialist party came into existence in 1934 but formed the left wing of the Indian National Congress until 1947 when it emerged as an independent party. The entrance of the socialist party into the labor organization is recent even though many independent socialist leaders have served as union organizers for many years. As a matter of fact the lack of unanimity on labor policy in the Indian National Congress was due to the fact that congress itself was an organization of many parties of opposing ideologies but united for national independence. The socialist made

union organization Hind Mazdoor Panchayat was formed in March 1948 and later in the same year was converted to a national organization with the name of Hind Mazdoor Sabha.

The United Trade Union Congress was founded in May 1949 by a group of independent non-party socialists.

The political party activities in trade unions have created bitter rivalries. The political differences have seriously hindered trade union growth. There is no fundamental difference of principle which has been a bar to unity among these politically biased national organizations. They are all different in approach and method. But this should not prevent them to attempt to resolve these differences in an effort to achieve closer cooperation for securing union objectives. The responsible leaders recognize that the present rivalry is not only undesirable but has been a deterrent to strong and stable union organization. All of them recognize this obvious drawback and the need for unity. But still no conscious attempt has been made to draw these organizations closer together for the benefit of the working class.

Because of the haphazard and unplanned growth of the trade unions in India today, they are extremely small in size catering for membership only in one industrial or occupational undertaking or establishment. "Nearly 75

per cent of the total number of registered unions in the country have a membership of less than 500 and only about 10 per cent have a membership of more than 1,000."¹²

These small and independent unions have been a source of great weakness. Their bargaining power has been considerably limited. Their organization is poor and has been seriously hampered by inadequate finances. Especially in these days of strict governmental regulation and great volume of labor legislation, they are put to serious disadvantage because of their inability to utilize them for the benefit of the workers. The employers are better organized and there is much more unity among them. The country is moving fast towards rationalisation and standardization in an attempt to bring about an even wage structure and uniformity in labor legislation. As the trade unions stand today as small independent organizations, divided on political ideologies, they are quite weak and vulnerable. Because of this we have seen that the question of recognition of unions by the employers has been one of the most difficult problems in India. The creation of the qualified, recognized and representative unions under the Bombay Industrial Dispute Act (1938) and again the Primary, representative and approved unions under the Bombay Industrial Relations Act

¹²Towards New Trade Unionism by N. M. Joshi (Page 1)

(1947), was a result of the existence of too many unions and not anyone having the necessary strength to be certified as an exclusive bargaining agent.

The structure of the trade union movement needs improvement. Today there are too many unions and too little unity. For the unions to become strong, they should become enlarged and more unified. This is the only way the unions can ever become effective in collective bargaining.

Today the employers are reluctant to enter into collective agreements with trade unions, except in places like Ahmedabad where there is a stable and a well organized union. The main complaint against the unions is that the unions have never been able to keep to their agreements. This distrust was intensified when a strike broke out in Bombay in 1948 after the adjudication award regarding bonus was implemented by the mill owners. If any trust is to be created in place of mutual suspicion that exists now, it is necessary for a settlement between a unified and enlarged union which is a representative union and the employer's organization.

The work of amalgamation and integration of small unions catering for separate towns will not be easy since the difficulties inherent in amalgamations are present here also. Each union likes its independence. There is a

vested interest of officers of separate trade unions which militates against amalgamation.

The process of integration will be accelerated by the declared policy of the government in favour of collective bargaining. The chances of striking a good bargain with the employers' organization will of necessity bring the small and independent unions into one big industrial union with adequate strength. How soon this amalgamation will take place is anybody's guess. But, what is necessary now is a serious, persistent, planned and organized effort in the right direction.

b) Need for greater financial strength. The smaller unions have brought in another serious problem of poor financial strength. The smaller the unions the more acute is the problem. Besides having the small membership, the rate of membership fee is fixed quite low. The inflation after the war has intensified the already acute problem so as to make it difficult for many unions even to carry on the nominal duties of a union organization. The union dues are pitifully low. The mining and plantation workers pay only 4 annas (7 cents approximately) a year. But the present rate of membership may be estimated at about one day's wage.¹³ In general the union dues are quite small and there is no uniformity either in the same industries

¹³Towards New Trade Unionism by N. M. Joshi, (Page 4)

or in different unions. The government questionnaire shows that it is anxious to bring about a uniformity in union dues so as to enable the unions to have enough finances so that they could on sound lines organize and operate with a well paid and efficient staff.

c) The need for trade union education and training.

The greatest and most urgent need is the development of leadership within the ranks of labor. Today there are very few trade union officials who have been workers. The vast majority of them have been drawn from the middle and professional class - particularly from the legal profession. The problem of these outsiders has been one of controversy for many years. It cannot be denied that the movement could not possibly have received its present stage without them. They have sacrificed their own material prospects to help raise the standard of living of workers. The trade union movement owes a great debt of gratitude to those selfless individuals. There are few who have interested themselves in the movement in order to secure private and personal ends.

