

TRADE UNIONS: OBJECTIVES, FUNCTIONS, FORMATION, REGULATIONS, RIGHTS AND LIABILITIES

“A trade union is a combination of persons. Whether temporary or permanent, primarily for the purpose of regulating the relations between workers and employers or between workers for imposing restrictive conditions on the conduct of any trade or business and includes the federations of two or more trade unions as per Sec. 2 (6) Trade Unions Act, 1926.

“A Trade Union is an organisation of workers, acting collectively, who seek to protect and promote their mutual interests through collective bargaining”.

Objectives:

Following are the objectives of trade unions:

1. Ensure Security of Workers:

This involves continued employment of workers, prevent retrenchment, lay off or lock-outs. Restrict application of “fire” or dismissal or discharge and VRS.

2. Obtain Better Economic Returns:

This involves wages hike at periodic intervals, bonus at higher rate, other admissible allowances, subsidized canteen and transport facilities.

3. Secure Power To Influence Management:

This involves workers’ participation in management, decision making, role of union in policy decisions affecting workers, and staff members.

4. Secure Power To Influence Government:

This involves influence on government to pass labour legislation which improves working conditions, safety, welfare, security and retirement benefits of workers and their dependents, seek redressal of grievances as and when needed.

Functions of a Trade Union:

The important basic functions of unions listed by National Commission on labour are:

- (i) To secure fair wages to workers.
- (ii) To safeguard security of tenure and improve conditions of service.
- (iii) To enlarge opportunities for promotion and training.
- (iv) To improve working and living conditions.

- (v) To provide for educational, cultural and recreational facilities.
- (vi) To co-operate in and facilitate technological advance by broadening the understanding of workers on its underlying issues.
- (vii) To promote identity of interests of workers with their industry.
- (viii) To offer responsive co-operation in improving levels of production and productivity, discipline and high standards of quality and
- (ix) To promote individual and collective welfare.

Trade Union as an Organisation:

Most of the workers are members of any one of the trade unions.

There are many reasons of membership and some of which are given below:

- (a) Security of employment and protection against calamity of accident, death and secure social security cover after retirement.
- (b) Meeting companionship and affiliation need and improve one's influence with management.
- (c) To get a common platform—to air one's views, aims ideas and feelings and obtain recognition and status among fellow workers.
- (d) Make use of the "principle of unity" for the purpose of securing good working conditions, high economic compensations, better career prospects and welfare needs.
- (e) Restrict management actions which are against the interest of workers.

Formation and Registration of Trade Union:

The following steps are involved in the registration of trade union:

Appointment of Registrars:

- (a) The appropriate government shall appoint a person to be the registrar of trade unions for each state. The appropriate government may appoint as many additional and deputy registrars of trade unions as it thinks fit for the purpose of exercising and discharging under the superintendence and direction of the registrar.

Such powers and functions of the registrar under this Act as it may, by order, specify and define the local limits within which any such additional or deputy registrar shall exercise and discharge the powers and functions so specified.

(b) (i) Mode of Registration:

Any seven or more members of a trade union may, by subscribing their names to the rules of the trade union and by otherwise complying with the provision of this Act with respect to registration, apply for registration of the trade union under this Act.

(ii) Where an application has been made under subsection (i) for the registration of a trade union, such application shall not be deemed to have become invalid merely by reason of the fact that, at any time after the date of the application, but before the registration of the trade union, some of the applicants, but not exceeding half of the total number of persons who made the application, have ceased to be members of the trade union or have given notice in writing to the registrar dissociating themselves from the application.

(c) Application for Registration:

(i) Every application for registration of a trade union shall be made to the registrar and shall be accompanied by a copy of the rules of the trade union and a statement of the following particulars, namely—

1. The names, occupations and addresses of the members making application.
2. The name of the trade union and the address of its head office.
3. The titles, names, age, addresses and occupations of the office bearers of the trade union.

(ii) Where a trade union has been in existence for more than one year before the making of an application for its registration, these shall be delivered to the registrar, together with the application, a general statement of the assets and liabilities of the trade union prepared in such form and containing such particulars as may be prescribed.

(d) Provisions to Be Contained In the Rules of a Trade Union:

A trade union shall not be entitled to registration under this Act, unless the executive thereof is constituted in accordance with the provisions of this Act.

