

# India

## The declining bargaining power of trade unions

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This paper examines the evolution and contemporary challenges of the Indian trade union movement, tracing its historical roots and analyzing its declining bargaining power in the context of post-1991 economic liberalization. The advent of liberalization, privatization, and globalization policies in 1991 marked a significant shift, leading to a predominantly informal labour market which diminished unions' ability to represent India's diverse workforce. The recent enactment of the Industrial Relations Code 2020 exacerbates these challenges by introducing provisions that undermine workers' rights, particularly the right to strike, and grant excessive powers to registrars to cancel union registrations.

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Over time and amidst the shifting global political and economic landscape, the nature and characteristics of the Indian trade union movement have undergone substantial changes. Before 1991 (the start of the liberalization and globalization of the economy), unions had relatively better bargaining power, mainly in the public sector. Post-liberalization, mainstream trade unions gradually suffered from declining bargaining power as the labour market became predominantly informal in the sense that these workers lack employment contract or not having access to institutional social security. Fragmentation and ideological divisions further weakened union effectiveness.

Traditional unionism in today's India struggles to address informal work, migration, and economic shifts. Global competition and weakening regulatory regimes led to deterioration in labour standards and wages. Secure, well-paid jobs have declined, replaced by flexible work arrangements and non-standard employment, including part-time, short-term, and self-employment. Unions face challenges in mobilizing workers and representing a workforce with diverse employment conditions, and younger workers favour independent unions outside national trade union centers and prefer plant-level unions over traditional industry – or region wide structures. Freedom of association is weak, especially in special economic zones<sup>1</sup> (Shenoy, 2006). Social dialogue mechanisms are increasingly turning out to be ineffective, and tripartite decisions, provided

for in the Industrial Dispute Act enacted in 1947, remain largely unimplemented (Ratnam, 2007).

After tracing the origins and spelling out the characteristics of Indian trade unionism, I analyze in this paper the main challenges it faces today, namely the rising informalization of labour force, the fragmentation of trade union representation and its ideological divisions.

These factors have contributed to reducing the bargaining power of trade unions and limiting their ability to represent the entire Indian workforce and its diversity. Today, the unionisation rate is only 6.3% of the workforce (1.8% in the private sector but 11.8% in the public sector)<sup>2</sup> (Govt of India, 2020). The recent enactment of a new labour code based on existing laws, on the pretext of rationalisation and simplification, has contributed to declining workers' rights (particularly their right to strike) and the bargaining power of small unions.

## **A union landscape politicized and fragmented**

Indian trade unions have evolved alongside industrialization with deep political ties shaping their growth. This situation has led to a high fragmented union representation.

### ***Strong ideological divisions within Indian unions***

Early worker associations emerged in major industries pre-independence, leading to the formalization of unions like AITUC (All India Trade Union Congress) in 1920.

1. Special Economic Zones (ECZs) are specialized geographic zones created exclusively for export-oriented production and majority of labour laws are not applicable within that jurisdiction.

2. 6.3% union density largely reflects formal sector unionization, with minimal contribution from the informal sector due to structural and legal barriers. For a precise breakdown, more recent Labour Bureau data or sector-specific surveys would be needed, but these are not currently available.

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The Trade Unions Act (1926) enabled their expansion, though political influences persisted post-1947. TU Act 1926 provided legal framework to right to strike and lock-out.

During the post-independence era (1947-66), state-led industrialization spurred unionization, but ideological divisions led to multiple union formations. From 1967-79, economic stagnation and strikes,

#### Box 1 - Indian unions under political influences

The first major split occurred in 1929 when socialists separated from the AITUC to form the NTUF (National Trade Union Federation). The arrest of nationalist AITUC leaders further enabled communist control, leading to the creation of the AIRTUC (All India Red Trade Union Congress) in 1931. However, by 1940, efforts to consolidate trade unions saw the RTUC and NTUF reunite with the AITUC, aided by the growing independence movement.

Despite temporary unity, the late 1930s and early 1940s saw further factionalism. The HMKP (India Workers Peasants Council), AIFB (All India Forward Bloc), and IFL emerged, reflecting political ideologies' deep entanglement with trade unionism. In 1947, inspired by Gandhian principles, the INTUC (Indian National Trade Union Congress) was founded to promote employer-employee cooperation. The HMS (Indian National Trade Union Congress) was formed in 1948 through the merger of the HMKP and IFL, but internal ideological differences led to the creation of the UTUC (United Trade Union Congress) in 1949, supported by the RSP (Revolutionary Socialist Party), a communist party.

The BMS (Bharatiya Mazdoor Sangh or Indian Workers' Union), linked to the RSS (Rashtriya Swayamsevak Sangh), a Hindu nationalist party, was established in 1955 and maintained ties with the BJP, the current far-right party of Prime Minister Narendra Modi. Meanwhile, in 1964, the CPI (Communist Party of India) split, leading to the CPI(M) and the eventual formation of CITU in 1970. Other unions like TUCC (Trade Union Coordination Centre, affiliated with AIFB) and AICCTU (All India Central Council of Trade Union), linked to CPI(ML), Communist Party of India Marxist-Leninist, emerged, reflecting the increasing fragmentation along political lines.

While most trade unions remain politically affiliated, a few, like SEWA (Self-Employed Women Association) and NFITU-Kol (National Federation of Indian Trade Unions-Kolkata), assert independence. However, political control has weakened class solidarity and union unity. The influence of trade unionists in Lok Sabha<sup>1</sup> has also declined, from 108 members in 1971 (21% of seats) to only 5-6 today, mostly from leftist parties. Political parties' dominance over trade unions continues to hinder their autonomy and collective bargaining power.

1. Lok Sabha is the House consisting of representatives elected from all over India as part of the Central Government.

including the 1974 railway strike, prompted government crackdowns, culminating in the 1975 Emergency, which restricted labour rights. The 1980s saw economic liberalization weaken union influence as outsourcing increased.

