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IMMUNITIES, FUNDS AND RECOGNITION OF TRADE UNIONS: A LEGAL ANALYSIS

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Abstract

Trade unions are an essential component of modern industrial relations systems. They act as collective representatives of workers and play a significant role in protecting labour rights, ensuring fair wages, and improving working conditions. In India, the legal framework governing trade unions is primarily derived from the Trade Unions Act, 1926, along with provisions under the Industrial Disputes Act, 1947 and the recently introduced Industrial Relations Code, 2020. This research paper examines three important aspects of trade union law: immunities granted to trade unions, regulation of trade union funds, and recognition of trade unions for collective bargaining purposes.

The study analyses the legal protections provided to registered trade unions and their members against certain civil and criminal liabilities. These immunities are necessary for allowing workers to organize and participate in collective activities without fear of legal repercussions. The research also examines the statutory provisions governing the management and use of trade union funds, including general funds and political funds, and highlights the importance of transparency and accountability in their administration. Additionally, the paper discusses the concept of recognition of trade unions and the evolving legal framework under the Industrial Relations Code, 2020, which seeks to strengthen collective bargaining by identifying negotiating unions.

The paper further examines important judicial decisions that have shaped the interpretation of trade union rights in India. It also critically analyses the limitations and challenges faced by trade unions, including political interference, multiplicity of unions, and weak enforcement mechanisms. The research concludes that while India has established a comprehensive legal framework for trade unions, reforms are necessary to strengthen their effectiveness and promote harmonious industrial relations.

Introduction

Trade unions have historically played a crucial role in the development of labour rights and industrial democracy. With the rise of industrialization, workers faced numerous challenges such as low wages, long working hours, unsafe working conditions, and lack of job security. Individual workers often lacked the bargaining power to negotiate with employers, which led to the formation of trade unions as collective organizations representing the interests of workers.

In India, the growth of trade unionism can be traced back to the early twentieth century when industrial workers began organizing themselves to demand better working conditions. The enactment of the Trade Unions Act, 1926 marked a significant milestone in the legal recognition of trade unions in India. The Act provided for the registration of trade unions and granted them certain legal protections necessary for carrying out their activities.

Three important aspects form the foundation of trade union functioning: immunities, funds, and recognition. Immunities protect trade unions and their members from certain legal liabilities arising out of trade disputes. Regulation of trade union funds ensures proper financial management and accountability. Recognition of trade unions enables them to act as official representatives of workers in negotiations with employers.

Despite the existence of these legal provisions, several challenges continue to affect the functioning of trade unions in India. Issues such as political interference, rivalry among multiple unions, and lack of effective recognition mechanisms often weaken collective bargaining. This research paper seeks to examine the legal framework governing immunities, funds, and recognition of trade unions and evaluate its effectiveness in promoting industrial harmony.

Research Methodology

This research is based on a doctrinal method of legal research. The study primarily relies on the analysis of statutory provisions, judicial decisions, and scholarly writings relating to trade union law in India.

The primary sources used in this research include legislative enactments such as the Trade Unions Act, 1926, the Industrial Disputes Act, 1947, and the Industrial Relations Code, 2020.

Judicial decisions delivered by the Supreme Court and various High Courts have also been examined to understand the interpretation and application of trade union laws.

Secondary sources include textbooks on labour law, academic journal articles, legal commentaries, and research publications dealing with industrial relations and labour rights. These materials have been used to analyze the theoretical and practical aspects of trade union functioning.

The research adopts an analytical and descriptive approach. It evaluates the legal provisions governing trade union immunities, funds, and recognition while also examining the challenges faced in their implementation. The study aims to provide a comprehensive understanding of the subject and highlight areas where reforms may be necessary.

Literature Review

The subject of trade union law has been widely discussed by legal scholars and researchers in the field of labour law and industrial relations. Several authors have examined the historical development of trade unions and their role in protecting workers' rights.

Early writings on trade union law emphasized the need for granting legal recognition and protection to trade unions. Scholars pointed out that without legal immunities, trade union activities such as strikes and collective bargaining could easily be treated as unlawful acts under civil or criminal law. The provisions contained in the Trade Unions Act, 1926 were therefore considered essential for the functioning of trade unions.

Researchers have also analyzed the importance of financial accountability in trade unions. The regulation of union funds has been viewed as a necessary measure to prevent misuse of members' contributions. Authors have highlighted the distinction between general funds and political funds and the importance of maintaining transparency in financial management.

