

# **CHAPTER-II**

## **METHODOLOGICAL ISSUES**

## 2.1 Definition of Key Words

The key words of the title are "disputes" and "settlement machineries". In this study, "**dispute**" means the industrial dispute. For the purposes of this study an industrial dispute is defined in a broader and more liberal sense than that provided in the law. The IRO 1969 defines an industrial dispute as : "any disputes or differences between employers and employers or between employers and workmen or between workmen and workmen which is connected with the employment or non employment or the terms of employment or the conditions of work of any person."<sup>1</sup> This implies that a dispute of an individual worker with his employer is not an industrial dispute. The legal pre-condition that an industrial dispute must be raised by the CBA<sup>2</sup> was however, adhered to at the plant level. At the conciliation level disputes are, by law, to be initiated by the formal CBAs. But since any aggrieved person or party can apply to the labour court, the legal precondition of a dispute to be raised by the CBA is not necessary. Thus, both collective and individual disputes are taken to be as industrial

disputes for this study. The term "settlement machineries" covers all aspects of dealing with industrial disputes from their initiation to their final settlement as they pass through the various stages of the disputes settlement machineries, viz. collective bargaining, conciliation, arbitration and industrial adjudication.

## 2.2 Sample Design

The study is based on two types of population. First comprises the people who are involved with the disputes settlement machineries and the second comprises the specific dispute cases analysed with a view to examining the nature of disputes and actual process of their settlement. The sampling method applied in the study may be termed to be a combination of multistage, purposive and random one. The actual sampling design may be discussed under the following heads.

(1) **Selection of industries:** The industries which constitute the samples for the study are: jute, textile, sugar and some other manufacturing industries chosen under the consideration of ensuring representation of the various sub-sectors of industries in Bangladesh.

(2) **Selection of plants:** Time and money being the limiting factors, the first criterion for the selection of plants was from the industrial area of Dhaka, Chittagong and Khulna considering the role played by these area in the industrial sector of Bangladesh. From these areas, 10 plants - 5 from public sector and 5 from private sector were selected through purposively and random sampling.<sup>3</sup>

(3) **Selection of Interviewees:** Interviewees were selected from all stages of the dispute settlement process-collective bargaining (plant level), conciliation and labour court.

(a) **Management Personnel:** The number of management personnel interviewed, were 30. Three management representatives were selected from each plant- the plant manager, the administrative manager and the labour officer.

(b) **Trade Union Leaders :** 50 trade union leaders both from CBA and non CBA were selected from the sample 10 plants. The representatives of trade union were mainly the president, the secretary or the vice president of different trade unions in an industry.

(c) **Conciliation Officer:** About 30 conciliators<sup>4</sup> were working in Bangladesh, including those working in the headquarters of the Labour Directorate. It was intended to interview all of them, but in spite of best efforts, some of them could not be contacted and the actual numbers of conciliation level interviews come to 22.

**Table-2.1**

**Summary of Interviews**

Levels	Respondents	Number	%
Plant	Plant Manager,	30	20.27
	Administrative Manager, Labour Officer. Trade Union Leader	50	33.78
Conciliation	Conciliator	22	14.86
Labour Court	Members of Labour Courts:		
	Management representatives	20	13.51
	Workers' representatives	20	13.51
	Chairman	06	04.05
	TOTAL	148	100.00

**(d) Members of Labour Courts :** There are seven labour courts functioning in the country. Each court has one permanent chairman and a panel of five workers' and five employer's representatives who attend the court in rotation. 20 workers' representative, 20 employers' representative and 6 chairman were interviewed. Thus, total number of labour court member interviewed came to 46. **Table 2.1** summarises the levels of interview, types of respondents interviewed and total number of interviews taken.

**(4) Selection of Dispute cases:** In addition to collecting information through direct interviews it was thought to be useful to examine specific dispute cases at the various stages of the dispute settlement process. Collective bargaining, conciliation and adjudication through labour court being the three major dispute settlement machineries in Bangladesh, it has been decided to analyse 150 cases from each of these levels. Due to non existence of cases, arbitration has been kept out of this selection.

**(a) Collective bargaining level cases**

At the plan level around 8 cases from each plant could be examined; the total coming to 80. The initial plan was to analyse around 15 cases from each plant but it was found that the number of such cases at plant level were not many. All types of disputes- collective or group or individual passing through formal negotiation were taken to examination. In selecting the cases, the investigation started from the most recent one and then chronologically moved backward (covering a period from 1985 to 1996).

