



A Study On Recognition Of Trade Unions In India

AUTHOR 1 :MATHIESWARAN K

B.A.,L.L.B.(Hons.)LAW STUDENT

VELLORE INSTITUTE OF TECHNOLOGY,CHENNAI,INDIA

AUTHOR 2 :SIVAMATHI K B.B.A., L.L.B(Hons.)

L.L.M. STUDENT(Intellectual Property Rights)

VELLORE INSTITUTE OF TECHNOLOGY,CHENNAI,INDIA

ABSTRACT:

The trade unions have played a crucial role in industrial environment of India since the time of collective bargaining and worker empowerment. This academic paper brings out the important concept of Recognition of Trade Union, its establishment in promoting harmonious industrial relations. The paper starts by giving an introduction of trade unions as organised groups of employees to protect the rights of labour in India and then proceeds to give a history of their development in India. Since the early labour movements in British colonial times, which were characterized by the emergence of the All India Trade Union Congress (AITUC) in 1920 due to unrests in the aftermath of the First World War, the trade unions transformed into organised bodies with statutory frameworks¹. Fundamentally, recognition of a trade union is the legal recognition by the employer or the state of a union representative body to bargain the wages, working condition, and dispute resolution on behalf of workers. In contrast with most countries where suitable statutory recognition is mandatory, Indian law does not include a full central law on the same, but relies on scattered provisions of the Trade Unions Act, 1926 which helps to be registered but not automatically recognised, the Industrial Disputes Act, 1947 which empowers the recognised unions to settle industrial disputes under Section 18 and 36, and specific state legislation such as the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act of 1972 Such actions highlight the voluntary nature of recognition or

¹ S.C. Srivastava, *Industrial Relations and Labour Laws* (7th ed., Eastern Book Company, 2022).

recognition which is usually decided by secret ballot or membership level². The advantages of recognition are numerous: it entitles the unions with the sole bargaining power, advances the welfare of workers due to the presence of collective agreements, and fosters industrial peace since it institutionalizes the dialogue. Nevertheless, there are still issues such as employer opposition, rivalry between multiple unions that causes fragmentation and lack of universal criteria, which compromise effectiveness. Issues that unrecognized unions encounter, and lack of negotiation platforms, victimization of leaders and lack of legitimacy in strikes contribute to the worsening of labour exploitation especially in the unorganized sector. The law system is examined based on some of the most important acts and judicial interpretations, and a progressive yet incongruent trend can be observed. This is revealed by landmark cases: In *B.R. Singh v. The Supreme Court, in union of India* (1989) stressed the importance of recognition in the democratic working in the workplace; *Food Corporation of India Staff Union v. Food Corporation of India* (1995) provided the fair representation requirements; and *Tata Chemicals Ltd. v. Workmen* (1978) pointed at verification of the unions by check-off. Recent cases such as *Bharat Petroleum Corporation Ltd. v. Maharashtra General Kamgar Union* (1999) support secret ballots in majority status³

The article criticizes the loopholes in the existing framework that should be changed by a centralized Recognition of Trade Unions Act to compel the verification procedures, limit the unfair practices, and adopt the ILO standards. It proposes that the statutory recognition of the links between the historical, doctrinal and empirical and the analysis of the case law is essential in ensuring that industrial relations in the developing Indian economy are fair.

INDEX TERMS : Trade Unions ,Recognition of Trade Unions ,Collective Bargaining ,Industrial Relations ,Labour Law in India , Worker Empowerment

INTRODUCTION:

The concept of Recognition of Trade Union has been one of the pillars of effective labour representation as trade unions have been important tools of collective bargaining and worker empowerment in the Indian industrial environment⁴. This research paper examines the complex aspects of trade union recognition that starts with its initial background of an organized association of workers who have committed themselves to protect their rights against exploitation. Recognition makes a union a recognized representative of the workforce so that they can negotiate on wages, conditions and conflicts⁵. With labour being the driver of economic growth in India, with the continual existence of inequality, there is no centralized statutory requirement of recognition that would lead to the

² V.K. Kapoor, *Elements of Mercantile Law* (15th ed., Sultan Chand & Sons, 2024).

³ International Labour Organization, *Convention No. 87: Freedom of Association and Protection of the Right to Organise*, 1948.

⁴ V.B. Lenchestwar, *Trade Union Recognition in India: Need for Legislative Reforms*, 45 Lab. & Indus. L.J. 102, 104 (2004)

⁵ *Food Corp. of India Staff Union v. Food Corp. of India*, (2004) 10 SCC 585, 592

domination of the employer and also the fragmentation of the union. Based on historical examples, the law, judicial discretion, and empirical dilemmas, this paper is an attempt to challenge the current system and suggest ways in which it can be improved to enhance industrial democracy⁶.

