

Industrial Unrest

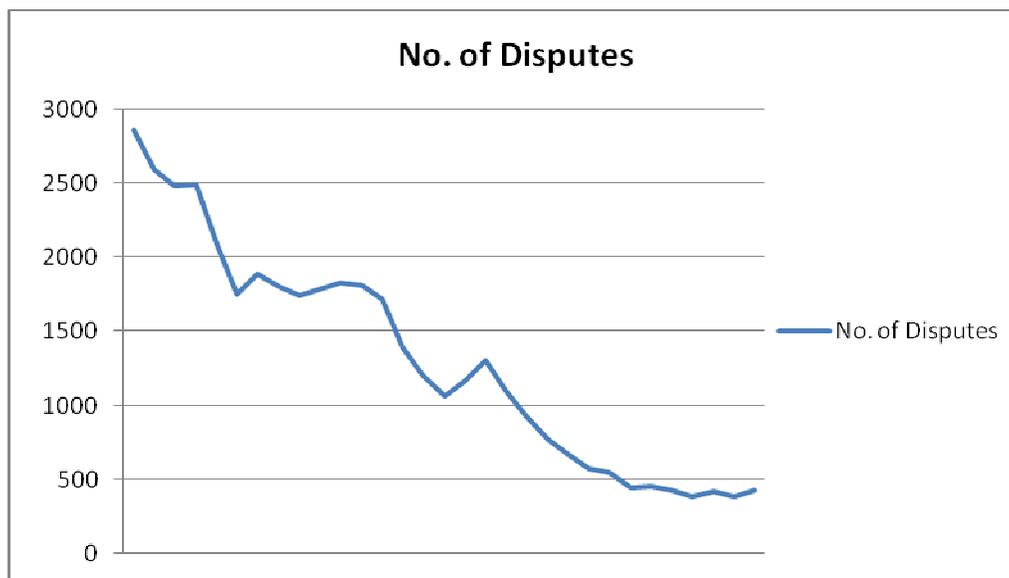
Past Trend & Lessons For Future



Globalization and Industrial Relations

Industrial Relations paradigm in India had dramatically changed following the adaptation of free market policy in the early nineties. With the dawn of liberalization, privatization and globalization (LPG), the country is, by and large, able to preserve a sound and positive industrial relations climate. This is apparent from the statistical figures of Union Government's Labour Bureau, which exhibits drastic decline of industrial disputes from 3049 in 1979 to 391 (P) in 2009.

The following graph shows the reducing trend in Industrial disputes from 1980 to 2010.



Reduced trend in the number of disputes

'Liberalization' introduced change of business environment, and increased competition among industries for survival in the global market economy. Globalization, potential market capacity and availability of workforce led many MNC's, representing the best brands of the world, to set up their manufacturing bases in India, giving a tough competition to their Indian counterparts. These MNCs prefer managing labour relations through 'work committees', which have representatives from various departments in the company, eventually reducing trade union activism. The rise of IT industry and the emergence of knowledge workers contributed further

to decline of workers union. Part of the reason was that workers' issues and concerns had changed and change of functional models of industry reduced the area of confrontations.

But following 2008, there is sudden increase in labour unrest in certain industry pockets which came at a time when strikes have actually been on the decline in the country.

While strikes and protests are common global phenomena, in the recent years India is facing an alarming situation with the increase in number of unrest, leading to violence and killings which reminds us of the trade union militancy period of 1970s and 80s. This surge in industrial unrest has become a concerning situation for all. On September 22, 2008 the CEO of Graziano Transmission India, the Indian unit of an Italian auto component maker, was clubbed to death by a group of 200 workers. In another incidents, in March 2011, a Deputy General Manager (Operations) of Powmex Steel, a unit of Graphite India Ltd. was killed after his vehicle was set afire by irate workers, in November 2010 an Assistant General Manager of Allied Nippon, an auto parts maker, was stoned to death by angry workers and in September 2009 the Vice-President (HR) of Pricol was beaten to death by agitating workers.