**(b) Conciliation level cases**

From the conciliation level cases it was possible to collect only 120 cases from the sample industries. Accordingly, the examinations of such cases started from the

most recent one and gradually moved back. Thus, 120 cases covering the period 1988-96 were examined from the Divisional and Regional conciliation offices of the country.

### (c) Labour court level cases

Total 90 decided and 60 pending cases of the sample industries were scrutinised during investigation from the labour courts, covering the period 1990-1996.

Table 2.2 summarises the break-up of 350 cases analysed at the various stages of the dispute settlement process.

**Table-2.2**  
**Summary of Content Analysis of Disputes Cases**

Level of Analysis	Number of cases examined	Percentage
1. collective bargaining	80	22.86
2. conciliation	120	34.29
3. labour court	150	42.86
Total	350	100.00

### 2.3 Collection of Data

Interviews and data for the study were obtained by the researcher himself with the help of a lecturer of Islamic University, Bangladesh. The field work of the present study was carried out during January, 1996 to April, 1997.

The following were the main sources of data:

- (1) Direct interview with the people concerned with the dispute resolution process.
- (2) Content analysis of specific dispute cases. and
- (3) Available published records

The methods used for collection of data from each of these sources are stated below:

### **(1) Direct interview**

Direct personal interviews with the help of pre-designed interview schedule were under taken. Three separate interview schedules were used for collecting relevant information- one for the management personnel and trade union leaders,<sup>5</sup> one for the conciliation officers<sup>6</sup> and rest for the labour courts members<sup>7</sup>. The points covered in the interview schedule included variable like industry, age, designatin, work experience, academic qualification, causes of disputes, necessity for dispute settlement machineries, adequacy of the statutory time limits set for each machinery, viewed effectiveness of dispute settlement machineries, suggestions as to how the effectiveness of these machineries could be enhanced.

### **(2) Content analysis of cases**

Three separate content analysis sheets were prepared for examining the real life sample disputes cases at the three levels viz., collective bargaining, conciliation and labour court.

#### ***(i) Information on collective bargaining :***

Information on each collective bargaining case at plant level was analysed according to their types, initiators, reasons of disputes, outcome of collective bargaining, reasons for failing collective bargaining (if any), time taken to conclude the negotiations and the use of subsequent machineries in cases where direct negotiations failed<sup>8</sup>

*(ii) Information on conciliation :*

Sample cases at this level were analysed as to the conciliation office, the industry involved, the initiator for conciliation, reasons for disputes time taken to conclude conciliation proceedings, outcome of conciliation, reasons for failing conciliation and consequence of failure of conciliation.<sup>9</sup>

*(iii) Information on labour court:*

Sample cases at the labour court level were scrutinized as to the name of the court, whether the cases was decided or not, type of case, initiator of the case, reasons for the case, enforcement sought for, outcome of the case or for how long a period was the case remaining pending, reasons for delay in giving decision on the case, etc.<sup>10</sup>

**(3) Published Sources**

The information for the study were also collected from various published sources. Data relating to industrial relations, disputes and settlement machineries in Bangladesh were collected from various records and publications of the Department of Labour, Trade Union Offices and sample enterprises. Relevant information were also collected from records and reports of the Labour Courts and Labour Appellate Tribunal. Government publications e.g. plan documents, Statistical Year Books, various issues of the Bangladesh Labour Journal, Labour Policies, Constitution of the state, etc. provided much relevant data and information. Books, journals and various publications in this field, published and unpublished works of academics in the field were also valuable sources of information.

## 2.4. Data Processing and Statistical Analysis

The data collected, both from the primary and secondary sources have been arranged in logical order and processed manually. The collected data have been statistically analysed using, besides the absolute number, the method of percentage comparison, index numbers, summary statistics such as, averages, mean deviation, standard deviation, ranking based on overall scores and comparison of mean score based on the scoring scale depending upon the desirability of different dimensions studied. SPSS package also used for analysed data.

Since the study mainly focuses on the attitude analysis, the need was felt to quantify the data which were otherwise qualitative in nature. In the present study Summated Rating Scoring Scale developed by Rensis Likert<sup>11</sup> popularly known as Likert-type technique was applied. In such a scale the respondents were asked to respond to each item on a particular issue under study in terms of several degrees of agreement or disagreement, for example:

- (a) quite appropriate
- (b) appropriate
- (c) average
- (d) inappropriate
- (e) quite inappropriate.

