

sustenance from Gandhiji's approach to industrial disputes. Consider this passage from the draft of the Fourth Plan,

Labour Legislation ... and agreements arrived at jointly between representatives of workers and employers and the Government proceed from two basic concepts. Firstly, the relationship between workers and employers is one of *partnership* in the maintenance of production and the building up of the national economy. Secondly, the community as a whole as well as individual employers are under obligation to protect the well-being of workers and to secure to them their due share in the gains of economic development. (*Italics ours*). Fourth Five-Year Plan—a Draft Outline 386 (1966).

For a different view upon the so-called “partnership” of capital and labour consider the following opinion, expressed in the U.S.A. eighty years ago :

It is absurd to say that the interests of capital and labour are identical. They are no more identical than the interests of the buyer and seller. They are, however, reciprocal, and the intelligent comprehension of this reciprocal element can only be brought into the fullest play by the most complete organization, so that each party shall feel that he is an integral part of the whole working establishment.

—from the First Annual Report of the U.S. Commissioner of Labour, 1886, p. 289 (as quoted in XIX American Labour Review, No. 11, Nov. 1966 at 14).

THE LOYAL OPPOSITION : THE ROLE OF TRADE UNIONS IN THE UNITED STATES

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IN THE AMERICAN system of industrial relations, management and labour have at one and the same time an identity of interests and a conflict of interests. They have an identity of interests in the prosperity

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[The principal issues before the Supreme Court in this case were whether the right to form a union guaranteed by Article 19(1)(c) by implication confers a right on the workers or unions to go on strike, and a right to undertake collective bargaining for wages, conditions of service and the like. The Supreme Court held that Article 19(1)(c) does not extend its guarantees to those additional rights. Excerpts from the judgment delivered by Ayyangar, J. follow:]

The point for discussion could be formulated thus: When sub-clause (c) of Clause (1) of Article 19 guarantees the right to form associations, is a guarantee also implied that the fulfilment of every object of an association so formed is also a protected right, with the result that there is a constitutional guarantee that every association shall effectively achieve the purpose for which it was formed without interference by law except on grounds relevant to the prevention of public order or morality set out in Clause (4)* of Article 19? Putting aside for the moment the case of Labour Unions to which we shall refer later, if an association were formed, let us say for carrying on a lawful business such as a joint stock company or a partnership, does the guarantee by sub-clause (c) of the freedom to form the association, carry with it a further guaranteed right to the company or the partnership to pursue its trade and achieve its profit-making object and that the only limitations which the law could impose on the activity of the association or in the way of regulating its business activity would be those based on public order and morality under clause (4) of Article 19? We are clearly of the opinion that this had to be answered in the negative....

The acceptance of any such argument would mean that while in the case of an individual citizen to whom a right to carry on a trade or business or pursue an occupation is guaranteed by sub-clause (g) of Clause (1) of Article 19, the validity of a law which imposes any restriction on this guaranteed right would have to be tested by the criteria laid down by Clause (6) of Article 19, if however he associated with another and carried on the same activity—say as a partnership, or as a company etc.,

* It specifies the grounds on the basis of which the State may impose reasonable restrictions on freedom of association. *Eds.*

† It specifies the grounds on the basis of which the State may impose reasonable restrictions on the freedom of occupation guaranteed in Article 19(1)(g). *Eds.*

Individual trade unionists are not any less intelligent than managers, but they can never hope to rule because the trade union is structured like a political institution and can not make the decisions that are now needed for the investment function, or for the allocation of resources; this remains the fundamental task of management. The complex technology which management commands is beyond the union's competence, with the result that the union remains in a perpetual state of opposition.

Let me elaborate further. Those of you who have been trained in mathematics are familiar with the complex kind of calculus that is needed to keep an enterprise going. What is more, technological problems are no less difficult for managers in "collectivised" or "socialist" economies than they are for managers in a "private enterprise" economy. In deciding how to produce what, these managers face essentially the same types of problems from a technological point of view. That is why the Russians have become such ardent students of American managerial technology.

How does what I have said apply to the Indian situation? Quite frankly, I do not know. You are experimenting with a new set of institutions, and working out your own destiny in the context of your own problems. This is as it should be, as it must be. But it wouldn't surprise me to see an industrial system develop in India which takes into account the same technological and human considerations that have guided our efforts in the U.S. (XIX American Labour Review, No. 11, Nov. 1966 at 15-16).

Other tripartite activities. There are a multitude of other tripartite activities, some dealing with wages and other kinds of remuneration; others dealing chiefly with terms and conditions of employment generally, including remuneration, and also with methods of settling disputes.

The student of labour-relations law will want to know at least of the existence of the more important of these activities, although their details and complexities are beyond the compass of this book. We can do no more here than to mention a few of the most important bodies. There are, as we have said, a multitude.

The most notable activities that do not specialize in wage matters are, perhaps, the following :

1. The National Committee on Labour. This may prove one of the most important tripartite bodies. Mr. P. B. Gajendragadkar is its chairman. It is charged with the vast task of reviewing, in the complex

context of today, the findings and recommendations of the Royal Commission on Labour of 1931 and the Labour Investigation Committee of 1946. (See Fourth Five-Year Plan—A Draft Outline, 1966 at 400). Unfortunately its conclusions will not be available for mention in this book.

2. Under the workers' education program 1,87,797 workers and 5,293 worker-teachers were instructed through 1964. Sixteen new regional centres were established during the Third Plan 1961-66; 200 education officers, 6,314 worker-teachers, and about 3,00,000 workers received training. The scheme has been operated since 1958 by the tripartite Workers Education Board, set up by the Central Government, which cooperates with regional and educational bodies. Many courses are given, and much educational material is published. (*Id.* at 396; The Indian Labour Year Book, 1964, at 37-38, 130-33.)

3. Works committees. These are an integral part of the scheme of the Industrial Disputes Act, 1947, and will be considered in that connection. They deal chiefly with minor and day-to-day disputes.

4. Joint management councils. The Second and Third Plans, 1956-66, both stressed the need, in an industrialising economy with socialistic and democratic ideals, for participation in management by workers. This should improve communications between workers and management and promote understanding of one another's problems. It should increase productivity and raise the workers' morale. After approving certain studies of experiments in foreign countries the Indian Labour Conference, 1957, moved to formulate the Scheme of Joint Management Councils, based solely on tripartite agreement. The Governments of all but three states have set up machineries to encourage this scheme. Through 1964 Joint Management Councils, with limited advisory and consultative powers, and minor administrative responsibilities in some areas, have been formed in 97 mines, factories, and plantations, and in the State Bank of India. About a third are in the public sector. The councils have no jurisdiction over wage issues, or other matters normally dealt with by trade unions or works committees. (Same Year Book, at 129-30.)

5. Tripartite, or bipartite, committees have been established to deal with eight separate industries:

(1) Coal mines; (2) other mines; (3) plantations; (4) jute; (5) cement; (6) cotton textiles; (7) tanneries and leather; and (8) building and construction.

6. There is also a committee, presumably tripartite, on ratification or implementation of the conventions of the International Labour Organisation at Geneva. Its conclusions are generally endorsed by the Indian Labour Conference.

Tripartite bodies specializing in wage matters and other kinds of remuneration are, for example :

1. The Bonus Commission, which will be discussed in the part of this book dealing with bonus.
2. The Wage Boards, which will likewise be discussed under wages.