

## CHAPTER – IV

### HISTORICAL PERSPECTIVES OF STRIKES

**Get rid of jealousy from your heart**

**And eschew violence**

.....Sama Veda. 27.4.

**Through rigorous discipline and strict austerity,**

**Burn thy passionate desires.**

.....Sama Veda. 24.

This chapter examines the development of industrial relations in UK, USA, India and other countries from the inception to till date. Study of the development of right to strike in UK and USA, the world's most leading economies with the aim of highlighting some of the main areas of difference and similarity. It looks at a number of important structures and processes and the way in which several key issues - such as pay, working time etc. Finally, the how the activity of strike changed from time to time is also discussed till date.

In the industrially developed countries strikes are inevitable. For the development of the country, establishment of industries is necessary, whereas, for the development of workers' living conditions their wages should be high. For earning more profits employers and for getting more economic benefits employees tries to over power the other. In the struggle for profits and benefits strikes becomes inevitable. Maintenance of industrial peace is necessary for the smooth

development of the industries. Harmonious relation between employer and employee is necessary for industrial peace. Relation between employer and employee cannot be harmonious unless the inter-personal relations between workers, supervisors and management are improved.

#### 4. 1 DEVELOPMENT OF RIGHT TO STRIKE IN UNITED KINGDOM

Industrialization first started in Britain, Hence the history and development of right to strike in United Kingdom reveals the facts that lead workers to fight for their right to strike. Trade Unions in Britain did not exist in Middle ages, nor in the time of the Tudors and the Stuarts, although we come across some craft guilds of the workers during the period which were the associations of skilled the workmen engaged in the production of the same type of goods. It was not, however, until the industrial changes of the eighteenth century that the need for workmen's combination became pronounced in England. The early trade unions or combinations, as they were called, formed by workers themselves spontaneously because of their need to combine for their need to combine for their own protection in rapidly developing world of industry<sup>1</sup>.

British Kingdom which never saw sunset (once) probably the only kingdom in the history that developed to such a height. The tiny kingdom out of its best efforts rose from an agricultural country to a well developed industrial economy. Even prior to 1215 (Magna Carta) the act of protest (strike?) was tasted by the United Kingdom. Long before the advent of industrial revolution, Statute of labourers in England created a legal duty to work under long term contract of service for wages fixed by law. They have to decide whether, and what limits need to be placed upon the ability to exert pressure by way of industrial action.<sup>2</sup> Those

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<sup>1</sup>. Dr. T.N. Bhagoliwal, *Economics of Labour and Industrial Relations*, p.219.

<sup>2</sup>. Bryn Perrins, *Trade Union Law* 1985, p.260.

workers who violated this duty faced criminal and civil penalty. The statute of Artificers imposed fine and prison terms on striking workmen, however, were averse to convicting workers for conspiring to strike for better wages. In consequence, action for damages under the doctrine of civil conspiracy and for inducing breach of contract was preferred. The theme of “collective responsibility was not known to British administration till 1782<sup>3</sup>.

With the beginning of industrial revolution employers found this state of affairs to be unsatisfactory. The French Revolution had created danger in England also and, therefore, it was feared that trade union, if developed, would become revolutionary in character. The parliament at that time was hostile and passed General combination Acts of 1799-1800 which forbade the establishment of unions in any trade, workers who joined the unions were to be severely punished. Accordingly, between 1799 and 1824 Combination Act prohibited combination and declared strike a crime. The rigors of these Acts were considerably relaxed on their repeal by the Combination Law Repeal Act, 1824 which made it legal for workers to combine to improve their wages, working hours and other working conditions, provided that, such strike or other concerted activity was not affected by the vice of violence, threat or intimidation. Several attempts were made to bring workers of all industries in to a single national organization instead of combining them in separate unions for particular craft industries. Immediately thereafter (what ever might be the reason) there was a flood of strikes in England and the parliament, in panic, repealed the 1824 Act. The 1825 Combination Laws Repeal (Amendment) Act further added molestation and obstruction to the list of workers concerted activities, which were illegal. In 1834 the Grand National Consolidated Trade Union was formed under the influence of Robert Owen and

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<sup>3</sup> In 1742 Sir Robert Walpole, the first Lord of the Treasury and Chancellor of the Exchequer and who was in fact the first Prime Minister of Great Britain lost support of majority in the Commons. It was in 1782 as a result of the hostility of the Commons that the practice of “collective responsibility” began.

his followers comprising nearly a million workers of both sexes, which collapsed later. The Amalgamated Society of Engineers was formed in 1850 as a result of the 'slow but sure' policy of the labour leaders indicated above. Molestation of Workmen Act, 1859 again favoured the workmen by declaring that mere to endeavour peacefully, to persuade others, without threat, or intimidation, to cease work, to obtain the rates of wages or hours of labour, being sought does not amount to 'molestation' or 'obstruction'. In pursuance of the report of Royal Commission on Labour, 1869 on trade unions, the parliament enacted Trade Union Act, 1871 and the Criminal Law (Amendment) Act, 1871 repealing the Acts 1825 and 1859, restoring the position under 1824 Act.

In *R vs. Bunn*, Brett.J, held that despite Trade Union Act 1871, which abolished Criminal liability in restraint of trade, still a criminal offence at common law to interfere, with improper intent, with the employer's to conduct his business. The Act of 1871 was followed by a great expansion of trade unionism but the industrial depression of 1874 brought about a number of unsuccessful strikes and consequently a large number of small unions disappeared. This led to the appointment of the second Royal Commissioner in 1874 and on its report The conspiracy and the Protection of Property Act, 1875<sup>4</sup> and The employers and workmen Act, 1875 were passed and Master and Servant Act, 1867 and the Criminal Law (Amendment) Act, 1871 were repealed.

*Queen vs., Lethem* the last of the famous 'Triology of the house of Lords, proved disastrous for the labour for the reasons that, (i) it "was an unwholesome and rather disgraceful exhibition by the law Lords of what might accurately be called both class prejudice and skulduggery, (ii) it affirmed that the Protection of

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<sup>4</sup>. The conspiracy and Protection of Property Act, 1875, declared that an agreement or combination by two or more persons to do, or procure to be done any act in contemplation, or furtherance of a trade dispute shall not indictable as a conspiracy if such act, committed by one person, would not be punishable as a crime.

property Act, 1875 gave to those acting “in contemplation or furtherance of a trade dispute” against prosecution for criminal conspiracy, did not extend to action for civil conspiracy, (iii) it also decided that those using industrial sanction as a result of an agreement, that is by way of collective action could not be liable to tort in circumstances in which an individual acting along with would not be liable.

A serious menace to the legality of trade unionism appeared in 1900 with the judgment pronounced in the case of Taff Vale Railway Company<sup>5</sup>. The public resentment over this state of affairs resulted in appointment of Royal Commission on Trade dispute and Trade Combination in June 1903, which submitted its report in January 1906. The Trade Disputes Act, 1906<sup>6</sup> was enacted.

None of these statutes defined “strike”. However, the aforesaid legislative history shows that ‘strike,’ as a legally protected concerted activity incorporated at least three elements viz. (i). Concerted stoppage of work, (ii). in furtherance of a traded dispute (iii). Absence of violence or other criminal activity (other than those which might arise by the breach of contract and restraint of trade and conspiracy).

British labour leaders after discussing with the Welshman had agreed not to go on strike during the period of World War-I.<sup>7</sup> During World War I the AFL (Associated Federation of Labour), USA pledged to avoid strikes<sup>8</sup>. In lieu of such

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<sup>5</sup>. The members and officials of the Amalgamated Society of Railway servants took steps in support of railway men during a strike. The company brought an action against for damages against the ASRS. The Law Lords decided that a trade union could be sued for damages alleged to have been caused by the action of its officers.

<sup>6</sup>. Act 1906 freed economic collective action from all penalties whether criminal or civil. It specifically provided that an act done in pursuance of an agreement by two or more persons and in contemplation or furtherance of a trade dispute should not be actionable.

