

# Unfair labor practices (ULP) under the Industrial Relations Code, 2020 (IR Code)

The concept of unfair labor practices (ULP) under the Industrial Relations Code, 2020 (IR Code) aims to promote industrial harmony by prohibiting actions that disrupt equitable relations between employers, workers, and trade unions. These practices are specified in Schedule II and encompass behaviors by employers, workers, and trade unions that are deemed coercive, deceptive, or obstructive.

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## 1. Definition of Unfair Labor Practices

Section 2(z) defines "unfair labor practices" as practices specified in Schedule II of the Code. These include:

- Acts by employers against workers or unions,
  - Acts by workers or unions against employers, and
  - Coercive or unethical behaviors impacting collective bargaining or dispute resolution.
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## 2. Examples of Unfair Labor Practices from Schedule II

### a. Unfair Practices by Employers

- Refusal to collectively bargain with a recognized trade union.
- Discrimination against workers for their trade union membership or activities.
- Victimizing workers, such as wrongful dismissal for union participation.
- Intimidating or coercing workers to avoid joining or forming unions.
- Recruiting new workers during a lawful strike without informing striking workers.

### b. Unfair Practices by Workers and Trade Unions

- Coercing workers to join or refrain from joining a trade union.
- Instigating or supporting illegal strikes.



- Using intimidation or violence to achieve trade union objectives.
- Breaching settlement agreements reached during conciliation or arbitration.

c. Examples in Action

- Employer Action: Dismissing a worker for participating in union activities.
  - Union Action: Coercing a worker to join a strike against their will.
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### **3. Penalties for Unfair Labor Practices**

Chapter XII of the IR Code specifies penalties for ULP:

- Section 86: Employers, workers, or unions engaging in ULPs can face penalties, including:
    - Fine: Up to ₹1,00,000 for employers or unions.
    - Imprisonment: Up to 6 months for repeated violations or severe cases.
    - Additional penalties apply for non-compliance with conciliation or settlement agreements.
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### **4. Significance of Prohibiting ULPs**

- **Protecting Workers' Rights**  
Ensures workers can freely associate, unionize, and collectively bargain without fear of retaliation.
  - **Promoting Industrial Peace**  
Prevents disruptive practices that could escalate into industrial disputes.
  - **Ensuring Fair Employer-Worker Relations**  
Encourages ethical behavior by both employers and unions, fostering mutual trust.
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## 5. Relevant Case Laws

### a. Hindustan Lever Ltd. v. Ashok Vishnu Kate (1996)

The Supreme Court ruled that victimization of workers for participating in union activities constitutes ULP. The employer was ordered to reinstate workers wrongfully dismissed for union involvement.

### b. Bharat Iron Works v. Bhagubhai Balubhai Patel (1976)

The court emphasized that employers must not act against workers for legitimate union activities, defining the limits of managerial discretion.

### c. Maharashtra State Road Transport Corporation v. Casteribe Rajya Parivahan Karmachari Sanghatana (2009)

The court recognized the right to unionize and ruled against practices discouraging union formation or membership.

### d. D.N. Banerjee v. P.R. Mukherjee (1953)

The court observed that collective bargaining and union activities must be protected against coercive or obstructive employer practices.

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## 6. Comparative Examples of ULP in Practice

ULP by Employers	ULP by Workers/Unions
Discriminating against union members.	Forcing non-union members to join a strike.
Refusing to negotiate with a recognized union.	Breaching agreements reached during mediation.
Retaliating against workers who file grievances.	Using intimidation or violence during protests.

## 7. Remedies for Unfair Labor Practices

### 1. Conciliation and Adjudication

- Workers, unions, or employers can report ULPs to conciliation officers or Industrial Tribunals for resolution.



2. Reinstatement and Compensation

- Workers victimized by ULPs, such as wrongful termination, may be entitled to reinstatement and back wages.

3. Penalties for Violators

- Fines and imprisonment as prescribed under Chapter XII ensure deterrence against recurrent offenses.

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**Conclusion**

The prohibition of unfair labor practices under the Industrial Relations Code, 2020, reflects India's commitment to safeguarding equitable industrial relations. By addressing coercive, unethical, or obstructive practices, the Code strengthens workers' rights, ensures fair employer conduct, and promotes industrial peace.



# Trade Union: Registration and Recognition of Trade Unions

## Introduction to Trade Unions

- A Trade Union is an organized association of workers formed to protect their interests and improve working conditions through collective action.
- Defined under Section 2(zl) of the Industrial Relations Code, 2020, it includes any combination of workers or employers established for regulating employment relations, improving working conditions, and protecting collective interests.