Professor Kirkaldy observes - "while honour is due to those disinterested persons who so unselfishly give of their time and their substance for the betterment of the conditions of the working class, the alliance is rarely an entirely happy or a permanent one and it is rare to find a

stable and established trade union movement until it becomes a movement not only for but of the workers."¹⁴ The present union leaders recognize that the man drawn from outside the world of labor is handicapped in more than one direction. They recognize the need for developing leadership among the workers themselves. The fact that the vast majority of the workers are illiterate has been the main obstacle. In fact attempts have been made by two of the major federations to conduct such training, still development in this direction is quite slow.

The problem of the "outsider" is an acute one. The recent government questionnaire made an attempt to sense the prevailing opinion in the country regarding this problem. The opinion of the I.N.T.U.C. to the question whether it is necessary to exclude the outsider altogether from union executives or restrict it to a small percentage is the majority of the opinions in the country. It states - "In the present stage of trade unions and the backward conditions of majority of workers, outsiders cannot be excluded altogether. It is, however, necessary and essential for the growth of the trade union movement that workers share the

¹⁴The Spirit of Industrial Relations by H. S. Kirkaldy, Oxford University Press (1947)

the responsibility to an increasing extent gradually taking up the entire administration themselves. At present if outsiders are excluded, the unions will be handicapped and will have to suffer a great deal since they are pitted against well organized employers, who are not only themselves intelligent but have adequate resources to hire skilled and intelligent persons to manage their affairs from among the outsiders."¹⁵

The need to offer training for workers and employ paid secretaries is never more urgent than it is today. The trade union movement has emerged from its childhood to boyhood. This is the most important period in the labor movement in India. Most of the trade union activities so far have been carried by public spirited middle class workers whose services are honorary and who are equally interested in other types of social and political work. The trade union movement has reached a stage of development where such honorary part time workers would not be of much value. Now labor unions have to deal with complicated governmental statutory provisions regulating the employer and employee relations. This calls for a strong union organization with organizational work still to be done.

¹⁵Proceedings of the Indian Labor Conference, 12th Session Ministry of Labor 1952 - p.210

This cannot be undertaken unless the unions emerge from their present state of inadequate finances and poor organizational setup.

Labor forms an integral part of the industrial structure. Being a major partner, the industrial development will be seriously handicapped without its active and willing cooperation. Independent India has fully recognized the need for promoting an atmosphere where she hopes such trust and cooperation could exist between the partners of industry. The future of trade union development will depend mainly on the efforts of trade unionists rather than on employers of government or the public.

APPENDIX

Collective Agreements

Collective agreements have not, as yet, made much headway in India owing partly to the insufficient development of trade unionism and partly to the apathy of employers. This is more so in the case of agriculture. Agriculture in India is mostly a way of life for the majority of the people engaged in it. The unit of cultivation is small, both employers and employees are unorganized, the bulk of employment is on a seasonal basis and the conditions of employment in the case of attached labourers are largely determined by tradition and custom.

However, in some of the larger industrial undertakings in India, notably the textile and the iron and steel industries, collective agreements have been entered into and are in operation. The texts of available agreements are enclosed. In addition, it is reported that recently fresh collective agreements have been entered into between textile mills and textile workers in Ahmedabad and Bombay. As a result of the agreement entered into between the Ahmedabad Millowners' Association and the Ahmedabad Textile Workers' Association, no dispute in the mills will henceforth be taken to industrial courts and all disputes will be referred voluntarily to an Arbitration Board consisting of a nominee of the Millowners' Association and a nominee of the Workers' Association. This agreement applied not only to future disputes but even to those that were pending before the industrial court at the time the agreement was entered into. It was also agreed that three months' bonus should be paid to all workers in respect of the year 1951.

A similar agreement has been entered into between the Mill-owners' Association, Bombay and the Rashtriya Mill Mazdoor Sangha, regarding the payment of three months' bonus for the year 1951 to the workers of the cotton textile mills of Bombay. The bonus is to be paid in one lump sum. The agreement, however, provides that mills which have incurred losses or which claim to have incurred losses may approach the industrial court for obtaining exemption from payment of bonus.

AGREEMENT

WHEREAS THE AHMEDABAD MILLOWNERS' ASSOCIATION, AHMEDABAD, representing its local member mills and THE TEXTILE LABOUR ASSOCIATION, AHMEDABAD, a Representative Union, under the Bombay Industrial Relations Act, 1946, for the local area of Ahmedabad have deemed it desirable that all industrial disputes between the mills and their employees, between the mills and the Textile Labour Association and between the Ahmedabad Mill-owners' Association and the Textile Labour Association should be settled outside the Court, in the first instance, by negotiations and in case no agreement is arrived at by mutual discussion, then by conciliation or by arbitration, AND

WHEREAS it is expedient to set up suitable machinery for the above purpose,

NOW, therefore, it is hereby agreed between the Ahmedabad Mill-owners' Association, Ahmedabad, as under:-

1. That any industrial dispute between a mill and any of its employees or between a mill and the Textile Labour Association or between the Ahmedabad Mill-owners' Association and the Textile Labour Association, shall, in the first instance, be discussed and settled between the mills and the Textile Labour Association. Where the time-limit is not

extended by mutual consent, disputes under this head shall be settled within a week. If there is no agreement of extension of time-limit, the party initiating the dispute shall forward it to the Conciliation Board for settlement.

