Defining IR

- Industrial relations encompasses a set of phenomena concerned with determining and regulating employment relationships
- These relationships concern management and employees or among employees and their associations that characterize and grow out of employment.
- Industrial relations is about maintaining harmonious relations at the workplace

Objectives of IR

- To develop healthy workplace relations
- To enhance economic status of workers
- To avoid industrial conflicts
- To extend and maintain industrial democracy
- To provide an opportunity to the workers to have a say in the management decision making
- To provide a forum to the workers to solve their problems through mutual negotiations and consultations
- To encourage trade unions in order to develop workers collective strength

Nature of IR

- IR is about employment relations: IR arises out of employment based relations between members of an organization
- IR is a web of rules: formed by the interaction of players: management, labor, industry etc.
- IR is multi-dimensional: influenced by complex set of institutional, economic & technological factors
- IR is dynamic and changing: keep pace with employee expectations, trade unions, and other economic and social institutions of society
- IR is characterized by forces of conflict and compromise. Individual differences and disagreements resolved through constructive means.
- IR is shaped by Govt: The Govt. influences and shapes IR with its laws, rules, agreements through executive and judicial machinery
- Scope of IR is wide: It covers grievances, disciplinary measures ethics, standing orders, collective bargaining, participatory schemes and dispute settlement mechanism etc

Scope of IR

- Management/employer - Union relationship
- Management/employer- Employee relationship
- Employee-Union relationship
- Employee- Employee relationship
- Effect of extraneous factors like state, socio-political- economic factors on workplace relationships
- Relevance as a practice
- Relevance as a discipline

The Journey of IR

- IR paradigm has changed-playing field has changed
- The players have metamorphosed in terms of demographic profile, ideologies and philosophies-thereby the priorities too have changed
- From IR to ER-from largely conflict orientation to cooperation

Yet on many grounds IR problems and issues remain the same as ever. IR thus is an important organizational issue.
Role of Workers

WORKERS and their ORGANIZATIONS (Trade Unions or Associations)

- Trade unions have a role of safeguarding workers interests
- Ensuring non-violation of worker’s rights
- TU is used for negotiating wage interests, better benefits and service conditions, concessions, more amenities and welfare schemes
- Structure of workers’ organization or trade unions differs from country to country

Role of Management

An organization is represented through officials designated in the organization structure for coordination of activities relating to:

- Administering employee benefits
- Regulating terms and condition of employment
- Providing welfare and social security benefits
- Coordination is done through graded hierarchical and formal communication channels of orders and directives
- Employer organizations regulate the terms and conditions of employment which affects the industrial relations of the unit.

Role of Govt.

Govt or state machinery regulates the relationship between workers’ organizations and employers’ organizations.

It does it through:

- The legislature- lays down statutes and legislations,
- An executive machinery- that implements laws and monitors them
- The judiciary- labor courts/industrial tribunals who enforce laws
Dunlop’s Model of Employment Relations

- IR system consists of three agents – management and their associations; workers and their unions; and government agencies.
- These actors and their organizations are located within an environment – technological environment, labor and product markets, and political environment.
- Thus it can be said that industrial relations is a social sub system subject to three environmental constraints.
- Within this environment, actors interact with each other, negotiate and use economic/political power in process of determining rules that constitute the output of the industrial relations system.
- Output of this is ‘Rules’ which govern the employment relationship.
- Dunlop emphasizes the core idea of systems by saying that the arrangements in the field of industrial relations may be regarded as a system in the sense that each of them more or less intimately affects each of the others.

Dunlop is of the opinion that this tripartite system is valid at all hierarchical levels.

This model has found world-wide diffusion, although his assumptions are very simplified in several regards:

- First, it seems to be problematic to believe that the whole environment could be reduced to only three context factors, particularly when thinking of an international enterprise.
- The assumption of a homogenous value system for all three actors is illusory. Such a pure harmony seems to be unrealistic. This assumption does not correspond to reality in which differences in interests and positions can occur in individual groups of actors.
- Finally, the tripartite relation must be seen as a pure formal pattern when applying it to all hierarchical levels, because the factual quality of relations and processes at these levels can be very different, even contradictory.

However, numerous empirical studies have show the model been partially or completely implemented.