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## Registration of Trade Unions

Provisions Under the Industrial Relations Code, 2020:

1. Eligibility for Registration (Section 6)
  - A **minimum of 7 members** must subscribe to the rules of the Trade Union.
  - For a Trade Union of workers, at least **10% of the workforce or 100 workers**, whichever is lower, must be its members.
2. Application Requirements (Section 8)
  - An application for registration must be submitted to the Registrar of Trade Unions. It must include:
    - A declaration (affidavit) ensuring compliance with legal provisions.
    - A copy of the union's rules and a resolution authorizing registration.
3. Registrar's Role (Section 9)
  - The Registrar examines the application. If all criteria are satisfied, a **Certificate of Registration** is issued, which is conclusive evidence of registration.
  - The Registrar can refuse registration if:
    - The union's rules are inconsistent with the Code, or
    - The membership falls below the prescribed threshold.



#### 4. Existing Trade Unions

- Unions registered under the Trade Unions Act, 1926 are deemed registered under the Code (Section 9(4)).

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### Recognition of Trade Unions

Provisions for Recognition (Section 14):

#### 1. Negotiating Union

- In industrial establishments with one registered Trade Union, that union is recognized as the sole negotiating union.

#### 2. Negotiating Council

- If there are multiple Trade Unions, the one with at least 51% of worker support is recognized.
- If no single union has majority support, a Negotiating Council is formed with proportional representation.

#### 3. Term of Recognition

- Recognition of a union or council is valid for 3 years, extendable to 5 years with mutual agreement.

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### Significance of Registration and Recognition

- Legal status for trade unions as corporate bodies (Section 12).
- Enables unions to sue and be sued.
- Provides a platform for effective collective bargaining and dispute resolution.
- Strengthens workers' rights under the law.

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### Relevant Case Laws

#### 1. **Telangana Mazdoor Union v. Registrar of Trade Unions (2020)**

- The court highlighted the Registrar's duty to ensure compliance with registration requirements and not reject applications arbitrarily.



**2. Rohtas Industries Ltd. v. Its Union (1976)**

- Recognized that registration gives unions a legal framework for negotiating with employers.

**3. Rajasthan Mazdoor Union v. State of Rajasthan (1999)**

- The court emphasized that recognition ensures legitimate worker representation, avoiding fragmentation.

**4. Workmen of Dimakuchi Tea Estate v. Dimakuchi Tea Estate (1958)**

- The case elaborated on the role of registered unions in protecting collective interests of workers.

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# Collective Bargaining: Advantages and Disadvantages

## Introduction to Collective Bargaining

- Collective Bargaining is a negotiation process between employers and workers (or their unions) to agree on **wages**, **working conditions**, and other **employment terms**.
  - Recognized as a fundamental worker right under the Industrial Relations Code, 2020 (Section 14).
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## Process of Collective Bargaining

### 1. Recognition of Trade Union

- A recognized **Negotiating Union or Council** engages with the employer.

### 2. Negotiation on Matters

- Common issues include wages, bonuses, work hours, leave policies, grievance mechanisms, and worker safety.

### 3. Reaching an Agreement

- Settlements reached are binding on both parties and **enforceable under the Code**.
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## Advantages of Collective Bargaining

### 1. Improves Worker Conditions

- Leads to agreements on better wages, benefits, and working conditions.

### 2. Promotes Industrial Peace

- Resolves disputes through dialogue, reducing the likelihood of strikes or lockouts.

### 3. Empowers Workers

- Workers collectively negotiate, reducing the power imbalance between employees and employers.



#### 4. Legal and Binding Settlements

- Agreements reached through collective bargaining are enforceable under the Code.

#### 5. Improves Employer-Employee Relations

- Encourages **mutual respect and builds trust**, fostering a collaborative workplace environment.

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### Disadvantages of Collective Bargaining

#### 1. Time-Consuming Process

- Negotiations can take weeks or months, delaying dispute resolution.

#### 2. Fragmented Representation

- Multiple unions in an establishment can lead to conflicting demands.

#### 3. Risk of Deadlocks

- Failure to reach an agreement may result in strikes or lockouts, disrupting productivity.

#### 4. Potential for Union Dominance

- Unions may demand excessive concessions, creating financial stress for employers.

#### 5. Limited Scope for Unorganized Workers

- Workers in the unorganized sector often lack union representation, limiting access to collective bargaining.

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### Relevant Case Laws

#### 1. Bangalore Water Supply & Sewerage Board v. A. Rajappa (1978)

- The Supreme Court emphasized the importance of collective bargaining as a tool to balance the rights of employers and workers.

#### 2. Telco Convoy Drivers Mazdoor Sangh v. State of Bihar (1989)



- Recognized the role of collective bargaining in ensuring fair employment conditions.

**3. Balmer Lawrie & Co. Ltd. v. Workmen (1964)**

- Highlighted that collective bargaining leads to enforceable agreements, reducing industrial disputes.

**4. D.N. Banerjee v. P.R. Mukherjee (1953)**

- The court noted that collective bargaining strengthens workers' ability to negotiate fair wages and other terms.

