

INDUSTRIAL SOCIOLOGY: UNIT-4

INDUSTRIAL DISPUTES

In common parlance, dispute means difference or disagreement of strife over some issues between the parties. As regards industrial dispute, since its settlement proceeds as per the legal provisions contained in the 'Industrial Disputes' Act, 1947, hence it seems pertinent to study the concept of industrial disputes from a legalistic angle.

According to Section 2 (k) of the Industrial Disputes Act, 1947, the term 'industrial dispute' means "any dispute or difference between employers and employees or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment and conditions of employment of any person".

The above definition is too broad and includes differences even between groups of workmen and employers engaged in an industry. However, in practice, industrial disputes mainly relate to the difference between the workmen and the employers.

Dispute differs from discipline and grievance. While discipline and grievance focus on individuals, dispute focuses on collectivity of individuals. In other words, the test of industrial dispute is that the interest of all or majority of workmen is involved in it.

The following principles judge the nature of an industrial dispute:

1. The dispute must affect a large number of workmen who have a community of interest and the rights of these workmen must be affected as a class.
2. The dispute must be taken up either by the industry union or by a substantial number of workmen.
3. The grievance turns from individual complaint into a general complaint.
4. There must be some nexus between the union and the dispute.
5. According to Section 2A of the Industrial Disputes Act, 1947, a workman has a right to raise an industrial dispute with regard to termination, discharge, dismissal, or retrenchment of his or her service, even though no other workman or any trade union of workman or any trade union of workmen raises it or is a party to the dispute.

TYPES OF INDUSTRIAL DISPUTES

1. **Strikes:** Strike is the most important form of industrial disputes. Strike is a very powerful weapon used by a trade union to get its demands accepted. It means quitting work by a group of workers for the purpose of bringing pressure on their employer to accept their demands. A strike is a spontaneous and concerted withdrawal of labour from production. The **Industrial Disputes Act, 1947** defines a strike as "suspension or cessation of work

by a group of persons employed in any industry, acting in combination or a concerted refusal or a refusal under a common understanding of any number of persons who are or have been so employed to continue to work or accept employment”.

According to Patterson “Strikes constitute militant and organised protest against existing industrial relations. They are symptoms of industrial unrest in the same way that boils symptoms of disordered system”.

There are many types of strikes. A few of them are discussed below:

- a. **Economic Strike:** Under this type of strike, members of the trade union stop work to enforce their economic demands such as wages, bonus, and other conditions of work.
 - b. **Sympathetic Strike:** The members of a union collectively stop work to support or express their sympathy with the members of other unions who are on strike in the other undertakings.
 - c. **General Strike:** It means a strike by members of all or most of the unions in a region or an industry. It may be a strike of all the workers in a particular region of industry to force demands common to all the workers. It may also be an extension of the sympathetic strike to express general protest by the workers.
 - d. **Sit- down Strike:** When workers do not leave their place of work, but stop work, they are said to be on sit down or stay in strike. It is also known as tools down or pen down strike. The workers remain at their work-place and also keep their control over the work facilities.
 - e. **Slow-down Strike:** Employees remain on their jobs under this type of strike. They do not stop work, but restrict the rate of output in an organized manner. They adopt go- slow tactics to put pressure on the employers.
2. **Lock-out:** Lock-out is the counter-part of strikes. While a ‘strike’ is an organised or concerted withdrawal of the supply of labour, ‘lock-out’ is withholding demand for it. Lock-out is the weapon available to the employer to shut-down the place of work till the workers agree to resume work on the conditions laid down by the employer. The Industrial Disputes Act, 1947 defined lock-out as “the temporary shutting down or closing of a place of business by the employer”.
- Lock-out is common in educational institutions also like a University. If the University authority finds it impossible to resolve the dispute raised by the students, it decides to close-down (or say, lockout) the University till the students agree to resume to their studies on the conditions laid down by the University authority. Recall, your own

University might also have declared closure sometimes for indefinite period on the eve of some unrest / dispute erupted in the campus.