<sup>7</sup>. James Connolly, The right to strike, (1915, Updated on 14.8.2003), The workers’ Republic, 3-7-1915.(www.marxists.org)

<sup>8</sup> Joshua B. Freeman, *Strikes in United States, 1881-1974* (1981); The Us department of Labor Bicentennial History of the American Worker (1976),

agreement law was passed prohibiting strikes.<sup>9</sup> Every worker under the war regulations is bound to labour when and where he is told, and if he does not like the conditions he is graciously allowed to grumble, but grumble he as much as he chooses he must keep on working under the conditions against which he is

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([http://college.hmco.com/history/readerscomp/rcah/htm/ah\\_9521200\\_labor.htm](http://college.hmco.com/history/readerscomp/rcah/htm/ah_9521200_labor.htm)). (visited on 24.03.2004)

<sup>9</sup> We would advise all interested in the peaceful development of the Labour Movement to watch carefully the progress of events in connection with the activities of the Minister for Munitions. It will be noted that in his negotiations with the British Labour leaders this wily Welshman has already succeeded in inducing a very large section of these gentlemen to surrender the 'right to strike', on behalf of the workers they represent. This means that in the industries in which their members are interested the workers have surrendered the only weapon they possess of immediate effective value in compelling a hearing for their demands. We have not yet heard of any corresponding surrender on the part of the employers – have not heard of the capitalist class giving up any of the power they possess over the lives of their employees. It is only the workers who are asked to surrender civic rights – rights hard won by generations of fighters. It will of course be argued that this is for the war only. Even if that be so it cannot be cited as a justification for the surrender; it may be used as an argument against the war. For if the war can only be pursued by virtue of robbing from the civil population all the privileges hitherto enjoyed by them, then no friend of freedom and orderly progress can fail to be opposed to the war. But upon what guarantee is the statement based that this denial of the right to strike will not persist after the war? Do we not all know that the world after the war will be mightily changed, that many institutions are being introduced as war measures that will be carried over into times of peace? He would indeed be foolish who did not realise that each innovation which we see being introduced into the industrial world will, if it proves effective for its present progress, become an established fact too difficult to dislodge when war is over. [1]

It was said that the denial of the right to strike is only a war measure would do well to study out the processes by which it can be justified on that ground. They will find that every argument that can be used to justify that denial now, can easily be stretched to justify similar restrictions in time of peace. For instance, what is the argument that made it necessary in war-time? The answer is that such restriction is necessary in the interests of national self-preservation. Well, what is to prevent the ruling class saying hereafter that any strike in a basic industry, such as the transport, the railway, the mines, the engineering, is a menace to the well-being of the nation, and that therefore it ought to be prohibited in the interests of national self-preservation? There is nothing to prevent them doing so, but much self-interest impelling them to such action. And any tyro in politics knows that precedent governs Great Britain above all countries in the world. If it can be proven in a British Court of Law that any particular decision was once given before and accepted as Law, then the judge of that Court will give his decision exactly on similar lines, though it may involve the most manifest absurdity and heinous injustice. Hence this denial of the right to strike is full of dangers for the future, and the British Labour leaders in accepting it have grossly betrayed the class to which they belong, or did belong.

Thus another liberty is disappearing. Already we have seen trial by jury destroyed in Ireland as in the case of Sean Milroy and Sheeny Skeffington. (James Connolly, The right to strike, (1915, Updated on 14.8.2003), The workers' Republic, 3-7-1915.(www.marxists.org)

grumbling. This is freedom, as it is understood by the war party in England and Ireland<sup>10</sup>.

They had surrendered the 'right to strike' on behalf of the workers they represent. The justification claimed by the representatives of the government as well as employers was it is a war measure only and for a short period. However, the labour leaders' failed to incorporate a provision of time limit (for war period only) in the agreement for surrendering the 'right to strike'. But the employers well anticipated in advance, it will continue forever, at least for some generations. After world War-I, it was proved that the surrender of this right hard won by generations of fighters was a blunder. The labour leaders who surrender the right to strike failed to negotiate successfully with the representatives of the government and employers to restore the right. The government that succeeded in restricting the employees from showing their protest (particularly from going on strike) failed to restrict the employer producers from increasing the prices of the commodities and getting profits multi fold. The political leaders of Great Britain thought that the right to strike is full of dangers for the future, hence they succeeded in inducing the labour leaders in surrendering the right to strike on the pretext of World War-I. After World War-I, the government failed to pay much attention to restore the right to strike. At the same time the labour leaders also failed to bring pressure upon the government to revive the right to strike.

World War-I presented England with an entirely different kind of problems. Even while recognising that concerted stoppage of work in furtherance of an industrial dispute was permissible economic activity, it was appreciated that in the

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<sup>10</sup> 1. Connolly's suspicions were justified. Restrictions of the right to strike lingered on under the name of the Trades Disputes Act.

2. When Sir John Anderson threatened (July, 1940) to suppress the **Daily Worker** he was asked to specify the subject matter to which he objected. The following reply was received: "The Secretary of State ... cannot attempt, by reference to particular items, to give you guidance..." (James Connolly, The right to strike, (1915, Updated on 14.8.2003), The workers' Republic, 3-7-1915. ([www.marxists.org](http://www.marxists.org)))

emergency situation of war this permissible economic activity needed to be regulated, not on the basis of conspiracy, restraint of trade, breach of contract and employer's property rights, but in the interest of the community at large and the realm. This compelled the legislature to define what it considered to be legal 'strike' and then proceed to regulate that activity. The Shop stewards' Movement originated on the Clyde with the engineers' strike in 1915 and it developed in England as a response to certain factors outlined<sup>11</sup>. Although practices may vary considerably, the average is roughly one shop steward for every fifty union members<sup>12</sup>. The parliament, for the first time, defined the expression 'strike' in The Munitions of War Act, 1915.<sup>13</sup> The conservative government ushered in to power in the wake of unprecedented general strike 1926, passed The (English) Trade Disputes and Trade Unions Act, 1927, which deliberately curtailed the workmen's right to strike<sup>14</sup>. In 1946, the Act of 1927 was repealed and the position prior to 1927 was restored.

During World War-II labour fully cooperated with the government. They agreed to abide by the wartime regulations, which made strikes illegal, and

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<sup>11</sup> Firstly, during the war, the official trade unions first pledged themselves voluntarily against strike action and later were made subject to the prohibition of strikes under the Munitions of War Act, 1915. Thus in case of serious grievances provoking strike action, the workers had to act under unofficial leadership provided by Shop Stewards. Secondly, due to war the pressing need for more munitions caused drastic changes in workshop practices and consequently the importance of Shop Stewards was considerably enhanced. Lastly, a greatly rising demand for more skilled workers for the Army led to continual friction and in consequence opposition to the war increased specially after the Russian Revolution of March, 1919. The Shop Stewards provided leadership for such opposition.

<sup>12</sup> Clegg, Killick and Adams, *Trade Union Officers* (Black Well, 1961).

<sup>13</sup> "The cessation of work by body of persons employed acting in combination, or a concerted refusal or a refusal under a common understanding of any number of persons employed to continue to work for the employer in consequence of a dispute done as a means of compelling their employer or any person or body of persons employed, or to aid other workman in compelling their employer or any person or body of persons employed, to accept or not to accept terms or conditions or accepting employment."

<sup>14</sup> The Act 1927 redrafted the definition of strike as "a cessation of work by a body of persons employed in any trade or industry acting in combination, or a concerted refusal, or a refusal under common understanding of any number of persons who are, or have been so employed to continue to work or to accept employment."

disputes should be settled through new National Arbitration Tribunal. In the World War-II, Britain lost 0.6 percent of its population and the United States about 0.3 percent. But Soviet Union lost 14 percent of its population.<sup>15</sup> But even after the war same regulations were continued, strikes ceased to be illegal in 1951 but the 'Minister of Labour could still refer certain issues to compulsory arbitration before the renamed "industrial Disputes Tribunal". This power was abolished in 1958 forcing a non-federal employer to observe any minimum standards for terms of employment established by collective bargaining, which was incorporated in terms and conditions of employment Act<sup>16</sup>.

The change in attitude came about as a result of an obiter dictum of Donovan LJ. in *Rookers vs. Barnard*<sup>17</sup>. The fallacy in the argument is to equate 'the job' with the 'contract'. But, that is not to say that don't want to give up their contracts. On the contrary that is the very thing they do want. Their notice indicates that they are not prepared to continue working on the existing terms. Nevertheless, Donovan LJ's theme was taken up by Lord Dalvin in *Rooks vs. Bernard*. It was also taken up by Lord Denning MR. in *Stratford vs. Lindley*, but he later resiled and repudiated the proposition that a strike after due notice is a breach of contract, for, said he if it were correct, "it would do away the right to strike in this country".

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<sup>15</sup> *Tele-Crusedar*, (Monthly journal of BSNL employees union) Vol-IX, June, 2005, nO.6, p.6.

<sup>16</sup> Bryn Perrins, *Trade Union Law*, 1985, p.43.