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# Strikes and Lockouts: Provisions and Case Laws

## Introduction to Strikes and Lockouts

- **Strike:** Defined under **Section 2(zk)** of the IR Code as a cessation of work by workers acting in combination to press demands.
  - **Lockout:** Defined under **Section 2(u)** as the employer's act of temporarily closing a workplace or suspending work to enforce demands or counter workers' actions.
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## Provisions under the Industrial Relations Code, 2020

### 1. Procedural Requirements for Strikes and Lockouts (Sections 62-64)

- Workers must give **14 days' notice** before a strike.
- Strikes and lockouts are prohibited:
  - During conciliation or arbitration proceedings.
  - 60 days after the conclusion of such proceedings.
  - During the pendency of Tribunal adjudication.

### 2. Legality of Strikes and Lockouts

- **Illegal Strikes:** Strikes without notice or during restricted periods are illegal.
- **Illegal Lockouts:** Employers initiating lockouts without prior notice or during restricted periods violate the law.

### 3. Penalties under Chapter XII

- **Section 86:**
    - **For Illegal Strikes:** Workers or union representatives can face fines up to ₹50,000.
    - **For Illegal Lockouts:** Employers can face fines up to ₹1,00,000.
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## Significance of Regulating Strikes and Lockouts

- Ensures industrial peace by mandating procedural compliance.



- Protects essential services and public interest.
  - Balances workers' right to strike with employers' right to run operations.
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### Case Laws on Strikes and Lockouts

1. **T.K. Rangarajan v. State of Tamil Nadu (2003)**
    - The Supreme Court ruled that **there is no fundamental right to strike**. Government employees cannot disrupt public services through strikes.
  2. **Bharat Petroleum Corporation Ltd. v. Maharashtra General Kamgar Union (1999)**
    - Strikes must comply with statutory procedures, failing which they are deemed illegal.
  3. **Kameshwar Prasad v. State of Bihar (1962)**
    - The court held that the right to strike is not absolute and can be restricted in the interest of public order.
  4. **Binny Ltd. v. Their Workmen (1972)**
    - The Supreme Court observed that lockouts are permissible only under valid reasons and must comply with statutory requirements.
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### Examples of Strikes and Lockouts in Practice

1. **Lawful Strike:** Workers at a manufacturing unit issue a 14-day notice and strike over unpaid wages.
  2. **Illegal Lockout:** An employer imposes a lockout during conciliation proceedings to press for lower wages.
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### Conclusion

Strikes and lockouts are critical tools for resolving industrial disputes, but they must comply with procedural safeguards under the Industrial Relations Code, 2020. The regulation of these actions protects the rights of workers while ensuring that industrial activities remain undisturbed in the public interest.



# Layoff, Retrenchment, and Closure: Provisions and Case Laws

## Introduction

Layoff, retrenchment, and closure are regulated under the **Industrial Relations Code, 2020 (IR Code)** to protect workers' rights while allowing employers to manage their workforce in changing economic conditions. These provisions ensure a balance between economic efficiency and labor security.

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## Key Provisions under the Industrial Relations Code, 2020

### 1. Layoff

- **Definition (Section 2(t)):** Layoff refers to the employer's inability to provide employment to workers due to factors like raw material shortage, machinery breakdown, or natural calamities.
- **Compensation (Section 78):** Workers laid off are entitled to **50% of basic wages and dearness allowance**, provided they have completed at least **one year of continuous service**.
- Layoff does not apply to seasonal establishments or workers employed in managerial or administrative capacities.

### 2. Retrenchment

- **Definition (Section 2(zh)):** Retrenchment is the termination of workers' employment for reasons other than disciplinary actions, superannuation, or voluntary retirement.
- **Procedure (Section 70):**
  - A **30-day notice** or wages in lieu of notice must be provided.
  - **Compensation** equivalent to **15 days' average pay for every completed year of service** is mandatory.
  - Intimation of retrenchment must be sent to the appropriate government authority.
- Exemptions: Fixed-term employment or termination due to ill health is not considered retrenchment.



### 3. Closure

- **Definition (Section 2(h)):** Closure refers to the permanent shutting down of an industrial establishment.
  - **Procedure (Section 77):**
    - For establishments employing **300 or more workers**, prior government approval is required before closure.
    - Workers must receive **compensation** equivalent to retrenchment benefits.
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#### Significance of Provisions

- Ensure **financial security** for workers in cases of layoffs, retrenchments, or closures.
  - Mandate procedural safeguards to prevent arbitrary actions by employers.
  - Promote industrial harmony by requiring government approval for large-scale retrenchments or closures.
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#### Relevant Case Laws

##### 1. Hariprasad Shivshanker Shukla v. A.D. Divikar (1957)

- The Supreme Court held that retrenchment applies to the termination of services for reasons unrelated to disciplinary action or worker misconduct.