- It must, however, be taken into consideration that all empirical research can only be seen as snapshots which relate to specific periods within an accelerated process of social and economic change. The nature and speed of such changes differ from country to country and from region to region.
- Compared with the original, relatively homogeneous initial situation the context conditions have become rather heterogeneous in the course of development and this applies as well to the labour relations themselves.
UNITARY APPROACH (Harmony)

- A unitary perspective dominates in the organization.
- This perspective may be the result of either authoritarian or paternalistic management styles.
- IR is grounded in mutual cooperation, teamwork, and shared goals.
- Workplace conflict is seen as temporary aberration, resulting from poor management.
- Unions are expected to cooperate with the management.
- Management’s right to manage is accepted because there is no ‘we they’ feeling.
- Underlying assumption is that everyone benefits when the focus is on common interest and promotion of harmony.
- Participation of government, tribunals, and unions is not sought for achieving harmonious employee relations.

PLURALISM APPROACH (Conflict and Cooperation)

- Pluralism is belief in the existence of more than one ruling principle, giving rise to a conflict of interests.
- The pluralist approach to IR accepts conflict between management and workers as inevitable but containable through various institutional arrangements (like collective bargaining, conciliation, and arbitration, etc.) and is in fact considered essential for innovation and growth.
- It perceives organizations as coalitions of competing interests, where the management’s role is to mediate.
- It perceives trade unions as legitimate representatives of employee interests.
- Employees join unions to protect their interests and influence decision making by the management. Unions thus balance the power between management and employees. In pluralistic approach a strong union is not only desirable but necessary.

MARXIST APPROACH (Social disorder)

- Marxists like pluralists also regard conflict as inevitable but see it as a product of capitalistic society where as pluralist believe that the conflict is inevitable in all organizations.
- For Marxists IR has wider meaning. For them conflict arises not because of rift between management and workers but because of the division in the society between those who own resources and those who have only labor to offer. Industrial conflict is thus equated with political and social unrest.
• Marxist approach thus focuses on a class-less society in which an organization smoothly functions.
• Trade Unions are seen both as labor reaction to exploitation by capitalists, as-well-as a weapon to bring about a revolutionary social change.
• For them all strikes are political and they regard state intervention (via legislations and creation of Industrial Tribunals) as supporting management’s interests, rather than ensuring a balance between the competing groups.

<table>
<thead>
<tr>
<th></th>
<th>Unitary</th>
<th>Pluralistic</th>
<th>Marxist</th>
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<tbody>
<tr>
<td>Assume</td>
<td>integrated group</td>
<td>Sectional groups - coalesce</td>
<td>Division of labour/capital</td>
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<td></td>
<td>Common interests, objectives</td>
<td>different values, interests, objectives</td>
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<tr>
<td>Nature of conflict</td>
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<td>competitive authority</td>
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<td>compromise + agreement</td>
<td>change society</td>
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<td>Seen as intrusive</td>
<td>Legitimate</td>
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<td>accepted role in workplace relations</td>
<td>mobilise, express class consciousness</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>develop political awareness &amp; activity</td>
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Other Approaches

PSYCHOLOGICAL APPROACH
• Differences in the perceptions of labor and management with factors influencing their relations i.e. wages, benefits, services and working conditions etc.
• Dissatisfaction compels workers to turn aggressive and resort to strikes etc.

SOCIOLOGICAL APPROACH
• Sociological factors such as value system, customs and traditions etc. affect the relations between labor and management

HUMAN RELATIONS APPROACH
• Human behavior is influenced by feelings, sentiments and attitudes. Humans are motivated by variety of social and psychological factors.

GANDHIAN APPROACH
• Worker’s right to strike in a peaceful and non-violent manner. Satyagrah- Non violent, non- cooperation based on truth.

GIRI APPROACH
• Collective bargaining and joint negotiations be used to settle disputes between labor and management. Outside interference to be avoided.
Preventive Machinery of IR

- Grievance Redressal Mechanism
- Discipline Machinery
- Code of Discipline
- Standing Orders

Grievance Redressal Mechanism

Grievance is a feeling of discontentment or dissatisfaction among workers regarding anything concerned with the company. Dale S. Beach: “Grievance is any dissatisfaction or feeling of injustice in connection with one's employment situation that is brought to the attention of management.” Michal J. Jucious: “grievance is any discontent or dissatisfaction whether expressed or not and whether valid or not, arising out of anything connected with the company that an employee thinks, believes, or even feels is unfair, unjust or inequitable.” Thus, any dissatisfaction may become a complaint and when the complaint is not addressed, it becomes a grievance.