<sup>17</sup> (1963) 1 QB. 623 = (1962) 2 All.E R. 579, CA. "There can be few strikes which do not involve a breach of contract by the strikers. Until a proper notice is given to terminate their contract of service and that notice has expired, they remain liable under its terms to perform their bargain. It would, however, be an affection not to recognize that I the majority of cases no such notice is either given or accepted the strikers do not want to give up their job; they simply want to be paid more for it or to secure some other advantage in connection with it".

In *Morgan vs. Fry*, three judges of Court of Appeal took different view<sup>18</sup>. Trade Unions and Labour Relations Act, 1974 gives a defence against all those torts when committed in contemplation or furtherance of a trade dispute, but the defence is removed in various circumstances by the Employment Act of 1980, 1982 and Trade Union Act of 1984. The strike, once regarded as a central feature of British industrial relations, now become so peripheral. There are several possible explanations, not mutually exclusive.

What made the UK distinctive a few decades ago was the frequency of small, short, usually unofficial strikes. These reflected a highly decentralised system of collective bargaining and often chaotic payment systems in some manufacturing industries. Institutional reforms brought some reduction in strike numbers in the 1970s, though those that did occur were often larger and more protracted than before.

The much sharper decline in strike numbers in the 1980s and 1990s can be attributed, *first*, to the altered structure of UK employment. When strike activity was at its height, it tended to be concentrated in particular sectors (such as coal-mining, engineering, docks and public transport) and often in particular companies or workplaces. To a large degree, these are the areas of employment, which have declined most sharply in recent decades; whereas employment has grown in sectors without a tradition of collective militancy.

*Second*, there has been a shift in the balance of power. Unemployment has risen and trade union membership has fallen sharply, trends, which in most

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<sup>18</sup>. Russel LJ. Said, "a strike was a breach of contract unless express notice to terminate notice was duly given". Devies LJ. Reasserted the traditional view that "due notice of strike should be interpreted as implied notice of termination (plus an offence to work on new terms)". Lord Dennings MR. produced a novel doctrine that "at Common Law a strike suspends the contract of employment".

countries are reflected in fewer strikes. Changes in the law in the 1980s are also important. In UK there has never existed a "right to strike" as this is understood in most of Europe, strikers are in breach of their contracts of employment and are liable to dismissal (though in the past, few employers would have contemplated such action). Traditionally, however, trade unions were protected against liability for calling a strike; this immunity has now been removed, and the circumstances in which they can legitimately organise a strike are now tightly circumscribed. In addition, some employers have shown a new willingness to dismiss strikers, or to threaten to do so.

*Third*, the withering of the strike might be seen as evidence of the end of adversarial industrial relations and the growth of a partnership approach: the TUC interpretation. Certainly there are many employers whose handling of labour relations has become more sophisticated, and whose preference is to achieve change through agreement; reciprocally, more trade union representatives than in the past see strikes as a last resort. The priority of survival in an ever more competitive world reinforces the pursuit of peaceful solutions. Whether this has stimulated a fundamental shift in orientations in UK industrial relations remains to be seen.

A final point to note is the significance of the change of government in 1997. Some Conservatives argued at the time that a Labour victory would encourage union militancy ([UK9707144F](#)); but the reverse has occurred. This is particularly noteworthy because since the 1970s, as in many other countries, the focus of the most serious disputes has moved from private manufacturing to public services. Although the Labour government has maintained the tight spending limits of its predecessor, unions in the public sector have remained largely quiescent.

The climate of industrial relations in the UK is far removed from the strikes, stoppages and general work-place strife associated with the 1970s and early 1980s. The annual survey of industrial action by the Office of National Statistics reveals the extent to which relative harmony has become the norm in workplaces across the UK. The number of days lost because of industrial disputes is now running at less than half the average for the 1990s (660,000). There were no stoppages involving the loss of 100,000 working days or more. In total there were only 205 stoppages recorded—the second lowest since records were started in 1891. The average number in the 1980s was 1,129 and 273 in the 1990s.

Britain's industrial relations climate is now one of the best in the world. Both the scale and duration of strike action within the economy is a small fraction of that seen in the late 1970s, the 1980s and into the early 1990s. The improvement in industrial relations is an important factor behind the UK's favoured status as a venue for inward foreign direct investment.

In each of the three years (from 1999 to 2001), the number of working days lost through industrial stoppages has been comfortably within 300,000. Between 1979-1990 the figure never fell below 1.9 million—and in 1979 with the Winter of Discontent and in 1984 with the yearlong National Miner's Strike, the figures soared to over 25 million working days lost.

Much of the credit for the improved figures goes to the long-term impact of trade union legislation brought in by the previous Conservative Government. However new style unionism and a much more benign macroeconomic climate have helped to defuse many of the traditional causes of strike action—notably concerns about real pay levels and fears of widespread job losses.<sup>19</sup> The strike ban led to annual protests by the TUC which saw it in the same light as the Thatcher

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government's prohibition on trade union membership at GCHQ, the government's electronic eavesdropping centre.

The controversial ban on industrial action by prison officers was imposed in 1994 by Michael Howard, the then Conservative home secretary. It is to be scrapped in return for an overhaul of working practices and a three-year pay deal. (But restoration of full Trade Union rights is enough to secure modernization deal)<sup>20</sup>

An analysis of labour disputes in 1998, published by the Office for National Statistics in the June 1999 issue of *Labour Market Trends*, showed that strike activity remains at its lowest level since records began in 1891. In the period June 1998 to May 1999, only 464 ballots on strikes and other forms of action had been held, compared with 702 in the year 2002; and that only a minority of those ballots yielding a "yes" vote were followed by strike action.<sup>21</sup>

Industrial disputes in the UK, 1965-98

Year	No. of strikes	Workers involved (000)	Days lost (000)
1965-9 (ave)	2,397	1,215	3,929
1970-4 (ave)	2,917	1,573	14,077
1975-9 (ave)	2,345	1,658	11,663
1980-4 (ave)	1,363	1,298	10,486
1985-9 (ave)	895	783	3,939
1990-9 (ave)	274	223	824

<sup>20</sup> Alan Travis, home affairs editor, Prison officers get right to strike, *The Guardian*, May 21, 2003 Wednesday)

<sup>21</sup> European industrial observatory online, Strikes in the UK: withering away? ([www.eiro.eurofound.eu.int/](http://www.eiro.eurofound.eu.int/))

## Industrial disputes in the UK, 1995-98

Year	No. of strikes	Workers involved (000)	Days lost (000)
1995	235	174	415
1996	244	364	1,303
1997	216	130	235
1998	166	93	282

*Source: Labour Market Trends, Office for National Statistics, June 1999.*

Publication of these figures has provoked little reaction, doubtless because they confirm what is by now a well-established trend. However, in a comment on the new statistics, Trades Union Congress (TUC) general secretary John Monks hailed them as evidence that "the partnership approach to industrial relations is now the dominant mode". He also referred to the TUC's own annual survey of affiliated unions, also published in June (*Focus on balloting and industrial action: trade union trends survey 99/3*). This showed that in the period June 1998-May 1999, only 464 ballots on strikes and other forms of action had been held, compared with 702 in the year 2002; and that only a minority of those ballots yielding a "yes" vote were followed by strike action. This, he argued, showed that unions were establishing increasingly effective bargaining relationships and rarely needed to apply the strike weapon. The survey (to which affiliates representing three-quarters of the TUC membership responded) showed that the Transport and General Workers' Union was responsible for roughly half of all ballots. While pay was the most frequent strike issue, its importance had declined since the year 2002, while redundancy had become an issue in a third of all disputes.

## 4. 2 DEVELOPMENT OF RIGHT TO STRIKE IN UNITED STATES OF AMERICA

Evolution of strikes in United States one of the world's most leading economies was the most violent, and blood stained. The employers and the government always suppressed the striking workers or slaves with tremendous force<sup>22</sup>. Trade unionism in early stages confined only to the skilled and white workers only. Carroll D. Weight, the first commissioner of labour of the United States, discovered records of only 1491 strikes and lock-outs in USA before 1881, more than half of which occurred in 1880. The two most important events in early history of United States took place in the year 1676, at a time when United States of America did not exist, but there was a series of British colonies. *First* of its events were a rebellion of the white workers and African slaves against the planters class of Virginia, for the reason that white workers and black slaves had roughly similar working conditions. It is important to note that, there was no race discrimination at that time. To overcome this problem the planters crushed the rebellion by creating class difference of white and black. From that time white workers started thinking themselves first as white and secondly as workers. The *second* event of 1676 was a war in the North East New England States that was known as the King Philip's war. In this the Puritans, who were radical Protestants from England killed about 30,000 Indians and established total military control of the New England North-East part of America. The early history of the United States created dynamic base on a mixture of a radical of Protestantism of the African slaves and the Indian. These two events together created a basic ideological dynamic change in America. On one hand, they promoted racial oppression inside the society and expanded the West outside.