Most of CTUs are fragmented along political lines (Box 1), with high levels of inter and intra union rivalry.

### **High fragmentation of union representation**

According to the Trade Unions Act of 1926, revised in 2001, a trade union can only be set up if at least 100 employees in a given establishment, or 10% of its total workforce in the category it is intended to represent, become members. Once set up, these unions can apply for registration. The

**Table 1 - The main trade union centers in India**

Name and Acronym	Political Affiliation	Membership (2013)	International Affiliation
All India Trade Union Congress (AITUC)	Communist Party of India (CPI)	14 200 000	World Federation of Trade Unions
Indian National Trade Union Congress (INTUC)	Indian National Congress (INC)	33 300 000	International Trade Union Confederation
Bharatiya Mazdoor Sangh (BMS)	Rastriya Swayamsebak Sangha (RSS)	17 100 000	-
Centre of Indian Trade Unions (CITU)	Communist Party of India (Marxist)	5 700 000	World Federation of Trade Unions
Hind Mazdoor Sabha (HMS)	None	9 200 000	International Trade Union Confederation
All India Central Council of Trade unions (AICCTU)	Communist Party of India (Marxist-Leninist) Liberation	2 500 000	World Federation of Trade Unions
All India United Trade Union Centre (AIUTUC)	Socialist Unity Centre of India	4 700 000	-
Labour Progressive Federation (LPF)	Dravida Munnetra Kazhagam	1 900 000	-
Self-Employed Women's Association (SEWA)	None	1 700 000	International Trade Union Confederation
United Trade Union Congress (UTUC)	Revolutionary Socialist Party	-	World Federation of Trade Unions
Trade Union Coordination Centre	All India Forward Block	1 600 000	World Federation of Trade Unions

Note: Table 1 data are based on self-declaration by CTOs and it might be possible that those are exaggerated.

Comprehensive and verified data on the latest trade union membership of Central Trade Union Organizations (CTUOs) in India is limited, with the most recent official figures from the Labour Bureau of the Ministry of Labour, Government of India, dating back to 2012. Specific membership figures for these CTUOs post-2013 are not provided in the available data. Trade union membership verification is conducted approximately once a decade, with the last completed verification using 2011 as the reference year. An updated verification process was underway as of 2012, but no recent results are publicly available.

Source: Labour Bureau, Govt. Of India (2020).

registered unions have grouped together into a dozen or so trade union centres, which are structured on a geographical and professional basis. Registration of trade unions is a pre-requisite for participation in the bargaining process. Registered trade unions are recognized by the management as far as collective bargaining and tripartite consultations are concerned. TU Act 1926 provides a registration process whereas Registrar, a state functionary, grants registration to trade unions following a defined process. Once registered, trade unions need to follow certain legal procedures like maintenance of membership list and accounts, holding annual general meetings and submission of annual returns in prescribed format.

1992-2009, structural reforms led to a decline in formal employment and fragmented union representation. The 1991 economic reforms reduced state control over industries, liberalized trade, and encouraged foreign investment. This shifted focus from public sector enterprises, which traditionally provided stable formal employment, to private sector growth, which prioritized flexibility and cost-cutting. Public sector employment fell from 19.6 million in 1991 to 17.5 million by 2008 (Labour Bureau, 2010).

Economic reforms led to the closure or downsizing of uncompetitive public sector units and traditional industries (e.g., textiles), reducing formal sector jobs. For

example, employment in the organized sector grew slowly, with only a 0.6% annual increase from 1991 to 2000 (Sundar, 2008). To remain competitive, firms increasingly relied on contract, temporary, or casual labor, which lacked formal employment protections. The share of contract workers in manufacturing rose from 15% in 1995 to over 30% by 2008, eroding formal job security (Ghosh, 2008).

Post-2010, union membership grew, but data inconsistencies (given that few trade unions respond to government surveys) and the exclusion of informal workers led to unreliable statistics<sup>3</sup>. Ministry of Labour & Employment, Govt. Of India, has to rely heavily on state governments feeding data to the Labour Bureau and on submitted returns on a particular year to ascertain the number of registered TUs and their membership volumes. It has no other means of control.

In 2022, India had a total of 37,586 registered trade unions (table 2), with 35,468 being workers' unions and 2,118 being employers' unions. Out of the workers' unions, 88.7% were state unions, and the remaining 11.3% were central unions<sup>4</sup>. The average membership for workers union was 3,259. The 'Manufacturing Group' accounted for 26.9 per cent of the total number of Workers Unions submitting returns<sup>5</sup>, followed by 'Transportation & Storage' 11.9 per cent (Labour Bureau, 2022).

3. Data are generated from registered unions submitting annual returns.

4. India is a union of states and has federal structure. Presently India has 28 states and 8 union territories. Thus there is one Central government and respective State governments. Labour is in the concurrent list. Both Central and State governments can legislate on labour matters. Regarding trade unions, both Central and State governments do registrations. State registered unions are State unions, and Central registered unions are Central unions.

5. Registration of trade union is mandatory for existence of a trade union. Submitting annual return is a legal necessity under the Trade Union Act 1926. However, among the registered trade unions, many are indifferent about filing annual return in spite of repeated reminders. Implementation of the TU Act 1926 remains very slack and taking that advantage many trade unions do not care to submit annual return. Thus, number of trade unions submitting return is significantly lower than number of registered trade unions.