2. That a Board of Conciliation shall be set up, consisting of 8 persons, 4 to be nominated by the Ahmedabad Mill-owners' Association and 4 to be nominated by the Textile Labour Association.
3. (a) That the Conciliation Board shall meet as often as necessary but in no case less than once a week for transacting its business and any two of the members of the Conciliation Board from each side present in person at the meeting shall form the required quorum for such meetings.

(b) That in case of a vacancy taking place in the Conciliation Board, it shall be filled up by the Association entitled to fill up such vacancy within fifteen days from the day on which such vacancy occurs.
4. That the Conciliation Board shall hold the proceedings for hearing of the dispute referred to it as above on such day and at such time as fixed by the Board and shall inquire into the dispute and into all matters affecting its merits and shall endeavour to bring about an amicable settlement of such dispute after hearing the parties together. The decision of the Board shall be declared in writing and shall be binding on both the parties. In case, the Conciliation Board is unable to bring about a settlement of the dispute, either party to the dispute, if it so desires, or in case the opinion of the Board is divided, the Board may refer the dispute for decision to the Arbitration Board to be set up for the purpose, provided the party initiating the dispute does not withdraw it.
5. That the Conciliation Board shall have power to call upon the parties to produce before it such documentary and other evidence which may be deemed necessary for bringing about an amicable settlement of the dispute.
6. That the Conciliation Board shall not entertain any dispute unless it is proved to its satisfaction that full attempt was made by the parties to the dispute for settlement by mutual negotiation and that reasonable opportunity was given to the aggrieved party to place its case properly.

7. (a) That the Conciliation Board shall not entertain any dispute after the expiry of a period of three months from the date on which the cause of action would have arisen, unless the Board is convinced that the delay in reference of the dispute was due to circumstances beyond the control of the applicant, in which case the Board shall entertain the dispute.
- (b) That every dispute referred to the Conciliation Board shall be decided as expeditiously as possible, but in no case a dispute shall remain undecided for more than twenty-one days calculated from its date of reference to the Board, unless the parties extend the period by mutual consent.
- (c) That all the unanimous decisions of the Conciliation Board which are of a binding nature as provided in Clause 4 hereinbefore, shall be registered as Agreements under the provisions of the Bombay Industrial Relations Act.
8. That no party shall be represented before the Conciliation Board by a professional pleader but the parties would be at liberty to be assisted by their own technical staff at the time of submitting their case before the Board.
9. That the Conciliation Board may, if necessary, appoint one or more Assessors of its own choice to assist it.
10. That all proceedings before the Conciliation Board will usually be held at the office of the Ahmedabad Mill-owners' Association.
11. That this Agreement shall be in force for a period of two years from the date of its registration and shall be deemed to have expired after such period unless renewed.

For THE AHMEDABAD MILL-OWNERS' ASSOCIATION, AHMEDABAD,

(Sd/-) H. G. Acharya

Secretary.

For THE TEXTILE LABOUR
ASSOCIATION, AHMEDABAD
Sd/- S. R. VASAVADA
Secretary.

AHMEDABAD,
Dated the 8th July, 1952.

SUBMISSION

(Under Section 66 (I) Bombay Industrial Relations Act, 1946)

WHEREAS THE AHMEDABAD MILL-OWNERS' ASSOCIATION, AHMEDABAD, representing its local member mills and THE TEXTILE LABOUR ASSOCIATION, AHMEDABAD, a Representative Union under the Bombay Industrial Relations Act, 1946, for the local area of Ahmedabad have decided that all future Industrial disputes between the local member mills of the Ahmedabad Mill-owners' Association and the Textile Labour Association and between the Ahmedabad Mill-owners' Association and the Textile Labour Association should be settled without going to the Court by mutual negotiations and in case no settlement is possible by mutual negotiations, then by Arbitration,

NOW, therefore, it is hereby agreed between the Ahmedabad Mill-owners' Association, Ahmedabad and the Textile Labour Association, Ahmedabad, as under:-

1. That all disputes connected with an Industrial matter as defined in Section 3(18) of the Bombay Industrial Relations Act, 1946 that may arise in future between the local member mills of the Ahmedabad Mill-owners' Association and the Textile Labour Association and between the Ahmedabad Mill-owners' Association and the Textile Labour Association, which are not settled by mutual negotiations or by conciliation, shall be referred for arbitration to a Board of Arbitration to be set up for the purpose as provided hereinafter.