##### 2. Workmen of Subong Tea Estate v. Subong Tea Estate (1964)

- The court ruled that layoff compensation is a statutory right, ensuring financial stability for workers.

##### 3. Punjab Land Development and Reclamation Corporation Ltd. v. Labour Court (1990)

- The court emphasized that non-compliance with retrenchment conditions, such as notice or compensation, renders the retrenchment invalid.



#### 4. Excel Wear v. Union of India (1979)

- It was held that the requirement for prior government approval for closures should not unduly infringe on an employer's fundamental right to close a business under Article 19(1)(g) of the Constitution.

## Industry and the Triple Test: The Bangalore Water Supply Case

### Introduction to Industry

The concept of "industry" plays a pivotal role in labor law, determining the applicability of labor protections under various statutes. The definition of **industry** was clarified and expanded by the Supreme Court in the landmark case of **Bangalore Water Supply & Sewerage Board v. A. Rajappa (1978)**.

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### Definition of Industry (Section 2(p), IR Code, 2020)

- Industry refers to any **systematic activity** carried out by cooperation between an employer and workers for the production, supply, or distribution of goods or services.
- The definition excludes:
  - Sovereign functions of the government (e.g., defense, atomic energy),
  - Charitable or philanthropic institutions, and
  - Domestic services.

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### The Triple Test in Bangalore Water Supply Case

The **Triple Test** established by the Supreme Court determines whether an activity qualifies as an industry:

#### 1. Systematic Activity

- The activity must be organized and systematic, involving a deliberate structure or method.



## 2. Cooperation Between Employer and Workers

- The presence of employer-employee relations is essential, with workers contributing to the production or distribution process.

## 3. Objective of the Activity

- The activity must aim to satisfy human wants or needs (excluding purely spiritual or religious objectives).

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### Significance of the Case

#### 1. Expansive Definition of Industry

- The court ruled that hospitals, educational institutions, and similar establishments are industries if they meet the **Triple Test**.

#### 2. Exclusions

- Sovereign functions (e.g., legislative and judicial functions) and self-employment activities were excluded.

#### 3. Worker Protections

- By broadening the definition, the judgment ensured greater coverage of labor laws for workers.

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### Relevant Case Laws

#### 1. Bangalore Water Supply & Sewerage Board v. A. Rajappa (1978)

- The court emphasized the **Triple Test** and broadened the definition of industry to include educational institutions and hospitals.

#### 2. State of Bombay v. Hospital Mazdoor Sabha (1960)

- The court ruled that hospitals employing a large workforce to provide organized healthcare services qualify as industries.

#### 3. Coir Board, Ernakulam v. Indira Devi (1998)

- The Supreme Court reaffirmed the Triple Test, stating that even small-scale cooperative activities can qualify as an industry.



#### 4. Chief Conservator of Forests v. Jagannath Maruti Kondhare (1996)

- The court excluded sovereign functions from the definition of industry, reaffirming the narrow scope for such exclusions.

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#### Advantages of the Triple Test

1. Provides a **uniform framework** for determining the scope of industrial law.
2. Protects workers in a wide range of sectors.
3. Encourages judicial clarity in interpreting the term **industry**.

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#### Conclusion

The **Bangalore Water Supply case** is a landmark judgment that continues to guide the interpretation of "industry" under Indian labor law. The **Triple Test** ensures comprehensive coverage of industrial relations law, safeguarding workers' rights across various sectors while excluding sovereign functions and activities without organized labor structures.

## Payment of Bonus under the Wages Code, 2020

### Introduction

The **Wages Code, 2020** consolidates provisions of the **Payment of Bonus Act, 1965**, ensuring that workers receive a share of their employer's profits or productivity. The Code lays down rules for the calculation, eligibility, and payment of bonuses to promote equitable wealth distribution and incentivize workers.

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### Provisions under the Wages Code, 2020

#### 1. Eligibility for Bonus (Section 26)

- Employees drawing **wages of up to ₹21,000 per month** are eligible for a bonus.
- Employees must have worked for at least **30 days** in an accounting year.



**2. Disqualification (Section 26(2))**

- Employees dismissed for fraud, violent conduct, or theft are disqualified from receiving bonuses.

**3. Minimum Bonus (Section 26(1))**

- The minimum bonus payable is **8.33% of wages**, regardless of the employer's profit or loss.

**4. Maximum Bonus (Section 26(1))**

- The maximum bonus payable is **20% of wages**, depending on the employer's allocable surplus.

**5. Computation of Bonus (Section 28)**

- Bonus is calculated based on the "**allocable surplus**", derived from gross profits after accounting for statutory deductions like depreciation and taxes.

**6. Time Limit for Payment (Section 29)**

- Employers must pay the bonus within **8 months** from the close of the accounting year, unless extended by the government.