Some noticeable features of grievance are:
- It is any form of discontent or dissatisfaction with the organization.
- The dissatisfaction must arise out of employment and not due to personal reasons.
- The discontent can arise out of real or imaginary reasons. The reasons for such a feeling may be valid or invalid, legitimate or irrational, justifiable or ridiculous.
- The discontent may be voiced or unvoiced. It may not be voiced formally, but it may find expression in some form.
- Normally speaking, discontent per se is not a grievance. Initially, the employee may complain orally or in writing. If this is not looked into promptly, the employee feels a sense of lack of justice. Now the discontent grows and takes the shape of a grievance.
- Broadly speaking, thus, a grievance is traceable to perceived non-fulfillment of one’s expectations from the organization.

A grievance may take any one of the following forms:
- **Factual:** A factual grievance arises when legitimate needs of employees remain unfulfilled, e.g., wage hike has been agreed but not implemented citing various reasons.
- **Imaginary:** When an employee’s dissatisfaction is not because of any valid reason but because of a wrong perception or wrong information. Such a situation may create an imaginary grievance. Though management is not at fault, still it has to clear the ‘fog’.
- **Disguised:** An employee may have dissatisfaction for reasons that are unknown to himself. If he/she has strained relationship with the boss, he/she may be working with a heavy heart. If a fellow colleague gets a new laptop from office, this may become a cause of disgruntlement for him. This gets manifest in decreased morale, reduced performance or wayward behaviour.

Causes of Grievance
- Difference of opinion or thought may give rise to a grievance.
- ii) Unfulfilled demands of trade union may be the reasons for grievance.
- (iii) Demand for labour welfare facilities or for improvement in the working conditions of labour may be the cause for grievance.
- (iv) Doubts and fears in the minds of workers for any injustice to be committed to them may give rise the grievance.
- (v) Grievance may be caused by any social injustice.
• (vi) Grievance may arise if company polices and procedures are not followed strictly or followed in a prejudiced manner.

The following have been identified as most important causes of reported grievances:

- **Economic:** Wage fixation, overtime, bonus, wage revision, etc. Employees may feel that they are paid less.
- **Work environment:** Poor physical conditions of workplace, tight production norms, defective tools and equipment, poor quality of materials, unfair rules, lack of recognition, etc.
- **Supervision:** Relates to the attitudes of the supervisor such as bias, favoritism, nepotism, caste affiliations, regional feelings, etc.
- **Work group:** Employee is unable to adjust with his team, suffers from feelings of neglect, victimization or ridicule and humiliation, etc.
- **Miscellaneous:** These include issues relating to certain violations in respect of promotions, safety methods, transfer, disciplinary rules, fines, granting leave, medical facilities, etc.

**Advantages of having a grievance handling procedure**

- The management can know the employees’ feelings and opinions about the company’s policies and practices. It can feel the ‘pulse’ of the employees.
- With the existence of a grievance handling procedure, the employee gets a chance to ventilate his feelings. He can blow off his ‘steam’ through an official channel.
- It keeps a check on the supervisor’s attitude and behavior towards their subordinates. They are compelled to listen to subordinates patiently and sympathetically.
- The morale of the employees will be high with the existence of proper grievance handling procedure. Employees can get their grievances redressed in a just manner.

**The Discovery of Grievances**

Grievances can be uncovered in a number of ways:

- **Observation:** A manager/supervisor can usually track the behaviors of people working under him. If a particular employee is not getting along with people, spoiling materials, showing indifference to commands, reporting late for work or is absent – the signals are fairly obvious.
- **Gripe boxes:** A gripe box may be kept at prominent locations in the factory for lodging anonymous complaints. Since the complainant need not reveal his identity, he can express his feelings of injustice or discontent frankly and without any fear of victimization.
- **Free communication:** This refers to free walk-in-meetings with the manager when the employee can express his feelings openly about any work-related grievance.
- **Worker representation:** Management can uncover grievances through regular meetings and interactions with TU members or workers committees.
- **Opinion surveys:** Surveys may be conducted periodically to elicit the opinions of employees about the organization and its policies.
- **Exit interview:** Employees usually leave their current jobs due to dissatisfaction or better prospects outside. If the manager tries sincerely through an exit interview, he might be able to find out the real reasons why ‘X’ is leaving the organization.
- **Grievance procedure:** A systematic grievance machinery is the best means to highlight employee dissatisfaction at various levels. In the absence of such a procedure, grievances pile up and burst up in violent forms at a future date.

It is better to use as many channels as possible, if the intention is to uncover the truth behind the curtain.

**Grievance Redressal Procedure**

Grievance procedure is a formal communication between an employee and the management designed for the settlement of a grievance.