The first actual working class political party union was formed in the late 1820s in United States. The early unions were completely contained with the ideology of White supremacy and were not at all interested in the problems of the

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<sup>22</sup> <http://www.reapinc.org/Home.html>

slave population. However, labour historian Philip Foner sets the birth of American labour movement at 1827. In 1827, the Mechanic union of Trade Association of Philadelphia was formed. The first Textile Strike occurred in 1828. These moments achieved their first political expression in the Democratic Party, which became the party of the White working men 1820s and 18230s. Democratic party though had the support of the working class was never been an anti-capitalist party, ruled America politics from 1828 until the outbreak of the civil war in 1860. Often various local unions united in to "Trade Unions" to provide common support during strikes and frequently maintained common strike funds. In 1834 the first effort to form a trade union group reaching beyond a single area was made<sup>23</sup>.

By 1836, there were 13 similar bodies in other cities. By 1850, national unions viz. Upholsterers, Hat Finishers, Plumbers, Building Trades, Railroad Engineers, Stone Cutters, Lithographers, Cigar Makers, Silver Planters, Mule Skinners, Machinists, Blacksmiths, Painters and Cordwiners were founded: But it is very interesting to observe, that in 1848 at the time of the first worker uprisings in above all France, in which Communism appeared as a serious working class current, the workers movement in the United States was completely caught up with the question of slavery. In 1848 the Democratic Party split over the question of slavery. In early 1860s the United States had a Civil Way that lasted for five years, which was the real creation of American States. The Civil War (1861-65) and its aftermath gave a fillip to the revival of trade union activity. By 1865, there were 300 unions representing more than 200,000 workers in 61 trades, by 1870 there were about 32 craft nationals, on the basis of these trade assembly a National Labour Union was organised in 1866 which eventually collapsed in 1872 when the leadership tried to transform it into a political party. The dissatisfaction with National Labour Union led to organisation to militant but secretive labour

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<sup>23</sup> City central bodies from seven cities met in New York to form a national trade union body which could not survive the panic of 1837 and the ensuing years of business dislocations.

unions<sup>24</sup>. The Knights of Labour were the first national organisation in America (formed in 1880s) was active for a period of more than a year and extended its influence over the unskilled workmen as a consequence, a standing committee was appointed by the House of Representatives in 1883 and a National Bureau of Labour was established to collect expert information on labour conditions in 1884.

After the civil war, industrialisation proceeded at a rapid pace; as a result the frequency of strikes was increased. The establishment of Knights of Labour (1869) gave great impetus and assistance to the strikes conducted in 1877 by Coal miners and railroad workers. Formation of American Federation of Labour (AFL) further lead to increase in number of strikes.

Formation of doctrine of “**Employment –at-Will**” in 1877 by Horace C. Wood in Treatise ‘Master and Servant’ which was shared by most of his legal contemporaries<sup>25</sup> change the entire scenario of employer, employee relationship. The concept of employment brought revolutionary change in the concept of “Right to employment” and “Right to strike”. Any employer under this system can terminate the service of his employee for any reason, which includes even for “no reason”. The history of “May Day” begins in the United States on May 1, 1886<sup>26</sup>.

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<sup>24</sup> The Noble Order of the Knights of Labour is the truly first national organisation of labour, founded in 1869 at Philadelphia, represented the first significant attempt in this country to form one big general union.

<sup>25</sup> Ronald B. Standler, *History of At-Will Employment Law in the USA*, (2000) ([www.rbs2.com/atwill](http://www.rbs2.com/atwill)) William L. Mauk, Wrongful Discharge: The Erosion of 100 Years of Employer Privilege, 21 Idaho L. Rev. 201, 202 (1985).

<sup>26</sup> The history of May Day begins right here in the USA. On May 1, 1886 the Federation of Organized Trades and Labor Unions declared a national strike to demand an eight-hour work day and 350,000 workers across the US responded. The country was paralyzed and that paralysis was most severe in Chicago and in Chicago two days later police fired on strikers - killing four and wounding many more. On May 4 at a peaceful rally in Haymarket Square that the police attempted to disperse, a bomb went off. In the aftermath the Chicago police arrested 8 labor leaders, 7 of whom weren't even there, and they were all tried on the basis of their radical syndicalism or unionism beliefs and all 8 were sentenced to death. Four were hanged and one died a mysterious death in prison. News of these trials and executions electrified labor groups around the world and in 1889 the Socialist International declared May 1, a day of demonstrations, and since 1890 rallies have been held all over the world. In many countries on all continents, May 1 is a national holiday. In 1947 over 500,000 workers marched in New York City demonstrating labor's power in post WW II America. It is no accident that in 1947, the Veterans of Foreign Wars began their drive to have May Day declared to be Loyalty Day.

In 1877 was the first real outbreak of mass-class struggle in Railway strikes all across the country. The Industrial Workers of the World (IWW), a militant organisation formed which organised all of the immigrant group as well as Black workers along with White working class. Before World War-I the Industrial Workers of the World actually organised some dangerous strikes among others. The American capitalist class used tremendous violence to suppress the IWW movement. Unfortunately, IWW was destroyed by repression as well as mechanisation after World War-I.

In 1881, six Craft Unions under the leadership of Samuel Gompers and Adolph Strasser established the Federation of Organised Traders, and Labour Unions (FOTLU). In 1886, when the Knights of Labour refused to agree to respect jurisdiction of the large craft unions several of the later formed the American Federation of Labour (AFL)<sup>27</sup>. "Citizens' Alliances" along with Employers' Association successfully encountered the strikes by AFL by influencing the public opinion through press. IWW rejected the collective bargaining, as it believes in direct action against employers. It conducted several successful strikes. As IWW leaders took anti-war positions (during World War-I) they were sentenced to twenty years and ordered for closure of its offices under The Espionage Act. Several leaders of IWW joined newly formed American communist Party after the war.

During war there was close co-operation between organized labour and employers. The government also accepted in principle of labour representation of official committees connected with war. The National war Labour Board was established which was able to bring about amicable settlement of workers' grievances wherever they exist. The employers were willing to concede the demands of the labour if they co-operate in uninterrupted and steady production.

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In 1958 the act was passed by Congress and President Eisenhower signed it into law (Peter Onley, May Day Speech (May 1, 2004) ([www.zmag.org](http://www.zmag.org)))

<sup>27</sup> FOTLU was merged in AFL.

But after the war the government withdrew from active intervention in industrial relations there were many bitter industrial disputes. Open shop Organisations were established practically and number of unions was crushed under the combined onslaught of anti-union drives, the wage cuts and the breaking of agreements signed during the war by the employers. The anti-union terror activities resulted in decline of union membership to 3.5 millions in 1924 from 5 millions in 1920. At the same time, company membership rose to 1.5 million in 1928 compared to less than 7 lakh in 1922.

Among the most bitterly contested strikes of the late 19th and early 20th centuries were those conducted by steel workers in 1892; by bituminous-coal miners in 1894 and 1897 and anthracite-coal miners in 1900 and 1902; and by employees of the Pullman Palace Car Company in 1894. Many of these strikes were marked by major outbreaks of violence; in the Pullman strike, for example, President Grover Cleveland sent United States Army troops to the scene to quell the rioting. The struggles of the workers in the clothing industry for union organization and improvement of working conditions were also characterized by many strikes. (The leading union in this field, the International Ladies' Garment Workers' Union, one of the largest affiliates of the AFL, led the first strike in this industry, that of the shirtwaist workers of New York City in 1909-1910.)

In 1919 Seattle was shaken by general strikes. The earliest strike conducted by Government Employees in the United States was that of the Boston Police. In 1919 the strike was caused by the refusal of the Boston police commissioner to permit the police to affiliate with the AFL. For a brief period, the city of Boston was the scene of widespread rioting, which began after a majority of the police had left their posts. Calvin Coolidge ultimately broke the strike, the then governor of Massachusetts, who brought the state militia into the city, took charge of the police force, and ended the strike agitation. The Great Depression (1929-33),

which caused considerable fall in the level of economic activity, employment that in turn, affected the income of the wage earners. In order to revive the American economy, the Government intervened and the result was the famous “New Deal”. The first legislation where in the workers were given advisory status in preparation of industrial codes was the “National Industrial Recovery Act, 1933”. This in turn resulted in increase of union activities and the membership of AFL increased by 40% in 1935 for the first time since 1922 it’s paid up membership exceeded 3 millions<sup>28</sup>. The National Labour Relations Act, 1935 that gave private sector union reorganisation for the purpose of collective bargaining, did not address the public sector unions.