2. That a Panel of Arbitrators shall be constituted consisting of such number of persons as may be nominated from time to time by each of the two Associations.
3. That whenever an Industrial Dispute is to be referred by any party for arbitration under the terms of this Submission, each party to the dispute shall nominate its own Arbitrator from the Panel of Arbitrators referred to in Clause 2 above and the two Arbitrators thus nominated shall form a Bench which shall be termed THE BOARD OF ARBITRATION. The Board of Arbitration thus formed, before starting the Arbitration proceedings, shall appoint an Umpire, to whom it, in case of difference of opinion between the Arbitrators, shall refer their individual decisions in writing for giving his award.
4. That the Arbitration Board may appoint, if deemed necessary, one or more Assessors to assist them.
5. That the Arbitration Board shall hold its proceedings on such day and at such time as would be convenient to it and to the parties and shall decide the dispute or disputes referred to it either by the mills or by the Textile Labour Association or by the Ahmedabad Mill-owners' Association or by the Conciliation Board, as the case may be, after such enquiry as it deems necessary. The Board may ask the parties to submit written statements and may also require them to give evidence oral or otherwise and may further require them to produce before it any documents pertaining to the dispute.
6. That in case of a reference to the Arbitration Board in the matter of a dispute regarding Bonus, an individual member mill of the Association will have a right to appear and argue its own case before the Arbitration Board, if permitted by the Ahmedabad Mill-owners' Association to do so. The Textile Labour Association, however, will have a right to oppose such representation before the Arbitration Board.
7. That neither the Arbitration Board nor the Umpire shall enunciate or decide issues other than those specifically referred to them for arbitration.
8. That no party shall be represented in any arbitration proceedings by a professional legal practitioner, but the parties may be assisted by their own technical staff during such proceedings.

9. That every dispute submitted to the Arbitration Board shall be decided as expeditiously as possible, but in no case, a dispute shall remain undecided by the Arbitration Board for more than six weeks calculated from the date of Submission of the dispute to the Board, unless the parties extend the period by mutual consent.
10. That the Award of the Arbitration Board, which shall be in writing, shall be final and binding on both the parties. In case there would be no agreed Award of the Board, the matter shall be referred to the Umpire as provided in Clause 3 hereinbefore and the decision of the Umpire shall be in writing and shall be final and binding on the parties to the dispute.
11. That the Umpire, before giving his Award, may, if he deems necessary, require the parties to submit written statements or hear the parties in person for clarification of any points pertaining to the dispute, but it shall not be open to the parties to submit any new evidence to the Umpire.
12. That the Awards of the Arbitration Board or the Umpire shall be registered under the provisions of the Bombay Industrial Relations Act to make it binding to the parties.
13. That the arbitration proceedings shall generally be held at the office of the Ahmedabad Mill-owners' Association, but in special cases or for the convenience of the Arbitrators or the Umpire, they may be held at any other place in the city of Ahmedabad, as may be decided by the Arbitrators or the Umpire.
14. That after the registration of this Submission neither the Ahmedabad Mill-owners' Association nor any of its local member mills nor the Textile Labour Association shall take recourse to any legal proceedings in any Court under the Bombay Industrial Relations Act in any industrial matter, unless the Conciliation Board or the Arbitration Board consider that in view of any provisions of the Bombay Industrial Relations Act, it is not competent to them to decide the dispute; in which case, the parties may proceed under the provisions of law.
15. That this Submission shall be in force for a period of two years from the date of its registration and shall be deemed to have expired after such period unless renewed.

For THE AHMEDABAD MILL-OWNERS' ASSOCIATION, AHMEDABAD
Sd/- H. G. ACHARYA, Secretary.

AHMEDABAD.

Dated the 8th July, 1952.

For THE TEXTILE LABOUR ASSOCIATION, AHMEDABAD
Sd/- S. R. VASAVADA, Secretary.

ANNEXURE C.

Part I.

Agreement.

It is hereby agreed between the Ahmedabad Millowners' Association, Ahmedabad, representing its local member mills and the Textile Labour Association, Ahmedabad, a Representative Union under the Bombay Industrial Relations Act, 1946, for the local area of Ahmedabad, with reference to the notice of change in Form "K" dated the 6th June 1952 by the Ahmedabad Millowners' Association under Section 42(1) and Rule 51 of the Bombay Industrial Relations Rules, 1947 respectively in the matter of working of FOUR SIDES of Ring Frames by a Ring Piecer in the Ring Frame Departments in the local member mills of the Association, as follows:-

1. General. - That mills may work FOUR SIDES of Ring Frames by a Ring Piecer in the Ring Spinning Department, whenever a permanent vacancies occurs as a result of retirement or death of Ring Piecer attending two Sides of Ring Frames or in case of a casual vacancy taking place in the number of Ring Piers attending two sides of Ring Frames.

2. Unemployment. - That as a result of introduction of system of Four Sides working by a Ring Piecer, no employment of existing Ring Piers attending Two Sides of Ring Frames and existing Badli workers shall take place, except in the following manner:-

Mills may further introduce Four Sides working:-

- (i) by relieving workers on payment of Gratuity at an agreed rate as provided hereunder in case the workers are willing to retire,
- (ii) by providing alternative employment for Two Sides Piers in other departments.

3. Conditions of Work. - That the mills shall provide suitable working conditions for working of Four Sides of Ring Frames by a Ring Piecer in the Ring Frame Department.

4. That both the Associations shall appoint the Ahmedabad Textile Industry's Research Association (ATIRA) to investigate by its Experts, the matter of working conditions in the Ring Frame Department and to lay down standards of working conditions suitable for working of Four Sides of Ring Frames by a Ring Piecer in the Ring Frame Department which standards shall be adopted by mills working Four Sides by a Ring Piecer.

