**Trade Unions**

Freedom to Join and Form a Union

The right to freedom of association is enshrined in the constitution and guaranteed under the Trade Union Act.

According to the Constitution, all citizens have the right to form associations or unions or co-operative societies. The Trade Union Act defines trade union as 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.

A Trade Union must get registered by depositing the application to the Registrar, along with a copy of the rules of the Trade Union and a statement containing following particulars: names, occupations and addresses of the members making the application; the name of the Trade Union and the address of its head office; and the titles, names, ages, addresses and occupations of the office-bearers of the Trade Union.

The Registrar, on being satisfied that the Trade Union has complied with all the requirements of this Act in regard to registration, shall register the Trade Union by entering in a register and issuing the registration certificate in the prescribed form which is the conclusive evidence that the Trade Union has been duly registered under this Act.

A written notice, signed by the Secretary and seven members, is submitted to the registrar to change the name or for amalgamation of the Trade Unions.

Source: §19 of Indian Constitution 1949 last revised in 2012; § 2-9 & 25 of the Trade Union Act, 1926

Freedom of Collective Bargaining

Right to collective bargaining is recognized under the labour law however there is no legal obligation on employers to recognize a union or engage in collective bargaining.

The term settlement is used in Industrial Dispute Act, instead of collective bargaining. Settlement means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to an officer authorised in this behalf by the appropriate Government and the conciliation officer.

A settlement arrived at by agreement between the employer and workman in the course of conciliation proceeding binds on the parties to the agreement. The settlement become applicable on the date on which the memorandum of settlement is signed by the parties or on a date agreed upon in agreement. The settlement is valid for the period agreed upon in the agreement or in absence of any such provision the settlement is valid for a period of six months from the date the memorandum was signed. The memorandum continues binding on the parties after its expiry, until the two months from the date on which notice in writing to terminate the settlement is given by one party to the other.

When a settlement is not arrived by the conciliation process, the dispute is then referred to a Court (Labour Court, Tribunal or National Tribunal).

Scope and coverage of collective bargaining is limited within legal boundaries of Trade Union Act and Industrial Dispute Act.

Source: §15-20 of the Industrial Dispute Act 1947

Right to Strike

Right to strike is guaranteed under the Constitution and the Industrial Dispute Act. However, excessively long cooling off period, excessive penal sanction for unauthorised strikes and a long list of essential services frustrate this right. In accordance with the Indian Constitution, all citizens have the right to assemble peacefully without arms.

Strike is a cessation of work by a body of persons employed in any industry acting in combination or a concerted refusal, or a refusal under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment.

Members of a union must inform the employer at least six weeks prior to the proposed date of strike. Employer, within five days, notifies the appropriate Government or the authority about the notification. It is considered as a breach of contract if union members observe strike within 14 days or any time prior to expiry of notice period. Strike is also prohibited when the dispute resolution is in process.  Financial aid in direct furtherance of support of illegal strike by anyone is prohibited.

Employers also have the right to lockout workers. This right is subject to the same rules and restrictions as the right to strike.

Source: § 2, 22-25 of the Industrial Disputes Act 1947