**7. Mode of Payment**

- Payment can be made in cash, bank transfer, or any other recognized mode as prescribed.

**8. Applicability to New Establishments (Section 27)**

- New establishments are exempt from paying bonuses for the **first five years**, unless they earn profits in any year.

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**Significance of Bonus Provisions**

**1. Worker Incentive**

- Encourages productivity and loyalty by sharing profits with employees.

**2. Wealth Distribution**

- Ensures equitable distribution of profits, benefiting low-wage earners.

**3. Legal Safeguards**



- Protects workers by mandating minimum bonuses even during periods of financial stress for employers.

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### Relevant Case Laws

#### 1. Cochin Shipping Co. v. Industrial Tribunal (1978)

- The court held that bonus payments are a statutory right of workers and cannot be denied based on subjective employer considerations.

#### 2. Modi Industries Ltd. v. State of UP (1986)

- It was ruled that the bonus must be calculated in accordance with the allocable surplus as per the law, ensuring workers receive their fair share.

#### 3. Mumbai Kamgar Sabha v. Abdulbhai Faizullabhai (1976)

- The Supreme Court reiterated that the minimum bonus is a statutory obligation, and employers cannot avoid payment on grounds of poor financial performance.

#### 4. Union of India v. R.C. Jain (1981)

- The case reinforced the eligibility of contractual workers for bonus payments if they satisfy the conditions under the Act.

## Minimum Wage Fixation under the Wages Code, 2020

### Introduction

The **Wages Code, 2020** introduces a unified framework for determining **minimum wages**, replacing the **Minimum Wages Act, 1948**. It aims to ensure a fair standard of living for workers while reducing economic disparities.

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### Provisions under the Wages Code, 2020

#### 1. Definition of Minimum Wage (Section 2(h))

- Minimum wage is the legally mandated lowest remuneration that employers must pay workers for their labor.



## 2. Criteria for Fixing Minimum Wages (Section 6)

- The Code prescribes factors to consider when fixing minimum wages:
  - Skill level (unskilled, semi-skilled, skilled, or highly skilled).
  - Nature of work (hazardous vs. non-hazardous).
  - Region of employment (urban, rural, or semi-urban).

## 3. National Floor Wage (Section 9)

- The **Central Government** sets a **national floor wage**, below which no state can fix its minimum wages. States can fix wages higher than the floor level based on regional conditions.

## 4. Periodic Revision of Wages (Section 8)

- Minimum wages must be revised at least once every **5 years** or adjusted more frequently for inflation.

## 5. Payment Based on Time or Piece Work (Section 10)

- Wages can be calculated on a **time-rate** (hourly, daily, or monthly) or a **piece-rate** (output-based).

## 6. Advisory Boards (Section 7)

- Advisory boards at the **central** and **state levels** include representatives from employers, workers, and independent experts to recommend minimum wage revisions.

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## Significance of Minimum Wage Fixation

### 1. Prevents Exploitation

- Ensures that workers are not paid below a basic subsistence level.

### 2. Encourages Fair Competition

- Prevents employers from gaining an unfair advantage by underpaying workers.



### 3. Regional Adaptability

- National floor wages provide consistency, while state-level flexibility allows adjustment to local cost-of-living variations.

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#### Relevant Case Laws

##### 1. Crown Aluminum Works v. Workmen (1958)

- The Supreme Court stated that minimum wages should ensure not just bare subsistence but also conditions conducive to health, efficiency, and well-being.

##### 2. Kamani Metals & Alloys Ltd. v. Their Workmen (1967)

- The court emphasized that minimum wages must account for inflation and cost of living, ensuring they meet current economic realities.

##### 3. Workmen of Reptakos Brett & Co. Ltd. v. Management (1992)

- The Supreme Court held that minimum wages must provide for the worker's family's basic needs, including healthcare, education, and a measure of social security.

##### 4. Unichoyi v. State of Kerala (1962)

- It was ruled that minimum wages cannot be linked solely to productivity and must prioritize the welfare of workers.

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#### Conclusion

- The **Payment of Bonus** and **Minimum Wage Fixation** provisions under the Wages Code, 2020, highlight the government's commitment to improving workers' financial security.
- The bonus provisions ensure fair profit-sharing, while the minimum wage rules prevent exploitation and promote equitable growth.
- Supported by strong statutory safeguards and judicial precedents, these measures contribute to achieving socio-economic justice for workers in India.



# Industrial Dispute, Workman, and Bipartite and Tripartite Mechanisms in Industrial Dispute Resolution

## Introduction to Industrial Dispute

An **industrial dispute** refers to any conflict or disagreement between employers and workers related to employment, work conditions, or industrial relations. The **Industrial Relations Code, 2020 (IR Code)** consolidates earlier laws, including the Industrial Disputes Act, 1947, and provides mechanisms to resolve disputes efficiently and equitably.