These surging incidents of industrial unrests are for sure denting investor's confidence in the country being a safe investment destination and a preferred global investment hub. It has also led to production and financial losses to companies operating in the country. If left unchecked, this ongoing turmoil will surely send wrong signals to foreign and domestic investors, which will directly affect the country's economy and employment generation targets. Today, industrial relation needs more detailed understanding of the needs and mindsets of workers and management, to foster harmonious functioning of enterprises to promote growth.

Recent Unrest

Most of the adverse unrests were witnessed in the manufacturing, textile and automobile and auto auxiliary industries during 2008-11 and names involved — Hyundai, Honda, Nokia, Bosch, Pricol, Maruti Suzuki to name a few - most of which represent the best across industries. Here worth mentioning is the calamitous case of Maruti Suzuki India Ltd., Manesar Plant the largest

automobile manufacturing company in India. The strike at Maruti's Manesar Plant started on 4th June, 2011 and continued throughout the year in three phases, adversely affecting the company's production and also the State Revenues. The Haryana State Government declared the strike as illegal and imposed ban by passing prohibitory orders and referred the matter to the local labour court. But even this could not stop the workers from striking. As per estimation, Maruti Suzuki made a loss of Rs. 400 million or roughly \$9 million a day in revenue because of the strike, with 1,200 vehicles a day in lost output. The striking workers were demanding the registration and recognition of a new union at the Manesar plant, besides retaining contract labourers for the two upcoming new units inside the complex and withdrawing disciplinary action against the 11 office bearers of the new union. The strike not only affected Maruti Suzuki but also directly affected the supply chain of vendors supplying auto-parts directly to Maruti. Over 100 units suffered a virtual shutdown, while 300-odd manufacturers, which were indirect vendors were reported a daily loss to the tune of 15-20%.

Moreover, there were numbers of strikes that took place throughout the country during 2011. About 900 workers launched a wildcat strike on 16 March that continued for more than a month at General Motor's India Ltd., Halol plant at Gujarat, opposing the working conditions in the factory and demanding wage hikes, making the company suffer a production loss of above 1,500 units. This was the second such incident at Halol in five months.

The leading tyre manufacturer MRF was compelled to declare lockout at its Kottayam plant in Kerala following labour unrest due to suspension of a worker on disciplinary ground. The management of the Hindustan National Glass Industries Limited had to issue suspension of worker for an indefinite period after violence erupted in July at Rishra factory premises in West Bengal over a wage revision demand, leading to the closure of the factory. Tata Group firm Voltas also faced a similar issue with its workers protesting against the company's recruitment policy and wages. The Hindalco Industries, Kochi had to declare lock-out of its plant for about 10 months, for an odd number of 200 employees went on strike demanding an upward revision in monthly wages. Workers at Moser Baer's Noida facility workers struck a weeklong strike in October demanding a revision in wages and bonuses.

Over all, in 2008-11, an increased number of strikes were witnessed in India. To name a few - Satari based Automobile Corporation of Goa Ltd., Nestle, Mahindra & Mahindra, Hyundai India's Chennai plant, Rico Auto Limited, Honda Motorcycle and Scooter India (HMSI), Honda Siel Cars, Haldia Dock Complex of Kolkata Port Trust, Bosch, Toyota Kirloskar Motors, Pepsico etc.

Looking into the adverse industrial unrests scenario in the country, some enterprises were even planning to shift their base out of the country or to restructure their business operation. As for instance, the Rs. 743 crore automotive instruments maker Prical, which was recovering from a labour strife that claimed the life of a senior executive at its Periyanaickanpalayam unit in Coimbatore, Tamil Nadu in September, 2009 was working on a restructuring plan from automotive business. In another case, frustrated with the continues recurring of labour unrest, Japanese auto major HMSI had threatened to shut operations at its wholly-owned two-wheeler plant in Haryana and has petitioned the Punjab and Haryana High Court for relief or else it may shut operations in India if the situation persists. Earlier the Honda power had moved out from Uttrakhand and shifted its base to Noida following serious labour problem. Even, Toyota Motors, Bangalore in 2006, following a strike, went on to say that it will stall its future investment plans in the state.