The history of trade unions in India shows how they have witnessed a colonial opposition experience into a constitutional entrenchment⁷. Organized unionism gained momentum in the late 19th century with strikes, such as the Bombay mill agitation in 1899 and sparked off in the post-World War I period with the 1919-1920 textile strikes, leading to the formation of the All India Trade Union Congress (AITUC) in 1920⁸. The non-violence championed by Gandhi and the Marxist and fervour resulted in numerous unions and the registration and first legislative milestone in trade unions was the Trade Unions Act, 1926. After gaining independence, the Articles 19(1) (c) and 23 of the Constitution offered fundamental support, and ILO Conventions 87 and 98 influenced the norms of collective bargaining. Another legislation that entrenched unions was the Industrial Disputes Act, 1947, which did not provide mechanisms of recognition, but institutionalized unions nonetheless. The pressures were heightened by economic liberalization in the 1990s and the challenges noted included casualization and multi-unionism which were weakening the bargaining power and which led to the continued recognition debates

In principle, trade union recognition involves the employer or even state recognition of the representative nature of a trade union, which may be through membership requirements or secret ballot or check-off processes. This raises registered unions under the 1926 Act to the status of bargaining agents, quite different to registration. Some of the major laws are the Industrial Disputes Act of 1947 where Sections 18, 36 which places the recognized unions at the advantage in settlements, and state legislatures such as the Maharashtra MRTU and PULP Act of 1971 where Section 28, which require verification. The advantages are numerous: the ability to negotiate exclusively stabilizes the relations, improves the welfare with agreements, and manages wildcat strikes. However, there are restrictions on the scale--voluntary procedures are open to manipulation, multi-union competitions divide representation, and unorganised segmentation of the sector marginalises millions of people.

What unrecognized unions have to deal with are acute problems denied platforms equate to victimization, suppressed strikes, and demoralized, adding to the exploitation of an already-exploited workforce, with only 7% unionized (PLFS 2022-23)⁹. The legal system is patchwork, but it is developed in judicial prisms. There has been an upward trend by courts to establish the nature of recognition in *B.R. Singh v. Union of India* (1989) In the case, the Supreme Court ruled that it was essential to workplace democracy. Fair criteria were posted by *Food Corporation (1995)*. *Tata chemicals ltd. v/s workmen* (1978)¹⁰ supported verification tools and *Bharat petroleum corporation Ltd.*

⁶ Theo Devasia, *Employer Dominance and Union Fragmentation in Indian Labour Law*, 52 Econ. & Pol. Wkly. 45, 47 (2017)

⁷ S.D. Punekar, *Trade Unionism in India* 23–28 (1964)

⁸ Aditya Mukherjee, *Imperialism, Nationalism and the Making of the Indian Capitalist Class 1920–1947* 45 (2002)

⁹ *Periodic Labour Force Survey (PLFS) Report*, Stat. of India, 2022–23 (National Sample Survey Off., Ministry of Stat. & Prog. Impl.),

¹⁰ *Tata Chemicals Ltd. v. Its Workmen*, 1978 AIR 828, 1978 SCR (3) 535, 1978 SCC (3) 42 (India).

v/s Maharashtra general kamgar union, (1999)¹¹ approved ballots. Other recent interpretations such as Balmer Lawrie Workers Union v. Balmer Lawrie and Co (2015) laments arbitrary refusals, which indicates willingness to have statutory clarity¹².

This research paper is a synthesis of these strands of history, doctrine, benefits, limitations, challenges, frameworks, and case law to make the case of a specific Recognition of Trade Unions Act. Such a law would comply with the ILO standards and the Code of Industrial Relations, 2020 Section 14 and would establish a system of 51% support check, discourage unfair practices and make the growth more equitable. The research sheds light on the way ahead by depacking judicial readings and empirical facts, so that stakeholders can steer clear of India in its oppressive and exclusionary labour jurisprudence towards the goal of inclusive prosperity¹³.

MEANING :

TRADE UNION ; A trade union is a voluntary organization of workers whose main aim is to control the relationship between workmen and employers or workmen and workmen or employers and employers and to place some restrictive terms to trade or business with the view of safeguarding the interests of workers. This definition under the Indian law is reflected in the Trade Unions Act, 1926, Section 2(h) which says Trade Union means any combination, temporary or permanent, formed with the primary object of regulating the relations between workmen and employers, or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions upon the conduct of any trade or business, and includes any federation of two or more Trade Unions¹⁴. The Act was passed in British rule and subsequently amended in 1947 and thereafter serves as the main source of law in establishing, registering, and running trade unions in India and would be applied to both worker unions and employer associations¹⁵.

RECOGNITION OF TRADE UNION: Recognition of a trade union is the constitutional acceptance of an employer and in some cases, state authorities that a certain union is the valid representative of workers in an establishment in collective bargaining, resolving disputes and in setting wages, conditions and welfare. In contrast to registration, recognition is not stipulated or required centrally by someone Act or section in India it is mostly voluntary and decentralized, which creates conflicts¹⁶. The Trade Unions Act, 1926, makes registration possible Section 4 without going as far as recognitions¹⁷. Rather, they are implied under the Industrial Disputes Act, 1947 -Sections 2(p), 18 and 36 use the representative unions as a priority to settlements, which in most cases suggests the recognition through majority support check-off or ballots¹⁸. State laws seal loopholes: e.g. Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (Section 28) requires recognition to

¹¹ **Bharat Petroleum Corporation Ltd. v. Maharashtra General Kamgar Union**, (1999) 1 SCC 626 (India).