(e) Power to Call For Further Particulars and To Require Alterations of Names:

(i) The registrar may call for further information or the purpose of satisfying himself that any application complies with the provisions of Section 5, or that the trade union is entitled to registration under Section 6, and may refuse to register the trade union until such information is supplied.

(ii) If the name under which a trade union is proposed to be registered is identical with that by which any other existing trade union has been registered or, in the opinion of the registrar, so nearly resembles such name as to be likely to deceive the public or the members of either trade union, the registrar shall require the persons applying for registration to alter the name of the trade union stated in the application, and shall refuse to register the union until such alteration has been made.

(f) Registration:

The registrar, on being satisfied that the trade union has complied with all the requirements of the Act in regard to registration shall register the trade union by entering in a register, to be maintained in such form as may be prescribed, the particulars relating to the trade union contained in the statement accompanying the application for registration.

(g) Certificate of Registration:

The registrar, on registering a trade union under section and, shall issue a certificate of registration in the prescribed form which shall be conclusive evidence that the trade union has been duly registered under this Act.

(h) Cancellation of Registration:

A certificate of registration of a trade union may be withdrawn or cancelled by the registrar on the application of the trade union to be verified in such manner as may be prescribed in if the registrar is satisfied that the certificate has been obtained by fraud or mistake or that the trade union has ceased to exist.

It has to provide not less than two months' previous notice in writing specifying the ground on which it is proposed to withdraw or cancel the certificate shall be given by the registrar to the trade union before the certificate is withdrawn or cancelled otherwise than on the application of the trade union.

(i) Registered Office:

All communications and notices to a registered trade union may be addressed to its registered office. Notice of any change in the address of the head office shall be given within fourteen days of such change to the registrar in writing, and the changed address shall be recorded in the register referred to in Section-8 of the Companies Act.

(j) Incorporation of Registered Trade Union:

Every registered trade union shall be a body corporate by the name under which it is registered and shall have perpetual succession and a common seal with power to acquire and hold both movable and immovable property and to contract, and shall by the said name sue and be sued.

Rights and Liabilities of Registered Trade Unions:

1. Objects on Which General Funds May Be Spent:

The general funds of a registered trade union shall not be spent on any other objects than the payment of salaries, allowances and expenses to the office bearers of the trade unions; expenses for the administration of the trade union; the presentation or defiance of any legal proceeding to which the trade union of any member thereof is a party; the conduct of trade

disputes and compensation of members for loss arising out of trade disputes; provision of education, social or religious benefits for members; upkeep of a periodical published.

2. Constitution of a Separate Fund for Political Purposes:

A registered trade union may constitute a separate fund, from contributions separately levied for or made to that fund, from which payments may be made for the promotion of the civic and political interests of its members, in furtherance of any of the objects such as the payment of any expenses incurred, either directly or indirectly; the holding of any meeting or the distribution of any literature/documents in support of any such candidate; the registration of electors of the selection of a candidate for any legislative body constituted under or for any local authority; the registration of electors or the selection of a candidate for any legislative body constituted under/or for any local authority; holding of political meetings of any kind.

3. Criminal Conspiracy in Trade Disputes:

No office bearer or member of a registered trade union shall be liable to punishment under sub-section (2) of Section 120 B of the Indian Penal Code, 1860 in respect of any agreement made between the members for the purpose of furthering any such object of the trade union as is specified in section its unless the agreement is an agreement to commit an offence.

4. Immunity from Civil Suit in Certain Cases:

(i) No suit or other legal proceeding shall be maintainable in any civil court against any registered trade union or any office bearer or member thereof in respect of any act done in contemplation or furtherance of a trade dispute to which a member of the trade union is a party on the ground only that such act induces some other person to break a contract of employment, or that is in interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

A registered trade union shall not be liable in any suit or other legal proceeding in any civil court in respect of any fortuitous act done in contemplation or furtherance of a trade dispute by an agent of the trade union if it is proved that such person acted without the knowledge of, or contrary to express instructions given by the executive of the trade unions.

5. Enforceability of Agreements:

Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a registered trade union shall not be void or voidable merely by reason of the fact that any to the subjects of the agreement are in restraint of the trade.