- **Open door policy:** Under this policy, the aggrieved employee is free to meet the top executives of the organization and get his grievances redressed. Such a policy works well only in small organizations. However, in bigger organizations, top management executives are usually busy with other matters of the company. Moreover, it is believed that open door policy is suitable for executives; operational employees may feel shy to go to top management.
Step ladder policy: Under this policy, the aggrieved employee has to follow a step by step procedure for getting his grievance redressed. In this procedure, whenever an employee is confronted with a grievance, he presents his problem to his immediate supervisor. If the employee is not satisfied with superior’s decision, then he discusses his grievance with the next level e.g. departmental head and so on till the grievance is addressed.

The Draft Model Grievance Procedure, accepted by the labour conference in 1958 in India serves as a model for a large number of organizations

(i) An aggrieved employee shall first present his grievance verbally in person to the officer designated by the management for this purpose. The response shall be given by the officer within **48 hours** of the presentation of the complaint.

(ii) If the worker is not satisfied with the decision of the officer or fails to receive the answer within 48 hours he will, either in person or accompanied by his supervisor present his grievance to the head of the department. The head of the department shall give his answer within **3 days** or if action cannot be taken within this period, the reason for delay should be recorded.

(iii) If the worker is dissatisfied with the decision of the department all head, he may request that his grievance be forwarded to the Grievance Committee. The Grievance Committee shall consist of 4 to 6 members. The Grievance committee shall make its recommendation within **7 days**.
   - If decision cannot be given within this period, reason should be recorded.
   - Unanimous decision of the committee shall be implemented by the management.
   - If there is differences of opinion among the members of the committee, the matter shall be referred to a designate senior manager along with the views of the members and the relevant papers for final decision.

(iv) In either case, the final decision shall be communicated to the employee within **3 days** from the receipt of the Grievance Committee's recommendations.

(v) If the worker is not satisfied even with the final decision given above, he may have the right to appeal to the designate manager (senior manager) for revision. In making this appeal he may take a union official with him to facilitate discussion with the management. The management will communicate the decision within **7 days** of workman's revision petition.

(vi) If worker is still not satisfied, the mater may be referred to voluntary arbitration. It goes beyond the ambit of preventive machinery to settlement machinery.

Where a workers has taken a grievance for readdress under the grievance procedure the formal conciliation machinery shall not intervene till all steps in the procedure have exhausted. A grievance shall be assume to have taken up the form of a dispute only when the final decision of top management is turned down by the worker.
Discipline Machinery

Discipline refers to abiding by the rules of the workplace and maintaining proper conduct. Common examples of misconduct which could amount to indiscipline:

- Excessive tardiness, negligence or dereliction
- Failure to notify of an absence
- Insubordination
- Rude or abusive language in the workplace
- Failure to follow rules or policies, i.e., not wearing safety equipment, not following correct procedures etc.
- Dishonesty
- Theft
- Violence or willful damage to equipment or property

Discipline can be positively related to performance. Factors necessary for effective disciplinary system include:

- Training of supervisors is necessary: It is necessary to provide training on counseling skills to deal with problem employees.
- Centralization of discipline: Centralization means that the discipline decisions should be uniform throughout the organization.
- Impersonal discipline: Discipline should be handled impersonally. Managers should limit their emotional involvement in the disciplinary sessions.
- Review discipline decisions: The disciplinary decisions must be reviewed before being implemented. This will ensure uniformity and fairness of the system.
- Notification of conduct that may amount to indiscipline: Actions that lead to misconduct can be listed and documented so the employees are aware of such actions.
- Information regarding penalties: The employer should define the penalties and other actions like warnings, reprimands, discharge and dismissal well in advance.
- Discipline shall be progressive: Discipline system should be progressive in nature. In a progressive discipline approach the severity of actions to modify behavior increases with every step as the employee continues to show improper behavior.
- Documentation: Effective discipline requires accurate, written record keeping and written notification to the employees.
- Discipline should be fair: The disciplinary decision should be fair and equitable for the employee. Both over-penalization and under-penalization are considered to be unfair for the problem employee.
- Discipline shall be consistent: The manager administering discipline must consider the effect of actions taken by other managers and of other actions taken in the past.
- Disciplinary action should be prompt: The effective discipline should be immediate. The longer time lag between the misconduct offense and the disciplinary action will result in ineffectiveness of the discipline.

Approaches to Discipline

Negative Discipline Approach: This approach is based on the premise that all forms of indiscipline should be taken cognizance of seriously and strictly. The purpose is to prevent the indiscipline from recurring. The basic idea is to regulate the negative behavior of employees.