5. Wages. - That the question of payment of additional wages to a worker in any mill working Four Sides System, the Textile Labour Association

will give a notice to the mill concerned for improving the working conditions and the mill will restore the conditions to the standard within a period of one month of such notice. If there be no improvement in conditions within the period specified above, a fresh notice of one month will be given to the mill by the Textile Labour Association, demanding improvement in working conditions. If after two such notices there will be no improvement in the working conditions, the mill shall pay to the Four Sides worker compensation in form of cash allowance at a rate to be agreed upon between the two Associations and if there would be no agreement between the two Associations, then by arbitration, till the conditions of work are brought to normal.

6. Wages. - That the question of payment of additional wages to a worker for working Four Sides or Ring Frames over the wages fixed under the Standardisation Award dated the 21st April 1948 for such work shall be referred to the arbitration of Mr. Kasturbhai Lalbhai, Association's Arbitrator and Mr. Khandubhai K. Desai, Textile Labour Association's Arbitrator and the decision of the Arbitrators in the matter shall be final and binding on both the Associations.

7. Gratuity. - That as provided in Clause 2(1) hereinbefore, a worker who is relieved in connection with further introduction of four Sides working, shall be paid gratuity on the following scale:-

<u>Category of worker</u>	<u>Gratuity at the rate of</u>
(i) In case of Ring Piecer attending single Side of Ring Frame.	Rs 50/- for every year of continuous service with a maximum of Rs. 900/- for any length of service over 18 years.
(ii) In case of Ring Piecer attending Two Sides of Ring Frames	Rs. 55/- for every year of continuous service for the first 17 years and a maximum of Rs. 1,000/- for service of 18 or more years.

8. Central Committee. - That in case of any difference of opinion on any matter pertaining to Four Sides working, that matter shall be referred, in the first instance, to the Production Committee in the mill and in case of any difference of opinion in the Production Committee, the matter shall be referred to the Central Committee to be set up for the purpose jointly by the Ahmedabad Millowners' Association and the Textile Labour Association and the Committee's decision shall be final and binding on the mill and the workers.

9. That the mills desiring to work Four Sides of Ring Frames by a Ring Piecer shall enter into an agreement with the Textile Labour Association on the terms and conditions of this Agreement.

For the Ahmedabad Millowners' Association, Ahmedabad,

(Sd.) H. C. ACHARYA,
Secretary.

For the Textile Labour Association, Ahmedabad,

(Sd.) SOMNATH P. DAVE,
Secretary.

ANNEXURE C.

Part II.

Agreement.

It is hereby agreed between the Ahmedabad Millowners' Association, Ahmedabad, representing its local member mills and the Textile Labour Association, Ahmedabad, a Representative Union under the Bombay Industrial Relations Act, 1946, for the local area of Ahmedabad, with reference to the notice of change in Form "K" dated the 6th June 1952 by the Ahmedabad Millowners' Act, 1946, and Bombay Industrial Relations Rules, 1947 respectively in the matter of working FOUR LOOMS by a weaver in the Weaving Department in the local member mills of the Association, as follows:-

1. General. - That mills may work FOUR LOOMS by a weaver in the Weaving Department whenever a permanent vacancy occurs as a result of retirement or death of a weaver or in case of casual vacancies taking place in the number of weavers.

2. Unemployment. - That as a result of introduction of system of Four Looms working by a weaver, no unemployment of existing Two Looms Weavers and existing Badlis shall take place, except in following manner:-

Mills may further introduce Four Looms working -

(i) by relieving Two Looms Weavers on payment of Gratuity at an agreed rate as provided hereunder in case the weavers are willing to retire.

(ii) by providing alternative employment for Two Looms Weavers in other Departments.

3. Conditions of Work. - That the mills shall provide suitable working conditions for working of Four Looms by a Weaver in the Weaving Dept.

4. That both the Associations shall appoint the Ahmedabad Textile Industry's Research Association (ATIRA) to investigate by its experts, the matter of working conditions in the Weaving Department and to lay down standards of working conditions.

5. That whenever the working conditions deteriorate and become sub-standard in any mill working Four Looms system, the Textile Labour Association will give a notice to the mill concerned for improving the working conditions and the mill will restore the conditions to the standard, within a period of one month of such notice. If there be no improvement in working conditions within the period specified above, a fresh notice of one month will be given to the mill by the Textile Labour

Association, demanding improvement in working conditions. If after two such notices there be no improvement in the working conditions, the mill shall pay to the Four Looms Weaver compensation in form of cash allowance at a rate to be agreed upon between the two Associations and if there would be no agreement between the two Associations, then by arbitration, till the conditions of work are brought to normal.

6. Wages. - That the question of payment of wages to a worker for working Four Looms shall be referred to the arbitration of Mr. Kasturbhai Lalbhai, Association's Arbitrator and Mr. Khandubhai K. Desai, Textile Labour Association's Arbitrator and the decision of the Arbitrators in the matter shall be final and binding on both the Associations.