Lock-out is declared by the employers to put pressure on their workers. It is an act on the part of the employers to close down the place of work until the workers agree to resume the work on the terms and conditions specified by the employers.

The Industrial Disputes Act, 1947 has defined lock-out as closing of a place of employment or the suspension of work or the refusal by an employer to continue to employ any number of persons employed by him. Lock-outs are declared to curb the activities of militant workers. Generally, lock-out is declared as a trial of strength between the management and its employees.

WORKERS PARTICIPATION IN MANAGEMENT

WPM means different things to different people depending upon their objectives and expectations. Thus, WPM is an elastic concept. For example, for management it is a joint consultation prior to decision making, for workers it means co-determination, for trade unions It is the harbinger of a new order of social relationship and a new set of power equation within organisations, while for government it is an association of labour with management without the final authority or responsibility in decision making.

According to Keith Davis, “Workers’ participation refers to the mental and emotional involvement of a person in a group situation which encourages him to contribute to group goals and share in responsibility of achieving them”.

In the words of Mehtras, “Applied to industry, the concept of participation means sharing the decision-making power by the rank and file of an industrial organisation through their representatives, at all the appropriate levels of management in the entire range of managerial action”

According to the ILO, “Workers’ participation may, broadly be taken to cover all terms of association of workers and their representatives with the decision-making process, ranging from exchange of information, consultations, decisions and negotiations to more institutionalized forms such as the presence of workers’ members on management or supervisory boards or even management by workers themselves as practiced in Yugoslavia”.

CHARACTERISTICS OF WPM

1. Participation implies practices which increase the scope for employees’ share of influence in decision-making process with the assumption of responsibility.
2. Participation presupposes willing acceptance of responsibility by workers.

3. Workers participate in management not as individuals but as a group through their representatives.
4. Worker's participation in management differs from collective bargaining in the sense that while the former is based on mutual trust, information sharing and mutual problem solving; the latter is essentially based on power play, pressure tactics, and negotiations.
5. The basic rationale for worker's participation in management is that workers invest their labour and their fates to their place of work. Thus, they contribute to the outcomes of organization. Hence, they have a legitimate right to share in decision-making activities of organisation.

OBJECTIVES OF WPM

1. Promote mutual understanding between management and workers, i.e., industrial harmony.
2. Establish and encourage good communication system at all levels.
3. Create and promote a sense of belongingness among workers.
4. Help handle resistance to change.
5. Induce a sense among workers to contribute their best for the cause of organisation.
6. Create a sense of commitment to decisions to which they were a party.

WORKS COMMITTEE

It is a statutory body established within the industrial units as representative of management and workers. It is the most effective social institution of industrial democracy. The basic purpose is to prevent and settle industrial dispute at unit level. It can be formed by any organization that employs 100 or more workers.

COLLECTIVE BARGAINING

Collective bargaining is a process of negotiation between employees and a group of employers aimed at agreements to regulate working salaries. The interests of the employees are commonly presented by representatives of a trade union to which the employees belong. The collective agreements reached by these negotiations usually set out wage scales, working hours, training, health and safety, overtime, grievance mechanisms, and rights to participate in workplace or company affairs.

The union may negotiate with a single employer (who is typically representing a company's shareholders) or may negotiate with a group of businesses, depending on the country, to reach an

industry wide agreement. A collective agreement functions as a labor contract between an employer and one or more unions. Collective bargaining consists of the process of negotiation between representatives of a union and employers (generally represented by management, or, in some countries such as Austria, Sweden and the Netherlands, by an employers' organization) in respect of the terms and conditions of employment of employees, such as wages, hours of work, working conditions, grievance procedures, and about the rights and responsibilities of trade unions. The parties often refer to the result of the negotiation as a *collective bargaining agreement (CBA)* or as a *collective employment agreement (CEA)*.