Negative discipline is a controlling action which results in deterring indiscipline

- Reprimands
- Fine
- Demotion
- Suspension
- Salary cuts
- Discharge/Dismissal
The main idea is punishing and penalizing for misconduct. This practice was common traditionally in most business organizations. Even today, patriarchal or authoritarian set-ups still follow this approach. This approach is based on negative reinforcements.

**Positive Discipline Approach:** This approach is based on the premise that the role of a discipline approach should not always be to punish; rather, it should try to modify the negative behavior of employees to make them better workers. Positive discipline is a **corrective action** which results in improved performance, more productivity and effective workforce.

- Counseling, coaching, mentoring
- Warnings
- Action only in extreme cases

The positive aspect of this approach is that it focuses on **problem solving rather than punishing and penalizing.** This approach involves positive confrontation with the problem employee and thus gives him an opportunity to justify himself. The supervisor makes him aware of the company policies. The greatest difficulty with this is the extensive amount of training required for supervisors and managers to become effective counselors. Also, the process often takes more supervisory time than the progressive discipline approach. This approach is based on **positive reinforcements.**

**Progressive Discipline Approach:** It is a **step by step** program designed to correct performance problems arising out of employee misconduct. This approach typically follows four progressive steps to rectify offenses committed by an employee. It suggests that actions to modify behavior become progressively more severe as the employee continues to show improper behavior.

1. **Oral reprimands and warning**
2. **Written reprimand and warning**
3. **Action (depending on severity)**
4. **Dismissal**

The progressive discipline model gives the employee additional opportunities to correct his performance prior to discharge. It stresses the **seriousness of repeated violations** to employees. However, progressive discipline may sometimes result into bitter relationships between supervisor and employee. Despite, this most organizations today follow a progressive discipline approach.
Code of Discipline

The COD was recommended by the 15th Tripartite Labour Conference, 1957. It became effective from 1958 and is still relevant. To maintain harmonious relations and promote industrial peace, a Code of Discipline has been laid down which applies to both public and private sector enterprises. It specifies various obligations for the management and the workers with the objective of promoting cooperation between their representatives.

The basic objectives of Code of Discipline are to:

- Maintain peace and order in industry.
- Promote constructive criticism at all levels of management and employment.
- Avoid work stoppage in industry
- Secure the settlement of disputes and grievances by a mutually agreed procedure
- Avoiding litigations
- Facilitate a free growth of trade unions
- Eliminate all forms of coercion, intimidation and violations of rules and regulations governing

The Code is based on the following principles:

- There should be no strike or lockout without prior notice.
- No unilateral action should be taken in connection with any industrial matter.
- Employees should follow go slow tactics
- No deliberate damage should be caused to a plant or property
- Acts of violations, intimidation and coercion should not be resorted
- The existing machinery for the settlement of disputes should be utilized.
- Actions that disturb cordial relationships should be avoided

To ensure better discipline in industry, management and unions agree on not indulging into various actions. These actions can be summarized as follows:

Management and Union(s) agree

- that no unilateral action should be taken in connection with any industrial matter and that should be settled at appropriate level
- that the existing machinery for settlement of disputes should be utilized with the utmost efficiency
- that there should be no strike or lock-out without prior notice
- that neither party will have recourse to coercion, intimidation, victimization or go–slow tactics
- that they will avoid litigation, sit-down and stay-in strikes and lock-outs
- that they will promote constructive co-operation between their representatives at all levels and as between workers themselves
- that they will establish upon a mutually agreed grievance procedure which will ensure a speedy and full investigation leading to settlement;
- that they will abide by various stages in the grievance procedure and take no arbitrary action which would bypass this procedure; and

Management Agrees

- not to increase work-loads unless agreed upon or settled otherwise
- not to support or encourage any unfair labor practice such as discrimination and victimization of any employee
- to take prompt action for settlement of grievances and implementation of settlements, awards, decision and orders
- to take appropriate disciplinary action against its officers and members in cases where enquiries reveal that they were responsible for precipitate action by workers leading to indiscipline
Union agrees

- not to engage in any form of physical duress
- not to permit demonstrations which are not peaceful
- that their members will not engage or cause other employees to engage in any union activity during working hours
- to discourage unfair labor practices such as negligence of duty, damage to property and insubordination
- to take prompt action to implement awards, agreements, settlements and decisions

COD at Tata Group

The values and principles, which have Governed Tata Group’s business for a century, have been deployed through the implementation of the Tata Code of Conduct followed by all Tata group companies.

