

UNIT - I

Trade Unions Act, 1926 & Collective Bargaining

Historical Aspects • Registration • Immunities • Recognition • Collective Bargaining

Including Landmark Supreme Court Judgments

Unit Structure & Learning Outcomes

01

Historical Evolution

Master-slave relationship → Trade unionism in UK & India

02

Statutory Framework

Trade Unions Act, 1926 – definitions, registration & funds

03

Rights & Immunities

Civil & criminal immunities under Sections 17 & 18

04

Recognition & CB

Methods of recognition and dynamics of collective bargaining

From Master-Slave to Industrial Relations

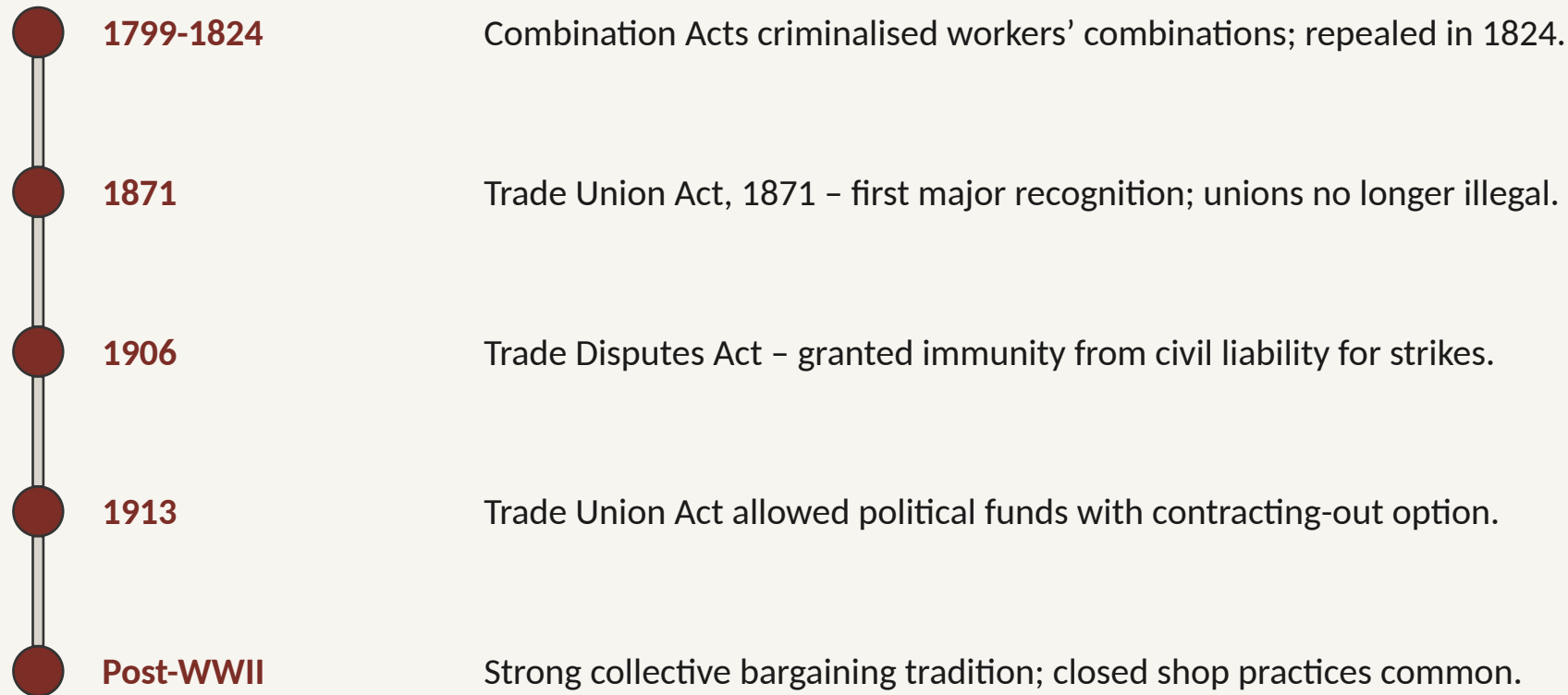
Pre-Industrial Era

Master-Servant relationship was purely contractual and hierarchical. Workers had no collective voice. Common law treated combinations of workers as criminal conspiracy (UK Combination Acts 1799–1800). Slavery and bonded labour existed in various forms across colonies including India.

Industrial Revolution Impact

Factory system created large concentrations of workers. Harsh conditions, long hours, low wages and child labour led to collective resistance. Need for organised associations to balance unequal bargaining power. Shift from individual contracts to collective industrial relations.