**Table 2 - Growth of Registered Trade Unions\* and their membership from 2003 to 2022 (last available data)**

Year	No. Registered TUs	No. Of TUs submitting returns	Total Membership ('000)	Average Membership per Union
2003	74 649	7 258 (9.7%)	6 277	865
2004	74 403	5 252 (7.1%)	3 397	647
2005	78 465	8 317 (10.6%)	8 719	1 048
2006	88 440	8 471 (9.6%)	8 960	1 058
2007	95 783	7 408 (7.7%)	7 877	1 063
2008	84 642	9 709 (11.5%)	9 574	986
2009	22 284	3 861 (17.3%)	6 480	1 678
2010	19 376	2 937 (15.8%)	5 097	1 735
2011	10 264	2 769 (27.0%)	7 421	2 680
2012	16 768	4 785 (28.5%)	9 182	1 919
2013	11 556	2 534 (21.9%)	3 231	1 275
2014	12 486	4 359 (34.9%)	7 885	1 809
2015	12 420	4 300 (34.6%)	8 096	1 883
2016	12 392	4 396 (35.5%)	8 946	2 035
2017	9 626	4 031 (41.9%)	10 252	2 543
2018	34 433	4 771 (7.2%)	12 102	2 537
2019	11 124	2 311 (20.8%)	6 182	2 675
2020	19 875	2 862 (14.4%)	10 384	3 628
2021	37 638	7 193 (19.1%)	14 980	2 083
2022	37 586	4 772 (12.7%)	15 553	3 259

\*As per Trade Union Act 1926, every registered trade union is to submit an annual return in a prescribed format. These submitted returns are collated to derive official data on trade unions.

Notes: Table 2 shows breaks in the data which are difficult to explain given their limited reliability. But this is the only existing table based on official data.

Source: Labour Bureau, Govt. of India, 2022. Data pertains to responding State/UTs only.

From the above table, it can be observed that from 2003 to 2020, the number of registered trade unions showed fluctuations. Between 2009 and 2019, figures indicate a sharp fall in registered trade union numbers. This might not be the actual fall but state governments not reporting accurately to the Labour Bureau which is a central government institution and number of trade unions submitting returns to the respective

state governments fell drastically. This continued for the rest of the period too. Data is generated from the returns submitted by the registered trade unions. Overall, between 2003 and 2020, average membership per union increased significantly even though absolute number of registered trade unions fell. This implies a centralization of union membership at the core.

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It is also difficult to explain why number of TUs that submitted returns fell sharply in 2009 and thereafter in 2011 and again increased sharply in 2018 and falling 2019. Given the limited reliability in data related to TU activities in India, it is difficult to ascertain the true picture of number of trade unions and their membership over time.

Union organizations representing domestic workers, garment workers, auto drivers, street vendors, rickshaw pullers, and headloaders<sup>6</sup> are not recognized as collective bargaining units and are therefore excluded from the membership verification process. If these state-based or industry-specific unions were included, the total union membership figures would likely be significantly higher than currently reported (Govt. Of India, 2020).

The current national membership figures are problematic in two key ways: they may be inflated, particularly in sectors like agriculture<sup>7</sup>, while simultaneously excluding members of many independent and proactive unions operating at the state, sector, or workplace levels. As a result, the reported membership numbers fail to provide an accurate representation of the true organizational strength of trade unions in India.

## Union expansion hampered

Before the Government's liberalization policy of 1991, trade unions in India primarily derived their strength from political and judicial connections rather than through strategies such as strikes or collective

bargaining. Number of public representatives coming from the trade union background were relatively higher and there was significant judicial activism among lawyers and judges protecting the rights of the workers. State patronage, through regulations and interventions, was a significant source of their influence, particularly in the civil service, public sector, and, to some extent, the formal sector. State brought new legislation to protect the interests of the working class on a regular basis during 1960s and 1970s, particularly applicable in formal sector. State itself was the biggest employer and acted like an ideal employer in terms of provisions of paying salaries and providing social security as well as ensuring collective bargaining rights of trade unions. Trade unions in public sector enterprises became very powerful during this period. However, globalization has heightened tensions between trade unions and political parties. Union leaders increasingly recognize that traditional reliance on government and political party support is insufficient, as ruling parties often prioritize foreign investment and overlook adherence to labour standards (Sundar, 2008).

Trade union density in India, which peaked at 35.8% in 1989, declined during the first wave of economic reforms to about 11.5% in 1993, but has seen a revival since 2002, with union membership rising substantially (Labour Bureau, 2021). Starting in 2002, coinciding with the second decade of economic reforms, trade union density in India increased, with union membership rising substantially from about 35 million in 2008 to around 100 million

6. Headloaders are loading and unloading workers. These are casual workers. They are mostly making themselves available at the worksites and employed as and when basis.

7. There is no official documentation of labour force engaged in agriculture and their trade union membership, and it is commonplace that unions over-quote members belonging to agricultural labour force).

in 2013. Despite this resurgence, the overall union density remains low in 2021 (6,3%) due to the expansion of the informal economy and persistent challenges to its expansion like fragmentation, political affiliations, and non-representation of informal workers. By age, workers ages 45 to 54 had the highest union membership rate in 2024, at 12.6 percent. Younger workers—those ages 16 to 24—had the lowest union membership rate, at 4.3 percent. In 2021, the union membership rate continued to be higher for full-time workers (10.7 percent) than for part-time workers (5.7 percent) (Pratap, 2022).

The aggregate union membership in India, based on official returns filed by major trade union federations, has seen substantial growth—from approximately 35 million in 2008 (reflecting data from 2002) to nearly 100 million in 2020. Similarly, trade union membership data submitted by CTUs<sup>8</sup> in 2011 for verification by the

Labour Ministry, as part of the process to recognize them for the subsequent period, also indicated a significant rise compared to 2002 figures (Labour Bureau, 2021). This trend highlights a resurgence in trade union memberships despite challenges. The formal and informal distribution of membership of trade unions in 2008 is provided in Table 3 below:

The data published in 2008 highlights a notable shift in trade union membership dynamics, revealing key trends and disparities between the formal and informal sectors<sup>9</sup>. Most of the membership growth happened in informal sector. The informal sector accounted for 41.7% of the total CTU membership (table 3), reflecting significant growth (Labour Bureau, Govt. Of India, 2020). This indicates unions' increasing efforts to organize workers in the informal economy, who historically remained underrepresented. The informal sector's expansion within union membership is

**Table 3 - Formal/Informal Split of Trade Union Membership in 2008**

Sector	Member Share	Characteristics
Formal Sector	58.3%	Dominant in public sector, manufacturing, and large industries (e.g., coal, banking). High union density (e.g., 100% in coal, 54.5% in electricity).
Informal Sector	41.7%	Growing since late 1990s, includes casual workers, self-employed.