It is very often noticed that some of the industrial belts are quoted as strike prone zones, due to frequent re-occurrence of industrial unrest which can be evaluated from the disputes recorded during the last few years. The Gurgaon-Manesar belt of Haryana is often referred to as notorious belt because of the number of recurring continues labour disputes during the last five years impacting the industrial environment in the state. Though there are no concrete figures on the estimated losses due to the unrest, it is believed that they are to the tune of Rs 800-1000 crore, the biggest brunt being borne by Maruti Suzuki India Ltd. and Honda Motorcycle and Scooter India (HMSI), which has seen production falling by above 65% and non-operation of a new third production line. A leading newspaper in 2011 stated that an economic survey has quoted Gujarat at the top of labour unrest chart due to highest number of strikes and other

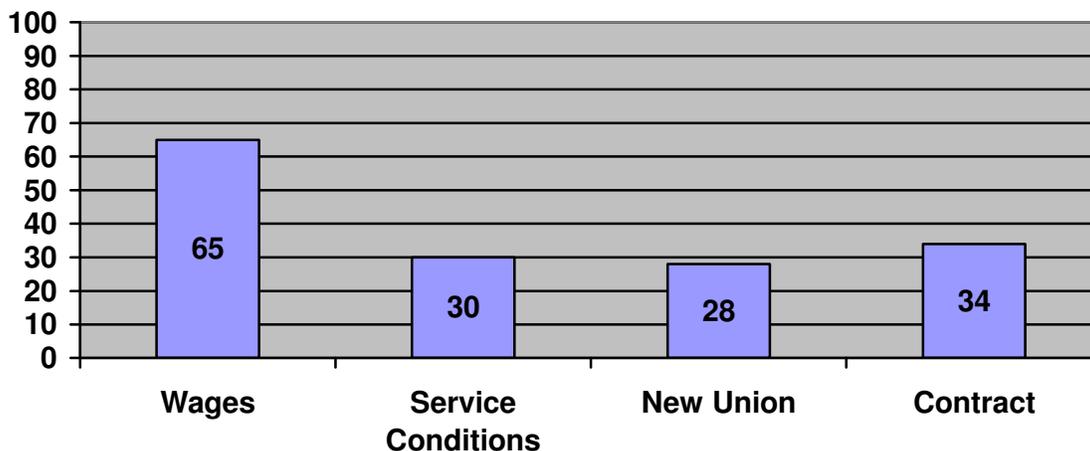
forms of labour unrest on accounts of various financial and disciplinary issues despite of favorable industrialization policy.

Analysis of Strike Causes and its Changing Trends

In pre-globalization era, the causes for strikes were mainly confined to issues like wages, bonus, working conditions and inter-intra union rivalry, having external influence. The causes and issues have shifted today in diverse directions with gradually diminishing external connections. It is observed that the major causes of unrest in the recent years were mostly related to wages, indiscipline, service conditions, recognition of trade unions and contractualisation of work.

Following 2008, there is considerable increase in the number of industrial unrest leading to violence and killings. Out of approximately 30 odd industries, those faced industrial unrest during the year 2005 – 2011, it was found that about 25% of them had faced violence in one form or the other. Moreover, it is noteworthy that most of the violence were carried out by the workers of the respective industries.

Causes of Strikes from 2005



The strikes that took place after 2008 have altogether taken a new dimension having more than one issue. As shown at the graph above, about 65% of the strikes that occurred in this period were due to wage related issues like wage increment and equal wages for equal work, 30% for

service conditions, 28% for formation and recognition of new union, whereas 34% for contractualisation of work.