¹² **Balmer Lawrie Workers' Union v. Balmer Lawrie & Co. Ltd.**, (2015) 150 CompLJ 103 (India).

¹³ International Labour Organization, *Convention No. 98: Right to Organise and Collective Bargaining*, 1949.

¹⁴ Trade Unions Act, No. 16 of 1926, § 2(h), India Code

¹⁵ The Trade Unions Act, 1926, §2(h).

¹⁶ The Industrial Disputes Act, 1947, §§18 & 36.

¹⁷ Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, §28.

¹⁸ The Trade Unions Act, 1926, §4.

be checked¹⁹. However, the code of industrial relations proposed in 2020 (Section 14) suggests 51% membership but is not fully implemented yet²⁰.

REGISTRATION OF TRADE UNION :

Registration: It is not obligatory but gives the trade union legal recognition, civil/criminal immunity to legal acts of legitimate operation Sections 17-18 and legal remedies such as maintenance of funds and collective bargaining²¹. Section 4 describes the mode of registration: A minimum of seven members or 10 percent of the workers/100, whichever is the less submit to the Registrar of Trade Unions rules, names, and a statement. The corporate personality is acquired to the union on compliance Section 8²². This Act does not confer any automatic right to bargaining but allows unions to bargain dispute through allied laws such as the Industrial Disputes Act in 1947²³.

HISTORICAL BACKGROUND OF TRADE UNION :

The process of industrialization in the world led to the establishment of a large labour force. During the initial years of industrialisation, the labour population did not have social unity to arrange themselves in a systematic fashion in order to combat the system woes which they were engulfed in not by choice but due to the convincing factors of that period. Workers were exploited because of several reasons such as, State policy of laissez-faire Let things be; free economy with minimum of State control, the doctrine of freedom of contract, the hire and fire rule, etc.²⁴

Trade unions are a phenomenon that started in Europe during the industrial revolution and became common in most countries during which the unskilled workforce required to undertake jobs through the use of machines found the balance of employment bargaining power almost entirely in the hands of the employers, which led to the mistreatment and underpayment of many workers. The trade union movement came about due to increased complications of the economic structure, development of the class consciousness, and achievement of common goals by the working class. The working force awoke to the realization that they needed to come together to ameliorate their situations²⁵.

As it was mentioned earlier, the number of people working in the industrial sphere grew because of an outbreak of industrial activity in the later part of the 19th century. As the employers were not concerned much about anything other than profitability, workers were left at the mercy of the employers. The idea of a union began to gain ground in India gradually. The Indian trade unionism, however, grew very slow in comparison to the Western countries²⁶.

¹⁹ O.P. Malhotra, *The Law of Industrial Disputes* (Vol. 1, LexisNexis, 2021).

²⁰ V.K. Kapoor, *Elements of Mercantile Law* (15th ed., 2024).

²¹ The Trade Unions Act, 1926, §§4–8.

²² The Trade Unions Act, 1926, §§17–18.

²³ S.C. Srivastava, *Industrial Relations and Labour Laws* (2022).

²⁴ Second National Commission on Labour, *Report of the National Commission on Labour* (Government of India, 2002).

²⁵ S.C. Srivastava, *Industrial Relations and Labour Laws* (7th ed., 2022).

²⁶ A. Gupta, "Recognition of Trade Unions in India: A Critical Analysis," *Indian Journal of Labour Economics*, Vol. 65, No. 2 (2023), pp. 245-262.

Pure nationalists, social workers, philanthropists and humanists initially led the movement. Although the economic sufferings of labourers have been lately operative, the incentive of the rise of the labour movement is furnished by the substantial political streams, especially the wave of national independence. The inability of the first efforts made by workers to organize became the reason that they addressed the assistance of philanthropists and social workers who belonged mostly to higher economic and social classes.

(I) First Phase (1850–1900)

The working and living conditions of the labourers during this period between 1850 and to 1900s were very poor and their working hours were long. Capitalists did not really care about their productivity and profitability. Moreover, wages were also low and general economic conditions poor in the industries.

In 1881 (revised in 1891), the Indian Factories Act was adopted to control the working hours and other service conditions of the Indian textile labourers. Consequently, the use of child labour was banned. There was a significant number of strikes that occurred in the next 20 years after 1880 in every industrial city. These strikes educated workers to realize the strength of a concerted action in spite of the fact, there was no union actually. By this point small organisations such as the Bombay Mill-Hands Association were formed created by Lokhande. Mill workers of Bombay formed an association in 1890, which was named the Bombay Mill-hands Association. Though this was not a trade union per se, it was at least a beginning in India²⁷.

The development of the Indian trade union movement adds true meaning to the modern-day employment laws. Like frequent updates, filter digests and boiler-plate clauses specific to labour law.