Source: Labour Bureau (2008).

8. Central Trade Unions (CTUs) are officially recognized trade unions by the Central government which operate in at least in four states and have a membership of at least 10% workers in each state. Given their membership strength, first 12 TUs which fulfil the above criteria become the CTU and they participate in tripartite consultation and social dialogue process. Membership of CTUs are subject to periodic verification by the Central government. Last such verification happened in 2011.

9. Formal-informal dichotomy is based on the consideration whether a worker has access to contributory provident fund under Employees' Provident Fund Act and medical facilities under Employees' State Insurance Act. Those workers who are covered under these two social security laws are considered as formal workers. Rest are informal workers even if they are working in formal economy. These two Acts are applicable for establishments employing 10 or more workers. This implies that establishments having less than 10 workers, even if they belong to formal sector, workers engaged therein would be considered as informal workers.

likely driven by its dominant share in the Indian workforce and the need to address their economic vulnerabilities.

Formal sector membership of 58.3% of total membership was mostly concentrated in few key public sector industries and service sectors namely Railways (16.87%), Coal Mining (8.58%), Roadways (8.43%), Electricity, Gas, and Water (5.81%) and in the Tobacco industry (12.69%) which belongs to the private sector. Together, these industries account for over 52% of total CTU membership in the formal sector (Datt, 2008). This concentration demonstrates unions' limited penetration across diverse formal industries, leaving large sections of the formal workforce unorganized.

Although the formal sector has witnessed a decline in membership, this loss has been more than offset by the substantial growth in membership within the informal sector. The agriculture and rural sectors now account for 30.7% of total CTU membership, underscoring the unions' strategic expansion into these traditionally underrepresented areas. The membership in the construction industry forms more than 4.3% of the total CTU membership. Other informal sectors also contribute significant membership including the brick kiln sector (1.8%), personal services (1.8%), local bodies (1.2%), and food and drinks (1.2%) (Pratap, 2022).

Over the past three decades, India has rapidly integrated into the global economy,

becoming a hub for foreign capital inflows and a producer of cost-effective goods for export. However, this integration has been accompanied by violations of freedom of association, reflecting the challenges of aligning labour rights with global market demands (Bhattacharjee, 1999). Indian Labour Conference (ILC) is the most important tripartite forum in India. Prior to 2015, ILC was convened in each alternative year. Last ILC happened in 2015. Since then, no ILC is convened in last almost ten years<sup>10</sup>.

In spite of CTUs mobilizing informal workers, the majority of the informal workforce still remains excluded from collective bargaining processes under the Industrial Dispute Act (Box 2) and associated benefits. Contract labour<sup>11</sup>, often devoid of adequate legal protection, constitutes approximately 25% of the organized labour force, and its share is steadily increasing (Labour Bureau, Govt. Of India, 2020).

Employers often promote alternative workers' associations to dilute the influence of trade unions. Bargaining practices have shifted to the plant level, with wage settlement cycles lengthening from two or three years in the 1970s to four or even five years now, reducing workers' incentives to address workplace grievances. Moreover, the scope of collective bargaining is often restricted to wage-related issues, limiting broader advocacy for workers' rights (Dev Roye, 2008).

10. Last one decade or so, there were series of labour law amendments and formulation of four new labour codes. But these happened without requisite tripartite consultations. Present ruling dispensation led by BJP came into power in 2014 and subsequently there has been substantial fall in tripartite engagement and consultation.

11. Contract labour is not considered as regular workers. Contract labour is engaged for specific period and activity. Contract labour is supplied by the Contractors and they are engaged in the premises of Principal Employer. Thus here, the employment relation is not that of a direct one, contractors lie between the worker and eventual employer who is known as principal employer. In India, deployment of contract workers is governed by the Contract Labour Act 1970. Indian labour market has witnessed increasing use of contract workers over the years.

## Box 2 - From tripartite to bipartite collective bargaining

Under the Industrial Dispute Act 1947, there are two types of collective bargaining. One is bipartite, that is between employer and the representative trade union(s) or in the absence of any registered trade union, between employer and the representative of workers. The other is tripartite where collective bargaining between employer and registered trade unions that is mediated by the State, represented by the labour administration. Bipartite agreements are binding for the signatories only, whereas tripartite agreements are binding on all parties concerned irrespective of whether they are signatories. Disputes and Charter of Demand (CoD) are initially discussed at the bipartite level and subsequently taken to tripartite level for reaching a consensus and signing of the agreement. Tripartite collective bargaining is considered more rigorous as it is binding on all and state's intervention ensures that existing labour rights are not violated. Also, trade unions find this platform more conducive to ventilate their demand.

In the last two decades however, the trend is more towards unit level bipartite agreement rather than tripartite collective bargaining. Collective bargaining is getting increasingly localized and decentralized at the unit level. Industry-wide collective bargaining is gradually losing relevance. Firms seek flexibility to negotiate wages and conditions directly with workers to remain competitive. Industry-wide collective bargaining, once prevalent in sectors like textiles, mining, and tea plantations, has declined following post-1991 reforms which has shifted focus to firm-level competitiveness, reducing the scope for sector-wide agreements. Deregulation and labour market flexibility, prioritize employer-driven agreements over centralized systems. Unit-level agreements often favor employers, as workers lack the collective strength of industry-wide unions. Informal and gig workers, often fall outside bipartite agreements, exacerbating vulnerability. The shift from tripartite to bipartite, unit-level agreements over the last two decades reflects globalization, labor market informalization, and industry-wide bargaining is losing relevance because of fragmented workforces and weakened unions.