The factors involve are:

1. Salary and bonus
2. Dearness Allowance
3. Incentive payments
4. Medical facility, etc.

BI-PARTITE AND TRI-PARTITE AGREEMENT

1. **Bi-partite Agreement** – An agreement arrived at between the management and the workmen on their own without any interference from Government under section 18(1) is referred to as bipartite settlement. It is applicable to those who are a party to the settlement.
2. **Tri-partite Agreement** – A tripartite agreement is arrived at during conciliation proceedings before the conciliation officer and is referred to as tripartite settlement. This covers all workmen present and future and all unions even if they are not a party to the settlement. This is called 12(3) settlement.

CODE OF DISCIPLINE/CODE OF CONDUCT

A **code of conduct** is a set of rules outlining the social norms and rules and responsibilities of, or proper practices for, an individual, party or organization.

Related concepts include ethical, honor, moral codes and religious laws.

In its 2007 International Good Practice Guidance, "Defining and Developing an Effective Code of Conduct for Organizations", the International Federation of Accountants provided the following working definition:

"Principles, values, standards, or rules of behaviour that guide the decisions, procedures and systems of an organization in a way that (a) contributes to the welfare of its key stakeholders, and (b) respects the rights of all constituents affected by its operations."

A common code of conduct is written for employees of a company, which protects the business and informs the employees of the company's expectations. It is ideal for even the smallest of companies to form a document containing important information on expectations for employees. The document does not need to be complex or have elaborate policies, but the file needs a simple basis of what the company expects from each employee.

A Code of Conduct can be an important step in establishing an inclusive culture, but it is not a comprehensive solution on its own. An ethical culture is created by the organization's leaders who manifest their ethics in their attitudes and behavior. Studies of codes of conduct in the private sector show that their effective implementation must be part of a learning process that requires training, consistent enforcement, and continuous measurement/improvement. Simply requiring members to read the code is not enough to ensure that they understand it and will remember its contents.

The proof of code of conduct effectiveness is when employees/members feel comfortable enough to voice concerns and believe that the organization will respond with appropriate action.

It applies to both public and private sector enterprises and aims to target to settle disputes and grievances mutually and promote cooperation.

The code can be applicable to-

- a) All Central Organizations
- b) Insurance Industry
- c) State Bank of India
- d) Reserve Bank of India

STANDING ORDERS

It is an order established under Industrial Employment Act (Standing Orders), 1946. It is an act required to the employees in industrial establishments formally defines conditions of employment to the workers and to make the said conditions known to workers to workmen employed by them.

This act extends to whole of India and can be applied to all kinds of industries in India.

LABOUR COURTS

A **labor court** is a governmental judiciary body which rules on labor or employment-related matters and disputes. It was set up by Central and State Government or Union Territory administrators. It deals with matters related to Central and State Govt. respectively. A person who can hold the position of judge called as presiding officer. The presiding officer should atleast hold a judicial office for not less than 7 years or a presiding officer of a labour court under a State Act not less than 5 years.

The matters involve under labour courts are:

- a) Discharge and dismissal of workers
- b) Application and interpretation of standing orders

- c) Legality of strikes and lock-outs.

INDUSTRIAL TRIBUNALS

The Industrial Tribunal is an independent juridical tribunal on matters relating to employment relations. It is regulated by the Employment and Industrial Relations Act and has exclusive jurisdiction to consider and decide all cases of alleged unfair dismissal, in addition to other cases associated with employment such as breach of the law with regard to provisions such as overtime, parental and maternity leave.

The decisions of the industrial tribunal are not subject to appeal, except on points of law. In addition, its awards are binding and cannot be revised prior to the elapsing of at least one year after the issue of any such award.

In some cases, other instruments are sought, such as the general law courts, to settle matters in which the law was allegedly violated at the place of work.

In this tribunal jurisdiction created for a limited period either on adhoc or permanent basis.

It involves only one person who shall be appointed by appropriate Government. A person may be judge of high court or minimum 3 years work as a district judge as well as below 65 years of age.

Industrial tribunal involve following disputes which are as follows:

1. Wages and salaries including the time and mode of payment.
2. Compulsory or other allowances.
3. Hours of work and rest time.
4. Leave with wages and holidays.
5. Bonus, profit sharing, provident fund, etc.
6. Position of workers.
7. Retrenchment of workers.