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## Definition of Industrial Dispute

- **Section 2(q), IR Code, 2020:**

An industrial dispute is a disagreement between:

1. Employers and employers,
  2. Employers and workers, or
  3. Workers and workers,  
over terms of employment, work conditions, dismissal, retrenchment, or non-employment.
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## Definition of Workman

- **Section 2(zr), IR Code, 2020:**

A workman is any person employed in an industry for hire or reward to do manual, clerical, skilled, or technical work.

Exclusions:

- Persons employed in managerial or administrative roles,
  - Supervisors earning more than ₹18,000 per month, and
  - Armed forces personnel.
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## Bipartite and Tripartite Mechanisms in Industrial Dispute Resolution

### 1. Bipartite Mechanism

- **Definition:** Resolving disputes directly between employers and workers without external intervention.
- **Works Committees (Section 3, IR Code):**
  - Applicable to establishments employing **100 or more workers**.
  - Composed of equal representatives from employers and workers.
  - Aim: Promote industrial harmony and resolve disputes at the workplace level.

### 2. Tripartite Mechanism

- **Definition:** Involves employers, workers, and the government to resolve disputes.
- **Conciliation Officers (Section 43, IR Code):**
  - Appointed by the government to mediate and promote settlement of disputes.
  - Submit failure or settlement reports to the government.
- **Industrial Tribunals (Section 44, IR Code):**
  - Resolve disputes referred by the government or parties.
  - Their decisions are binding and enforceable.

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### Case Laws

#### 1. Workmen of Dimakuchi Tea Estate v. Dimakuchi Tea Estate (1958)

- Defined industrial dispute to include disputes between individuals and employers if they affect a group of workers.

#### 2. Workmen of Firestone Tyre & Rubber Co. v. Management (1973)

- Established that an industrial dispute requires a prior demand raised by workers.



3. **Greaves Cotton Ltd. v. Their Workmen (1959)**

- Highlighted the role of Works Committees in addressing grievances to prevent disputes.

4. **The Management of Hotel Imperial v. Hotel Workers' Union (1959)**

- Reinforced the importance of conciliation in industrial disputes.

## Immunities in Trade Disputes

### Introduction to Immunities in Trade Disputes

Trade unions play a vital role in protecting workers' rights. However, their activities, such as strikes or protests, may result in legal liability. To encourage collective action, certain **immunities** are provided to trade unions and their members under labor laws.

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### Immunities Under the Industrial Relations Code, 2020

1. **Civil Immunities (Section 16, IR Code)**

- No suit or proceeding can be brought against a registered trade union or its office-bearers for actions taken **in contemplation or furtherance of a trade dispute**.
- Examples:
  - Organizing peaceful strikes,
  - Negotiating on behalf of workers.

2. **Criminal Immunities (Section 16(2))**

- Registered trade unions and their members are immune from prosecution for acts done during a trade dispute, provided the actions:
  - Do not involve violence or intimidation,
  - Are carried out peacefully and lawfully.



### 3. Scope of Immunity

- Immunities are limited to lawful activities. Unlawful actions like property damage, violence, or coercion do not enjoy protection.

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### Significance of Immunities

#### 1. Encourages Collective Bargaining

- Protects trade unions from retaliation during disputes, enabling them to negotiate effectively.

#### 2. Legal Protection for Worker Representatives

- Shields union leaders from frivolous lawsuits or criminal charges during lawful strikes.

#### 3. Promotes Industrial Peace

- Allows unions to raise demands without fear of reprisal, reducing industrial unrest.

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### Case Laws

#### 1. Bourne v. National Union of Vehicle Builders (1953, UK)

- Recognized that actions taken in good faith during trade disputes are immune from civil liability.

#### 2. Mumbai Kamgar Sabha v. Abdulbhai Faizullabhai (1976)

- The Supreme Court held that trade unions are immune from liability for peaceful collective actions in pursuit of workers' demands.

#### 3. Taff Vale Railway Co. v. Amalgamated Society of Railway Servants (1901, UK)

- Highlighted the need for legislative intervention to grant trade unions immunity from liability for strike actions.

#### 4. Rohtas Industries Ltd. v. Its Union (1976)

- Reinforced that trade unions are not liable for bona fide acts done during lawful strikes or protests.



# International Labour Organization (ILO)

## Introduction to ILO

The **International Labour Organization (ILO)**, established in **1919**, is a specialized agency of the United Nations that promotes social justice and internationally recognized labor rights. It aims to advance opportunities for decent and productive work in conditions of freedom, equity, security, and dignity.

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## Key Features of the ILO

### 1. Tripartite Structure

- The ILO operates with a **tripartite system**, including representatives of **governments, employers, and workers**, ensuring a balanced approach to labor standards.