The responses to various items were scored in such a way that a response indicative of the most favourable attitude was given the highest score and vice versa (5= High; 1=Low). The technique of choice scoring has been used to asses the order of preference, or in other words, the degree of popularity of a particular variable. If the respondents ranked a certain specimen as number one, at the top five given specimens, he evidently preferred it to other four and so on. In such cases weight of five to the 1st, four to the 2nd, three to the 3rd, two to the 4th and one to the 5th has been given on a five-point

continuum. In case of three-point scale, scores of 3, 2 and 1 have been assigned according to the order in which the items in question were ranked. Similarly, the other scoring scales have been applied as per the requirements.

## **2.5 Problems Faced During the Field Work**

(i) Due to their lower academic background as well as lack of knowledge about the laws and industrial relations machineries, some respondents among the trade union leaders were not able to freely respond to some questions.

(ii) Some of the respondents on the management side were not very co-operative with the investigator. They were also not well-conversant with labour laws, dispute settlement machineries. Sometimes they gave misleading information and even hesitated to talk freely with the investigator because to do so was beneath their dignity. Some felt disturbed when the investigator sought clarification on some relevant points from them. While some respondents were very busy with their duties and could not afford much time for the interview, some other although apparently not busy pretended to be always pre-occupied and thereby indirectly refused cooperation to the investigator who had to hanker after them again and again.

(iv) Some respondents particularly among the trade union leaders, were emotional. When investigator sought their response on a certain issue, they starting talking continuously about their problems, most of which was irrelevant to the study .

(v) Regarding the case studies, it was found that in a few cases records were not properly maintained. In other cases, the available information was not adequate. Moreover frequent absence of labour court members in their work places, also posed problems.

## 2.6 Limitation of the Study

Any study analysing human factor in the work place cannot claim perfection in view of the nature of the subject itself and the present one is no exception to it. The study has the following limitations:

(i) The main limitations of the study relate to the inadequate and incompleteness of the statistical data. Almost the entire secondary data both published and unpublished, used in the present study have been obtained from the office of the Directorate of Labour, Dhaka, which collects, compiles and publishes labour statistics pertaining to the country. The general limitations of this kind of secondary data originating from government offices, particularly their incompleteness and inaccuracy, cannot be ruled out.

(ii) The non-availability of adequate and reliable statistical information for some years and for some vital issues made it difficult to study all the important issues in industrial relation in proper perspective.

(iii) The working of all the sample units was not found uniform and the records and relevant data on some vital aspects were kept in haphazard manner and differed widely, making any generalization difficult.

(iv) The dispute cases analysed at the various stages of the dispute resolution process correspond to different periods of time. This however, did not affect the general nature of dispute and dispute settlement.

(v) The parties directly involved in the specific dispute cases could not be interviewed, particularly at the conciliation and labour court levels, due to time and resource constraints.

(vi) The very nature of the field data, most of which had to be measured at nominal and ordinal levels, did not permit the use of sophisticated tools of statistical analysis.

## **2.7. Hypotheses Relating to Effectiveness of Dispute Settlement Machineries**

Before turning to the empirical examination, it is appropriate to put forward some hypotheses about the operations and effectiveness of dispute settlement machineries.

### **1. Environment to Free Negotiation**

Effective dispute settlement pre-supposes a free interplay between the parties in to disputes provided they can meet and negotiate with each other on an equal balance of power, both economic and social. The voluntary method of resolving disputes are generally regarded as the most desirable method from the view point of a long-term cooperative relationship between the parties concerned. But due to lack of favourable environment in Bangladesh, as in many other developing countries, the dispute settlement machineries have been made highly restricted and legalistic. The basic financial terms and condition of service of workers in the public sector industries are fixed by the Government, and the parties and the various appointed agencies for dispute resolution are not allowed to bring any basic change in them over and above what the Government has fixed. *Under this situation it may be hypothesised that such restriction on the scope of collective bargaining and other settlement machineries are likely to reduce their effective operations.*

### **2. Parties' Attitude**

Most of the workers in Bangladesh are rural in their background having either no work experience or only agricultural experience. Due to their relative immaturity of industrial way of life most of the workers and trade union in such industries are likely to behave unreasonably and irrationally in their dealing with management. The existing literature suggest that, as it is true for workers, so also the management of such industries,

lack of experience in industrial management and they frequently use authoritarian and unilateral managerial practice which are not conducive to healthy industrial relations. *Thus it may be hypothesised that both sides are likely to have a negative attitude towards each other and as such be willing neither to resolve dispute between them through direct negotiation nor to extend necessary cooperation to the various external machineries in their pursuit to settle such disputes.*