During World-War-II unions agreed to ‘no-strike’ pledge in order to liberate Europe and defeat the Japanese military<sup>29</sup>. During this [period both the Associated Federation of Labour and the CIO agreed to a “no-strike” policy, for furthering the national war effort by maintaining production at a high level. Although this pledge was not kept inviolate and some strikes did occur during the war, their number and duration were negligible. At the end of World War-II there were 4600 reported strikes, many of which were in the public sector. In 1841, 23 million days were 'lost' in strikes, whereas in 1946 the figure was 116 million; even in 1949 the figure was still high, at 50.5 million. This increase was not primarily due to an increase in the number of strikes *per se* (4,288 in 1941, 4,985 in 1946), but in the number of strikers (236,000 in 1941, 4,600,000 in 1946), and in the duration of the strikes that took place, clearly showing a growth in working class confidence. In 1947 United States Congress had passed the notorious Taft-Hartley Act,<sup>30</sup> which required union officials to sign a non-communist oath.

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<sup>28</sup> In 1935 the number of strikes conducted was 2,014.

<sup>29</sup> Editorial, Labour research association, New York, Workers’ right to strike should not be condemned, October, 9, 2001. <http://WWW.labourresearch.org/>

<sup>30</sup> Section 13 of Taft-Hartley 1947, states that, “Nothing in this Act, except as specifically provided for herein, shall be construed so as either to interfere with or impede or diminish in any way the right to strike, or to affect the limitations or qualifications on that right.”

Another provision prohibited strike by public workers. Despite this nominal recognition of the right to strike, the Taft-Hartley Act contains extensive limitations on the right to strike and on the rights of strikers.<sup>31</sup>

Condon-Walden Act provided for dismissal of a striking employee including three years ban on employment among other penalties. A striker if reinstated, he was barred from pay increase for three years and will be placed on probation for three years. Most unions, however, emerged from 1940s and grew between 1950s and 1970s. The Railway Labour Act, 1950s covers only employees of American Railways, and allows direct State intervention in possible strikes and also allows the State to impose contracts upon the workers<sup>32</sup>. At this stage the thought of fundamental right to strike is inopportune, ill timed or a bad idea. During 1947-48 at the political level the post-war wave of strikes had been contained by growing bureaucracy and repressed by the state. The Taft-Hartley Act, 1947, legitimised the State repression. In order to counter the post Second World War strikes, the United States' ruling class viciously attacked the labour movement. The concert of strikes, which was developed, passed through the different phases of both positive and negative, started decline through a series of trouble that began in mid-1950s. Wild-Cat strikes were started in the industries in

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<sup>31</sup> As it has developed, Taft-Hartley applies an ends/means test for determining whether a strike is illegal or unprotected. As a general rule, strikes are illegal if the union seeks to achieve improper goals or if improper tactics are used. Strikes to obtain illegal or permissible subjects of bargaining would be examples of strikes that are prohibited because the goal is illegal. Strikes lose legal protection if unlawful tact is used. For example, sit-down strikes are unlawful. In addition to restrictions imposed by Taft-Hartley, the Anti-Injunction Acts (Norris-LaGuardia and similar state legislation) are important for determining the ability of the union to maintain a strike without court intervention.

A major limitation on the right to strike is the interpretation of the Section 7 concept of protected activity. An employer retains the right to discipline workers who engage in activity, which is unprotected. Thus, workers who are engaged in wildcat strikes, strike or picket misconduct, or other tactics which exceed the standards of permissible conduct under Section 7 may be disciplined.

<sup>32</sup> Public sector workers face more dramatic restrictions on the right to strike. Most states and the federal government restrict or prohibit public sector strikes. The federal government, for example, has the right to terminate strikers and revoke the bargaining rights of a union involved in a strike.

1955. The Black movement, which began in the mid 1950s and achieved greatest success in the second of 1960s; all these occurred in a context of the Vietnam War. Direct attack on the working class started by the employees in 1980s. Air traffic Controllers who were Government employees went on strike in 1981, who were simply fired by Ronald Regan and replaced by military personnel. At this stage, it is interesting to note that the American Government loved unions and workers strikes as they were happening in the Soviet sphere of influence, but they were destroying them in their own sphere of influence. It led to whole series of working class defeat. In 1983, the strike by Greyhound bus drivers was completely smashed. In 1986, the 18 months old strike in the state of Minnesota by meat packing workers was completely defeated. In 1986, ten or eleven large factories were closed in the area of Los Angels with the loss of 40,000 jobs of mainly black workers. Ten years later in 1992 in the Los Angeles riots approximately 60 blacks and Latinos were killed. All these incidents forced the American capitalists to think for a change in an ideological direction and that was what brought Bill Clinton to power in 1996. The year 1999 witnessed a record low number (17) of strikes, where as in the year 2000 the number of strikes were doubled (39) involving an estimated 3,94,000 workers on picket line.

On September 11, 2000, two planes by the Al-Quaida terrorists attacked World Trade Centre. At the same time Globalisation and anti-globalisation movement caused tremendous effect on the trade union movement. After the WTO incident (September 11, 2000), some newspapers started canvassing that some strikes are jihad by the transport workers union against the city. At the same time when the workers were about to go on strike the Employer the Government of New York threatened the workers with unbelievable fines and prison sentences if

they struck. The Government officials openly declared that any one goes on strike would be declared as an act in favour and support of terrorist activities<sup>33</sup>.

#### 4. 3 DEVELOPEMENT OF RIGHT TO SRIKE IN RUSSIA

In Russia, trade unions first arose in 1905-7, growing out of strike committees, Soviets of Representatives, factory deputies, factory committees and other organization set up by the workers in the course of their revolutionary struggle. Organized by the party of Bolsheviks (communists), the trade unions took an active part in the first Russian Revolution under the direction of the party. After the revolution was defeated, they were persecuted by the Tsarist authorities. However, the largest trade unions like the unions of metal-workers, miners, oil workers and textile workers continued illegally to rally, the proletariat to fight against Tsarism and were among the Organisations on which the Bolshevik (communist) party relied in its work among the people. The workers, however, began to join trade unions openly after the victory of the October revolution of 1917. In 1957, when the trade unions in the U.S.S.R. celebrated their fiftieth anniversary, out of some 50 million wages and salaried workers in the country, more than 47 were members of trade unions.<sup>34</sup>

Originally, the functions of the trade unions as workers' Organisations for the purpose of improving the conditions of workers were undisputed despite the fact that the factories had been taken over by the State. At the beginning the policy of the Russian trade unions was absolute duty to safeguard interests of the workers to assist in every way possible the improvement of the material conditions and constantly to rectify the faults and exaggerations of economic bodies in so far as

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<sup>33</sup> After September 11 the climate was created, in which almost all opposition can be immediately accused of either terrorism or sympathy with terrorism.

<sup>34</sup> Tsyganov , V., Soviet Unions p.9.

they proceeded from bureaucratic pervasions of the machinery of the State.<sup>35</sup> In 1928, trade unionism was brought into line with the policy of socialism and trade unions ceased to be only workers' representatives for the improvement of their working conditions. The trade unions in Russia have later become auxiliary institutions to the Government for the enforcement of labour discipline and for the drive for increased production. But, "although they form part of the state machinery, still their function is to conduct collective bargaining with the state boss. It is by means of collective bargaining between trade unions and management that rates of wages and other conditions of work are determined in Soviet Russia."<sup>36</sup>

The collective bargaining (in Russia) is different from what takes place in a capitalistic country.<sup>37</sup> The Russian Trade unions are organized on the basis of industry. At the base is the factory committee or local committee elected by secret ballot by all members of productive or administrative unit. Each primary committee elects delegates to the higher district (trade union) soviet, from which delegates are sent to the provincial soviet and from them to the trade union soviet of the constituent republic. The highest body is the Supreme Common Assembly of the All-Union Council of the Trade Unions, which acts for all the workers in the country. The labour movement in Russia is attached to the World federation of Trade Unions.

The communist model of trade unionism, however, came into prominence only after World War I. It stands midway between a voluntary institution and State institution. Membership is theoretically voluntary. Its function, allotted to it practically by the State,

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<sup>35</sup> Ram, V.S., *State in Relations to Labour in India*, 1938, p.57.

<sup>36</sup> Webb, Sidney and Beatrice, *Soviet Communism, A New Civilization*, Vol.I, 1941, p.138.