New growth industries like call centers, business process outsourcing (BPO), visual media, and telecoms lack regulatory legislation governing working conditions, which restricts the right to freedom of association<sup>12</sup>. Employers in these industries often adopt hostile tactics against trade unions,

including intimidation, threats, physical violence, and demotion. Additionally, lengthy and costly legal procedures, along with inadequate labour inspections and weak enforcement of labour laws, further exacerbate the challenges faced by workers in securing their rights (Kumari, 2008).

12. Majority of these industries are service-based industry and labour conditions are governed by legislation namely Shops and Establishment Acts, a State Act. This is a State act and varies across states. As these activities come under service sector and initially workers received decent salary, initially trade unions penetration was low in these sectors. Trade unions were mostly active in manufacturing sector rather than making inroads into urban service sector.

Workers often face significant challenges in forming unions at their workplaces, given the constraints on union registration (see above). In 2008, the United Nations Economic and Social Council raised concerns about India's minimum union membership requirement (100 workers or 10% of a company's workforce) and the restrictions imposed by the Essential Service Maintenance Act, which hinder collective bargaining as well as right to strike, especially in the public sector.

### **Weak collective bargaining coverage and unbalanced negotiations in favour of employers**

Over the years, Indian trade unions have struggled in the collective bargaining process, often appearing as the weaker or losing side. Trade unions have agreed to various concessions, including employment cuts, wage freezes or reductions, restrictions on industrial actions, and increased flexibility in employment and deployment. Union bargaining power tends to be stronger in capital-intensive firms, where labour's share of production costs is relatively low, as opposed to labour-intensive sectors where demand for labour is more elastic. Employers in capital-intensive industries find it easier to meet union wage demands (Ratnam, 2007).

The duration of collective agreements has significantly increased, diluting the collective voice and impact of trade unions. A government proposal to further extend the current 5-year period to ten years in the public sector-although not implemented-reflects the greater leverage employers and governments hold in the bargaining process (ILO, 2008).

The majority of workers in both formal and informal sectors are not involved in collective bargaining. By the late 1990s, only about 2% of the total workforce (or roughly 30% of workers in the formal sector) participated in collective bargaining. In the 2000s, the proportion of workers covered under collective bargaining remained minimal (around 2% of total labour force), highlighting the continuing challenges faced by the process (Saji Narayan, 2005).

The struggle for the right to collective bargaining is compounded by various internal and external labor market factors. The absence of legal provisions for recognizing trade unions as official bargaining agents weakens collective bargaining. The presence of multiple unions within the same establishment exacerbates this issue, especially when bargaining councils are not formed, and unions fail to reach a consensus (Govt. Of India, 2009).

Many organizations adopt strategies to manage unions through paternalistic relationships, employing a carrot-and-stick approach. These policies dilute workplace issues, weaken worker collectivism, and undermine unions' bargaining power. Additionally, sophisticated human resource management schemes are increasingly used as corporate strategies to neutralize union influence (McMichael, 2000).

The rising prevalence of contract labour, casual work, part-time jobs, and contingent employment significantly reduces collective bargaining power, as these workers often lack stable employment and organizational support. The growth of small and medium enterprises

(SMEs), special economic zones (SEZs)<sup>13</sup>, export processing zones (EPZs), and the informal economy further erodes collective bargaining strength by creating fragmented and less organized labour market (Jose, 1999).

Between 1983 and 2004, real wage growth declined significantly across rural and urban areas, dropping from 4.11% (1983-1992) to -0.63% (1999-2004) and affecting workers in both formal and informal employment sectors. This decline coincided with an increase in earning inequality and a reduction in union density and power. Despite high growth in labour productivity and the overall economy, wage growth has followed a declining trend. A critical factor contributing to this extraordinary decline is the weakening collective bargaining power of trade unions.

The decline of union bargaining power is further highlighted by the increase in income inequality and growing disparities in employment practices. A specific indicator of this trend is the steady reduction in labour expenses at Indian firms, which include salaries, bonuses, staff welfare expenses, gratuity, and other employee costs. These expenses dropped from 9.54% in 2000 to 8.13% in 2004, reflecting the diminishing share of labour in overall business expenditures (ILO, 2005).

## Reasons Behind the Declining Bargaining Power of Trade Unions

Several factors explain the declining bargaining power of trade unions in India: they represent only a very small proportion of the workforce; they have difficulties in mobilizing workers in the informal sector, whose weight in the economy has increased; there has been a minimum wage since 1948; there is a large supply of unskilled labour, production is decentralized and homeworking is widespread.

### *Trade unions cater to very small segment of the labour force*

Effectively trade unions represent a very small segment of the labour force in India. This is related to the way the labour market dynamics changed in India over the years particularly since the liberalization, privatization and globalization of the economy in 1991. Indian labour laws are predominantly applicable for the formal/organized workers. In India, the distinction between formal/informal workers are made based on the consideration whether workers have access to institutional social security instruments like employees provident fund (EPF) and employees state insurance (ESI)<sup>14</sup>. If EPF and ESI coverage are there, those workers are categorized as formal/organized labour. If not, those are informal/

13. As on April 30, 2024, 375 SEZs have been notified. Out of the total employment provided to 30,70,653 persons in SEZs, 29,35,949 jobs were incrementally generated after February 2006 till December 31, 2023. This would be less than one percent of the total labour force (Govt of India, 2024).

14. EPF is Employees' Provident Fund which is contributory scheme, both employer and employee contribute at the rate 12% of the basic pay. Employee's contribution is deducted at source and thereafter deposited with EPF authority after adding employers' contribution. Employee can partially withdraw money from EPF account during working years and after retirement can withdraw the entire amount along with interest. ESI, Employees' State Insurance is a similar scheme run by ESIC (ESI Corporation which is tripartite autonomous body) where medical facilities, both in and outpatient facilities are provided. This is also a contributory scheme where both employer and employees contribute.

unorganized workers. The criteria of inclusion under EPF/ESI is that establishment must have 10 or more workers employed on any day in the preceding 12 months. Essentially, this means establishments having 9 workers or less are considered as belonging to unorganized sector.