7. Gratuity. - That as provided in Clause 2(i) hereinbefore, a Two Looms Weaver who is relieved in connection with further introduction of Four Looms working, shall be paid gratuity at the rate of Rs. 55/- for every year of continuous service for the first 17 years and a maximum of Rs. 1,000/- for service of 18 or more years.

8. Central Committee. - That in case of any difference of opinion on any matter pertaining to Four Looms working, that matter shall be referred, in the first instance, to the Production Committee in the mill and in case of any difference of opinion in the Production Committee, the matter shall be referred to the Central Committee to be set up for the purpose, jointly by the Ahmedabad Millowners' Association and the Textile Labour Association and the Committee's decision shall be final and binding on the mills and the workers.

9. That mills desiring to work Four looms by a Weaver shall enter into an Agreement with the Textile Labour Association on the terms and conditions of this agreement and the Textile Labour Association shall enter into an agreement with such mills on the terms and conditions of this Agreement.

For the Ahmedabad Millowners' Association, Ahmedabad,

(Sd.) H. C. ACHARYA,
Secretary

For the Textile Labour Association, Ahmedabad,

(Sd.) SOMNATH P. DAVE,
Secretary.

Trade Unions

Q. 95. - Do you consider amendment of the Indian Trade Unions Act, 1926, necessary? If so, in what respects and for what reasons?

Ans. - Yes. The Trade Unions Act, 1926, merely provides for a registration of Unions but does not recognize them as a proper agency for collective bargaining, nor does it provide any protection for the workers from victimization etc.

In order to put Trade Unions on proper basis and see that they function well, provision should be made to see that Unions are real active organizations of workers, functioning on democratic lines, primarily dependent on their own resources and representing the voice of the workers. Under the present scheme of the Act, any seven members can apply for registration of a Union. Unions not backed by a substantial number of workers as regular members can serve no useful purpose. It is better to have a strong Trade Union in an undertaking or an Industry in a local area rather than have many small Unions with insignificant membership.

Membership should be regular i.e. workers not paying regular membership fees should be struck off the register. Exemption from payment may be given in certain cases.

The Unions must have a proper constitution. It is true that the Trade Unions Act provides for essential contents of the rules of the Union but no one cares whether those rules are followed. Elections of office-bearers must be at stated intervals, a budget must be placed annually before the General Meeting of the Representatives of the members and provision made for various activities which the Union desires to undertake. The Act should not only provide for conduct and discipline of the Union but also confer it certain specific rights to enable it to function. Right to collect subscription and other levies sanctioned by the Union must be given. Facilities for Union officials to meet the workers and discuss with them their problems must be ensured, and protection must be given to workers against victimization, harassment and unfair treatment for their joining a Union.

Collective bargaining and settlement of the disputes by negotiations, can only be accomplished if trade unions are run on sound lines, have the backing of majority of conscious workers and have the necessary knowledge and resources.

Government should also make arrangement to periodically examine the working of the Unions and guide them properly in maintenance of records, registers etc. Government should open training classes for trade union officials to qualify them to conduct trade unions on proper lines.

Q. 96. - Should the Trade Unions Law apply to persons, employed in the armed forces or police forces of Government and fire brigade personnel?

Ans. - We believe that the law should exclude the armed forces, the police and such other services from its scope. These employees may, however, be permitted to ventilate their own grievances by some machinery so that if there is any discontent, it can be easily removed.

Q. 97. - Should the rules of a trade union provide for -

- (a) the rate of subscription payable by members,
- (b) the circumstances in which the name of a member may be struck off the list of members; and
- (c) disciplinary action against members resorting to strike without the sanction of the Executive of the Union, or otherwise violating the rules of the trade union,

in addition to the matters already provided for by the existing law?

Ans. - (a) Yes. The rules must provide for a minimum membership fee per month. The Unions may be permitted to collect it either per every wage period or up to 3 months together, except in case of seasonal factories and agricultural operations, where it may be for a longer period, but the definition of membership must include two elements:

- (1) Acceptance of Rules and constitution of the Union.
- (2) Willingness to pay regular subscription at the stated rate, which can not be less than a particular amount. In our opinion the minimum subscription should be in no case less than four annas per month, if the Union has to maintain a regular office and do any work, it would not be possible to do so with less subscription. For agricultural labour the subscription may be reduced to two annas per month.

(b) Yes. The rules must provide that if any member does not pay his subscription consecutively for three months, his name shall be struck off the register. Exception may be made in cases of unemployment and such other circumstances. A member may forfeit the rights of membership, even in case of deliberate violation of the Unions' rules or any particular resolution or for acting in a manner prejudicial to the interests of its members.

(c) Rules must provide for steps to be taken against such of the members who instigate or resort to a strike without sanction of the Union or do any other act against the rules of the Union or its declared policy and resolutions.

Q. 98. - Do you consider that the rules of a trade union should provide for the procedure for the declaration of a strike?