Another important area of discussion in the literature relates to the recognition of trade unions. Several scholars have argued that the absence of a clear and uniform recognition mechanism has historically weakened the effectiveness of trade unions in India. The existence of multiple unions within a single establishment often leads to rivalry and fragmentation, thereby reducing the bargaining power of workers.

Recent studies have examined the changes introduced by the Industrial Relations Code, 2020. The concept of a negotiating union or negotiating council has been seen as an attempt to streamline collective bargaining and reduce conflicts among trade unions. However, some scholars have raised concerns about the practical implementation of these provisions.

Overall, the existing literature suggests that while the legal framework governing trade unions in India provides certain protections and regulatory mechanisms, significant challenges remain in ensuring effective representation of workers.

Scope and Limitations of the Study

The scope of this study is limited to the legal framework governing immunities, funds, and recognition of trade unions in India. It focuses primarily on the provisions of the Trade Unions Act, 1926 and relevant developments under the Industrial Relations Code, 2020.

The study examines the nature and extent of legal protections provided to trade unions, the regulation of their financial resources, and the mechanisms for recognition of trade unions in industrial establishments. Judicial decisions interpreting these provisions are also discussed.

However, the research has certain limitations. It is primarily doctrinal in nature and does not include empirical data or field research involving trade union members or industrial establishments. The study also focuses mainly on the Indian legal system and does not provide a detailed comparative analysis with other countries.

Despite these limitations, the research aims to provide a comprehensive understanding of the legal principles governing trade unions and their practical implications.

Immunities of Trade Unions

One of the most important features of the Trade Unions Act, 1926 is the grant of certain immunities to registered trade unions. These immunities are intended to protect trade unions from legal actions that may arise during the course of trade disputes.

Immunity from Criminal Liability

Section 17 of the Trade Unions Act provides immunity from criminal conspiracy charges for members and office-bearers of registered trade unions when their actions are taken in

furtherance of a trade dispute. This protection ensures that collective activities of workers are not treated as criminal conspiracies under general criminal law.

However, the immunity does not extend to acts involving violence or other criminal offences. Therefore, trade unions must ensure that their activities remain within the limits of lawful conduct.

Immunity from Civil Liability

Section 18 of the Act provides immunity from certain civil suits. Trade unions cannot be sued for damages merely because they induced someone to break a contract of employment during a trade dispute. This protection is essential because strikes and collective protests often involve workers refusing to perform their contractual duties.

These immunities enable trade unions to function effectively while balancing the interests of employers and society.

Funds of Trade Unions

Trade union funds consist of financial contributions collected from members. Proper regulation of these funds is essential for ensuring transparency and accountability.

General Funds

Under Section 15 of the Trade Unions Act, general funds may be used only for specific purposes such as administrative expenses, legal proceedings, compensation to members, and educational activities.

Political Funds

Section 16 allows trade unions to create separate political funds. These funds may be used to support political activities such as promoting legislation favourable to workers. However, contribution to political funds is voluntary and cannot be made compulsory for members.

The requirement of maintaining separate accounts for political funds helps protect the rights of members who may not wish to support political activities.

Recognition refers to the formal acceptance of a trade union by an employer as the representative body of workers for the purpose of collective bargaining.

The Trade Unions Act, 1926 provides for registration but does not establish a detailed mechanism for recognition. This gap has historically created difficulties in industrial relations, as multiple unions may claim to represent workers in a single establishment.

The Industrial Relations Code, 2020 attempts to address this issue by introducing the concept of a negotiating union. If a trade union has the support of at least 51 percent of workers, it may be recognized as the negotiating union. If no union meets this requirement, a negotiating council consisting of representatives from different unions may be formed.

Landmark Case Laws

All India Bank Employees' Association v. National Industrial Tribunal (1962)

The Supreme Court held that the right to form associations or unions is a fundamental right under Article 19(1)(c) of the Constitution. However, the Court clarified that the right to achieve every objective of the association is not a fundamental right.

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

In this case, the Supreme Court recognized the importance of trade unions in collective bargaining and industrial democracy. The Court emphasized that trade unions play a vital role in representing workers and negotiating with employers.

T.K. Rangarajan v. Government of Tamil Nadu (2003)

The Supreme Court held that government employees do not have a fundamental right to strike. This judgment highlighted the limitations on trade union activities, particularly in the public sector.

Criticism

Despite the existence of legal provisions protecting trade unions, several criticisms have been raised regarding the current framework.