Industrial Relations legislation like Trade Union Act 1926 (TU Act 1926), Industrial Employment (Standing Order) Act 1946 and Industrial Dispute Act 1947 (IDA 1947) are mostly applicable to formal sector establishments. Historically, trade unions mobilized workers mainly in factories and also in certain services like banking, insurance, railways etc. Within these sectors also, trade unions mostly mobilized regular permanent workers rather than casual/contract workers. Over the years, particularly, during the last three decades, there has been increasing informalization of the labour force in India. As per the Economic Survey (2021-22), released by Govt. of India, 93 percent of India's labour force are informal.

Presently, size of the labour force in India is about 600 million. Labour force participation means those are working or seeking work (employed & unemployed). Present unemployment rate is 3.2 percent. Thus, about 20 million workers are unemployed. Thus, working labour force is about 600 million, including 20 million unemployed (600-20). Among these about 90 percent are informal. Thus, about 50 million workers are in formal/organized sector. That puts the number of informal/unorganized workers at 530 million. Within the informal workforce, as per official statistics, 57% are self-employed. That about 300 million workers are self-employed (lack of explicit employer-employee relation). Further, 18

percent are unpaid family labour (UFL). This essentially implies about 100 million workers are actually belonging to UFL category. Self-employed and Unpaid Family labour together constitute 400 million (300 plus 100) out of 580 million of workers. Labour laws do not have application for these categories of workers at all and trade union penetration is absolutely minimal for these huge majority of the workers. Trade Union presence is mostly among the 50 odd million workers in formal/organized sector and also a part of 130 million workers who are informal wage workers (lack of access to the institutional social security like EPF and ESI). Thus, actually, trade union activities is mostly limited to less than 20 percent workers in the Indian labour force. Now, over time, as informalization of labour force continues, trade union presence among the workers are declining.

### ***Demand-Supply mismatch in labour market***

Another related factor that put immense pressure on the labour market outcome is the demand-supply mismatch. As discussed above, India's labour force is approximately 600 million. Out of this, 50 million are formal wage workers and 120 million are informal wage workers. This put together, India's wage employed labour force is about 170 million which is less than one-third of the total labour force. From, 2000 to 2012, India experienced decent GDP growth rate to the tune of 7.5% to 8% on a consistent basis. Growth rate fell since 2012 but still it is quite good at the region of 6%. But such decent growth did not result in generation of adequate number of employment opportunities. The prime reason is being very low employment elasticity. After the release of the 2009-10 National Sample Survey (NSS)

data, the figures suggested a net increase in employment of just 1.1 million from 2004-5 to 2009-10. Thus, India experienced what some refer as 'jobless growth' particularly during the first two decades of this century.

Employment relation envisaged in the IDA 1947 is of regular employment. It sees a direct employment relation without intermediaries. Labour laws that were framed around that time and also in 1950s and 1960s, assumed a regular, permanent employment relation. The only labour law of that time that talked about anything other than regular employment was the Workmen's Compensation Act 1923.

It seems that during the evolving stages of Indian labour laws, only employment relation that is perceived is that of regular employment. During the late 1960s, deployment of contract workers became in vogue. Subsequently, Contract Labour (Regulation & Abolition) Act 1970 was enacted. It defined contract workers as "workman shall be deemed to be employed as « contract labour » in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor, with or without the knowledge of the principal employer". Thus, after this, employment relations encompass work arrangement involving a contractor, an intermediary between employers and workers. Henceforth, regular and contract workers define employment relation.

In 1980s and 1990s, employment relation became further complicated and ambiguous. Number of regular workers gradually declined and that of contract workers increased. To avoid application of various labour laws, firms used to keep the regular workers up to 9 (since 10 or more workers will invite application of labour

laws). Firms added labour but not in the regular category but as contract workers and increasingly as casual workers (flexible work arrangement without following provisions of Contract Labour Act 1970). Also, there was large-scale outsourcing of work to subsidiary firms as part of overall decentralization of production structure.

During 1990s, Indian firms had four categories of workers: first, a very small majority of regular workers (kept within the threshold of 9 or 99 as the case may be), second, sizable number of contract workers engaged following the Contract Labour Act 1970, third significant number of casual workers supplied by contractors and sub-contractors without complying with the provisions of Contract Labour Act 1970 and the fourth, outsourced workers outside the premises of the firms including the home-based workers.

In the case of regular workers, definite employment relation exists. In the second category also, employment relation exists through the principal employer-contractor-worker link. In such cases, there is legal presence of contractors between the principal employer and the worker and there is a written contract which specifies the tenure and nature of work. Thus, the concept of employment relation is not entirely lost in case of engagement of contract workers under the Contract Workers Act 1970.

The third category of workers particularly falls in a grey area. They are contract workers but legally speaking not shown as contract workers (officially they lack the principal employer-contractor relation) and mostly deployed in core activities. Initially, as per the provisions of the Contract Labour Act 1970, a firm is supposed to not engage contract workers in perennial

activities. Later on, this perennial-non perennial part is replaced by core and non-core activities through amendments and firms started having a very liberal view of what constitutes core and non-core work to suit their convenience. This led to large-scale informalization of the workforce within the formal sector.

The size of the fourth category of workers also increased significantly particularly after the liberalization, privatization and globalization of the country in 1991. As part of the decentralization of the production structure, important works including core activities are outsourced and those sometimes carried out in domestic space. In such cases, there is no written contract and employment relation remain very ambiguous and fragile. In recent times, these kinds of employment are categorized as non-standard and precarious employment.

Even though India's sectoral transformation follows the development trajectory postulated by the Clerk-Fisher hypothesis (1935), the occupational transformation did not keep pace<sup>15</sup>. In 2023-24, 44.21 per cent of the workforce in India were employed in agriculture, while the secondary sector employs 16.50 per cent service sector employs 39.50 per cent of the workforce. While the share of Indians working in agriculture is declining, it is still the main sector of employment.