6. Right to Inspect Books of Trade Unions:

The account books of a registered trade union and the list of members thereof shall be open to inspection by an office bearer or member of the trade union at such times as may be provided for in the rules of the trade union.

7. Right of Minors to Membership of Trade Unions:

Any person who has attained the age of 18 years may be a member of a registered trade union subject to any rules of the trade union to the contrary, and may subject as aforesaid, enjoy all the rights of a member and execute all instruments and give all acquittances necessary to be executed or given under the rules.

8. Effects of Change of Name and of Amalgamation:

The change in the name of a registered trade union shall not affect any rights or obligations of the trade union or render defective any legal proceeding by or against the trade union. An amalgamation of 2 or more registered trade unions shall not prejudice any right of any of such trade unions or any right of a creditor of any of them.

Shortcomings of Trade Unions:

Trade union movement in our country suffers from the following weaknesses:

1. Uneven Growth:

Trade unions are concentrated in large scale industry sector and in big industrial centers. There is very little trade union activity in small sector, agricultural labour and domestic sector. Trade unionism has touched only a portion of the working class in India.

2. Small Size:

Most of the unions have low membership though the number of unions and union membership are increasing, average membership is inadequate.

3. Weak Financial Position:

The average yearly income of unions is very low and inadequate. The subscription rates are low and many members do not pay the subscription in time. Due to their financial weakness, most of the unions are not in a position to undertake welfare programmes for workers.

4. Political Leadership:

Trade unions are under the leadership and control of political parties and outsiders. Politicians exploit unions and workers for their personal and political gains. Thus, the political leadership is very harmful to the trade union movement in India.

5. Multiplicity of Unions:

There exist several unions in the same establishment or industry. The existence of rival unions with conflicting ideology is greatly responsible for unhealthy growth of trade union movement. In some cases employers encourage split in unions to undermine their bargaining power.

6. Problem of Recognition:

Employers are under no obligation to give recognition to any union.

7. Absence of Paid Office-Bearers:

Most of the unions do not have full-time paid office-bearers. Union activists working on honorary basis devote only limited time and energy to union activities. Union officers lack adequate knowledge and skill due to lack of proper training, weak financial position and political leadership are the main reasons for this state of affairs.

8. Apathy of Members:

Majority of workers do not take keen interest in union activities. The attendance at the general meetings of unions is very poor.

9. Opposition from Employers:

Trade unions in India have to face opposition from employers. Many employers try to intimidate or victimise labour leaders, start rival union and bribe union officials.

10. Inter-Union Rivalry:

Multiple unions create rivalry. Unions try to play down each other in order to gain greater influence among workers. Employers take advantage of infighting. Inter-union rivalry weakens the power of collective bargaining and reduces the effectiveness of workers in securing their legitimate rights.

Employer's Organisations:

Under the trade union Act the term trade unions also includes employer's organisations. But strictly speaking, an employer's association means formal body of employers only.

According to Mr. Naval Tata, the objectives of an employer's association are:

- (i) To promote collective bargaining.
- (ii) To develop healthy and stable industrial relations.
- (iii) To bring employer's viewpoint to the notice of the Govt, and
- (iv) To represent employers at national and international forums.

There are at present more than 800 registered associations of employers in India. These are of three types:

1. Local associations to promote the interests of employers in a particular industry or city, e.g., Indian Jute Mills Association.
2. Regional associations such as the Southern India's Mill Owners' Association which serve the needs of employers in a particular region.

3. National or apex associations which co-ordinate the efforts of local and regional associations. These are federations to which local and regional associations are affiliated. FICCI, CII, are examples of these federations. These federations perform several functions such as advice, education, communication, representation.

Organisation Structure:

Organisational structure of National Trade Unions consists of 4 levels as given below:

1. Conventions/sessions

2. General council (President, VP, Secretary-General, etc.)

3. Provincial bodies (at state level chairman, secretariats)

4. Local bodies (affiliated unions)

National convention/conferences are held at periodic intervals, say annually or bi-annually. This is the highest policymaking body. This is presided over by the president of the union attended by the delegates such as chairmen of state units, representatives of specialized services, legal experts and delegates from international bodies and special invitees. Office bearers are also elected by this conference.