### **3. Parties' Understanding of the Settlement Machineries**

Due to illiteracy or low level of literacy of the workers and trade union leaders, most of them are also likely not have a clear understanding of the disputes settlement procedures. The excessively legalistic procedure and ambiguous scope of the related laws are also likely to add to such misunderstanding. Under such conditions, the workers and trade unions may frequently raise their dispute on inappropriate issues. *All these factors are likely to lessen the operational effectiveness of dispute settlement machineries.*

### **4. Multiplicity of Union and Inter Union Rivalries**

The available literature suggests that the trade unions in Bangladesh are far from being strong and cohesive. The multiplicity of union is a very common feature in the industrial relations scene in Bangladesh and inter-union rivalries are very acute. Under such a divided and weak position of the trade Union, management are likely not to bother about them and even in cases where management may be willing to negotiate, difficulty might arise over the determination of the bargaining agents from among the rival union. *Thus it may be hypothesised that more the number of unions with consequent rivalries between them, the less effective are the dispute settlement machineries.*

## 5. Financial Condition

It has been pointed out in chapter I that as in other developing countries, so also Bangladesh, the industrial workers are concerned more with wage and other financial benefits than with other issues. That the major issues for industrial disputes in Bangladesh are essentially economic is also evident from the examination of the causes of disputes made in the chapter-III, For effective resolution, the industry in question must have required solvency to meet such demands over economic issues, and accordingly, *it is hypothesised that the better the financial position of the industry, the more effective the resolution of dispute is likely to be.*

## 6. Political Consideration

It may be assumed from chapter-I that most labour problems in Bangladesh emanate from political considerations. The leaders of many unions are often politicians and when the trade union movement divides into fractions, such divisions are based on political differences. With a view to making an inroad into the labour front the frequently changing new elites in power may give under privilege to favoured unions who could maintain direct personal communication with the ministers and even with the Head of the Government. The opposition union leaders may also secure mass support of the workers on the face of their serious economic frustration. This situation highly affects the operation of disputes settlement machineries. Inferring from this argument, *it is hypothesised that the more independent are those involved in the dispute settlement process (free from the governmental and other political influences) the more effective the dispute settlement machineries are.*

## 7. Subjective Conditions

The effectiveness of disputes settlement through external machineries is likely to be affected by the subjective conditions of those (age, education, training etc.) entrusted

with such machineries. *The more appropriate they are for their jobs, the more is the likelihood for their effective performance, resulting in effective dispute settlement.*

## **8. Service Conditions**

To ensure effective performance in any job, service conditions of the people working on it must be motivating, *The more attractive the service conditions in the dispute settlement machineries are, the more those engaged in such machineries are likely to feel motivated in their work and consequently, more effective the dispute resolution, likely to be.*

## **9. Workload**

It is generally believed that the machineries of dispute resolution are highly overloaded. Based on this general belief, *it is hypothesised that the excessive pressure on of the dispute settlement machineries may reduce their operational effectiveness.*

## **10. Working Conditions in the Offices of Disputes Settlement Machineries**

Basing on the wide acceptance of a positive influence of good working conditions on the performance effectiveness, it is hypothesised that *more adequate the office supplies and the physical conditions of offices of the dispute settlement machineries are, the beter are the performance of these machineries, resulting in effective settlement of disputes.*

### Notes and References

1. Clause (xii) of section 2 of the IRO, 1969.
2. Section 34, Ibid.
3. Particulars of the sample enterprises.

<u>Public Enterprises:</u>	<u>Location</u>
1. Adamjee Jute Mills Ltd.	Dhaka
2. Olympia Textile Mills Ltd.	Dhaka
3. Amin Textile Mills Ltd.	Chittagong
4. Khulna Newsprint Mills	Khulna
5. Kushtia Sugar Mills Ltd.	Khustia
 <u>Private Enterprises:</u>	
1. Mohasin Jute Mills Ltd.	Khulna
2. Chittagong Textile Mills Ltd.	Chittagong
3. Padma Textile Mills Ltd.	Dhaka
4. Bangladesh Tobacco Co. (Kushtia Plant)	Kushtia
5. Monno Ceramic Industries.	Dhaka.

4. Out of 42 conciliation officers all over the country only 30 of them actually engaged with conciliation work.
5. See, Annexure 1
6. See, Annexure 2
7. See, Annexure 3
8. See, Annexure 4
9. See, Annexure 5
10. See, Annexure 6
11. Likert, R. *A Technique for the Measurement of Attitude*, *Archieve of psychology*, 1932, p.140. also see, Kothari, C.R., *Research Methodology: Methods and Techniques*, Wishwa Prakashan, New Delhi, 1995, p.104.