Ans. - Yes. Strikes can not be dealt with in a light manner. In order to secure willing consent of all members, who would have to suffer in the event of a strike, serious deliberations must precede a strike. The Executive of the Union may authorize the office-bearers to declare or commence a strike after giving a due and proper notice only in case a substantial majority of workers affected vote by ballot for a strike. This procedure is absolutely necessary to safeguard the interest of the workers. The workers must know whether the issue is worth fighting for and whether all means for a peaceful settlement of the disputes are exhausted. Workers, even as a matter of expediency may not choose to carry matters to a logical conclusion in all cases of injustice, if they feel that objective conditions are against them. It is, therefore, necessary that the rules of the Union must prescribe the procedure for the declaration of a strike.

Q. 99. - Should a trade union consisting wholly or partly of civil servants be denied registration if it does not prohibit its members from participating directly or indirectly in political activities?

Ans. - Yes. Unions composed of civil servants should not be permitted to directly participate in politics. Individuals may have their own political ideology but they should not actively participate in party politics. Their Unions should strictly restrict its activities to trade union purposes. It is also the duty of civil servants to follow the policy of the State in different matters, whenever such policy is laid down.

Q. 100. - Should a registered trade union consisting wholly or partly of civil servants be liable to have its registration cancelled if a member takes part in political activities and the Union refuses or fails to remove him from membership.

Ans. - In the event of a Union deliberately backing up a member, contravening the law on the subject, and refusing to take action, in spite of intimation from an action, however, shall not be taken unless the member is proved to have deliberately contravened the legal provisions in this connection. Participation in this connection should be an overt act resulting in action or intended action and not merely the fact of a person subscribing to some political views and ideas as an individual.

Q. 101 - Should the order of a Registrar refusing to register a trade union be appealable to a civil court as in the existing Act or to a Labour Court under the labour laws?

Ans. - Civil Courts have no knowledge of the working of trade unions, Industrial Courts also do not fully understand the spirit underlying the trade unions law, and interpret the same and its provisions in a very rigid

manner. (Vide Decision of Industrial Court, Bombay, in B.E.S.T. Workers' Union v/s Registrar under B.I.R. Act). Appeals in such cases may be preferred to a 'Credentials Committee' composed of representatives of trade unions, a nominee of the Ministry of Labour and judicial member preferably a judge, who has functioned as a Tribunal or member of an industrial court.

Q. 102. - Should trade unions consisting wholly of Government employees civil servants or industrial employees - be permitted to maintain a separate fund for political purposes?

Ans. - Yes. In a free democratic country, every citizen has the right to participate in politics, subject to laws of the country. Only civil servants of a particular cadre or directly employed in Government administration may not be permitted to actively participate in politics. Industrial employees of Government should not be debarred from having a political fund, but it must be kept separately and must be on a voluntary basis. Railway employees, who are Government servants may by raising a political fund help to return to the Parliament or the Assembly any of their office bearers, who may not be a Government servant. They are justified and should be entitled to do so.

Q. 103. - Should provision be made in the law for maintenance by registered trade unions of account books and vouchers, lists of members, particulars of subscription paid by members, records of proceedings by the executive etc.?

Ans. - Yes. Trade Unions must maintain proper records, receipts and vouchers, properly written account books showing income and expenditure, minute books of meetings etc. It should also maintain proper files of correspondence with employers, Government and other authorities concerned.

All this is necessary to see that funds of trade unions are properly utilized and money spent in the interests of the workers for bonafide trade union activities.

Q. 104. - Is it necessary to exclude altogether outsiders from the Executives of trade unions or is it enough to restrict their number? If the latter, what is the maximum number of outsiders, who may be allowed to become office-bearers?

Ans. - In the present state of trade unions and the backward condition of majority of workers, outsiders cannot be excluded altogether. It is, however, necessary and essential for the healthy growth of the trade union movement that workers share the responsibility to an increasing extent gradually taking up the entire administration themselves. At present if outsiders are excluded, unions will be handicapped and will have to suffer a great deal since they are pitted against well organized employers, who are not only themselves intelligent but have adequate resources to hire skilled and intelligent persons to manage their affairs from among the outsiders.

In our opinion in no case should outsiders in a union exceed 1/3 of the executive including the office bearers. It is not proper to lay down a number since the members of the executive depend on the numerical strength of a union. In small unions a Committee of 9 to 11 or even 7 may be adequate but in large unions committees may consist of even a hundred members or more. It is, therefore, proper to prescribe only the proportion of outsiders to the total number of executive.

Q. 105. - Should outsiders be allowed in Unions composed wholly or partly of civil servants?

Ans. - Even in such Unions, outsiders cannot and should not be excluded altogether. The Committee may consist entirely of the employees but the office-bearers may be from honorary members, who may be outsiders. Government should give proper facilities to their own employees to conduct their unions by giving their services to the unions on loan and leave to attend meetings.

Q. 1-6. - Should an employer have the right to recognize any number of Unions in his establishment or should he be allowed to recognize only the most representative?

Ans. - The employer should recognize only the most representative union, if there are more unions in the establishment for purposes of collective bargaining. If more than one union is recognized, it will lead to internecine disputes and there will be a tendency on the part of the employer or his agents to play one union against the other. Such a practice will eventually harm both the workers and the employer.