(II) Second Phase (1900–1946)

This was the period of the emergence of the systematic unions of trade and political movements of workers. Indian workers had hope in the Russian Socialist Revolution by the rule of Lenin. The Russian Revolution (1917) was a success that gave a new wave of ideas and a sense of self-respect and enlightenment, and gave impetus to the sense of class-consciousness that was felt by the labourers.

During the period in 1918 to 1923, a lot of unions were established in the country. The Indian trade union movement was significant in the year 1918. The industrial unrest increased due to the tremendous economic hardships that the First World War brought about. The increasing cost of living also encouraged the workers to seek decent wages, and to this end they pooled their efforts to resort to collective action. The Swaraj movement fueled the movement, escalated the divide between the employers and the employees, and caused a mass awakening among the workers who demanded racial equality with their British employers.

The formation of I.L.O. (International Labour Organization) in 1919 not only brought the working classes to fairness, but also provided a chance to represent it at the annual meeting of this organization²⁸.

²⁷ Second National Commission on Labour, *Report* (2002).

²⁸ International Labour Organization, *History of Labour Movements* (ILO Publications).

The working-class movement was also highly impacted by the non-cooperative movement of Gandhi in 1920 and his encouragement of the demands of the industrial labour. Under Mahatma Gandhi at Ahmedabad, occupational unions such as the spinners unions, and weavers unions were established. These unions organized a strike that was led by Mahatma Gandhi who converted it into a Satyagraha. In 1920, these unions were formed into an industrial union called the Textile Labour Association. AITUC or All India Trade Union Congress was the first federation of trade unions to be established in 1920. Most of the leaders of this organization were the leaders of the National Movement²⁹.

In 1924, a brutal and protracted strike by unions resulted in the arrest, prosecution, conviction, and prison term of numerous communist leaders. In the year 1928, All India Trade Union Federation was constituted. The Royal Trade Commission was researching the status of the workers in the first half of the 20th century and proposed that Trade Unions should be established. The Indian Trade Unions Act came into being in 1926 as it was recommended by the Royal Commission. It was however only enforced in 1927 with strong opposition by the employers. The original Act was not so much a tooth set because the establishment of Trade Union per se is subject to the acceptance by the employer. The problems were corrected later on through a number of amendments (In 1947, the Act was amended in large numbers according to the socialist lean towards the polity).

However, some influences assisted in improving the status of the trade unions in the country during the wartime (Second World War) and this was the government and employers implementing several labour welfare measures with the aim of producing more war materials and other necessary goods and ensuring high profits. Many employers gave trade unions recognition. The unions were morally strong as a result of this fact. The first Tripartite Labour Conference was called in 1942 to have a platform of discussion and understanding between the employers and the labour.³⁰

(III) Third Phase (1947 onwards)

The third stage opened with the development of independent India (in 1947). The trade union movement was influenced by the partition of the country especially in the state of Bengal and Punjab. In 1949, the country had four central trade union associations:

- The All-India Trade Union Congress.
- The congress of Indian National Trade Union.
- The Hindu Mazdoor Sangh (HMS)
- The United Trade Union Congress.
- A number of other Unions were good to come.

The working-class movement, however, was politicized on the basis of the political parties. As an example, the Congress Party has the trade union, Indian National Trade Union Congress (INTUC). The Communist Party of India has its trade union, AITUC. Other than workers, the trade unions also

²⁹ A. Gupta, "Recognition of Trade Unions in India," *Indian Journal of Labour Economics* (2023).

³⁰ Periodic Labour Force Survey (PLFS), *Annual Report 2022-23*, Ministry of Statistics, Government of India

organize white-collar employees, supervisors, and managers as has been the case with the Banking, Insurance and Petroleum industries³¹.

The country has some of the prominent Trade Unions:

- Communists gradually took AITUC in their hands. The communists later divided in 1964 and AITUC went into the full control of the Communist Party of India (CPI).
- Indian National Trade Union Congress (INTUC): It was established in May 1947. Funds the policies and ideologies of Congress party.
- Hindu Mazdoor Sabha (HMS): Adheres to the policies and ideologies of Janata Party.
- Bhartiya Mazdoor Sangh (BMS): BMS supports ideologies and policies of Bharatiya Janata Party.
- United Trade Union Congress (UTUC): Revolutionary Socialist Party of India had formed this Union. The policies of the Communist Party (Leninist) towards sponsors.
- Centre of Indian Trade Union: Adheres to the policies of CPI(M).
- The trade union movement has been characterizing the post-independence period in India.

The factors of greatest importance are:

- The never-ending stream of external and foreign influences,
- The stress of rivalries of trade unions, which is usually rooted in political or ideological variance.
- The Industrial Relations Policy of Government which contains the provision of compulsory adjudication machinery;
- The introduction of the labour laws that gave special privileges to the registered trade unions.
- The urge of workers to merge together in order to protect their interests, particularly in order to deal with their tougher terms in the labour environment like retrenchment, lay-off, etc.
- Some employers tried to establish Unions with their influence.