### 2. Conventions and Recommendations

- **Conventions:** Legally binding international treaties that member states ratify.
- **Recommendations:** Non-binding guidelines providing practical advice on labor issues.

### 3. Core Principles

- The ILO is based on the principles outlined in its **Constitution** and the **Declaration of Philadelphia (1944)**, emphasizing freedom of association, abolition of forced labor, equality, and social protection.

### 4. Core Conventions

- The **eight fundamental conventions** include:
  1. Freedom of Association and Protection of the Right to Organise (Convention No. 87),
  2. Right to Organise and Collective Bargaining (Convention No. 98),
  3. Forced Labour Convention (No. 29),



4. Abolition of Forced Labour Convention (No. 105),
  5. Minimum Age Convention (No. 138),
  6. Worst Forms of Child Labour Convention (No. 182),
  7. Equal Remuneration Convention (No. 100),
  8. Discrimination (Employment and Occupation) Convention (No. 111).
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### India and the ILO

- India has been a founding member of the ILO since 1919 and has ratified **47 conventions**, including **6 of the 8 core conventions**.
  - Indian labor laws, such as the **Industrial Relations Code, 2020**, align with several ILO principles, including collective bargaining, grievance redressal mechanisms, and minimum wage standards.
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### Significance of the ILO

1. **Global Labor Standards**
    - Sets benchmarks for fair labor practices and promotes decent work globally.
  2. **Social Justice**
    - Advocates for equitable employment opportunities, gender equality, and worker protections.
  3. **Guidance to Member States**
    - Assists countries in drafting labor laws and policies consistent with international standards.
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### Relevant Case Laws

1. **Bandhua Mukti Morcha v. Union of India (1984)**
  - The Supreme Court referred to the ILO's Forced Labour Convention (No. 29) in its judgment against bonded labor in India.



2. **People's Union for Democratic Rights v. Union of India (1982)**

- The court recognized the importance of ILO conventions in ensuring minimum wages and eliminating exploitative labor practices.

3. **Vishaka v. State of Rajasthan (1997)**

- The court relied on the ILO's guidelines for workplace safety and equality in framing sexual harassment prevention measures.

## Grievance Redressal Committee

### Introduction

The **Grievance Redressal Committee (GRC)** is a workplace mechanism established under the **Industrial Relations Code, 2020** to address individual worker grievances. Its purpose is to promote industrial harmony and provide workers with a forum to resolve disputes efficiently.

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### Provisions under the Industrial Relations Code, 2020

1. **Applicability (Section 4)**

- GRCs must be constituted in every industrial establishment employing **20 or more workers**.

2. **Composition of the GRC**

- Equal representation of employers and workers.
- Adequate representation of **women workers** in the committee.

3. **Functions of the GRC**

- Receive, investigate, and resolve worker grievances related to:
  - Wage disputes,
  - Workplace safety or conditions,
  - Termination or disciplinary actions.



#### 4. Time Frame for Resolution

- Grievances must be resolved within **30 days** of submission.

#### 5. Appeal Mechanism (Section 4(8))

- If the grievance is unresolved or the worker is dissatisfied, the worker may:
    - Approach the **conciliation officer**, or
    - Directly escalate the matter to the **Tribunal**.
- 

### Significance of the GRC

#### 1. Efficient Dispute Resolution

- Provides a **time-bound mechanism** to resolve grievances at the workplace level, reducing reliance on external adjudication.

#### 2. Industrial Peace

- Addresses grievances before they escalate into industrial disputes, promoting workplace harmony.

#### 3. Worker Empowerment

- Ensures that workers have a voice in resolving issues related to their employment.
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### Case Laws

#### 1. ONGC v. Petroleum Coal Labour Union (2015)

- The Supreme Court emphasized the importance of grievance mechanisms in ensuring workplace harmony and reducing industrial conflicts.

#### 2. Scooters India Ltd. v. Labour Court (1989)

- Highlighted the necessity of GRCs in promoting a fair and transparent grievance resolution process.

#### 3. Greaves Cotton Ltd. v. Their Workmen (1959)

- The court observed that grievance redressal mechanisms should be the first line of dispute resolution to avoid unnecessary escalation.



## Challenges and Improvements

- **Challenges:**
  - Limited awareness among workers about GRC processes.
  - Delays in resolving grievances due to poor implementation.
- **Improvements:**
  - Conducting awareness drives for workers.
  - Regular training for GRC members to ensure impartial resolution.

## Model Standing Orders

### Introduction

**Standing orders** are written rules governing the terms and conditions of employment, worker behavior, and workplace discipline. The **Industrial Relations Code, 2020 (IR Code)** introduced **Model Standing Orders** to streamline this process and ensure uniformity across industrial establishments.