Q. 107. - Should provision be made for the compulsory recognition of trade unions through the order of a labour court?

Ans. - General opinion is against compulsory recognition of trade unions. A representative union, in fact should 'ipso facto' be recognized, since it is the only agency for settlement of disputes and collective bargaining. When the employer gives the Union a notice as representing workers, he should be construed to have recognized the Union. A formal recognition is then needless. A recognized Union should be given all such facilities which are necessary to enable it to function properly and efficiently.

Q. 108. - What procedure would you suggest for the settlement of the claims of rival unions asking for recognition?

Ans. - The Union which is largest in numerical strength and properly functioning should be recognized.

Q. 109. - Should trade unions having civil servants as members be denied recognition if they do not consist wholly of civil servants or if such a trade union is affiliated to a federation of trade unions to which a trade union consisting of members other than civil servants is affiliated?

Ans. - It is advisable that since civil servants may retain their loyalty to Government, they should have their own unions, they should, however, be permitted to join federations and national organizations of labour.

Q. 110. - Should any such restrictions apply to trade unions of employees of Hospitals or educational institutions, of supervisors or of watch and ward staff?

Ans. - No restrictions should be applied in case of unions of employees of Hospitals, educational institutions, supervisors or supervisory staff and watch and ward. In these cases, however, since strikes are harmful to the society, they may be prevented from going on strike and be provided suitable machinery for redress of their grievances.

Q. 111. - In what circumstances may recognition once granted be withdrawn?

Ans. - If the Union carries on strike in spite of its being declared illegal, preaches deliberate violence, refuses to carry out a settlement or an award, it would be a fit occasion to warn the Union that its recognition will be suspended. If in spite of this warning the Union does not retrace its steps, the recognition may be suspended.

Q. 112. - What should be rights of recognized trade unions?

Ans. - (i) Right to enrol members and collect subscription and other levies, sanctioned by the Union on the premises.

(ii) In new recruitment right to ask the employer give preference to unemployed members of the Union.

(iii) Right to visit the undertaking to investigate disputes and visit the work-room or any other part in connection with a dispute after intimation to the management.

(iv) Right to correspond with the employer and hold discussions regarding workers' demands and grievances or demands by the employer for some changes in industrial matters.

(v) Discuss disputes between workers interse to establish amicable relations.

(vi) Hold meetings at suitable places in the compound of the undertaking if it is necessary to do so.

The Union may delegate these powers to one or more of its officials or to some of the members of the Union employed in the undertaking, elected for the purposes in accordance with rules of the Union.

To act as representative of workers in all respects and make on their behalf agreements and settlements of a binding nature, refer disputes to conciliation and arbitration and help in implementing the awards. To circulate or post notices giving intimation about meetings of the Union and other routine work of the Union. Right to ask for inspection of books, registers, musters, etc., to ascertain facts in connection with a dispute.

Permission to representatives to attend to Union work whenever they are required to do so.

Q. 113. - Should the executive of a Union have the right to visit the residence of an employee, whether the residence forms part of labour colony or not, situated on the premises of the establishment or on land owned or controlled by the employer?

Ans. - Yes. An employee's residence is his own place so long as he resides in it. It is immaterial whose property it is. A member of the Union Executive or any other person acting on his behalf or under his order, should have the right to visit the workers' residence, whether it is within the premises or without, the establishment and whether the land or building is owned or controlled by the employer or not.

Q. 114. - Should the Executive of a Union have the right to hold the Union meetings on the premises of the establishment or on land owned or controlled by the employer?

Ans. - Trade Unions holding meetings on the premises of the establishment should give information to the employer. The right to hold such a meeting should be granted to a recognized union in all cases. It is necessary to secure this right where a meeting of the workers could be held. Holding of a meeting becomes necessary not merely to strengthen unions but also to enable them to perform their since in a large number of cases, there are no suitable places in the neighbourhood legitimate functions. If workers' views have to be ascertained for a particular matter, it is necessary to hold a meeting. If workers have gone on strike and they have to be persuaded to resume work, there should be a meeting.

Q. 115. - Do you consider that Inspectors should be appointed for checking compliance with the Trade Unions law and if so, what should be their functions?

Ans. - Inspectors may be appointed not merely to check but also to guide and assist Unions to maintain all the necessary records etc., in compliance with the law. Such Inspectors may also check membership of a Union and declare if there is a gross discrepancy in the actual number and number of members shown in returns. If there is a large number of arrears of subscription, carried over a long period, he should advise the Union to strike off such members from the roll of membership. The Inspectors may also examine the receipts and expenditure and report, if any amounts are missing.

Supp: Note: -

When concluding our reply to questions on this section, we think it necessary to add the following point:-

The amendment made to the Indian Trade Unions Act, 1926 in the years 1947 and 1948, have not yet been enforced, Government should do so at an early date even without waiting for the legislation and only such amendments in the amended Act should be carried out which will be found necessary in view of our comments and replies on the questions on Industrial Relations. It is our considered opinion that if the 1947 and 1948 amendments are enforced, the Act would require only minor amendments and not the whole revision.

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