The employment elasticity of the secondary sector is very low and this sector could not absorb excess labour released from the primary sector in any significant numbers. A part of such excess labour

ended up in the urban informal sector in the tertiary sector as well as workers eking out livelihoods through petty economic activities. Trade union penetration is very low among urban informal workers particularly among the self-employed.

### *Failure to mobilize informal workers*

Behind this apparent persistence of informality in the Indian labour market, there are actually two underlying, but diverging, trends. Firstly, the share of workers in the unorganized sector (enterprises with fewer than 10 workers, including own-account workers) fell from 86.3 per cent in 2004-05 to 84.3 per cent in 2009-10, and further to 82.2 per cent in 2011-12. At the same time, the share of informal workers in the organized sector (i.e. workers without access to social security in larger enterprises) increased significantly through the greater utilization of contracts and other forms of casual labour. Due to these two countervailing trends, the percentage of workers in informal employment in India has stayed stagnant at around 93 per cent. Notwithstanding such labour market reality, mainstream trade unions mainly confined themselves among the organized regular workers which constitutes about 7 per cent of the labour force. Among the rest 93 per cent informal workers, trade union mobilization is poor to say the least. Trade unions still wait for opportunities to mobilize workers in organized factories. But number of regular workers at factories declined significantly and work shifted outside the factory ecosystem. In such

15. Clerk-Fisher hypothesis says that as you go up in development ladder, contribution of primary sector falls and that of secondary and tertiary sector rise. In India, this has largely happened in terms of sectoral distribution of national income, but similar transformation did not happen in case of occupational distribution. Primary sector still has 45% share in employment whereas its contribution to GDP is about 14% in 2024.

a context, trade unions found themselves stuck in limited areas of influence.

### ***Labour market dynamics***

Existence of huge reserve army of labour force puts enormous pressure on the implementation of labour laws particularly on the bargaining power of trade unions. For example, implementation of Minimum Wages Act 1948 can be cited. Even in formal sectors, employers tend to pay minimum wages. Earlier, they used to have pay-scales which is fairly above the minimum wage. Post 1991, as global capital moved in search of cheap labour destinations, employers gradually moved from wages determining through collective bargaining to minimum wages. Proliferation of global supply chain in last two decades further aggravated the situation. In fact, minimum wages become sort of maximum wage.

The scope of trade unions to demand better wages through collective bargaining is severely compromised in post 1991 India. In India, collective bargaining is governed by the provisions of Industrial Dispute Act 1947 (IDA 1947). Trade unions submit a Charter of Demand (CoD) to the Management. Usually, main highlight of the Charter of Demand is the wage hike component. Subsequently, joint meeting is called by the labour administrator. In such conciliation meeting both trade unions and employers' association participate and bargain collectively. This results in signing a tripartite agreement which remain valid for next few years. Quantum of wage hike that is achieved ultimately depends on the relative bargaining power of the trade unions and the management.

In the present context, given huge supply of unskilled and semiskilled labour relative

to demand made on it, bargaining power of trade union goes down as there are workers waiting at the wing who are willing to work at a wage lower than the prevailing wage. Excess supply of labour in the labour market keeps on putting downward pressure on the market wage. This reduces the bargaining power of trade unions. This is evident in tea plantations in the state of Assam and West Bengal. Trade unions in both the states could not make the management agree to even paying minimum wage. Wage determined through collective bargaining did not result in reasonable decent wage for tea workers.

### ***Ambiguity in Employment Relation and decentralization of Production Structure***

Also, because of various ambiguity in employment relation that gradually creep-ed in over the years, trade unions find themselves divided and scattered. To start with, there were only trade unions comprising regular workers. Subsequently, contract workers emerged in big numbers. Further, there were informal workers of various denominations invented to bypass clear employment relation. Regular workers trade union are operating separately from that of contract workers' trade union. In such cases of divided and scattered trade union activities, management continues to hold upper hand in collective bargaining. In many instances, regular workers' trade union are pitted against the contract workers' trade unions. The overall result is declining bargaining power of trade unions as a whole. Presently, in a big carmakers establishment, contract workers are agitating for better pay structure and demanding invoking the principle of 'equal pay for equal work'. Regular workers' trade unions

are not part of this agitation and that has dampening impact on the outcome.

Finally, because of decentralization of the production structure, substantial volume of work shifted from factories to domestic spaces. This was made possible by decentralizing the production structure into various components and subsequently outsourcing those components outside the main factory. This is like pushing a substantial part of the production outside. Some prominent examples of such decentralization can be seen in case of tea, textiles and garments, leather, IT and ITES services etc. This was made possible through contractualization and casualization of the workforce. For a section of home-based worker, identity as a worker took a hit as layers of intermediaries make employment relation ambiguous. As workers faced wider dispersal, trade unions increasingly found it difficult to mobilize workers beyond factories particularly home-based workers. Thus, decentralization of production led to dilution of trade union influence.

### **Enactment of Four New Labour Laws and discontent with the new 2020 Industrial Relations Code**

During 2017-18, the Ministry of Labour & Employment under Modi government embarked on the task of codification of labour laws. The objective was to simplify and rationalize labour laws and its administration. Twenty-nine existing laws were codified into four new labour codes namely wages, industrial relations, social security and occupational safety health and working conditions. These four new codes were legally enacted in 2019 and 2020. These labour codes are yet to be implemented.

Most of the central trade unions alleged that during the formulations of four new labour codes, scope of tripartite consultations was very limited. Even when they could give their suggestions, those were hardly included in the final draft. Thus, there were two pressing objections. First, inadequate tripartite consultation between the federal state, employers and unions in carrying out such an important chapter of labour law reform in India. Second, even when consulted, trade union's suggestions and the apprehensions were hardly given importance while giving final shape to labour codes.