IMPORTANCE OF RECOGNITION FOR TRADE UNIONS :

The acknowledgement gives a number of important rights to trade unions. Formal collective bargaining among other related employee benefits is a prerequisite.

1. Collective Bargaining: The collective bargaining within organizations is a right of recognized trade unions to enter into collective agreement on behalf of workers. These agreements address a multitude of issues such as wages and the number of working hours, health and safety standards. Studies show that collective bargaining by well known unions tends to lead to a rise in wage, better working conditions and enhanced benefits among workers.

³¹ The Industrial Disputes Act, 1947.

2. Job Security: Job security is also usually guaranteed among the union members. The trade unions can negotiate against unfair dismissals, redundancy and other types of exploitation. As an example, in most nations, when a union is formed, any termination or disciplinary measures to an employee must be executed in consultation with the union, which is a form of protection of workers against unreasonable acts.

3. Social and Political: Trade unions that have recognition can also have a great social and political impact besides having economic benefits. They frequently support social policies on a broader level like health care, the rights of workers and safety legislation. Studies on the role of unions in policy-making indicate that established unions are important stakeholders as far as legislation on labour issues are concerned³².

RIGHTS OF RECOGNIZED TRADE UNIONS :

A trade union attains certain rights under the labour law once it is formally established. Such rights are different in each country, however they usually comprise the following:

1. Right to Collective Bargaining : Collective Bargaining: Known unions are entitled to collective bargaining with the employer over its members. This also involves bargaining of wages, working hours, benefits, health and safety standards and job security among other employment terms and conditions.

Good Faith Negotiation: It is the duty of both the employer and the union to enter into the good faith negotiation as required by law, aiming at the common ground of coming up with a mutually fair and equitable agreement.

2. Right to Represent Workers :

Representation Grievances and Disputes: Recognized unions are entitled to represent their members in arguments with the employer, such as disciplinary actions, grievances and terms and conditions of employment disputes.

Access to Information: Unions are usually entitled to seek information of the employer that may be of significant help in the bargaining process, or representing the interests of workers. This may be financial reports, number of staffs or any other document.

3. Right to Organize:

Forming Campaigns: Unions can organize workers both in the work place and in the industries. This applies to the right to recruit new members and carry out activities to advance the goals and policies of the union²⁶.

The Protection against Retaliation: The law commonly protects the known unions against discrimination or retaliation by the employer towards union activities, including the organization or

³² International Labour Organization, *Freedom of Association Principles* (ILO Publications).

engagement in collective bargaining. When workers engage in union activities chances are that they are not likely to be fired or punished.

4. Right to Industrial Action :

Strike and Protest: In most countries, the established unions are allowed to strike, that is, to stop working, when negotiations are not successful and some legal conditions are observed. This right is normally regarded as a last resort and it has to be used in accordance with the labour laws that regulate industrial action.

Other types of Industry Action: Other than strikes, unions can also arrange other forms of protest or collective action either boycotts, work-to-rule campaigns or picketing.

5. Legal Protection :

Anti-Discrimination Safeguards: In most countries, union workers or union officials have the legal protection against discrimination, harassment or other forms of unfair treatment due to union activity.

I.Employers are also generally forbidden to meddle, limit or pressurize workers with their freedom to join/back a labor union. It may be subject to legal sanctions or other punishments in some jurisdictions on failure to recognize or negotiate with a union.

LEGAL FRAMEWORK:

Overview of Legal Framework

Trade union recognition is not compulsory and, in large part, employer motivated in India since it does not have any extensive central legislation requiring it, unlike registration that is compulsory. The recognition also gives a union exclusive or preferential rights in collective bargaining, dispute resolution and negotiations. The system is patchy as the framework is based on a variety of statutes, state laws, provisions of the constitution and judicial interpretations.

Central Legislations

Trade Unions Act, 1926

It is a law of foundation of forming unions and registration Section 2(h) defines trade unions; Section 4 provides registration through 7+ persons. It grants legal personality (Section 13), immunities (Sections 17-18), and rights to funds (Sections 15-16) but it does not grant recognition, merely making registered unions legally exist. An offered Chapter III-A of mandatory recognition (25% membership) was abandoned after amendments in 1947³³.

This act still forms the basis law of recognition, registration as well as regulation of trade unions. It specifies the steps of unions formation and registration, provides them with some rights. Legal safeguards and specifies the rights and responsibilities of the members of the union. It is however

³³ The Trade Unions Act, 1926.

criticised because of being outlived and inefficient in handling the evolving cost of labour relations, especially Within the background of informal gig economy employees.

Industrial Disputes Act, 1947

In effect promotes recognition by favouring representative unions:

section 2(p): settling when by known unions.

Section 18: Awards/settlement only apply to parties involved with a preference to the known representatives.

Section 36: Tribunal representatives union witnesses/examiners.

No set requirements; usually through check-off, ballots or employer choice.