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### Provisions under the Industrial Relations Code, 2020

1. **Applicability (Section 28)**
  - Employers in industrial establishments with **300 or more workers** must prepare standing orders.
2. **Model Standing Orders (Section 29)**
  - The **Central Government** prescribes **Model Standing Orders**, serving as a guideline for employers to draft establishment-specific standing orders.
3. **Draft Standing Orders (Section 30)**
  - Employers must prepare draft standing orders based on the **Model Standing Orders** within **6 months** of reaching the 300-worker threshold.
  - Workers or trade unions must be consulted.



#### 4. Certification Process (Section 31)

- Employers submit draft standing orders to the **Certifying Officer** for approval.
- The officer may modify or approve the draft, ensuring compliance with the Model Standing Orders.

#### 5. Content of Standing Orders

- **Schedule I** specifies mandatory topics, including:
  - Classification of workers (permanent, temporary, apprentice, etc.),
  - Work hours and holidays,
  - Suspension and dismissal for misconduct,
  - Termination and notice periods,
  - Grievance handling mechanisms.

#### 6. Temporary Applicability

- If standing orders are not certified, the Model Standing Orders automatically apply until final approval.

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### Significance of Model Standing Orders

#### 1. Uniform Standards

- Promotes consistent employment practices across establishments.

#### 2. Worker Protection

- Clearly outlines workers' rights and employer obligations.

#### 3. Prevention of Disputes

- Reduces ambiguity in employment terms, minimizing grievances and disputes.

#### 4. Legal Compliance

- Ensures establishments comply with statutory provisions, avoiding penalties.



## Case Laws

### 1. **Associated Cement Companies Ltd. v. P.D. Vyas (1984)**

- The court emphasized the role of standing orders in creating transparent workplace policies, benefiting both employers and workers.

### 2. **Rajasthan State Road Transport Corporation v. Krishna Kant (1995)**

- It was held that certified standing orders have statutory force, binding employers and workers.

### 3. **Workmen of Buckingham and Carnatic Mills v. Buckingham and Carnatic Mills (1970)**

- The court observed that standing orders prevent arbitrary actions by employers, fostering industrial harmony.

### 4. **Indian Iron and Steel Co. Ltd. v. Workmen (1958)**

- The Supreme Court stated that standing orders serve as a safeguard against unfair labor practices.

## Industrial Tribunal

### Introduction

An **Industrial Tribunal** is a quasi-judicial body established under the **Industrial Relations Code, 2020**, tasked with adjudicating industrial disputes and ensuring fair treatment of employers and workers.

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### Provisions under the Industrial Relations Code, 2020

#### 1. **Establishment of Industrial Tribunals (Section 44)**

- Tribunals are constituted by the **appropriate government** to resolve industrial disputes referred to them.
- Each Tribunal consists of:



- **Judicial Member:** A High Court Judge or District Judge with 3 years of experience.
- **Administrative Member:** An officer with labor-related administrative experience.

## 2. Jurisdiction (Section 45)

- Tribunals can adjudicate disputes related to:
  - Wages, bonuses, and allowances,
  - Retrenchment, layoffs, and closures,
  - Breach of settlement agreements or standing orders,
  - Matters referred by the government.

## 3. Powers and Functions (Section 46)

- Tribunals have powers equivalent to civil courts to:
  - Summon witnesses,
  - Examine evidence,
  - Enforce attendance and documentation.
- Decisions must be delivered within **6 months** of the dispute referral.

## 4. Binding Nature of Decisions (Section 50)

- Tribunal awards are binding on employers and workers.
- Appeals are allowed only on specific grounds, such as jurisdictional error.

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### Significance of Industrial Tribunals

#### 1. Adjudication of Complex Issues

- Provides a platform to resolve disputes that cannot be addressed through conciliation or arbitration.

#### 2. Impartial Decision-Making

- The involvement of judicial and administrative members ensures balanced judgments.



### 3. Binding Resolutions

- Tribunal awards carry statutory authority, ensuring compliance by all parties.

### 4. Industrial Peace

- By resolving disputes swiftly, Tribunals reduce the likelihood of strikes, lockouts, and industrial unrest.

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#### Case Laws

##### 1. Bangalore Water Supply & Sewerage Board v. A. Rajappa (1978)

- The court recognized the broad scope of industrial disputes and emphasized the role of Tribunals in resolving them.

##### 2. Rashtriya Mill Mazdoor Sangh v. National Textile Corporation (1996)

- It was held that Tribunal awards must be respected to maintain industrial harmony and ensure enforcement of labor rights.

##### 3. Hochtief Gammon v. Industrial Tribunal (1964)

- The court emphasized that Tribunals must follow the principles of natural justice while adjudicating disputes.

##### 4. Workmen of Firestone Tyre & Rubber Co. v. Management (1973)

- Tribunals must ensure employers comply with retrenchment and dismissal conditions to protect workers' rights.