One major criticism is the multiplicity of trade unions within a single establishment. This often leads to rivalry among unions and weakens the collective bargaining power of workers. Another

criticism relates to political interference in trade union activities. Many trade unions in India are affiliated with political parties, which may shift their focus from workers' welfare to political objectives.

There is also criticism regarding the limited scope of legal immunities. Some scholars argue that the protections provided under the Trade Unions Act are insufficient in modern industrial environments.

Furthermore, the recognition mechanism introduced by the Industrial Relations Code may face challenges in implementation, particularly in industries where union membership is fragmented.

Conclusion

Trade unions remain an important institution in protecting the rights and interests of workers. The legal framework governing trade unions in India provides important safeguards through immunities, regulation of funds, and recognition mechanisms.

The immunities granted under the Trade Unions Act enable trade unions to carry out their activities without fear of excessive legal liability. Regulation of trade union funds ensures financial accountability and transparency. Recognition mechanisms help establish effective collective bargaining between workers and employers. However, several challenges continue to affect the functioning of trade unions in India. Political influence, multiplicity of unions, and weak enforcement mechanisms often undermine their effectiveness.

To strengthen industrial relations, it is necessary to promote greater transparency, encourage internal democracy within trade unions, and ensure effective implementation of recognition mechanisms. By addressing these challenges, trade unions can continue to play a vital role in promoting industrial harmony and protecting workers' rights in a rapidly changing economic environment.

Statement of the Problem

Trade unions are one of the most important institutions for protecting the rights and welfare of workers in an industrial society. They serve as a platform through which employees can collectively negotiate with employers regarding wages, working conditions, job security, and

other employment-related matters. Despite the existence of statutory provisions regulating trade unions in India, several practical challenges continue to affect their effective functioning.

One of the major issues relates to the limited scope of legal protections available to trade unions. Although the Trade Unions Act, 1926 provides certain immunities from civil and criminal liabilities, these protections are not comprehensive enough to address the complexities of modern industrial relations. Trade unions often face legal and administrative barriers that restrict their ability to organize strikes or engage in collective bargaining effectively. Another significant problem is the lack of a uniform recognition mechanism for trade unions. Historically, the Trade Unions Act focused primarily on registration rather than recognition. As a result, multiple unions often exist within the same industrial establishment, leading to inter-union rivalry and fragmentation of workers' representation. This situation weakens the collective bargaining power of workers and sometimes leads to industrial conflicts.

Furthermore, issues relating to the management and utilization of trade union funds have also raised concerns about transparency and accountability. Instances of financial mismanagement can undermine the credibility of trade unions and reduce the confidence of members in their leadership.

Therefore, the problem addressed in this research is the need to critically examine whether the existing legal framework governing immunities, funds, and recognition of trade unions is adequate to ensure effective representation of workers and maintain industrial harmony in India.

Research Objectives

The primary objective of this research is to analyze the legal framework governing trade unions in India with particular reference to immunities, funds, and recognition. The study seeks to evaluate the effectiveness of existing statutory provisions and identify the challenges faced in their implementation.

The specific objectives of the research are as follows:

1. To examine the concept and significance of trade union immunities under the Trade Unions Act, 1926.
2. To analyze the legal provisions governing the management and utilization of trade union funds.

3. To study the concept of recognition of trade unions and its importance in collective bargaining.
4. To evaluate the changes introduced by the Industrial Relations Code, 2020 in relation to negotiating unions.
5. To critically assess the practical challenges faced by trade unions in
6. India.
7. To propose recommendations for strengthening the legal framework governing trade unions.

Through these objectives, the research attempts to provide a comprehensive understanding of the role of trade unions in modern industrial relations.

Research Hypothesis

The central hypothesis of this research is that while the legal framework governing trade unions in India provides essential protections and regulatory mechanisms, it remains inadequate in addressing the challenges of contemporary industrial relations.

It is hypothesized that the limitations in the areas of trade union recognition, financial transparency, and scope of legal immunities reduce the effectiveness of trade unions in representing workers' interests. The research also assumes that the reforms introduced under the Industrial Relations Code, 2020 have the potential to strengthen collective bargaining if implemented effectively.

The study therefore examines whether the existing legal provisions are sufficient to ensure industrial democracy and protect the rights of workers in a rapidly changing economic environment.

Advanced Critical Analysis

A critical examination of the legal framework governing trade unions in India reveals several structural and institutional challenges. While the Trade Unions Act, 1926 was progressive for its time, many of its provisions have become outdated in the context of modern industrial relations.