It is a law that regulates the settlement of industrial conflict, trade union recognition and the procedures. To collective bargaining and strike. The act allows industrial tribunals to be constituted. Provides a system of conflict resolution between employees and employers. Although very comprehensive, it has been criticized due to its complexity in procedures and slow dispute. Resolution mechanisms and this obstructs quick resolution of labour disputes³⁴.

Industrial Relations Code, 2020

Makes other existing laws obsolete; Section 14 would give statutory recognition to unions that have over 51 percent support (established by secret ballot or otherwise) in facilities with 100 or more employees. Not completely implemented/imposed by 2026, and a move to compulsionThe Industrial Relations Code, 2020, SECTION 14.³⁵

State-Specific Legislations A number of states require recognition in order to prevent undue practices: Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices (MRTU & PULP) Act, 1971: Section 28 presents that unions with membership of 30 per cent. apply to Industrial Court; a certificate is issued by verifying it through ballot/check-off which permits only bargain³⁶. Acts Bombay industrial relations act 1946: This is applicable to Gujarat/Maharashtra; representative union selection is mandatory. Other laws in the same spirit: Madhya Pradesh (1960), Rajasthan, Bhiwandi Notification (1967) minimum membership (e.g. 25-51 per cent) leads to verification. They are not homogenous in terms of thresholds and processes.

Constitutional Basis

Article 19(1)(c): The freedom of association/union not absolute; no right to recognition as such - **BSI Ltd. v. Gift Holdings Pvt. Ltd.**,

Article 43: Worker participation directive in industry management.

³⁴ The Industrial Disputes Act, 1947.

³⁵ The Industrial Relations Code, 2020, §14.

³⁶ *Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971*, Bombay Act No. 1 of 1972, § 28 (Maharashtra)

Favors, and does not oblige to recognition.

CHALLENGES TO TRADE UNION LAWS IN INDIA:

Trade union recognition in India grapples with deep-rooted structural, legal, and socio-economic hurdles that undermine workers' collective power.

1.Fragmentation is a trait of politics characterized by separating political authority and power across multiple levels:

The disunity in the trade unions is one of the major problems that trade unions are facing in India. because of the effect of the political parties. Unions tend to be partisanized, and this is affiliated to political parties. causes internal rifts and they find it hard to speak with one voice during negotiation with. the employers. It is also this disintegration that undermines the collective bargaining of trade unions. reduces their efficiency in resolving worker grievances.

2.Disorganized Sector and Informal Labour:

The unorganized sector is a major part of the Indian workforce whereby workers are employed. not under the current trade union statutes. Informal workers- in agriculture, construction. and the gig economy usually does not have access to trade union protection and support. The legal framework is not well suited to cater to the needs of this huge and expanding population of this segment. manpower and many workers are exposed to exploitation.

3.Globalization and Economic Liberalization:

The liberalization of the Indian economy in the 1990s has seen the labour market experience an enormous change. changes. The strength has been diminished by the emergence of contract labour, outsourcing and temporary jobs. of old trade unions and therefore they find it hard to organize workers as well as negotiating on their behalf. Besides, local labour laws are usually bypassed by multinationals in India, pursuing loopholes in order to cut down labour costs.

4.Absence of Effectiveness Enforcement

Although India has a legal system that is well developed in its labour rights, the application of the laws. remains a major issue. Labour inspection is frequently missing and the workers are not even aware of it. their rights to the law, and subjecting them to the exploitations of the employers. The delays in legal absence of proceedings and ignorance of legal remedies are also contributory factors towards the ineffectiveness of. trade union laws.

5.The Act did not establish a statutory requirement.

The fundamental problem lies in the fact that there is no national legislation which requires recognition; the Trade Unions Act, 1926 only allows registration (Section 4), and the Industrial Disputes Act, 1947, only grants preferential treatment to the so-called representative unions without specification (Sections 18, 36). This freedom of choice has enabled employers to irrelevantly deny credit, preferring to have so-called pocket unions or simply neglecting real ones, undermining collective bargaining.

6.Procedural and Judicial Hurdles

Courts also establish that there is no automatic right (*Bharat Petroleum v.* In absence of state laws, Maharashtra Kamgar Union, 1999), the state legislation leaves the discretion of the employer. State differences (e.g., 30 percent of Maharashtra) are not uniform, which increases conflicts.

7.Increase in Multiple Unions.

Average of 10-12 unions in each industrial unit divides the worker solidarity. Competing unions, based on ideology, caste, region, or craft, are competing to dominate the other and thus no one has achieved any majority status. Verification (check-off vs. secret ballot), controversy causes and results in litigation that is lengthy, halting collective bargaining and weakening the effect of strikes.

8.Deficiencies in Industrial Relations Code, 2020.

The 51% membership requirement in section 14 by secret ballot appears to be progressive but is ineffective in practice: where voter turnout is low, it is easy to obtain majority by minority (e.g. 26% of 50% turnout), which is a breach of Article 14 equality. It is limited to companies that have 100 employees or more, and not SMEs and unorganized industries, and the time of strike notice is higher which will help to calm agitation.