This comprehensive document serves as the ethical road map for Tata employees, and provides the guidelines by which the group conducts its businesses.

National Interest being given foremost importance. It contains with 25 clauses dealing with financial reporting and records, health safety and environment issues, no political affiliation, quality of products and services, corporate citizenship, transparency, ethical conduct, use of Tata brand, regulatory compliance, protecting company assets etc.

All employees have a clear responsibility to implement the Code.

The Company does not ever hesitate to take visible disciplinary actions when necessary and violation of TCOC, however insignificant, is ever tolerated. The aim is to strengthen employee involvement in a positive and regular manner and enhance the sense of accountability.

In serious ethical cases, the company dismisses or blacklists an employee.

Standing Orders

The prerequisite for maintenance of healthy workplace relationship is the existence of satisfactory employment and working conditions.

The purpose of having standing orders is to define the conditions of employment and to make the said conditions known to workmen.

These orders regulate the conditions of employment, discharge, grievances, misconduct, disciplinary actions, of the workmen employed.

They refer to the rules and regulations which govern the conditions of employment of workers. They specify the duties and responsibilities on the part of both the employer and the employees.

They require the employers to follow rules and procedures as laid down regarding working hours, pay days, holidays granting of leave to the employees, temporary stoppages of work, termination of employment, suspension or dismissal in certain conditions.

On the other hand, they require that the employees should adhere to the rule and regulations mentioned in the standing orders and create an attitude among both the parties which is more favorable in achieving industrial harmony.

In regard to the standing orders, the obligation of the employers are:
(i) to submit draft standing orders with the required information to the certifying officer for certification within the time limit set in the Act.
(ii) to act in conformity with the certifying standing orders in the day-to-day dealings with the workmen; (iii) modify certified standing orders only with the approval of the certifying officer; (iv) post prominently the text of the certified standing orders in English or any other language understood by the majority of the workmen.

The obligation of the workmen are: (i) to work in conformity with the certified standing orders, and (ii) to comply with the provision of the Act

The responsibility of enforcement of standing orders lies with officers, supervisors and others entrusted with this task. Therefore, the cooperation and compliance of employees and officials of unions is essential for the maintenance of cordial industrial relations between labour and management.
Industrial Employment (Standing Orders) Act, 1946

- 1. Short title, extent and application
- 2. Interpretation
- 3. Submission of draft standing orders
- 4. Conditions for certification of standing orders
- 5. Certification of standing orders
- 6. Appeals
- 7. Date of operation of standing orders
- 8. Register of standing orders
- 9. Posting of standing orders
- 10. Duration and modification of standing orders
- 11. Certifying Officers and appellate authorities to have power of Civil Court
- 12. Oral evidence in contradiction of standing orders not admissible
- 13. Penalties and procedure
- 14. Power to exempt
- 15. Power to make rules

The industrial employment (standing orders) Act, 1946, was amended in 1982, to provide for payment of subsistence allowance to workmen who are kept under suspension, pending domestic enquiry

THE SCHEDULE : MATTERS TO BE PROVIDED IN STANDING ORDERS

Classification of workmen, e.g., whether permanent, temporary, apprentices, probationers, or badlis.

2. Manner of intimating to workmen periods and hours of work, holidays, pay-days and wage rates.

3. Shift working.

4. Attendance and late coming.

5. Conditions of, procedure in applying for, and the authority which may grant leave and holidays.

6. Requirement to enter premises by certain gates, and liability to search.

7. Closing and reporting of sections of the industrial establishment, temporary stoppages of work and the rights and liabilities of the employer and workmen arising there from.

8. Termination of employment, and the notice thereof to be given by employer and workmen.

9. Suspension or dismissal for misconduct, and acts or omissions which constitute misconduct.

10. Means of redressal for workmen against unfair treatment or wrongful exactions by the employer or his agents or servants.

11. Any other matter which may be prescribed from time to time.
Settlement Machinery of IR

Disputes

Industrial dispute means any conflict or difference between employers and workmen or between workmen and workmen, which is connected with employment or the terms of employment.

- The dispute has to be between plurality of workmen and employer. Individual workman’s issues cannot strictly be called industrial dispute.
- A workman can raise a dispute directly before a Conciliation Officer in the case of a discharge, dismissal, retrenchment or any form of termination of service. In all other cases, the dispute has to be raised by a Union/group.
- Disputes may lead to loss of work usually calculated in terms of Man-days lost. This is given as total working days lost within a period (usually one year). This figure is computed by multiplying the number of days with the number of affected employees.