<sup>37</sup> Ibid., p, 184. "The note in these discussions is not of conflict and struggle between two hostile parties, each endeavoring to deprive the other of something to which it clings for its own benefit, but rather one of objective examination of the statistical facts and the consideration of public policy to which both parties agree to differ".

is to protect the interest of workers and to prepare them for the inauguration of the proletarian dictatorship, strictly on the model of the economic and political system of Soviet Russia.

#### 4. 4 DEVELOPMENT OF RIGHT TO STRIKE IN INDIA

##### Ancient history of 'Association'

“Protest” might be as old as the origin of life on the earth. All living beings for the purpose protecting their territory probably for protecting the food, which was necessary for their survival, prevented the other animals from entering in to that region. Man who evolved from the animal an evolutionary form of the animal also started to follow the same principle initially for safeguarding the food available in his valley/area. As the human skill developed he shifted from the system of nomadism to sedimentary life on the banks of river and developed the system of cultivation. This transformed man’s habit from eating raw meat to cultivation and cooking has drastically changed his lifestyle. In the process of protecting his environment (for preserving food?) he was forced to come together along with his fellow human beings, like other animals, which, later converted into the system of “groups”. These groups later developed into the system of “society”. In the process of settlement he was forced to divide labour among the members, which later lead to invention of words like “Property”<sup>38</sup> and “Dhana”. These groups later lead to the formation of Guilds<sup>39</sup> which preventing one class from being exploited from another and also for economic activities. The guilds played an important role in the promotion of trade, crafts and industries in ancient India.

The terms *gana*, *puga*, *vrata* and *sangha* in Panini’s *Asthadhyayi* show the rise of guilds coincided with the growth of industry. The *Ramayana* used the term

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<sup>38</sup> Invention of system of “property” in India further changed the life style of the human being. It is not easy to determine the origin of property. According to R.S. Sharma, the term *Pana*, which later came to mean coin, and *dhana*, 9in the vedic period) which later came to mean wealth.

<sup>39</sup> According to Gautama some people following different professions grouped themselves into organised bodies for the promotion of their individual as well as collective interests and these were called the “guilds.” (H.V. Sreenivasa Murthy, *History of India*, P. 150, 1993, EBC, Lucknow.)

'*nigama*' in the sense of a society of traders and craftsmen and *Mahabharata* to mean a guild of merchants<sup>40</sup>.

India (Bharat) of 600 B.C. met most of the requirements of urbanization. In creating their social structure, Hindus took in to account two factors, *guna* (innate character) and *shrma* (striving). Every man by birth endowed with certain qualities, traits and attitudes. Like any system of other countries, India also has its law on the basis of morality in the forms of religious dictates in the form of "Sruti<sup>41</sup> and Smrity". The most remarkable form of Hinduism is that it has always permitted religious innovations, and thus time and again new dimensions are added to Hindu religion. All sorts of innovations whether of scientific or social nature were dictated and accepted in the form of religious sanctions.

The gist of Hinduism<sup>42</sup> (the gist of all Vedas) was condensed to be a capsule form called "Bhagwat Geeta". According to Geeta every one must do

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<sup>40</sup> The head of the guild was called as *Sresthi*, who was assisted by an advisory council consisting of senior members. The composition of advisory council varied from one to five members. According to Yagnavalkya the head of the guild must be an honest person, well acquainted with the Vedas and the duty, able, self-controlled, sprang from noble family and skilled in every business. The guild had a body of executive officers who were elected by the members of the guild. The executive officers were to be well versed in Vedas, pure in monetary dealings and of good behaviour. They supervise all the transaction of the guild. The number of executive officers varied from five to ten members.

The Kautilya's Arthashastra mentions guilds as great military powers. It further stresses that the acquisition of the help of corporations was better than the acquisition of the army, a friend or profit. Even king also cannot interfere with the administration of the guilds.

Democratic features:

Brihaspati speaks of a house or assembly where the members of the guild met together at regular intervals. Narada prescribes rules for attendance of members. Kautilya says "He who suppresses what is right, who does not give scope to speak or who says something improper is to be punished." Mitramisra mentions how the general assembly of the guilds determined the recruitment of its new members and the exclusion of the old one. Thus the democratic character of the guilds was established beyond doubt or dispute.

<sup>41</sup> Hindus consider their law as of divine origin. Sruti (heard) means the direct revelation of God to the great rishis). It is treated as a permanent law and cannot be questioned.

<sup>42</sup> India, has a rich cultural heritage and social system which in the form of "Hinduism" of about five thousand years,. The remarkable feature of India in the form of Hindu Religion has been that it has been able to absorb all thoughts, ideas, dissensions, practices and professions in its fold and retained its basic unity.

'swadharma'<sup>43</sup> (one's own duty). Change in time proved that the Vedas not sufficient to meet the needs of the society. In order to meet the demands of the society Upanishads, Dharma Shastras and Dharma sutras were drafted by the eminent saints/rishis.

The Hindu *shastrakar*s have laid great emphasis on dharma (duty).<sup>44</sup> In *Balwant singh v. Ram Kishan*<sup>45</sup> the Privy Council held that "all these old text books and commentaries are apt to mingle religious and moral consideration, not being positive laws, with rules intended for positive law". Rapid growth of trade, finance and industry gave a great fillip to urban development during the Gupta period.

Another striking example of Kautilya's Arthashastra is its references to confederacies of oligarchy or republican states (11<sup>th</sup> adhikarana about sanghas). He states that (XI 1. 1-3)' securing an oligarchy on one's side is better than securing an army or an ally; for sanghas well-being knit become unassailable by enemies.<sup>46</sup>

### **Trade Unions during the British period**

Employer employee relations are essentially backbone of industrial relations. Trade unions have formed for representing collectively for the coercive action taken by the employer against individual employee. Strikes in India are as old as trade unions. Strike by itself is not an industrial dispute, but is an evidence of industrial dispute and the purpose of all modern industrial relations are to

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<sup>43</sup> (Bhagawat Gita, III, 7)

<sup>44</sup> According to Manu, dharma is "what is followed by those learned in Vedas and what is approved by the conscience of the virtuous who are exempt from hatred and inordinate affection" (Manu Smriti. II, 1).

Medhatithi, one of the early commentators of Manu, says that the term dharma stands for duty. (may be religious, moral, social and legal duties).<sup>45</sup> (1898) 25 IA 54

<sup>46</sup> *ibid* P.250

replace the sanction of strike as a mode of resolution of industrial disputes by that of role of law in industry.<sup>47</sup>

Where as the modern factory system in India, began with the establishment of first cotton mill in Bombay (1854) and first jute mill in Bengal (1855). The early trade unions or combinations in England, as they were called, formed by workers themselves spontaneously because of their need to combine for their own protection in rapidly developing world of industry<sup>48</sup>. Long before the advent of industrial revolution, Statute of labourers in England created a legal duty to work under long term contract of service for wages fixed by law. They have to decide whether, and what limits need to be placed upon the ability to exert pressure by way of industrial action.<sup>49</sup> Those workers who violated this duty faced criminal and civil penalty. The statute of Artificers imposed fine and prison terms on striking workmen, however, were averse to convicting workers for conspiring to strike for better wages. In consequence, action for damages under the doctrine of civil conspiracy and for inducing breach of contract was preferred.

With the beginning of industrial revolution employers found this state of affairs to be unsatisfactory. The French Revolution had created danger in England also and, therefore, it was feared that trade union, if developed, would become revolutionary in character. The parliament at that time was hostile and passed General combination Acts of 1799-1800 which forbade the establishment of unions in any trade, workers who joined the unions were to be severely punished. Accordingly, between 1799 and 1824 Combination Act prohibited combination and declared strike a crime. The rigors of these Acts were considerably relaxed on their repeal by the Combination Law Repeal Act, 1824 which made it legal for

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<sup>47</sup> Vitthal Bhai B. Patel, *Law of Industrial Disputes*, Vol.I, Ed.III (1984)P.344

<sup>48</sup>. Dr. T.N. Bhagoliwal, *Economics of Labour and Industrial Relations*, p.219.

<sup>49</sup>. Bryn Perrins, *Trade Union Law* 1985, p.260.

workers to combine to improve their wages, working hours and other working conditions, provided that, such strike or other concerted activity was not affected by the vice of violence, threat or intimidation.