9.Inter-Union Competitions and Violence

Primarily legitimacy is damaged by recognition struggles between unions, which can occasionally be violent (e.g., Bombay mill wars of 1990s)³⁷. The movement is further discredited by the activities of 'Ghotala unions' that are involved in extortion.

10.Capacity Deficits and Awareness.

Poor literacy levels of workers, fear of reprisal and poor union training is a setback to membership drives. There are other obstacles that affect women and migrant workers such as gender bias and mobility. Such problems continue to create inequality, as the unionization rates are only 7-10% and require a central Recognition Act and with just fair thresholds, penalties and ILO-conformable protections.

CASE LAW ANALYSIS :

1. B.R.SING V. UNION OF INDIA

A landmark Supreme Court judgment delivered on September 26, 1989, by Justices K. Jagannatha Shetty and A.M. Ahmadi³⁸. It addressed trade union rights in the context of strikes, collective bargaining, and restrictions under the Essential Services Maintenance Act (ESMA), 1968, balancing workers' fundamental rights against public interest.

³⁷ Meera Velayudhan, *Labour Unrest in the Bombay Textile Industry: 1982–1995*, 40 *Econ. & Pol. Wkly.* 142, 145–47 (2005)

³⁸ B.R. Singh v. Union of India, (1989) 4 SCC 710.

FACTS OF CASE :

The petitioners such as B.R. Singh (Secretary of a union) were casual workers of the Trade Fair Authority of India (TFAI) which is a Union of India undertaking. On January 19, 1987, they struck, and called on a pay raise, the regularization of the services, and the discovery of their union. The management dismissed the services of 243 casual employees under Rule 32 (without any investigation) as well as withholding the service of one peon due to the illegality of the strike in crucial services. This was protested by workers through writ petitions, in which they claimed that there was a breach of Article 19(1)(c) (right to form associations/unions) and natural justice principles. Mass denial of work was also not justified and terminations were upheld partially by Labour Court.

KEY ISSUES RELATED TO TRADE UNION :

Is ARTICLE 19(1) (c) of the right to form trade union subject to right to strike or effective collective bargaining?

2. Is the ESMA prohibition of strikes essential service constitutionally sound?

3. Are there no restrictions on the dismissal of strike workers by employers without investigation and what is the protection of the union activities?

SUPREME COURT REASONING ON TRADE UNIONS :

The Court reiterated that the right to strike did not present any fundamental right since strikes are coercive acts frustrating production/public services, which was not enshrined by Article 19(1)(c). But it liberally construed rights of trade unions:

2. Purpose of Unions: The special rights to voice grievances are provided by the registration under Section 8 of Trade Unions Act, 1926. Effective bargaining with the management can be done through strong membership- unions serve as the mouthpieces of labour. Unions lose their strength without such tools as strikes, go-slow, work-to-rule, or absenteeism.

3. ESMA Validity: Prohibition of strike in essential services (e.g. transport, health) is a reasonable limitation on Article 19(6), and it is in the interest of the population. However, they should be reasonable, not arbitrary and not blanket prohibitions-workers have go-back-to-work rights even after strikes.

4. Collective Bargaining Essential: Article 19(1)(c) suggests the right to effective action in collective form, such as protesting, to make demands. Democratic industrial relations require an employer (formal or implied) recognition, but not an absolute one.

2. FOOD CORPORATION OF INDIA STAFF UNION V. FOOD CORPORATION OF INDIA:

Food Corporation of India Staff Union v. Food Corporation of India (AIR 1995 SC 1344), decided on February 17, 1995, by Justices Kuldeep Singh, B.L. Hansaria, and S.B. Majmudar, is a pivotal Supreme Court ruling on verifying trade union representativeness via secret ballots³⁹.

FACTS:

There were several FCI employee unions that were contending over collective bargaining. FCI and unions settled on a step to secret ballot verification under the supervision of Chief Labour Commissioner, however, wanted guidelines of fair implementation by the Court. The case was as a result of the Civil Appeal No. 2336 (NL)/1985 and the Writ Petition (C) No. 534/1985.

KEY ISSUES :

The manner in which a secret vote may be carried out to arrive at the true representative nature of competing trade unions to become the sole bargaining agent, thus transparency and participation at the workplace.

COURT HOLDINGS ON RECOGNITION :

Secret Ballot as best Method: Recommended to check-off/membership lists (which are liable to manipulation). Tailored norms for accuracy:

1.Voter List: FCI to submit certified list of eligible employees (all III/IV category workers on rolls) of Regional Managers. 2.Supervision: Chief Labour Commissioner(CLC) or nominee as Returning officer (RO). 3.Polling: Ballot paper of all unions, done unit-by-unit in the course of 1 day; 51% + votes on one agent, otherwise run off between first two. 4.Exclusions: There are no proxy/postal voting, strikers are not disqualified unless they are fired. 5.Timeline: Notice 15 days prior- results in 3 days.