Trade Unionism in the United Kingdom



Evolution of Trade Unionism in India

Early Phase (1870s-1918)

Bombay Mill Hands Association (1890). Madras Labour Union (1918) under B.P. Wadia – first modern trade union.

Nationalist Phase

AITUC formed in 1920. Movement linked with freedom struggle. Leaders: N.M. Joshi, Lala Lajpat Rai.

Legislative Recognition

Trade Unions Act, 1926 provided legal status, registration and limited immunities. Adapted British model.

Post-Independence

Multiplicity of unions, political affiliation, recognition issues. IR Code 2020 sought consolidation.

Enactment of the Trade Unions Act, 1926

Objects: To provide for registration of Trade Unions and define the law relating to registered Trade Unions; to confer rights and privileges and impose obligations; to give legal recognition to the right of workers to form associations for collective action.

Registration

Voluntary but confers legal status, perpetual succession and common seal.

Immunities

Protection from certain civil and criminal liabilities for legitimate activities.

Funds

Regulation of general and political funds; restrictions on application.

Rights

Right to sue and be sued, hold property, and represent members.

ILO Conventions & Constitutional Mandate

Key ILO Conventions

Convention No. 87 (1948)
Freedom of Association and Protection of the Right to Organise.

Convention No. 98 (1949)
Right to Organise and Collective Bargaining.

India has not ratified C.87 & C.98, yet domestic law substantially reflects their principles through the Trade Unions Act and ID Act.

Constitutional Provisions

Article 19(1)(c)
Right to form associations or unions – fundamental right.

Article 19(4)
Reasonable restrictions in interest of sovereignty, public order & morality.

Directive Principles
Arts. 38, 39, 41, 42 & 43 – social justice, living wage, just conditions of work.

Landmark: All India Bank Employees' Assn. v. N.I. Tribunal (1962) – right to form union does not include right to strike as fundamental right.

A Bird's Eye View of the Trade Unions Act, 1926

Ch. I	Preliminary	Short title, extent, definitions (S. 2)
Ch. II	Registration	Ss. 3–14: Registrar, mode of registration, certificate, cancellation
Ch. III	Rights & Liabilities	Ss. 15–28: Objects on which funds may be spent, immunities, amalgamation
Ch. IV	Regulations	Power to make regulations; penalties for false statements
Ch. V	Penalties	Failure to submit returns, supplying false information

Key Definitions under the Act

Trade Union – S. 2(h)

Any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers or between workmen and workmen, or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions.

Trade Dispute – S. 2(g)

Any dispute between employers and workmen or between workmen and workmen, or between employers and employers which is connected with the employment or non-employment, or the terms of employment or with the conditions of labour, of any person.

Registration of Trade Unions

Who can apply?

Any seven or more members of a Trade Union may apply by subscribing their names to the rules and filing an application (S. 4).

Contents of Application

Names, addresses of members, name of union, objects, titles & names of office-bearers, and a copy of rules (S. 5).

Minimum Membership

At least 10% or 100 workmen (whichever is less) engaged or employed in the establishment or industry (post-2001 amendment).

Certificate of Registration

Registrar issues certificate under S. 9 which is conclusive evidence that the Trade Union has been duly registered.

Cancellation & Withdrawal of Registration

Grounds for Cancellation (S. 10)

- Certificate obtained by fraud or mistake
- Union has ceased to exist
- Union has wilfully and after notice contravened any provision of the Act
- Rules continue to be inconsistent with the provisions of the Act

Appeal & Effect

Any person aggrieved by refusal to register or by cancellation may appeal to the Civil Court (S. 11). On cancellation, the union loses all privileges of a registered Trade Union including immunities and the right to hold property in its registered name.

Funds of a Registered Trade Union

General Fund (S. 15)

May be spent only on:

- Salaries & expenses of office-bearers
- Administration including audit
- Prosecution or defence of legal proceedings
- Conduct of trade disputes
- Compensation to members for loss from trade disputes
- Allowances on death, old age, sickness, accidents or unemployment
- Educational, social or religious benefits
- Upkeep of periodicals

Political Fund (S. 16)

A separate political fund may be constituted.

Contribution is voluntary; no member can be compelled to contribute.

Non-contribution cannot be made a condition for membership or entitlement to benefits.

Used for promotion of civic and political interests of members – supporting candidates, political meetings, literature.

Immunities of Registered Trade Unions

Criminal Conspiracy – S. 17

No office-bearer or member of a registered Trade Union shall be liable to punishment under Section 120-B of the IPC in respect of any agreement made between the members for the purpose of furthering any of the objects of the Trade Union on which general funds may be spent (other than an agreement to commit an offence).