How serious can disputes get?

India's largest car manufacturer, Maruti Suzuki India, shut down its Manesar plant in Haryana indefinitely after its workers went on a rampage, injuring 100s and setting more than 100 vehicles ablaze. The factory had witnessed three such instances in 2011 causing a total production loss of about 83,000 units over 33 days beginning June 2011.

Earlier in 2005, protesting workers, who were demanding reinstatement of their colleagues dismissed for forming a trade union, of Honda Motorcycle and Scooter India Pvt Ltd’s (HMSI) at its Gurgaon factory in Haryana were brutally beaten up by the police.

There is a common strand that connects L. K. Chaudhary, R.J George, R. S. Roy and Awanish Kumar Dev. Be it the case of Chaudhary who was India division CEO and MD at Italian auto parts maker Graziano Trasmissioni, or George who served as VP (HR) at auto instruments maker Pricol Ltd, Roy, GM at Graphite India Limited's steel unit or more recently that of Dev who was the GM, HR at Maruti Suzuki India Ltd; all four – white collar company executives – died at the hands of militant workers on factory premises.

In 2011 angry workers, protesting their dismissal, stopped Roy's car and attacked him before setting him and his vehicle on fire. He later died on the way to hospital.

Chaudhary was killed by crushing his skull with hammers and metal bars by workers in 2008 while Dev was charred to death at the factory premises in 2011.

Causes of Disputes in India

The causes of industrial disputes can be broadly classified as.

- The economic factors will include issues relating to compensation like wages, bonus, allowances, and conditions for work, working hours, leave and holidays without pay, unjust layoffs and retrenchments.
- The non economic factors will include victimization of workers, ill treatment by staff members, layout or strikes, political factors, indiscipline.
- Miscellaneous factors include union rivalry, charter of demands, work load, standing orders/rules/service conditions, safety measures, non-implementation of agreements and awards etc.
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<th>No. of workers involved</th>
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Labour Bureau reveals that the first five months of 2012 have recorded 108 industrial disputes, marking a 12 per cent rise from 2011, when 97 disputes were registered between January and May. This labour unrest has cost the country a total of 9,60,089 mandays in 2012.

The latest data points out that the private sector is more worried about labour troubles. Most cases of disputes were reported from private sector companies. Though there have been more strikes in public sector firms, all lockouts have exclusively happened in private companies.

High profile strikes have dotted the corporate landscape in 2012, be it the striking pilots at Air India and Kingfisher Airlines, a workers' stir at Hitachi's plant, agitating employees at Graphite India or the marauding workers at Maruti Suzuki.

**SETTLEMENT MEASURES**

**CONCILIATION AND MEDIATION:** It is facilitated negotiation, essential in public utility services.

**ARBITRATION:** Agreement between workman and management with the help of arbitrator

**ADJUDICATION:** Compulsory legal action

**Mediation**
- Impartial third party who helps the two disputing parties to reach a mutually acceptable settlement.
- The mediator is any independent entity
- Is invited by the disputing parties themselves
- Mediator only helps the two parties discuss issues
- Mediator does not give any decision/award/judgement
- He/she only guides the discussion and enables the two parties to reach at a consensus
- Final agreement is made by the two parties themselves.
- Win-win arrangement
- Highly informal arrangement

**Conciliation**
- Impartial third party helps the two parties to reach a mutually acceptable settlement.
- Conciliator meets parties separately or together to exchange information, clarify issues and settle misunderstanding.
- Conciliator does not impose a solution but works with the parties to enable them to come to an agreement.
- He may give his views and possible solutions but not judgement
- Win-win arrangement
- Slightly more formal than mediation

In India, conciliation officers and conciliation boards are provided region-wise as per the provisions of ID Act. The Organization of the Chief Labour Commissioner(Central) acts as the primary conciliatory agency. Then there are the Regional Labour Commissioners and Assistant Labour Commissioners in different parts of the country.

**Arbitration**
- Third party settles the dispute by making an independent decision for the two parties.
- The disputing parties may refer the case to arbitration as specified in the arbitration clause/terms of employment. Such a person could be a legal expert, a retired judge etc.
- The arbitrator or arbitrators shall investigate the dispute and submit to the appropriate Government the arbitration award signed by the arbitrator(s)
- Some prefer arbitration, as the responsibility “for reaching agreement” is made by a neutral party (quite often, appointed by the government).
Arbitration gives some people the satisfaction that they did not give in to the other party but “fought all the way” to the Arbitration Court.