The beginning of the industrial working class in India can be traced back to the last decade of the 19<sup>th</sup> century. Strikes in the form of protest (in India) were first initiated by the social reformers. As far back as 1840, Lord Macaulay had condemned the labour system in India as 'partial slavery'. In England, Molestation of Workmen Act, 1859 again favoured the workmen by declaring that mere to endeavour peacefully, to persuade others, without threat, or intimidation, to cease work, to obtain the rates of wages or hours of labour, being sought does not amount to 'molestation' or 'obstruction', during this period in India, The workmen's Breach of Contract Act of 1859 and the Assam Plantation Act of 1863 provided summary remedies of penal character against deserting labourers. The labour movement in India may be traced from 1860s. The earlier sign if labour agitation in India was a movement in Bengal in 1860 led by Dinabandhu Mitra, a dramatist and a social reformer of Bengal followed by some of journalists to protest the hardship of the cultivators of Indigo plantation workers caused considerable embarrassment to the British Government, which led to appointment of an Indigo Commission. The Report of the Indigo Commission of 1860 had led to the enactment of Transport of Native labours Act, 1870.<sup>50</sup>

In pursuance of the report of Royal Commission on Labour, 1869 on trade unions (in United Kingdom), the parliament enacted Trade Union Act, 1871 and the Criminal Law (Amendment) Act, 1871 repealing the Acts 1825 and 1859, restoring the position under 1824 Act.

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<sup>50</sup> *Report of the National Commission on Labour 2002*, p.104.

In *R vs. Bunn*, Brett.J. held that The Trade Union Act 1871, abolished Criminal liability in restraint of trade. He further held that, interfering with the employer's right to conduct his business with improper intention is still an offence under common law. The Act of 1871 was followed by a great expansion of trade unionism but the industrial depression of 1874 brought about a number of unsuccessful strikes and consequently a large number of small unions disappeared. This led to the appointment of the second Royal Commissioner in 1874 and on its report The conspiracy and the Protection of Property Act, 1875<sup>51</sup> and The employers and workmen Act, 1875 were passed and Master and Servant Act, 1867 and the Criminal Law (Amendment) Act, 1871 were repealed.

In 1875 Sarobji Shapuri in Bombay made a protest against poor working conditions of workers at that time<sup>52</sup> and in the same year, a few social reformers and philanthropists, under the guidance and leadership of Mr. S.S. Bengalee started an agitation to protest against the appalling conditions of workers in factories especially those of women and children and made an appeal to the authorities (Secretary for State of India) to introduce legislation for the amelioration of their working conditions. The first Factory commission was appointed in 1875 and first *Factory Act* was passed in 1881<sup>53</sup>. This Act proved highly inadequate and its provisions were highly disappointing. In 1886 itself the first important strike was conducted in Japan<sup>54</sup>.

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<sup>51</sup>. The conspiracy and Protection of Property Act, 1875, declared that an agreement or combination by two or more persons to do, or procure to be done any act in contemplation, or furtherance of a trade dispute shall not indictable as a conspiracy if such act, committed by one person, would not be punishable as a crime.

<sup>52</sup> V.V.Giri, *Labour Problems in Indian Industry*, Bombay, Asian Publishing House, 1951, P.1.

<sup>53</sup> Dr. T.N. Bhagoliwal. *Economics of Labour and Industrial Relations*, P.230

<sup>54</sup> Women silk-mill labourers in Yamanashi Prefecture carry out Japan's first strike (from 14 to 16, 1886) by factory workers to demand better working conditions. [Eric Prideaux, A timeline of protest in Japanese history, [www.japantimes.co.jp](http://www.japantimes.co.jp), visited on 27.10.04]

The founder of organized labour movement in India may be said to be Mr. N.M.Lokhande who was a factory worker himself and who organised the first labour association called *Bombay Mill Hands Association*<sup>55</sup> and Lokhande as its president organized an agitation and called for a conference of workers in Bombay to make representation to another factory commission appointed in 1884. In 1890 he convened mass meeting of about 10,000 workers in Bombay on April 24, 1890 and drew a memorandum for limitation of working hours, weekly rest days, mid-day recess and compensation for injuries and placed before the Factory Labour Commission 1890. In response the mill owners of Bombay granted a weekly holiday. A total of 25 strikes were recorded between 1882 to 1890 in the presidency of Bombay and Madras. After 1890, a large number of labour associations were started in India. A new Factories Act was passed in 1891. Two strikes occurred in Bombay in 1894. The first big strike of mill operatives of Ahmedabad occurred in the first week of February 1895. There were also strikes in jute mill industries in Calcutta in 1896.<sup>56</sup> In 1897, after plague epidemic, the mill workers in Bombay went on strike for payment of daily wages instead of monthly payment of wages.<sup>57</sup> In 1903, the employees of Press and Machine section of Madras Government went on strike, which went on for six weeks, against the practice of overtime work without payment. In 1905 the workers of the Government of India press Calcutta, launched a strike.<sup>58</sup> The Amalgamated Society of Railway servants of India (regarded as a quasi-labour Union by the Bombay Labour Gazette was stated in 1897), the *Printer's union, Calcutta in 1905*, the *Bombay Postal union in 1907*, the Kamgar Hitvardhak Sabha and Social

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<sup>55</sup>.The Bombay Mill Hands Association, however, cannot be called as genuine trade union. The workers did not have any effective organization of their own. The Bombay Mill Hands Association has no existence as an organized body, having no roll of membership, no funds and no rules.

<sup>56</sup> G.Ramanujam, *Story of Indian Labour*.

<sup>57</sup> Gopal Ghosh, *Indian Trade Union Movement*.

<sup>58</sup>. Over the issues of (i) non-payment for Sundays and gazette holidays; (ii). Imposition of irregular fees; (iii). Low rate of overtime pay; and (iv). The refusal of authorities to grant leave on medical certificate.

Service League in 1910 were formed. In December, 1907, the *Workers of Eastern Railway Workshop at Samastipur* went on strike for six days on the issue of increment of wages. In the same year, the *Bombay postal Union and Indian Telegraph Association* called on a strike. In the year, 1910 the workers of Bombay went on strike demanding reduction in working hours. However, such labour associations organized during this period were only labour welfare organizations and as such cannot be equated with modern trade unions. These organizations wanted to mitigate the evils of modern factory system. There was no class-consciousness among labourers and there was incomplete and ineffective realization of the evils of modern factory system. The few attempts that were made at this period were simple manifestations of some local grievances that were felt strongly and once they were solved or decided, the unions or labour associations became extinct or non-entries. At this period strikes were absent as means of grievance redressal. Mr. Lokhande's efforts during the period were commendable was "more philanthropic of labour legislation and workers' welfare than a pioneer of labour organization or labour struggle."<sup>59</sup> This period has been characterized as the *social welfare period of our early trade union movement*. By the date of World War-I (1914-18) two specific streams of thought and action that influenced the working class and those who were committed to the struggle for social justice. One was the influence of the Trade Union movement and the leaders of the Labour Party in the U.K. and the thoughts of Marx and Lenin. The other was the thought and struggles of Mahatma Gandhi.

### **The period from 1918 to 1924**

Though, there is a trace of the workers in the Allahabad Cotton mills forming a union in 1917 under the leadership of Shrimati Anasuyaben, the credit of forming the first industrial union on systematic basis goes to Mr. B.P. Wadia,

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<sup>59</sup>.Dutt, Palme, *India Today*, p. 375.

an associate of theosophist Mrs. Annie Besant who founded the *Madras Labour Union in 1918*. Mahatma Gandhi on his return to India from South Africa in 1918 after the World War-I (1914-18), commence his work in India with a struggle in Champaran to liberate Indian peasants and workers from the regime of exploitation and near enslavement from the British indigo planters. This was followed by the great strike of textile workers that Gandhi led in Ahmedabad. He described this strike was a “Dharmayudh or righteous struggle.”<sup>60</sup> Between 1919 and 1923, however, scores of unions came into existence in the country. At Ahmedabad under the inspiration of Mahatma Gandhi, spinners union and weavers union federated in to *Textile Labour Association, Ahmedabad*. Russian Revolution had its own favourable impact on labour moment in India at this stage. The setting up of International Labour Organisation and All India Trade Union Congress, on 30<sup>th</sup> October 1920 gave Philip to the unionism in India. But in the beginning the unions had very little continuity. The Industrial Disputes Committee, Bombay (1921) commented on the lack of stability of these unions; ‘in most cases the unions are little more than strike committees consisting of a few officers and perhaps few paying members around them; the rest rally in time of trouble.’ Shri. N.M.Johi spearheaded the demand for legislation on the registration and protection of the trade union in the legislative Assembly in 1921 making recommendations to the Governor General-in-Council that he should take steps to introduce at an early date in the Indian legislature as may be necessary for the registration of trade unions and for the protection of trade unions officials from civil and criminal liability for the bona fide trade union activities. It led to the passing of the Trade Union Act, 1926.