Statistical Puzzles

The intensity of industrial unrest in India has increased during the year 2008-2011. But still the numbers tell a different story. According to Labour Bureau the total number of man days lost because of strikes and lockouts in January-November 2011 was 4.3 million. In the same period of 2010 and 2009, the numbers were 18 million and 13 million. If anything, this should show a huge decline in the incidence of strikes and lockouts. The catch is that these figures are still provisional; data collection and compilation in India moves at a glacial pace. The final figures for 2004, 2005, 2006 and 2007 paint a somewhat different picture. The Labor Bureau numbers for these years are 23 million, 29 million, 20 million and 27 million respectively.

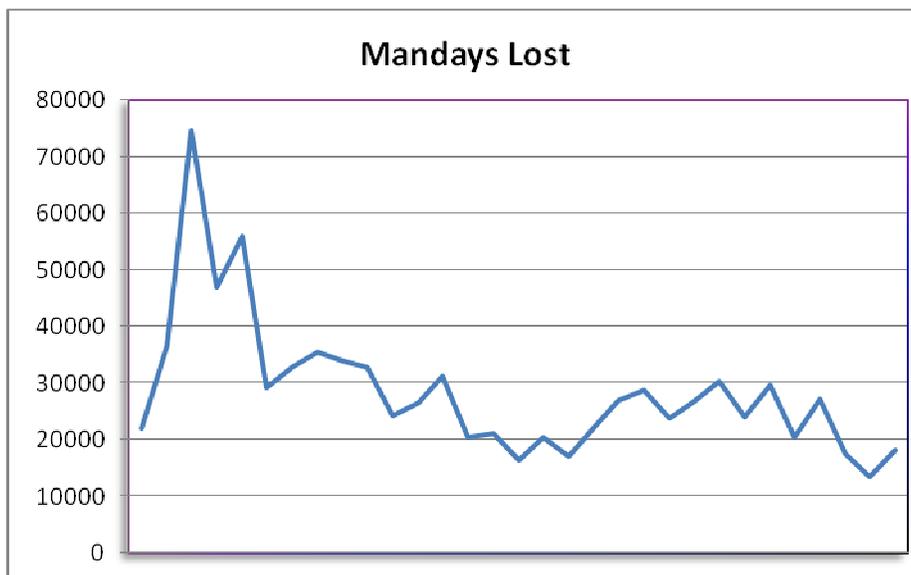
The number of mandays lost has gone up in compression to the intensity of disputes that took place during the recent years. When compared with the number of disputes, involvement of workers and mandays lost during 1980 and 2010, it is interesting to note that the number of disputes recorded during 1980 was 2856 and 431 in 2010, but the number of recorded mandays lost was 21 million in 1980 and 18 million in 2010.

Number of Disputes, Workers Involved & Mandays Lost		
	1980	2010
➤ Total Number of disputes recorded	2856	431
➤ Number of workers involved	1900333	1064846
➤ Number of Mandays Lost	21 million	18 million

From the above *table* we can perceive that despite of the number of reduced disputes during 2010 in compression to 1980, the rate of workers involved and mandays lost has really increased. The ratio of mandays lost during 1980 : 2010 is 1 : 5, in contrary to 6 : 1 ratio in the

number of disputes took place. It is also evident from the figures that the involvement of workers has also gone up leading to more mandays lost and productivity loss.

The reason probably could be due to sector specific flash strikes and mass general strikes that took place opposing Government's proposed policies and current economic scenario. The general strike that took place on February 28, 2012, millions of workers throughout sectors of all political hues have gone on strike across India expressing their anger at rising inflation rate and to back demands for improved rights for employees, trade unions and political activists. During 2011, 10, 09, 08 all public sector bank employees repeatedly went on nationwide strike protesting the Government's proposal of issuing new bank licences to private sector banks, demanding non-privatisation of nationalised banks, no reduction of government stake in public sector banks, demanding an increase in the number of public sector branches etc. Another nationwide strike by was observed during 2010 due to price rise and many more by various political parties.