Key Limitation: Does not protect agreements to commit offences.

Civil Suit Immunity – S. 18

No suit or other legal proceeding shall be maintainable in any Civil Court against any registered Trade Union or any office-bearer or member in respect of any act done in contemplation or furtherance of a trade dispute to which a member of the Trade Union is a party on the ground only that such act induces some other person to break a contract of employment, or that it is an interference with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

Landmark Judgments on Trade Union Rights

All India Bank Employees' Assn. v. N.I. Tribunal (1962)

Right to form association under Art. 19(1)(c) does not include the right to strike or the right to collective bargaining as a fundamental right.

Rohtas Industries Staff Union v. State of Bihar

Immunity under S. 18 is available only when the act is in furtherance of a trade dispute; illegal strikes may attract liability.

Bokajan Cement Corpn. Employees' Union v. Cement Corpn. of India (2004)

Membership of a trade union does not automatically cease on termination of employment; rules of the union govern.

B.R. Singh v. Union of India (1989)

Recognition of trade unions is essential for effective collective bargaining and industrial democracy.

Problems of Trade Unions in India

Multiplicity of Unions

Several unions in the same establishment leads to inter-union rivalry and weakens collective strength.

Political Affiliation

Unions often act as extensions of political parties, diluting pure industrial focus.

Outside Leadership

Professional leaders who are not workmen dominate decision-making.

Low Membership Density

Large unorganised sector remains outside formal union structure.

Recognition Disputes

Absence of a uniform statutory procedure for recognition creates prolonged conflicts.

Financial Weakness

Inadequate funds limit ability to support members during prolonged disputes.

Amalgamation of Trade Unions

Any two or more registered Trade Unions may become amalgamated together as one Trade Union with or without dissolution or division of the funds of such Trade Unions or either or any of them.

1

Ballot

Votes of at least one-half of the members of each union must be recorded.

2

Majority

At least 60% of the votes recorded of each Trade Union must be in favour.

3

Notice

Notice of amalgamation signed by Secretary and seven members of each union to Registrar.

4

Registration

Registrar registers the amalgamated union if satisfied provisions complied with.

Recognition of Trade Unions

Recognition is the process by which an employer accepts a particular trade union as the representative of workmen for the purpose of collective bargaining.

Methods of Recognition

Voluntary

Employer voluntarily recognises a union on the basis of membership strength or check-off list.

Code of Discipline

1958 Code provided criteria (15% membership in industry / 25% in establishment). Largely non-statutory.

Secret Ballot

Preferred modern method – verification through secret ballot to determine majority union.

Statutory (State)

Some states (Maharashtra, MP, etc.) have enacted laws for compulsory recognition.

Collective Bargaining – Meaning & Methods

Definition

Collective bargaining is a process of negotiation between an employer (or employers' organisation) and a trade union (or unions) with the object of reaching an agreement regulating terms and conditions of employment. It is the principal method of determining wages and conditions of work in industrial democracy.

Plant Level

Bargaining at the level of a single establishment.

Industry Level

Bargaining covering an entire industry (e.g., banking, coal).

National Level

Central trade unions and employers' federations.

Coalition

Multiple unions jointly negotiating with management.

Status of Settlements & Impact of Liberalisation

Binding Nature of Settlements

Under the Industrial Disputes Act:

- Settlement arrived at in the course of conciliation – binding on all parties to the dispute and all workmen employed in the establishment (S. 18(3)).
- Private settlement (outside conciliation) – binding only on parties to the agreement (S. 18(1)).
- Award of Labour Court / Tribunal – binding for the period specified.

Collective Bargaining & Liberalisation

Post-1991 economic reforms brought significant changes:

- Shift from industry-wide to enterprise-level bargaining.
- Greater emphasis on productivity-linked wages and flexibility.
- Decline in union density in organised sector.
- Rise of fixed-term employment and contract labour challenging traditional union models.
- Industrial Relations Code, 2020 attempts to streamline recognition and negotiating unions.

Key Takeaways – Unit I

- Trade Unions Act, 1926 provides the basic legal framework for registration, rights and immunities of trade unions in India.
- Registration is voluntary but confers significant advantages including perpetual succession and limited immunities under Ss. 17 & 18.
- Right to form unions is a fundamental right (Art. 19(1)(c)), but the right to strike is only a legal right, not a fundamental right.
- Recognition remains largely non-statutory at the central level; secret ballot is emerging as the preferred method.
- Collective bargaining is the cornerstone of industrial democracy; its effectiveness depends on recognition and good-faith negotiation.
- Liberalisation has shifted the balance towards enterprise-level flexibility, posing new challenges for traditional trade unionism.