CONCILIATION AND ADJUDICATION TODAY (1985). By Manik Kher. The Times Research Foundation, Omar Deep, Shree Clinic Lane, 1205/4 Shivaji Nagar, Pune-411 004. Pp. 103. Price Rs. 50.

THE BOOK under review is mainly an attempt to project inadequacies of the mechanism of conciliation and adjudication as provided in the Industrial Disputes Act 1947. The importance of this subject is obvious because methods of conciliation and adjudication form the core of contemporary Indian industrial relations system. The framework of conciliation and adjudication revolves at the sole discretion of the appropriate government which practically leaves little scope for management and labour to settle differences of their own on a give and take basis. Therefore, the mechanism of conciliation and adjudication to India is what collective bargaining is to Anglo-American industrial relations system, the former being formal, coercive and undemocratic, the latter informal, voluntary and democratic in content and spirit.

The book is divided into five chapters. In the first chapter the author attempts to explain some of the doctrinal concepts like collective bargaining, voluntary arbitration, conciliation, adjudication, *etc.*, with special emphasis on legal-cum-administrative issues involved in the settlement of industrial disputes at the conciliation stage. The attitude and approach of the Supreme Court towards various facets of conciliation is highlighted in the second chapter. In the third chapter the author describes the legal nuts and bolts of the conciliation process including physical environment and the stress and strain under which the conciliation agency operates and functions. The fourth deals with the adjudicatory process and various other issues that confront it. And finally in the fifth and last chapter distortions and discrepancies developed during the last thirty-eight years in the operation of the Industrial Disputes Act, with a view to reorienting and refashioning the working of the conciliation and adjudication agency in the interest of industrial peace have been described. The author seems to suggest that if a policy perception on the lines indicated by him is undertaken for improving the working of the conciliation and adjudication machinery, *etc.*, we can expect durable industrial peace. However, total dependence on formal legal instruments as envisaged in the Industrial Disputes Act, assumed to be an acme for all industrial conflicts, is not and cannot be an appropriate, just and lasting *modus operandi*. The author insists on perfection of the existing mechanism in the light of remedies suggested by him. He further unveils the well-known and well-discussed ailments which bedevil the Indian conciliatory as well as adjudicatory processes, putting forward suggestions to rectify the shortcomings

The drawbacks of both the conciliation and adjudication processes have been enumerated by the author. According to him, the conciliation

machinery suffers from hostility of trade unions, lukewarm attitude of the employers, ineptitude of the conciliation officers, *etc.* The shortcomings of the adjudicatory machinery referred to are, the ignorance of labour law on the part of the judges of labour courts and industrial tribunals,[1] their unawareness of the environment in which workers work, the grant of frequent adjournments which delay justice, *etc.* The author also criticises misuse of reference power by the appropriate government while deciding reference of industrial disputes to the labour court or industrial tribunal. However, he has not indicated the more serious drawbacks of the conciliation agency, may be due to involvement of the Labour Commissioner and Deputy Labour Commissioner of the Government of Maharashtra in this research work. The conciliation machinery is not impartial, independent and objective and unduly favours trade unions affiliated to the party in power like the R.M.M.S. during the Bombay textile workers strike of 1982. It suffers from power obsession and was responsible for opposing the recommendation of the National Commission on Labour suggesting transfer of the conciliation function to the proposed abortive Industrial Relations Commission. Likewise, the adjudicatory machinery is afflicted by the heavy weight of legal traps and overload of pending cases, a haven for the employers and their lawyers who invariably prefer to carry their legal battle from industrial tribunal to the High Court and finally to the Supreme Court. The public sector corporations[2] which are supposed to be model employers are no different from private entrepreneurs[3] who also drag helpless workers by spending public money lavishly in litigation. An *aware* employer should be the last litigant, costs in court being unproductive and even counter-productive. There are instances wherein industrial disputes were adjudicated after a lapse of over twenty-five years.[4] In some cases decision takes years and ill-will and disaffection go unabated and even with greater intensity. Experience of labour history also shows that judges and conciliation bureaucracy cannot be fit to decide labour matters which are to be adjudicated according to extra-legal considerations.

Moreover, reform of the Industrial Disputes Act and particularly of the conciliation and adjudication processes without corresponding reform in the basic postulates of the trade union law will not yield the desired result. While reform of the conciliation and adjudication mechanism is necessary and desirable, good industrial relations to a large extent also depend on the quality of trade unions and policy of the government towards them. The existing trade union law which is about 60 years old, is archaic and

1. *E.g.*, *Satnam Verma* v. *Union of India*, A.I.R. 1985 S.C. 294; Justice D.A. Desai lamenting at the ignorance of labour courts and the High Court to investigate the law resulting in injustice.

2. *Delhi Municipality* v. *Rasal Singh*, A.I.R. 1976 S.C. 2454.

3. *Delhi Cloth & G. Mills Ltd.* v. *Shambhu Nath Mukherjee*, A.I.R. 1985 S.C. 141.

4. *Rohtas Industries* v. *Its Union*, A.I.R. 1976 S.C. 425.

primitive in character. Absence of sound trade union law concerning a sole bargaining agent and multiplicity of trade unions on political, linguistic and regional basis, have marred the prospects of durable peace in industry. The need of the hour, therefore, is to have a comprehensive reform and review of labour-management relations policy and law. Piecemeal and *ad hoc* legislative changes in the Industrial Disputes Act have led to distortions, contradictions and interpretative difficulties in its enforcement. To find fault with the Act is not enough and one must go back to the root of the problem to devise an alternative strategy for evolving purposive industrial relations in order to tilt the balance in favour of collective bargaining rather than compulsory adjudication to eschew violence, conflict and confrontation.

The author seems to take a simplistic view that once major flaws in the Industrial Disputes Act are overcome, through legislative reforms and all concerned abide by them, durable peace in industry would emerge. Hence his preoccupation has been with embellishment of legal processes and devising of statutory solutions without bothering about inbuilt internal bipartite relations between labour and management. Nevertheless, the work of the author is commendable. With the help of case study he has ventured to X-ray the on-going conciliation and adjudication processes in an admirable fashion. The printing and get up of the book is also good with only marginal printing mistakes.

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