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<sup>60</sup> *Report of the National Commission on Labour*, vol-I (part-I) 2002, P. 107 and 108

### The period from 1924 to 1935:-

In India unlike America right to strike is not expressly recognized by the law. It was in 1925 a Trade Union bill was introduced and passed in 1926, which came into force from June 1927. The trade union Act, 1926 for the first time provided limited right to strike by legalizing certain activities of a registered trade union in furtherance of a trade dispute which otherwise breach of common economic law. Now a day a right to strike is recognized only to a limited extent permissible under the limits laid down by the law itself, as a legitimate weapon of Trade Unions.<sup>61</sup>

The right to strike in the Indian constitutional set up is not an absolute right but it flow from the fundamental right to form union<sup>62</sup>. As every other fundamental right is subject to reasonable restrictions, the same is also the case to form trade unions to give a call to the workers to go on strike and the state can impose reasonable restrictions. The third phase of Indian labour movement is called as *Left Wing Trade Unionism*. During this period, communists captured the labour movement, split<sup>63</sup> the Trade Union Congress twice and conducted some of the *most violent strikes* in India. The main reason for growth of this extremist feeling was economic hardship of the workers. The years 1928 and 1929 were also the periods of large-scale strikes in Bombay<sup>64</sup>, Kanpur, Sholapur and Jamshedpur and in the East Indian and South Indian Railways. The *Royal Commission on*

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<sup>61</sup> Ss.17, 18 and 18 of The Trade Union Act 1926.

<sup>62</sup> Article 19.

<sup>63</sup> In 1928, at the Jharia session, the conflict developed between the two groups and at the Nagpur Session in 1929 a split took place under the leadership of Messers N.M.Joshi, V.V.Giri, B.Bhaskar Rao, R.R.Bakale and Diwan Chaman Lal seceded from the congress and set up a separate organisation under the name of National Trade Unions Federation for co-coordinating the activities of non-communist trade unions.

<sup>64</sup> The Bombay Textile Worker's strike in Bombay lasted from April to October; 1928. The strike committee which conducted strike transformed itself into the Mumbai Girni Kamgar Union, the Bombay Textile Workers' Union.

*Labour*<sup>65</sup> was appointed in July 1929 who submitted its report on March 14, 1931. In 1929 Trade Disputes Act of 1929 was passed imposing responsibility of settlement of industrial disputes. The influence of the communists, however, started declining after 1930 as the failure of the general strike sponsored by them during 1929-30 had its demoralizing effect. The prosecution of Communists involvement in the Meerut Conspiracy case and failure of the Bombay Textile Strike of 1929 brought a lull in trade union activity. In January 1934, a conference of All-India Textile Workers was held to protest against wage cuts, retrenchment, etc. and a resolution was passed to launch a countrywide general strike of all textile workers. In consequence strike was declared in Bombay, Nagpur and Sholapur. During this period one significant development was the passing of Indian Trade Union Act of 1926, which provided for voluntary registration and conferred certain rights and privileges upon registered unions in return for certain obligations.

### **The period from 1935 to 1939**

In 1935 *Red Union Congress* merged itself with the AITUC. The deteriorating economic conditions of the workers forced the workers conscious of their need to organize for securing relief. At this time the Hindustan Mazdoor Sevak sangh which was the offspring was the labour sub-committee set up by *Gandhi Seva Sangh* in 1937 to organize labour throughout the country on Gandhian principles, was acting as an advisory body and not as a federation of unions. In 1937 there were 379 strikes in which 647,801 workers were participated. The year 1938 witnessed a general strike of jute mill workers' in Calcutta involving 200,000 workers. In 1938 NTUC affiliated itself with AITUC.

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<sup>65</sup>. It was required to enquire into and report on the 4xisting conditions of labour in industrial undertakings and plantations in British India, on the health, efficiency and standard of living of the workers, and on the relations between employers and employed, and to make recommendations.

The year 1939, witnessed famous *Digboy Oil Field strike*. Thus, one healthy development during this period was the attainment of unity amongst different trade unions that led to revival of trade union activity.

### **The period from 1939 to 1946**

The increased number of employment due to Second World War and the growing disparity in living and the earnings of the workers led to stabilization of labour movement. Change of attitude was seen not only in employers but also the government as well. Number of unions dissociated themselves with AITUC.<sup>66</sup> During the emergency the Defence of India Rules, 1942 remained in force. Rule 81 A of the Rules empowered the government, (i) to require the employer to observe such terms and conditions of employment in their establishment as may be specified, (ii). To refer any dispute to conciliation or adjudication; (iii) to enforce the decision of the adjudicators; and (iv) to make general or special order to prohibit strikes and lock-outs in connection with any trade dispute unless reasonable notice had been given. In 1946 there was a tussle between AITUC and IFL with regard to representative character. After inquiry by the Chief Labour Commissioner of the central Government representative character of the AITUC was established. In the same year Industrial employment (Standing Orders) Act, 1946 was passed with a view to bring uniformity in the conditions of employment of workmen in industrial establishment and thereby to minimize industrial conflicts.<sup>67</sup> Another important enactment of state level was the Bombay Industrial Relations Act, 1946, which made elaborate provisions for the recognition of trade unions and rights thereof.

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<sup>66</sup>. In 1940 the *National Trade Union Federation* dissociated with AITUC, Dr. Aftab Ali, President of *Seamen's Association*, Calcutta disaffiliated his union with AITUC. Mr. M.N.Roy leader of *Royists* seceded from the organization and formed a new body known as Indian Federation of Labour in 1941.

<sup>67</sup>. S.S.Roy vs. Workers Union, AIR 1969 SC 513.

## After 1946

Indian National Trade Union Congress was formed in 1947<sup>68</sup>. *Hindu Mazdoor Sabha* another labour organization was started in 1948. The *Indian Federation of Labour* formed by the Royalist group in 1941 merged in to this body. Some splinter groups from HMS and AITUC set up a separate organization viz., the *United Trade Union Congress* (UTUC) in 1949. *Bharatiya Mazdoor Sangh* (BMS) in 1955 and Hind Mazdoor Sangh (HMS) in 1962 was formed. The organization Congress decided in 1972 to affiliate all trade unions under the leadership with 'National Labour Organisation' (NLO).

Efforts to forge unity in the labour movement have been made since 1952. A joint conference of AITUC and UTC was convened in 1953 Various Organisations showed interest in unity in 1956. There has been growing trend in terms of workers involved and man days lost in industrial disputes. Against the loss of 38 lakh mandays in 1951, the loss was of the order of about 70 lakh in 1956. It jumped to 138 lakh in 1966, 206 in 1970, and 402 lakh in 1974. With the declaration of emergency in 1975, the fear of Maintenance of Internal Security Act (MISA) and Defence of India Rules (DIR) were responsible for reduction in disputes. With the lifting of emergency this number again started increasing. Highest number of strikes were recoded in 1977 was 2,691. A total of 58% man days lost during 1982 because of strikes. From 1977 there is decline in number of strikes from 2,691 to 221 in 2001.

Table showing Workers involved and man-days lost in strikes in India<sup>69</sup>

<sup>68</sup>. The Central Board of the Hindustan *Mazdoor Sevak Sangh* called upon various member unions to affiliate them to AITUC. This attempt was failed.

<sup>69</sup>.Ruddar Bhatt and K.P.M. Sundharam, *Indian Economy*, s.chand, 2002, p.691. and Economic Survey 2001-2002, Government of India Press, New Delhi,p.183.

Year	Strikes	No. of Workers involved (in 000's)	No. of Man-days lost(in lakhs)
1951	1,010	n.a.	28
1961	1,240	432	30
1971	2,478	1476	118
1976	1,241	550	28
1977	2,691	1912	134
1981	2,345	1261	212
1982	2029	1191	521*
1983	1993	1167	249*
1988	1304	937	125
1989	1397	1158	107
1993	914	672	56
1994	808	626	67
1995	732	683	57
1996	763	609	78
1997	793	637	63
1998	665	801	94
1999*	540	1099	106
2000*	350	385	34
2001**	221	--	25

\*These include 414 and 134 lakh man days lost due to Bombay Textile Strike during 1982 and 1983.

\*\*Provisional.

At an aggregate level there was a decline of strikes in public sector undertakings in State sphere in 2000 (426) compared to 1999 (540). The State of West Bengal, Tamil Nadu, Gujrat and Andhra Pradesh experienced maximum number of strikes in 2000. The industries facing highest number of strikes and lock-outs were textile,

engineering and Coal mining.<sup>70</sup> Wage, discipline, violence and personnel issues were the primary causes for strikes and lock-outs.

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<sup>70</sup> *Economic Survey 2001-2002* p.183-184.