Rationale: Registration under 1926 Act (S.8) allows to be bargained with, representative status requires democratic verification to ensure that employer fertilized "pocket unions" are not represented, industrial democracy.

TRADE UNION RELEVANCE :

Pioneered procedural fairness for recognition influencing State laws (eg Maharashtra MRTU Act) & Industrial relations code, 2020 (S.14). Pushes against random denial by ballot and autonomy of the employer against the Article 19(1)(c) rights of workers. Referred to as a way of confirming that there are a majority in disputes.

3.Tata Chemicals Ltd. v. Workmen (1978):

Supreme Court maintained an award made by an Industrial Tribunal which dearness allowance (DA) would be computed according to the Ahmedabad Cotton Textile formula in the case of Tata Chemicals

³⁹ Food Corporation of India Staff Union v. Food Corporation of India**, AIR 1995 SC 1344.

workers in recognition of the identified Employees Union settlement, but permitting a challenge by an opposing Sangh under the Industrial Disputes Act, 1947⁴⁰.

As the case elucidated, the union recognition (which is granted to Employees Union since 1973) does not exclude the opportunities of other unions to make demands in case no binding settlement exists to represent all workmen in a universal manner. Court focused on the check-off verification to determine representative character by denying the company its request that the reference was barred by a prior settlement. It confirmed the validity of tribunals to provide the DA adjustment based on profitability and industry comparators maintaining rights of recognized union influences versus the difference for workers of fair wages.

Important to trade unions: Recognition gives bargaining advantage though not final and majority verification through check-off still remains viable instruments. Has been used frequently in reference to procedural fairness in cases with multiple unions and principles of DA computation.

CONCLUSION :

The identification of trade unions is still one of the foundations of labour jurisprudence in India, which continues to play a key role in the realisation of the constitutional commitment of empowering workers in Article 19(1)(c) and in promoting fair industrial relations. The present research paper has now undone the multi-layered dimensions of the concept of trade union recognition in its historical terms of the colonial agitations, statutory development and change throughout the years, and conceptual aspects of employer-sponsored representational legitimacy alongside its disjointed legal framework as embodied in the Trade Unions Act, 1926, in the post-independence era, and first-generation provisions of the nascent provisions under the Industrial Relations Code, 2020⁴¹. It placed upon the black cut and white positive projections in the form of exclusive collective bargaining, improved welfare through settlements, and settled dispute resolution against the undeniably negative ones, multi-union division and locking out the unorganized portion. Victimization by employers, political influences and delays in the process are some of the factors that help in perpetrating the exploitation and these issues can be solved by interpreting the law in landmark cases, e.g., B.R. Singh v. Holding efficacy of bargaining, Secret ballot verification as decreed, check-off mechanism as affirmed, etc., Tata Chemicals Ltd. v. Workmen (1978) and Bharat Petroleum (1999)⁴², among others providing progressive, yet disjointed solutions.

As a law student in this minefield, the question causes a very stark paradox; this registration, under Section 4 of the 1926 Act, gives legal personality and immunities (as in the Sections 17-18), but actually to work, there has to be recognition or the unions are reduced to the status of paperwork. There is empirical evidence of state trials such as the MRTU & PULP Act, 1971 (Section 28) in Maharashtra of the mandatory verification but national disuniformity reduces scalability. Section 14 of the Industrial

⁴⁰ Tata Chemicals Ltd. v. Workmen**, 1978 Lab IC 999 (SC).

⁴¹ Industrial Relations Code, 2020.

⁴² Bharat Petroleum Corporation Ltd. v. Maharashtra General Kamgar Union**, (1999) 1 SCC 626.

Relations Code which proposes a 51%, suggests the intention to reform but fails in terms of enforcement lag and limited scope of application more than 100 workers may leave Article 14 breaches vulnerable in low turnout situations.

This discussion highlights that a pressing need is the enactment of a central Recognition of Trade Unions Act, requiring objective reasons (e.g. secret ballots or check-off of 30-51 per cent support), penalties on unfair recognition and protection against rivalries. In line with the ILO Conventions 87 and 98, this law would be used to institutionalize industrial democracy, tame so-called pocket unions, and entitle gig workers, which would stop the wave of casualization. In the evolution of judicial culture, B.R. Singh achievement of democratic ethos to Food Corporation of procedural rigor offers the scaffold of doctrine, which encourages take-up of voluntariness by courts ahead of statute.

To embodiment, the statutory recognition is not a luxury or an unfavourable facet but a constitutional sine qua non to the India labour renaissance against economic liberalization. To the policy makers, it will guarantee easier reduction in the number of strikes and formulation of inclusive growth and to unions, bargaining capability; to the workers, dignity⁴³. As practitioners of law into the future, we have to drive this change, transforming doctrinal gaps to the empirical advocacy. Without it, the labour laws in India will merely serve to continue the inequality of a labour force that is 7-10% unionized (PLFS 2022-23), which is unsocialist as per the references of the Socialist vision of the Preamble. The only thing that can change the recognition of privilege into a solid right is proactive legislation and this will guarantee a smooth, fair industrial relations.

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