The above chart shows the trend of mandays lost during 1980 to 2010. In 1982 there was a sharp rise of 74 million mandays lost but by and large the number of mandays lost has been constant throughout during 1985 to 2010. It is worth mentioning that during the post

liberalisation period, the number of disputes recorded have gradually decreased but the number of mandays lost is comparatively higher than that the country had in 80s.

The table below shows the number of disputes, workers involved and mandays lost during last ten years as notified by the Labour Bureau.

Year	Number of		
	Disputes	Workers Involved	Mandays Lost
2001	674	687778	23767
2002	579	1079434	26586
2003	552	1815945	30256
2004	477	2072221	23866
2005	456	2913601	29665
2006	430	1810348	20324
2007	389	724574	27167
2008(P)	421*	1579298*	17434*
2009(P)	392*	1625505*	13365*
2010(P)	431*	1064846*	18068*
2011(P) (Jan. to Nov. 2011)	140*	406442*	4301*

(Indian Labour Journal, February, 2012)

Disputes have gone up since 2008 with increased number of mandays lost and the number of disputes during 2011 was much higher in comparison to 2008, 09, & 10 but still the statistics reflected are provisional and are still being compiled for that period. This demarcates the slow pace of data compilation of Indian authorities.

Legislative Provisions & Government's Stand

The increase in labour unrest during the recent years has many a time raised Government's concern. The Prime Minister of India at various occasions has appealed to the social partners to maintain cordial relations to pace economic growth and employment generation. The Union

Labour Minister of India at the 77th Annual General Meeting of the All India Organisation of Employers' (AIOE) firmly stated that violence and confrontation has no place in a growth oriented economy and violence of any form in Industry cannot be accepted.

Despite the concern towards industrial harmony, it is evident that many a times, the Government's initiatives are limited to introducing steps for privatization and liberalization to manage the economic changes due to globalization, but resist introducing progressive reforms in the existing plethora of laws governing labour and employment, making the country less competitive in the global market. There are close to 44 central labour laws and above 100 state labour laws, enacted 4 to 8 decades back which are antiquated and do not address the concerns of the globalised economy. The matters related to industrial relations, is at present regulated by three main central enactments: The Trade Unions Act, 1926, Industrial Employment (Standing Orders) Act, 1946 and Industrial Disputes Act, 1947.

Today, most of the countries, especially the developing countries like India, are dependent on foreign investment and under these circumstances, it is necessary that countries who seeks foreign investment must keep some safeguard in their respective industrial laws so that there will be no misuse of right to strike. In India, right to protest is a fundamental right under Article 19 of the Constitution of India but, right to strike is not a fundamental right rather, a legal right with statutory restriction attached in the Industrial Dispute Act, 1947.

During the colonial regime, to prevent and settle industrial disputes the Trade Disputes Act, 1929 was enacted by the colonial ruler after considering the recommendations of the Royal Commission on Labour which included the need to deal with trade disputes and also the importance of intervention by the conciliation officers. This act was amended twice and, in 1938, it provided for appointment of conciliation officers and extended the scope of the Act to cover more trade disputes and public utility services. As the functioning of the Trade Disputes Act revealed certain inherent defects, the government of India replaced it by a comprehensive legislation and accordingly the Industrial Disputes Act, 1947 was passed.

Under the Industrial Disputes Act, 1947, grounds and conditions are laid down for legal strike and if those provisions and conditions are not fulfilled then the state can impose reasonable restrictions by declaring it illegal. But, these restrictions have its own limitations and are exclusively applicable to industries declared as public utility services.