Maybe win-lose

**Adjudication**

- In case of failure of conciliation or arbitration, a report is sent to Government (Ministry of Labour). The Ministry of Labour refers the dispute for adjudication.
- The Industrial Disputes Act, 1947 provides for setting up of Labour Courts, Industrial Tribunals and National Tribunals.
- When the dispute is referred for adjudication, within two weeks of this, the parties involved must file with these authorities, a statement of demands relating only to the mentioned issues.
- The next step after filing of statement is to fix up the date when first hearing of the dispute will take place. The hearing are followed by arguments and evidence.
- Where an industrial dispute has been referred for adjudication, the court shall hold its proceedings expeditiously and shall as soon as is practicable submit its award to the appropriate government.
- Tribunals have power to pass the award and this award is binding on both the parties. The Ministry of Labour publishes the Award in the Official Gazette within a period of 30 days.

The adjudicating authority enjoys same powers as are vested in a civil court (under the code of civil procedure, 1908). These are:

(i) Entering the premises, for the purpose of enquiry

(ii) enforcing attendance of any person and examining him or oath.

(iii) compelling the production of documents and material objects and their inspection

(iv) investigation of witness.

(v) appointing one or more persons as assessor or assessors to advise it in the proceedings before it

(vi) determining the costs of proceedings

**Labour Court**

The Presiding Officer of a Labour Court should at least have held a judicial office for not less than 7 years. He may also have higher qualifications such as being a District Judge or an Additional District Judge for three years or a High Court Judge.

The II Schedule of the I.D. Act deals with matters within the jurisdiction of Labour Courts which fall in the category of *Rights Disputes*:

- The legality of an order passed by an employer under the standing orders;
- The application and interpretation of standing orders which regulate conditions of employment.
- Discharge or dismissal of workmen including reinstatement of, or grant of relief to, workmen wrongfully dismissed;
- Withdrawal of any customary concession or privilege;
- Illegality or otherwise of a strike or lock-out; and
- All other related matters other than those in the Third Schedule.

**Industrial Tribunals**

The Presiding Officer of an Industrial Tribunal should have been at least a District Judge or an Additional District Judge for three years. Alternatively, he should have held the post of a judge in a High Court.

The III Schedule of the I.D. Act deals with matters within the jurisdiction of Industrial Tribunals classified as *Interest Disputes*:

- Wages, including the period and mode of payment;
- Compensatory and other allowances;
- Hours of work and rest intervals;
- Leave with wages and holidays;
• Bonus, profit sharing, provident fund and gratuity;
• Shift working otherwise than in accordance with standing orders;
• Classification by grades;
• Rules of discipline;
• Retrenchment of workmen and closure of establishment; and
• Any other matter that may be prescribed.

National Tribunal
• The Central Government may set up a National Tribunal for adjudication of industrial disputes which in its opinion involve questions of national importance or are of such nature that industrial establishments in more than one State are likely to be involved in such disputes.
• No person can be appointed as the presiding Officer of a National Tribunal unless he has held the post of a Judge in a High Court.
• National tribunal shall take up only those cases which are referred by the Central Govt.

THE INDUSTRIAL DISPUTES (AMENDMENT) BILL, 2010 PASSED BY THE PARLIAMENT
• To provide a grievance ventilation and redressal machinery within an establishment having 20 or more workmen in order to promote better industrial relations at the industrial establishment level.
• The Bill also proposes to empower the Labour Court or Tribunal to execute their awards, orders of settlements arrived at as a decree of a Civil Court.
• To provide individual workman more free and direct access to Labour Courts/ Tribunals in cases of retrenchment, discharge, dismissal or termination of services.
• Industrial disputes between a contractor and contract labour employed in any industrial establishment needs to be brought under the purview of ‘appropriate Government’.

The Provisions of ILO on the settlement of labour disputes
• ILO talks about promotion and protection of the right to collective bargaining as a labour dispute settlement machinery.
• All nations should have procedures for mutual settlement of disputes
• Disputes should be settled through negotiation or through independent and impartial machinery, such as mediation, conciliation and arbitration
• ILO Conventions and Recommendations leave ample room for member States to design their own dispute settlement systems, in accordance with ILO’s principles:
• Governments should make available voluntary conciliation machinery, which is free of charge and expeditious
• The disputing parties should try to abstain from strikes and lockouts
• Agreements reached as a result of conciliation proceedings should be drawn up in writing and respected by the parties.
• In practice, the principal methods of dispute settlement are:
  ✗ conciliation/mediation
  ✗ arbitration; and
  ✗ Adjudication.