This Code on Industrial Relation has several proposals to rationalise the range of regulations that govern formation and rights of the trade unions. The core proposal is to centralise the power of Registrar in granting registration of trade unions. The grounds for the cancellation of registration of trade unions by this Registrar is markedly broadened. Existing Trade Union Act 1926 does not give the Registrar of Trade Union such overriding power concerning cancellation. If Registrar desires to cancel registration, Registrar has to give the trade union the opportunity of being heard before the decision on cancellation is made. However, in the new Industrial Relations Code, Registrar can cancel registration unilaterally. If registration is canceled, trade union loses the right to participate in collective bargaining and tripartite consultation. Management would also not recognize a trade union whose registration is canceled.

Further, Industrial Relations Code 2020 makes it almost impossible to strike work legally. Under the existing Industrial Dispute Act 1947, apart from public utility

services (notified separately), for other activities trade unions can go for strike at any point of time. In case of public utility services, trade union needs to give a 60-day notice and after serving notice, it cannot strike within the next 14 days. Within this 14-day window, labour administration is bound to intervene and once the conciliation procedure starts, trade union cannot strike. Thus, in case of public utility services it is legally almost impossible to strike work. In the Industrial Relations Code, this provision of giving notice before striking has been made universal thus making striking by trade unions a very difficult proposition. The Code effectively extends the barriers for striking by essential service employees to all employees and thereby making strikes legally non-tenable.

The Code has further introduced provisions that has huge repercussions on relative bargaining power of trade unions within a structure where participation in bargaining forum depends on recognition accorded by the employer. Code has, to a great extent, sanctified unitary trade union regime by specifying that if a trade union has fifty-one percent or more membership, it becomes the sole bargaining agent. Smaller unions are excluded from negotiation process in such instances.

Section 14 (2) of the proposed Code on Industrial Relation states that “where are only one Trade Union of workers registered under this Code is functioning in an industrial establishment, then, the employer of such industrial establishment shall recognise such Trade Union as sole negotiating union of the workers”.

Section 14 (3) states that If more than one Trade Union of workers registered under this Code are functioning in an

industrial establishment, then, the Trade Union having fifty-one per cent or more workers on the muster roll of that industrial establishment, verified in such manner as may be prescribed, supporting that Trade Union shall be recognised by the appropriate Government or any officer authorised by such Government in this behalf, as the sole negotiating union of the workers.

The implication of section 14(3) is that if there exists one big trade union (having fifty-one percent or more membership share), other smaller trade unions will become redundant as those would not be recognized by the employer. Collective bargaining will remain worryingly unitary as one big trade union will be the sole bargaining agent in all tripartite talks. Smaller trade unions will not get the opportunity to grow and prosper. Trade unions usually take time to grow within an organization. During the formation period, a trade union has fewer members. With time and through greater mobilization, membership grows. Mobilization happens through advocating workers’ rights in bargaining forums and pushing agenda that enhances compensation and welfare entitlements.

Now, under section 14(3) of the Industrial Relations Code, smaller trade unions will not get the opportunity to participate in bargaining process and will be denied the subsequent opportunity of expanding its base. This implies that the bigger trade union with 51% membership or more, being the sole bargaining agent, will monopolize the trade union rights and continue to exist even if it is unable to efficiently protect workers’ rights. Under such dispensation, smaller trade unions will find it difficult to gain confidence of general workers and expand their membership as they are unable to take

part in conciliation procedure. Over time, smaller unions will thin out and have less than 10 per cent of total workers resulting in losing their registration under Sec 9(5) (iii) of the Code.

Trade unions in general grow progressively. Their growth takes place stepwise. They thrive on the opportunity to participate in the collective bargaining process. Giving a relatively bigger trade union the right to be the sole bargaining agent is tantamount to excluding smaller trade unions from the collective bargaining framework and thus impeding their natural growth.

## Conclusion

Trade Unions in India is in a state of decline. Historically, trade unions in India emerged as part of the independence struggle. Once the country gained independence in 1947, trade unions prospered but on political lines. Majority of the existing labour laws were enacted at that time of independence and thereafter. Trade unions were seen as champions of ensuring various labour rights. All the major trade unions had affiliations to major political parties. This also shaped how trade unions react to socio-economic events as well as labour matters. Trade union views and activities were heavily influenced by their political affiliations. Things changed in 1980s and particularly since 1991 when the country embarked on the path of liberalization, privatization and globalization (LPG). Trade union's bargaining power started to decline as economic compulsions, dictated by neo-liberal policies, led to narrowing down of workers' rights. Such economic policies led to declining wage share too.

Trade unions gradually found it difficult to keep pace with the changes in the

world of work. Legacy of political affiliations restricted their responses towards anti-labour policies as they had to listen to their political masters. Labour market became inherently informal with contractualization and casualization. The apparent reason being the lowering of labour cost by the employers. Trade unions mostly mobilized regular formal workers. Their penetration of informal workers is very limited. Also, last two decades, India witnessed significant increase in self-employment and unpaid family labour categories. Trade union again has very limited role in mobilizing these categories of workers. Overall, trade unions' zones of operation declined as share of formal regular workers declined over last three decades. Demand-supply mismatch in terms of huge excess supply of unskilled workers led to downward pressure in terms of wages and which subsequently led to declining bargaining power of trade unions in collective bargaining. This was further aggravated by weakening of labour market institutions governing social dialogue and tripartite consultations. Overall, informalization of the labour force, fading out of the applicability of labour laws, partial occupational transformation, neo-liberal economic policies, led to gradual decline in trade union's bargaining power in India.

This gradual decline of bargaining power of Indian trade unions would be further aggravated by the recently enacted Industrial relations Code 2020. The new enactment introduces a provision which says that if an existing trade union has a membership of at least 51% of workers, it becomes the sole bargaining agent. In such a scenario, other existing registered trade unions would be kept out of collective bargaining and tripartite forums. That this would lead

to a unitary tendency within trade unions, adversely affecting their growth and discouraging plurality among them. Further this Code makes the option of strike by trade unions almost a legal impossibility as giving a notice becomes mandatory in all kinds of

activities. In addition to such provisions, the new Code gives an overwhelming power to the Registrar to cancel union's registration unilaterally. Overall, new enactment further narrows down the effectiveness of Indian trade unions.

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