India is perhaps the only country, where the requirement of strike notice, barring public utility services, is totally lacking. Under Chapter V, Section 22 of the Industrial Disputes Act, 1947, strike notice of six weeks is required to be given by the striking workers in the case of public utility service industries. In the verdict of *Mineral Miner Union vs. Kudremukh Iron Ore Co. Ltd.*, the Karnataka High Court on 19 February, 1985 held that the provisions of section 22 are mandatory and the date on which the workmen proposed to go on strike should be specified in the notice. If meanwhile the date of strike specified in the notice of strike expires, workmen have to give fresh notice. Lack of this provision in the case of establishments and industries not covered under public utility services, does not give adequate times to the parties to take pre-emptive steps and avert the situation through negotiations, making them more vulnerable to strikes.

In addition to it, in most of the cases workers are unaware of the causes for strike and many a times they are compelled to join the strike against their will, creating a question on the validity of the strike. The Indian legislative framework does not provide for any measures for assessing the need for strike and its legitimacy.

The recent spread of industrial unrest is seriously underscoring the need for a comprehensive review of labour laws, which should be an instrument for promoting harmonious industrial relations, investment and employment generation. Witnessing the authenticity of these turmoil, the Government had introduced preventive measures to avoid unrest in future by incorporating **Section 9C in the Industrial Disputes Act, 1947** on September 15, 2010 for setting up of one or more Grievance Redressal Committees with equal representation from employers and workmen, in every industrial establishment employing twenty or more workmen for the resolution of disputes arising out of individual grievances. Even though, this initiative is unable to bring a halt to the prevailing industrial unrest.

Required Changes in the Existing Legislations

India is perhaps the only country, where the requirement of strike notice, barring public utility service, is totally lacking. Therefore, Section 23 of the Industrial Disputes Act, 1947 be suitably amended to provide atleast a compulsory three weeks strike notice. Further, to democratize the functioning of trade unions, the Strike Ballot should be supported by at least 75% of the workers working in the enterprise. Even the Second National Commission on Labour in its report suggested that strike should be called only by the recognised negotiating agent and that too only after it had conducted a strike ballot among all the workers, of whom at least 51% support the strike.

Go-slow and work to rule are the most pernicious forms, even worse than strike. The economic loss caused by go-slow is far graver than strike. It has not yet been prohibited in our legislation. It should be recognized as a strike. To make illegal strikes more deterrent, it can be proposed to provide for 8 day's deduction of wages for each day of illegal strikes.

The Trade Unions Act, 1926 provides for the registration of trade unions and in certain aspects defines the law relating to registered trade unions but, it does not provide for recognition of trade unions for the purpose of collective bargaining. Provision for recognising Bargaining Agent under the Trade Unions Act, 1926 may be introduced to strengthen the collective bargaining machinery. A union with 51% membership should be recognized as the Sole Bargaining Agent. In case, no single union has 51%, the top 2-3 unions with more than 25% membership may come together to form Joint Bargaining Council. A union with less than 25% membership should not have a right to challenge a collective agreement nor raise a collective dispute.

The number of outsiders in the Trade Union Executive should be restricted to a maximum of two persons as against 50 percent in the legislation and out of the two top positions of 'President' and 'General Secretary', at least one post should be held by the internal employee. Section 22 of the Trade Unions Act should be amended accordingly and adequate arrangement should be done including amending section 16 of the Trade Union Act, 1926 to insulate trade unionism from politics.

Even though union density is gradually getting lower by international standards, India loses more days every year as a result of strikes and lockouts than any other country. However, the number of workers involved in strikes and lockouts is considerably lower in India than in Brazil, Italy or Spain. This raises the classic question of whether conflict reflects existence of union or representation of workers. Therefore, a provision for verification of membership of the Trade Unions through the 'check off' system and all critical decisions affecting the operation of the industry should be taken by a 'secret ballot'.

Strikes can never be hoped to yield any satisfactory solution to pressing labour problems. In fact, if handled without proper care, they could only compound the problems. Given this context, labour would be well-advised to choose from crafty negotiation skills or arbitration for settling their outstanding issues with management. (Dr. G Sajeewa Reddy, President, INTUC)