General council consists of president, vice-president, secretary and other office bearers. It carries out policy decisions taken by convention. Various standing committees are set up on rendering study, analysis and recommendations on various aspects like legislative measure, Research and publications, international services etc.

State units are headed by chairman of state/regional areas. State units also liaise with National Headquarters; keep a close watch of faithful implementation of labour legislation and practices. It assists/influences state government to pass labour friendly legislation and executive/administration actions.

It is also responsible for membership of various unions representing workers in industrial undertakings (units) and/or representing trade and industrial units affiliated to the central trade union. These state units get themselves attached to State/Provincial/HQ/Regional unions/Units.

Headquarters (HQ) unions are responsible for welfare of its members and membership drive. As bargaining agents they are involved in collective bargaining with Central Government/and or State government and assist passing legislative measures.

How Trade Union Objectives are Achieved?

The objectives of a trade union are achieved by a pursuit of traditional methods. These are:

(i) The organisation of a trade union on the basis of the craft or industry in which its members are employed, such as general unions and professional employee's organisations.

(ii) Collective bargaining, which is the essence of industrial relations, for it is through collective bargaining that the terms and conditions of employment are determined and under which work is performed' satisfactorily.

(iii) Grievance processing and handling procedures, under which grievances are redressed or dealt with by a correction of situation or by channelling up of these "up the line".

(iv) Arbitration, by which unsettled or unresolved disputes can be settled by an outside agency.

(v) Political pressure exercised through legislators who are capable of bringing about changes in labour laws; and

(vi) Mutual insurance through common contributions to meet the financial needs of workers when there are stoppages of work.

Characteristics of Trade Union:

1. A union normally represents members in many companies throughout the industry or occupation.

2. A union is fundamentally an employer regulating device. It sharpens management efficiency and performance while protecting the interests of the members.

3. A union is a part of the working class movement.

4. A union is a pressure organisation originating in the desire on the part of a group with relatively little power to influence the action of a group with relatively more power.

5. A union is a political institution in its internal structure and procedures.

Trade Union Movement in India:

Trade union movement in our country has a century-long history. The first quarter of the present century saw the birth of the trade union movement, but the seeds of the movement were sown much earlier.

In the twenties, soon after the World War I, working class in our country realised the effectiveness of labour strike as a means of obtaining concessions, higher wages and better working conditions. Many strikes were declared consequently and most of them were successful. This success led to the formation of several unions.

The AITUC was set up in 1920 with the objectives of representing worker's interests, to co-ordinate the activities of all labour organisations in the country, and to spread the message about the need for union movement. Hundreds of unions came into being in big and small industries. Their number, as well as membership, increased considerably.

A landmark in the history of labour movement was the enactment of the Trade Unions Act 1926. The Act gave a legal status to the registered trade unions and conferred on them and

their members a measure of immunity from civil suits and criminal presentation. Registration of union gave them respectability before employers and the general public.

Towards the end of 1920s, there was a split in the union movement, the split being caused by the leader's ideological differences. The AITUC was captured by the communists. The moderates formed a new organisation, called All India Trade Union Federation. Ideological differences and splits had their effect on strikes too. Majority of the strikes failed.

Unlike 1920s, the 1930s were not favourable to the trade union movement. The presentation of the communists involved in the Meerut conspiracy case and the failure of the Bombay textile strike of 1929 brought a lull in trade union activities.

Economic depression of the period also added to the dull phase of union movement. Retrenchments and strikes were common, the latter being mostly ineffective. There were further splits in the movement, but just before the World War II some unity was achieved.

The unity was shattered during the World War II because of ideological differences and mounting cost of living. Industrial unrest increased and the Govt, banned strikes and lockouts invoking the Defence of India Rules. Luckily workers realized the need for an organized movement to secure relief. This realisation led to an increase in the number of unions.

The aftermath of independence was not good for unions. The hopes of workers to secure better facilities and wages from the national government were not realized. There was large scale unrest and strikes and lock outs multiplied.

The disunity in the trade union ranks was aggravated by the starting of three central labour organisations, namely the INTUC in 1947, the Hind Mazdoor Sabha (HMS) in 1948, and the United Trade Union Congress (UTUC) in 1949.

As years went by, more unions and central organisations came into being the movement became deeply entrenched as of today, there are 50,000 registered unions and most of them are affiliated to one or the other central trade union.