One of the most significant issues relates to the multiplicity of trade unions within a single establishment. In many industries, several unions compete for membership and influence. This

competition often leads to fragmentation of workers' representation and weakens their bargaining power. Instead of presenting a unified demand before employers, workers may be divided among different unions with competing agendas.

Another major concern is the politicization of trade unions. Many unions in India are affiliated with political parties. While political support can sometimes help workers raise their issues at the national level, excessive political interference may divert attention from labour welfare to political objectives. This situation can reduce the credibility and independence of trade unions.

The financial management of trade unions has also been a subject of debate. Although the law provides for auditing and regulation of union funds, the level of transparency varies significantly among unions. In some cases, members may not have sufficient access to information regarding how their contributions are being utilized. Strengthening internal financial accountability mechanisms is therefore essential.

The introduction of the Industrial Relations Code, 2020 represents an attempt to modernize labour laws and streamline the recognition of trade unions. By introducing the concept of a negotiating union, the Code seeks to reduce inter-union rivalry and ensure effective collective bargaining. However, its success will depend largely on how effectively it is implemented at the industrial level. Another challenge faced by trade unions is the changing nature of employment. The growth of the gig economy, contract labour, and informal employment has made it more difficult for workers to organize themselves into traditional trade unions. Many workers in these sectors lack formal employment relationships, which limits their access to labour law protections.

These developments indicate that the legal framework governing trade unions must evolve continuously to address new challenges in the labour market.

Suggestions and Recommendations

In order to strengthen the effectiveness of trade unions and promote industrial harmony, several reforms may be considered.

First, there is a need for a more comprehensive and uniform system of trade union recognition across the country. Clear procedures for determining the representative union within an

establishment can help reduce inter-union rivalry and improve collective bargaining.

Second, greater financial transparency should be ensured in the management of trade union funds. Regular auditing, disclosure of financial records, and participation of members in financial decision-making can enhance accountability and trust.

Third, internal democracy within trade unions should be strengthened. Leadership positions should be filled through fair and transparent elections so that union leaders remain accountable to their members.

Fourth, the legal framework should be updated to address the challenges posed by informal and gig economy workers. Mechanisms should be developed to allow workers in these sectors to organize themselves and benefit from collective representation.

Finally, training and capacity-building programs for trade union leaders and members can help improve their understanding of labour laws, negotiation strategies, and dispute resolution mechanisms.

Future Prospects of Trade Union Law

The future of trade union law in India will largely depend on the ability of legal institutions and policymakers to adapt to changing economic conditions. As industries become more technologically advanced and employment patterns evolve, the traditional model of labour relations may undergo significant transformation.

The emergence of digital platforms and remote work has created new forms of employment that may not fit within the traditional framework of labour law. Trade unions will need to develop innovative strategies to represent workers in these emerging sectors.

At the same time, globalization has increased competition among industries, making it necessary to balance workers' rights with economic efficiency. A well-functioning system of collective bargaining can help achieve this balance by enabling workers and employers to negotiate mutually beneficial solutions.

If supported by effective legal reforms and responsible leadership, trade unions can continue to play a vital role in promoting social justice, protecting workers' rights, and maintaining industrial peace in the years to come.

Source of Data

The present research is primarily based on secondary sources of information. Since the study focuses on the legal framework governing trade unions in India, various statutory materials, judicial decisions, and academic writings have been examined. These sources provide a comprehensive understanding of the subject and help analyze the functioning of trade unions in the context of labour law.

The primary sources used in this research include legislative enactments such as the Trade Unions Act, 1926, which forms the backbone of trade union regulation in India. Other important statutes include the Industrial Disputes Act, 1947 and the Industrial Relations Code, 2020, which provide provisions relating to collective bargaining, industrial disputes, and recognition of negotiating unions. Judicial decisions delivered by the Supreme Court of India and various High Courts have also been studied to understand the interpretation and practical application of these laws.

Secondary sources include books written by labour law scholars, journal articles, legal commentaries, and research papers dealing with industrial relations and labour rights. These materials help in understanding the theoretical perspectives and critical viewpoints relating to trade union law. Reports published by government bodies, labour commissions, and international organizations such as the International Labour Organization have also been referred to for contextual understanding.

The use of these sources enables the research to present a balanced analysis of the legal framework governing trade unions and the challenges faced in its implementation.

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